

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

SCS Carbon Transport LLC
Midwest Carbon Express CO2 Pipeline
Project Siting Application

Case No.
PU-22-391

TRANSCRIPT OF FORMAL HEARING

March 28, 2023

Gwinner, North Dakota

APPEARANCES

Commissioners Randy Christmann, Sheri Haugen-Hoffart, and
Substitute Decisionmaker Timothy J. Dawson

LAWRENCE BENDER, Fredrikson & Byron, P.A., on
behalf of Applicant SCS Carbon Transport LLC

KEVIN PRANIS, on behalf of Intervenor Laborers
District Council of Minnesota and North Dakota (LIUNA)

ZACHARY PELHAM, Special Assistant Attorney General
Advisory Counsel to the Public Service Commission

C O N T E N T S

SCS CARBON TRANSPORT LLC WITNESS

JAMES POWELL

Direct Examination by MR. BENDER	17
Cross Examination by MR. PELHAM	29
Cross Examination by MR. PRANIS	38
Questions by COMMISSION	38
Redirect Examination by MR. BENDER	53
Questions by COMMISSION	54
Redirect Examination by MR. BENDER	58

INTERVENOR WITNESSES

BENJAMIN DOTZENROD

Testimony by BENJAMIN DOTZENROD	63
Cross Examination by MR. PELHAM	71
Cross Examination by MR. SCHOCK	73
Questions by COMMISSION	74
Recross Examination by MR. PELHAM	84

SHIRLEY WALOCH

Testimony by SHIRLEY WALOCH	86
Cross Examination by MR. PELHAM	88
Questions by COMMISSION	88

RANDALL WALOCH

Testimony by RANDALL WALOCH	91
Cross Examination by MR. PELHAM	92
Cross Examination by MR. SCHOCK	92
Questions by COMMISSION	93

INTERVENOR LIUNA WITNESSES

KEVIN PRANIS

Testimony by MR. PRANIS	96
Cross Examination by MR. PELHAM	101

EVAN WHITEFORD

Direct Examination by MR. PRANIS	105
Cross Examination by MR. PELHAM	113
Cross Examination by MR. SCHOCK	115
Questions by COMMISSION	115

PUBLIC TESTIMONY

JASON ARTH	118
LYLE BOPP	122
BRUCE SPEICH	128
DAN DELAHOYDE	133
JERRY WASWICK	142
STEVE ACKERMAN	146
KEVIN SKUNES	153
GENEVA WASWICK	161
LINDA GAYMAN	166

1 ADMINISTRATIVE LAW JUDGE HOGAN: All right.
2 We're going to get started.

3 Good morning. My name is Hope Hogan. I'm an
4 administrative law judge designated upon the request of
5 the Public Service Commission to serve as the hearing
6 officer for today's hearing.

7 Let the record show that it's March 28th, 2023,
8 at 9 a.m. This is the time and date set by the notice
9 of filing in public hearings issued by the North Dakota
10 Public Service Commission on February 1st, 2023, for a
11 hearing in Case No. PU-22-391. This hearing is being
12 held today at the North Sargent School Activity Center
13 in Gwinner, North Dakota.

14 As we begin, I'd ask everybody to please check
15 your phones and either turn them off or silence them so
16 that we don't have cell phone interruptions during our
17 hearing today.

18 There is a number of -- or several attendance
19 sheets that should be circulating. I would ask that you
20 please sign one of the attendance sheets so that the
21 Commission has a record of everybody that attended
22 today's hearing.

23 This is the second of four hearings scheduled
24 regarding an October 17th, 2022, application of SCS
25 Carbon Transport LLC for a certificate of corridor

1 compatibility and route permit concerning approximately
2 320 miles of carbon dioxide pipeline ranging from 4.5 to
3 24-inch diameter and associated facilities in Burleigh,
4 Cass, Dickey, Emmons, Logan, McIntosh, Morton, Oliver,
5 Richland, and Sargent counties, North Dakota. This
6 hearing has been scheduled to focus primarily on the
7 portions of the project in Dickey and Sargent counties.

8 The notice of filing and notice of hearing
9 specified the following issues to be considered
10 concerning the application for waiver of procedures and
11 time schedules:

12 Number one. Are the proposed facilities of such
13 length, design, location, and purpose that they will
14 produce minimal adverse effects and that adherence to
15 applicable procedures, requirements, and time schedules
16 may be waived?

17 And secondly, is it appropriate for the
18 Commission to waive any procedures, requirements, and
19 time schedules as requested in the application?

20 Concerning the application for certificate of
21 corridor compatibility and route permit, the issues to
22 be considered are as follows:

23 Number one. Will the construction, operation,
24 and maintenance of the facility at the proposed
25 locations produce minimal adverse effects on the

1 environment and upon the welfare of the citizens of
2 North Dakota?

3 Number two. Is the proposed facility compatible
4 with environmental preservation and the efficient use of
5 resources?

6 And number three. Will construction, operation,
7 and maintenance of the facility at the proposed location
8 minimize adverse human and environmental impact while
9 ensuring continuing system reliability and integrity and
10 ensuring that energy needs are met and fulfilled in an
11 orderly and timely fashion?

12 I'm now going to ask the parties to make their
13 appearance for the record.

14 Mr. Bender, do you want to please state your
15 appearance for the record and introduce the witnesses
16 you intend to call to testify today?

17 MR. BENDER: Thank you, Your Honor.

18 Lawrence Bender, PO Box 1855, Bismarck, North
19 Dakota, appearing in this matter on behalf of the
20 Applicant.

21 We intend at this time to call one witness, Mr.
22 Jimmy Powell.

23 ALJ HOGAN: Thank you.

24 Mr. Pelham, would you like to state your
25 appearance for the record and introduce Commission staff

1 that's appearing with you today?

2 MR. PELHAM: Good morning. Thank you, ALJ
3 Hogan.

4 My name is Zach Pelham. I'm a special assistant
5 attorney general on behalf of the Public Service
6 Commission in an advisory counsel role. To my left is
7 Victor Schock. He is a public utilities analyst. And
8 Victor may have some questions, and we ask that he be
9 allowed to ask questions today of any witnesses.

10 Thank you.

11 ALJ HOGAN: Thank you.

12 MR. BENDER: We don't have any objection to --

13 ALJ HOGAN: All right. Thank you.

14 And, Mr. Pranis, do you want to state your name
15 for the record and introduce any witnesses you intend to
16 call at today's hearing?

17 MR. PRANIS: Thank you, Judge Hogan. Kevin
18 Pranis on behalf of LIUNA, Minnesota and North Dakota.
19 And I would intend to present myself with your
20 permission on a report and introduce an exhibit and call
21 Mr. Evan Whiteford as a witness.

22 ALJ HOGAN: All right. Thank you.

23 And it's my understanding that we may have a few
24 party intervenors that are appearing today and wish to
25 provide some comments. I'd ask that you please notify

1 me at the break if you're a party intervenor as well
2 have you provide your testimony before public testimony
3 today.

4 By a show of hands, is there anyone in the
5 audience who may testify or comment regarding this
6 matter today?

7 All right. Thank you.

8 Testimony from the public will be taken after
9 the completion of the parties' testimony. I encourage
10 everyone to take this opportunity to tell the
11 commissioners what you think is important about this
12 matter, but I would ask you to limit your testimony to
13 the construction and the effect of the pipeline. And I
14 would ask that concerns not be repeated. If somebody
15 has already stated that concern, certainly you can just
16 say that you agree with prior testimony rather than
17 restating your concern. The goal of today is to have a
18 safe and orderly hearing in which many voices are given
19 the opportunity to be heard.

20 If you would like to testify today, I'd ask you
21 please mark that on the attendance sheet so I have an
22 idea of how many people intend to testify this morning,
23 but if you don't mark it on the attendance sheet, that's
24 fine. I'm not going to hold you one way or the other to
25 what the attendance sheet says.

1 Further instructions on public testimony will be
2 given when we get to that portion of the hearing, but if
3 you have any questions about that, please don't hesitate
4 to ask me at a break today.

5 We'll now move to opening comments from the
6 commissioners, and we'll start with Commissioner
7 Christmann.

8 COMMISSIONER CHRISTMANN: Thank you, Your Honor.

9 And thanks everyone for being here today. The
10 last hearing that we had on this project a couple weeks
11 ago went very late. Hopefully, this one maybe won't go
12 quite as late because we've been through some of the
13 information already.

14 I always like to point out to folks, because I
15 come from an agriculture background before this job, and
16 I know a lot of you have things you like to be doing at
17 home, and especially if you're in the ranching business
18 like I was, maybe there's calves being born already and
19 you'd like to be home. And so it seems obvious, like
20 let's let the public talk first and so they can get back
21 home, but in order to create a good record for our
22 decision, we need to have the company go first and
23 present their evidence, and then you respond to that.
24 Your response to something you heard uptown isn't as
25 important to us as your response to what is actually

1 being proposed.

2 And so this is where the true proposal is laid
3 out and so that's the process we follow, that the
4 company will make their presentation first and we'll
5 have questions and then potentially the intervenor
6 that's here today and then the public testimony.

7 But we do hope you'll be patient and take that
8 opportunity. That's why we're out here. The convenient
9 and, frankly, the efficient thing to do would be to just
10 have these hearings in Bismarck where we don't have to
11 travel and it's handy, but we want to be out here.

12 Because my goal as a commissioner is not to see
13 that this thing gets constructed and it's not to find a
14 way to be a foot in the door to make sure it doesn't get
15 constructed. My goal is to make a good decision based
16 on the law and the parameters that the legislature has
17 given us for making a decision on a project like this.
18 And we can make the best decision when we have all the
19 facts. That's why we take it out on the road like this,
20 because we want to hear from the people.

21 In a couple weeks we'll have another hearing in
22 Wahpeton. And we're going to try to focus today, I
23 think, primarily on Sargent and Dickey counties, but if
24 someone can't make the Wahpeton one or something,
25 hopefully we'll have some time at the end and we'd

1 welcome you too, I think. And ultimately we'll have one
2 in Linton as well. And so we're spreading these out
3 because we want to hear from you. So thank you for
4 being here.

5 ALJ HOGAN: All right. Thank you.

6 Commissioner Haugen-Hoffart.

7 COMMISSIONER HAUGEN-HOFFART: Good morning,
8 everyone. I first want to thank the two pilots that got
9 us here safely. This North Dakota weather has been very
10 challenging.

11 So I applaud you for being here. I hope you
12 guys are patient and have the opportunity to sit here
13 through the day as we go through this case because I
14 think there's a lot of information here that is
15 beneficial to us all on making the right decision, as
16 Chairman Christmann said. It's important that we hear
17 from you and we want to hear from you. We want to keep
18 it to the case.

19 I know there's a lot of feelings about this
20 case, and we're going to work through them based on
21 facts, on the information that's presented to us. So I
22 want to applaud you for being here; thank you for being
23 here and welcoming us into the community.

24 ALJ HOGAN: Thank you.

25 Mr. Dawson.

1 SUBSTITUTE DECISIONMAKER DAWSON: Judge Hogan.

2 Good morning, everybody. Thank you for coming.

3 I'm Timothy Dawson. I am the director of the Office of
4 Administrative Hearings. I have sat in Judge Hogan's
5 chair many times for hearings like this, dozens of
6 Public Service Commission hearings. Today I sit as
7 substitute decisionmaker for Commissioner Julie
8 Fedorchak who recused herself.

9 My official title is substitute decisionmaker,
10 which doesn't roll off the tongue very well so, please,
11 you can all refer to me as "Mr. Dawson" if you'd like.
12 Besides being a judge, I commission hearings. I have
13 also worked for the legislature for 20 years in areas of
14 energy, water, property, and natural resources. So I
15 understand the law that we are addressing today and will
16 faithfully apply it.

17 Thanks again for coming.

18 ALJ HOGAN: All right. Thank you.

19 Just a recap on exhibits before we get started.
20 At our prior hearing Summit offered exhibits labeled 1,
21 2, and 3. We had a number of exhibits offered and
22 entered from one of the Burleigh County intervenors, and
23 I won't go through those. And then, finally, we had one
24 exhibit that I labeled PT1, which were handouts received
25 during public testimony in Burleigh County.

1 And I'll just ask, Mr. Bender, are you going to
2 have additional exhibits to offer today?

3 MR. BENDER: Possibly one, but I'm not sure.
4 It's probably something that's already been filed so it
5 probably will not be offered as an exhibit.

6 ALJ HOGAN: And, Mr. Pelham, no exhibits;
7 correct?

8 MR. PELHAM: No exhibits.

9 ALJ HOGAN: And, Mr. Pranis, I know you're going
10 to have one report, and maybe we'll just enter that when
11 you testify if that works.

12 MR. PRANIS: Thank you, Your Honor.

13 ALJ HOGAN: All right. Before we move to
14 testimony, I'll just ask if there's any other
15 preliminary matters we need to discuss.

16 Mr. Bender, did you have any?

17 MR. BENDER: Just a couple, Your Honor.

18 You may recall that, at the previous hearing on
19 March 14th in Bismarck, there was some discussion about
20 a SHPO letter that the Commission had received. That
21 letter was replied to by myself and there was a meeting
22 -- or there's going to be a meeting today with the SHPO,
23 between Summit and SHPO, to discuss the matters that
24 were in that letter.

25 In addition, at the March 14th hearing there was

1 a letter that the Commission had received from the
2 Geological Survey. Once again, I responded to that
3 letter on March 10th and there was a meeting -- there
4 was a meeting scheduled for yesterday to further discuss
5 the issues that the Geological Survey raised.

6 Also at the March 14th hearing we provided an
7 acquisition, right of way acquisition, update. We filed
8 with the Commission today additional information. We've
9 acquired significant additional right of way since then,
10 and our witness, Mr. Powell, will be discussing that.

11 There was also some questions about an active
12 coal mine where the right of way crossed. We addressed
13 that with a filing this morning.

14 And then, finally, there was a setback issue,
15 and we addressed that also with a filing with the
16 Commission this morning.

17 And there was one other issue, a question about
18 a noise study. We're working on that and will be filing
19 with that -- we'll be filing that with the Commission in
20 due course.

21 ALJ HOGAN: All right. Thank you.

22 Mr. Pelham, any preliminary matters you want to
23 discuss before we move to testimony?

24 MR. PELHAM: I don't think so. Thank you.

25 ALJ HOGAN: All right. And Mr. Pranis.

1 MR. PRANIS: No, Your Honor.

2 ALJ HOGAN: All right. And just so our -- the
3 public's aware, I should have mentioned this before, but
4 we normally take a midmorning break, about 15 minutes or
5 so, and depending on how long we go today, we will take
6 a lunch break and, if necessary, a supper break as well.
7 So just so everybody is aware that that's kind of the
8 general framework that we try to stick to.

9 So with that in mind, Mr. Bender, do you want to
10 call your witness.

11 MR. BENDER: Yes. Just a brief introduction
12 with respect to this witness. Summit is of the opinion
13 that we should provide as much time to the public as
14 possible so that the Commission can hear from the
15 public.

16 Our application was filed with the Commission in
17 October of 2022. It's very voluminous, but it is online
18 so there's an opportunity for the public to review it.

19 We spent many hours at the Bismarck hearing
20 discussing the application. And what we'd like to do
21 here today is call Mr. Powell and just give a very brief
22 overview as to what's in the application, you know,
23 obviously put Mr. Powell up for questioning by the
24 Commission staff and the commissioners, and then, once
25 again, try to leave as much time as possible for the

1 public.

2 So with that in mind, we'd call Mr. Jimmy
3 Powell.

4 ALJ HOGAN: All right. Thank you.

5 Good morning, Mr. Powell.

6 JAMES POWELL: Good morning. Good to see you
7 again.

8 ALJ HOGAN: I'll have you start by stating your
9 full name and spelling your last name for the record.

10 JAMES POWELL: James Powell. The last name is
11 spelled P-O-W-E-L-L.

12 ALJ HOGAN: And, Mr. Powell, before you testify
13 this morning, I'm required by law to advise you on the
14 penalties for perjury in the state of North Dakota.

15 Perjury is a Class C felony punishable by a
16 maximum fine of \$10,000, a maximum five years'
17 imprisonment, or both.

18 Do you understand what perjury is?

19 JAMES POWELL: I do.

20 ALJ HOGAN: And being advised of the potential
21 penalties for perjury, do you promise to tell the truth
22 in this case today?

23 JAMES POWELL: I do.

24 ALJ HOGAN: All right. Thank you.

25 Go ahead, Mr. Bender.

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JAMES POWELL,

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

DIRECT EXAMINATION

BY MR. BENDER:

Q. Jimmy, would you state your full name for the record, please?

A. James Ernest Powell, II.

Q. And by whom are you employed and in what capacity?

A. Summit Carbon Solutions as the chief operating officer.

Q. And could you briefly describe for the Commission and the Commission staff your role with respect to this project?

A. I'm accountable for the design, construction, and ultimately the operation of the Midwest Carbon Express pipeline system.

Q. Okay. And give us a little bit more detail in terms of just what that all entails.

A. So the project captures CO2 from the fermentation process at, at this point, 32 ethanol facilities in five states including North Dakota, compresses that CO2 to a super critical or dense phase state, injects that CO2 into a pipeline network that

1 consists of approximately 2,060 miles of, as the judge
2 mentioned earlier, 4-inch to 24-inch pipe, and
3 ultimately terminates northwest of Bismarck in Oliver,
4 Mercer counties in pore space where we'll inject that
5 CO2 subsurface for permanent and safe sequestration.

6 Q. Okay. And at the Bismarck hearing, you provided
7 detailed testimony and, of course, this information is
8 set forth in detail as well in the application. And as
9 I recall, at the March 14th hearing, you discussed the
10 route. Do you recall that?

11 A. Yes.

12 Q. And you discussed the construction schedule; is
13 that correct?

14 A. Yes.

15 Q. And you discussed the cost of the project?

16 A. Yes.

17 Q. And you discussed a public awareness; is that
18 correct?

19 A. Yes.

20 Q. And you also spent some time talking about
21 pipeline safety; is that correct?

22 A. Yes.

23 Q. And you spent some time talking about emergency
24 response plans?

25 A. Yes.

1 Q. And you spent some time talking about the
2 control center?

3 A. Correct.

4 Q. Just spend a little time telling us what a
5 control center is for those people in the audience who
6 may not know what that is?

7 A. So a control center is a centralized location
8 where the pipeline system and all the facilities are
9 automated so they can be controlled remotely. And so
10 the control center would have 24-hour-a-day continuous
11 personnel that monitor the pipeline system at all of the
12 facilities and they control the operation. So they're
13 continually watching the system and how it's operating
14 to make sure it's operating within acceptable and
15 established boundaries, operating boundaries. And those
16 personnel have the ability at any time to take action up
17 to and including shutting down the pipeline system.

18 Q. And is that a common practice, to have a control
19 center when you have a pipeline certainly of this
20 length?

21 A. It is.

22 Q. Okay. And at the March 14th hearing, did you
23 also discuss operations of the pipeline?

24 A. I did.

25 Q. Okay. And did you spend some time talking about

1 valve spacing?

2 A. I did.

3 Q. Okay. Just tell us very briefly, what is the
4 proposed valve spacing for this pipeline?

5 A. Well, in April of 2022, PHMSA adopted a new
6 rule, PHMSA being the Pipeline and Hazardous Material
7 Safety Administration, the federal body that will
8 regulate the design, construction, and operation of this
9 -- this project. They implemented a maximum valve
10 spacing of 20 miles. So all valves along the system
11 cannot be spaced more than 20 miles apart. And in high
12 consequence areas that spacing would be 15 miles.

13 Q. Okay. And you also spent some time at the
14 Bismarck hearing talking about working with local
15 emergency responders; is that correct?

16 A. Yes.

17 Q. Yeah. And as you indicated earlier, or in a
18 question from me, the application is voluminous and you
19 spent hours discussing a lot of these things at the
20 Bismarck hearing; is that correct?

21 A. Yes.

22 Q. Okay. What I'd like you to do here today,
23 Jimmy, is spend a little more time talking to us today
24 about the pipeline with respect to its location in
25 Dickey and Sargent counties. And when I talk about

1 location, I'm mainly talking about, you know, the size
2 of the pipeline, you know, the depth of the pipeline,
3 and those sorts of things, but let's be specific with
4 respect to Sargent and Dickey County.

5 A. Okay. With respect to these two counties, I
6 believe there's about 87 miles of pipe. The diameter in
7 these two counties is 12-inch. So the main line, if you
8 can -- if you can see on the map, the main line
9 traverses kind of the central part of the state up in
10 north and west of Bismarck. And a lateral that begins
11 in South Dakota and moves northeast is 12-inch, and then
12 there's another lateral that goes north to the
13 Tharaldson plant in Casselton that -- Sargent and Dickey
14 are obviously on the lateral that's going northeast
15 that's 12-inch in diameter.

16 Q. Okay. As compared to what is the size of the
17 pipeline, what I'll call the trunkline, as it goes to
18 the sequestration facility?

19 A. That's a 24-inch diameter.

20 Q. Okay. Let's talk a little bit about setback
21 waivers. You understand that, by statute, Summit is
22 required to have a certain setback to occupied
23 dwellings?

24 A. Yes.

25 Q. And do you have a situation here in, I believe

1 it's in -- well, you tell me, what county do we need --
2 did we need a -- I believe it was -- well, what county
3 was the setback waiver required?

4 A. As you stated, by state law, setbacks are
5 required. Residences are what's considered one of an
6 avoidance area and so we're required to be 500 feet from
7 the nearest point of that residence. And so we had ten
8 along the pipeline route. And we were able to move
9 those other nine on the same property of the landowner
10 but further away from the setback, and worked with those
11 landowners to accomplish that.

12 In Sargent County we had one where the landowner
13 was comfortable with where the pipe was. That's my
14 understanding. And so they signed a waiver, the
15 landowner signed a waiver stating that they were
16 comfortable with where the pipeline was. And so it
17 still is within that 500-foot setback.

18 Q. And in that situation where you obtained the
19 waiver, it didn't move off of that landowner's property,
20 it just moved somewhere on his property; is that right?
21 His or hers.

22 A. That's correct.

23 Q. To your understanding, was a copy of that
24 setback waiver, was that filed or will it be filed later
25 today with the Commission?

1 A. It's my understanding, yes.

2 Q. Let's talk a little bit about easement
3 acquisition. You provided some information to the
4 Commission at the previous hearing in terms of easement
5 acquisition. Do you recall that testimony?

6 A. Yes.

7 Q. Okay. Do you recall generally what that
8 testimony was with respect to what the acquisition
9 percentage was in those various counties?

10 A. Yes.

11 Q. Okay. Do you have an update for the
12 commissioners today in terms of additional acquisition
13 that you've acquired?

14 A. I do. And the commissioners were very
15 interested in our acquisition progress. And from the
16 last hearing on the 14th through yesterday, we've
17 acquired an additional 18 miles of pipeline right of
18 way, which is -- equates to almost 5 percent of the
19 total route.

20 So as we sit here today, we have acquired at
21 least -- or we have obtained agreements with landowners
22 for at least 50 percent of the right of way in all 10
23 counties in North Dakota, and I believe six of those
24 counties are 70 percent or so or greater. And so as we
25 sit here today, we're at 67.79 percent of the route

1 being secured.

2 Q. So approximately an additional 5 percent that
3 Summit has acquired in terms of right of way in the last
4 two weeks. Is that a fair statement?

5 A. Approximately 18 miles and about 5 and a half
6 percent; correct.

7 Q. Okay. And do the percentages that you -- that
8 you just mentioned, are they reflected on the handout
9 that I just gave to the Commission?

10 A. They are.

11 Q. And as I asked you earlier, this has been or
12 will be filed with the Commission later today?

13 A. Correct.

14 MR. BENDER: Okay. I don't have any objection.
15 Are we on Exhibit 4?

16 ALJ HOGAN: Yes. Exhibit 4 is received.

17 BY MR. BENDER:

18 Q. Jimmy, I want to spend just a little time, even
19 though you discussed this in very great detail at the
20 Bismarck hearing, I think it's important that the
21 general public here today have an opportunity to have
22 this information again today. What's the proposed
23 construction schedule for this project?

24 A. The construction schedule in North Dakota would
25 be as soon as practical following what we hope to be

1 approval from the Public Service Commission. So later
2 this summer.

3 Q. Okay. And in terms of anticipated cost, once
4 again that was discussed at the Bismarck meeting, but
5 I'd like you to provide for us the overall cost to the
6 pipeline, not only in North Dakota but the other states
7 in which the pipeline will traverse, as well as a
8 breakdown of what that cost would be for construction of
9 the pipeline just in North Dakota?

10 A. Yes. So the total cost for the project, for all
11 three aspects of the scope, capture, pipeline, and
12 sequestration, is approximately 5.5 billion. The cost
13 of construction in the state of North Dakota is
14 approximately 900 million.

15 Q. And what has Summit, at this point, done or what
16 will it do in terms of providing the public more
17 awareness of -- of this project as it proceeds to gather
18 the necessary easements and the necessary permits and
19 then ultimately construction?

20 A. Yes. So each landowner has a land acquisition
21 agent that's dedicated to that landowner. And so they
22 maintain communication throughout the process even after
23 an easement is signed, depending upon the frequency of
24 communication that the landowner wants, we'll keep in
25 touch, keep them abreast of the project and the

1 progress.

2 And then we're required by PHMSA to develop a
3 public awareness plan. So as we get closer to
4 construction, we'll keep landowners notified when we
5 think we'll be on their property to begin construction,
6 the duration of that construction, and when we think
7 we'll be complete.

8 And then in parallel, we'll have a public
9 awareness campaign with first responders and local
10 stakeholders. So we'll develop our emergency response
11 plan and our public awareness plans, and we already have
12 Summit representatives that are in the communities
13 talking to emergency planners and first responders. And
14 as we get closer to operation, they will actually
15 conduct drills of incidents that could happen, how they
16 would respond.

17 We'll work with the local first responders to
18 determine, one, if they're trained properly, and then,
19 secondly, if they have the equipment to support a
20 response. And if they don't, then we'll supplement
21 whatever equipment needs they have. After we're
22 constructed, we're in operation, then we're required
23 every year to follow up and have that training.

24 So we'll do the formal training with first
25 responders, but we'll also have public awareness

1 programs. So that's local schools, community
2 organizations, people that are interested, we'll make
3 sure that we communicate with them on a regular basis.

4 Q. And, Jimmy, once again, at the Bismarck hearing
5 you spent considerable time talking about the benefits
6 of this project to the citizens of the state of North
7 Dakota. I'd like you to briefly discuss that again here
8 today and focus a little bit on what sort of benefits
9 you see or your company sees in terms of benefits to
10 farmers, ranchers, local communities.

11 A. Yeah. I think as -- as globally and even in
12 this country there's a push to decarbonize. So along
13 those lines, we're an agricultural-based company. Our
14 parent company, Summit Ag, has been farming in the
15 Midwest for over three decades now. So we think it's
16 important to protect commodity prices, primarily corn.

17 We think it's important to help ethanol plants
18 sustain their viability. And one way of doing that is
19 to reduce their carbon intensity. And so currently
20 these ethanol plants have carbon intensity scores in the
21 60 to 70 point range. That may not mean a lot to a lot
22 of people, but to sell their product to low-carbon fuel
23 markets where they get a premium for that product, they
24 have to reduce that score significantly.

25 And just for reference, if they were to put in a

1 wind turbine or a solar farm to power their facility,
2 they may reduce their score by 3 to 4 points. By
3 pulling the CO2 off of the scrubber in the fermentation
4 process so it's not emitted, they reduce their score by
5 30 to 35 points. So it cuts it in half. So then
6 they're a low cost -- or a low-carbon intensity provider
7 to low-carbon fuel markets so their product is in
8 demand.

9 So we think this project helps sustain commodity
10 prices by sustaining a demand for their product with
11 ethanol plants, helps the ethanol plants be profitable,
12 they can return that profit to their shareholders, they
13 can expand. And then we think that it helps land
14 values, because when commodity prices are high, then
15 that supports higher land values.

16 And then there's -- you know, the tax benefit as
17 well. I'm not a tax accountant so I'm not sure how it's
18 proportioned in the state of North Dakota, but Summit,
19 as an asset, we'll pay taxes when we're in operation,
20 but primarily it's to benefit the agriculture and the
21 ethanol industry.

22 Q. And then, Jimmy, finally, my understanding, in
23 the back of the room there's a table that's been set up
24 by Summit. During a break, if anyone in the public has
25 questions about the project, wants to see maps, that

1 sort of thing, you have personnel seated at that table
2 and they're happy to provide information; is that
3 correct?

4 A. That's correct.

5 MR. BENDER: Your Honor, that's all the
6 questions I have at this time.

7 ALJ HOGAN: All right. Thank you.

8 Mr. Pelham, any questions?

9 MR. PELHAM: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. PELHAM:

12 Q. Good morning, Mr. Powell.

13 A. Good morning.

14 Q. I have some questions for you. And Mr. Bender
15 went through a little bit about the safety features that
16 the company is planning. I'm just wondering if you
17 could speak a little bit more as to the company's plans
18 for constructing this line as to the safety components
19 that will go into the construction of the proposed line.

20 A. Sure, Mr. Pelham.

21 So to start with, the design which underpins the
22 construction, there are stringent state and federal
23 requirements around the design, but in many cases we
24 feel it's appropriate to exceed those. For instance,
25 depth of cover, the federal regulation is three foot.

1 We're going a minimum of four foot. We've worked with
2 many landowners to go as deep as six foot.

3 With respect to the leak detection system, I
4 know that's important to a lot of folks, especially when
5 we're talking about safety. We plan to utilize a remote
6 modeling -- a transient system so that -- that means
7 we'll have a hydraulic model that sits in parallel with
8 the actual operation of the system. And so if there's
9 any deviation of the actual operation from that model,
10 then that will inform the control person who can then
11 act on that deviation.

12 So many things that we'll do. We're going to
13 X-ray 100 percent of the welds, the girth welds. The
14 requirement is 10 percent. So there are many areas of
15 the project where we're going to exceed requirements.

16 And so when it comes to construction, especially
17 in Sargent and Dickey counties and along this lateral,
18 we're going to employ a contractor that's a very, what I
19 would consider a top-tier contractor in the pipeline
20 industry. They're based out of Wisconsin. They've
21 constructed extensive mile -- a lot of miles of pipeline
22 in the Midwest, in this part of the country where it's
23 cold and the conditions are not similar to other parts
24 of the country where a lot of pipeline activity is going
25 on. So that contractor is very qualified, experienced

1 in the area.

2 So I think the design aspects that we're
3 employing coupled with best management practices, with
4 the contractor selected, the safety record of the
5 contractor selected, and then finally the inspection and
6 construction management that we'll employ.

7 So we'll have construction managers with each
8 spread. We'll have safety professionals with each
9 spread. We'll have remote medical teams with each
10 spread. So we'll have a vehicle, if you will, that will
11 be on a pipeline spread that will have people that are
12 capable of administering first aid and treatment so
13 that, if someone is injured, then if you're in a remote
14 area like this and other parts of these five states,
15 then you don't have to -- they can be treated prior --
16 as they're -- either before they have to go to an
17 emergency medical facility or while they're in transit.

18 So we think all of those things coupled together
19 speaks to the safety that we plan to employ during the
20 construction.

21 Q. All right. Thank you. I just want to break
22 down a few things you've said. I appreciate that
23 information, Mr. Powell.

24 What type of material specifically is going to
25 be used to construct this proposed line?

1 A. It's carbon steel.

2 Q. Okay. And is it foreign steel? American steel?
3 What is it?

4 A. It's American steel.

5 Q. And there was some testimony at the prior
6 hearing as to concern about heaving with North Dakota's
7 winters being so cold. Does the company have concerns?
8 Or if they do, what does the company plan to do to
9 address any heaving concerns or potential of the line,
10 assuming it is constructed?

11 A. We do not have concerns about heaving,
12 Mr. Pelham. We do have a geotechnical consultant that's
13 performing an analysis for us. I just will offer that I
14 personally have been involved with projects,
15 constructing pipelines in North Dakota, Montana,
16 Wyoming, other parts of this -- in this area of the
17 country that are very cold. And there's never been an
18 issue with heaving.

19 Q. And as far as the -- you talked about the remote
20 monitoring and the control center. The control center
21 will be located out of state, but my understanding from
22 the testimony at the last hearing is that there will be
23 a dedicated personnel that are monitoring in the control
24 center, monitoring 24/7, 365 days a year the portion of
25 pipeline specific to North Dakota; is that correct?

1 A. Yes.

2 Q. And those individuals have the authority to, for
3 lack of a better phrase, push a button to shut the
4 system down if they see an issue; is that correct?

5 A. That's correct.

6 Q. And shutting the system down, can you talk a
7 little bit about that and what does that involve? You
8 talked about the valves being, at a minimum, 30 miles
9 apart, and in high consequence areas, being at least
10 15 miles apart. What does that mean, effectively, if a
11 button is pushed -- forgive me if that's not the proper
12 term, but what actually happens, if you could walk us
13 through that?

14 A. Sure. So if there were a release, in the
15 unlikely event that the pipeline is damaged and there is
16 a release, then the valves on either side of that
17 release point could be remotely closed, to your point,
18 from the control center. And that -- the valves will be
19 automated or actuated so they don't have to be manually
20 closed. They can close automatically.

21 And the valve closure time is seconds. As we
22 talked in Bismarck, the consideration or the assumption
23 we're making on average is about two minutes for the
24 valve to close, and that's depending on where it is in
25 the system, etcetera, but the consideration around other

1 hydraulic actions in the pipeline system, I mean those
2 actions have to be considered, but generally it's about
3 two minutes. So those valves close. That isolates the
4 volume of CO2 within that section of pipeline where the
5 incident occurred.

6 Q. And as far as -- you talked a little bit about
7 the treatment, and I wasn't quite following you. I'm
8 wondering if you could just elaborate a little bit. You
9 were talking about treatment. Is that in the event of a
10 release or is that during the construction of the line?
11 I was a little bit --

12 A. Yeah. Sorry. To be more clear, that's during
13 construction.

14 Q. Okay.

15 A. So in remote areas, we feel that it's
16 appropriate to have --

17 Q. I see.

18 A. -- medical staff onsite.

19 Q. Okay. So high consequence areas. Are there any
20 high consequence areas in Sargent or Dickey counties?
21 Do you know?

22 A. To my knowledge, there are not.

23 Q. And we talked at the last hearing, the company
24 agreed to provide a model of -- in the event of a
25 release, modeling that has been done and the results of

1 that modeling. I think it's just been referred to as a
2 dispersion model. Is that something that -- where are
3 we at as far as that being provided to the Commission?

4 A. That work has been completed and that -- that
5 the -- not only the output of the model but the risk
6 assessment that's associated with that, it's ready to be
7 provided.

8 Q. Okay. So do you think we'll have that by the
9 next hearing? Or when will we have that? Do you know?

10 MR. BENDER: I believe we can provide it to you
11 before the next hearing, Mr. Pelham. And, of course, as
12 we talked at the previous hearing, we're going to be
13 requesting that it be filed confidentially.

14 MR. PELHAM: Sure. Understood.

15 BY MR. PELHAM:

16 Q. Mr. Powell, I'm wondering if you could talk
17 about any specific local requirements for either Dickey
18 or Sargent counties that the company has to apply for or
19 be permitted for for the proposed line?

20 A. Yes, Mr. Pelham. Along the whole pipeline route
21 there are about 641 non-environmental permits,
22 conditional use permits, road crossing permits,
23 etcetera. To date, we've applied for about 60 of those
24 and received about 50 that have been approved. So we're
25 in that process now. I don't, in hand, have what we

1 have or have not applied for in Sargent or Dickey.

2 Q. So is there someone here that can maybe answer
3 to that and we can get that information on a break or
4 something like that? Do you know?

5 A. I can get that information for you.

6 Q. There was some testimony at the prior hearing, I
7 can't recall, sir, if it was you or one of your
8 colleagues had mentioned that there were some reroutes
9 that were in the process and the status of those, I
10 believe. It was testified Burleigh, Oliver, and Morton
11 counties. I'm wondering if there's any update on the
12 Commission receiving the proposed reroutes for those
13 three areas?

14 A. I'll provide an update, Mr. Pelham.

15 Q. Fair enough.

16 Can you tell us anything about the meeting that
17 took place yesterday with the state geologist?

18 A. And we -- my apologies. We may have misinformed
19 Mr. Bender. That meeting actually takes place at 2:00
20 today.

21 Q. Fair enough.

22 A. So I'll own that one. Sorry.

23 Q. No. That's okay. That's why we ask questions;
24 right?

25 Let's see here. The information about the

1 abandoned mines that was provided, there was an email
2 provided this morning. Are you able to testify or
3 explain in any greater detail than what was provided by
4 Mr. Bender this morning in an email?

5 A. I can generally tell you that our team contacted
6 folks within the PSC to discuss that issue. We do
7 traverse the edge of the mine property, BNI. They're
8 aware of it. And I think the guidance from the PSC, and
9 I'm speaking generally, was that we need to make sure
10 that their maps are updated to reflect the pipeline
11 traversing that corner of the property and that any
12 operating procedures are updated to reflect that there's
13 a pipeline in the area.

14 Q. And as a representative of the company, you're
15 committed to working with the Commission and this
16 division on -- the coal division in ensuring that any
17 issues are worked out on that?

18 A. Absolutely.

19 MR. PELHAM: Thank you, Mr. Powell. I don't
20 have any other questions for you. Mr. Schock may have
21 some.

22 MR. SCHOCK: I have no questions, Your Honor.

23 ALJ HOGAN: Mr. Pranis, did you have any
24 questions?

25 MR. PRANIS: Only one, Your Honor.

1 ALJ HOGAN: Go ahead.

2 CROSS EXAMINATION

3 BY MR. PRANIS:

4 Q. Mr. Powell, question. You referred to a
5 contractor based in Wisconsin that has extensive
6 experience building, installing pipelines in northern
7 climates. And I just wanted to confirm in that --
8 you're referring to Precision Pipeline?

9 A. Yes.

10 Q. Thank you.

11 MR. PRANIS: No further.

12 ALJ HOGAN: All right. Thank you.

13 Commissioner Christmann.

14 COMMISSIONER CHRISTMANN: So, first of all, I
15 just want to say when we get back and I get that filing
16 regarding the mine -- because that coal reclamation is a
17 different division within our agency than public
18 utilities that handle a pipeline siting so I'll have our
19 reclamation people review that, because it's a very
20 tricky situation, to make sure that we are in compliance
21 with all of the federal mine requirements. So we'll
22 look at that and maybe have questions at a future
23 hearing regarding that.

24 You mentioned, in response to Mr. Pelham's
25 question, that you would provide that dispersement

1 analysis; correct?

2 THE WITNESS: Yes.

3 COMMISSIONER CHRISTMANN: And Mr. Bender said
4 that that would probably be with a confidentiality
5 request attached?

6 THE WITNESS: Yes.

7 COMMISSIONER CHRISTMANN: So I asked that
8 question because I just want the people to understand,
9 is the reason that you would -- that that would be
10 maintained in confidence with Commission staff, because
11 there could be information that someone who wants to do
12 damage would learn from in order to figure out how to do
13 that and so, thus, it is confidential?

14 THE WITNESS: Yes, sir. So the -- there are
15 some aspects of pipeline operation that are considered
16 -- where pipelines are considered critical
17 infrastructure. And some aspects like emergency
18 response plans, like dispersement models, should be
19 considered confidential or maintained confidential. And
20 so dispersement modeling is one of those.

21 COMMISSIONER CHRISTMANN: Okay. And then it was
22 pretty late, but if you recall in the Bismarck hearing
23 the land surveyors association made a presentation. Did
24 you have any response to that today for us?

25 THE WITNESS: Yes. And as you remember from the

1 Bismarck hearing, I'm not an expert in that, in
2 easements, etcetera, but it's my understanding that
3 there was a conflation between strip easements and
4 blanket easements. So we're executing strip easements,
5 which is common with pipeline projects, at least within
6 my experience. And so it's my understanding that that
7 fits the protocol required.

8 MR. BENDER: And, Commissioner, I might mention
9 we anticipated the testimony from the surveyors, and we
10 did put on Micah Rorie prior to that, and we believe he
11 did address those issues but --

12 COMMISSIONER CHRISTMANN: Okay. I just wanted
13 to know if there was anything more.

14 MR. BENDER: Yep.

15 THE WITNESS: Commissioner, I might add, on the
16 dispersement model, the information that we intend to
17 provide this Commission will be the same information
18 that we'll also provide the Pipeline and Hazardous
19 Material Safety Administration.

20 COMMISSIONER CHRISTMANN: Thank you.

21 In the Bismarck hearing, one of your witnesses,
22 Mr. McCown -- I hope I'm pronouncing it right -- I asked
23 whether PHMSA evaluates the capabilities of local
24 agencies for emergency response and such. And at least
25 by my notes, I didn't come back with a very clear answer

1 on that. I think he was not sure. Do you have anything
2 more to add on that?

3 THE WITNESS: Sir, by agencies, you mean the
4 capabilities of local agencies?

5 COMMISSIONER CHRISTMANN: Correct.
6 Firefighters, emergency response people, and such.

7 THE WITNESS: In my experience, they do not.
8 They evaluate the quality and robustness of the
9 company's emergency response plan, public awareness
10 plan, and then they do not extend -- they do have audit
11 capabilities, but in my experience that is specific to
12 the company or the operator and doesn't extend to the
13 capability of local agencies.

14 COMMISSIONER CHRISTMANN: Okay.

15 THE WITNESS: I'm not speaking for PHMSA,
16 obviously, but in my experience.

17 COMMISSIONER CHRISTMANN: Okay. And previously,
18 and I didn't even make a note of who the discussion was
19 with, I'd asked about road crossing approvals with
20 townships and counties, and the answer was that it was
21 in the process. You mentioned the easements, which I'll
22 have a couple more questions about, earlier, but is
23 progress continuing to be made with road crossing
24 approvals and any other local county or township
25 approvals that are necessary?

1 THE WITNESS: They are, sir. So generally I
2 believe we have about 350 road crossing permits to
3 secure. We've applied for about 60 of those. That's
4 the 60 that I just mentioned to Mr. Pelham. And we've
5 received approval for 50. So we've just begun that
6 process in the last couple of months. And so we'll
7 continue to work through that.

8 COMMISSIONER CHRISTMANN: One of my questions,
9 and then later I wished I had followed up on in
10 Bismarck, was there was discussion, like when you hit
11 wetlands or something, of open cutting versus HDD. And
12 the answer that I got was sometimes it's just best to do
13 open cutting, but I didn't really understand why,
14 because in previous cases a lot of times -- of course,
15 they were shorter pipelines and there's only a couple of
16 wetlands being hit and they just told us they're HDD,
17 which kind of led me to believe that that's just always
18 better. When would open cutting be better?

19 THE WITNESS: I'm not the expert. That was Mr.
20 Schmidt that can speak to that. But in my experience,
21 open cutting is better if we can -- if we can disrupt
22 the minimal surface area and that there's not a concern
23 that vegetation, etcetera, will re-establish. Because
24 as you probably know, if you're boring or drilling,
25 you've got a wider footprint or a bigger footprint on

1 either side at your entry and exits. And so even though
2 you're drilling under that immediate area, you're
3 disrupting on either side and a bigger footprint. So if
4 you can open cut and keep your right of way construction
5 area tight, sometimes, in my experience, it's better. I
6 can't give you the scientific rationale behind it.

7 COMMISSIONER CHRISTMANN: So some would probably
8 be in areas where the wetland is just real narrow and so
9 you'd barely dig anything up as opposed to a big
10 footprint for boring?

11 THE WITNESS: Correct. And as you know, if it's
12 -- if it's a water body that continuously has water
13 flowing through it, then typically we try to either bore
14 or drill those.

15 COMMISSIONER CHRISTMANN: In this Exhibit 4 that
16 was handed out this morning, looking at the progress --
17 and when we were in Bismarck I'd asked about a few of
18 the counties that were lagging behind others. And some
19 of them made pretty good progress, and it's by here so
20 I'm going to ask you about Richland County. That one
21 still does seem to be kind of lagging behind. Did you
22 have anything more to add on that one?

23 THE WITNESS: I can just tell you, sir, that our
24 agents continue to work with landowners on a regular
25 basis and -- and it doesn't always come. As we've seen

1 over the last two weeks, we've secured quite a few
2 easements, 44 tracts. It typically comes in waves. And
3 so we continue to work with landowners, try to
4 communicate effectively, share information, and
5 eventually, hopefully, get to an agreement.

6 COMMISSIONER CHRISTMANN: Okay. And then this
7 is kind of a Burleigh County thing but I want to address
8 it after listening to all that public testimony. There
9 was discussion by some, you know, that if you just would
10 stay a little bit -- if you would just go a little bit
11 further north, and I don't remember if it was you or
12 someone else from the company talked about cultural
13 resources and things like that, that where you were
14 proposing to cross the river seemed to be the best
15 place.

16 I would like a thorough analysis of what you
17 would face to cross on the south side of Bismarck. As I
18 look at a map and look at kind of the area, I don't know
19 if you're familiar with all this, but like on the south
20 side of the University of Mary, there's not nearly as
21 much development occurring as on the north side. It
22 would cross into Morton County in an area with, it
23 appears, just from looking at maps, a lot less
24 development.

25 Have you already done or would you provide some

1 kind of analysis of potentially crossing on the south?

2 THE WITNESS: Yes. And can I ask a question,
3 if -- I don't want to be disrespectful -- is it -- it's
4 more concerned about the safety in the area we cross,
5 whether it's north or south of Bismarck?

6 COMMISSIONER CHRISTMANN: I'm looking at the
7 safety concerns that -- and as well as economic impact
8 concerns that people raise with putting a pipeline
9 through where a lot of current and future development is
10 going to be occurring on the north side of Bismarck as
11 opposed to an area which appears to have a lot less.

12 THE WITNESS: Sure. And I think when the
13 Commission has an opportunity to review the dispersement
14 modeling output, that may help in that regard. But,
15 yes, we can provide an analysis.

16 COMMISSIONER CHRISTMANN: Thank you. I have no
17 other questions.

18 ALJ HOGAN: All right. Thank you.

19 Commissioner Haugen-Hoffart.

20 COMMISSIONER HAUGEN-HOFFART: Thank you.

21 A lot of questions have already been answered,
22 but I'm going to focus a little bit on PHMSA. I think
23 for some it's a new organization they've never heard of
24 it, and you've touched on it in several capacities in
25 detail, but I'm going to ask you to go a little bit more

1 into detail from kind of start to, if approved, built,
2 how far PHMSA's role is involved on oversight. I'll
3 have you start there.

4 THE WITNESS: Okay. Good morning.

5 COMMISSIONER HAUGEN-HOFFART: Good morning.

6 THE WITNESS: Yes. PHMSA is involved all the
7 way through the process. For instance, we've developed
8 a fracture control plan. And at a high level, we -- we
9 analyze if something were -- a piece of equipment or
10 something were to strike the pipeline, how tough is that
11 carbon steel material to resist that? And if it is
12 punctured, what is the ability for the rupture area or
13 damaged area to populate longitudinally down the pipe.
14 That's a PHMSA requirement. So we developed a fracture
15 control plan and we've already reviewed that with PHMSA
16 technical staff.

17 So at various points along the way in the design
18 they're involved. We have frequent meetings with the
19 regional PHMSA office in Kansas City dedicated to
20 oversight of this project at least from a technical
21 aspect.

22 And then as we get into construction, PHMSA will
23 actually have subject matter experts that will make
24 visits to the field. So they'll have welding experts
25 that come to the field, they'll review our welding

1 procedures, or the welding procedures for our
2 contractors, they'll review the X-rays from those welds,
3 etcetera. So they're involved all the way through.

4 And then prior to us or any other pipeline being
5 able to -- placed in operation, they review your
6 operating procedures, they review your emergency
7 response procedures, your public awareness procedures.
8 Everything that would govern the way we would operate a
9 pipeline, they will review those before we're allowed to
10 place the pipeline into service.

11 COMMISSIONER HAUGEN-HOFFART: Okay. I would
12 want a clarification. We talked about the valves and
13 the closure time. Did you say you -- I understood that
14 if there's a valve leak, let's say in Dickey, you would
15 shut the valves off on either side; correct?

16 THE WITNESS: Correct.

17 COMMISSIONER HAUGEN-HOFFART: And that time for
18 the shutdown was how long?

19 THE WITNESS: We're assuming two minutes when
20 we're modeling it. So when we're -- we're modeling,
21 when we're doing our emergency flow restriction device
22 analysis, when we're developing the dispersement model,
23 you make assumptions around closure time, and our
24 assumption is two minutes. As I mentioned earlier, the
25 valve is actually capable of shutting much quicker. It

1 just depends on the operation of the system at the time.

2 COMMISSIONER HAUGEN-HOFFART: When you say by
3 "much quicker," not sending someone in there to close
4 it. Everything is automatically shut down?

5 THE WITNESS: It is.

6 COMMISSIONER HAUGEN-HOFFART: Okay.

7 THE WITNESS: As Mr. Pelham said, you push a
8 button at the control center, the valve cycles shut.

9 COMMISSIONER HAUGEN-HOFFART: Can you give some
10 indication during the two minutes what -- what happens
11 externally?

12 THE WITNESS: Well, it -- again, most releases,
13 pipeline releases in this country are caused by
14 third-party damage. So if someone fails to call 811 and
15 they're digging over the pipeline and they strike it and
16 it's strong enough to actually puncture the pipeline,
17 then CO2 may release through the soil and into the
18 atmosphere, but as far as we see a pressure variation,
19 then those valves shut. So then the release volume is
20 limited to the volume that's in the pipe, that pipe
21 segment at the time the valves are closed.

22 COMMISSIONER HAUGEN-HOFFART: Okay. So what
23 does your public awareness campaign demonstrate if there
24 is that type of incident caused by someone else?

25 THE WITNESS: Well, there's the 811 program

1 that's a national program, but we'll actually have
2 written communication we send to all the landowners in
3 the area that will say there's a pipeline in this area.
4 It's generally located here. We'll point out there's
5 pipeline markers where you can -- you know, you can use
6 to determine where the location of the pipeline is.
7 Generally they'll be on sides of roads, on fences,
8 etcetera. And then we'll have public awareness training
9 like I mentioned. So that will be announced. Anyone in
10 the community that wants to attend can attend.

11 COMMISSIONER HAUGEN-HOFFART: Will you have
12 security cameras on your pipeline?

13 THE WITNESS: We won't have the security cameras
14 on the pipeline, but we'll have them at facilities. So
15 pump stations intermediate. There's one in Richland
16 County. In North Dakota we'll have security cameras at
17 the pump station facilities.

18 COMMISSIONER HAUGEN-HOFFART: And that's hooked
19 back up to the main control center. That's monitored
20 24/7, 365?

21 THE WITNESS: Correct.

22 COMMISSIONER HAUGEN-HOFFART: Okay. I think
23 that's all I have. Thank you.

24 THE WITNESS: Thank you.

25 ALJ HOGAN: All right. Thank you.

1 Mr. Dawson.

2 SUBSTITUTE DECISIONMAKER DAWSON: Your Honor.

3 Mr. Powell, are there any beneficial uses for
4 carbon dioxide?

5 THE WITNESS: Good morning, Mr. Dawson. Yes.
6 There's industrial uses like dry ice, wastewater
7 treatment, carbonization. There are industrial uses.

8 SUBSTITUTE DECISIONMAKER DAWSON: Are there any
9 plans in the future for beneficial use in this state?

10 THE WITNESS: We are a common carrier pipeline
11 so if somebody wants to ship CO2 on the pipeline and
12 provide a terminus -- a termination point where we can
13 pull CO2 off the pipeline and they can use it for
14 commercial practices, yes.

15 SUBSTITUTE DECISIONMAKER DAWSON: You said that
16 there is a hydraulic model that is used in the
17 monitoring station and that it looks for pressure
18 variations in the system from this control center. What
19 are the data points on the system? Is there just a
20 pressure gauge at the end and a pressure gauge at the
21 beginning, or is there something more sophisticated than
22 that?

23 THE WITNESS: Yeah, a little more sophisticated,
24 but at various points along the pipeline there will be
25 flow indication and there will be pressure indication.

1 In fact, on either side of all the block valves there
2 will be pressure indication.

3 So we talked about closing the pipeline remotely
4 from the control center, but at each valve location
5 there will be pressure boundaries established. And if
6 the pipe -- if those indicators on either side of a
7 valve see a pressure variation that's greater than the
8 normal operating boundary, they'll close automatically.
9 So the control center doesn't close it at that point.
10 The valve closes itself.

11 SUBSTITUTE DECISIONMAKER DAWSON: There are
12 these things called smart pigs that go through the line;
13 correct?

14 THE WITNESS: Correct.

15 SUBSTITUTE DECISIONMAKER DAWSON: And what do
16 they actually measure? Do they go through when the line
17 is running and are they an X-ray machine or an MRI? Do
18 you run them when you start up the pipeline or is it
19 something that's done in the future?

20 THE WITNESS: They're -- the regulation doesn't
21 require you to run them when you start the pipeline.
22 They require you to run them within five years of
23 placing the pipeline in operation. But, yes, they are a
24 smart pig. So there are various kinds, but generally
25 the pigs that we'll run will determine any type of

1 internal, external corrosion. So they can -- they can
2 measure the wall thickness of the steel and they can
3 determine whether there's an anomaly. So is there a pit
4 or a defect or is there corrosion? And so we run those
5 on at least a every-five-year frequency. And then you
6 can continue to compare that.

7 So if the wall -- the wall thickness is
8 .750 inches when it's installed, you run a pig in five
9 years, you can determine if there's any additional metal
10 loss. And if there is, then you can adjust your
11 integrity management program or your cathodic protection
12 system to accommodate.

13 SUBSTITUTE DECISIONMAKER DAWSON: And then you
14 were saying the thickness of this pipe, you were talking
15 about that just now. I see that in the application it
16 varies from .189 to .70. Is that dependent on the size
17 of the pipe; i.e., is the thinnest the smallest and the
18 thickest the largest? Or am I wrong in my assumption?

19 THE WITNESS: Generally it depends on the size
20 of the pipe but also the strength of the pipe. So if
21 it's -- if it has a yield strength -- you've heard the
22 classifications X52, X60, X70? So that's the yield
23 strength of the pipe. So if it's a higher yield, it can
24 be a thinner wall and still maintain the same pressure.

25 So generally we've got lower yield pipe. We do

1 have some X70 pipe that's lower yield pipe for thicker
2 wall, and that helps with the -- helps mitigate the risk
3 of crack propagation.

4 SUBSTITUTE DECISIONMAKER DAWSON: I have no
5 further questions.

6 THE WITNESS: Thank you.

7 ALJ HOGAN: All right. Thank you.

8 Mr. Bender, did you have any redirect?

9 MR. BENDER: Just a follow-up question or two.

10 REDIRECT EXAMINATION

11 BY MR. BENDER:

12 Q. Mr. Powell, we've been using the term "PHMSA" a
13 lot this morning, and certainly members of the
14 Commission and Commission staff understand what PHMSA
15 means. My understanding is it's an acronym. Is that
16 your understanding?

17 A. Yes.

18 Q. And can you tell me what that acronym stands
19 for?

20 A. It's Pipeline Hazardous Material Safety
21 Administration.

22 Q. And that's a federal agency; is that correct?

23 A. It is.

24 Q. Okay. And that's an agency that has many
25 different rules and regulations with respect to

1 construction and operation of a pipeline; is that
2 correct?

3 A. Yes.

4 Q. And Summit is going to have to comply with all
5 those rules and regulations in the construction and
6 operation of that pipeline if this permit is granted; is
7 that correct?

8 A. Yes.

9 MR. BENDER: That's all the questions I have.

10 ALJ HOGAN: All right. Thank you.

11 Mr. Pelham, any other questions?

12 MR. PELHAM: No.

13 ALJ HOGAN: Mr. Schock? Mr. Pranis?

14 MR. PRANIS: No, Your Honor.

15 ALJ HOGAN: Commissioner Christmann?

16 COMMISSIONER CHRISTMANN: I did. The residence
17 with the waiver, do you know what page that is in the
18 map book?

19 THE WITNESS: I do not. I know the coordinates,
20 but I do not know the page.

21 COMMISSIONER CHRISTMANN: The coordinates. You
22 mean like the section and township?

23 THE WITNESS: Yes, sir.

24 COMMISSIONER CHRISTMANN: Is that in section 12,
25 131 north, 54 west?

1 MR. BENDER: Let me check, Mr. Commissioner.
2 This isn't testimony. I show it in the southeast
3 quarter of 5-131-54, Sargent County.

4 THE WITNESS: I have them here. The only reason
5 I hesitated, Commissioner Christmann, is I'm assuming
6 that the coordinates won't divulge the landowner, but I
7 have those coordinates here.

8 MR. BENDER: And it is something we're going to
9 have to make a part of the public record so --

10 THE WITNESS: Okay. I'm just always hesitant to
11 release landowner information without their permission.

12 MR. BENDER: I fully understand and appreciate
13 that.

14 COMMISSIONER CHRISTMANN: Well, can you find
15 section 12 of 131 north and 54 west? Is that -- that
16 seemed particularly close to me, just in looking at the
17 map.

18 THE WITNESS: I don't know if we have the maps
19 here.

20 ALJ HOGAN: It's under the binders, the map
21 book.

22 MR. BENDER: Section 12 of what?

23 COMMISSIONER CHRISTMANN: 131-54.

24 THE WITNESS: What page are you on,
25 Commissioner?

1 COMMISSIONER CHRISTMANN: I don't even see page
2 numbers on these.

3 THE WITNESS: Oh. They're sheet number.

4 COMMISSIONER HAUGEN-HOFFART: Nine of 36?

5 THE WITNESS: Yeah, I'm close. Okay, I have it.

6 COMMISSIONER CHRISTMANN: That yellow mark
7 there, that's more than 500 feet or is that an area
8 that's been worked around or what?

9 THE WITNESS: I -- the scale -- yes. If you
10 look at the scale on the bottom left, sir, if you're
11 looking at the one in the center in section 11? Or
12 you're looking at one in section 12?

13 COMMISSIONER CHRISTMANN: In section 12.

14 THE WITNESS: Yeah, that is -- that is within
15 500 feet, yes. Less than 500 feet.

16 COMMISSIONER CHRISTMANN: But you said that's
17 not the one that has the waiver?

18 THE WITNESS: I believe that one is.

19 COMMISSIONER CHRISTMANN: Oh, okay.

20 THE WITNESS: Yes.

21 COMMISSIONER CHRISTMANN: Okay.

22 THE WITNESS: That is the one -- that is the one
23 with the waiver.

24 MR. BENDER: Perhaps after we take a break we
25 can find out in more detail just what this is and we'll

1 get back to you. Does that work for you, Commissioner?

2 COMMISSIONER CHRISTMANN: I don't think that
3 came through on the mic but --

4 MR. BENDER: I'm sorry.

5 COMMISSIONER CHRISTMANN: Your Honor, that is
6 fine with me if we just get a response to it afterwards.
7 Just in -- in just scouring through these maps, one that
8 kind of jumped out at me that I wanted to double-check
9 on.

10 MR. BENDER: And what we'll do is --

11 THE WITNESS: I need to double-check too.

12 MR. BENDER: We'll check with our right of way
13 department and find out just exactly where this is from
14 the route.

15 COMMISSIONER CHRISTMANN: Okay. And part of the
16 question is -- I mean, there were others that were close
17 that I assume they're right on, but this one, there's a
18 road in between so it could be a different landowner.
19 I'm just wanting to make sure someone didn't get left
20 out of the process here.

21 ALJ HOGAN: Are there any other commissioner
22 questions? No? All right.

23 So I think there's a couple things that
24 Mr. Powell wanted to double-check so maybe we'll take
25 our morning break and we can get that information and

1 then have Mr. Powell, or whoever you want to have answer
2 those questions. And then we'll go from there.

3 I'll just remind everybody, if you haven't
4 signed the attendance sheet, I'd ask that you please do
5 that during the break. And also it was my understanding
6 that there were some party intervenors that are
7 represented by Attorney Leibel and Attorney Jorde that
8 were going to appear today. If that's you, if you want
9 to just identify yourselves, come and talk to me during
10 the break, I'd appreciate that.

11 But with that said, we'll take our morning break
12 and we'll shoot for about a 15-minute, so about 10:25 or
13 so. Thank you.

14 (Recess)

15 ALJ HOGAN: All right. We are going to get
16 started again.

17 Go ahead, Mr. Bender.

18 MR. BENDER: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. BENDER:

21 Q. Jimmy, just a few follow-up questions as a
22 result of some of the questions from the commissioners
23 and the Commission staff.

24 Let's go to page 9 of 36 in the large booklet
25 that contains a lot of the photographs of the route and

1 the corridor. Are you on page 9?

2 A. I am.

3 Q. Okay. And there were some questions about if
4 the route in that area was closer than 500 feet to a
5 house. Do you recall those questions?

6 A. Yes.

7 Q. And have you had an opportunity to speak with
8 some people in the right of way department and others as
9 to that information?

10 A. I have.

11 Q. And what have you learned in terms of how close
12 the route is to, first of all, just buildings, like
13 barns, sheds, that sort of thing?

14 A. To buildings, barns, it's about -- a little over
15 600 feet. 610 feet.

16 Q. Okay. And then in terms of how close the route
17 would be to a house, did you get any information on
18 that?

19 A. It's about 515 feet.

20 Q. Okay. And there's a yellow diamond on this map.
21 Is that to designate a house or is that to designate
22 something else?

23 A. That's a water well.

24 Q. Okay. And there were some questions,
25 Mr. Powell, with respect to local permits. Can you

1 provide us with a little bit more information now as to
2 where you are in Sargent and Dickey County with respect
3 to local permits?

4 A. Yes. So in these two counties we've only
5 applied for Department of Transportation permits at this
6 point. I believe there are 30 or so of those. And then
7 once we receive those Department of Transportation
8 permits, then we'll apply for the other local permits,
9 probably the next two months.

10 Q. Okay. And there were also some questions from
11 Commission staff with respect to reroutes. Are you
12 aware of the fact that the Commission had made a request
13 for information about reroutes on a previous occasion?

14 A. Yes.

15 Q. And is it your understanding that the company,
16 Summit, submitted to the Commission staff those
17 reroutes?

18 A. Yes.

19 Q. And there were three of them, possible reroutes;
20 is that correct?

21 A. Correct.

22 Q. And has that changed at all since those were
23 submitted to the Commission staff?

24 A. It has.

25 Q. And how has it changed?

1 A. It's my understanding that we've eliminated one
2 of those reroutes, reduced the length of the reroute so
3 there are two remaining that are being evaluated.

4 Q. And that's an ongoing process, is it not?
5 There's a possibility that further reroutes that we've
6 submitted to the Commission staff could change or be
7 eliminated. Is that a fair statement?

8 A. It is.

9 Q. And there's a possibility that some additional
10 ones could be added, but you'll continue to keep the
11 Commission staff up to speed on that issue; is that
12 correct?

13 A. Yes.

14 MR. BENDER: That's all the questions I have,
15 Your Honor.

16 ALJ HOGAN: All right. Mr. Pelham, any
17 questions?

18 MR. PELHAM: No questions. Thank you.

19 ALJ HOGAN: Mr. Schock? Mr. Pranis?

20 MR. PRANIS: No, Your Honor.

21 ALJ HOGAN: Commissioner Christmann, any
22 additional questions?

23 COMMISSIONER CHRISTMANN: No.

24 ALJ HOGAN: Commissioner Haugen-Hoffart.

25 COMMISSIONER HAUGEN-HOFFART: Nothing.

1 ALJ HOGAN: Mr. Dawson.

2 All right. That's all for you, Mr. Powell.

3 THE WITNESS: Thank you.

4 ALJ HOGAN: Any further witnesses, Mr. Bender?

5 MR. BENDER: No, Your Honor.

6 ALJ HOGAN: All right. We'll now move to our
7 party intervenors.

8 Mr. Dotzenrod, could I have you go first?

9 BENJAMIN DOTZENROD: Absolutely.

10 ALJ HOGAN: Good morning. I will have you start
11 by stating your full name and spelling your last name
12 for the record.

13 BENJAMIN DOTZENROD: My name is Benjamin
14 Dotzenrod.

15 ALJ HOGAN: Is that microphone on? Pull it
16 closer. Hang on.

17 BENJAMIN DOTZENROD: Benjamin Dotzenrod,
18 D-O-T-Z-E-N-R-O-D.

19 ALJ HOGAN: And, Mr. Dotzenrod, were you in the
20 room this morning when I went through the penalties for
21 perjury?

22 BENJAMIN DOTZENROD: Yes.

23 ALJ HOGAN: And do you understand what perjury
24 is?

25 BENJAMIN DOTZENROD: Yes.

1 ALJ HOGAN: And being advised of the potential
2 penalties for perjury, do you promise to tell the truth
3 in this case today?

4 BENJAMIN DOTZENROD: Yes.

5 ALJ HOGAN: All right. Thank you. Go ahead.

6 **BENJAMIN DOTZENROD,**
7 being first duly sworn, testified as follows:

8 BENJAMIN DOTZENROD: Thank you so much for
9 listening to my specific set of circumstances. Comments
10 today will be specific to pipeline routing on or around
11 northwest quarter section 26, Viking Township, 135
12 north, 51 west, Richland County, also known as the
13 schoolhouse quarter. I have been managing the
14 schoolhouse quarter for about ten years. It is the most
15 productive and profitable piece of property I work on.
16 Carbon dioxide pipeline routing currently goes through
17 this property.

18 Something different about this property is the
19 impacts of the pipeline extend beyond the easement area.
20 There is an underground drain tile drainage system
21 installed on the property. This investment was made by
22 the owner years ago and, in my experience in working
23 this property both before and after installation, it is
24 the single most important variable that predictably
25 increases yield, reduces grain moisture, and increases

1 profit.

2 Last week I had a meeting with my operating loan
3 lender in which they helped me create an estimate of
4 19.6 percent of the profit on planted acres in 2022 came
5 from this property. This was not the case prior to tile
6 installation. Without a functioning subsurface drain
7 tile system, this could turn into a net loss.

8 The subsurface tile drainage system is the only
9 difference-making water outlet in a climate district
10 that consistently deals with excess spring moisture.
11 Excessive spring moisture increases costs and reduces
12 revenue as well as profit. Surface water outlets may be
13 necessary during pipe installation and testing. Again,
14 difference-making water surface outlets do not exist on
15 the schoolhouse quarter.

16 Now that the importance of the subsurface tile
17 drainage system has been established, I would like to
18 explain how current pipe routing will affect the
19 integrity of the entire drainage system and creates
20 unnecessary and unavoidable risks to North Dakota
21 property owners and workers.

22 During installation, the drain tile contractor
23 complained about the instability of the subsoil in this
24 area. This has been verified using the NRCS web soil
25 survey. Every soil type on the schoolhouse quarter was

1 classified as very limited on the shallow excavation
2 study tool. On a related note, corrosion of steel was
3 classified as high. You should be able to find those in
4 those folders.

5 The current route delivered via a blanket
6 easement crosses a plethora of subsurface drain tile
7 lines on the schoolhouse quarter. The latest proposal
8 was for the subsurface lines to be damaged during
9 installation and repaired at some point.

10 In discussions with my drain tile contractor,
11 they revealed the weakest point in any subsurface tile
12 system is where connections, reconnections, or repairs
13 are made with loose soil around the tile which the
14 installation process will create.

15 And I wanted to bring a piece just to
16 demonstrate. You know, when this is installed, it's on
17 a perfect grade, a perfect slope. And if you get a
18 little dip in it, which, you know, the ground moves over
19 time, especially if it is -- the soil is not settled.
20 You know, you dig a hole and you fill it back in with
21 loose dirt, that soil eventually compresses to -- it
22 removes the air. And so when you get a dip, it kind of
23 stops functioning and eventually they get -- these lines
24 get ripped apart. And so that's -- just wanted to
25 explain that visually.

1 Certainly risks to the integrity of this
2 subsurface drain tile system will be further amplified
3 beyond natural circumstances by the presence of freshly
4 disturbed soil. In an already unstable soil, these
5 conditions will exist for several years after pipe
6 installation and beyond the initial subsurface repair
7 window.

8 Couple this with firsthand experience I have
9 with subsurface tile breakages. These breaks just about
10 always result in a sinkhole. Before the sinkhole forms,
11 an air pocket forms. This is invisible to the eye.
12 What scares me is when this air pocket forms around this
13 pipeline but underground and the normal use of heavy
14 machinery crosses the pipeline. These air pockets
15 eventually collapse.

16 I would like to avoid expensive equipment in
17 excess of 50,000 pounds from falling onto an operating
18 pressurized carbon dioxide pipe. I would also like to
19 avoid an employee, myself, or direct family member,
20 while operating a machine in a normal way, from falling
21 onto the pressurized pipe. I would like to avoid
22 volunteer emergency responder workers from responding to
23 this incident. I would like to avoid nearby homeowners
24 from being impacted. I believe this would constitute an
25 unintentional third-party strike which everyone here

1 today wants to avoid.

2 Now add the knowledge that pipeline heaving has
3 been observed in Richland County with other pipelines
4 and we have the conditions where there is reasonable
5 expectation for unintentional third-party strikes.
6 Something no one wants to be involved with on any level.

7 When you consider how many of these subsurface
8 tile lines will be repaired and, therefore, how many
9 risk points to unintentional third-party strikes exist
10 in a very small area, it is clear current routing did
11 not minimize impacts to North Dakota landowners, nearby
12 homeowners, and workers, or value the operational
13 integrity of the pipeline.

14 Additionally, these breaks would definitely
15 prevent drainage on areas beyond the easement area,
16 causing higher costs followed by revenue and profit
17 losses on land outside the easement area.

18 The current route through the schoolhouse
19 quarter clearly affects my job, how I operate, and how
20 my family and I live. In fact, it already has, as I am
21 considering creating a different business entity solely
22 for the purpose of operating the property because I
23 believe there will be a significant personal injury as a
24 direct result of this pipeline routed as proposed. This
25 entity would come at dramatically increased insurance,

1 professional and management costs, which would otherwise
2 be completely unnecessary. It is difficult for me to
3 quantify this impact as I lack the resources to
4 efficiently manage multiple farming businesses.

5 It will also stop altogether the additional
6 irrigation investment which has been planned on this
7 property, because anything invested will be put at more
8 than significant financial risk given the sinkhole,
9 unintentional third-party strike situation.

10 Therefore, placing the pipe on the current route
11 removes future income and opportunities.

12 Lastly, but of great importance to me
13 personally, is the effect this pipeline installation and
14 operation will have on the conservation practices that
15 have been used continuously over the past eight years.

16 There are numerous benefits to these practices.
17 Through these practices, water infiltration rates have
18 increased. According to Tyler Groh, Ph.D., Penn State
19 University, quote, "The greater the amount of water
20 infiltrating into the soil, the less water available to
21 run off a field. This translates to less sediment and
22 nutrient export to streams," unquote.

23 The important point here is as soon as the soil
24 is heavily tilled once, which will be necessary after
25 pipeline installation, most of these benefits are gone.

1 You have lost the last eight years of conservation water
2 infiltration gains.

3 I have invested in different equipment to
4 implement these practices. These were investments very
5 difficult to make financially at much greater cost than
6 conventional farming methods with borrowed money. I am
7 still making payments on these loans. Here again the
8 impacts of the pipeline installation will extend beyond
9 the easement area. Conservation losses will occur on
10 the entire schoolhouse quarter, not just the easement
11 area.

12 We are here today because we have something in
13 common. We want to see this pipe placed on a route that
14 minimizes impacts to North Dakota landowners,
15 homeowners, employees, business owners, and volunteer
16 emergency workers. We also want to have good chances
17 this pipeline operates normally without interruption,
18 without unintentional third-party strikes, that the
19 integrity of this pipe is preserved after installation,
20 that it does not adversely impact environmental quality.

21 I could go on, but I am hopeful we can agree the
22 schoolhouse quarter is not that route. Please reroute
23 around the schoolhouse quarter, northwest quarter
24 section 26, Viking Township, 135 north, 51 west,
25 Richland County.

1 And in your packets you should find a -- the
2 latest proposed route we received, and also there's a
3 map of this area that's publicly available through
4 Richland County that kind of designates where drain tile
5 has been installed and where it hasn't in this area, and
6 the NRCS information.

7 Thank you.

8 ALJ HOGAN: Mr. Dotzenrod, I'm going to label
9 your packet as Exhibit No. BD-1.

10 And I'll just ask if there's any objection to
11 that exhibit or the packet. Mr. Bender?

12 MR. BENDER: No objection.

13 ALJ HOGAN: Mr. Pelham?

14 MR. PELHAM: No objection.

15 ALJ HOGAN: Mr. Pranis?

16 MR. PRANIS: No objection.

17 ALJ HOGAN: All right. So Exhibit BD-1 is
18 received into the record.

19 Any other comments at this time, Mr. Dotzenrod?

20 BENJAMIN DOTZENROD: No. No thank you.

21 ALJ HOGAN: Mr. Bender, any questions?

22 MR. BENDER: Thank you, Your Honor. As you
23 recall, yesterday at the prehearing conference,
24 Mr. Dotzenrod's counsel and I discussed the fact that
25 Mr. Dotzenrod would be testifying here today, and

1 counsel for Mr. Dotzenrod indicated that he would also
2 make Mr. Dotzenrod available at the last hearing of the
3 Commission in Burleigh County, and I agreed to waive any
4 questions until that time.

5 ALJ HOGAN: All right. Mr. Pelham, any
6 questions?

7 MR. PELHAM: I have a couple.

8 CROSS EXAMINATION

9 BY MR. PELHAM:

10 Q. Good morning, Mr. Dotzenrod.

11 A. Good morning.

12 Q. As far as your request to reroute around this
13 schoolhouse quarter, has there been any discussion with
14 the company as to that? Have you proposed something
15 else? I mean, it's going to impact those around you. I
16 mean, what's the status of that?

17 A. I have -- over the last year, we've -- a little
18 over a year, we've been talking with them and their --
19 and, you know, I proposed two different routes within
20 this field, and it was rejected. I also proposed two
21 different routes out of the field which were rejected.

22 Q. Did they give a reason?

23 A. Let me think. I know on one case there was
24 something to do with prairie chicken habitat that they
25 wanted to go around, and maybe some other reasons. I

1 can't recall.

2 Q. Okay. As far as the drain tile repairs that
3 would have to be done if a line is installed on your
4 property, has the company made any statements as to what
5 it would do to address issues that would rise, say,
6 after the repair? Anything like that?

7 A. My understanding was that -- so my concern is
8 that, because of this -- I want to answer your question,
9 but I don't feel like I can do that. Could you ask the
10 question again?

11 Q. I'm just basically wondering, you know, if
12 there's any type of warranty, so to speak, on the
13 repairs. If there's an issue, say, five years later, I
14 mean has there been any representations as to that by
15 the company as to issues with drain tile repair and
16 issues that would arise as a result of the line being
17 installed?

18 A. Well, so that's sort of the -- what I'm
19 struggling with, is that if -- so if these lines come
20 apart, that means that soil -- soil enters.

21 Q. Sure.

22 A. Let's say this is the pipe. The pipe is right
23 under here. Okay? My tile line is here. Okay? This
24 line comes apart, soil -- that means soil can enter my
25 tile line and, well, the water keeps coming so that --

1 that dirt just gets washed down somewhere down there.

2 And so we can have issues, you know, outside of
3 where they even worked. And so it -- unless the entire
4 system is warrantied, you know, I -- I'm pretty
5 concerned that we're going to get stuck holding the
6 bill --

7 Q. Sure.

8 A. -- so to speak.

9 Q. So then specifically have there been discussions
10 with the company as far as any type of warranty, that a
11 blanket warranty on the entire system?

12 A. I don't think anything's been offered, no.

13 MR. PELHAM: I don't have any other questions.
14 Mr. Schock may.

15 CROSS EXAMINATION

16 BY MR. SCHOCK:

17 Q. Just to kind of further down that road. Is that
18 something that would give you some satisfaction in this
19 kind of an arrangement where, if the company was willing
20 to provide you a warranty or some sort of assurances
21 that your drain tile would continue to function long
22 term? I know you listed out a number of concerns, but
23 that seems to be one of your primary ones.

24 A. I'd say my biggest concern is the sinkholes next
25 to the pipeline. You know, we want to make sure that

1 this pipe has integrity, that it keeps operating. And
2 so I -- I don't think this pipe belongs around tile, is
3 what I'm trying to say.

4 MR. SCHOCK: Okay. I have no further questions.
5 Thank you.

6 ALJ HOGAN: Mr. Pranis, any questions?

7 MR. PRANIS: No, Your Honor.

8 ALJ HOGAN: Commissioner Christmann.

9 COMMISSIONER CHRISTMANN: Thank you for being
10 here, Mr. Dotzenrod.

11 THE WITNESS: Thank you.

12 COMMISSIONER CHRISTMANN: I am concerned I'm not
13 understanding your explanation as it relates to the map
14 that -- although we'll have our own exhibit number for
15 everything, as I understood it, your entire packet is
16 one, but you have it labeled as Exhibit B, preliminary
17 route.

18 THE WITNESS: Yes. You want me to just explain
19 what's going on here?

20 COMMISSIONER CHRISTMANN: Let me explain what's
21 confusing me.

22 THE WITNESS: Okay.

23 COMMISSIONER CHRISTMANN: The northwest quarter,
24 it looks like the pipeline route would just kind of be
25 in maybe the very northeast 40 of that quarter like --

1 it's not even in that quarter very much. Am I correct?

2 THE WITNESS: This red line, that red line --
3 how do I -- the dashed black line is the northwest
4 quarter.

5 COMMISSIONER CHRISTMANN: Oh, okay. I thought
6 this was a section. Okay. I'm sorry about that.

7 THE WITNESS: Yeah. So that's just -- yeah.
8 Okay.

9 COMMISSIONER CHRISTMANN: Okay. Up on top, the
10 description lists it as the section, not the quarter.
11 Okay. So it does traverse all the way north to south at
12 an angle but all the way across the whole quarter.

13 What kind of -- you said you recommended a
14 different route outside of this quarter and an
15 additional route that did cross the quarter that would
16 be more preferable to you. Can you kind of explain what
17 that was?

18 THE WITNESS: You know, the main -- so the route
19 outside was really -- I think I -- I just threw out that
20 if you could get this away from drain tile, I think --

21 COMMISSIONER CHRISTMANN: Sure.

22 THE WITNESS: -- everyone would be happier. And
23 so --

24 COMMISSIONER CHRISTMANN: But what was your
25 proposal if they did traverse this quarter?

1 THE WITNESS: Within this quarter? For it to go
2 on either the west edge or the east edge -- yeah,
3 yeah -- of this quarter.

4 COMMISSIONER CHRISTMANN: Okay. I'm from
5 southwest North Dakota so we don't do too much drain
6 tiling out there, like zero. If your drain tile was
7 mapped on here -- sorry don't know much about this -- is
8 it all running to one common discharge point --

9 THE WITNESS: Correct.

10 COMMISSIONER CHRISTMANN: -- just a series of
11 pipes, or do they run a little bit and then feed into a
12 larger one? Can you kind of explain how many times this
13 might cross your existing tiling?

14 THE WITNESS: So as proposed, it -- you know, if
15 the pipeline was running straight north-south, just say
16 if it was, most of the tile lines run from east to west
17 so it would hit every single line in this field. So I'm
18 -- as far as how many that would be, it would be a lot.
19 You need a number?

20 COMMISSIONER CHRISTMANN: How far are they
21 apart?

22 THE WITNESS: Roughly a hundred feet.

23 COMMISSIONER CHRISTMANN: Okay. And what's the
24 depth of them?

25 THE WITNESS: They vary. Typically three to

1 four feet.

2 COMMISSIONER CHRISTMANN: Okay. And nothing
3 lasts forever. I think you said that these -- that this
4 was installed eight or ten years ago or something like
5 that. How long do you expect -- if nothing else
6 happened and outside of third-party strikes or something
7 unusual, how long should that tiling last?

8 THE WITNESS: Well, it's plastic, and I'm told
9 that plastic, if it hits the sun it will break down, but
10 if it's buried in the ground, it really doesn't break
11 down. So I'm not aware of anyone who's retiled with
12 plastic tile because it wore out. I think it lasts
13 forever, pretty much.

14 COMMISSIONER CHRISTMANN: When you talked to
15 your tiling contractor, that wasn't a general tiling --
16 I assume you're talking about this project; correct?

17 THE WITNESS: Correct.

18 COMMISSIONER CHRISTMANN: So when you've
19 discussed an easement, have you discussed the depth of
20 the CO2 pipeline with him? Do you know what that is
21 proposed to be?

22 THE WITNESS: Do I know what the depth of the --

23 COMMISSIONER CHRISTMANN: Correct.

24 THE WITNESS: I've heard anywhere from four to
25 six feet but nothing specific on this property.

1 COMMISSIONER CHRISTMANN: And so when you're
2 talking to your tiling contractor, if -- where they
3 cross the existing tilings, you're going to have -- all
4 those will need to be repaired; correct?

5 THE WITNESS: Correct.

6 COMMISSIONER CHRISTMANN: Is it yours and your
7 tiling contractor's assumption that the newly repaired
8 line will go over the top of the CO2 pipeline or
9 underneath the CO2 pipeline?

10 THE WITNESS: My assumption was the repairs
11 would be above.

12 COMMISSIONER CHRISTMANN: Okay. And when you're
13 -- you talked about soil getting into the pipeline and
14 clogging things up far away from the easement. How
15 often does that happen outside of something like this?
16 I assume once in a while you get a break somewhere. Is
17 that fairly frequent or do most of your tiled fields go
18 for years without an episode like that?

19 THE WITNESS: The question is how often are
20 repairs done?

21 COMMISSIONER CHRISTMANN: Correct. And -- well,
22 I guess two questions. How often do you have to do
23 repairs? And then how often do the repairs involve
24 unclogging something where, before the repair was made,
25 sediment had gotten downstream?

1 THE WITNESS: So regarding how often repairs are
2 done, there's usually one somewhere on our farm every
3 year, sometimes more than one. We've never had anything
4 plugged up, but this is also sort of a different
5 situation. We have had neighbors that have had plugged
6 lines, especially on our soil types with more sand.
7 Sand, I think, is more apt to plug things up than clay.

8 COMMISSIONER CHRISTMANN: Can they be blown out
9 somehow or do they have to be dug up and replaced?

10 THE WITNESS: The neighbor we had, he had to
11 replace all the lines.

12 COMMISSIONER CHRISTMANN: Okay. I don't think I
13 have any other questions, Your Honor.

14 Thank you, Ben.

15 ALJ HOGAN: Thank you.

16 Commissioner Haugen-Hoffart.

17 COMMISSIONER HAUGEN-HOFFART: Thank you.

18 Ben, thank you so much for coming and
19 testifying. We appreciate it.

20 On your written testimony that you went through,
21 on the second page, you heard prior discussion or
22 questions about heaving, and you said, "Now add the
23 knowledge that pipeline heaving has been observed in
24 Richland County with other pipelines." Can you explain
25 that more, what you have witnessed?

1 THE WITNESS: Sure. So what -- what I heard
2 said was that the models said that there would not be
3 heaving. Now, it might be true, but I can tell you that
4 we have -- there's other farmers in Richland County that
5 have had saddles put onto the pipe because it was
6 heaving and it -- you know, it still kind of heaved
7 so...

8 COMMISSIONER HAUGEN-HOFFART: What caused the
9 heaving or -- you know, they had to do it? I mean, is
10 it --

11 THE WITNESS: I don't know.

12 COMMISSIONER HAUGEN-HOFFART: -- heavy
13 equipment? Is it frost? Do you know?

14 THE WITNESS: My assumption is that it's frost
15 because, you know, if this pipe is at -- let's just say
16 it's at four feet. Well, there's a reason we put our
17 waterlines at six feet in this state. It's because it
18 freezes sometimes. Maybe not this year, maybe not next
19 year, but it does freeze to four feet on a regular
20 basis.

21 COMMISSIONER HAUGEN-HOFFART: Which can create
22 the heaving?

23 THE WITNESS: I imagine.

24 COMMISSIONER HAUGEN-HOFFART: Okay. Okay.
25 Thank you.

1 I'm looking at the application and like the
2 communication that's between Summit and the landowners,
3 and I'm just going to read some of this that's in the
4 application regarding drain tile. And the reason why
5 I'm reading it is to get your feedback if this has
6 occurred or been communicated with you as a potential
7 route:

8 "Drain tiles disturbed or damaged by pipeline
9 construction will be replaced to its original or better
10 condition."

11 Has anyone explained that to you in talking with
12 you?

13 THE WITNESS: I mean, they -- they offered to
14 repair -- repair it in some way.

15 COMMISSIONER HAUGEN-HOFFART: But did you go
16 through your -- like your scenario with them, your
17 concerns, and say "Would this be covered? Would this be
18 covered?"

19 THE WITNESS: Just in reading the easement, I
20 don't see how that could be covered. My understanding
21 was it was limited to the easement area.

22 COMMISSIONER HAUGEN-HOFFART: Okay. I'm going
23 to go on --

24 THE WITNESS: The issues would be limited to the
25 easement area because that's what they're -- they're

1 purchasing, so to speak. Maybe that's an assumption on
2 my part.

3 COMMISSIONER HAUGEN-HOFFART: Okay. I'm just
4 going to read a little bit more in their application,
5 what they state.

6 MR. PELHAM: If you could just say where you're
7 reading it so we have it on the record.

8 COMMISSIONER HAUGEN-HOFFART: Okay. Section
9 2.2.12.3, second paragraph.

10 "Permanent repair and replacement of damaged
11 drain tiles will be performed in accordance with the
12 following requirements:

13 "All damaged, broken, or cracked tile will be
14 removed.

15 "Only unobstructed tile will be used for
16 replacement."

17 And it goes on.

18 THE WITNESS: So I don't hear anything in there
19 that addresses my concerns.

20 COMMISSIONER HAUGEN-HOFFART: Okay. Okay. And
21 then they say also in Section 8.3.4.1, Surface Damage
22 (sic), the last sentence:

23 "As discussed in Section 2.2.12, drain tiles
24 disturbed or damaged by pipeline construction will be
25 repaired to its original or better condition."

1 THE WITNESS: Could you repeat that, please?

2 COMMISSIONER HAUGEN-HOFFART: Yes.

3 "Drain tiles disturbed or damaged by pipeline
4 construction will be repaired to its original or better
5 condition."

6 THE WITNESS: And this is in the application?

7 COMMISSIONER HAUGEN-HOFFART: Yes. This is in
8 the application we received from Summit.

9 THE WITNESS: Is that language in the easement?

10 COMMISSIONER HAUGEN-HOFFART: I don't know. I
11 haven't read an easement.

12 THE WITNESS: You don't get an easement?

13 COMMISSIONER HAUGEN-HOFFART: We don't see the
14 easements. It's between the landowner and Summit.

15 The purpose of this is what -- what I'm getting
16 at is you said you had communications with Summit, and
17 you expressed concerns and you expressed them very much
18 here. I'm just wondering what they have stated in their
19 application, has that been in any way communicated with
20 you in discussion of obtaining the easement?

21 THE WITNESS: I think it was understood that
22 they would repair the initial -- I don't know how to
23 word this, but -- so they -- you know, they have to dig
24 a trench, I imagine. I don't know what they do. But
25 this gets cut at some point. They repair that. That's

1 fine. But what happens after that? That's my concern.
2 And that was never really addressed.

3 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.
4 I have no further questions.

5 ALJ HOGAN: Mr. Dawson.

6 SUBSTITUTE DECISIONMAKER DAWSON: Mr. Dotzenrod,
7 it says in your testimony that you're managing the
8 property. Are you renting it or do you -- are you part
9 of a business association or family structure of some
10 sort?

11 THE WITNESS: Prior to -- let's see. So I'm
12 farming in an LLC in 2023. Prior to that it was -- I
13 was renting it as a -- I've been renting it for the past
14 ten years. This next year I'll be renting it as an
15 owner of an LLC. In the past I've rented it as an
16 individual.

17 SUBSTITUTE DECISIONMAKER DAWSON: I have no
18 further questions.

19 ALJ HOGAN: Are there any other commissioner
20 questions?

21 Mr. Pelham.

22 RECROSS EXAMINATION

23 BY MR. PELHAM:

24 Q. Just a brief follow-up, Mr. Dotzenrod. As far
25 as the owner's position on the proposed route of this

1 line on the northwest quarter, what is your
2 understanding, the owner's position? Is it in step with
3 what your position is?

4 A. Yes. And -- it's in step with mine. And she
5 was waiting on some information. She wanted to add to
6 her statement. I believe she's planning on commenting
7 at one of the next couple meetings.

8 MR. PELHAM: Thank you. Thank you. No further
9 questions.

10 ALJ HOGAN: All right. Thank you,
11 Mr. Dotzenrod.

12 BENJAMIN DOTZENROD: Thank you.

13 ALJ HOGAN: Can I ask the other intervenors to
14 come forward?

15 Good morning.

16 SHIRLEY WALOCH: Good morning.

17 ALJ HOGAN: I'll have you start like the others
18 with just stating your full name for the record and
19 spelling your last name.

20 SHIRLEY WALOCH: Shirley Waloch. Last name is
21 W-A-L-O-C-H.

22 ALJ HOGAN: And, Ms. Waloch, were you in the
23 room earlier when I went through the penalties for
24 perjury?

25 SHIRLEY WALOCH: Yes, I was.

1 ALJ HOGAN: And do you understand what perjury
2 is?

3 SHIRLEY WALOCH: Yes, I do.

4 ALJ HOGAN: And being advised of the potential
5 penalties for perjury, do you promise to tell the truth
6 in this case today?

7 SHIRLEY WALOCH: Yes.

8 ALJ HOGAN: All right. Thank you. Go ahead.

9 SHIRLEY WALOCH,
10 being first duly sworn, testified as follows:

11 SHIRLEY WALOCH: Okay. I'm just --

12 ALJ HOGAN: Maybe before you start, can I just
13 have you, for the commissioners, can you state if you're
14 a landowner or what your interest is?

15 SHIRLEY WALOCH: I am a landowner.

16 ALJ HOGAN: Okay. And can you give them an idea
17 where your property is?

18 SHIRLEY WALOCH: I am -- I am section 12 and 14
19 in Bowen Township.

20 ALJ HOGAN: Thank you. Go ahead.

21 SHIRLEY WALOCH: Okay. Summit Carbon Solutions
22 wants to run a pipeline through three quarters of my
23 land. I said "no" so I have to come to a meeting to
24 testify.

25 My husband and I started farming in 1959. We

1 bought land, most on contract of deed, which it was a
2 financial hardship. My husband passed away in 1993.
3 The land is my main source of income.

4 Now Summit Carbon wants to run a big pipeline
5 through three quarters which will affect production for
6 many years. They will also be driving on the land to
7 check pipeline, checking it out, ruining crops.
8 Concerns are damage to farmland, damage to crops,
9 property values, and pipeline safety.

10 This project is about a hazardous carbon
11 pipeline. And when a pipeline explodes, it could
12 suffocate or intoxicate anyone in the area. This
13 happened in a little town in Mississippi as recently as
14 2020. Dozens were sent to the hospital and many had
15 seizures and machinery was made inoperable and residents
16 today are still suffering chronic fatigue and lung
17 dysfunction.

18 Why can't they move this pipeline across the
19 land where the owners are okay with it or run it along
20 highways or interstate highways?

21 Thank you.

22 ALJ HOGAN: All right. Thank you.

23 Mr. Bender, are you going to withhold questions
24 of Ms. Waloch as well?

25 MR. BENDER: Yes. We have the same agreement

1 with counsel for this intervenor as the previous
2 intervenor.

3 ALJ HOGAN: All right. Thank you.

4 Mr. Pelham, any questions?

5 CROSS EXAMINATION

6 BY MR. PELHAM:

7 Q. Good morning, Ms. Waloch. I'm just wondering if
8 any discussions were had between you and company
9 representatives as far as potential reroutes around your
10 property or is it just a firm "no"?

11 A. It was a firm "no". I don't want -- I don't
12 want it on my property.

13 MR. PELHAM: I don't have any other questions
14 for you. Thank you.

15 ALJ HOGAN: Mr. Schock? Mr. Pranis?

16 MR. PRANIS: No, Your Honor.

17 ALJ HOGAN: Commissioner Christmann.

18 COMMISSIONER CHRISTMANN: Thank you for being
19 here, Shirley. Is your land primarily cropland or is it
20 grasslands?

21 THE WITNESS: Primarily cropland. There's some
22 grassland but...

23 COMMISSIONER CHRISTMANN: And I'm not familiar
24 with the townships. Is it in Sargent County?

25 THE WITNESS: Yes, Sargent County.

1 COMMISSIONER CHRISTMANN: Is it east or west
2 Sargent County?

3 THE WITNESS: It would be halfway between here
4 and Forman, North Dakota, is basically where it's
5 located.

6 COMMISSIONER CHRISTMANN: And is any of your
7 land tiled?

8 THE WITNESS: No.

9 COMMISSIONER CHRISTMANN: Does it run pretty
10 much straight east and west or north and south as it
11 traverses your land or is it -- I don't know if you were
12 able to see Mr. Dotzenrod's maps where it was kind of
13 running diagonally through part of a quarter.

14 THE WITNESS: It runs diagonally, yes.

15 COMMISSIONER CHRISTMANN: Okay. Would it make a
16 difference to you if it were running straight as opposed
17 to diagonally, or is that not a factor in your dislike
18 for the project?

19 THE WITNESS: I just don't dislike the project.
20 I think we have to protect our cropland, agricultural
21 land also.

22 COMMISSIONER CHRISTMANN: Okay. Thank you. I
23 don't have any other questions.

24 ALJ HOGAN: Commissioner Haugen-Hoffart.

25 COMMISSIONER HAUGEN-HOFFART: Thank you for

1 coming, but I have no questions for you.

2 THE WITNESS: Okay.

3 ALJ HOGAN: Hang on.

4 Mr. Dawson.

5 SUBSTITUTE DECISIONMAKER DAWSON: Thank you. I
6 have no questions.

7 ALJ HOGAN: All right. Thank you, Ms. Waloch.
8 Good morning.

9 RANDALL WALOCH: Morning.

10 ALJ HOGAN: Can I have you state your full name
11 and spell your last name for the record?

12 RANDALL WALOCH: My name is Randall Waloch,
13 W-A-L-O-C-H.

14 ALJ HOGAN: And, Mr. Waloch, were you in the
15 room earlier when I went through the penalties for
16 perjury?

17 RANDALL WALOCH: Yes, I was.

18 ALJ HOGAN: And do you understand what perjury
19 is?

20 RANDALL WALOCH: Yes.

21 ALJ HOGAN: And being advised of the potential
22 penalties for perjury, do you promise to tell the truth
23 in this case today?

24 RANDALL WALOCH: Yes.

25 ALJ HOGAN: All right. Thank you. Go ahead.

1 **RANDALL WALOCH,**

2 being first duly sworn, testified as follows:

3 RANDALL WALOCH: Good morning. I'd like to
4 first start with saying my number one concern is safety,
5 much like most people who live close to the proposed
6 pipeline route.

7 I also have a couple other concerns. I am a
8 farmer and cattle rancher. We raise crops and
9 livestock. The proposed carbon pipeline route is less
10 than a half a mile from my house and runs right
11 alongside my calving pasture. In the event of a
12 rupture, my cattle would not survive a blast and loss of
13 oxygen.

14 I have a copy of -- a certified insurance copy
15 stated that it would not cover any losses incurred if
16 this happens. How could I make up for the \$600,000
17 economical loss with no insurance coverage and 50 years
18 of breeding genetics?

19 Being a farmer and a rancher, we are good
20 stewards of the land. I have worked for years on making
21 land more productive with minimum tillage, no tillage,
22 and planting cover crops. With these practices, they
23 will increase organic matter in the soil which will
24 result in the soil being able to hold more water and air
25 which will increase the yields. By putting a pipeline

1 in, it would destroy fertile topsoil and cause severe
2 compaction which would decrease yields for years or
3 forever.

4 My experience in the past is any time you're
5 trying to push through something really fast, there's
6 probably something wrong with it.

7 ALJ HOGAN: All right. Thank you.

8 Similar situation, Mr. Bender?

9 MR. BENDER: Yes, Your Honor.

10 ALJ HOGAN: All right. Mr. Pelham, any
11 questions?

12 CROSS EXAMINATION

13 BY MR. PELHAM:

14 Q. Good morning, Mr. Waloch. I'm just wondering if
15 you had any discussions or negotiations with the company
16 as far as the proposed route on your property?

17 A. I have not.

18 MR. PELHAM: I don't have any other questions
19 for you. Thank you.

20 ALJ HOGAN: Mr. Schock.

21 CROSS EXAMINATION

22 BY MR. SCHOCK:

23 Q. Would you be willing to identify the parcels of
24 property that the proposed route crosses?

25 A. It's on section 14, Bowen Township, 131, 56.

1 MR. SCHOCK: Thank you. No further questions.

2 ALJ HOGAN: Mr. Pranis, any questions?

3 MR. PRANIS: No, Your Honor.

4 ALJ HOGAN: Commissioner Christmann.

5 COMMISSIONER CHRISTMANN: This crosses -- about
6 how much of your property does it cross?

7 THE WITNESS: It would be -- there's around 700,
8 800 feet where it's crossing across, but it's hooked
9 onto the other stuff that gets crossed too. So
10 basically it kind of starts on three sides of me. It
11 starts up high above me on the northeast side, it goes
12 all the way across on my neighbor's land right there,
13 and it cuts on mine, and then it cuts straight south on
14 my mother's other half section there too. So it's on
15 basically three sides of me kind of --

16 COMMISSIONER CHRISTMANN: Okay.

17 THE WITNESS: -- at an angle.

18 COMMISSIONER CHRISTMANN: And you said it was
19 next to your calving pasture?

20 THE WITNESS: Correct.

21 COMMISSIONER CHRISTMANN: Is the land that it's
22 on, is that cropland or is it grassland?

23 THE WITNESS: It is on cropland acres.

24 COMMISSIONER CHRISTMANN: Not tiled?

25 THE WITNESS: Not tiled.

1 COMMISSIONER CHRISTMANN: Doesn't matter for
2 this case, but are you calving already in this cold
3 weather?

4 THE WITNESS: We are really close. We haven't
5 had any yet so we're hoping they hang out for another
6 couple days.

7 COMMISSIONER CHRISTMANN: It was my life for
8 most of my -- for most of my life. I couldn't help
9 asking. Thank you for being here.

10 ALJ HOGAN: Commissioner Haugen-Hoffart.

11 COMMISSIONER HAUGEN-HOFFART: Randall, thank you
12 so much for coming. I have no questions for you.

13 RANDALL WALOCH: Good.

14 ALJ HOGAN: Mr. Dawson.

15 SUBSTITUTE DECISIONMAKER DAWSON: Thank you. No
16 questions.

17 ALJ HOGAN: All right. Thank you.

18 Do we have any more of the party intervenors?

19 All right. Mr. Pranis, you're up.

20 MR. PRANIS: Thank you. If it's all right with
21 you, I'll just go ahead and present the report and
22 associated exhibit. I have copies of the exhibit. We
23 can --

24 ALJ HOGAN: Yep. I'm going to swear you in
25 before you do that, Mr. Pranis. And just to confirm,

1 you were in the room this morning when I went through
2 the penalties for perjury?

3 MR. PRANIS: Yes, Your Honor.

4 ALJ HOGAN: And do you understand what perjury
5 is?

6 MR. PRANIS: Yes, Your Honor.

7 ALJ HOGAN: And being advised of the potential
8 penalties for perjury, do you promise to tell the truth
9 in this case today?

10 MR. PRANIS: Yes, Your Honor.

11 ALJ HOGAN: All right. Thank you. If you want
12 to go ahead and pass out your report.

13 MR. PRANIS: Thank you.

14 ALJ HOGAN: Is it okay if I label this L1?

15 MR. PRANIS: L1.

16 ALJ HOGAN: And I'll just ask if there's any
17 objection to this as an exhibit.

18 Mr. Bender?

19 MR. BENDER: No objection.

20 ALJ HOGAN: And Mr. Pelham?

21 MR. PELHAM: No objection.

22 ALJ HOGAN: All right. Then L1 is received. Go
23 ahead, Mr. Pranis.

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KEVIN PRANIS,

being first duly sworn, testified as follows:

MR. PRANIS: Thank you, Judge Hogan,
Commissioners. Appreciate the opportunity to be here
today.

My name is Kevin Pranis, and I currently serve
as the marketing manager for LIUNA Minnesota and North
Dakota, an affiliate of the Laborers International Union
of North America on behalf of the LIUNA Great Lakes
Organizing Committee. My organization represents more
than 14,000 skilled construction laborers engaged in
construction of building, civil, and energy
infrastructure projects across Minnesota and North
Dakota including pipelines, pump stations, and other
associated facilities. My business address is 81 East
Little Canada Road, St. Paul, Minnesota.

For the past nine years I've managed LIUNA's
strategic growth programs and energy policy portfolio in
Minnesota and North Dakota, including directing and
conducting extensive research on a wide range of energy
issues and projects. Prior to accepting my current
position with LIUNA, I served as a -- directed national
research and growth initiatives for LIUNA and the Change
to Win Labor Federation in Washington, DC.

I earned a master's of art's degree in social

1 sciences from the University of Chicago and have
2 conducted extensive quantitative and qualitative
3 research on topics ranging from criminal justice policy
4 to workforce to energy over the past 25 years. During
5 that time I've authored and participated in the
6 development of numerous published reports and white
7 papers.

8 I'm here today to present testimony on the
9 potential economic and employment impacts of Summit's
10 proposed carbon capture pipeline project based on a
11 report prepared for LIUNA by North Star Policy Action, a
12 Minneapolis-based think tank that studies the economic
13 and employment impacts of construction investments along
14 with other topics. That report is Exhibit L1.

15 So I want to just briefly summarize what I think
16 are the key points of the report that are relevant to
17 this proceeding and first point out that the report
18 agrees with Summit on the importance of building
19 infrastructure for carbon capture and sequestration in
20 terms of both the economic benefits to North Dakota and
21 to the other states that would be served by this project
22 as well as to the potential environmental and climate
23 benefits.

24 The construction workforce strategy used by
25 Summit and the company's contractors, the report finds,

1 will significantly impact the project's economic
2 impacts. Specifically, the report finds a difference of
3 \$96 million in total economic impact for the state of
4 North Dakota depending on whether the workforce is
5 significantly local or whether the contractors use
6 workforce that is overwhelmingly non-local based on our
7 research -- the author's research into these energy
8 projects.

9 The report further finds that a local
10 construction pipeline worker, in other words, a pipeline
11 construction worker who lives in the area -- and we're
12 talking about as in construction commuting distance of
13 150 miles or more are not uncommon, so we're talking
14 about somebody who's from North Dakota or western
15 Minnesota -- will contribute four times more to the
16 local economy than a non-local worker over the short
17 term, 63,000 a year estimated versus \$16,000 per job
18 year, and five times more over the long term once
19 retirement benefits are included, a figure of \$79,000 in
20 net contributions to the economy compared to just
21 \$16,000 for a non-local worker.

22 The reason for that are common sense. Local
23 workers spend their money in the local economy and
24 non-local workers generally take most of their paycheck
25 back home to their place of residence.

1 When we looked at the comparison if just one --
2 if 50 -- we see the difference of \$95 million if half of
3 the construction workforce on the project is filled by
4 local workers. As we find on what we consider to be
5 high local utilization projects compared to just 10
6 percent on low worker utilization projects, the
7 difference in economic impact is approximately \$95
8 million.

9 The report also finds that the economic analysis
10 commissioned by Summit could significantly overstate the
11 local benefits of the project in areas where the
12 company's construction contractors rely heavily on local
13 workforce. That's because to the degree that we could
14 ascertain, the economic analysis relies on an
15 unrealistic assumption that local workers would account
16 for more than 90 percent of the project's construction
17 workforce. That's something that we almost never see in
18 a project of this size, whether union or a non-union
19 project.

20 Fortunately, for the portions of the project
21 that will be built by Precision, including the portions
22 of the project located here in Sargent and Dickey
23 County, we expect the economic benefits could actually
24 equal or exceed the benefits that are being projected by
25 Summit's estimate.

1 The reason for that is, while we anticipate that
2 actual hiring levels will be -- of local workers will be
3 lower than 90 percent; we think 50 percent is more
4 realistic based on our past experience with Precision.
5 On the other hand, compensation levels for workers,
6 including our members who work for Precision, are
7 significantly higher than the numbers assumed by the
8 Ernst & Young report, both in terms of wages and
9 especially benefits due to the sources that Ernst &
10 Young relies on which do not include the value of --
11 very significant value of health and retirement benefits
12 that pipeline workers employed by Precision typically
13 earn.

14 So I think the good news is that the net impact
15 of the project here built by Precision as proposed by
16 the company would be very positive and would, in our
17 view, maximize the potential economic benefits.

18 And so that's the -- you know, the sum of it.
19 Happy to take any questions.

20 ALJ HOGAN: All right. Thank you.

21 Mr. Bender, any questions?

22 MR. BENDER: No questions.

23 ALJ HOGAN: Mr. Pelham.

24

25

1 CROSS EXAMINATION

2 BY MR. PELHAM:

3 Q. Just wondering what the local component of the
4 portion of pipeline that's proposed to be built in North
5 Dakota is, if you know?

6 A. If you could clarify, Mr. Bender (sic). Do you
7 mean the local percentage of workforce?

8 Q. Well, I think you testified that the
9 Precision -- you know, there's a distinction between the
10 Precision pipeline portion, which, as I understand, is
11 going to be the main contractor for this proposed line.
12 Do you know what the local North Dakota worker
13 percentage is for that component?

14 A. Thank you, Judge Hogan, Mr. Pelham.

15 So in the Precision, our experience -- and my
16 witness, Mr. Whiteford, can testify to this directly
17 based on his experience, but our experience is typically
18 that Precision employs roughly half and half. And
19 that's according to the terms of the contracts that
20 Precision has with their labor unions for, like, us that
21 require that half of the workforce be sent by the local
22 halls and half of the workforce is typically brought by
23 the contractor.

24 Now, it can vary somewhat depending on the
25 availability of local workforce, but 50 percent local is

1 pretty typical and has been typical for past large
2 construction projects. That's for the Precision
3 portion.

4 As I believe Mr. Powell indicated in the
5 Bismarck hearing, Pumpco, the other contractor, will be
6 performing the balance of the work and our members do
7 not work for Pumpco. I'm not aware of any such contract
8 that would require Pumpco to use local workforce.

9 Q. So in Dickey and Sargent County, it's my
10 understanding Precision is the primary contractor. But
11 Pumpco is where?

12 A. Our understanding, and obviously Mr. Powell
13 could answer that question better, but our understanding
14 is that the main line portions of the pipeline would be
15 built by Pumpco. So I believe that's more in the Linton
16 to Bismarck area.

17 Q. So do you have a position on the Pumpco portion
18 of the line, how it would impact economically, how it
19 impacts your members?

20 A. Our experience has typically been that when
21 large contractors, pipeline or other energy contractors,
22 come to North Dakota from other states and don't already
23 have a significant local workforce, it's a much lower
24 percentage of local workforce. We've seen as low as 10
25 percent or lower.

1 I don't know what policies or agreements Summit
2 might have with Pumpco in terms of use of local
3 workforce. Certainly it's a concern of ours that you
4 could see a much lower percentage of local workforce on
5 those portions of the project.

6 MR. PELHAM: Thank you, Mr. Pranis. I don't
7 have any other questions for you.

8 ALJ HOGAN: Mr. Schock.

9 MR. SCHOCK: No questions.

10 ALJ HOGAN: Commissioner Christmann.

11 COMMISSIONER CHRISTMANN: Did you say that
12 Mr. Whiteford is going to be testifying?

13 MR. PRANIS: Thank you, Commissioner Christmann.
14 Yes, Mr. Whiteford will be testifying.

15 COMMISSIONER CHRISTMANN: I think my question
16 will be for Evan. Thanks.

17 ALJ HOGAN: Commissioner Haugen-Hoffart.

18 COMMISSIONER HAUGEN-HOFFART: No questions.

19 ALJ HOGAN: Mr. Dawson.

20 SUBSTITUTE DECISIONMAKER DAWSON: I'll wait as
21 well.

22 ALJ HOGAN: All right. You can call your
23 witness then.

24 MR. PRANIS: Thank you, Your Honor. He's a much
25 better witness than I am. I can understand holding your

1 questions. So I'd like to call Mr. Evan Whiteford.

2 ALJ HOGAN: Good morning.

3 EVAN WHITEFORD: How are you doing?

4 ALJ HOGAN: Can I have you start by stating your
5 full name and spelling your last name for the record?

6 EVAN WHITEFORD: Evan Whiteford,
7 W-H-I-T-E-F-O-R-D.

8 ALJ HOGAN: And, Mr. Whiteford, were you in the
9 room earlier when I went through the penalties for
10 perjury?

11 EVAN WHITEFORD: Yep.

12 ALJ HOGAN: And do you understand what perjury
13 is?

14 EVAN WHITEFORD: Yep.

15 ALJ HOGAN: And being advised of the potential
16 penalties for perjury, do you promise to tell the truth
17 in this case today?

18 EVAN WHITEFORD: I do.

19 ALJ HOGAN: All right. Thank you.
20 Go ahead, Mr. Pranis.

21 MR. PRANIS: Thank you, Your Honor.

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EVAN WHITEFORD,

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

DIRECT EXAMINATION

BY MR. PRANIS:

Q. Mr. Whiteford, could you give us your title and place of employment and address?

A. So I am a marketing representative for the Great Lakes Regional Organizing Committee associated with the Laborers International Unions of North Dakota based out of Ray, North Dakota. Office address is 2210 East Broadway Avenue in Bismarck.

Q. Thank you.

And can you briefly describe your experience in the pipeline construction industry?

A. I've got over 20,000 hours in the field installing pipeline projects working for various contractors all over the United States. I spent the last five years of my installation career in North Dakota so I'm very familiar with North Dakota in terms of putting in pipelines. It's also where I started my career as a pipeliner, was here in North Dakota.

Since then I've been over in the mountains, Pennsylvania, West Virginia. I've been in the swamps of Louisiana. I've worked for all the big brand of

1 contractors. Henkels & McCoy, Price Gregory, Precision,
2 UPI, Infrasource, several others that aren't really
3 coming to mind right this minute.

4 Q. Thanks.

5 And in your current role working for the union,
6 what is your experience and what work have you continued
7 to do in pipeline other than construction?

8 A. So a big part of what I do now is recruiting and
9 monitoring projects, both projects that we have underway
10 and projects that we do not have. We've recruited
11 numerous members all over the state of North Dakota for
12 long-term careers. Projects are temporary, but in our
13 industry we make a whole career out of temporary
14 employment, so to speak.

15 As far as the oversight of pipelines, I have
16 driven all over the state from corner to corner and laid
17 eyes on just about every pipeline project that's ever
18 under -- ever been installed in North Dakota. We are
19 monitoring projects of our own to become better stewards
20 of the industry, to have better integrity with our
21 contractors, to do better installs, to leave land better
22 conditioned.

23 A lot of this info is not really relayed between
24 project owners and the companies that are installing it.
25 I do a lot of meet-and-greets with landowners and I can

1 relay this information back to our contractors as far as
2 issues that come up maybe years down the line that are
3 not seen, you know, within the first couple years of the
4 install. The success here is that, you know, when we
5 have this communication with our contractors and folks
6 that we deal with, they can make changes to better the
7 outcome long term down the road.

8 Q. Have you, in terms of -- I want to turn to
9 workforce recruitment and where you get workforce for a
10 large project. Have you personally recruited local
11 workers to work on a large pipeline project?

12 A. Yes, I have. I guess a real specific one that
13 stands out would be the Dakota Access Pipeline.
14 Roughly -- in Williams and McKenzie County alone,
15 roughly 60 or so workers that we have placed onto these
16 projects coming from all sorts of different backgrounds.

17 Q. Did those workers all have extensive pipeline
18 experience or construction experience?

19 A. So the experience that we seen with the groups
20 of individuals that we recruited varied, some going from
21 absolutely zero construction experience all the way up
22 to folks that had minimal experience in the pipeline
23 but, I'd say, you know, a little bit of construction
24 background somewhere or some common knowledge of how a
25 construction project goes underway. But we have been

1 able to recruit anybody of any skill level and place
2 them into these positions with skilled experienced
3 people to do the on-job training portion of pipeline
4 construction.

5 Q. And are some of the local workers that you
6 recruited onto the Dakota Access project still working
7 in the construction industry today?

8 A. Yeah. The majority of them are still around
9 today. They may not all be doing pipeline right now,
10 but we have a broad spectrum of projects that we cover
11 from -- you know, energy is a small -- is just a portion
12 of what we do. We do a lot of building trades work and
13 a lot of highway work. And so these people have -- we
14 have retained them and they have made a career out of
15 doing labor tasks as union labor.

16 Q. Do you see the current project that's proposed
17 by Summit as an opportunity to bring new local workers
18 from this area into family-supporting construction
19 careers?

20 A. Absolutely. Folks might think, oh, it's just a
21 pipeline project, they're going to be here for the
22 install and then where do they go next? This area of
23 North Dakota, maybe not specifically here in Gwinner,
24 but the eastern half of North Dakota is exploding lately
25 with projects. The amount of growth in this area is

1 tremendous, and we would have zero issues keeping people
2 placed into a job.

3 Q. I want to turn to Precision specifically. So
4 you mentioned you worked for Precision. Have you
5 witnessed Precision working on a large pipeline
6 construction project in North Dakota?

7 A. Yes. That would be the Dakota Access Pipeline.

8 Q. And what would you say was the share of local
9 workforce employed by Precision versus their traveling
10 hands from other states?

11 A. I would say, you know, contract-wise it would be
12 50 percent, but it was actually more -- I would say more
13 like 70 to 80 percent local workforce considering that
14 North Dakota has been the breeding ground for the future
15 of pipeliners that are coming from all over and
16 relocating here.

17 The advantage that Precision and several other
18 of our contractors have is over the years they have hung
19 on to these folks that we have recruited in and so they
20 do live here, they do call North Dakota home, and they
21 do work here.

22 Q. What has your experience been with other
23 national sort of out-of-state contractors that don't
24 work with the union in terms of their use of local
25 workforce if they come in to do a big project?

1 A. You see a little increase in hiring locally.
2 Typically, they're filling a small void. And they run
3 through with the project and very few of them stick with
4 that company. They're pretty much looking for work when
5 they leave. We see that a lot.

6 Q. Okay. I want to turn to sort of quality of
7 construction and safety. What is -- what are the
8 measures, first of all, that your organization takes to
9 try to make sure that pipelines are installed correctly
10 and safely?

11 A. Well, I think first and foremost is the level of
12 experience that our members have that are currently
13 installing the projects is superior. I mean, they -- we
14 have individuals that have been in this industry their
15 whole lives. You know, we're talking anybody from early
16 20s on up to in their 60s. All they know is pipelines.
17 They live, eat, sleep, and breathe the pipelines.

18 We have our training facility where we send
19 folks to go get trained up to know the roots of what
20 we're doing and how to do this safely and properly.

21 So between our training center and our
22 experience in the field, we are very confident that we
23 can supply the knowledge needed to safely build a
24 pipeline that is going to be done correctly.

25 Q. So can I ask specifically about what, in your

1 experience, are some of the biggest threats to the
2 integrity of the pipeline, to the ability for the
3 pipeline to operate without spills or leaks?

4 A. So everybody is focused on the welding
5 procedures, which that is a very important part of the
6 pipeline, obviously, it's what holds the pipe together,
7 but pipe handling is often overlooked. You know, we've
8 got this coating on this pipe that is there to protect
9 the pipe, similar to a paint job on your car. Well,
10 improper handling will put voids in this coating and
11 leave it vulnerable for corrosion. And if you are not
12 experienced with handling pipe or you're not using the
13 appropriate methods to handle pipe, you're going to
14 jeopardize the coating, which is ultimately your first
15 line of defense in the integrity of your pipeline.

16 And the other part is the two-part epoxy
17 coating, which is the most commonly used, to coat the
18 welds after the welds have been completed and X-rayed.
19 Coating in itself is probably just as important, if not
20 more important, than the weld itself in terms of how
21 long the pipe is going to last.

22 So pipe handling is probably where I've seen a
23 lot of people fall short who have -- people that have no
24 experience handling it.

25 I think that answers your question.

1 Q. Can I ask about the trench construction and
2 filling, placement and filling, and what -- if there are
3 risks there to long-term integrity of the pipeline?

4 A. So when you have a pipeline project that's going
5 underground, you've got an open excavation. And
6 obviously excavation safety is a concern with the people
7 working there, but more so when we're talking about the
8 safety of the pipe, you know, we ensure that we are
9 padding the pipe with loose material free of debris. I
10 don't think there's anything worse that could happen
11 than to have a pipe sitting on a rock wearing a hole in
12 that pipe. And so typically you do about a two-foot
13 area around the pipe that is padded dirt that's been
14 sifted of all rocks and debris.

15 Q. Can I ask your experience with Precision in
16 terms of these different practices, coating, the trench,
17 the pipe handling, what the -- you know, what you
18 believe the level of quality of work is with Precision
19 based on your experience working for them or seeing
20 their work on Dakota Access?

21 A. My opinion, Precision is a top-notch contractor.
22 They're one of the best in the industry.

23 In terms of handling, I mean, we've got several
24 of their folks are NACE-certified individuals that -- if
25 you're not familiar with NACE, it's the technical

1 standards for pipeline coatings and they certify
2 individuals to apply and handle these coatings in the
3 correct fashion. Just with experience alone, you know,
4 without the NACE certifications, they show exceptional
5 care about how they're handling their products going
6 into the ground.

7 Q. All right. Thank you.

8 MR. PRANIS: No further questions.

9 ALJ HOGAN: All right. Thank you.

10 Mr. Bender, any questions?

11 MR. BENDER: No questions.

12 ALJ HOGAN: Mr. Pelham.

13 CROSS EXAMINATION

14 BY MR. PELHAM:

15 Q. Good morning, Mr. Whiteford. I was just
16 wondering if you had -- in your years working at a
17 pipeline, if you had any experience when drain tiles are
18 present on a project?

19 A. I am not your subject expert on drain tiles.

20 Q. Fair enough.

21 A. I have seen a few but I really -- I'm not the
22 one to answer them questions.

23 Q. That's fine.

24 And as far as installation of lines in cold
25 weather climate such as North Dakota, some prior

1 testimony about concerns with heaving. Have you seen
2 that or are there construction methods that are used to
3 address that potential of preventing heaving?

4 A. So -- yeah, as that was brought up, as they
5 really kind of had me running through my mind. The only
6 known heaving that I have witnessed in my career is
7 usually in lowlands, wetlands, where, you know, the pipe
8 may not have been properly anchored to where it actually
9 floats, over time it just works its way to the top, in
10 which case, you know, typically when you're installing a
11 pipeline through a low-lying area, you would use a
12 concrete-coated pipe or pipe weights to eliminate that
13 pipe from floating.

14 But as far as a pipe working its way out of the
15 ground due to frost, I have not seen that. I live in
16 the Bakken where there's -- you throw spaghetti on the
17 map in North Dakota and that's what the Bakken looks
18 like underground. And some of these pipelines are
19 dating back to what? '50s? They don't just come out of
20 the ground.

21 MR. PELHAM: Thank you. I don't have any other
22 questions.

23 ALJ HOGAN: Mr. Schock.
24
25

1 CROSS EXAMINATION

2 BY MR. SCHOCK:

3 Q. The pipelines you were just referencing in the
4 Bakken, were those buried to a similar depth of
5 around four feet?

6 A. That is the standard through the industry, is
7 four feet to the top of the pipe, so yeah.

8 MR. SCHOCK: No further questions.

9 ALJ HOGAN: Commissioner Christmann.

10 COMMISSIONER CHRISTMANN: When you've worked on
11 projects of major transmission lines like this would be,
12 a PHMSA-regulated line, and you cross anything else,
13 whether it's drain tiling or telecommunication lines or
14 some other pipeline, are those able to go over the top
15 of the PHMSA-regulated line or do they need to be routed
16 underneath it?

17 THE WITNESS: That -- I couldn't speak in terms
18 of what the standard is from PHMSA on that. Typically,
19 these utilities are shallower than what the pipeline
20 would be so the pipe would actually be underneath.

21 And, you know, in terms of actually cutting that
22 utility, there are ways of getting the pipeline under
23 that utility without cutting it. It would just be a
24 series of tie-ins. You'd kind of fish the pipe under
25 the utility and then tie your pipe in and shore up the

1 utility as you backfill.

2 COMMISSIONER CHRISTMANN: Okay. No other
3 questions.

4 ALJ HOGAN: Commissioner Haugen-Hoffart.

5 COMMISSIONER HAUGEN-HOFFART: Thank you. My
6 questions have been asked so I have no further
7 questions.

8 ALJ HOGAN: Mr. Dawson.

9 SUBSTITUTE DECISIONMAKER DAWSON: Thank you. I
10 have no questions.

11 ALJ HOGAN: All right. Anything further,
12 Mr. Pranis?

13 MR. PRANIS: No, Your Honor.

14 ALJ HOGAN: All right. Thank you,
15 Mr. Whiteford.

16 THE WITNESS: Thank you.

17 ALJ HOGAN: Does that conclude your
18 presentation, Mr. Pranis?

19 MR. PRANIS: That does, Your Honor.

20 ALJ HOGAN: Okay. Let's see. Can I get a show
21 of hands of how many people want to provide public
22 testimony? Okay. Just a handful.

23 Is everybody okay with doing public testimony
24 rather than breaking for lunch? Okay. So we will move
25 to public testimony.

1 Just a few items before we start that portion of
2 our hearing. If you wish to provide public testimony,
3 I'm going to have you come forward and sit at the
4 witness stand. Like the other witnesses this morning,
5 you will be sworn in and the parties and the
6 commissioners will be allowed to ask you questions.

7 If you represent a group or an entity, if you
8 could identify that and your relationship to the group,
9 that would be helpful. Also, if you're a landowner, if
10 you could indicate that to the Commission along with
11 where your property is located, that would be helpful.

12 Let's see here. You are providing testimony at
13 an evidentiary hearing so this is not the time to ask
14 other parties or witnesses questions or the
15 commissioners questions.

16 So I think that's all I need to indicate at this
17 point. So I'll just ask whoever wants to go first, if
18 you could come forward. Yeah. And if you do wish to
19 provide public comment, if you would like to start
20 making your way to the front here, that would be
21 helpful.

22 JASON ARTH: Hello.

23 ALJ HOGAN: Good morning. Could I get your name
24 and have you spell your last name for the record?

25 JASON ARTH: Jason Arth, A-R-T-H.

1 ALJ HOGAN: And Mr. Arth, were you in the room
2 earlier when I went through the penalties for perjury?

3 JASON ARTH: I was not.

4 ALJ HOGAN: All right. Well, I'm required by
5 law to do it. So perjury is a Class C felony punishable
6 by a maximum fine of \$10,000, a maximum five years'
7 imprisonment, or both.

8 Do you understand what perjury is?

9 JASON ARTH: Yes.

10 ALJ HOGAN: And being advised of the potential
11 penalties for perjury, do you promise to tell the truth
12 in this case today?

13 JASON ARTH: Yes.

14 ALJ HOGAN: All right. Thank you. Go ahead.

15 **JASON ARTH,**

16 being first duly sworn, testified as follows:

17 JASON ARTH: Okay. I guess I'm a Sargent County
18 commissioner. Been on the board for about six years
19 now.

20 We've been working with Summit Carbon pipeline
21 on the information that they've been giving us. I'm
22 just going to go over what -- what their proposal is for
23 the annual revenue they're going to -- this pipeline
24 would bring \$465,000 of tax revenue to Sargent County,
25 added to the tax base. That money, you know, is

1 distributed to schools, townships, fire departments, and
2 within the county. With rising land taxes every year,
3 it seems like land taxes go up. I mean, I believe that
4 this could potentially help with an issue like that,
5 bringing close to half a million dollars to the county
6 in tax revenue.

7 Anything that our Sargent County board has
8 worked with Interstate Engineering for -- with Summit
9 Carbon pipeline on recommendations going through county
10 roads and doing that the proper way and any agreements
11 with Summit Carbon pipeline will go through our state's
12 attorney and we will go with the recommendations of the
13 people we have on board.

14 So I guess that's about all I had or wanted to
15 say, I guess.

16 ALJ HOGAN: All right. Thank you.

17 Mr. Bender, any questions?

18 MR. BENDER: Thank you for your testimony. No
19 questions.

20 ALJ HOGAN: Mr. Pelham.

21 MR. PELHAM: Thank you, Commissioner.

22 Just wondering if you know about any conditional
23 use permit requirements that Sargent County has?

24 JASON ARTH: Yes. Well, we have -- work within
25 right of way permits that they will have to fill out

1 when crossing any of our right of ways.

2 MR. PELHAM: Any zoning or setback requirements
3 that the county has?

4 JASON ARTH: I believe so, but our engineer
5 would have that information. I don't know what it is
6 right offhand.

7 MR. PELHAM: That's fine. Thank you. I don't
8 have any other questions for you. Thank you.

9 ALJ HOGAN: Mr. Schock.

10 MR. SCHOCK: Are there any services the company
11 has otherwise requested from the county as far as
12 emergency services, anything other than, you know, kind
13 of the crossing permits but --

14 JASON ARTH: Not that I know of.

15 MR. SCHOCK: Okay. I have no other questions.
16 Thank you.

17 ALJ HOGAN: Mr. Pranis, any questions?

18 MR. PRANIS: No, Your Honor.

19 ALJ HOGAN: Commissioner Christmann.

20 COMMISSIONER CHRISTMANN: So I'm understanding
21 they have started with the process of applying for some
22 road crossing permits and things like that. Did I
23 understand that right?

24 JASON ARTH: We have -- they have the permit,
25 but I haven't seen any come across our desk yet.

1 COMMISSIONER CHRISTMANN: Have your people, your
2 state's attorney or county engineer, whoever, have they
3 found the company to be responsive and reasonable to
4 work with?

5 JASON ARTH: Yes, I believe so.

6 COMMISSIONER CHRISTMANN: I might have to loop
7 back, but I think that's all my questions.

8 ALJ HOGAN: All right. Commissioner
9 Haugen-Hoffart.

10 COMMISSIONER HAUGEN-HOFFART: Thank you. No
11 further questions.

12 ALJ HOGAN: Mr. Dawson.

13 SUBSTITUTE DECISIONMAKER DAWSON: Are you here
14 today on your own accord or are you here today at the
15 bequest of the commission?

16 JASON ARTH: I'm here representing Sargent
17 County Commission.

18 SUBSTITUTE DECISIONMAKER DAWSON: Okay. Nothing
19 further.

20 ALJ HOGAN: Commissioner Christmann.

21 COMMISSIONER CHRISTMANN: It escaped me for a
22 moment. Have there been any conversations that you're
23 aware of with any emergency services providers, whether
24 that be a county or city or something like that, as far
25 as being prepared for, you know, any future emergency

1 services that might be necessary, getting them trained
2 and things like that?

3 JASON ARTH: Not that I know of.

4 COMMISSIONER CHRISTMANN: Okay.

5 ALJ HOGAN: All right. Thank you.

6 JASON ARTH: Thank you.

7 ALJ HOGAN: Can I get your name and if you'd
8 spell your last name for me.

9 LYLE BOPP: Lyle Bopp, B-O-P-P.

10 ALJ HOGAN: All right. And were you in the room
11 earlier when I went through the penalties for perjury?

12 LYLE BOPP: Yes.

13 ALJ HOGAN: And do you understand what perjury
14 is?

15 LYLE BOPP: Yes.

16 ALJ HOGAN: And being advised of the potential
17 penalties for perjury, do you promise to tell the truth
18 in this case today?

19 LYLE BOPP: Yes.

20 ALJ HOGAN: All right. Thank you. Go ahead.

21 **LYLE BOPP,**

22 being first duly sworn, testified as follows:

23 LYLE BOPP: Yes. I'm also a Sargent County
24 commissioner. Prior to being a commissioner, I was
25 state's attorney for 36 years of the county.

1 Now, I -- to answer some of the questions that
2 Mr. Arth was just talking about, I believe they have had
3 some contact with our emergency manager director and
4 some training involved in Sargent County for emergency
5 -- I know they -- they -- Summit has provided some
6 information, and I thought they had some training also
7 with our emergency management LEC department.

8 Now, the other reason I'm here is, is I'm not
9 for or against. As a matter of fact, I have signed
10 personal easements on some land that I have. But my
11 concern is, is several years ago, I want to say four,
12 five years ago, you had Keystone pipeline go through
13 Sargent County that promised us all kinds of revenue.
14 And we do get revenue from Keystone pipeline. However,
15 in less than five years, there was a major leak in that
16 pipeline just across the border into Sargent County, and
17 that cost -- our sheriff's department was down there.
18 They hired a sheriff's department to watch and
19 contribute security for that -- that major spill that
20 they had down there. That's the concern I have with the
21 pipeline here, is I -- I've listened to a lot of
22 assurances but I also heard those same assurances with
23 Keystone pipeline.

24 ALJ HOGAN: All right. Thank you.

25 Mr. Bender, any questions?

1 MR. BENDER: No questions.

2 ALJ HOGAN: Mr. Pelham.

3 MR. PELHAM: Good afternoon, Mr. Bopp. I'm just
4 wondering if you know whether or not there's any zoning
5 or conditional use permits that would be required of the
6 county.

7 LYLE BOPP: The townships in Sargent County,
8 every one of the townships is zoned and they have their
9 own zoning restrictions and -- and they take priority
10 over the county anyway. But the county does not have
11 any specific zoning ordinances that would affect this
12 pipeline.

13 MR. PELHAM: Okay. All right. I was wondering
14 that as well. So townships have -- can retain zoning
15 control and would have their own zoning ordinances
16 themselves.

17 LYLE BOPP: Correct.

18 MR. PELHAM: Thank you, sir.

19 ALJ HOGAN: Mr. Schock, any questions?

20 MR. SCHOCK: No questions.

21 ALJ HOGAN: Mr. Pranis.

22 MR. PRANIS: No, Your Honor.

23 ALJ HOGAN: Commissioner Christmann.

24 COMMISSIONER CHRISTMANN: I'm just trying to
25 make sure I understand the issue on a previous pipeline

1 leak. So the issue you're raising was that, in that
2 case, the sheriff's office had to spend a lot of time
3 providing security and such and nothing was --

4 LYLE BOPP: It didn't --

5 COMMISSIONER CHRISTMANN: -- reimbursed for
6 that?

7 LYLE BOPP: Excuse me. It didn't come out of
8 Sargent County's pocket because it was in South Dakota,
9 just across the border from Sargent County. So they
10 paid our sheriff's office and personnel, they paid them,
11 Keystone pipeline paid for their services down there.
12 It just took them away from our services here and it was
13 -- that's my concern, is, is there a safety issue even
14 though we've been assured that there isn't with this
15 pipeline? We were assured the same thing with Keystone,
16 that there wasn't.

17 COMMISSIONER CHRISTMANN: So you're not
18 concerned about not getting reimbursed if something like
19 that could happen.

20 LYLE BOPP: No.

21 COMMISSIONER CHRISTMANN: You're concerned about
22 just the distraction of time and such.

23 LYLE BOPP: Yeah. And -- and they did it on
24 their own time, but it was -- it -- that wasn't the
25 issue, I guess, is -- is -- but it was a big concern

1 that they had to have security hired for that area. I'm
2 hoping that pipe -- this Summit pipeline doesn't have
3 the same issue in Sargent County that they had with the
4 Keystone in South Dakota. That's the point I was trying
5 to make.

6 COMMISSIONER CHRISTMANN: Okay. Thank you for
7 being here.

8 ALJ HOGAN: Commissioner Haugen-Hoffart.

9 COMMISSIONER HAUGEN-HOFFART: I guess mine is
10 just more of a statement. In reading through the
11 application on the safety matters, Summit puts in their
12 application that they will work with local on the
13 training and -- our goal is not, if approved, would
14 never be to have any type of leak. You know, that's
15 anywhere in the U.S. or around the world. So I think
16 it's got to be very local, if this is approved, that the
17 locals work with the company and what the resources are
18 needed and to make sure that people feel comfortable, if
19 something happens, what's the plan.

20 LYLE BOPP: Our county emergency management
21 director, I believe, in response to that has been in
22 contact with the fire departments, the ambulances, and I
23 -- I do believe that Summit has provided some training
24 with our emergency management director in coordination
25 with these emergency services.

1 COMMISSIONER HAUGEN-HOFFART: I have no further
2 questions but just to thank you for your years of
3 service to the community.

4 LYLE BOPP: Yeah.

5 ALJ HOGAN: Mr. Dawson.

6 SUBSTITUTE DECISIONMAKER DAWSON: No questions.
7 Thanks for coming.

8 ALJ HOGAN: Thank you.

9 LYLE BOPP: Okay.

10 ALJ HOGAN: Good morning.

11 BRUCE SPEICH: Bruce Speich, S-P-E-I-C-H. I'm a
12 local landowner and I also have signed easement. I do
13 believe --

14 ALJ HOGAN: Hang on. I've got to swear you
15 in first.

16 BRUCE SPEICH: Oh, I'm sorry.

17 ALJ HOGAN: Did you hear me go through the
18 penalties for perjury?

19 BRUCE SPEICH: I did.

20 ALJ HOGAN: And do you understand what perjury
21 is?

22 BRUCE SPEICH: Yes.

23 ALJ HOGAN: And being advised of the potential
24 penalties for perjury, do you promise to tell the truth
25 in this case today?

1 BRUCE SPEICH: I do.

2 ALJ HOGAN: All right. Thank you. Go ahead.

3 BRUCE SPEICH,

4 being first duly sworn, testified as follows:

5 BRUCE SPEICH: So I'm a local landowner. I have
6 signed my easement. I do believe in this project.
7 Safety is the -- probably my biggest concern, that
8 Summit does what they promise with the safety issues and
9 stuff.

10 The personnel that I have dealt with with
11 Summit, they've always been good, productive
12 conversations. I can't -- everybody that I've had
13 questions about anything, they have referred me to
14 somebody else if they didn't know the answer, and I have
15 gotten feedback, and 95 percent of that's been positive.

16 Our property happens to be the area in eastern
17 Sargent County where the pipeline crosses the Wild Rice
18 River, and that will be a complete bore under -- it's a
19 half mile of mine that the pipeline goes across and
20 about, I'm going to say, two-thirds of that will be a
21 bore so there will not be any soil disturbance.

22 One other comment that I would like to make
23 about the pipeline rising up. We have two pipelines
24 that run north of our property right in the southeast --
25 southeastern corner of Ransom County through some land

1 that we rent. Several years ago, I don't know if it was
2 in the '80s, there was a pipeline that came through in
3 the mid '70s and then there was a larger pipeline came
4 through in the early '80s, I believe. And they did have
5 issues with that because of the high water table and
6 they did have to come back, lower it and put saddles on
7 it to keep it from rising.

8 ALJ HOGAN: All right. Thank you.

9 Mr. Bender, any questions?

10 MR. BENDER: Thank you, Mr. Speich, for your
11 testimony. No questions.

12 BRUCE SPEICH: Thank you.

13 ALJ HOGAN: Mr. Pelham, any questions?

14 MR. PELHAM: Mr. Speich, any idea what type of
15 pipeline those two other lines you reference that they
16 had to put saddles on?

17 BRUCE SPEICH: I know for one is a natural gas
18 pipeline, and the other I do not know.

19 MR. PELHAM: Thank you, sir. No other
20 questions.

21 MR. SCHOCK: No questions.

22 ALJ HOGAN: All right. Mr. Pranis, any
23 questions?

24 MR. PRANIS: No, Your Honor.

25 ALJ HOGAN: Commissioner Christmann.

1 COMMISSIONER CHRISTMANN: I'm sorry, but I
2 didn't catch your first name.

3 BRUCE SPEICH: Bruce.

4 COMMISSIONER CHRISTMANN: Bruce. And where this
5 traverses your land, is that mostly grasslands or is it
6 mostly croplands or what?

7 BRUCE SPEICH: A small percentage of it is
8 cropland. I'd say one-third -- one-third cropland,
9 two-thirds native range land.

10 COMMISSIONER CHRISTMANN: And have you had
11 communication with them about what kind of a grass seed
12 mix is going to be seeded?

13 BRUCE SPEICH: That's not necessary because it
14 will be a bore.

15 COMMISSIONER CHRISTMANN: Oh, the --

16 BRUCE SPEICH: Yes.

17 COMMISSIONER CHRISTMANN: -- grassland part is
18 all under the bore?

19 BRUCE SPEICH: Yes. And that's approximately a
20 third of a mile maybe, maybe a little bit less but
21 thereabouts.

22 COMMISSIONER CHRISTMANN: Okay. On your
23 cropland, is that tiled land or --

24 BRUCE SPEICH: No, it's not.

25 COMMISSIONER CHRISTMANN: And does it run

1 diagonally or straight?

2 BRUCE SPEICH: Very small diagonal. Pretty
3 close to straight but -- without looking at the map, I
4 couldn't tell you exactly but --

5 COMMISSIONER CHRISTMANN: No other questions.
6 Thank you for being here.

7 BRUCE SPEICH: A couple other comments. I was
8 asked why aren't there any surveyors coming out. I did
9 give them permission. Because of the -- they also asked
10 last fall to come out and do soil sampling where they're
11 going to do the soil bore. I was asked in advance about
12 that. I did give them permission.

13 I was out at the site, met with the people doing
14 it. Things went well. They didn't have an easement for
15 that, to do that. I allowed them to do that. And very
16 little crop damage was done, and they offered to pay for
17 it, which they did. So, like I said earlier, I've had
18 good response with the company.

19 COMMISSIONER CHRISTMANN: Good. No other
20 questions.

21 ALJ HOGAN: Commissioner Haugen-Hoffart.

22 COMMISSIONER HAUGEN-HOFFART: Thank you.

23 Thank you, Bruce. I just -- further question on
24 the pipeline that you saw rising up. You said it was
25 due to a rising water table.

1 BRUCE SPEICH: Just high water table land all
2 the time.

3 COMMISSIONER HAUGEN-HOFFART: About how long --
4 how much of the pipeline was affected?

5 BRUCE SPEICH: That, I do not remember. It went
6 through my wife's great uncle's land and I know that
7 they talked about it and that they had to come put
8 saddles on. And he's not the most -- God bless his
9 soul, he's passed away, but he wasn't the most easy guy
10 to get along with all the time. And I believe it was
11 Alliance and Williams -- don't hold me to that -- as the
12 two pipelines, but he always spoke very well of them
13 over the years. Now, I don't know if that was the case
14 when they were going through his land, but compensation
15 and stuff that he got for the stuff, he was -- always
16 had a positive attitude.

17 COMMISSIONER HAUGEN-HOFFART: So you didn't
18 witness this, you just heard about it.

19 BRUCE SPEICH: Well, we live four and a half
20 miles away and we farmed his land for several years
21 after he retired. Still do. But -- yes, I -- I seen
22 when things were going on and was a witness to some of
23 it, but that's been 40 years ago now so...

24 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.

25 ALJ HOGAN: Mr. Dawson.

1 SUBSTITUTE DECISIONMAKER DAWSON: No questions.
2 Thank you.

3 ALJ HOGAN: All right. Thank you.

4 BRUCE SPEICH: Thank you.

5 ALJ HOGAN: Can I get your name and will you
6 spell your last name for me, please.

7 DAN DELAHOYDE: Dan Delahoyde,
8 D-E-L-A-H-O-Y-D-E. And you're in luck, because you've
9 been talking about conditional use permits --

10 ALJ HOGAN: Well, before you get to that, I have
11 to go through the perjury questions. Did you hear me go
12 through the penalties for perjury?

13 DAN DELAHOYDE: Yes.

14 ALJ HOGAN: And do you understand what perjury
15 is?

16 DAN DELAHOYDE: Yes.

17 ALJ HOGAN: And being advised of the potential
18 penalties for perjury, do you promise to tell the truth
19 in this case today?

20 DAN DELAHOYDE: Yes.

21 ALJ HOGAN: All right. Thank you. Go ahead.

22 DAN DELAHOYDE,

23 being first duly sworn, testified as follows:

24 DAN DELAHOYDE: Okay. The pipeline did go
25 through diagonally a small part of mine, but that's not

1 why I'm here. I'm here -- I'm the chairman of Jackson
2 Township in Sargent County. And we've had experience --
3 we had the Keystone XL pipeline go through our township,
4 personally through my land and through the township.

5 And I know I sent our zoning to the PSC when
6 they asked for it. We have extensive zoning on
7 pipelines as well as everything else with the pipeline,
8 but we have extensive zoning on the pipeline. And it
9 covers everything from how it's put in, what
10 qualifications it takes to put in, maintenance of it,
11 transfer of it, abandonment of it, how much liability
12 you have to carry on it, how much insurance you have to
13 carry on it.

14 And like I said, I know I sent it to the PSC. I
15 talked to Pam Maloney, it says auditor, and I see Summit
16 just picked up our zoning yesterday so they probably
17 haven't looked at it.

18 We also have an offset of 2,640 feet in our
19 zoning. And I can go through -- like I said, the
20 township went through the conditional use -- it's a
21 two-meeting process for a permit.

22 Keystone went through this. I mean, I can tell
23 you what Keystone -- what we did with Keystone. I
24 couldn't tell you what we're going to do with you
25 because I'm just the chairman. What Keystone did when

1 they originally routed it, routed it past three of our
2 residences within -- you know, just outside the
3 500 feet. And our zoning is 2,640. Part of the
4 conditional use permit number one was to move the
5 pipeline. And Keystone went back to the PSC and did
6 reroute it for five miles and they moved it 2,000 feet
7 over. So I mean, Keystone, to me, was very easy to work
8 with.

9 I mean we had several others. We had a
10 requirement of one pipeline and one pipeline only on the
11 easement, which most of the easements that the Keystone
12 was handing out at that time was called -- they called
13 for multiple pipelines to be placed in the easement.

14 We also required them to bore under all our
15 roads. They put a two-inch gravel base once they were
16 done whether -- any road that they drove on. So they
17 were easy to work with.

18 But I guess -- I keep hearing about this
19 500 feet. We do have a 2,640, and I think Keystone
20 honored that and I guess I -- we expect that Summit
21 would honor that also.

22 ALJ HOGAN: All right. Thank you. Mr. --

23 DAN DELAHOYDE: The --

24 ALJ HOGAN: Go ahead.

25 DAN DELAHOYDE: The only other thing I have --

1 the only other concern, the township that I have is our
2 township is kind of strange. We have -- our residences
3 cluster in two areas, kind of in the south -- or in the
4 northeast and in the southwest. And, you know, within
5 the first half mile where I live, we have -- all our
6 residents live on two roads basically. So I mean, in a
7 winter like this, it's great, you only have to plow out
8 two roads.

9 But there's a cluster of them, and the pipeline
10 seems to go right through the cluster, both clusters on
11 the southwest and in the northeast, which is kind of --
12 you know, of the eight residences on the east side, it
13 goes right down the middle of six of them. You know,
14 they're 500 feet away right now with their pipeline.
15 But if you go the first half mile from the first house
16 to that -- four of them live within a half -- you know,
17 houses are a half mile apart. You got two -- and then
18 you got two more about a half mile back. You got a
19 pipeline -- you got the pipeline going right smack
20 through that.

21 Same thing over in the southwest corner. You've
22 got -- we got six people over there. It's going to go
23 by three of them, half of them, but you also have a
24 potato warehouse, potato facility right down there that
25 it goes right next to. 4,800-unit hog finishing

1 facility that it goes right next to. And because of the
2 potatoes down there, almost all of that ground is tiled
3 and irrigated.

4 And, unfortunately, the land between the
5 southwest and the northeast is probably the worst land
6 you could ever go through. It is straight up hilly,
7 rocky. I don't know why -- I mean, we have pasture out
8 in there. You can't drive a pickup, you can't drive a
9 truck. I don't even take my Gator out there because of
10 the rocks and stuff. It is just -- we had a fire there
11 several years ago. We couldn't put it out. We couldn't
12 get anything in there.

13 And I don't know, Summit seems to have this
14 diagonal going through the two clusters of homes and
15 going through some of the roughest ground they're ever
16 going to go through. I mean if something would happen
17 out in that ground, a leak or something like that, I
18 don't even know how they'd get to it. But I guess
19 that's -- I mean, that's -- that's a concern just
20 strictly for that -- you know, as the chairman of the
21 township. If something would happen, it would be hard
22 to do.

23 ALJ HOGAN: Anything further?

24 DAN DELAHOYDE: No.

25 ALJ HOGAN: I don't want to cut you off.

1 DAN DELAHOYDE: No.

2 ALJ HOGAN: Mr. Bender, any questions?

3 MR. BENDER: No questions.

4 ALJ HOGAN: Mr. Pelham, any questions?

5 MR. PELHAM: Just wondering if you're -- if you
6 know of any other members of the township or commission
7 have had any discussions with the company on the
8 permitting that's going to be required?

9 DAN DELAHOYDE: No.

10 MR. PELHAM: I think you said that they -- you
11 believe that they just picked up the application
12 yesterday?

13 DAN DELAHOYDE: I sent Charity the application
14 here a while back. She hadn't picked up the zoning. We
15 haven't acted on anything because I told Charity,
16 because it's a two-step process, we do have a fee for a
17 conditional use permit. So I said, until the PSC rules,
18 it would be premature to have conditional use permit
19 hearings, to me anyway, or to the board. So we're
20 waiting for the ruling on the PSC before we'd have a
21 formal ruling on it.

22 MR. PELHAM: As far as any discussions you've
23 had with any other townships where the line is proposed
24 to cross, have you had any other discussions with other
25 townships?

1 DAN DELAHOYDE: No.

2 MR. PELHAM: Do you know whether or not other
3 townships have similar zoning requirements and setback
4 requirements?

5 DAN DELAHOYDE: Probably not as extensive as
6 ours because we had Keystone go through. Anybody that
7 has -- NDSU or the extension office came out in 1995
8 with a model zoning and they came around to all the
9 townships. If the townships adopted that, then they
10 would have a conditional use. It was a part of
11 the 1995 --

12 MR. PELHAM: Jackson Township has modified that
13 since?

14 DAN DELAHOYDE: Yes. We've modified that more
15 than once.

16 MR. PELHAM: Sure. Thank you, sir. I don't
17 have any other questions for you.

18 ALJ HOGAN: Mr. Schock?

19 MR. SCHOCK: No questions.

20 ALJ HOGAN: Mr. Pranis.

21 MR. PRANIS: No, Your Honor.

22 ALJ HOGAN: Commissioner Christmann.

23 COMMISSIONER CHRISTMANN: Did you get to see
24 Exhibit 4 that was handed out this morning regarding the
25 amounts of easements that are -- that are acquired

1 already?

2 DAN DELAHOYDE: No.

3 COMMISSIONER CHRISTMANN: So for Sargent County,
4 it's around 75 to 80 percent. The variation has to do
5 with whether you're measuring parcels of land or linear
6 feet or whatever. So a good, let's say, three quarters.
7 Do you know or have a feel, based on your residences in
8 your township, for about how much of the land has been
9 leased in your township?

10 DAN DELAHOYDE: To my knowledge, there isn't
11 any. I mean, I can name -- like I said, it goes through
12 mine. I can go through the -- I can go through the
13 landowners in my head going across. And as far as I
14 know, it might -- it would be a very small number, is
15 what I understand, especially when you get down into the
16 potato warehouses and things like that where you're
17 going to go -- you're going to be going through their
18 irrigation and their tiling systems. And off knowledge
19 -- I don't have any knowledge of anybody that signed.

20 COMMISSIONER CHRISTMANN: In --

21 DAN DELAHOYDE: I can tell you -- I can tell you
22 a lot of people, you know, out of my township that have.
23 I can tell you that.

24 COMMISSIONER CHRISTMANN: In your offset
25 requirements, is there a waiver process if --

1 DAN DELAHOYDE: There's a waiver, yes. It's
2 2,640 unless you waive that right.

3 COMMISSIONER CHRISTMANN: And is it the resident
4 that waives it or --

5 DAN DELAHOYDE: Landowner.

6 COMMISSIONER CHRISTMANN: -- the township?

7 DAN DELAHOYDE: The landowner or the resident
8 waives it, not the township.

9 COMMISSIONER CHRISTMANN: No other questions.
10 Thank you.

11 ALJ HOGAN: Commissioner Haugen-Hoffart.

12 COMMISSIONER HAUGEN-HOFFART: No questions.
13 Thank you.

14 ALJ HOGAN: Mr. Dawson.

15 SUBSTITUTE DECISIONMAKER DAWSON: You mentioned
16 irrigation systems. Do they have underground pipe?

17 DAN DELAHOYDE: Yes. And also, I forgot, the
18 hog facility down there, the 4,800-hog facilities, they
19 use the liquid manure and they inject it into the
20 ground. And what they have is they have pipelines
21 running -- you know, because they -- it goes through
22 some of our township roads, you know, things like that,
23 through the fields. They drive the tractor down. They
24 have pipes that hook onto the back. They pump it out of
25 the hog facility through these pipes underground, up

1 above ground and into that injector as the tractor goes
2 down the field. So you're going to run into, yeah, hog
3 manure likewise too.

4 SUBSTITUTE DECISIONMAKER DAWSON: Thank you.

5 ALJ HOGAN: All right. Thank you.

6 Can I get your name?

7 JERRY WASWICK: Yes. It's Jerry Waswick,
8 W-A-S-W-I-C-K.

9 ALJ HOGAN: Mr. Waswick, were you in the room
10 when I went through the penalties for perjury?

11 JERRY WASWICK: I was not, but I heard you go
12 through that and I understand the penalties of perjury
13 and accept.

14 ALJ HOGAN: And you promise to tell the truth in
15 this case today?

16 JERRY WASWICK: Yes.

17 ALJ HOGAN: All right. Go ahead.

18 **JERRY WASWICK,**

19 being first duly sworn, testified as follows:

20 JERRY WASWICK: I'm a landowner. My family owns
21 land together a couple miles south of Milnor. We did
22 sign a contract.

23 And my testimony isn't particularly in favor or
24 opposed. We're pretty neutral. The scope of a project
25 like this is big and it can cause a lot of family

1 dissension and dissension between even friends. A lot
2 of people here probably are the people that haven't
3 signed contracts, and most of them I've known all my
4 life. And it's really not fair of me to speak about
5 safety of the pipeline to those people when I don't live
6 out on my land. I live in town. And I think their
7 concerns are real.

8 But I would also like to just point out to those
9 people that, you know, we have a waste facility here,
10 waste management landfill, and that's not deemed common
11 carrier, and a lot of people fought hard against that
12 and it still came.

13 This project has been deemed common carrier, so
14 even though the majority of my family is opposed to it,
15 we decided, well, we don't know that we can stop them so
16 we should make the best of it and work with them. So we
17 did and we signed a contract. I would say that the
18 process, I feel, went well. They were professional,
19 courteous, and stayed in really good contact with us.

20 But yet I respect other people's decision not to
21 sign contracts, and I guess I'm -- I'm just offering
22 that if any of those people have questions about it or
23 decide to go through with it, that I'm open to
24 conversation with them.

25 And I know we had somewhere near 30 addendums to

1 our contract to address all of our family concerns. And
2 the pipeline wasn't opposed to any of those and accepted
3 all of our addendums and concerns. So I believe they
4 are good to work with. They've been, like I said,
5 professional and courteous.

6 And the only other thing I have to state is that
7 I am a fireman and they have -- the pipeline has said
8 they will provide us with the training and equipment
9 that we need. That's it.

10 ALJ HOGAN: All right. Mr. Bender, any
11 questions?

12 MR. BENDER: No questions.

13 Thank you for your testimony.

14 JERRY WASWICK: Thank you.

15 ALJ HOGAN: Mr. Pelham, any questions?

16 MR. PELHAM: No questions. Thank you.

17 JERRY WASWICK: Thank you.

18 ALJ HOGAN: Mr. Schock.

19 MR. SCHOCK: No questions. Thank you.

20 ALJ HOGAN: Mr. Pranis.

21 MR. PRANIS: No, Your Honor.

22 ALJ HOGAN: Commissioner Christmann.

23 COMMISSIONER CHRISTMANN: I do not think I do,
24 but thank you for being here. That's valuable insight
25 that --

1 JERRY WASWICK: Thank you.

2 COMMISSIONER CHRISTMANN: -- that you're able to
3 work on addendums. Thank you.

4 JERRY WASWICK: Thank you.

5 ALJ HOGAN: Commissioner Haugen-Hoffart.

6 COMMISSIONER HAUGEN-HOFFART: No, that's fine.
7 Thank you for your testimony. I have no questions.

8 JERRY WASWICK: Thank you very much.

9 ALJ HOGAN: Mr. Dawson.

10 SUBSTITUTE DECISIONMAKER DAWSON: Who are you a
11 volunteer fireman for?

12 JERRY WASWICK: With the Gwinner Fire Department
13 right in town here.

14 SUBSTITUTE DECISIONMAKER DAWSON: Thank you.

15 JERRY WASWICK: Yes, thank you.

16 ALJ HOGAN: All right. Thank you.

17 JERRY WASWICK: Thank you.

18 ALJ HOGAN: Good afternoon. Can I get your
19 name?

20 STEVE ACKERMAN: My name is Steve Ackerman.

21 ALJ HOGAN: Can you spell your last name?

22 STEVE ACKERMAN: A-C-K-E-R-M-A-N.

23 ALJ HOGAN: Mr. Ackerman, you were in the room
24 when I went through the penalties for perjury?

25 STEVE ACKERMAN: Yes, Your Honor.

1 ALJ HOGAN: And do you understand what perjury
2 is?

3 STEVE ACKERMAN: Yes.

4 ALJ HOGAN: And being advised of the potential
5 penalties for perjury, do you promise to tell the truth
6 in this case today?

7 STEVE ACKERMAN: Yes.

8 ALJ HOGAN: All right. Thank you. Go ahead.

9 STEVE ACKERMAN,
10 being first duly sworn, testified as follows:

11 STEVE ACKERMAN: I am a 38-year registered
12 professional land surveyor in North Dakota. I've been a
13 member of the North Dakota Society of Professional Land
14 Surveyors since its inception in 1979. And I'm here
15 today speaking in the capacity as a representative of
16 the North Dakota Society of Professional Land Surveyors.

17 The Public Service Commission was given a letter
18 from the Society of Professional Land Surveyors in
19 February of this year. And, of course, the PSC is aware
20 of that letter, but the folks in this room are not aware
21 of that letter. And with your permission, I would like
22 to read that letter. Would that be all right?

23 ALJ HOGAN: Yeah. It's -- it's somewhat short;
24 right?

25 STEVE ACKERMAN: Somewhat short.

1 ALJ HOGAN: Yes, go ahead.

2 STEVE ACKERMAN: A couple minutes.

3 "To the Executive Secretary and the Director of
4 Administration of the North Dakota Public Service
5 Commission regarding consideration to ensure that state
6 land survey rules, laws, and codes are followed.

7 "Dear Chair, The North Dakota Society of
8 Professional Land Surveyors, NDSPLS, encourages that all
9 utility corridor easements within the state of North
10 Dakota be strip easements, not blanket easements for all
11 utilities, such as, but not limited to, overhead and
12 underground electrical lines and water, oil and gas
13 pipelines.

14 "Blanket type easements create needless
15 servitudes, or non-appurtenant restrictions on the
16 grantor's use of real property over aliquot parts of a
17 section where a strip easement would satisfy the
18 easement need of the grantee.

19 "North Dakota State Department of Trust Lands
20 and Federal Lands do not allow for the use of blanket
21 easements on their land holdings. Furthermore,
22 practicing professional land surveyors follow these
23 guidelines:

24 "The State of North Dakota already has
25 requirements codified for licensed land surveyors to

1 follow under North Dakota Century Code 47-05-02.1.

2 "Land surveyors are bound by the North Dakota
3 Administrative Code 28-02.1-13-01: Survey requirements
4 for the preparation of legal descriptions and the
5 conveyance of property.

6 "Land surveyors are bound by the North Dakota
7 Attorney General's Opinion 2017-L-03, dated May 12,
8 2017, indicating that pursuant to North Dakota Century
9 Code 43-19.1-30, the items which need to be included as
10 exhibits relevant to documents or attachments, as well
11 as when they are the main documents being recorded.
12 These documents must include the signature and seal of a
13 North Dakota registered professional land surveyor, even
14 if the document is part of an exhibit or an attachment
15 to easements.

16 "NDSPLS encourages the use of the North Dakota
17 State Plane Coordinate System, per North Dakota Century
18 Code, as the base coordinate system used for a universal
19 survey mapping system.

20 "We are requesting the Public Service Commission
21 to review all aspects of all utility easements and to
22 ensure that all current laws and rules for easements in
23 North Dakota are followed as part of the review and
24 permit process.

25 "Respectfully submitted, the North Dakota

1 Society of Professional Land Surveyors."

2 So I've seen only one exhibit that was passed
3 around from the committee that is assigned to -- looking
4 at this pipeline.

5 By the way, the surveyors are neutral on the
6 subject. We're neither for nor against it. We're just
7 concerned about the use of easement language in these
8 documents.

9 I've seen one of the easements that have come
10 around the circles in the society that was prepared by
11 Summit, and we feel that it does not meet the
12 requirements of the Century Code. And the question
13 arises where does the buck stop when these easements are
14 taken to the recorder's office to see that they are in
15 tune with the Century Code?

16 And so I did hear Mr. Bender comment earlier
17 about they are using strip easements, but there are a
18 manner of different strip easements, and some are good
19 and some are bad.

20 If, for instance, you are describing a parcel
21 that's 50 feet wide or a hundred feet wide that lies
22 across the southeast quarter, that's a strip easement,
23 but it's not a proper strip easement. A proper strip
24 easement would be one that is tied to the section lines
25 land system, the Public Land Survey System.

1 So the easement description would begin at a
2 section corner someplace and then run across a section
3 line until it intersects the centerline of the pipeline,
4 and then describes the course of the pipeline by bearing
5 a distance until it exits the ownership limits of the
6 property involved. And the easement exhibit that I saw
7 did not do that. And I just want to bring that to your
8 attention.

9 That's all I have.

10 ALJ HOGAN: All right. Thank you.

11 Mr. Bender, any questions?

12 MR. BENDER: Just a few questions.

13 Mr. Ackerman, a member of your organization
14 testified at the Bismarck hearing; is that correct?

15 STEVE ACKERMAN: That's correct.

16 MR. BENDER: And did you have any conversations
17 with those members who testified after they testified?

18 STEVE ACKERMAN: Only one.

19 MR. BENDER: Okay. And did they tell you that
20 Summit had a witness at that hearing and explained
21 precisely what they do in terms of recording easements
22 and then also having a certified plat which is an
23 as-built drawing?

24 STEVE ACKERMAN: Yes.

25 MR. BENDER: Okay. And are you saying that the

1 as-built plat does not tie to the section pins?

2 STEVE ACKERMAN: I cannot speak to that specific
3 plat.

4 MR. BENDER: Okay. No questions -- no further
5 questions. Excuse me.

6 ALJ HOGAN: Mr. Pelham, any questions?

7 MR. PELHAM: Good afternoon, Mr. Ackerman. Just
8 wondering, you testified that you saw an easement as an
9 exhibit. I'm just wondering if that was recorded, a
10 recorded version from a county recorder's office, or
11 not?

12 STEVE ACKERMAN: Yes, it was a recorded
13 document.

14 MR. PELHAM: Do you know what county it was?

15 STEVE ACKERMAN: Burleigh County.

16 MR. PELHAM: I don't have any other questions
17 for you. Thank you.

18 ALJ HOGAN: Mr. Schock.

19 MR. SCHOCK: No questions. Thank you.

20 ALJ HOGAN: Mr. Pranis.

21 MR. PRANIS: No, Your Honor.

22 ALJ HOGAN: Commissioner Christmann.

23 COMMISSIONER CHRISTMANN: I don't think I have
24 any questions right now, but I do appreciate this
25 because I'm still thinking through how that as-built

1 plat works out to solve the issues that the surveyors
2 are bringing forward. Thank you for being here and
3 keeping that on top of my mind. Thank you.

4 ALJ HOGAN: Commissioner Haugen-Hoffart.

5 COMMISSIONER HAUGEN-HOFFART: Thank you for your
6 testimony, Steve. I have no questions.

7 SUBSTITUTE DECISIONMAKER DAWSON: No questions.
8 Thank you.

9 ALJ HOGAN: All right. Thank you.

10 STEVE ACKERMAN: Thank you.

11 ALJ HOGAN: Good afternoon. Can I get your
12 name?

13 KEVIN SKUNES: Kevin Skunes, S-K-U-N-E-S.

14 ALJ HOGAN: Mr. Skunes, were you in the room
15 when I went through the penalties for perjury?

16 KEVIN SKUNES: Yes, I was.

17 ALJ HOGAN: And do you understand what perjury
18 is?

19 KEVIN SKUNES: Yes.

20 ALJ HOGAN: And being advised of the potential
21 penalties for perjury, do you promise to tell the truth
22 in this case today?

23 KEVIN SKUNES: I do.

24 ALJ HOGAN: All right. Thank you. Go ahead.
25

KEVIN SKUNES,

being first duly sworn, testified as follows:

KEVIN SKUNES: Well, thanks for having me here today. I'm a farmer from Arthur, North Dakota. Additionally, I previously served as the president of the National Corn Growers Association and currently I'm a board member of the North Dakota Corn Growers Association. Based on these experiences, I'm a strong supporter of Summit Carbon Solutions' proposed carbon capture, transportation, and storage project that the North Dakota Public Service Commission is currently considering.

Here are a few of the background facts I think are important to keep in mind as you weigh this critical investment in our state's future. First, corn production provides a total annual economic value of about \$2.2 billion here in North Dakota, making it one of the most critical components of our broader ag economy. Of course, ethanol is very much tied to this figure as ethanol plants purchase approximately 40 percent of the corn grown in the United States, and in North Dakota that's a much higher percentage of the corn that we use for ethanol, which makes it absolutely vital to maintaining strong commodity prices and land values. Of course, that is in addition to the fact that

1 the ethanol industry supports 10,000 jobs in North
2 Dakota and contributes about \$640 million to the State's
3 GDP every year.

4 While we all understand the importance of
5 agriculture and ethanol to the State's economy, we need
6 to keep reminding ourselves that it takes investment and
7 innovation in order to keep these industries strong in
8 the years to come. And that is exactly why carbon
9 capture projects are, to use a phrase from the leader of
10 the renewable energy sector, a matter of life and death
11 for ethanol products and, by extension, our corn
12 farmers.

13 Regardless of what you may think of the concept
14 of low-carbon fuels, it's clear that the marketplace is
15 moving in this direction. Liquid fuels are not going
16 away any time soon and agriculture depends on liquid
17 fuels. More and more states and countries, including
18 Canada, are adopting policies that pay more for
19 low-carbon fuels. At the national level, the Next
20 Generation Fuels Act has been re-introduced. This
21 legislation would lower fuel prices, reduce carbon
22 emissions, and help shore up America's energy security.

23 That gives us two very different possible
24 outcomes that we should clearly outline. One side of
25 that equation is allowing carbon capture projects to

1 move forward. That will give participating ethanol
2 plants the ability to sell into these low-carbon fuel
3 markets. It means that the same ethanol plants can
4 continue to purchase 40 percent of the corn grown in the
5 United States. It means that they can expand their
6 operations and hire more people. And it means the price
7 of corn remaining strong.

8 The other side of the equation is preventing
9 carbon capture projects from being built.
10 Unfortunately, that future involves ethanol plants
11 closing down their operations and laying off their
12 employees. It means corn growers losing one of their
13 largest customers and the price of that commodity
14 decreasing. And it means land values are adversely
15 impacted as well.

16 I think the choice is clear. North Dakota
17 policymakers have been preparing for the carbon capture
18 industry for years and have recognized it as a mechanism
19 to support our most important economic industries,
20 create new jobs, and generate new revenues for farmers
21 and communities alike.

22 Respectfully, I would ask that the members of
23 the PSC stand with our farmers, ethanol producers, and
24 the broader energy industry to allow the carbon capture
25 project like Summit Carbon Solutions to move forward.

1 Thank you for your consideration.

2 ALJ HOGAN: Thank you.

3 Mr. Bender, any questions?

4 MR. BENDER: Thank you, Mr. Skunes. I don't
5 have any questions.

6 ALJ HOGAN: Mr. Pelham, any questions?

7 MR. PELHAM: No questions. Thank you.

8 ALJ HOGAN: Mr. Schock.

9 MR. SCHOCK: No questions.

10 ALJ HOGAN: Mr. Pranis.

11 MR. PRANIS: No, Your Honor.

12 ALJ HOGAN: Commissioner Christmann.

13 COMMISSIONER CHRISTMANN: Mr. Skunes, where did
14 you say you live?

15 KEVIN SKUNES: I'm in Arthur.

16 COMMISSIONER CHRISTMANN: In Arthur. And have
17 you been here all morning?

18 KEVIN SKUNES: I got here about 9:30'ish.

19 COMMISSIONER CHRISTMANN: You caught
20 Mr. Dotzenrod?

21 KEVIN SKUNES: Yes.

22 COMMISSIONER CHRISTMANN: So I'm curious on your
23 operation, your corn operation, do you use any tiling?

24 KEVIN SKUNES: Yes.

25 COMMISSIONER CHRISTMANN: And so what -- and

1 this doesn't cross your land, though; correct?

2 KEVIN SKUNES: No, it doesn't. No.

3 COMMISSIONER CHRISTMANN: What concerns do you
4 have about this crossing tiled fields, especially when
5 it's diagonal and not on the edge of the fields?

6 KEVIN SKUNES: Well, I would certainly be
7 concerned about it, but in the discussions that I've had
8 with Summit -- and believe me, I have no official
9 business with Summit. They have asked me. You know, I
10 did a radio commercial for them earlier this year.
11 Well, it's still playing. And they've asked me to
12 testify.

13 But, you know, I -- I've been assured in talking
14 to them, that whoever they use for their -- for their
15 tile company that is going to do the repairs after the
16 line goes through, I've been assured that -- you know,
17 that they'll do them properly.

18 And, you know, we've done most of our own tiling
19 on our land, and I know that you can go back in and you
20 can -- you can fix -- you know, I cannot speak to
21 Mr. Dotzenrod's land. I know what our land would be
22 like and I know that we've gone in and fixed a few
23 lines.

24 COMMISSIONER CHRISTMANN: How deep are your
25 pipes?

1 KEVIN SKUNES: Well, so our -- you know, our
2 main tiles go probably -- I expect the one project we
3 did two years ago, it was eight feet at the deepest for
4 the main --

5 Oh, crap, my phone. Sorry.

6 The main tile, you know, was probably eight feet
7 at its deepest that we had to go in and use the pump.
8 All of the laterals out in the field range from -- we
9 like to keep the top of the tile below 30 inches and
10 probably in some places going through a ridge might be
11 three, four, maybe five feet deep. That's about as deep
12 as it would go.

13 COMMISSIONER CHRISTMANN: So I believe the
14 application indicates that the pipe would have a minimum
15 depth at four feet to the top of the pipe. So it's very
16 similar to your laterals.

17 KEVIN SKUNES: Yes.

18 COMMISSIONER CHRISTMANN: And so I guess I'm
19 imagining quite a few cuts and repairs.

20 KEVIN SKUNES: Yes.

21 COMMISSIONER CHRISTMANN: That wouldn't concern
22 you much?

23 KEVIN SKUNES: I don't think so. I don't think
24 so. I mean, I have -- so in my discussions with Summit,
25 you know, they've said that -- you know, Ellingson has

1 done some work for us. They did one quarter of a
2 landlord of mine and they -- you know, they did a couple
3 other pieces in the area. And I actually know them
4 quite well, the Ellingsons.

5 And, you know, I've been assured by them and --
6 you know, that they will -- they will fix it and they'll
7 come back and fix it later on. But I don't have -- you
8 know, I'm -- I don't have any land in this area so it's
9 a little -- it's a little different for me.

10 I support the concept of carbon capture and a
11 carbon pipeline.

12 COMMISSIONER CHRISTMANN: And is Ellingsons a
13 tiling contractor?

14 KEVIN SKUNES: Yes.

15 COMMISSIONER CHRISTMANN: Okay. And do you
16 raise other commodities besides corn?

17 KEVIN SKUNES: We're primarily a corn and
18 soybean farm.

19 COMMISSIONER CHRISTMANN: Are you in any other
20 growers' groups like the Grain Growers or -- or just the
21 corn growers?

22 KEVIN SKUNES: Just the Corn Growers right now,
23 yeah.

24 COMMISSIONER CHRISTMANN: Okay. Are you aware
25 of any other -- any of the other ag commodity groups

1 that have a position on this project?

2 KEVIN SKUNES: You know, the -- the North Dakota
3 Corn Growers are relatively neutral on it. I'm here as
4 basically an individual. I just told you, you know,
5 that I was past president of the National Corn and that
6 I am a member of the -- of the North Dakota Corn
7 Growers, but I am not here in an official capacity of
8 that.

9 COMMISSIONER CHRISTMANN: Okay. Thank you. No
10 other questions.

11 ALJ HOGAN: Commissioner Haugen-Hoffart.

12 COMMISSIONER HAUGEN-HOFFART: No questions.
13 Thank you.

14 ALJ HOGAN: Mr. Dawson.

15 SUBSTITUTE DECISIONMAKER DAWSON: No questions
16 for me. Thank you.

17 ALJ HOGAN: Thank you.

18 KEVIN SKUNES: Thank you so much.

19 ALJ HOGAN: Are there others who would like to
20 provide public testimony?

21 Can I get your name?

22 GENEVA WASWICK: I am Geneva Waswick.

23 ALJ HOGAN: And, Ms. Waswick, were you in the
24 room when I went through the penalties for perjury?

25 GENEVA WASWICK: Yes, I was.

1 ALJ HOGAN: And do you understand what perjury
2 is?

3 GENEVA WASWICK: Yes.

4 ALJ HOGAN: And being advised of the potential
5 penalties for perjury, do you promise to tell the truth
6 in this case today?

7 GENEVA WASWICK: Yes, I do.

8 ALJ HOGAN: All right. Thank you. Go ahead.

9 GENEVA WASWICK,
10 being first duly sworn, testified as follows:

11 GENEVA WASWICK: I'm part ownership of one
12 quarter of land which this pipeline will go through.

13 And my concern is that our property was -- I
14 believe the one identified in Sargent County where the
15 easement would go closer to 100 feet -- or 500 feet of a
16 dwelling. That distance is 172 feet, as I understand.
17 This property is not rented or occupied at one time.
18 It's for family enjoyment. Friends come out and hunt.
19 One summer it was rented, rented during the summer.

20 But my concern is we did sign the contract, but
21 it still bothers me that 172 feet is from this dwelling
22 and there will be numerous trees and everything's
23 destroyed in this process.

24 That's all I have.

25 ALJ HOGAN: All right. Thank you.

1 Mr. Bender, any questions?

2 MR. BENDER: When was the last time you rented
3 it for hunting purposes?

4 GENEVA WASWICK: It is still rented for hunting
5 purposes.

6 MR. BENDER: Okay.

7 GENEVA WASWICK: Or not rented for hunting
8 purposes. It is farmed. It is farmed.

9 MR. BENDER: Did you mention that it was rented
10 for hunting purposes at one time or did I misunderstand?

11 GENEVA WASWICK: No, it's not rented for --
12 rented for hunting purposes. It is friends,
13 acquaintances come out and hunt.

14 MR. BENDER: Okay. All right. No further
15 questions.

16 GENEVA WASWICK: And if we give any -- receive
17 any compensation, it's whatever they decide to give us.

18 MR. BENDER: Okay. Thank you. Appreciate that.

19 ALJ HOGAN: Mr. Pelham, any questions?

20 MR. PELHAM: I guess I'm just wondering, Ms.
21 Waswick, if -- the setback waiver was signed, and it
22 looks like you signed it in July of '22. I mean, are
23 you saying --

24 GENEVA WASWICK: I believe that's right.

25 MR. PELHAM: -- there's issues that you have

1 with -- I guess I don't understand. Your testimony
2 differs. Because the waiver says what it says and you
3 signed it so...

4 GENEVA WASWICK: Yep. No, I understand that.

5 MR. PELHAM: Okay.

6 GENEVA WASWICK: But I was just going to point
7 out, you know, how close it does come to a dwelling
8 so...

9 MR. PELHAM: Sure. Okay. All right. I don't
10 have any other questions for you. Thank you.

11 ALJ HOGAN: Mr. Schock.

12 MR. SCHOCK: No questions. Thank you.

13 ALJ HOGAN: Mr. Pranis.

14 MR. PRANIS: No, Your Honor.

15 ALJ HOGAN: Commissioner Christmann.

16 COMMISSIONER CHRISTMANN: When people stay there
17 when they're hunting, do they -- is that -- do you mean
18 they maybe use it to clean birds or something, or do
19 they stay there for days and --

20 GENEVA WASWICK: Yeah, they --

21 COMMISSIONER CHRISTMANN: -- you have water and
22 electricity and things like that at this residence?

23 GENEVA WASWICK: Yes. There's electricity and
24 water out there and it's -- and they do stay maybe a
25 week or two or a few days, whatsoever, you know. They

1 -- it's a -- it's an old house.

2 COMMISSIONER CHRISTMANN: Well, might I ask --
3 and you don't have to answer this -- but in recent years
4 there's been more counties that are taxing dwellings if
5 a certain threshold of income isn't received from
6 agriculture. Do you pay on that as a -- as a -- do you
7 pay extra taxes on that as a residence?

8 GENEVA WASWICK: No. It's such -- such few
9 dollars that we receive. It's just a little bit so I --

10 COMMISSIONER CHRISTMANN: Okay.

11 GENEVA WASWICK: I have no idea because it's in
12 the tax information that my daughter-in-law submits
13 so...

14 COMMISSIONER CHRISTMANN: Thank you for
15 providing the information.

16 ALJ HOGAN: Commissioner Haugen-Hoffart.

17 COMMISSIONER HAUGEN-HOFFART: No questions.
18 Thank you.

19 ALJ HOGAN: Mr. Dawson.

20 SUBSTITUTE DECISIONMAKER DAWSON: No questions.
21 Thank you.

22 ALJ HOGAN: All right. Thank you, Ms. Waswick.
23 Are there others that would like to testify
24 today?

25 UNIDENTIFIED SPEAKER: Can I ask a question?

1 ALJ HOGAN: What's your question?

2 UNIDENTIFIED SPEAKER: Okay. (Inaudible) our
3 house is, CO2 -- CO2 pipeline has to cross the Keystone
4 XL pipeline just east of my place. How -- are they
5 going to go under it or over?

6 ALJ HOGAN: I would maybe ask you to speak with
7 the Summit representatives over there.

8 UNIDENTIFIED SPEAKER: Sure.

9 UNIDENTIFIED SPEAKER: I can talk to you about
10 it.

11 ALJ HOGAN: I'll have you do that outside the
12 hearing maybe. Mr. Powell can have a conversation with
13 you.

14 Is there anyone else wanting to provide public
15 testimony?

16 LINDA GAYMAN: Sorry, I'm not contagious but --

17 ALJ HOGAN: That's okay. Can I get your name?

18 LINDA GAYMAN: Linda Gayman.

19 ALJ HOGAN: And can you spell your last name?

20 LINDA GAYMAN: G-A-Y-M-A-N.

21 ALJ HOGAN: And, Ms. Gayman, were you in the
22 room when I went through the penalties for perjury?

23 LINDA GAYMAN: No.

24 ALJ HOGAN: I'm sorry, I didn't catch your --

25 LINDA GAYMAN: No.

1 ALJ HOGAN: Okay. So I'm required by law to
2 advise you on the penalties for perjury. Perjury is a
3 Class C felony punishable by a maximum fine of \$10,000,
4 a maximum five years' imprisonment, or both.

5 Do you understand what perjury is?

6 LINDA GAYMAN: Yes.

7 ALJ HOGAN: And being advised of the potential
8 penalties for perjury, do you promise to tell the truth
9 in this case today?

10 LINDA GAYMAN: Yes.

11 ALJ HOGAN: All right. Thank you. Go ahead.

12 LINDA GAYMAN,

13 being first duly sworn, testified as follows:

14 LINDA GAYMAN: One of the things that I haven't
15 heard a lot in -- at one -- at one point my land was in
16 the -- in the pipeline. Then it moved to the corridor.
17 I guess I'm still considered the corridor in Dickey
18 County. No one is addressing our corridor people or --
19 well, I guess maybe I'm not understanding it -- and the
20 people that live just outside of that corridor. We have
21 cattle, we have stock ponds, we have wells.

22 And our main concern is what if something
23 happens on a bust, whatever, who is responsible for that
24 if we're not on a contract with Summit because we're
25 just outside? That's one of the main concerns I have.

1 I haven't -- I have not been to a lot of the
2 meetings. I try to keep up, but there's a lot of
3 information changing. Who is addressing that?

4 I mean, you're just -- you have the landowners
5 that are directly affected but what are you going to do
6 to protect the ones who are just outside the bounds if
7 an accident does happen? Are you going to -- I'm sorry,
8 I'm having a hard time breathing.

9 Are you going to have rules in place,
10 regulations? I mean, are you going to let this be an
11 easy, you know, forget it, you're not part of it, just
12 -- you know, you don't have a voice? But if this goes
13 through, you know there's more pipelines coming.

14 So, you know, if we can foresee some of the
15 other issues other people who have to live right next to
16 it and who do not have a contract. I mean, if you have
17 anything to share with us about water rights and damaged
18 water, I mean, who would be responsible if we lost our
19 wells or our stock ponds?

20 ALJ HOGAN: All right.

21 Mr. Bender, any questions?

22 MR. BENDER: Maybe just a -- just a few.

23 Ma'am, I can't advise you with respect to, you
24 know, who you might counsel with in terms of a lawyer or
25 anything like that, but I don't know if you were at the

1 meeting earlier when I encouraged the public, if they
2 had any questions, to talk with representatives of
3 Summit. We have a table there at the end of the room.
4 And certainly go and talk to those people. If they
5 don't have the answers, I'm sure they will provide you
6 with a business card for people that you can talk to.

7 LINDA GAYMAN: No. But I mean as a state, how
8 are you going to protect your other landowners? It's
9 not just the ones that are on the pipeline. It is other
10 people outside the corridor. This could be an issue
11 that balloons. What are you -- what are you as North
12 Dakota going to do to protect us? Have you thought
13 about that? That's why I'm here.

14 ALJ HOGAN: Okay. Thank you.

15 Mr. Pelham, any questions?

16 MR. PELHAM: I don't have any questions. Thank
17 you.

18 ALJ HOGAN: Mr. Schock.

19 MR. SCHOCK: Would you be willing to identify
20 like where your property is in relation to the pipeline,
21 even just like township, range, section?

22 LINDA GAYMAN: Van Meter. I have the map back
23 there. Sorry, numbers don't stay in my head. I can
24 provide that for you. But it's in Van Meter Township.

25 MR. SCHOCK: Okay. That works.

1 ALJ HOGAN: Mr. Pranis, any questions?

2 MR. PRANIS: No, Your Honor.

3 ALJ HOGAN: Commissioner Christmann.

4 COMMISSIONER CHRISTMANN: I don't have any
5 questions either, but thank you for being here.

6 ALJ HOGAN: Commissioner Haugen-Hoffart.

7 COMMISSIONER HAUGEN-HOFFART: No questions.
8 Thank you.

9 ALJ HOGAN: And Mr. Dawson.

10 SUBSTITUTE DECISIONMAKER DAWSON: None for me.
11 Thank you.

12 ALJ HOGAN: All right. Thank you.

13 Is there anyone else that wishes to provide
14 public testimony today?

15 All right. Seeing none, that will conclude our
16 public testimony portion of the hearing. And I'll --
17 before we conclude today, I'm just going to go around
18 the room and see if there's any additional matters we
19 need to address today.

20 Mr. Bender.

21 MR. BENDER: I don't believe so, Your Honor. I
22 will have to take a look at my notes, and certainly if
23 there were things that were requested of Summit that we
24 indicated we'd provide after the hearing, we'll
25 certainly do that.

1 ALJ HOGAN: All right. Thank you.

2 Mr. Pelham.

3 MR. PELHAM: I don't have anything. Thank you.

4 ALJ HOGAN: All right. Mr. Pranis.

5 MR. PRANIS: No, Your Honor.

6 ALJ HOGAN: All right. And I'll just ask if
7 there's any closing comments that the commissioners want
8 to make.

9 Commissioner Christmann.

10 COMMISSIONER CHRISTMANN: Would you, Your Honor,
11 indulge me with a couple minutes to talk to staff --

12 ALJ HOGAN: Sure.

13 COMMISSIONER CHRISTMANN: -- about something
14 that I might want to wrap up?

15 ALJ HOGAN: Yep. Absolutely.

16 COMMISSIONER CHRISTMANN: Do that now?

17 ALJ HOGAN: Yes. Go ahead.

18 (Pause)

19 ALJ HOGAN: All right. Commissioner Christmann.

20 COMMISSIONER CHRISTMANN: Thank you for
21 indulging me on that, Your Honor. I don't really have
22 any opening -- or closing comments for the group except
23 for to thank everyone that stuck around and provided
24 this information. As I said at the beginning, it's very
25 valuable for us in order for us to be able to make a

1 good decision based on the law.

2 The other thing that I just talked to staff
3 about, the Bismarck hearing went very late and, in fact,
4 we would have been evicted out of the Heritage Center if
5 we tried to go longer. And so it was contemplated, I
6 believe, at that point to probably schedule a fifth
7 hearing again in Bismarck because we weren't able to
8 finish the public testimony. And while we're together,
9 I wondered if we could go ahead and just discuss that.

10 ALJ HOGAN: Sure.

11 COMMISSIONER CHRISTMANN: It's not necessarily
12 part of the hearing. I don't know if you want to
13 adjourn the hearing first and then do it or what, but
14 while we're here, if we could schedule that.

15 ALJ HOGAN: Okay. That sounds good. I'll just
16 ask before we get to that if there's any other closing
17 remarks.

18 Commissioner Haugen-Hoffart.

19 COMMISSIONER HAUGEN-HOFFART: Thank you. I just
20 want to echo what Commissioner Christmann said. We do
21 appreciate people being here. It's an opportunity for
22 all of us to learn more.

23 And I have to thank Dan for giving us some
24 levity about all the snow we got. The first benefit I
25 heard was there was only two roads to plow. So thank

1 you for sharing that with us.

2 And may all your travels be safe.

3 ALJ HOGAN: Mr. Dawson.

4 SUBSTITUTE DECISIONMAKER DAWSON: Yes. Thank
5 you for coming today. I do appreciate the testimony
6 that is provided. And I do go back and think about it
7 and ponder it. So even if I don't ask a question, I am
8 thinking intently of what you said. So thank you.

9 ALJ HOGAN: All right. Well, that will conclude
10 our hearing for today, but we'll stay on the record to
11 discuss hearing dates before we officially recess. So I
12 guess I'll let the chairman --

13 COMMISSIONER CHRISTMANN: I turn it over to Mr.
14 Schock who has some proposed dates.

15 ALJ HOGAN: Oh, okay.

16 MR. SCHOCK: Yes. So I've been working with the
17 various parties on some --

18 ALJ HOGAN: Move your mic closer.

19 MR. SCHOCK: I thought I was right on top of
20 this thing.

21 So I've been -- I reached out to all of the
22 parties, and I will just say there was pretty much no
23 days that work for everyone so we're just going to have
24 to choose some that work for most. The ones that seemed
25 to work best at this point -- honestly, and I thought I

1 had more even up until this moment, but some of those
2 were eliminated. So June 1st and 2nd look to be,
3 roughly, the best that we can do with all of the
4 parties.

5 MR. BENDER: Are you suggesting two days or
6 picking one of those days?

7 MR. SCHOCK: Honestly, at this point I would
8 take either or. So if we can hold two days, that would
9 be absolutely fantastic as --

10 COMMISSIONER HAUGEN-HOFFART: I have commitments
11 on the 1st. I would prefer the 2nd.

12 MR. SCHOCK: Okay.

13 COMMISSIONER HAUGEN-HOFFART: My calendar is
14 updated.

15 MR. SCHOCK: Okay. Well, that solves that
16 problem. So one day for the moment.

17 MR. BENDER: We will make June 2nd work.

18 COMMISSIONER CHRISTMANN: So May 24th and 25th
19 didn't work?

20 MR. PELHAM: Commissioner, I don't know what
21 happened, but I -- I have commitments on those dates,
22 unfortunately.

23 MR. SCHOCK: It was -- kind of the way the
24 scheduling worked with the parties is I would send it
25 out to everyone, somebody would reply, and then someone

1 would filter that a little further and filter --

2 COMMISSIONER CHRISTMANN: That's what you meant
3 by "right up till now."

4 MR. SCHOCK: Yes.

5 COMMISSIONER CHRISTMANN: Okay. June 2nd will
6 work with me, Your Honor. And I haven't heard from
7 Mr. Dawson.

8 SUBSTITUTE DECISIONMAKER DAWSON: It works fine
9 for me.

10 MR. SCHOCK: Okay.

11 ALJ HOGAN: And just so the Commission is aware,
12 I do plan to have a prehearing conference with the
13 parties before that hearing date to talk about how much
14 time we're going to have. And we had one yesterday and
15 there was -- already I directed the intervenors that
16 they should talk before that prehearing to talk about
17 witnesses and managing time.

18 It would be helpful for me to know if the
19 Commission wants to allow further public testimony and
20 an idea of how much time you want to set aside for that.

21 COMMISSIONER CHRISTMANN: Well, my opinion is
22 that when we get there -- I guess if -- I would
23 recommend, since we ran into that situation where people
24 came for a whatever -- 8:30 hearing and sat there until
25 6:30 at night and a lot of them had to leave, I think

1 there will be less, and the company, if they're making a
2 similar presentation as today based on the fact that
3 they did a good part of that, if it's kind of short, I
4 thought maybe we could start the morning out with some
5 public testimony for an hour or something for people
6 that just can't stay long and then maybe jump to one of
7 the intervenors and come back to -- kind of bounce it
8 back and forth a little bit to try to provide a
9 reasonable --

10 COMMISSIONER HAUGEN-HOFFART: Well, I'm just
11 going to recall -- I support that, Randy. I'm just
12 going to recall the two intervenors that were there both
13 identified four witnesses, so I mean that's eight
14 people. And so that's on record so...

15 I agree that there was public there that didn't
16 get to testify and had to leave, and we're being
17 contacted on that, you know. So however you can --

18 ALJ HOGAN: Well, I'll tell you what my thoughts
19 were. My thoughts were getting an idea of how much time
20 we have to work with total, and I'd like to set aside a
21 certain amount of time for public testimony, if that's
22 -- if the Commission wants to allow that, and then the
23 rest of the time, I don't know if Summit's going to
24 provide additional witness testimony at that hearing or
25 if the rest of it goes to the intervenors and that's

1 their time and they figure out how to manage and how
2 many witnesses they're going to call.

3 MR. BENDER: Your Honor, what we plan on doing
4 is we wouldn't call anybody initially because we believe
5 we've presented our case, but, you know, there's been
6 other -- this hearing, and we will have had Wahpeton, we
7 will have had Linton, and we're definitely going to need
8 some opportunity to respond or rebut some of the
9 information that's going to be presented. And, you
10 know, that could take some time so -- and I'm -- I would
11 not be happy, and I'm sure my client would not be happy,
12 if at 10:00 or 9:00 or even 8:00 it's said "Okay, now
13 you can respond to all this testimony." That's what
14 concerns me. Even 5:00, you know, at the end of the
15 day, I don't know what the attention span will be, but
16 that's my concern.

17 COMMISSIONER HAUGEN-HOFFART: I just have a
18 location question. Are we looking at the Heritage
19 Center again or like at the Capitol?

20 MR. SCHOCK: I think that would be our first
21 try. I think there was a lot of good feedback about
22 that venue so we'll try for that one, but there should
23 be a lot of Capitol availability at that time so we can
24 possibly find a similarly sized venue within the Capitol
25 and likely remove some of the time restrictions if we

1 would do that, if that's at all a concern, I guess.

2 But I guess to Mr. Bender's point, maybe that's
3 not the preference, is to go later.

4 ALJ HOGAN: Mr. Pelham.

5 MR. PELHAM: My only thought is, is that we need
6 to establish at a prehearing conference what the order
7 is going to be. We need to establish what the order is
8 going to be at a prehearing conference. And we've got
9 two intervenors that are -- counsel's not present so, I
10 mean, I don't necessarily think we can decide this today
11 without their input.

12 ALJ HOGAN: Right.

13 MR. PELHAM: Because they may have some thoughts
14 as to that. They also may have some thoughts as to the
15 number of witnesses, as to what they plan to ask. You
16 know, at the time maybe there were going to be eight
17 witnesses, but that may have changed since then. And I
18 think we need to get their input.

19 So I don't know that we can really decide this,
20 the specifics of it, today. I think it's good to talk
21 about, but I think that we need to involve them on the
22 process.

23 ALJ HOGAN: I agree.

24 COMMISSIONER HAUGEN-HOFFART: We achieved a date
25 so that's success.

ALJ HOGAN: I agree. I don't think we can finalize anything, but it's helpful getting some feedback from the Commission on how you would like to see it run that day.

COMMISSIONER CHRISTMANN: One additional piece of feedback, though. I would mention that I could imagine that the one intervenor with clients, I think exclusively in Burleigh County, probably wants to present at this hearing, but maybe the other intervenor, besides the three witnesses that came forward today, can present their testimony in Wahpeton. Maybe we don't have to do everything in Bismarck.

MR. PELHAM: Or Linton.

ALJ HOGAN: Or Linton.

COMMISSIONER CHRISTMANN: Or Linton.

ALJ HOGAN: Yeah.

MR. PELHAM: Or both.

ALJ HOGAN: Okay. All right. That's helpful.

Any other comments or thoughts?

All right. Then we will stand in recess in Case
PU-22-391.

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Dated this date of July 17, 2025.

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\$	139:11 1st [3] - 4:10, 173:2, 173:11	28:2, 43:15, 139:24 4,800-hog [1] - 141:18 4,800-unit [1] - 136:25 4-inch [1] - 18:2 4.5 [1] - 5:2 40 [4] - 74:25, 132:23, 153:21, 155:4 43-19.1-30 [1] - 148:9 44 [1] - 44:2 47-05-02.1 [1] - 148:1	87 [1] - 21:6 8:00 [1] - 176:12 8:30 [1] - 174:24	150:18, 150:24, 151:2, 151:12, 151:15, 152:10 Ackerman [4] - 145:20, 145:23, 150:13, 151:7 acquaintances [1] - 162:13 acquired [6] - 14:9, 23:13, 23:17, 23:20, 24:3, 139:25 acquisition [8] - 14:7, 23:3, 23:5, 23:8, 23:12, 23:15, 25:20 acres [2] - 64:4, 93:23 acronym [2] - 53:15, 53:18 Act [1] - 154:20 act [1] - 30:11 acted [1] - 138:15 action [1] - 19:16 Action [1] - 97:11 actions [2] - 34:1, 34:2 active [1] - 14:11 activity [1] - 30:24 Activity [1] - 4:12 actual [3] - 30:8, 30:9, 100:2 actuated [1] - 33:19 add [6] - 40:15, 41:2, 43:22, 67:2, 79:22, 85:5 added [2] - 61:10, 118:25 addendums [3] - 143:25, 144:3, 145:3 addition [2] - 13:25, 153:25 additional [14] - 13:2, 14:8, 14:9, 23:12, 23:17, 24:2, 52:9, 61:9, 61:22, 68:5, 75:15, 169:18, 175:24, 178:5 additionally [2] - 67:14, 153:5 address [10] - 32:9, 40:11, 44:7, 72:5, 96:15, 105:7, 105:11, 114:3, 144:1, 169:19 addressed [3] - 14:12, 14:15, 84:2 addresses [1] - 82:19 addressing [3] - 12:15, 166:18, 167:3 adherence [1] - 5:14 adjourn [1] - 171:13 adjust [1] - 52:10 administering [1] - 31:12 Administration [4] -	
\$10,000 [3] - 16:16, 118:6, 166:3 \$16,000 [2] - 98:17, 98:21 \$465,000 [1] - 118:24 \$600,000 [1] - 91:16 \$640 [1] - 154:2 \$79,000 [1] - 98:19 \$95 [2] - 99:2, 99:7 \$96 [1] - 98:3	2 2 [1] - 12:21 2,000 [1] - 135:6 2,060 [1] - 18:1 2,640 [4] - 134:18, 135:3, 135:19, 141:2 2.2 [1] - 153:17 2.2.12 [1] - 82:23 2.2.12.3 [1] - 82:9 20 [3] - 12:13, 20:10, 20:11 20,000 [1] - 105:16 2017 [1] - 148:8 2017-L-03 [1] - 148:7 2020 [1] - 87:14 2022 [4] - 4:24, 15:17, 20:5, 64:4 2023 [3] - 4:7, 4:10, 84:12 20s [1] - 110:16 2210 [1] - 105:11 24-hour-a-day [1] - 19:10 24-inch [3] - 5:3, 18:2, 21:19 24/7 [2] - 32:24, 49:20 24th [1] - 173:18 25 [1] - 97:4 25th [1] - 173:18 26 [2] - 63:11, 69:24 28-02.1-13-01 [1] - 148:3 28th [1] - 4:7 2:00 [1] - 36:19 2nd [4] - 173:2, 173:11, 173:17, 174:5	5 5 [3] - 23:18, 24:2, 24:5 5-131-54 [1] - 55:3 5.5 [1] - 25:12 50 [9] - 23:22, 35:24, 42:5, 91:17, 99:2, 100:3, 101:25, 109:12, 149:21 50,000 [1] - 66:17 500 [9] - 22:6, 56:7, 56:15, 59:4, 135:3, 135:19, 136:14, 161:15 500-foot [1] - 22:17 51 [2] - 63:12, 69:24 515 [1] - 59:19 54 [2] - 54:25, 55:15 56 [1] - 92:25 5:00 [1] - 176:14	9 9 [3] - 4:8, 58:24, 59:1 90 [2] - 99:16, 100:3 900 [1] - 25:14 95 [1] - 128:15 9:00 [1] - 176:12 9:30'ish [1] - 156:18		
'			A A-C-K-E-R-M-A-N [1] - 145:22 A-R-T-H [1] - 117:25 a.m [1] - 4:8 abandoned [1] - 37:1 abandonment [1] - 134:11 ability [4] - 19:16, 46:12, 111:2, 155:2 able [11] - 22:8, 37:2, 47:5, 65:3, 89:12, 91:24, 108:1, 115:14, 145:2, 170:25, 171:7 abreast [1] - 25:25 absolutely [7] - 37:18, 62:9, 107:21, 108:20, 153:23, 170:15, 173:9 accept [1] - 142:13 acceptable [1] - 19:14 accepted [1] - 144:2 accepting [1] - 96:21 Access [4] - 107:13, 108:6, 109:7, 112:20 accident [1] - 167:7 accommodate [1] - 52:12 accomplish [1] - 22:11 accord [1] - 121:14 accordance [1] - 82:11 according [2] - 68:18, 101:19 account [1] - 99:15 accountable [1] - 17:16 accountant [1] - 28:17 achieved [1] - 177:24 ACKERMAN [16] - 145:20, 145:22, 145:25, 146:3, 146:7, 146:9, 146:11, 146:25, 147:2, 150:15,		
1	1 [1] - 12:20 10 [4] - 23:22, 30:14, 99:5, 102:24 10,000 [1] - 154:1 100 [2] - 30:13, 161:15 10:00 [1] - 176:12 10:25 [1] - 58:12 10th [1] - 14:3 11 [1] - 56:11 12 [7] - 54:24, 55:15, 55:22, 56:12, 56:13, 86:18, 148:7 12-inch [3] - 21:7, 21:11, 21:15 131 [3] - 54:25, 55:15, 92:25 131-54 [1] - 55:23 135 [2] - 63:11, 69:24 14 [2] - 86:18, 92:25 14,000 [1] - 96:11 14th [6] - 13:19, 13:25, 14:6, 18:9, 19:22, 23:16 15 [3] - 15:4, 20:12, 33:10 15-minute [1] - 58:12 150 [1] - 98:13 172 [2] - 161:16, 161:21 17th [1] - 4:24 18 [2] - 23:17, 24:5 1855 [1] - 6:18 189 [1] - 52:16 19.6 [1] - 64:4 1959 [1] - 86:25 1979 [1] - 146:14 1993 [1] - 87:2 1995 [2] - 139:7,	3 3 [2] - 12:21, 28:2 30 [5] - 28:5, 33:8, 60:6, 143:25, 158:9 32 [1] - 17:22 320 [1] - 5:2 35 [1] - 28:5 350 [1] - 42:2 36 [3] - 56:4, 58:24, 122:25 365 [2] - 32:24, 49:20 38-year [1] - 146:11	6 60 [5] - 27:21, 35:23, 42:3, 42:4, 107:15 600 [1] - 59:15 60s [1] - 110:16 610 [1] - 59:15 63,000 [1] - 98:17 641 [1] - 35:21 67.79 [1] - 23:25 6:30 [1] - 174:25		
		7 70 [4] - 23:24, 27:21, 52:16, 109:13 700 [1] - 93:7 75 [1] - 140:4 750 [1] - 52:8			
		8 8.3.4.1 [1] - 82:21 80 [2] - 109:13, 140:4 800 [1] - 93:8 81 [1] - 96:15 811 [2] - 48:14, 48:25			

20:7, 40:19, 53:21, 147:4 administrative [1] - 4:4 Administrative [2] - 12:4, 148:3 adopted [2] - 20:5, 139:9 adopting [1] - 154:18 advance [1] - 131:11 advantage [1] - 109:17 adverse [3] - 5:14, 5:25, 6:8 adversely [2] - 69:20, 155:14 advise [3] - 16:13, 166:2, 167:23 advised [14] - 16:20, 63:1, 86:4, 90:21, 95:7, 104:15, 118:10, 122:16, 127:23, 133:17, 146:4, 152:20, 161:4, 166:7 advisory [1] - 7:6 affect [3] - 64:18, 87:5, 124:11 affected [2] - 132:4, 167:5 affects [1] - 67:19 affiliate [1] - 96:8 afternoon [4] - 124:3, 145:18, 151:7, 152:11 afterwards [1] - 57:6 ag [2] - 153:18, 159:25 Ag [1] - 27:14 agencies [4] - 40:24, 41:3, 41:4, 41:13 agency [3] - 38:17, 53:22, 53:24 agent [1] - 25:21 agents [1] - 43:24 ago [9] - 9:11, 63:22, 77:4, 123:11, 123:12, 129:1, 132:23, 137:11, 158:3 agree [5] - 8:16, 69:21, 175:15, 177:23, 178:1 agreed [2] - 34:24, 71:3 agreement [2] - 44:5, 87:25 agreements [3] - 23:21, 103:1, 119:10 agrees [1] - 97:18 agricultural [2] - 27:13, 89:20 agricultural-based [1] - 27:13	agriculture [5] - 9:15, 28:20, 154:5, 154:16, 164:6 ahead [24] - 16:25, 38:1, 58:17, 63:5, 86:8, 86:20, 90:25, 94:21, 95:12, 95:23, 104:20, 118:14, 122:20, 128:2, 133:21, 135:24, 142:17, 146:8, 147:1, 152:24, 161:8, 166:11, 170:17, 171:9 aid [1] - 31:12 air [5] - 65:22, 66:11, 66:12, 66:14, 91:24 alike [1] - 155:21 aliquot [1] - 147:16 Alliance [1] - 132:11 allow [4] - 147:20, 155:24, 174:19, 175:22 allowed [4] - 7:9, 47:9, 117:6, 131:15 allowing [1] - 154:25 almost [3] - 23:18, 99:17, 137:2 alone [2] - 107:14, 113:3 alongside [1] - 91:11 altogether [1] - 68:5 ambulances [1] - 126:22 America [1] - 96:9 America's [1] - 154:22 American [2] - 32:2, 32:4 amount [3] - 68:19, 108:25, 175:21 amounts [1] - 139:25 amplified [1] - 66:2 analysis [8] - 32:13, 39:1, 44:16, 45:1, 45:15, 47:22, 99:9, 99:14 analyst [1] - 7:7 analyze [1] - 46:9 anchored [1] - 114:8 angle [2] - 75:12, 93:17 announced [1] - 49:9 annual [2] - 118:23, 153:16 anomaly [1] - 52:3 answer [11] - 36:2, 40:25, 41:20, 42:12, 58:1, 72:8, 102:13, 113:22, 123:1, 128:14, 164:3 answered [1] - 45:21 answers [2] - 111:25, 168:5	anticipate [1] - 100:1 anticipated [2] - 25:3, 40:9 anyway [2] - 124:10, 138:19 apart [8] - 20:11, 33:9, 33:10, 65:24, 72:20, 72:24, 76:21, 136:17 apologies [1] - 36:18 appear [1] - 58:8 appearance [3] - 6:13, 6:15, 6:25 appearing [3] - 6:19, 7:1, 7:24 applaud [2] - 11:11, 11:22 applicable [1] - 5:15 Applicant [1] - 6:20 application [21] - 4:24, 5:10, 5:19, 5:20, 15:16, 15:20, 15:22, 18:8, 20:18, 52:15, 81:1, 81:4, 82:4, 83:6, 83:8, 83:19, 126:11, 126:12, 138:11, 138:13, 158:14 applied [4] - 35:23, 36:1, 42:3, 60:5 apply [4] - 12:16, 35:18, 60:8, 113:2 applying [1] - 120:21 appreciate [9] - 31:22, 55:12, 58:10, 79:19, 96:4, 151:24, 162:18, 171:21, 172:5 appropriate [4] - 5:17, 29:24, 34:16, 111:13 approval [2] - 25:1, 42:5 approvals [3] - 41:19, 41:24, 41:25 approved [4] - 35:24, 46:1, 126:13, 126:16 appurtenant [1] - 147:15 April [1] - 20:5 apt [1] - 79:7 area [41] - 22:6, 31:1, 31:14, 32:16, 37:13, 42:22, 43:2, 43:5, 44:18, 44:22, 45:4, 45:11, 46:12, 46:13, 49:3, 56:7, 59:4, 63:19, 64:24, 67:10, 67:15, 67:17, 69:9, 69:11, 70:3, 70:5, 81:21, 81:25, 87:12, 98:11, 102:16, 108:18, 108:22, 108:25, 112:13, 114:11, 126:1,	128:16, 159:3, 159:8 areas [12] - 12:13, 20:12, 30:14, 33:9, 34:15, 34:19, 34:20, 36:13, 43:8, 67:15, 99:11, 136:3 arise [1] - 72:16 arises [1] - 149:13 arrangement [1] - 73:19 art's [1] - 96:25 ARTH [15] - 117:22, 117:25, 118:3, 118:9, 118:13, 118:15, 118:17, 119:24, 120:4, 120:14, 120:24, 121:5, 121:16, 122:3, 122:6 Arth [3] - 117:25, 118:1, 123:2 Arthur [3] - 153:4, 156:15, 156:16 as-built [3] - 150:23, 151:1, 151:25 ascertain [1] - 99:14 aside [2] - 174:20, 175:20 aspect [1] - 46:21 aspects [5] - 25:11, 31:2, 39:15, 39:17, 148:21 assessment [1] - 35:6 asset [1] - 28:19 assigned [1] - 149:3 assistant [1] - 7:4 associated [5] - 5:3, 35:6, 94:22, 96:15, 105:9 association [2] - 39:23, 84:9 Association [2] - 153:6, 153:8 assume [3] - 57:17, 77:16, 78:16 assumed [1] - 100:7 assuming [3] - 32:10, 47:19, 55:5 assumption [8] - 33:22, 47:24, 52:18, 78:7, 78:10, 80:14, 82:1, 99:15 assumptions [1] - 47:23 assurances [3] - 73:20, 123:22 assured [5] - 125:14, 125:15, 157:13, 157:16, 159:5 atmosphere [1] - 48:18 attached [1] - 39:5 attachment [1] -	148:14 attachments [1] - 148:10 attend [2] - 49:10 attendance [6] - 4:18, 4:20, 8:21, 8:23, 8:25, 58:4 attended [1] - 4:21 attention [2] - 150:8, 176:15 attitude [1] - 132:16 Attorney [3] - 58:7, 148:7 attorney [4] - 7:5, 119:12, 121:2, 122:25 audience [2] - 8:5, 19:5 audit [1] - 41:10 auditor [1] - 134:15 author's [1] - 98:7 authored [1] - 97:5 authority [1] - 33:2 automated [2] - 19:9, 33:19 automatically [3] - 33:20, 48:4, 51:8 availability [2] - 101:25, 176:23 available [3] - 68:20, 70:3, 71:2 Avenue [1] - 105:12 average [1] - 33:23 avoid [5] - 66:16, 66:19, 66:21, 66:23, 67:1 avoidance [1] - 22:6 aware [11] - 15:3, 15:7, 37:8, 60:12, 77:11, 102:7, 121:23, 146:19, 146:20, 159:24, 174:11 awareness [10] - 18:17, 25:17, 26:3, 26:9, 26:11, 26:25, 41:9, 47:7, 48:23, 49:8
B				
B-O-P-P [1] - 122:9 backfill [1] - 116:1 background [3] - 9:15, 107:24, 153:13 backgrounds [1] - 107:16 bad [1] - 149:19 Bakken [3] - 114:16, 114:17, 115:4 balance [1] - 102:6 balloons [1] - 168:11				

108:14, 114:6 careers [2] - 106:12, 108:19 carrier [3] - 50:10, 143:11, 143:13 carry [2] - 134:12, 134:13 case [25] - 11:13, 11:18, 11:20, 16:22, 63:3, 64:5, 71:23, 86:6, 90:23, 94:2, 95:9, 104:17, 114:10, 118:12, 122:18, 125:2, 127:25, 132:13, 133:19, 142:15, 146:6, 152:22, 161:6, 166:9, 176:5 Case [2] - 4:11, 178:20 cases [2] - 29:23, 42:14 Cass [1] - 5:4 Cassellton [1] - 21:13 catch [2] - 130:2, 165:24 cathodic [1] - 52:11 cattle [3] - 91:8, 91:12, 166:21 caught [1] - 156:19 caused [3] - 48:13, 48:24, 80:8 causing [1] - 67:16 cell [1] - 4:16 center [16] - 19:2, 19:5, 19:7, 19:10, 19:19, 32:20, 32:24, 33:18, 48:8, 49:19, 50:18, 51:4, 51:9, 56:11, 110:21 Center [3] - 4:12, 171:4, 176:19 centerline [1] - 150:3 central [1] - 21:9 centralized [1] - 19:7 Century [5] - 148:1, 148:8, 148:17, 149:12, 149:15 certain [3] - 21:22, 164:5, 175:21 certainly [9] - 8:15, 19:19, 53:13, 66:1, 103:3, 157:6, 168:4, 169:22, 169:25 certificate [2] - 4:25, 5:20 certifications [1] - 113:4 certified [3] - 91:14, 112:24, 150:22 certify [1] - 113:1 Chair [1] - 147:7 chair [1] - 12:5 challenging [1] -	11:10 chances [1] - 69:16 change [1] - 61:6 Change [1] - 96:23 changed [3] - 60:22, 60:25, 177:17 changes [1] - 107:6 changing [1] - 167:3 Charity [2] - 138:13, 138:15 check [7] - 4:14, 55:1, 57:8, 57:11, 57:12, 57:24, 87:7 checking [1] - 87:7 Chicago [1] - 97:1 chicken [1] - 71:24 chief [1] - 17:11 choice [1] - 155:16 choose [1] - 172:24 Christmann [25] - 9:7, 11:16, 38:13, 54:15, 55:5, 61:21, 74:8, 88:17, 93:4, 103:10, 103:13, 115:9, 120:19, 121:20, 124:23, 129:25, 139:22, 144:22, 151:22, 156:12, 163:15, 169:3, 170:9, 170:19, 171:20 CHRISTMANN [133] - 9:8, 38:14, 39:3, 39:7, 39:21, 40:12, 40:20, 41:5, 41:14, 41:17, 42:8, 43:7, 43:15, 44:6, 45:6, 45:16, 54:16, 54:21, 54:24, 55:14, 55:23, 56:1, 56:6, 56:13, 56:16, 56:19, 56:21, 57:2, 57:5, 57:15, 61:23, 74:9, 74:12, 74:20, 74:23, 75:5, 75:9, 75:21, 75:24, 76:4, 76:10, 76:20, 76:23, 77:2, 77:14, 77:18, 77:23, 78:1, 78:6, 78:12, 78:21, 79:8, 79:12, 88:18, 88:23, 89:1, 89:6, 89:9, 89:15, 89:22, 93:5, 93:16, 93:18, 93:21, 93:24, 94:1, 94:7, 103:11, 103:15, 115:10, 116:2, 120:20, 121:1, 121:6, 121:21, 122:4, 124:24, 125:5, 125:17, 125:21, 126:6, 130:1, 130:4, 130:10, 130:15,	130:17, 130:22, 130:25, 131:5, 131:19, 139:23, 140:3, 140:20, 140:24, 141:3, 141:6, 141:9, 144:23, 145:2, 151:23, 156:13, 156:16, 156:19, 156:22, 156:25, 157:3, 157:24, 158:13, 158:18, 158:21, 159:12, 159:15, 159:19, 159:24, 160:9, 163:16, 163:21, 164:2, 164:10, 164:14, 169:4, 170:10, 170:13, 170:16, 170:20, 171:11, 172:13, 173:18, 174:2, 174:5, 174:21, 178:5, 178:15 chronic [1] - 87:16 circles [1] - 149:10 circulating [1] - 4:19 circumstances [2] - 63:9, 66:3 citizens [2] - 6:1, 27:6 City [1] - 46:19 city [1] - 121:24 civil [1] - 96:12 clarification [1] - 47:12 clarify [1] - 101:6 Class [3] - 16:15, 118:5, 166:3 classifications [1] - 52:22 classified [2] - 65:1, 65:3 clay [1] - 79:7 clean [1] - 163:18 clear [5] - 34:12, 40:25, 67:10, 154:14, 155:16 clearly [2] - 67:19, 154:24 client [1] - 176:11 clients [1] - 178:7 climate [3] - 64:9, 97:22, 113:25 climates [1] - 38:7 clogging [1] - 78:14 close [16] - 33:20, 33:24, 34:3, 48:3, 51:8, 51:9, 55:16, 56:5, 57:16, 59:11, 59:16, 91:5, 94:4, 119:5, 131:3, 163:7 closed [3] - 33:17, 33:20, 48:21	closer [6] - 26:3, 26:14, 59:4, 62:16, 161:15, 172:18 closes [1] - 51:10 closing [5] - 51:3, 155:11, 170:7, 170:22, 171:16 closure [3] - 33:21, 47:13, 47:23 cluster [3] - 136:3, 136:9, 136:10 clusters [2] - 136:10, 137:14 CO2 [14] - 17:21, 17:24, 17:25, 18:5, 28:3, 34:4, 48:17, 50:11, 50:13, 77:20, 78:8, 78:9, 165:3 coal [3] - 14:12, 37:16, 38:16 coat [1] - 111:17 coated [1] - 114:12 coating [6] - 111:8, 111:10, 111:14, 111:17, 111:19, 112:16 coatings [2] - 113:1, 113:2 Code [6] - 148:1, 148:3, 148:9, 148:18, 149:12, 149:15 codes [1] - 147:6 codified [1] - 147:25 cold [5] - 30:23, 32:7, 32:17, 94:2, 113:24 collapse [1] - 66:15 colleagues [1] - 36:8 comfortable [3] - 22:13, 22:16, 126:18 coming [13] - 12:2, 12:17, 72:25, 79:18, 90:1, 94:12, 106:3, 107:16, 109:15, 127:7, 131:8, 167:13, 172:5 comment [4] - 8:5, 117:19, 128:22, 149:16 commenting [1] - 85:6 comments [8] - 7:25, 9:5, 63:9, 70:19, 131:7, 170:7, 170:22, 178:19 commercial [2] - 50:14, 157:10 commissioned [1] - 99:10 Commissioners [1] - 96:4 commissioners [10] - 8:11, 9:6, 15:24, 23:12, 23:14, 58:22,	86:13, 117:6, 117:15, 170:7 commitments [2] - 173:10, 173:21 committed [1] - 37:15 committee [1] - 149:3 Committee [2] - 96:10, 105:9 commodities [1] - 159:16 commodity [6] - 27:16, 28:9, 28:14, 153:24, 155:13, 159:25 common [9] - 19:18, 40:5, 50:10, 69:13, 76:8, 98:22, 107:24, 143:10, 143:13 commonly [1] - 111:17 communicate [2] - 27:3, 44:4 communicated [2] - 81:6, 83:19 communication [6] - 25:22, 25:24, 49:2, 81:2, 107:5, 130:11 communications [1] - 83:16 communities [3] - 26:12, 27:10, 155:21 community [4] - 11:23, 27:1, 49:10, 127:3 commuting [1] - 98:12 compaction [1] - 92:2 companies [1] - 106:24 company [30] - 9:22, 10:4, 27:9, 27:13, 27:14, 29:16, 32:7, 32:8, 34:23, 35:18, 37:14, 41:12, 44:12, 60:15, 71:14, 72:4, 72:15, 73:10, 73:19, 88:8, 92:15, 100:16, 110:4, 120:10, 121:3, 126:17, 131:18, 138:7, 157:15, 175:1 company's [4] - 29:17, 41:9, 97:25, 99:12 compare [1] - 52:6 compared [3] - 21:16, 98:20, 99:5 comparison [1] - 99:1 compatibility [2] - 5:1, 5:21 compatible [1] - 6:3 compensation [3] - 100:5, 132:14, 162:17
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>complained [1] - 64:23</p> <p>complete [2] - 26:7, 128:18</p> <p>completed [2] - 35:4, 111:18</p> <p>completely [1] - 68:2</p> <p>completion [1] - 8:9</p> <p>compliance [1] - 38:20</p> <p>comply [1] - 54:4</p> <p>component [2] - 101:3, 101:13</p> <p>components [2] - 29:18, 153:18</p> <p>compresses [2] - 17:24, 65:21</p> <p>concept [2] - 154:13, 159:10</p> <p>concern [23] - 8:15, 8:17, 32:6, 42:22, 72:7, 73:24, 84:1, 91:4, 103:3, 112:6, 123:11, 123:20, 125:13, 125:25, 128:7, 136:1, 137:19, 158:21, 161:13, 161:20, 166:22, 176:16, 177:1</p> <p>concerned [7] - 45:4, 73:5, 74:12, 125:18, 125:21, 149:7, 157:7</p> <p>concerning [3] - 5:1, 5:10, 5:20</p> <p>concerns [19] - 8:14, 32:7, 32:9, 32:11, 45:7, 45:8, 73:22, 81:17, 82:19, 83:17, 87:8, 91:7, 114:1, 143:7, 144:1, 144:3, 157:3, 166:25, 176:14</p> <p>conclude [4] - 116:17, 169:15, 169:17, 172:9</p> <p>concrete [1] - 114:12</p> <p>concrete-coated [1] - 114:12</p> <p>condition [3] - 81:10, 82:25, 83:5</p> <p>conditional [9] - 35:22, 119:22, 124:5, 133:9, 134:20, 135:4, 138:17, 138:18, 139:10</p> <p>conditioned [1] - 106:22</p> <p>conditions [3] - 30:23, 66:5, 67:4</p> <p>conduct [1] - 26:15</p> <p>conducted [1] - 97:2</p>	<p>conducting [1] - 96:20</p> <p>conference [4] - 70:23, 174:12, 177:6, 177:8</p> <p>confidence [1] - 39:10</p> <p>confident [1] - 110:22</p> <p>confidential [3] - 39:13, 39:19</p> <p>confidentiality [1] - 39:4</p> <p>confidentially [1] - 35:13</p> <p>confirm [2] - 38:7, 94:25</p> <p>conflation [1] - 40:3</p> <p>confusing [1] - 74:21</p> <p>connections [1] - 65:12</p> <p>consequence [4] - 20:12, 33:9, 34:19, 34:20</p> <p>conservation [3] - 68:14, 69:1, 69:9</p> <p>consider [3] - 30:19, 67:7, 99:4</p> <p>considerable [1] - 27:5</p> <p>consideration [4] - 33:22, 33:25, 147:5, 156:1</p> <p>considered [8] - 5:9, 5:22, 22:5, 34:2, 39:15, 39:16, 39:19, 166:17</p> <p>considering [3] - 67:21, 109:13, 153:12</p> <p>consistently [1] - 64:10</p> <p>consists [1] - 18:1</p> <p>constitute [1] - 66:24</p> <p>construct [1] - 31:25</p> <p>constructed [5] - 10:13, 10:15, 26:22, 30:21, 32:10</p> <p>constructing [2] - 29:18, 32:15</p> <p>construction [53] - 5:23, 6:6, 8:13, 17:16, 18:12, 20:8, 24:23, 24:24, 25:8, 25:13, 25:19, 26:4, 26:5, 26:6, 29:19, 29:22, 30:16, 31:6, 31:7, 31:20, 34:10, 34:13, 43:4, 46:22, 54:1, 54:5, 81:9, 82:24, 83:4, 96:11, 96:12, 97:13, 97:24, 98:10, 98:11, 98:12, 99:3, 99:12, 99:16, 102:2, 105:15, 106:7, 107:18,</p>	<p>107:21, 107:23, 107:25, 108:4, 108:7, 108:18, 109:6, 110:7, 112:1, 114:2</p> <p>consultant [1] - 32:12</p> <p>contact [3] - 123:3, 126:22, 143:19</p> <p>contacted [2] - 37:5, 175:17</p> <p>contagious [1] - 165:16</p> <p>contains [1] - 58:25</p> <p>contemplated [1] - 171:5</p> <p>continually [1] - 19:13</p> <p>continue [7] - 42:7, 43:24, 44:3, 52:6, 61:10, 73:21, 155:4</p> <p>continued [1] - 106:6</p> <p>continuing [2] - 6:9, 41:23</p> <p>continuous [1] - 19:10</p> <p>continuously [2] - 43:12, 68:15</p> <p>contract [9] - 87:1, 102:7, 109:11, 142:22, 143:17, 144:1, 161:20, 166:24, 167:16</p> <p>contract-wise [1] - 109:11</p> <p>contractor [16] - 30:18, 30:19, 30:25, 31:4, 31:5, 38:5, 64:22, 65:10, 77:15, 78:2, 101:11, 101:23, 102:5, 102:10, 112:21, 159:13</p> <p>contractor's [1] - 78:7</p> <p>contractors [13] - 47:2, 97:25, 98:5, 99:12, 102:21, 105:18, 106:1, 106:21, 107:1, 107:5, 109:18, 109:23</p> <p>contracts [3] - 101:19, 143:3, 143:21</p> <p>contribute [2] - 98:15, 123:19</p> <p>contributes [1] - 154:2</p> <p>contributions [1] - 98:20</p> <p>control [19] - 19:2, 19:5, 19:7, 19:10, 19:12, 19:18, 30:10, 32:20, 32:23, 33:18, 46:8, 46:15, 48:8, 49:19, 50:18, 51:4, 51:9, 124:15</p>	<p>controlled [1] - 19:9</p> <p>convenient [1] - 10:8</p> <p>conventional [1] - 69:6</p> <p>conversation [2] - 143:24, 165:12</p> <p>conversations [3] - 121:22, 128:12, 150:16</p> <p>conveyance [1] - 148:5</p> <p>Coordinate [1] - 148:17</p> <p>coordinate [1] - 148:18</p> <p>coordinates [4] - 54:19, 54:21, 55:6, 55:7</p> <p>coordination [1] - 126:24</p> <p>copies [1] - 94:22</p> <p>copy [3] - 22:23, 91:14</p> <p>Corn [6] - 153:6, 153:7, 159:22, 160:3, 160:5, 160:6</p> <p>corn [12] - 27:16, 153:15, 153:21, 153:23, 154:11, 155:4, 155:7, 155:12, 156:23, 159:16, 159:17, 159:21</p> <p>corner [6] - 37:11, 106:16, 128:25, 136:21, 150:2</p> <p>correct [43] - 13:7, 18:13, 18:18, 18:21, 19:3, 20:15, 20:20, 22:22, 24:6, 24:13, 29:3, 29:4, 32:25, 33:4, 33:5, 39:1, 41:5, 43:11, 47:15, 47:16, 49:21, 51:13, 51:14, 53:22, 54:2, 54:7, 60:20, 60:21, 61:12, 75:1, 76:9, 77:16, 77:17, 77:23, 78:4, 78:5, 78:21, 93:20, 113:3, 124:17, 150:14, 150:15, 157:1</p> <p>correctly [2] - 110:9, 110:24</p> <p>corridor [9] - 4:25, 5:21, 59:1, 147:9, 166:16, 166:17, 166:18, 166:20, 168:10</p> <p>corrosion [4] - 52:1, 52:4, 65:2, 111:11</p> <p>cost [9] - 18:15, 25:3, 25:5, 25:8, 25:10, 25:12, 28:6, 69:5,</p>	<p>123:17</p> <p>costs [3] - 64:11, 67:16, 68:1</p> <p>counsel [5] - 7:6, 70:24, 71:1, 88:1, 167:24</p> <p>counsel's [1] - 177:9</p> <p>counties [18] - 5:5, 5:7, 10:23, 18:4, 20:25, 21:5, 21:7, 23:9, 23:23, 23:24, 30:17, 34:20, 35:18, 36:11, 41:20, 43:18, 60:4, 164:4</p> <p>countries [1] - 154:17</p> <p>country [5] - 27:12, 30:22, 30:24, 32:17, 48:13</p> <p>County [43] - 12:22, 12:25, 21:4, 22:12, 43:20, 44:7, 44:22, 49:16, 55:3, 60:2, 63:12, 67:3, 69:25, 70:4, 71:3, 79:24, 80:4, 88:24, 88:25, 89:2, 99:23, 102:9, 107:14, 118:17, 118:24, 119:7, 119:23, 121:17, 122:23, 123:4, 123:13, 123:16, 124:7, 125:9, 126:3, 128:17, 128:25, 134:2, 140:3, 151:15, 161:14, 166:18, 178:8</p> <p>county [17] - 22:1, 22:2, 41:24, 119:2, 119:5, 119:9, 120:3, 120:11, 121:2, 121:24, 122:25, 124:6, 124:10, 126:20, 151:10, 151:14</p> <p>County's [1] - 125:8</p> <p>couple [18] - 9:10, 10:21, 13:17, 41:22, 42:6, 42:15, 57:23, 66:8, 71:7, 85:7, 91:7, 94:6, 107:3, 131:7, 142:21, 147:2, 159:2, 170:11</p> <p>coupled [2] - 31:3, 31:18</p> <p>course [8] - 14:20, 18:7, 35:11, 42:14, 146:19, 150:4, 153:19, 153:25</p> <p>courteous [2] - 143:19, 144:5</p> <p>cover [4] - 29:25, 91:15, 91:22, 108:10</p> <p>coverage [1] - 91:17</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<p>covered [3] - 81:17, 81:18, 81:20</p> <p>covers [1] - 134:9</p> <p>crack [1] - 53:3</p> <p>cracked [1] - 82:13</p> <p>crap [1] - 158:5</p> <p>create [6] - 9:21, 64:3, 65:14, 80:21, 147:14, 155:20</p> <p>creates [1] - 64:19</p> <p>creating [1] - 67:21</p> <p>criminal [1] - 97:3</p> <p>critical [4] - 17:24, 39:16, 153:14, 153:18</p> <p>crop [1] - 131:16</p> <p>cropland [8] - 88:19, 88:21, 89:20, 93:22, 93:23, 130:8, 130:23</p> <p>croplands [1] - 130:6</p> <p>crops [4] - 87:7, 87:8, 91:8, 91:22</p> <p>cross [12] - 44:14, 44:17, 44:22, 45:4, 75:15, 76:13, 78:3, 93:6, 115:12, 138:24, 157:1, 165:3</p> <p>CROSS [10] - 29:10, 38:2, 71:8, 73:15, 88:5, 92:12, 92:21, 101:1, 113:13, 115:1</p> <p>crossed [2] - 14:12, 93:9</p> <p>crosses [5] - 65:6, 66:14, 92:24, 93:5, 128:17</p> <p>crossing [10] - 35:22, 41:19, 41:23, 42:2, 45:1, 93:8, 120:1, 120:13, 120:22, 157:4</p> <p>cultural [1] - 44:12</p> <p>curious [1] - 156:22</p> <p>current [10] - 45:9, 64:18, 65:5, 67:10, 67:18, 68:10, 96:21, 106:5, 108:16, 148:22</p> <p>customers [1] - 155:13</p> <p>cut [3] - 43:4, 83:25, 137:25</p> <p>cuts [4] - 28:5, 93:13, 158:19</p> <p>cutting [6] - 42:11, 42:13, 42:18, 42:21, 115:21, 115:23</p> <p>cycles [1] - 48:8</p>	<p>[1] - 133:8</p> <p>D-O-T-Z-E-N-R-O-D [1] - 62:18</p> <p>Dakota [81] - 4:9, 4:13, 5:5, 6:2, 6:19, 7:18, 11:9, 16:14, 17:23, 21:11, 23:23, 24:24, 25:6, 25:9, 25:13, 27:7, 28:18, 32:15, 32:25, 49:16, 64:20, 67:11, 69:14, 76:5, 89:4, 96:8, 96:14, 96:19, 97:20, 98:4, 98:14, 101:5, 101:12, 102:22, 105:10, 105:11, 105:20, 105:22, 106:11, 106:18, 107:13, 108:6, 108:23, 108:24, 109:6, 109:7, 109:14, 109:20, 112:20, 113:25, 114:17, 125:8, 126:4, 146:12, 146:13, 146:16, 147:4, 147:7, 147:10, 147:19, 147:24, 148:1, 148:2, 148:6, 148:8, 148:13, 148:16, 148:17, 148:23, 148:25, 153:4, 153:7, 153:11, 153:17, 153:22, 154:2, 155:16, 160:2, 160:6, 168:12</p> <p>Dakota's [1] - 32:6</p> <p>Damage [1] - 82:21</p> <p>damage [5] - 39:12, 48:14, 87:8, 131:16</p> <p>damaged [9] - 33:15, 46:13, 65:8, 81:8, 82:10, 82:13, 82:24, 83:3, 167:17</p> <p>DAN [22] - 133:7, 133:13, 133:16, 133:20, 133:22, 133:24, 135:23, 135:25, 137:24, 138:1, 138:9, 138:13, 139:1, 139:5, 139:14, 140:2, 140:10, 140:21, 141:1, 141:5, 141:7, 141:17</p> <p>Dan [2] - 133:7, 171:23</p> <p>dashed [1] - 75:3</p> <p>data [1] - 50:19</p> <p>date [4] - 4:8, 35:23, 174:13, 177:24</p> <p>dated [1] - 148:7</p>	<p>dates [3] - 172:11, 172:14, 173:21</p> <p>dating [1] - 114:19</p> <p>daughter [1] - 164:12</p> <p>daughter-in-law [1] - 164:12</p> <p>Dawson [21] - 11:25, 12:3, 12:11, 50:1, 50:5, 62:1, 84:5, 90:4, 94:14, 103:19, 116:8, 121:12, 127:5, 132:25, 141:14, 145:9, 160:14, 164:19, 169:9, 172:3, 174:7</p> <p>DAWSON [28] - 12:1, 50:2, 50:8, 50:15, 51:11, 51:15, 52:13, 53:4, 84:6, 84:17, 90:5, 94:15, 103:20, 116:9, 121:13, 121:18, 127:6, 133:1, 141:15, 142:4, 145:10, 145:14, 152:7, 160:15, 164:20, 169:10, 172:4, 174:8</p> <p>days [8] - 32:24, 94:6, 163:19, 163:25, 172:23, 173:5, 173:6, 173:8</p> <p>DC [1] - 96:24</p> <p>deal [1] - 107:6</p> <p>deals [1] - 64:10</p> <p>dealt [1] - 128:10</p> <p>dear [1] - 147:7</p> <p>death [1] - 154:10</p> <p>debris [2] - 112:9, 112:14</p> <p>decades [1] - 27:15</p> <p>decarbonize [1] - 27:12</p> <p>decide [4] - 143:23, 162:17, 177:10, 177:19</p> <p>decided [1] - 143:15</p> <p>decision [7] - 9:22, 10:15, 10:17, 10:18, 11:15, 143:20, 171:1</p> <p>decrease [1] - 92:2</p> <p>decreasing [1] - 155:14</p> <p>dedicated [3] - 25:21, 32:23, 46:19</p> <p>deed [1] - 87:1</p> <p>deemed [2] - 143:10, 143:13</p> <p>deep [4] - 30:2, 157:24, 158:11</p> <p>deepest [2] - 158:3, 158:7</p> <p>defect [1] - 52:4</p> <p>defense [1] - 111:15</p>	<p>definitely [2] - 67:14, 176:7</p> <p>degree [2] - 96:25, 99:13</p> <p>DELAHOYDE [22] - 133:7, 133:13, 133:16, 133:20, 133:22, 133:24, 135:23, 135:25, 137:24, 138:1, 138:9, 138:13, 139:1, 139:5, 139:14, 140:2, 140:10, 140:21, 141:1, 141:5, 141:7, 141:17</p> <p>Delahoyde [1] - 133:7</p> <p>delivered [1] - 65:5</p> <p>demand [2] - 28:8, 28:10</p> <p>demonstrate [2] - 48:23, 65:16</p> <p>dense [1] - 17:24</p> <p>department [5] - 57:13, 59:8, 123:7, 123:17, 123:18</p> <p>Department [4] - 60:5, 60:7, 145:12, 147:19</p> <p>departments [2] - 119:1, 126:22</p> <p>dependent [1] - 52:16</p> <p>depth [7] - 21:2, 29:25, 76:24, 77:19, 77:22, 115:4, 158:15</p> <p>describe [2] - 17:13, 105:14</p> <p>describes [1] - 150:4</p> <p>describing [1] - 149:20</p> <p>description [2] - 75:10, 150:1</p> <p>descriptions [1] - 148:4</p> <p>design [7] - 5:13, 17:16, 20:8, 29:21, 29:23, 31:2, 46:17</p> <p>designate [2] - 59:21</p> <p>designated [1] - 4:4</p> <p>designates [1] - 70:4</p> <p>desk [1] - 120:25</p> <p>destroy [1] - 92:1</p> <p>destroyed [1] - 161:23</p> <p>detail [7] - 17:19, 18:8, 24:19, 37:3, 45:25, 46:1, 56:25</p> <p>detailed [1] - 18:7</p> <p>detection [1] - 30:3</p> <p>determine [5] - 26:18, 49:6, 51:25, 52:3, 52:9</p> <p>develop [2] - 26:2, 26:10</p> <p>developed [2] - 46:7, 46:14</p>	<p>developing [1] - 47:22</p> <p>development [4] - 44:21, 44:24, 45:9, 97:6</p> <p>deviation [2] - 30:9, 30:11</p> <p>device [1] - 47:21</p> <p>diagonal [3] - 131:2, 137:14, 157:5</p> <p>diagonally [5] - 89:13, 89:14, 89:17, 131:1, 133:25</p> <p>diameter [4] - 5:3, 21:6, 21:15, 21:19</p> <p>diamond [1] - 59:20</p> <p>Dickey [15] - 5:4, 5:7, 10:23, 20:25, 21:4, 21:13, 30:17, 34:20, 35:17, 36:1, 47:14, 60:2, 99:22, 102:9, 166:17</p> <p>difference [6] - 64:9, 64:14, 89:16, 98:2, 99:2, 99:7</p> <p>difference-making [2] - 64:9, 64:14</p> <p>different [15] - 38:17, 53:25, 57:18, 63:18, 67:21, 69:3, 71:19, 71:21, 75:14, 79:4, 107:16, 112:16, 149:18, 154:23, 159:9</p> <p>differs [1] - 163:2</p> <p>difficult [2] - 68:2, 69:5</p> <p>dig [3] - 43:9, 65:20, 83:23</p> <p>digging [1] - 48:15</p> <p>dioxide [4] - 5:2, 50:4, 63:16, 66:18</p> <p>dip [2] - 65:18, 65:22</p> <p>direct [2] - 66:19, 67:24</p> <p>DIRECT [2] - 17:4, 105:4</p> <p>directed [2] - 96:22, 174:15</p> <p>directing [1] - 96:19</p> <p>direction [1] - 154:15</p> <p>directly [2] - 101:16, 167:5</p> <p>Director [1] - 147:3</p> <p>director [4] - 12:3, 123:3, 126:21, 126:24</p> <p>dirt [3] - 65:21, 73:1, 112:13</p> <p>discharge [1] - 76:8</p> <p>discuss [9] - 13:15, 13:23, 14:4, 14:23, 19:23, 27:7, 37:6,</p>
D				
D-E-L-A-H-O-Y-D-E				

171:9, 172:11 discussed [10] - 18:9, 18:12, 18:15, 18:17, 24:19, 25:4, 70:24, 77:19, 82:23 discussing [3] - 14:10, 15:20, 20:19 discussion [7] - 13:19, 41:18, 42:10, 44:9, 71:13, 79:21, 83:20 discussions [9] - 65:10, 73:9, 88:8, 92:15, 138:7, 138:22, 138:24, 157:7, 158:24 dislike [2] - 89:17, 89:19 dispersement [6] - 38:25, 39:18, 39:20, 40:16, 45:13, 47:22 dispersion [1] - 35:2 disrespectful [1] - 45:3 disrupt [1] - 42:21 disrupting [1] - 43:3 dissension [2] - 143:1 distance [3] - 98:12, 150:5, 161:16 distinction [1] - 101:9 distraction [1] - 125:22 distributed [1] - 119:1 district [1] - 64:9 disturbance [1] - 128:21 disturbed [4] - 66:4, 81:8, 82:24, 83:3 division [3] - 37:16, 38:17 divulge [1] - 55:6 document [2] - 148:14, 151:13 documents [4] - 148:10, 148:11, 148:12, 149:8 dollars [2] - 119:5, 164:9 done [12] - 25:15, 34:25, 44:25, 51:19, 72:3, 78:20, 79:2, 110:24, 131:16, 135:16, 157:18, 159:1 door [1] - 10:14 Dotzenrod [15] - 62:8, 62:14, 62:17, 62:19, 70:8, 70:19, 70:25, 71:1, 71:2, 71:10, 74:10, 84:6, 84:24, 85:11, 156:20 DOTZENROD [10] - 62:9, 62:13, 62:17, 62:22, 62:25, 63:4, 63:6, 63:8, 70:20, 85:12 Dotzenrod's [3] - 70:24, 89:12, 157:21 double [3] - 57:8, 57:11, 57:24 double-check [3] - 57:8, 57:11, 57:24 down [24] - 19:17, 31:22, 33:4, 33:6, 46:13, 48:4, 73:1, 73:17, 77:9, 77:11, 107:2, 107:7, 123:17, 123:20, 125:11, 136:13, 136:24, 137:2, 140:15, 141:18, 141:23, 142:2, 155:11 downstream [1] - 78:25 dozens [2] - 12:5, 87:14 drain [21] - 63:20, 64:6, 64:22, 65:6, 65:10, 66:2, 70:4, 72:2, 72:15, 73:21, 75:20, 76:5, 76:6, 81:4, 81:8, 82:11, 82:23, 83:3, 113:17, 113:19, 115:13 drainage [5] - 63:20, 64:8, 64:17, 64:19, 67:15 dramatically [1] - 67:25 drawing [1] - 150:23 drill [1] - 43:14 drilling [2] - 42:24, 43:2 drills [1] - 26:15 drive [3] - 137:8, 141:23 driven [1] - 106:16 driving [1] - 87:6 drove [1] - 135:16 dry [1] - 50:6 due [4] - 14:20, 100:9, 114:15, 131:25 dug [1] - 79:9 duly [15] - 17:2, 63:7, 86:10, 91:2, 96:2, 105:2, 118:16, 122:22, 128:4, 133:23, 142:19, 146:10, 153:2, 161:10, 166:13 duration [1] - 26:6 during [14] - 4:16, 12:25, 28:24, 31:19, 34:10, 34:12, 48:10, 58:5, 58:9, 64:13, 64:22, 65:8, 97:4, 161:19 dwelling [3] - 161:16, 161:21, 163:7 dwelling [2] - 21:23, 164:4 dysfunction [1] - 87:17	E	early [2] - 110:15, 129:4 earn [1] - 100:13 earned [1] - 96:25 easement [33] - 23:2, 23:4, 25:23, 63:19, 65:6, 67:15, 67:17, 69:9, 69:10, 77:19, 78:14, 81:19, 81:21, 81:25, 83:9, 83:11, 83:12, 83:20, 127:12, 128:6, 131:14, 135:11, 135:13, 147:17, 147:18, 149:7, 149:22, 149:23, 149:24, 150:1, 150:6, 151:8, 161:15 easements [24] - 25:18, 40:2, 40:3, 40:4, 41:21, 44:2, 83:14, 123:10, 135:11, 139:25, 147:9, 147:10, 147:14, 147:21, 148:15, 148:21, 148:22, 149:9, 149:13, 149:17, 149:18, 150:21 East [2] - 96:15, 105:11 east [6] - 76:2, 76:16, 89:1, 89:10, 136:12, 165:4 eastern [2] - 108:24, 128:16 easy [4] - 132:9, 135:7, 135:17, 167:11 eat [1] - 110:17 echo [1] - 171:20 economic [13] - 45:7, 97:9, 97:12, 97:20, 98:1, 98:3, 99:7, 99:9, 99:14, 99:23, 100:17, 153:16, 155:19 economical [1] - 91:17 economically [1] - 102:18	economy [5] - 98:16, 98:20, 98:23, 153:19, 154:5 edge [4] - 37:7, 76:2, 157:5 effect [2] - 8:13, 68:13 effectively [2] - 33:10, 44:4 effects [2] - 5:14, 5:25 efficient [2] - 6:4, 10:9 efficiently [1] - 68:4 eight [8] - 68:15, 69:1, 77:4, 136:12, 158:3, 158:6, 175:13, 177:16 either [13] - 4:15, 31:16, 33:16, 35:17, 43:1, 43:3, 43:13, 47:15, 51:1, 51:6, 76:2, 169:5, 173:8 elaborate [1] - 34:8 electrical [1] - 147:12 electricity [2] - 163:22, 163:23 eliminate [1] - 114:12 eliminated [3] - 61:1, 61:7, 173:2 Ellingson [1] - 158:25 Ellingsons [2] - 159:4, 159:12 email [2] - 37:1, 37:4 emergency [22] - 18:23, 20:15, 26:10, 26:13, 31:17, 39:17, 40:24, 41:6, 41:9, 47:6, 47:21, 66:22, 69:16, 120:12, 121:23, 121:25, 123:3, 123:4, 123:7, 126:20, 126:24, 126:25 emissions [1] - 154:22 emitted [1] - 28:4 Emmons [1] - 5:4 employ [3] - 30:18, 31:6, 31:19 employed [3] - 17:9, 100:12, 109:9 employee [1] - 66:19 employees [2] - 69:15, 155:12 employing [1] - 31:3 employment [4] - 97:9, 97:13, 105:7, 106:14 employs [1] - 101:18 encourage [1] - 8:9 encouraged [1] - 168:1 encourages [2] - 147:8, 148:16 end [4] - 10:25, 50:20, 168:3, 176:14 energy [12] - 6:10, 12:14, 96:12, 96:18, 96:20, 97:4, 98:7, 102:21, 108:11, 154:10, 154:22, 155:24 engaged [1] - 96:11 engineer [2] - 120:4, 121:2 Engineering [1] - 119:8 enjoyment [1] - 161:18 ensure [3] - 112:8, 147:5, 148:22 ensuring [3] - 6:9, 6:10, 37:16 entails [1] - 17:20 enter [2] - 13:10, 72:24 entered [1] - 12:22 enters [1] - 72:20 entire [5] - 64:19, 69:10, 73:3, 73:11, 74:15 entity [3] - 67:21, 67:25, 117:7 entry [1] - 43:1 environment [1] - 6:1 environmental [5] - 6:4, 6:8, 35:21, 69:20, 97:22 episode [1] - 78:18 epoxy [1] - 111:16 equal [1] - 99:24 equates [1] - 23:18 equation [2] - 154:25, 155:8 equipment [7] - 26:19, 26:21, 46:9, 66:16, 69:3, 80:13, 144:8 Ernest [1] - 17:8 Ernst [2] - 100:8, 100:9 escaped [1] - 121:21 especially [8] - 9:17, 30:4, 30:16, 65:19, 79:6, 100:9, 140:15, 157:4 establish [3] - 42:23, 177:6, 177:7 established [3] - 19:15, 51:5, 64:17 estimate [2] - 64:3, 99:25 estimated [1] - 98:17 etcetera [6] - 33:25, 35:23, 40:2, 42:23, 47:3, 49:8 ethanol [16] - 17:22, 27:17, 27:20, 28:11, 28:21, 153:19,
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<p>153:20, 153:23, 154:1, 154:5, 154:11, 155:1, 155:3, 155:10, 155:23</p> <p>evaluate [1] - 41:8 evaluated [1] - 61:3 evaluates [1] - 40:23 EVAN [6] - 104:3, 104:6, 104:11, 104:14, 104:18, 105:1 Evan [4] - 7:21, 103:16, 104:1, 104:6 event [4] - 33:15, 34:9, 34:24, 91:11 eventually [4] - 44:5, 65:21, 65:23, 66:15 every-five-year [1] - 52:5 evicted [1] - 171:4 evidence [1] - 9:23 evidentiary [1] - 117:13 exactly [3] - 57:13, 131:4, 154:8 EXAMINATION [15] - 17:4, 29:10, 38:2, 53:10, 58:19, 71:8, 73:15, 84:22, 88:5, 92:12, 92:21, 101:1, 105:4, 113:13, 115:1 examined [2] - 17:2, 105:2 excavation [3] - 65:1, 112:5, 112:6 exceed [3] - 29:24, 30:15, 99:24 except [1] - 170:22 exceptional [1] - 113:4 excess [2] - 64:10, 66:17 excessive [1] - 64:11 exclusively [1] - 178:8 excuse [2] - 125:7, 151:5 executing [1] - 40:4 Executive [1] - 147:3 exhibit [12] - 7:20, 12:24, 13:5, 70:11, 74:14, 94:22, 95:17, 148:14, 149:2, 150:6, 151:9 Exhibit [8] - 24:15, 24:16, 43:15, 70:9, 70:17, 74:16, 97:14, 139:24 exhibits [7] - 12:19, 12:20, 12:21, 13:2, 13:6, 13:8, 148:10 exist [3] - 64:14, 66:5, 67:9</p>	<p>existing [2] - 76:13, 78:3 exits [2] - 43:1, 150:5 expand [2] - 28:13, 155:5 expect [4] - 77:5, 99:23, 135:20, 158:2 expectation [1] - 67:5 expensive [1] - 66:16 experience [32] - 38:6, 40:6, 41:7, 41:11, 41:16, 42:20, 43:5, 63:22, 66:8, 92:4, 100:4, 101:15, 101:17, 102:20, 105:14, 106:6, 107:18, 107:19, 107:21, 107:22, 109:22, 110:12, 110:22, 111:1, 111:24, 112:15, 112:19, 113:3, 113:17, 134:2 experienced [3] - 30:25, 108:2, 111:12 experiences [1] - 153:8 expert [3] - 40:1, 42:19, 113:19 experts [2] - 46:23, 46:24 explain [8] - 37:3, 64:18, 65:25, 74:18, 74:20, 75:16, 76:12, 79:24 explained [2] - 81:11, 150:20 explanation [1] - 74:13 explodes [1] - 87:11 exploding [1] - 108:24 export [1] - 68:22 Express [1] - 17:18 expressed [2] - 83:17 extend [4] - 41:10, 41:12, 63:19, 69:8 extension [2] - 139:7, 154:11 extensive [8] - 30:21, 38:5, 96:20, 97:2, 107:17, 134:6, 134:8, 139:5 external [1] - 52:1 externally [1] - 48:11 extra [1] - 164:7 eye [1] - 66:11 eyes [1] - 106:17</p>	<p>5:12, 17:23, 19:8, 19:12, 49:14, 49:17, 96:15, 141:18 facility [12] - 5:24, 6:3, 6:7, 21:18, 28:1, 31:17, 110:18, 136:24, 137:1, 141:18, 141:25, 143:9 fact [8] - 51:1, 60:12, 67:20, 70:24, 123:9, 153:25, 171:3, 175:2 factor [1] - 89:17 facts [3] - 10:19, 11:21, 153:13 fails [1] - 48:14 fair [6] - 24:4, 36:15, 36:21, 61:7, 113:20, 143:4 fairly [1] - 78:17 faithfully [1] - 12:16 fall [2] - 111:23, 131:10 falling [2] - 66:17, 66:20 familiar [4] - 44:19, 88:23, 105:20, 112:25 family [9] - 66:19, 67:20, 84:9, 108:18, 142:20, 142:25, 143:14, 144:1, 161:18 family-supporting [1] - 108:18 fantastic [1] - 173:9 far [22] - 32:19, 34:6, 35:3, 46:2, 48:18, 71:12, 72:2, 73:10, 76:18, 76:20, 78:14, 84:24, 88:9, 92:16, 106:15, 107:1, 113:24, 114:14, 120:11, 121:24, 138:22, 140:13 farm [3] - 28:1, 79:2, 159:18 farmed [3] - 132:20, 162:8 farmer [3] - 91:8, 91:19, 153:4 farmers [5] - 27:10, 80:4, 154:12, 155:20, 155:23 farming [5] - 27:14, 68:4, 69:6, 84:12, 86:25 farmland [1] - 87:8 fashion [2] - 6:11, 113:3 fast [1] - 92:5 fatigue [1] - 87:16 favor [1] - 142:23</p>	<p>features [1] - 29:15 February [2] - 4:10, 146:19 federal [5] - 20:7, 29:22, 29:25, 38:21, 53:22 Federal [1] - 147:20 Federation [1] - 96:24 Fedorchak [1] - 12:8 fee [1] - 138:16 feed [1] - 76:11 feedback [5] - 81:5, 128:15, 176:21, 178:3, 178:6 feelings [1] - 11:19 feet [33] - 22:6, 56:7, 56:15, 59:4, 59:15, 59:19, 76:22, 77:1, 77:25, 80:16, 80:17, 80:19, 93:8, 115:5, 115:7, 134:18, 135:3, 135:6, 135:19, 136:14, 140:6, 149:21, 158:3, 158:6, 158:11, 158:15, 161:15, 161:16, 161:21 felony [3] - 16:15, 118:5, 166:3 fences [1] - 49:7 fermentation [2] - 17:22, 28:3 fertile [1] - 92:1 few [15] - 7:23, 31:22, 43:17, 44:1, 58:21, 110:3, 113:21, 117:1, 150:12, 153:13, 157:22, 158:19, 163:25, 164:8, 167:22 field [10] - 46:24, 46:25, 68:21, 71:20, 71:21, 76:17, 105:16, 110:22, 142:2, 158:8 fields [4] - 78:17, 141:23, 157:4, 157:5 fifth [1] - 171:6 figure [4] - 39:12, 98:19, 153:20, 176:1 filed [7] - 13:4, 14:7, 15:16, 22:24, 24:12, 35:13 filing [7] - 4:9, 5:8, 14:13, 14:15, 14:18, 14:19, 38:15 fill [2] - 65:20, 119:25 filled [1] - 99:3 filling [3] - 110:2, 112:2 filter [2] - 174:1 finalize [1] - 178:2</p>	<p>finally [4] - 12:23, 14:14, 28:22, 31:5 financial [2] - 68:8, 87:2 financially [1] - 69:5 fine [10] - 8:24, 16:16, 57:6, 84:1, 113:23, 118:6, 120:7, 145:6, 166:3, 174:8 finish [1] - 171:8 finishing [1] - 136:25 fire [3] - 119:1, 126:22, 137:10 Fire [1] - 145:12 firefighters [1] - 41:6 fireman [2] - 144:7, 145:11 firm [2] - 88:10, 88:11 first [43] - 9:20, 9:22, 10:4, 11:8, 17:2, 26:9, 26:13, 26:17, 26:24, 31:12, 38:14, 59:12, 62:8, 63:7, 86:10, 91:2, 91:4, 96:2, 97:17, 105:2, 107:3, 110:8, 110:11, 111:14, 117:17, 118:16, 122:22, 127:15, 128:4, 130:2, 133:23, 136:5, 136:15, 142:19, 146:10, 153:2, 153:15, 161:10, 166:13, 171:13, 171:24, 176:20 firsthand [1] - 66:8 fish [1] - 115:24 fits [1] - 40:7 five [15] - 16:16, 17:23, 31:14, 51:22, 52:5, 52:8, 72:13, 98:18, 105:19, 118:6, 123:12, 123:15, 135:6, 158:11, 166:4 fix [3] - 157:20, 159:6, 159:7 fixed [1] - 157:22 floating [1] - 114:13 floats [1] - 114:9 flow [2] - 47:21, 50:25 flowing [1] - 43:13 focus [4] - 5:6, 10:22, 27:8, 45:22 focused [1] - 111:4 folders [1] - 65:4 folks [10] - 9:14, 30:4, 37:6, 107:5, 107:22, 108:20, 109:19, 110:19, 112:24, 146:20 follow [7] - 10:3,</p>
	<p>F</p>			
	<p>face [1] - 44:17 facilities [9] - 5:3,</p>			

26:23, 53:9, 58:21, 84:24, 147:22, 148:1 follow-up [3] - 53:9, 58:21, 84:24 followed [4] - 42:9, 67:16, 147:6, 148:23 following [4] - 5:9, 24:25, 34:7, 82:12 follows [16] - 5:22, 17:3, 63:7, 86:10, 91:2, 96:2, 105:3, 118:16, 122:22, 128:4, 133:23, 142:19, 146:10, 153:2, 161:10, 166:13 foot [5] - 10:14, 29:25, 30:1, 30:2, 112:12 footprint [4] - 42:25, 43:3, 43:10 foreign [1] - 32:2 foremost [1] - 110:11 foresee [1] - 167:14 forever [3] - 77:3, 77:13, 92:3 forget [1] - 167:11 forgive [1] - 33:11 forgot [1] - 141:17 formal [2] - 26:24, 138:21 Forman [1] - 89:4 forms [3] - 66:10, 66:11, 66:12 forth [2] - 18:8, 175:8 fortunately [1] - 99:20 forward [7] - 85:14, 117:3, 117:18, 152:2, 155:1, 155:25, 178:10 fought [1] - 143:11 four [15] - 4:23, 30:1, 77:1, 77:24, 80:16, 80:19, 98:15, 115:5, 115:7, 123:11, 132:19, 136:16, 158:11, 158:15, 175:13 fracture [2] - 46:8, 46:14 framework [1] - 15:8 frankly [1] - 10:9 free [1] - 112:9 freeze [1] - 80:19 freezes [1] - 80:18 frequency [2] - 25:23, 52:5 frequent [2] - 46:18, 78:17 freshly [1] - 66:3 friends [3] - 143:1, 161:18, 162:12 front [1] - 117:20 frost [3] - 80:13,	80:14, 114:15 fuel [4] - 27:22, 28:7, 154:21, 155:2 fuels [4] - 154:14, 154:15, 154:17, 154:19 Fuels [1] - 154:20 fulfilled [1] - 6:10 full [6] - 16:9, 17:6, 62:11, 85:18, 90:10, 104:5 fully [1] - 55:12 function [1] - 73:21 functioning [2] - 64:6, 65:23 furthermore [1] - 147:21 future [9] - 38:22, 45:9, 50:9, 51:19, 68:11, 109:14, 121:25, 153:15, 155:10	163:20, 163:23, 164:8, 164:11 Geneva [1] - 160:22 Geological [2] - 14:2, 14:5 geologist [1] - 36:17 geotechnical [1] - 32:12 girth [1] - 30:13 given [5] - 8:18, 9:2, 10:17, 68:8, 146:17 globally [1] - 27:11 goal [4] - 8:17, 10:12, 10:15, 126:13 God [1] - 132:8 govern [1] - 47:8 grade [1] - 65:17 Grain [1] - 159:20 grain [1] - 63:25 granted [1] - 54:6 grantee [1] - 147:18 grantor's [1] - 147:16 grass [1] - 130:11 grassland [3] - 88:22, 93:22, 130:17 grasslands [2] - 88:20, 130:5 gravel [1] - 135:15 Great [2] - 96:9, 105:8 great [4] - 24:19, 68:12, 132:6, 136:7 greater [5] - 23:24, 37:3, 51:7, 68:19, 69:5 greet [1] - 106:25 Gregory [1] - 106:1 Groh [1] - 68:18 ground [11] - 65:18, 77:10, 109:14, 113:6, 114:15, 114:20, 137:2, 137:15, 137:17, 141:20, 142:1 group [3] - 117:7, 117:8, 170:22 groups [3] - 107:19, 159:20, 159:25 Growers [6] - 153:6, 153:7, 159:20, 159:22, 160:3, 160:7 growers [2] - 155:12, 159:21 growers' [1] - 159:20 grown [2] - 153:21, 155:4 growth [3] - 96:18, 96:23, 108:25 guess [20] - 78:22, 107:12, 118:17, 119:14, 119:15, 125:25, 126:9, 135:18, 135:20,	137:18, 143:21, 158:18, 162:20, 163:1, 166:17, 166:19, 172:12, 174:22, 177:1, 177:2 guidance [1] - 37:8 guidelines [1] - 147:23 guy [1] - 132:9 guys [1] - 11:12 Gwinner [3] - 4:13, 108:23, 145:12	HAUGEN [52] - 11:7, 45:20, 46:5, 47:11, 47:17, 48:2, 48:6, 48:9, 48:22, 49:11, 49:18, 49:22, 56:4, 61:25, 79:17, 80:8, 80:12, 80:21, 80:24, 81:15, 81:22, 82:3, 82:8, 82:20, 83:2, 83:7, 83:10, 83:13, 84:3, 89:25, 94:11, 103:18, 116:5, 121:10, 126:9, 127:1, 131:22, 132:3, 132:17, 132:24, 141:12, 145:6, 152:5, 160:12, 164:17, 169:7, 171:19, 173:10, 173:13, 175:10, 176:17, 177:24 Haugen-Hoffart [18] - 11:6, 45:19, 61:24, 79:16, 89:24, 94:10, 103:17, 116:4, 121:9, 126:8, 131:21, 141:11, 145:5, 152:4, 160:11, 164:16, 169:6, 171:18 HAUGEN-HOFFART [52] - 11:7, 45:20, 46:5, 47:11, 47:17, 48:2, 48:6, 48:9, 48:22, 49:11, 49:18, 49:22, 56:4, 61:25, 79:17, 80:8, 80:12, 80:21, 80:24, 81:15, 81:22, 82:3, 82:8, 82:20, 83:2, 83:7, 83:10, 83:13, 84:3, 89:25, 94:11, 103:18, 116:5, 121:10, 126:9, 127:1, 131:22, 132:3, 132:17, 132:24, 141:12, 145:6, 152:5, 160:12, 164:17, 169:7, 171:19, 173:10, 173:13, 175:10, 176:17, 177:24 Hazardous [3] - 20:6, 40:18, 53:20 hazardous [1] - 87:10 HDD [2] - 42:11, 42:16 head [2] - 140:13, 168:23 health [1] - 100:11 hear [9] - 10:20, 11:3, 11:16, 11:17, 15:14,
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>82:18, 127:17, 133:11, 149:16</p> <p>heard [13] - 8:19, 9:24, 45:23, 52:21, 77:24, 79:21, 80:1, 123:22, 132:18, 142:11, 166:15, 171:25, 174:6</p> <p>hearing [59] - 4:5, 4:6, 4:11, 4:17, 4:22, 5:6, 5:8, 7:16, 8:18, 9:2, 9:10, 10:21, 12:20, 13:18, 13:25, 14:6, 15:19, 18:6, 18:9, 19:22, 20:14, 20:20, 23:4, 23:16, 24:20, 27:4, 32:6, 32:22, 34:23, 35:9, 35:11, 35:12, 36:6, 38:23, 39:22, 40:1, 40:21, 71:2, 102:5, 117:2, 117:13, 135:18, 150:14, 150:20, 165:12, 169:16, 169:24, 171:3, 171:7, 171:12, 171:13, 172:10, 172:11, 174:13, 174:24, 175:24, 176:6, 178:9</p> <p>Hearings [1] - 12:4</p> <p>hearings [7] - 4:9, 4:23, 10:10, 12:5, 12:6, 12:12, 138:19</p> <p>heaved [1] - 80:6</p> <p>heavily [2] - 68:24, 99:12</p> <p>heaving [14] - 32:6, 32:9, 32:11, 32:18, 67:2, 79:22, 79:23, 80:3, 80:6, 80:9, 80:22, 114:1, 114:3, 114:6</p> <p>heavy [2] - 66:13, 80:12</p> <p>held [1] - 4:12</p> <p>hello [1] - 117:22</p> <p>help [5] - 27:17, 45:14, 94:8, 119:4, 154:22</p> <p>helped [1] - 64:3</p> <p>helpful [6] - 117:9, 117:11, 117:21, 174:18, 178:2, 178:18</p> <p>helps [5] - 28:9, 28:11, 28:13, 53:2</p> <p>Henkels [1] - 106:1</p> <p>Heritage [2] - 171:4, 176:18</p> <p>herself [1] - 12:8</p> <p>hesitant [1] - 55:10</p> <p>hesitate [1] - 9:3</p> <p>hesitated [1] - 55:5</p>	<p>high [11] - 20:11, 28:14, 33:9, 34:19, 34:20, 46:8, 65:3, 93:11, 99:5, 129:5, 132:1</p> <p>higher [5] - 28:15, 52:23, 67:16, 100:7, 153:22</p> <p>highway [1] - 108:13</p> <p>highways [2] - 87:20</p> <p>hilly [1] - 137:6</p> <p>hire [1] - 155:6</p> <p>hired [2] - 123:18, 126:1</p> <p>hiring [2] - 100:2, 110:1</p> <p>hit [3] - 42:10, 42:16, 76:17</p> <p>hits [1] - 77:9</p> <p>Hoffart [18] - 11:6, 45:19, 61:24, 79:16, 89:24, 94:10, 103:17, 116:4, 121:9, 126:8, 131:21, 141:11, 145:5, 152:4, 160:11, 164:16, 169:6, 171:18</p> <p>HOFFART [52] - 11:7, 45:20, 46:5, 47:11, 47:17, 48:2, 48:6, 48:9, 48:22, 49:11, 49:18, 49:22, 56:4, 61:25, 79:17, 80:8, 80:12, 80:21, 80:24, 81:15, 81:22, 82:3, 82:8, 82:20, 83:2, 83:7, 83:10, 83:13, 84:3, 89:25, 94:11, 103:18, 116:5, 121:10, 126:9, 127:1, 131:22, 132:3, 132:17, 132:24, 141:12, 145:6, 152:5, 160:12, 164:17, 169:7, 171:19, 173:10, 173:13, 175:10, 176:17, 177:24</p> <p>hog [4] - 136:25, 141:18, 141:25, 142:2</p> <p>Hogan's [1] - 12:4</p> <p>hold [4] - 8:24, 91:24, 132:11, 173:8</p> <p>holding [2] - 73:5, 103:25</p> <p>holdings [1] - 147:21</p> <p>holds [1] - 111:6</p> <p>hole [2] - 65:20, 112:11</p> <p>home [5] - 9:17, 9:19,</p>	<p>9:21, 98:25, 109:20</p> <p>homeowners [3] - 66:23, 67:12, 69:15</p> <p>homes [1] - 137:14</p> <p>honestly [2] - 172:25, 173:7</p> <p>honor [1] - 135:21</p> <p>Honor [45] - 6:17, 9:8, 13:12, 13:17, 15:1, 29:5, 29:9, 37:22, 37:25, 50:2, 54:14, 57:5, 58:18, 61:15, 61:20, 62:5, 70:22, 74:7, 79:13, 88:16, 92:9, 93:3, 95:3, 95:6, 95:10, 103:24, 104:21, 116:13, 116:19, 120:18, 124:22, 129:24, 139:21, 144:21, 145:25, 151:21, 156:11, 163:14, 169:2, 169:21, 170:5, 170:10, 170:21, 174:6, 176:3</p> <p>honored [1] - 135:20</p> <p>hook [1] - 141:24</p> <p>hooked [2] - 49:18, 93:8</p> <p>hope [4] - 10:7, 11:11, 24:25, 40:22</p> <p>Hope [1] - 4:3</p> <p>hopeful [1] - 69:21</p> <p>hopefully [3] - 9:11, 10:25, 44:5</p> <p>hoping [2] - 94:5, 126:2</p> <p>hospital [1] - 87:14</p> <p>hour [1] - 175:5</p> <p>hours [3] - 15:19, 20:19, 105:16</p> <p>house [7] - 59:5, 59:17, 59:21, 91:10, 136:15, 164:1, 165:3</p> <p>houses [1] - 136:17</p> <p>human [1] - 6:8</p> <p>hundred [2] - 76:22, 149:21</p> <p>hung [1] - 109:18</p> <p>hunt [2] - 161:18, 162:13</p> <p>hunting [6] - 162:3, 162:4, 162:7, 162:10, 162:12, 163:17</p> <p>husband [2] - 86:25, 87:2</p> <p>hydraulic [3] - 30:7, 34:1, 50:16</p>	<p>I</p> <p>i.e [1] - 52:17</p> <p>ice [1] - 50:6</p> <p>idea [6] - 8:22, 86:16, 129:14, 164:11, 174:20, 175:19</p> <p>identified [2] - 161:14, 175:13</p> <p>identify [4] - 58:9, 92:23, 117:8, 168:19</p> <p>II [1] - 17:8</p> <p>imagine [3] - 80:23, 83:24, 178:7</p> <p>imagining [1] - 158:19</p> <p>immediate [1] - 43:2</p> <p>impact [10] - 6:8, 45:7, 68:3, 69:20, 71:15, 98:1, 98:3, 99:7, 100:14, 102:18</p> <p>impacted [2] - 66:24, 155:15</p> <p>impacts [8] - 63:19, 67:11, 69:8, 69:14, 97:9, 97:13, 98:2, 102:19</p> <p>implement [1] - 69:4</p> <p>implemented [1] - 20:9</p> <p>importance [4] - 64:16, 68:12, 97:18, 154:4</p> <p>important [14] - 8:11, 9:25, 11:16, 24:20, 27:16, 27:17, 30:4, 63:24, 68:23, 111:5, 111:19, 111:20, 153:14, 155:19</p> <p>imprisonment [3] - 16:17, 118:7, 166:4</p> <p>improper [1] - 111:10</p> <p>Inaudible [1] - 165:2</p> <p>inception [1] - 146:14</p> <p>inch [1] - 135:15</p> <p>inches [2] - 52:8, 158:9</p> <p>incident [3] - 34:5, 48:24, 66:23</p> <p>incidents [1] - 26:15</p> <p>include [2] - 100:10, 148:12</p> <p>included [2] - 98:19, 148:9</p> <p>including [7] - 17:23, 19:17, 96:14, 96:19, 99:21, 100:6, 154:17</p> <p>income [3] - 68:11, 87:3, 164:5</p> <p>increase [3] - 91:23, 91:25, 110:1</p> <p>increased [2] - 67:25, 68:18</p>	<p>increases [3] - 63:25, 64:11</p> <p>incurred [1] - 91:15</p> <p>indicate [2] - 117:10, 117:16</p> <p>indicated [4] - 20:17, 71:1, 102:4, 169:24</p> <p>indicates [1] - 158:14</p> <p>indicating [1] - 148:8</p> <p>indication [4] - 48:10, 50:25, 51:2</p> <p>indicators [1] - 51:6</p> <p>individual [2] - 84:16, 160:4</p> <p>individuals [5] - 33:2, 107:20, 110:14, 112:24, 113:2</p> <p>indulge [1] - 170:11</p> <p>indulging [1] - 170:21</p> <p>industrial [2] - 50:6, 50:7</p> <p>industries [2] - 154:7, 155:19</p> <p>industry [12] - 28:21, 30:20, 105:15, 106:13, 106:20, 108:7, 110:14, 112:22, 115:6, 154:1, 155:18, 155:24</p> <p>infiltrating [1] - 68:20</p> <p>infiltration [2] - 68:17, 69:2</p> <p>info [1] - 106:23</p> <p>inform [1] - 30:10</p> <p>information [33] - 9:13, 11:14, 11:21, 14:8, 18:7, 23:3, 24:22, 29:2, 31:23, 36:3, 36:5, 36:25, 39:11, 40:16, 40:17, 44:4, 55:11, 57:25, 59:9, 59:17, 60:1, 60:13, 70:6, 85:5, 107:1, 118:21, 120:5, 123:6, 164:12, 164:15, 167:3, 170:24, 176:9</p> <p>Infrasource [1] - 106:2</p> <p>infrastructure [3] - 39:17, 96:13, 97:19</p> <p>initial [2] - 66:6, 83:22</p> <p>initiatives [1] - 96:23</p> <p>inject [2] - 18:4, 141:19</p> <p>injector [1] - 142:1</p> <p>injects [1] - 17:25</p> <p>injured [1] - 31:13</p> <p>injury [1] - 67:23</p> <p>innovation [1] - 154:7</p> <p>inoperable [1] - 87:15</p> <p>input [2] - 177:11, 177:18</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>insight ^[1] - 144:24</p> <p>inspection ^[1] - 31:5</p> <p>instability ^[1] - 64:23</p> <p>install ^[2] - 107:4, 108:22</p> <p>installation ^[13] - 63:23, 64:6, 64:13, 64:22, 65:9, 65:14, 66:6, 68:13, 68:25, 69:8, 69:19, 105:19, 113:24</p> <p>installed ^[9] - 52:8, 63:21, 65:16, 70:5, 72:3, 72:17, 77:4, 106:18, 110:9</p> <p>installing ^[5] - 38:6, 105:17, 106:24, 110:13, 114:10</p> <p>installs ^[1] - 106:21</p> <p>instance ^[3] - 29:24, 46:7, 149:20</p> <p>instructions ^[1] - 9:1</p> <p>insurance ^[4] - 67:25, 91:14, 91:17, 134:12</p> <p>integrity ^[11] - 6:9, 52:11, 64:19, 66:1, 67:13, 69:19, 74:1, 106:20, 111:2, 111:15, 112:3</p> <p>intend ^[6] - 6:16, 6:21, 7:15, 7:19, 8:22, 40:16</p> <p>intensity ^[3] - 27:19, 27:20, 28:6</p> <p>intently ^[1] - 172:8</p> <p>interest ^[1] - 86:14</p> <p>interested ^[2] - 23:15, 27:2</p> <p>intermediate ^[1] - 49:15</p> <p>internal ^[1] - 52:1</p> <p>International ^[2] - 96:8, 105:10</p> <p>interruption ^[1] - 69:17</p> <p>interruptions ^[1] - 4:16</p> <p>intersects ^[1] - 150:3</p> <p>Interstate ^[1] - 119:8</p> <p>interstate ^[1] - 87:20</p> <p>intervenor ^[6] - 8:1, 10:5, 88:1, 88:2, 178:7, 178:9</p> <p>intervenor ^[11] - 7:24, 12:22, 58:6, 62:7, 85:13, 94:18, 174:15, 175:7, 175:12, 175:25, 177:9</p> <p>intoxicate ^[1] - 87:12</p> <p>introduce ^[4] - 6:15, 6:25, 7:15, 7:20</p> <p>introduced ^[1] -</p>	<p>154:20</p> <p>introduction ^[1] - 15:11</p> <p>invested ^[2] - 68:7, 69:3</p> <p>investment ^[4] - 63:21, 68:6, 153:15, 154:6</p> <p>investments ^[2] - 69:4, 97:13</p> <p>invisible ^[1] - 66:11</p> <p>involve ^[3] - 33:7, 78:23, 177:21</p> <p>involved ^[8] - 32:14, 46:2, 46:6, 46:18, 47:3, 67:6, 123:4, 150:6</p> <p>involves ^[1] - 155:10</p> <p>irrigated ^[1] - 137:3</p> <p>irrigation ^[3] - 68:6, 140:18, 141:16</p> <p>isolates ^[1] - 34:3</p> <p>issue ^[14] - 14:14, 14:17, 32:18, 33:4, 37:6, 61:11, 72:13, 119:4, 124:25, 125:1, 125:13, 125:25, 126:3, 168:10</p> <p>issued ^[1] - 4:9</p> <p>issues ^[18] - 5:9, 5:21, 14:5, 37:17, 40:11, 72:5, 72:15, 72:16, 73:2, 81:24, 96:21, 107:2, 109:1, 128:8, 129:5, 152:1, 162:25, 167:15</p> <p>items ^[2] - 117:1, 148:9</p> <p>itself ^[3] - 51:10, 111:19, 111:20</p> <p style="text-align: center;">J</p> <p>Jackson ^[2] - 134:1, 139:12</p> <p>JAMES ^[5] - 16:6, 16:10, 16:19, 16:23, 17:1</p> <p>James ^[2] - 16:10, 17:8</p> <p>JASON ^[15] - 117:22, 117:25, 118:3, 118:9, 118:13, 118:15, 118:17, 119:24, 120:4, 120:14, 120:24, 121:5, 121:16, 122:3, 122:6</p> <p>Jason ^[1] - 117:25</p> <p>jeopardize ^[1] - 111:14</p>	<p>JERRY ^[13] - 142:7, 142:11, 142:16, 142:18, 142:20, 144:14, 144:17, 145:1, 145:4, 145:8, 145:12, 145:15, 145:17</p> <p>Jerry ^[1] - 142:7</p> <p>Jimmy ^[8] - 6:22, 16:2, 17:6, 20:23, 24:18, 27:4, 28:22, 58:21</p> <p>job ^[6] - 9:15, 67:19, 98:17, 108:3, 109:2, 111:9</p> <p>jobs ^[2] - 154:1, 155:20</p> <p>Jorde ^[1] - 58:7</p> <p>judge ^[3] - 4:4, 12:12, 18:1</p> <p>Judge ^[5] - 7:17, 12:1, 12:4, 96:3, 101:14</p> <p>Julie ^[1] - 12:7</p> <p>July ^[1] - 162:22</p> <p>jump ^[1] - 175:6</p> <p>jumped ^[1] - 57:8</p> <p>June ^[3] - 173:2, 173:17, 174:5</p> <p>justice ^[1] - 97:3</p> <p style="text-align: center;">K</p> <p>Kansas ^[1] - 46:19</p> <p>keep ^[13] - 11:17, 25:24, 25:25, 26:4, 43:4, 61:10, 129:7, 135:18, 153:14, 154:6, 154:7, 158:9, 167:2</p> <p>keeping ^[2] - 109:1, 152:3</p> <p>keeps ^[2] - 72:25, 74:1</p> <p>Kevin ^[3] - 7:17, 96:6, 152:13</p> <p>KEVIN ^[22] - 96:1, 152:13, 152:16, 152:19, 152:23, 153:1, 153:3, 156:15, 156:18, 156:21, 156:24, 157:2, 157:6, 158:1, 158:17, 158:20, 158:23, 159:14, 159:17, 159:22, 160:2, 160:18</p> <p>key ^[1] - 97:16</p> <p>Keystone ^[17] - 123:12, 123:14, 123:23, 125:11, 125:15, 126:4, 134:3, 134:22, 134:23, 134:25, 135:5, 135:7,</p>	<p>135:11, 135:19, 139:6, 165:3</p> <p>kind ^[31] - 15:7, 21:9, 42:17, 43:21, 44:7, 44:18, 45:1, 46:1, 57:8, 65:22, 70:4, 73:17, 73:19, 74:24, 75:13, 75:16, 76:12, 80:6, 89:12, 93:10, 93:15, 114:5, 115:24, 120:12, 130:11, 136:2, 136:3, 136:11, 173:23, 175:3, 175:7</p> <p>kinds ^[2] - 51:24, 123:13</p> <p>knowledge ^[8] - 34:22, 67:2, 79:23, 107:24, 110:23, 140:10, 140:18, 140:19</p> <p>known ^[3] - 63:12, 114:6, 143:3</p> <p style="text-align: center;">L</p> <p>L1 ^[4] - 95:14, 95:15, 95:22, 97:14</p> <p>label ^[2] - 70:8, 95:14</p> <p>labeled ^[3] - 12:20, 12:24, 74:16</p> <p>Labor ^[1] - 96:24</p> <p>labor ^[3] - 101:20, 108:15</p> <p>Laborers ^[2] - 96:8, 105:10</p> <p>laborers ^[1] - 96:11</p> <p>lack ^[2] - 33:3, 68:3</p> <p>lagging ^[2] - 43:18, 43:21</p> <p>laid ^[2] - 10:2, 106:16</p> <p>Lakes ^[2] - 96:9, 105:9</p> <p>land ^[55] - 25:20, 28:13, 28:15, 39:23, 67:17, 86:23, 87:1, 87:3, 87:6, 87:19, 88:19, 89:7, 89:11, 89:21, 91:20, 91:21, 93:12, 93:21, 106:21, 119:2, 119:3, 123:10, 128:25, 130:5, 130:9, 130:23, 132:1, 132:6, 132:14, 132:20, 134:4, 137:4, 137:5, 140:5, 140:8, 142:21, 143:6, 146:12, 147:6, 147:21, 147:22, 147:25, 148:2, 148:6, 148:13,</p>	<p>149:25, 153:24, 155:14, 157:1, 157:19, 157:21, 159:8, 161:12, 166:15</p> <p>Land ^[6] - 146:13, 146:16, 146:18, 147:8, 149:1, 149:25</p> <p>landfill ^[1] - 143:10</p> <p>landlord ^[1] - 159:2</p> <p>landowner ^[18] - 22:9, 22:12, 22:15, 25:20, 25:21, 25:24, 55:6, 55:11, 57:18, 83:14, 86:14, 86:15, 117:9, 127:12, 128:5, 141:5, 141:7, 142:20</p> <p>landowner's ^[1] - 22:19</p> <p>landowners ^[14] - 22:11, 23:21, 26:4, 30:2, 43:24, 44:3, 49:2, 67:11, 69:14, 81:2, 106:25, 140:13, 167:4, 168:8</p> <p>Lands ^[2] - 147:19, 147:20</p> <p>language ^[2] - 83:9, 149:7</p> <p>large ^[6] - 58:24, 102:1, 102:21, 107:10, 107:11, 109:5</p> <p>larger ^[2] - 76:12, 129:3</p> <p>largest ^[2] - 52:18, 155:13</p> <p>last ^[29] - 9:10, 16:9, 16:10, 23:16, 24:3, 32:22, 34:23, 42:6, 44:1, 62:11, 64:2, 69:1, 71:2, 71:17, 77:7, 82:22, 85:19, 85:20, 90:11, 104:5, 105:19, 111:21, 117:24, 122:8, 131:10, 133:6, 145:21, 162:2, 165:19</p> <p>lastly ^[1] - 68:12</p> <p>lasts ^[2] - 77:3, 77:12</p> <p>late ^[4] - 9:11, 9:12, 39:22, 171:3</p> <p>lately ^[1] - 108:24</p> <p>lateral ^[4] - 21:10, 21:12, 21:14, 30:17</p> <p>laterals ^[2] - 158:8, 158:16</p> <p>latest ^[2] - 65:7, 70:2</p> <p>law ^[9] - 4:4, 10:16, 12:15, 16:13, 22:4, 118:5, 164:12, 166:1, 171:1</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<p>Lawrence ^[1] - 6:18</p> <p>laws ^[2] - 147:6, 148:22</p> <p>lawyer ^[1] - 167:24</p> <p>laying ^[1] - 155:11</p> <p>leader ^[1] - 154:9</p> <p>leak ^[6] - 30:3, 47:14, 123:15, 125:1, 126:14, 137:17</p> <p>leaks ^[1] - 111:3</p> <p>learn ^[2] - 39:12, 171:22</p> <p>learned ^[1] - 59:11</p> <p>leased ^[1] - 140:9</p> <p>least ^[7] - 23:21, 23:22, 33:9, 40:5, 40:24, 46:20, 52:5</p> <p>leave ^[6] - 15:25, 106:21, 110:5, 111:11, 174:25, 175:16</p> <p>LEC ^[1] - 123:7</p> <p>led ^[1] - 42:17</p> <p>left ^[3] - 7:6, 56:10, 57:19</p> <p>legal ^[1] - 148:4</p> <p>legislation ^[1] - 154:21</p> <p>legislature ^[2] - 10:16, 12:13</p> <p>Leibel ^[1] - 58:7</p> <p>lender ^[1] - 64:3</p> <p>length ^[3] - 5:13, 19:20, 61:2</p> <p>less ^[9] - 44:23, 45:11, 56:15, 68:20, 68:21, 91:9, 123:15, 130:20, 175:1</p> <p>letter ^[9] - 13:20, 13:21, 13:24, 14:1, 14:3, 146:17, 146:20, 146:21, 146:22</p> <p>level ^[6] - 46:8, 67:6, 108:1, 110:11, 112:18, 154:19</p> <p>levels ^[2] - 100:2, 100:5</p> <p>levity ^[1] - 171:24</p> <p>liability ^[1] - 134:11</p> <p>licensed ^[1] - 147:25</p> <p>lies ^[1] - 149:21</p> <p>life ^[4] - 94:7, 94:8, 143:4, 154:10</p> <p>likely ^[1] - 176:25</p> <p>likewise ^[1] - 142:3</p> <p>limit ^[1] - 8:12</p> <p>limited ^[5] - 48:20, 65:1, 81:21, 81:24, 147:11</p> <p>limits ^[1] - 150:5</p> <p>LINDA ^[11] - 165:16,</p>	<p>165:18, 165:20, 165:23, 165:25, 166:6, 166:10, 166:12, 166:14, 168:7, 168:22</p> <p>Linda ^[1] - 165:18</p> <p>line ^[31] - 21:7, 21:8, 29:18, 29:19, 31:25, 32:9, 34:10, 35:19, 51:12, 51:16, 72:3, 72:16, 72:23, 72:24, 72:25, 75:2, 75:3, 76:17, 78:8, 85:1, 101:11, 102:14, 102:18, 107:2, 111:15, 115:12, 115:15, 138:23, 150:3, 157:16</p> <p>linear ^[1] - 140:5</p> <p>lines ^[16] - 27:13, 65:7, 65:8, 65:23, 67:8, 72:19, 76:16, 79:6, 79:11, 113:24, 115:11, 115:13, 129:15, 147:12, 149:24, 157:23</p> <p>Linton ^[6] - 11:2, 102:15, 176:7, 178:13, 178:14, 178:15</p> <p>liquid ^[3] - 141:19, 154:15, 154:16</p> <p>listed ^[1] - 73:22</p> <p>listened ^[1] - 123:21</p> <p>listening ^[2] - 44:8, 63:9</p> <p>lists ^[1] - 75:10</p> <p>LIUNA ^[6] - 7:18, 96:7, 96:9, 96:22, 96:23, 97:11</p> <p>LIUNA's ^[1] - 96:17</p> <p>live ^[14] - 67:20, 91:5, 109:20, 110:17, 114:15, 132:19, 136:5, 136:6, 136:16, 143:5, 143:6, 156:14, 166:20, 167:15</p> <p>lives ^[2] - 98:11, 110:15</p> <p>livestocks ^[1] - 91:9</p> <p>LLC ^[3] - 4:25, 84:12, 84:15</p> <p>loan ^[1] - 64:2</p> <p>loans ^[1] - 69:7</p> <p>local ^[49] - 20:14, 26:9, 26:17, 27:1, 27:10, 35:17, 40:23, 41:4, 41:13, 41:24, 59:25, 60:3, 60:8, 98:5, 98:6, 98:9, 98:16, 98:21, 98:22, 98:23, 98:24, 99:4,</p>	<p>99:5, 99:11, 99:12, 99:15, 100:2, 101:3, 101:7, 101:12, 101:21, 101:25, 102:8, 102:23, 102:24, 103:2, 103:4, 107:10, 108:5, 108:17, 109:8, 109:13, 109:24, 126:12, 126:16, 127:12, 128:5</p> <p>locally ^[1] - 110:1</p> <p>locals ^[1] - 126:17</p> <p>located ^[5] - 32:21, 49:4, 89:5, 99:22, 117:11</p> <p>location ^[8] - 5:13, 6:7, 19:7, 20:24, 21:1, 49:6, 51:4, 176:18</p> <p>locations ^[1] - 5:25</p> <p>Logan ^[1] - 5:4</p> <p>long-term ^[2] - 106:12, 112:3</p> <p>longitudinally ^[1] - 46:13</p> <p>look ^[6] - 38:22, 44:18, 56:10, 169:22, 173:2</p> <p>looked ^[2] - 99:1, 134:17</p> <p>looking ^[11] - 43:16, 44:23, 45:6, 55:16, 56:11, 56:12, 81:1, 110:4, 131:3, 149:3, 176:18</p> <p>looks ^[4] - 50:17, 74:24, 114:17, 162:22</p> <p>loop ^[1] - 121:6</p> <p>loose ^[3] - 65:13, 65:21, 112:9</p> <p>losing ^[1] - 155:12</p> <p>loss ^[4] - 52:10, 64:7, 91:12, 91:17</p> <p>losses ^[3] - 67:17, 69:9, 91:15</p> <p>lost ^[2] - 69:1, 167:18</p> <p>Louisiana ^[1] - 105:25</p> <p>low ^[10] - 27:22, 28:6, 28:7, 99:6, 102:24, 114:11, 154:14, 154:19, 155:2</p> <p>low-carbon ^[6] - 27:22, 28:6, 28:7, 154:14, 154:19, 155:2</p> <p>low-lying ^[1] - 114:11</p> <p>lower ^[8] - 52:25, 53:1, 100:3, 102:23, 102:25, 103:4, 129:6, 154:21</p> <p>lowlands ^[1] - 114:7</p>	<p>luck ^[1] - 133:8</p> <p>lunch ^[2] - 15:6, 116:24</p> <p>lung ^[1] - 87:16</p> <p>lying ^[1] - 114:11</p> <p>LYLE ^[15] - 122:9, 122:12, 122:15, 122:19, 122:21, 122:23, 124:7, 124:17, 125:4, 125:7, 125:20, 125:23, 126:20, 127:4, 127:9</p> <p>Lyle ^[1] - 122:9</p> <p style="text-align: center;">M</p> <p>ma'am ^[1] - 167:23</p> <p>machine ^[2] - 51:17, 66:20</p> <p>machinery ^[2] - 66:14, 87:15</p> <p>main ^[13] - 21:7, 21:8, 49:19, 75:18, 87:3, 101:11, 102:14, 148:11, 158:2, 158:4, 158:6, 166:22, 166:25</p> <p>maintain ^[2] - 25:22, 52:24</p> <p>maintained ^[2] - 39:10, 39:19</p> <p>maintaining ^[1] - 153:24</p> <p>maintenance ^[3] - 5:24, 6:7, 134:10</p> <p>major ^[3] - 115:11, 123:15, 123:19</p> <p>majority ^[2] - 108:8, 143:14</p> <p>Maloney ^[1] - 134:15</p> <p>manage ^[2] - 68:4, 176:1</p> <p>managed ^[1] - 96:17</p> <p>management ^[8] - 31:3, 31:6, 52:11, 68:1, 123:7, 126:20, 126:24, 143:10</p> <p>manager ^[2] - 96:7, 123:3</p> <p>managers ^[1] - 31:7</p> <p>managing ^[3] - 63:13, 84:7, 174:17</p> <p>manner ^[1] - 149:18</p> <p>manually ^[1] - 33:19</p> <p>manure ^[2] - 141:19, 142:3</p> <p>map ^[11] - 21:8, 44:18, 54:18, 55:17, 55:20, 59:20, 70:3, 74:13, 114:17, 131:3, 168:22</p>	<p>mapped ^[1] - 76:7</p> <p>mapping ^[1] - 148:19</p> <p>maps ^[6] - 28:25, 37:10, 44:23, 55:18, 57:7, 89:12</p> <p>March ^[7] - 4:7, 13:19, 13:25, 14:3, 14:6, 18:9, 19:22</p> <p>mark ^[3] - 8:21, 8:23, 56:6</p> <p>markers ^[1] - 49:5</p> <p>marketing ^[2] - 96:7, 105:8</p> <p>marketplace ^[1] - 154:14</p> <p>markets ^[3] - 27:23, 28:7, 155:3</p> <p>Mary ^[1] - 44:20</p> <p>master's ^[1] - 96:25</p> <p>material ^[3] - 31:24, 46:11, 112:9</p> <p>Material ^[3] - 20:6, 40:19, 53:20</p> <p>matter ^[8] - 6:19, 8:6, 8:12, 46:23, 91:23, 94:1, 123:9, 154:10</p> <p>matters ^[5] - 13:15, 13:23, 14:22, 126:11, 169:18</p> <p>maximize ^[1] - 100:17</p> <p>maximum ^[7] - 16:16, 20:9, 118:6, 166:3, 166:4</p> <p>McCown ^[1] - 40:22</p> <p>McCoy ^[1] - 106:1</p> <p>McIntosh ^[1] - 5:4</p> <p>McKenzie ^[1] - 107:14</p> <p>mean ^[33] - 27:21, 33:10, 34:1, 41:3, 54:22, 57:16, 71:15, 71:16, 72:14, 80:9, 81:13, 101:7, 110:13, 112:23, 119:3, 134:22, 135:7, 135:9, 136:6, 137:7, 137:16, 137:19, 140:11, 158:24, 162:22, 163:17, 167:4, 167:10, 167:16, 167:18, 168:7, 175:13, 177:10</p> <p>means ^[9] - 30:6, 53:15, 72:20, 72:24, 155:3, 155:5, 155:6, 155:12, 155:14</p> <p>meant ^[1] - 174:2</p> <p>measure ^[2] - 51:16, 52:2</p> <p>measures ^[1] - 110:8</p> <p>measuring ^[1] - 140:5</p> <p>mechanism ^[1] - 155:18</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<p>medical [3] - 31:9, 31:17, 34:18</p> <p>meet [2] - 106:25, 149:11</p> <p>meet-and-greets [1] - 106:25</p> <p>meeting [11] - 13:21, 13:22, 14:3, 14:4, 25:4, 36:16, 36:19, 64:2, 86:23, 134:21, 168:1</p> <p>meetings [3] - 46:18, 85:7, 167:2</p> <p>member [5] - 66:19, 146:13, 150:13, 153:7, 160:6</p> <p>members [9] - 53:13, 100:6, 102:6, 102:19, 106:11, 110:12, 138:6, 150:17, 155:22</p> <p>mention [3] - 40:8, 162:9, 178:6</p> <p>mentioned [11] - 15:3, 18:2, 24:8, 36:8, 38:24, 41:21, 42:4, 47:24, 49:9, 109:4, 141:15</p> <p>Mercer [1] - 18:4</p> <p>met [2] - 6:10, 131:13</p> <p>metal [1] - 52:9</p> <p>Meter [2] - 168:22, 168:24</p> <p>methods [3] - 69:6, 111:13, 114:2</p> <p>mic [2] - 57:3, 172:18</p> <p>Micah [1] - 40:10</p> <p>microphone [1] - 62:15</p> <p>mid [1] - 129:3</p> <p>middle [1] - 136:13</p> <p>midmorning [1] - 15:4</p> <p>Midwest [3] - 17:17, 27:15, 30:22</p> <p>might [13] - 40:8, 40:15, 76:13, 80:3, 103:2, 108:20, 121:6, 122:1, 140:14, 158:10, 164:2, 167:24, 170:14</p> <p>mile [8] - 30:21, 91:10, 128:19, 130:20, 136:5, 136:15, 136:17, 136:18</p> <p>miles [15] - 5:2, 18:1, 20:10, 20:11, 20:12, 21:6, 23:17, 24:5, 30:21, 33:8, 33:10, 98:13, 132:20, 135:6, 142:21</p> <p>million [6] - 25:14, 98:3, 99:2, 99:8,</p>	<p>119:5, 154:2</p> <p>Milnor [1] - 142:21</p> <p>mind [6] - 15:9, 16:2, 106:3, 114:5, 152:3, 153:14</p> <p>mine [11] - 14:12, 37:7, 38:16, 38:21, 85:4, 93:13, 126:9, 128:19, 133:25, 140:12, 159:2</p> <p>mines [1] - 37:1</p> <p>minimal [4] - 5:14, 5:25, 42:22, 107:22</p> <p>minimize [2] - 6:8, 67:11</p> <p>minimizes [1] - 69:14</p> <p>minimum [4] - 30:1, 33:8, 91:21, 158:14</p> <p>Minneapolis [1] - 97:12</p> <p>Minneapolis-based [1] - 97:12</p> <p>Minnesota [6] - 7:18, 96:7, 96:13, 96:16, 96:19, 98:15</p> <p>minute [1] - 106:3</p> <p>minutes [8] - 15:4, 33:23, 34:3, 47:19, 47:24, 48:10, 147:2, 170:11</p> <p>misinformed [1] - 36:18</p> <p>Mississippi [1] - 87:13</p> <p>misunderstand [1] - 162:10</p> <p>mitigate [1] - 53:2</p> <p>mix [1] - 130:12</p> <p>model [9] - 30:7, 30:9, 34:24, 35:2, 35:5, 40:16, 47:22, 50:16, 139:8</p> <p>modeling [7] - 30:6, 34:25, 35:1, 39:20, 45:14, 47:20</p> <p>models [2] - 39:18, 80:2</p> <p>modified [2] - 139:12, 139:14</p> <p>moisture [3] - 63:25, 64:10, 64:11</p> <p>moment [3] - 121:22, 173:1, 173:16</p> <p>money [3] - 69:6, 98:23, 118:25</p> <p>monitor [1] - 19:11</p> <p>monitored [1] - 49:19</p> <p>monitoring [6] - 32:20, 32:23, 32:24, 50:17, 106:9, 106:19</p> <p>Montana [1] - 32:15</p> <p>months [2] - 42:6, 60:9</p> <p>morning [41] - 4:3,</p>	<p>7:2, 8:22, 11:7, 12:2, 14:13, 14:16, 16:5, 16:6, 16:13, 29:12, 29:13, 37:2, 37:4, 43:16, 46:4, 46:5, 50:5, 53:13, 57:25, 58:11, 62:10, 62:20, 71:10, 71:11, 85:15, 85:16, 88:7, 90:8, 90:9, 91:3, 92:14, 95:1, 104:2, 113:15, 117:4, 117:23, 127:10, 139:24, 156:17, 175:4</p> <p>Morton [3] - 5:4, 36:10, 44:22</p> <p>most [20] - 48:12, 63:14, 63:24, 68:25, 76:16, 78:17, 87:1, 91:5, 94:8, 98:24, 111:17, 132:8, 132:9, 135:11, 143:3, 153:18, 155:19, 157:18, 172:24</p> <p>mostly [2] - 130:5, 130:6</p> <p>mother's [1] - 93:14</p> <p>mountains [1] - 105:23</p> <p>move [12] - 9:5, 13:13, 14:23, 22:8, 22:19, 62:6, 87:18, 116:24, 135:4, 155:1, 155:25, 172:18</p> <p>moved [3] - 22:20, 135:6, 166:16</p> <p>moves [2] - 21:11, 65:18</p> <p>moving [1] - 154:15</p> <p>MRI [1] - 51:17</p> <p>multiple [2] - 68:4, 135:13</p> <p>must [1] - 148:12</p> <p style="text-align: center;">N</p> <p>NACE [3] - 112:24, 112:25, 113:4</p> <p>NACE-certified [1] - 112:24</p> <p>name [35] - 4:3, 7:4, 7:14, 16:9, 16:10, 17:6, 62:11, 62:13, 85:18, 85:19, 85:20, 90:10, 90:11, 90:12, 96:6, 104:5, 117:23, 117:24, 122:7, 122:8, 130:2, 133:5, 133:6, 140:11, 142:6, 145:19, 145:20, 145:21,</p>	<p>152:12, 160:21, 165:17, 165:19</p> <p>narrow [1] - 43:8</p> <p>national [4] - 49:1, 96:22, 109:23, 154:19</p> <p>National [2] - 153:6, 160:5</p> <p>native [1] - 130:9</p> <p>natural [3] - 12:14, 66:3, 129:17</p> <p>NDSPLS [2] - 147:8, 148:16</p> <p>NDSU [1] - 139:7</p> <p>near [1] - 143:25</p> <p>nearby [2] - 66:23, 67:11</p> <p>nearest [1] - 22:7</p> <p>nearly [1] - 44:20</p> <p>necessarily [2] - 171:11, 177:10</p> <p>necessary [8] - 15:6, 25:18, 41:25, 64:13, 68:24, 122:1, 130:13</p> <p>need [20] - 9:22, 13:15, 22:1, 22:2, 37:9, 57:11, 76:19, 78:4, 115:15, 117:16, 144:9, 147:18, 148:9, 154:5, 169:19, 176:7, 177:5, 177:7, 177:18, 177:21</p> <p>needed [2] - 110:23, 126:18</p> <p>needless [1] - 147:14</p> <p>needs [2] - 6:10, 26:21</p> <p>negotiations [1] - 92:15</p> <p>neighbor [1] - 79:10</p> <p>neighbor's [1] - 93:12</p> <p>neighbors [1] - 79:5</p> <p>net [3] - 64:7, 98:20, 100:14</p> <p>network [1] - 17:25</p> <p>neutral [3] - 142:24, 149:5, 160:3</p> <p>never [6] - 32:17, 45:23, 79:3, 84:2, 99:17, 126:14</p> <p>new [5] - 20:5, 45:23, 108:17, 155:20</p> <p>newly [1] - 78:7</p> <p>news [1] - 100:14</p> <p>Next [1] - 154:19</p> <p>next [12] - 35:9, 35:11, 60:9, 73:24, 80:18, 84:14, 85:7, 93:19, 108:22, 136:25, 137:1, 167:15</p> <p>night [1] - 174:25</p> <p>nine [3] - 22:9, 56:4, 96:17</p>	<p>no [1] - 88:11</p> <p>noise [1] - 14:18</p> <p>non [7] - 35:21, 98:6, 98:16, 98:21, 98:24, 99:18, 147:15</p> <p>non-appurtenant [1] - 147:15</p> <p>non-environmental [1] - 35:21</p> <p>non-local [4] - 98:6, 98:16, 98:21, 98:24</p> <p>non-union [1] - 99:18</p> <p>none [2] - 169:10, 169:15</p> <p>normal [3] - 51:8, 66:13, 66:20</p> <p>normally [2] - 15:4, 69:17</p> <p>North [78] - 4:9, 4:12, 4:13, 5:5, 6:2, 6:18, 7:18, 11:9, 16:14, 17:23, 23:23, 24:24, 25:6, 25:9, 25:13, 27:6, 28:18, 32:6, 32:15, 32:25, 49:16, 64:20, 67:11, 69:14, 76:5, 89:4, 96:7, 96:9, 96:13, 96:19, 97:11, 97:20, 98:4, 98:14, 101:4, 101:12, 102:22, 105:10, 105:11, 105:19, 105:20, 105:22, 106:11, 106:18, 108:23, 108:24, 109:6, 109:14, 109:20, 113:25, 114:17, 146:12, 146:13, 146:16, 147:4, 147:7, 147:9, 147:19, 147:24, 148:1, 148:2, 148:6, 148:8, 148:13, 148:16, 148:17, 148:23, 148:25, 153:4, 153:7, 153:11, 153:17, 153:22, 154:1, 155:16, 160:2, 160:6, 168:11</p> <p>north [14] - 21:10, 21:12, 44:11, 44:21, 45:5, 45:10, 54:25, 55:15, 63:12, 69:24, 75:11, 76:15, 89:10, 128:24</p> <p>north-south [1] - 76:15</p> <p>northeast [7] - 21:11, 21:14, 74:25, 93:11, 136:4, 136:11, 137:5</p> <p>northern [1] - 38:6</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>northwest [6] - 18:3, 63:11, 69:23, 74:23, 75:3, 85:1</p> <p>notch [1] - 112:21</p> <p>note [2] - 41:18, 65:2</p> <p>notes [2] - 40:25, 169:22</p> <p>nothing [6] - 61:25, 77:2, 77:5, 77:25, 121:18, 125:3</p> <p>notice [3] - 4:8, 5:8</p> <p>notified [1] - 26:4</p> <p>notify [1] - 7:25</p> <p>NRCS [2] - 64:24, 70:6</p> <p>number [14] - 4:18, 5:12, 5:23, 6:3, 6:6, 12:21, 56:3, 73:22, 74:14, 76:19, 91:4, 135:4, 140:14, 177:15</p> <p>numbers [3] - 56:2, 100:7, 168:23</p> <p>numerous [4] - 68:16, 97:6, 106:11, 161:22</p> <p>nutrient [1] - 68:22</p>	<p>officer [2] - 4:6, 17:12</p> <p>official [3] - 12:9, 157:8, 160:7</p> <p>officially [1] - 172:11</p> <p>offset [2] - 134:18, 140:24</p> <p>often [6] - 78:15, 78:19, 78:22, 78:23, 79:1, 111:7</p> <p>oil [1] - 147:12</p> <p>old [1] - 164:1</p> <p>Oliver [3] - 5:4, 18:3, 36:10</p> <p>on-job [1] - 108:3</p> <p>once [10] - 14:2, 15:24, 25:3, 27:4, 60:7, 68:24, 78:16, 98:18, 135:15, 139:15</p> <p>one [83] - 4:20, 5:12, 5:23, 6:21, 8:24, 9:11, 10:24, 11:1, 12:22, 12:23, 13:3, 13:10, 14:17, 22:5, 22:12, 26:18, 27:18, 36:7, 36:22, 37:25, 39:20, 40:21, 42:8, 43:20, 43:22, 49:15, 56:11, 56:12, 56:17, 56:18, 56:22, 57:7, 57:17, 61:1, 67:6, 71:23, 73:23, 74:16, 76:8, 76:12, 79:2, 79:3, 85:7, 91:4, 99:1, 107:12, 112:22, 113:22, 124:8, 128:22, 129:17, 130:8, 135:4, 135:10, 149:2, 149:9, 149:24, 150:18, 153:17, 154:24, 155:12, 158:2, 159:1, 161:11, 161:14, 161:17, 161:19, 162:10, 166:14, 166:15, 166:18, 166:25, 173:6, 173:16, 174:14, 175:6, 176:22, 178:5, 178:7</p> <p>one-third [2] - 130:8</p> <p>ones [5] - 61:10, 73:23, 167:6, 168:9, 172:24</p> <p>ongoing [1] - 61:4</p> <p>online [1] - 15:17</p> <p>onsite [1] - 34:18</p> <p>open [7] - 42:11, 42:13, 42:18, 42:21, 43:4, 112:5, 143:23</p> <p>opening [2] - 9:5, 170:22</p>	<p>operate [3] - 47:8, 67:19, 111:3</p> <p>operates [1] - 69:17</p> <p>operating [12] - 17:11, 19:13, 19:14, 19:15, 37:12, 47:6, 51:8, 64:2, 66:17, 66:20, 67:22, 74:1</p> <p>operation [19] - 5:23, 6:6, 17:17, 19:12, 20:8, 26:14, 26:22, 28:19, 30:8, 30:9, 39:15, 47:5, 48:1, 51:23, 54:1, 54:6, 68:14, 156:23</p> <p>operational [1] - 67:12</p> <p>operations [3] - 19:23, 155:6, 155:11</p> <p>operator [1] - 41:12</p> <p>opinion [3] - 15:12, 112:21, 174:21</p> <p>Opinion [1] - 148:7</p> <p>opportunities [1] - 68:11</p> <p>opportunity [12] - 8:10, 8:19, 10:8, 11:12, 15:18, 24:21, 45:13, 59:7, 96:4, 108:17, 171:21, 176:8</p> <p>opposed [6] - 43:9, 45:11, 89:16, 142:24, 143:14, 144:2</p> <p>order [6] - 9:21, 39:12, 154:7, 170:25, 177:6, 177:7</p> <p>orderly [2] - 6:11, 8:18</p> <p>ordinances [2] - 124:11, 124:15</p> <p>organic [1] - 91:23</p> <p>organization [4] - 45:23, 96:10, 110:8, 150:13</p> <p>organizations [1] - 27:2</p> <p>Organizing [2] - 96:10, 105:9</p> <p>original [3] - 81:9, 82:25, 83:4</p> <p>originally [1] - 135:1</p> <p>otherwise [2] - 68:1, 120:11</p> <p>ourselves [1] - 154:6</p> <p>out-of-state [1] - 109:23</p> <p>outcome [1] - 107:7</p> <p>outcomes [1] - 154:24</p> <p>outlet [1] - 64:9</p> <p>outlets [2] - 64:12, 64:14</p> <p>outline [1] - 154:24</p> <p>output [2] - 35:5,</p>	<p>45:14</p> <p>outside [12] - 67:17, 73:2, 75:14, 75:19, 77:6, 78:15, 135:2, 165:11, 166:20, 166:25, 167:6, 168:10</p> <p>overall [1] - 25:5</p> <p>overhead [1] - 147:11</p> <p>overlooked [1] - 111:7</p> <p>oversight [3] - 46:2, 46:20, 106:15</p> <p>overstate [1] - 99:10</p> <p>overview [1] - 15:22</p> <p>overwhelmingly [1] - 98:6</p> <p>own [8] - 36:22, 74:14, 106:19, 121:14, 124:9, 124:15, 125:24, 157:18</p> <p>owner [2] - 63:22, 84:15</p> <p>owner's [2] - 84:25, 85:2</p> <p>owners [4] - 64:21, 69:15, 87:19, 106:24</p> <p>ownership [2] - 150:5, 161:11</p> <p>owns [1] - 142:20</p> <p>oxygen [1] - 91:13</p>	<p>148:14, 148:23, 161:11, 167:11, 171:12, 175:3</p> <p>participated [1] - 97:5</p> <p>participating [1] - 155:1</p> <p>particularly [2] - 55:16, 142:23</p> <p>parties [8] - 6:12, 117:5, 117:14, 172:17, 172:22, 173:4, 173:24, 174:13</p> <p>parties' [1] - 8:9</p> <p>parts [4] - 30:23, 31:14, 32:16, 147:16</p> <p>party [12] - 7:24, 8:1, 48:14, 58:6, 62:7, 66:25, 67:5, 67:9, 68:9, 69:18, 77:6, 94:18</p> <p>pass [1] - 95:12</p> <p>passed [3] - 87:2, 132:9, 149:2</p> <p>past [10] - 68:15, 84:13, 84:15, 92:4, 96:17, 97:4, 100:4, 102:1, 135:1, 160:5</p> <p>pasture [3] - 91:11, 93:19, 137:7</p> <p>patient [2] - 10:7, 11:12</p> <p>Paul [1] - 96:16</p> <p>Pause [1] - 170:18</p> <p>pay [5] - 28:19, 131:16, 154:18, 164:6, 164:7</p> <p>paycheck [1] - 98:24</p> <p>payments [1] - 69:7</p> <p>Pelham [34] - 6:24, 7:4, 13:6, 14:22, 29:8, 29:20, 32:12, 35:11, 35:20, 36:14, 42:4, 48:7, 54:11, 61:16, 70:13, 71:5, 84:21, 88:4, 92:10, 95:20, 100:23, 101:14, 113:12, 119:20, 124:2, 129:13, 138:4, 144:15, 151:6, 156:6, 162:19, 168:15, 170:2, 177:4</p> <p>PELHAM [56] - 7:2, 13:8, 14:24, 29:9, 29:11, 35:14, 35:15, 37:19, 54:12, 61:18, 70:14, 71:7, 71:9, 73:13, 82:6, 84:23, 85:8, 88:6, 88:13, 92:13, 92:18, 95:21, 101:2, 103:6, 113:14, 114:21,</p>
O				
<p>objection [9] - 7:12, 24:14, 70:10, 70:12, 70:14, 70:16, 95:17, 95:19, 95:21</p> <p>observed [2] - 67:3, 79:23</p> <p>obtained [2] - 22:18, 23:21</p> <p>obtaining [1] - 83:20</p> <p>obvious [1] - 9:19</p> <p>obviously [6] - 15:23, 21:14, 41:16, 102:12, 111:6, 112:6</p> <p>occasion [1] - 60:13</p> <p>occupied [2] - 21:22, 161:17</p> <p>occur [1] - 69:9</p> <p>occurred [2] - 34:5, 81:6</p> <p>occurring [2] - 44:21, 45:10</p> <p>October [2] - 4:24, 15:17</p> <p>offer [2] - 13:2, 32:13</p> <p>offered [6] - 12:20, 12:21, 13:5, 73:12, 81:13, 131:16</p> <p>offering [1] - 143:21</p> <p>offhand [1] - 120:6</p> <p>office [7] - 46:19, 105:11, 125:2, 125:10, 139:7, 149:14, 151:10</p> <p>Office [1] - 12:3</p>				
P				
<p>P-O-W-E-L-L [1] - 16:11</p> <p>packet [3] - 70:9, 70:11, 74:15</p> <p>packets [1] - 70:1</p> <p>padded [1] - 112:13</p> <p>padding [1] - 112:9</p> <p>page [7] - 54:17, 54:20, 55:24, 56:1, 58:24, 59:1, 79:21</p> <p>paid [3] - 125:10, 125:11</p> <p>paint [1] - 111:9</p> <p>Pam [1] - 134:15</p> <p>papers [1] - 97:7</p> <p>paragraph [1] - 82:9</p> <p>parallel [2] - 26:8, 30:7</p> <p>parameters [1] - 10:16</p> <p>parcel [1] - 149:20</p> <p>parcels [2] - 92:23, 140:5</p> <p>parent [1] - 27:14</p> <p>part [21] - 21:9, 30:22, 55:9, 57:15, 82:2, 84:8, 89:13, 106:8, 111:5, 111:16, 130:17, 133:25, 135:3, 139:10,</p>				

<p>119:21, 120:2, 120:7, 124:3, 124:13, 124:18, 129:14, 129:19, 138:5, 138:10, 138:22, 139:2, 139:12, 139:16, 144:16, 151:7, 151:14, 151:16, 156:7, 162:20, 162:25, 163:5, 163:9, 168:16, 170:3, 173:20, 177:5, 177:13, 178:13, 178:17</p> <p>Pelham's [1] - 38:24</p> <p>penalties [31] - 16:14, 16:21, 62:20, 63:2, 85:23, 86:5, 90:15, 90:22, 95:2, 95:8, 104:9, 104:16, 118:2, 118:11, 122:11, 122:17, 127:18, 127:24, 133:12, 133:18, 142:10, 142:12, 145:24, 146:5, 152:15, 152:21, 160:24, 161:5, 165:22, 166:2, 166:8</p> <p>Penn [1] - 68:18</p> <p>Pennsylvania [1] - 105:24</p> <p>people [43] - 8:22, 10:20, 19:5, 27:2, 27:22, 31:11, 38:19, 39:8, 41:6, 45:8, 59:8, 91:5, 108:3, 108:13, 109:1, 111:23, 112:6, 116:21, 119:13, 121:1, 126:18, 131:13, 136:22, 140:22, 143:2, 143:5, 143:9, 143:11, 143:22, 155:6, 163:16, 166:18, 166:20, 167:15, 168:4, 168:6, 168:10, 171:21, 174:23, 175:5, 175:14</p> <p>people's [1] - 143:20</p> <p>per [2] - 98:17, 148:17</p> <p>percent [21] - 23:18, 23:22, 23:24, 23:25, 24:2, 24:6, 30:13, 30:14, 64:4, 99:6, 99:16, 100:3, 101:25, 102:25, 109:12, 109:13, 128:15, 140:4, 153:21, 155:4</p>	<p>percentage [7] - 23:9, 101:7, 101:13, 102:24, 103:4, 130:7, 153:22</p> <p>percentages [1] - 24:7</p> <p>perfect [2] - 65:17</p> <p>performed [1] - 82:11</p> <p>performing [2] - 32:13, 102:6</p> <p>perhaps [1] - 56:24</p> <p>perjury [48] - 16:14, 16:18, 16:21, 62:21, 62:23, 63:2, 85:24, 86:1, 86:5, 90:16, 90:18, 90:22, 95:2, 95:4, 95:8, 104:10, 104:12, 104:16, 118:2, 118:5, 118:8, 118:11, 122:11, 122:13, 122:17, 127:18, 127:20, 127:24, 133:11, 133:12, 133:14, 133:18, 142:10, 142:12, 145:24, 146:1, 146:5, 152:15, 152:17, 152:21, 160:24, 161:1, 161:5, 165:22, 166:2, 166:5, 166:8</p> <p>Perjury [1] - 16:15</p> <p>permanent [2] - 18:5, 82:10</p> <p>permission [5] - 7:20, 55:11, 131:9, 131:12, 146:21</p> <p>permit [10] - 5:1, 5:21, 54:6, 119:23, 120:24, 134:21, 135:4, 138:17, 138:18, 148:24</p> <p>permits [15] - 25:18, 35:21, 35:22, 42:2, 59:25, 60:3, 60:5, 60:8, 119:25, 120:13, 120:22, 124:5, 133:9</p> <p>permitted [1] - 35:19</p> <p>permitting [1] - 138:8</p> <p>person [1] - 30:10</p> <p>personal [2] - 67:23, 123:10</p> <p>personally [4] - 32:14, 68:13, 107:10, 134:4</p> <p>personnel [6] - 19:11, 19:16, 29:1, 32:23, 125:10, 128:10</p> <p>Ph.D [1] - 68:18</p> <p>phase [1] - 17:24</p> <p>PHMSA [16] - 20:5, 20:6, 26:2, 40:23, 41:15, 45:22, 46:6,</p>	<p>46:14, 46:15, 46:19, 46:22, 53:12, 53:14, 115:12, 115:15, 115:18</p> <p>PHMSA's [1] - 46:2</p> <p>PHMSA-regulated [2] - 115:12, 115:15</p> <p>phone [2] - 4:16, 158:5</p> <p>phones [1] - 4:15</p> <p>photographs [1] - 58:25</p> <p>phrase [2] - 33:3, 154:9</p> <p>picked [3] - 134:16, 138:11, 138:14</p> <p>picking [1] - 173:6</p> <p>pickup [1] - 137:8</p> <p>piece [4] - 46:9, 63:15, 65:15, 178:5</p> <p>pieces [1] - 159:3</p> <p>pig [2] - 51:24, 52:8</p> <p>pigs [2] - 51:12, 51:25</p> <p>pilots [1] - 11:8</p> <p>pins [1] - 151:1</p> <p>pipe [56] - 18:2, 21:6, 22:13, 46:13, 48:20, 51:6, 52:14, 52:17, 52:20, 52:23, 52:25, 53:1, 64:13, 64:18, 66:5, 66:18, 66:21, 68:10, 69:13, 69:19, 72:22, 74:1, 74:2, 80:5, 80:15, 111:6, 111:7, 111:8, 111:9, 111:12, 111:13, 111:21, 111:22, 112:8, 112:9, 112:11, 112:12, 112:13, 112:17, 114:7, 114:12, 114:13, 114:14, 115:7, 115:20, 115:24, 115:25, 126:2, 141:16, 158:14, 158:15</p> <p>pipeline [171] - 5:2, 8:13, 17:18, 17:25, 18:21, 19:8, 19:11, 19:17, 19:19, 19:23, 20:4, 20:24, 21:2, 21:17, 22:8, 22:16, 23:17, 25:6, 25:7, 25:9, 25:11, 30:19, 30:21, 30:24, 31:11, 32:25, 33:15, 34:1, 34:4, 35:20, 37:10, 37:13, 38:18, 39:15, 40:5, 45:8, 46:10, 47:4, 47:9, 47:10, 48:13, 48:15, 48:16, 49:3, 49:5, 49:6, 49:12, 49:14, 50:10,</p>	<p>50:11, 50:13, 50:24, 51:3, 51:18, 51:21, 51:23, 54:1, 54:6, 63:10, 63:16, 63:19, 66:13, 66:14, 67:2, 67:13, 67:24, 68:13, 68:25, 69:8, 69:17, 73:25, 74:24, 76:15, 77:20, 78:8, 78:9, 78:13, 79:23, 81:8, 82:24, 83:3, 86:22, 87:4, 87:7, 87:9, 87:11, 87:18, 91:6, 91:9, 91:25, 97:10, 98:10, 100:12, 101:4, 101:10, 102:14, 102:21, 105:15, 105:17, 106:7, 106:17, 107:11, 107:17, 107:22, 108:3, 108:9, 108:21, 109:5, 110:24, 111:2, 111:3, 111:6, 111:15, 112:3, 112:4, 113:1, 113:17, 114:11, 115:14, 115:19, 115:22, 118:20, 118:23, 119:9, 119:11, 123:12, 123:14, 123:16, 123:21, 123:23, 124:12, 124:25, 125:11, 125:15, 126:2, 128:17, 128:19, 128:23, 129:2, 129:3, 129:15, 129:18, 131:24, 132:4, 133:24, 134:3, 134:7, 134:8, 135:5, 135:10, 136:9, 136:14, 136:19, 143:5, 144:2, 144:7, 149:4, 150:3, 150:4, 159:11, 161:12, 165:3, 165:4, 166:16, 168:9, 168:20</p> <p>Pipeline [6] - 20:6, 38:8, 40:18, 53:20, 107:13, 109:7</p> <p>pipeliner [1] - 105:22</p> <p>pipeliners [1] - 109:15</p> <p>pipelines [21] - 32:15, 38:6, 39:16, 42:15, 67:3, 79:24, 96:14, 105:21, 106:15, 110:9, 110:16, 110:17, 114:18, 115:3, 128:23, 132:12, 134:7,</p>	<p>135:13, 141:20, 147:13, 167:13</p> <p>pipes [4] - 76:11, 141:24, 141:25, 157:25</p> <p>pit [1] - 52:3</p> <p>place [9] - 36:17, 36:19, 44:15, 47:10, 98:25, 105:7, 108:1, 165:4, 167:9</p> <p>placed [5] - 47:5, 69:13, 107:15, 109:2, 135:13</p> <p>placement [1] - 112:2</p> <p>places [1] - 158:10</p> <p>placing [2] - 51:23, 68:10</p> <p>plan [13] - 26:3, 26:11, 30:5, 31:19, 32:8, 41:9, 41:10, 46:8, 46:15, 126:19, 174:12, 176:3, 177:15</p> <p>Plane [1] - 148:17</p> <p>planned [1] - 68:6</p> <p>planners [1] - 26:13</p> <p>planning [2] - 29:16, 85:6</p> <p>plans [5] - 18:24, 26:11, 29:17, 39:18, 50:9</p> <p>plant [1] - 21:13</p> <p>planted [1] - 64:4</p> <p>planting [1] - 91:22</p> <p>plants [8] - 27:17, 27:20, 28:11, 153:20, 155:2, 155:3, 155:10</p> <p>plastic [3] - 77:8, 77:9, 77:12</p> <p>plat [4] - 150:22, 151:1, 151:3, 152:1</p> <p>playing [1] - 157:11</p> <p>plethora [1] - 65:6</p> <p>plow [2] - 136:7, 171:25</p> <p>plug [1] - 79:7</p> <p>plugged [2] - 79:4, 79:5</p> <p>PO [1] - 6:18</p> <p>pocket [3] - 66:11, 66:12, 125:8</p> <p>pockets [1] - 66:14</p> <p>point [26] - 9:14, 17:22, 22:7, 25:15, 27:21, 33:17, 49:4, 50:12, 51:9, 60:6, 65:9, 65:11, 68:23, 76:8, 83:25, 97:17, 117:17, 126:4, 143:8, 163:6, 166:15, 171:6, 172:25, 173:7, 177:2</p>
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<p>points [7] - 28:2, 28:5, 46:17, 50:19, 50:24, 67:9, 97:16</p> <p>policies [2] - 103:1, 154:18</p> <p>policy [2] - 96:18, 97:3</p> <p>Policy [1] - 97:11</p> <p>policymakers [1] - 155:17</p> <p>ponder [1] - 172:7</p> <p>ponds [2] - 166:21, 167:19</p> <p>populate [1] - 46:13</p> <p>pore [1] - 18:4</p> <p>portfolio [1] - 96:18</p> <p>portion [10] - 9:2, 32:24, 101:4, 101:10, 102:3, 102:17, 108:3, 108:11, 117:1, 169:16</p> <p>portions [5] - 5:7, 99:20, 99:21, 102:14, 103:5</p> <p>position [6] - 84:25, 85:2, 85:3, 96:22, 102:17, 160:1</p> <p>positions [1] - 108:2</p> <p>positive [3] - 100:16, 128:15, 132:16</p> <p>possibility [2] - 61:5, 61:9</p> <p>possible [4] - 15:14, 15:25, 60:19, 154:23</p> <p>possibly [2] - 13:3, 176:24</p> <p>potato [3] - 136:24, 140:16</p> <p>potatoes [1] - 137:2</p> <p>potential [21] - 16:20, 32:9, 63:1, 81:6, 86:4, 88:9, 90:21, 95:7, 97:9, 97:22, 100:17, 104:15, 114:3, 118:10, 122:16, 127:23, 133:17, 146:4, 152:20, 161:4, 166:7</p> <p>potentially [3] - 10:5, 45:1, 119:4</p> <p>pounds [1] - 66:17</p> <p>Powell [23] - 6:22, 14:10, 15:21, 15:23, 16:3, 16:5, 16:10, 16:12, 17:8, 29:12, 31:23, 35:16, 37:19, 38:4, 50:3, 53:12, 57:24, 58:1, 59:25, 62:2, 102:4, 102:12, 165:12</p> <p>POWELL [5] - 16:6, 16:10, 16:19, 16:23, 17:1</p>	<p>power [1] - 28:1</p> <p>practical [1] - 24:25</p> <p>practice [1] - 19:18</p> <p>practices [8] - 31:3, 50:14, 68:14, 68:16, 68:17, 69:4, 91:22, 112:16</p> <p>practicing [1] - 147:22</p> <p>prairie [1] - 71:24</p> <p>Pranis [29] - 7:14, 7:18, 13:9, 14:25, 37:23, 54:13, 61:19, 70:15, 74:6, 88:15, 93:2, 94:19, 94:25, 95:23, 96:6, 103:6, 104:20, 116:12, 116:18, 120:17, 124:21, 129:22, 139:20, 144:20, 151:20, 156:10, 163:13, 169:1, 170:4</p> <p>PRANIS [37] - 7:17, 13:12, 15:1, 37:25, 38:3, 38:11, 54:14, 61:20, 70:16, 74:7, 88:16, 93:3, 94:20, 95:3, 95:6, 95:10, 95:13, 95:15, 96:1, 96:3, 103:13, 103:24, 104:21, 105:5, 113:8, 116:13, 116:19, 120:18, 124:22, 129:24, 139:21, 144:21, 151:21, 156:11, 163:14, 169:2, 170:5</p> <p>precisely [1] - 150:21</p> <p>Precision [22] - 38:8, 99:21, 100:4, 100:6, 100:12, 100:15, 101:9, 101:10, 101:15, 101:18, 101:20, 102:2, 102:10, 106:1, 109:3, 109:4, 109:5, 109:9, 109:17, 112:15, 112:18, 112:21</p> <p>predictably [1] - 63:24</p> <p>prefer [1] - 173:11</p> <p>preferable [1] - 75:16</p> <p>preference [1] - 177:3</p> <p>prehearing [5] - 70:23, 174:12, 174:16, 177:6, 177:8</p> <p>preliminary [3] - 13:15, 14:22, 74:16</p> <p>premature [1] - 138:18</p> <p>premium [1] - 27:23</p> <p>preparation [1] - 148:4</p> <p>prepared [3] - 97:11,</p>	<p>121:25, 149:10</p> <p>preparing [1] - 155:17</p> <p>presence [1] - 66:3</p> <p>present [8] - 7:19, 9:23, 94:21, 97:8, 113:18, 177:9, 178:9, 178:11</p> <p>presentation [4] - 10:4, 39:23, 116:18, 175:2</p> <p>presented [3] - 11:21, 176:5, 176:9</p> <p>preservation [1] - 6:4</p> <p>preserved [1] - 69:19</p> <p>president [2] - 153:5, 160:5</p> <p>pressure [9] - 48:18, 50:17, 50:20, 50:25, 51:2, 51:5, 51:7, 52:24</p> <p>pressurized [2] - 66:18, 66:21</p> <p>pretty [10] - 39:22, 43:19, 73:4, 77:13, 89:9, 102:1, 110:4, 131:2, 142:24, 172:22</p> <p>prevent [1] - 67:15</p> <p>preventing [2] - 114:3, 155:8</p> <p>previous [7] - 13:18, 23:4, 35:12, 42:14, 60:13, 88:1, 124:25</p> <p>previously [2] - 41:17, 153:5</p> <p>Price [1] - 106:1</p> <p>price [2] - 155:6, 155:13</p> <p>prices [5] - 27:16, 28:10, 28:14, 153:24, 154:21</p> <p>primarily [7] - 5:6, 10:23, 27:16, 28:20, 88:19, 88:21, 159:17</p> <p>primary [2] - 73:23, 102:10</p> <p>priority [1] - 124:9</p> <p>problem [1] - 173:16</p> <p>procedures [10] - 5:10, 5:15, 5:18, 37:12, 47:1, 47:6, 47:7, 111:5</p> <p>proceeding [1] - 97:17</p> <p>proceeds [1] - 25:17</p> <p>process [20] - 10:3, 17:22, 25:22, 28:4, 35:25, 36:9, 41:21, 42:6, 46:7, 57:20, 61:4, 65:14, 120:21, 134:21, 138:16, 140:25, 143:18, 148:24, 161:23, 177:22</p>	<p>produce [2] - 5:14, 5:25</p> <p>producers [1] - 155:23</p> <p>product [4] - 27:22, 27:23, 28:7, 28:10</p> <p>production [2] - 87:5, 153:16</p> <p>productive [3] - 63:15, 91:21, 128:11</p> <p>products [2] - 113:5, 154:11</p> <p>professional [6] - 68:1, 143:18, 144:5, 146:12, 147:22, 148:13</p> <p>Professional [5] - 146:13, 146:16, 146:18, 147:8, 149:1</p> <p>professionals [1] - 31:8</p> <p>profit [5] - 28:12, 64:1, 64:4, 64:12, 67:16</p> <p>profitable [2] - 28:11, 63:15</p> <p>program [3] - 48:25, 49:1, 52:11</p> <p>programs [2] - 27:1, 96:18</p> <p>progress [5] - 23:15, 26:1, 41:23, 43:16, 43:19</p> <p>project [50] - 5:7, 9:10, 10:17, 17:15, 17:21, 18:15, 20:9, 24:23, 25:10, 25:17, 25:25, 27:6, 28:9, 28:25, 30:15, 46:20, 77:16, 87:10, 89:18, 89:19, 97:10, 97:21, 99:3, 99:11, 99:18, 99:19, 99:20, 99:22, 100:15, 103:5, 106:17, 106:24, 107:10, 107:11, 107:25, 108:6, 108:16, 108:21, 109:6, 109:25, 110:3, 112:4, 113:18, 128:6, 142:24, 143:13, 153:10, 155:25, 158:2, 160:1</p> <p>project's [2] - 98:1, 99:16</p> <p>projected [1] - 99:24</p> <p>projects [22] - 32:14, 40:5, 96:13, 96:21, 98:8, 99:5, 99:6, 102:2, 105:17, 106:9, 106:10, 106:12, 106:19, 107:16, 108:10, 108:25, 110:13,</p>	<p>115:11, 154:9, 154:25, 155:9</p> <p>promise [16] - 16:21, 63:2, 86:5, 90:22, 95:8, 104:16, 118:11, 122:17, 127:24, 128:8, 133:18, 142:14, 146:5, 152:21, 161:5, 166:8</p> <p>promised [1] - 123:13</p> <p>pronouncing [1] - 40:22</p> <p>propagation [1] - 53:3</p> <p>proper [4] - 33:11, 119:10, 149:23</p> <p>properly [4] - 26:18, 110:20, 114:8, 157:17</p> <p>property [35] - 12:14, 22:9, 22:19, 22:20, 26:5, 37:7, 37:11, 63:15, 63:17, 63:18, 63:21, 63:23, 64:5, 64:21, 67:22, 68:7, 72:4, 77:25, 84:8, 86:17, 87:9, 88:10, 88:12, 92:16, 92:24, 93:6, 117:11, 128:16, 128:24, 147:16, 148:5, 150:6, 161:13, 161:17, 168:20</p> <p>proportioned [1] - 28:18</p> <p>proposal [4] - 10:2, 65:7, 75:25, 118:22</p> <p>proposed [31] - 5:12, 5:24, 6:3, 6:7, 10:1, 20:4, 24:22, 29:19, 31:25, 35:19, 36:12, 67:24, 70:2, 71:14, 71:19, 71:20, 76:14, 77:21, 84:25, 91:5, 91:9, 92:16, 92:24, 97:10, 100:15, 101:4, 101:11, 108:16, 138:23, 153:9, 172:14</p> <p>proposing [1] - 44:14</p> <p>protect [6] - 27:16, 89:20, 111:8, 167:6, 168:8, 168:12</p> <p>protection [1] - 52:11</p> <p>protocol [1] - 40:7</p> <p>provide [28] - 7:25, 8:2, 15:13, 25:5, 29:2, 34:24, 35:10, 36:14, 38:25, 40:17, 40:18, 44:25, 45:15, 50:12, 60:1, 73:20, 116:21, 117:2, 117:19, 144:8,</p>
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-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>160:20, 165:14, 168:5, 168:24, 169:13, 169:24, 175:8, 175:24</p> <p>provided [12] - 14:6, 18:6, 23:3, 35:3, 35:7, 37:1, 37:2, 37:3, 123:5, 126:23, 170:23, 172:6</p> <p>provider [1] - 28:6</p> <p>providers [1] - 121:23</p> <p>provides [1] - 153:16</p> <p>providing [4] - 25:16, 117:12, 125:3, 164:15</p> <p>PSC [9] - 37:6, 37:8, 134:5, 134:14, 135:5, 138:17, 138:20, 146:19, 155:23</p> <p>PT1 [1] - 12:24</p> <p>PU-22-391 [2] - 4:11, 178:21</p> <p>Public [10] - 4:5, 4:10, 7:5, 12:6, 25:1, 146:17, 147:4, 148:20, 149:25, 153:11</p> <p>public [42] - 4:9, 7:7, 8:2, 8:8, 9:1, 9:20, 10:6, 12:25, 15:13, 15:15, 15:18, 16:1, 18:17, 24:21, 25:16, 26:3, 26:8, 26:11, 26:25, 28:24, 38:17, 41:9, 44:8, 47:7, 48:23, 49:8, 55:9, 116:21, 116:23, 116:25, 117:2, 117:19, 160:20, 165:14, 168:1, 169:14, 169:16, 171:8, 174:19, 175:5, 175:15, 175:21</p> <p>public's [1] - 15:3</p> <p>publicly [1] - 70:3</p> <p>published [1] - 97:6</p> <p>pull [2] - 50:13, 62:15</p> <p>pulling [1] - 28:3</p> <p>pump [5] - 49:15, 49:17, 96:14, 141:24, 158:7</p> <p>Pumpco [7] - 102:5, 102:7, 102:8, 102:11, 102:15, 102:17, 103:2</p> <p>puncture [1] - 48:16</p> <p>punctured [1] - 46:12</p> <p>punishable [3] - 16:15, 118:5, 166:3</p> <p>purchase [2] - 153:20, 155:4</p>	<p>purchasing [1] - 82:1</p> <p>purpose [3] - 5:13, 67:22, 83:15</p> <p>purposes [5] - 162:3, 162:5, 162:8, 162:10, 162:12</p> <p>pursuant [1] - 148:8</p> <p>push [4] - 27:12, 33:3, 48:7, 92:5</p> <p>pushed [1] - 33:11</p> <p>put [14] - 15:23, 27:25, 40:10, 68:7, 80:5, 80:16, 111:10, 129:6, 129:16, 132:7, 134:9, 134:10, 135:15, 137:11</p> <p>puts [1] - 126:11</p> <p>putting [3] - 45:8, 91:25, 105:21</p>	<p>88:4, 88:13, 89:23, 90:1, 90:6, 92:11, 92:18, 93:1, 93:2, 94:12, 94:16, 100:19, 100:21, 100:22, 103:7, 103:9, 103:18, 104:1, 113:8, 113:10, 113:11, 113:22, 114:22, 115:8, 116:3, 116:6, 116:7, 116:10, 117:6, 117:14, 117:15, 119:17, 119:19, 120:8, 120:15, 120:17, 121:7, 121:11, 123:1, 123:25, 124:1, 124:19, 124:20, 127:2, 127:6, 128:13, 129:9, 129:11, 129:13, 129:20, 129:21, 129:23, 131:5, 131:20, 133:1, 133:11, 138:2, 138:3, 138:4, 139:17, 139:19, 141:9, 141:12, 143:22, 144:11, 144:12, 144:15, 144:16, 144:19, 145:7, 150:11, 150:12, 151:4, 151:5, 151:6, 151:16, 151:19, 151:24, 152:6, 152:7, 156:3, 156:5, 156:6, 156:7, 156:9, 160:10, 160:12, 160:15, 162:1, 162:15, 162:19, 163:10, 163:12, 164:17, 164:20, 167:21, 168:2, 168:15, 168:16, 169:1, 169:5, 169:7</p> <p>quicker [2] - 47:25, 48:3</p> <p>quite [5] - 9:12, 34:7, 44:1, 158:19, 159:4</p> <p>quote [1] - 68:19</p>	<p>ranchers [1] - 27:10</p> <p>ranching [1] - 9:17</p> <p>RANDALL [8] - 90:9, 90:12, 90:17, 90:20, 90:24, 91:1, 91:3, 94:13</p> <p>Randall [2] - 90:12, 94:11</p> <p>Randy [1] - 175:11</p> <p>range [5] - 27:21, 96:20, 130:9, 158:8, 168:21</p> <p>ranging [2] - 5:2, 97:3</p> <p>Ransom [1] - 128:25</p> <p>rates [1] - 68:17</p> <p>rather [2] - 8:16, 116:24</p> <p>rationale [1] - 43:6</p> <p>Ray [1] - 105:11</p> <p>ray [2] - 30:13, 51:17</p> <p>rayed [1] - 111:18</p> <p>rays [1] - 47:2</p> <p>re [2] - 42:23, 154:20</p> <p>re-establish [1] - 42:23</p> <p>re-introduced [1] - 154:20</p> <p>reached [1] - 172:21</p> <p>read [4] - 81:3, 82:4, 83:11, 146:22</p> <p>reading [4] - 81:5, 81:19, 82:7, 126:10</p> <p>ready [1] - 35:6</p> <p>real [4] - 43:8, 107:12, 143:7, 147:16</p> <p>realistic [1] - 100:4</p> <p>really [14] - 42:13, 75:19, 77:10, 84:2, 92:5, 94:4, 106:2, 106:23, 113:21, 114:5, 143:4, 143:19, 170:21, 177:19</p> <p>reason [8] - 39:9, 55:4, 71:22, 80:16, 81:4, 98:22, 100:1, 123:8</p> <p>reasonable [3] - 67:4, 121:3, 175:9</p> <p>reasons [1] - 71:25</p> <p>rebut [1] - 176:8</p> <p>recap [1] - 12:19</p> <p>receive [3] - 60:7, 162:16, 164:9</p> <p>received [11] - 12:24, 13:20, 14:1, 24:16, 35:24, 42:5, 70:2, 70:18, 83:8, 95:22, 164:5</p> <p>receiving [1] - 36:12</p> <p>recent [1] - 164:3</p> <p>recently [1] - 87:13</p>	<p>recess [2] - 172:11, 178:20</p> <p>Recess [1] - 58:14</p> <p>reclamation [2] - 38:16, 38:19</p> <p>recognized [1] - 155:18</p> <p>recommend [1] - 174:23</p> <p>recommendations [2] - 119:9, 119:12</p> <p>recommended [1] - 75:13</p> <p>reconnections [1] - 65:12</p> <p>record [20] - 4:7, 4:21, 6:13, 6:15, 6:25, 7:15, 9:21, 16:9, 17:7, 31:4, 55:9, 62:12, 70:18, 82:7, 85:18, 90:11, 104:5, 117:24, 172:10, 175:14</p> <p>recorded [4] - 148:11, 151:9, 151:10, 151:12</p> <p>recorder's [2] - 149:14, 151:10</p> <p>recording [1] - 150:21</p> <p>RECROSS [1] - 84:22</p> <p>recruit [1] - 108:1</p> <p>recruited [5] - 106:10, 107:10, 107:20, 108:6, 109:19</p> <p>recruiting [1] - 106:8</p> <p>recruitment [1] - 107:9</p> <p>recused [1] - 12:8</p> <p>red [2] - 75:2</p> <p>redirect [1] - 53:8</p> <p>REDIRECT [2] - 53:10, 58:19</p> <p>reduce [5] - 27:19, 27:24, 28:2, 28:4, 154:21</p> <p>reduced [1] - 61:2</p> <p>reduces [2] - 63:25, 64:11</p> <p>refer [1] - 12:11</p> <p>reference [2] - 27:25, 129:15</p> <p>referencing [1] - 115:3</p> <p>referred [3] - 35:1, 38:4, 128:13</p> <p>referring [1] - 38:8</p> <p>reflect [2] - 37:10, 37:12</p> <p>reflected [1] - 24:8</p> <p>regard [1] - 45:14</p> <p>regarding [8] - 4:24, 8:5, 38:16, 38:23, 79:1, 81:4, 139:24, 147:5</p>
		Q		
		<p>qualifications [1] - 134:10</p> <p>qualified [1] - 30:25</p> <p>qualitative [1] - 97:2</p> <p>quality [4] - 41:8, 69:20, 110:6, 112:18</p> <p>quantify [1] - 68:3</p> <p>quantitative [1] - 97:2</p> <p>quarter [29] - 55:3, 63:11, 63:13, 63:14, 64:15, 64:25, 65:7, 67:19, 69:10, 69:22, 69:23, 71:13, 74:23, 74:25, 75:1, 75:4, 75:10, 75:12, 75:14, 75:15, 75:25, 76:1, 76:3, 85:1, 89:13, 149:22, 159:1, 161:12</p> <p>quarters [3] - 86:22, 87:5, 140:6</p> <p>questioning [1] - 15:23</p> <p>questions [149] - 7:8, 7:9, 9:3, 10:5, 14:11, 28:25, 29:6, 29:8, 29:14, 36:23, 37:20, 37:22, 37:24, 38:22, 41:22, 42:8, 45:17, 45:21, 53:5, 54:9, 54:11, 57:22, 58:2, 58:21, 58:22, 59:3, 59:5, 59:24, 60:10, 61:14, 61:17, 61:18, 61:22, 70:21, 71:4, 71:6, 73:13, 74:4, 74:6, 78:22, 79:13, 79:22, 84:4, 84:18, 84:20, 85:9, 87:23,</p>		
			R	
		<p>radio [1] - 157:10</p> <p>raise [3] - 45:8, 91:8, 159:16</p> <p>raised [1] - 14:5</p> <p>raising [1] - 125:1</p> <p>ran [1] - 174:23</p> <p>rancher [2] - 91:8, 91:19</p>		

<p>regardless [1] - 154:13</p> <p>regional [1] - 46:19</p> <p>Regional [1] - 105:9</p> <p>registered [2] - 146:11, 148:13</p> <p>regular [3] - 27:3, 43:24, 80:19</p> <p>regulate [1] - 20:8</p> <p>regulated [2] - 115:12, 115:15</p> <p>regulation [2] - 29:25, 51:20</p> <p>regulations [3] - 53:25, 54:5, 167:10</p> <p>reimbursed [2] - 125:5, 125:18</p> <p>rejected [2] - 71:20, 71:21</p> <p>related [1] - 65:2</p> <p>relates [1] - 74:13</p> <p>relation [1] - 168:20</p> <p>relationship [1] - 117:8</p> <p>relatively [1] - 160:3</p> <p>relay [1] - 107:1</p> <p>relayed [1] - 106:23</p> <p>release [8] - 33:14, 33:16, 33:17, 34:10, 34:25, 48:17, 48:19, 55:11</p> <p>releases [2] - 48:12, 48:13</p> <p>relevant [2] - 97:16, 148:10</p> <p>reliability [1] - 6:9</p> <p>relies [2] - 99:14, 100:10</p> <p>relocating [1] - 109:16</p> <p>rely [1] - 99:12</p> <p>remaining [2] - 61:3, 155:7</p> <p>remarks [1] - 171:17</p> <p>remember [3] - 39:25, 44:11, 132:5</p> <p>remind [1] - 58:3</p> <p>reminding [1] - 154:6</p> <p>remote [5] - 30:5, 31:9, 31:13, 32:19, 34:15</p> <p>remotely [3] - 19:9, 33:17, 51:3</p> <p>remove [1] - 176:25</p> <p>removed [1] - 82:14</p> <p>removes [2] - 65:22, 68:11</p> <p>renewable [1] - 154:10</p> <p>rent [1] - 129:1</p> <p>rented [10] - 84:15, 161:17, 161:19, 162:2, 162:4, 162:7,</p>	<p>162:9, 162:11, 162:12</p> <p>renting [4] - 84:8, 84:13, 84:14</p> <p>repair [9] - 66:6, 72:6, 72:15, 78:24, 81:14, 82:10, 83:22, 83:25</p> <p>repaired [6] - 65:9, 67:8, 78:4, 78:7, 82:25, 83:4</p> <p>repairs [10] - 65:12, 72:2, 72:13, 78:10, 78:20, 78:23, 79:1, 157:15, 158:19</p> <p>repeat [1] - 83:1</p> <p>repeated [1] - 8:14</p> <p>replace [1] - 79:11</p> <p>replaced [2] - 79:9, 81:9</p> <p>replacement [2] - 82:10, 82:16</p> <p>replied [1] - 13:21</p> <p>reply [1] - 173:25</p> <p>report [13] - 7:20, 13:10, 94:21, 95:12, 97:11, 97:14, 97:16, 97:17, 97:25, 98:2, 98:9, 99:9, 100:8</p> <p>reports [1] - 97:6</p> <p>represent [1] - 117:7</p> <p>representations [1] - 72:14</p> <p>representative [3] - 37:14, 105:8, 146:15</p> <p>representatives [4] - 26:12, 88:9, 165:7, 168:2</p> <p>represented [1] - 58:7</p> <p>representing [1] - 121:16</p> <p>represents [1] - 96:10</p> <p>request [4] - 4:4, 39:5, 60:12, 71:12</p> <p>requested [3] - 5:19, 120:11, 169:23</p> <p>requesting [2] - 35:13, 148:20</p> <p>require [4] - 51:21, 51:22, 101:21, 102:8</p> <p>required [13] - 16:13, 21:22, 22:3, 22:5, 22:6, 26:2, 26:22, 40:7, 118:4, 124:5, 135:14, 138:8, 166:1</p> <p>requirement [3] - 30:14, 46:14, 135:10</p> <p>requirements [15] - 5:15, 5:18, 29:23, 30:15, 35:17, 38:21, 82:12, 119:23, 120:2, 139:3, 139:4, 140:25, 147:25, 148:3, 149:12</p>	<p>reroute [4] - 61:2, 69:22, 71:12, 135:6</p> <p>reroutes [9] - 36:8, 36:12, 60:11, 60:13, 60:17, 60:19, 61:2, 61:5, 88:9</p> <p>research [5] - 96:20, 96:23, 97:3, 98:7</p> <p>residence [5] - 22:7, 54:16, 98:25, 163:22, 164:7</p> <p>residences [5] - 22:5, 135:2, 136:2, 136:12, 140:7</p> <p>resident [2] - 141:3, 141:7</p> <p>residents [2] - 87:15, 136:6</p> <p>resist [1] - 46:11</p> <p>resources [5] - 6:5, 12:14, 44:13, 68:3, 126:17</p> <p>respect [13] - 15:12, 17:15, 20:24, 21:4, 21:5, 23:8, 30:3, 53:25, 59:25, 60:2, 60:11, 143:20, 167:23</p> <p>respectfully [2] - 148:25, 155:22</p> <p>respond [4] - 9:23, 26:16, 176:8, 176:13</p> <p>responded [1] - 14:2</p> <p>responder [1] - 66:22</p> <p>responders [5] - 20:15, 26:9, 26:13, 26:17, 26:25</p> <p>responding [1] - 66:22</p> <p>response [15] - 9:24, 9:25, 18:24, 26:10, 26:20, 38:24, 39:18, 39:24, 40:24, 41:6, 41:9, 47:7, 57:6, 126:21, 131:18</p> <p>responsible [2] - 166:23, 167:18</p> <p>responsive [1] - 121:3</p> <p>rest [2] - 175:23, 175:25</p> <p>restating [1] - 8:17</p> <p>restriction [1] - 47:21</p> <p>restrictions [3] - 124:9, 147:15, 176:25</p> <p>result [5] - 58:22, 66:10, 67:24, 72:16, 91:24</p> <p>results [1] - 34:25</p> <p>retain [1] - 124:14</p> <p>retained [1] - 108:14</p> <p>retiled [1] - 77:11</p> <p>retired [1] - 132:21</p>	<p>retirement [2] - 98:19, 100:11</p> <p>return [1] - 28:12</p> <p>revealed [1] - 65:11</p> <p>revenue [7] - 64:12, 67:16, 118:23, 118:24, 119:6, 123:13, 123:14</p> <p>revenues [1] - 155:20</p> <p>review [10] - 15:18, 38:19, 45:13, 46:25, 47:2, 47:5, 47:6, 47:9, 148:21, 148:23</p> <p>reviewed [1] - 46:15</p> <p>Rice [1] - 128:17</p> <p>Richland [9] - 5:5, 43:20, 49:15, 63:12, 67:3, 69:25, 70:4, 79:24, 80:4</p> <p>ridge [1] - 158:10</p> <p>rights [1] - 167:17</p> <p>ripped [1] - 65:24</p> <p>rise [1] - 72:5</p> <p>rising [5] - 119:2, 128:23, 129:7, 131:24, 131:25</p> <p>risk [4] - 35:5, 53:2, 67:9, 68:8</p> <p>risks [3] - 64:20, 66:1, 112:3</p> <p>river [1] - 44:14</p> <p>River [1] - 128:18</p> <p>Road [1] - 96:16</p> <p>road [10] - 10:19, 35:22, 41:19, 41:23, 42:2, 57:18, 73:17, 107:7, 120:22, 135:16</p> <p>roads [7] - 49:7, 119:10, 135:15, 136:6, 136:8, 141:22, 171:25</p> <p>robustness [1] - 41:8</p> <p>rock [1] - 112:11</p> <p>rocks [2] - 112:14, 137:10</p> <p>rocky [1] - 137:7</p> <p>role [4] - 7:6, 17:14, 46:2, 106:5</p> <p>roll [1] - 12:10</p> <p>room [16] - 28:23, 62:20, 85:23, 90:15, 95:1, 104:9, 118:1, 122:10, 142:9, 145:23, 146:20, 152:14, 160:24, 165:22, 168:3, 169:18</p> <p>roots [1] - 110:19</p> <p>Rorie [1] - 40:10</p> <p>roughest [1] - 137:15</p> <p>roughly [5] - 76:22, 101:18, 107:14,</p>	<p>107:15, 173:3</p> <p>route [29] - 5:1, 5:21, 18:10, 22:8, 23:19, 23:25, 35:20, 57:14, 58:25, 59:4, 59:12, 59:16, 65:5, 67:18, 68:10, 69:13, 69:22, 70:2, 74:17, 74:24, 75:14, 75:15, 75:18, 81:7, 84:25, 91:6, 91:9, 92:16, 92:24</p> <p>routed [4] - 67:24, 115:15, 135:1</p> <p>routes [2] - 71:19, 71:21</p> <p>routing [4] - 63:10, 63:16, 64:18, 67:10</p> <p>ruining [1] - 87:7</p> <p>rule [1] - 20:6</p> <p>rules [6] - 53:25, 54:5, 138:17, 147:6, 148:22, 167:9</p> <p>ruling [2] - 138:20, 138:21</p> <p>run [19] - 51:18, 51:21, 51:22, 51:25, 52:4, 52:8, 68:21, 76:11, 76:16, 86:22, 87:4, 87:19, 89:9, 110:2, 128:24, 130:25, 142:2, 150:2, 178:4</p> <p>running [7] - 51:17, 76:8, 76:15, 89:13, 89:16, 114:5, 141:21</p> <p>runs [2] - 89:14, 91:10</p> <p>rupture [2] - 46:12, 91:12</p>
S				
<p>S-K-U-N-E-S [1] - 152:13</p> <p>S-P-E-I-C-H [1] - 127:11</p> <p>saddles [4] - 80:5, 129:6, 129:16, 132:8</p> <p>safe [3] - 8:18, 18:5, 172:2</p> <p>safely [4] - 11:9, 110:10, 110:20, 110:23</p> <p>safety [19] - 18:21, 29:15, 29:18, 30:5, 31:4, 31:8, 31:19, 45:4, 45:7, 87:9, 91:4, 110:7, 112:6, 112:8, 125:13, 126:11, 128:7, 128:8, 143:5</p> <p>Safety [3] - 20:7, 40:19, 53:20</p> <p>sampling [1] - 131:10</p>				

<p>sand [2] - 79:6, 79:7</p> <p>Sargent [36] - 4:12, 5:5, 5:7, 10:23, 20:25, 21:4, 21:13, 22:12, 30:17, 34:20, 35:18, 36:1, 55:3, 60:2, 88:24, 88:25, 89:2, 99:22, 102:9, 118:17, 118:24, 119:7, 119:23, 121:16, 122:23, 123:4, 123:13, 123:16, 124:7, 125:8, 125:9, 126:3, 128:17, 134:2, 140:3, 161:14</p> <p>sat [2] - 12:4, 174:24</p> <p>satisfaction [1] - 73:18</p> <p>satisfy [1] - 147:17</p> <p>saw [3] - 131:24, 150:6, 151:8</p> <p>scale [2] - 56:9, 56:10</p> <p>scares [1] - 66:12</p> <p>scenario [1] - 81:16</p> <p>schedule [5] - 18:12, 24:23, 24:24, 171:6, 171:14</p> <p>scheduled [3] - 4:23, 5:6, 14:4</p> <p>schedules [3] - 5:11, 5:15, 5:19</p> <p>scheduling [1] - 173:24</p> <p>Schmidt [1] - 42:20</p> <p>Schock [18] - 7:7, 37:20, 54:13, 61:19, 73:14, 88:15, 92:20, 103:8, 114:23, 120:9, 124:19, 139:18, 144:18, 151:18, 156:8, 163:11, 168:18, 172:14</p> <p>SCHOCK [28] - 37:22, 73:16, 74:4, 92:22, 93:1, 103:9, 115:2, 115:8, 120:10, 120:15, 124:20, 129:21, 139:19, 144:19, 151:19, 156:9, 163:12, 168:19, 168:25, 172:16, 172:19, 173:7, 173:12, 173:15, 173:23, 174:4, 174:10, 176:20</p> <p>School [1] - 4:12</p> <p>schoolhouse [10] - 63:13, 63:14, 64:15, 64:25, 65:7, 67:18, 69:10, 69:22, 69:23,</p>	<p>71:13</p> <p>schools [2] - 27:1, 119:1</p> <p>sciences [1] - 97:1</p> <p>scientific [1] - 43:6</p> <p>scope [2] - 25:11, 142:24</p> <p>score [3] - 27:24, 28:2, 28:4</p> <p>scores [1] - 27:20</p> <p>scouring [1] - 57:7</p> <p>scrubber [1] - 28:3</p> <p>SCS [1] - 4:24</p> <p>seal [1] - 148:12</p> <p>seated [1] - 29:1</p> <p>second [3] - 4:23, 79:21, 82:9</p> <p>secondly [2] - 5:17, 26:19</p> <p>seconds [1] - 33:21</p> <p>Secretary [1] - 147:3</p> <p>Section [2] - 82:21, 82:23</p> <p>section [22] - 34:4, 54:22, 54:24, 55:15, 55:22, 56:11, 56:12, 56:13, 63:11, 69:24, 75:6, 75:10, 82:8, 86:18, 92:25, 93:14, 147:17, 149:24, 150:2, 151:1, 168:21</p> <p>sector [1] - 154:10</p> <p>secure [1] - 42:3</p> <p>secured [2] - 24:1, 44:1</p> <p>security [7] - 49:12, 49:13, 49:16, 123:19, 125:3, 126:1, 154:22</p> <p>sediment [2] - 68:21, 78:25</p> <p>see [30] - 10:12, 16:6, 21:8, 27:9, 28:25, 33:4, 34:17, 36:25, 48:18, 51:7, 52:15, 56:1, 69:13, 81:20, 83:13, 84:11, 89:12, 99:2, 99:17, 103:4, 108:16, 110:1, 110:5, 116:20, 117:12, 134:15, 139:23, 149:14, 169:18, 178:4</p> <p>seed [1] - 130:11</p> <p>seeded [1] - 130:12</p> <p>seeing [2] - 112:19, 169:15</p> <p>seem [1] - 43:21</p> <p>sees [1] - 27:9</p> <p>segment [1] - 48:21</p> <p>seizures [1] - 87:15</p> <p>selected [2] - 31:4, 31:5</p>	<p>sell [2] - 27:22, 155:2</p> <p>send [3] - 49:2, 110:18, 173:24</p> <p>sending [1] - 48:3</p> <p>sense [1] - 98:22</p> <p>sent [5] - 87:14, 101:21, 134:5, 134:14, 138:13</p> <p>sentence [1] - 82:22</p> <p>sequestration [4] - 18:5, 21:18, 25:12, 97:19</p> <p>series [2] - 76:10, 115:24</p> <p>serve [2] - 4:5, 96:6</p> <p>served [3] - 96:22, 97:21, 153:5</p> <p>service [2] - 47:10, 127:3</p> <p>Service [9] - 4:5, 4:10, 7:5, 12:6, 25:1, 146:17, 147:4, 148:20, 153:11</p> <p>services [7] - 120:10, 120:12, 121:23, 122:1, 125:11, 125:12, 126:25</p> <p>servitudes [1] - 147:15</p> <p>set [6] - 4:8, 18:8, 28:23, 63:9, 174:20, 175:20</p> <p>setback [10] - 14:14, 21:20, 21:22, 22:3, 22:10, 22:17, 22:24, 120:2, 139:3, 162:21</p> <p>setbacks [1] - 22:4</p> <p>settled [1] - 65:19</p> <p>several [11] - 4:18, 45:24, 66:5, 106:2, 109:17, 112:23, 123:11, 129:1, 132:20, 135:9, 137:11</p> <p>severe [1] - 92:1</p> <p>shallow [1] - 65:1</p> <p>shallower [1] - 115:19</p> <p>share [3] - 44:4, 109:8, 167:17</p> <p>shareholders [1] - 28:12</p> <p>sharing [1] - 172:1</p> <p>sheds [1] - 59:13</p> <p>sheet [5] - 8:21, 8:23, 8:25, 56:3, 58:4</p> <p>sheets [2] - 4:19, 4:20</p> <p>sheriff's [4] - 123:17, 123:18, 125:2, 125:10</p> <p>ship [1] - 50:11</p> <p>SHIRLEY [10] - 85:16, 85:20, 85:25, 86:3, 86:7, 86:9, 86:11,</p>	<p>86:15, 86:18, 86:21</p> <p>Shirley [2] - 85:20, 88:19</p> <p>shoot [1] - 58:12</p> <p>shore [2] - 115:25, 154:22</p> <p>short [5] - 98:16, 111:23, 146:23, 146:25, 175:3</p> <p>shorter [1] - 42:15</p> <p>show [5] - 4:7, 8:4, 55:2, 113:4, 116:20</p> <p>SHPO [3] - 13:20, 13:22, 13:23</p> <p>shut [5] - 33:3, 47:15, 48:4, 48:8, 48:19</p> <p>shutdown [1] - 47:18</p> <p>shutting [3] - 19:17, 33:6, 47:25</p> <p>sic [1] - 82:22</p> <p>sic [1] - 101:6</p> <p>side [14] - 33:16, 43:1, 43:3, 44:17, 44:20, 44:21, 45:10, 47:15, 51:1, 51:6, 93:11, 136:12, 154:24, 155:8</p> <p>sides [3] - 49:7, 93:10, 93:15</p> <p>sifted [1] - 112:14</p> <p>sign [4] - 4:20, 142:22, 143:21, 161:20</p> <p>signature [1] - 148:12</p> <p>signed [13] - 22:14, 22:15, 25:23, 58:4, 123:9, 127:12, 128:6, 140:19, 143:3, 143:17, 162:21, 162:22, 163:3</p> <p>significant [5] - 14:9, 67:23, 68:8, 100:11, 102:23</p> <p>significantly [5] - 27:24, 98:1, 98:5, 99:10, 100:7</p> <p>silence [1] - 4:15</p> <p>similar [7] - 30:23, 92:8, 111:9, 115:4, 139:3, 158:16, 175:2</p> <p>similarly [1] - 176:24</p> <p>single [2] - 63:24, 76:17</p> <p>sinkhole [3] - 66:10, 68:8</p> <p>sinkholes [1] - 73:24</p> <p>sit [5] - 11:12, 12:6, 23:20, 23:25, 117:3</p> <p>site [1] - 131:13</p> <p>siting [1] - 38:18</p> <p>sits [1] - 30:7</p> <p>sitting [1] - 112:11</p> <p>situation [7] - 21:25,</p>	<p>22:18, 38:20, 68:9, 79:5, 92:8, 174:23</p> <p>six [7] - 23:23, 30:2, 77:25, 80:17, 118:18, 136:13, 136:22</p> <p>size [5] - 21:1, 21:16, 52:16, 52:19, 99:18</p> <p>sized [1] - 176:24</p> <p>skill [1] - 108:1</p> <p>skilled [2] - 96:11, 108:2</p> <p>SKUNES [21] - 152:13, 152:16, 152:19, 152:23, 153:1, 153:3, 156:15, 156:18, 156:21, 156:24, 157:2, 157:6, 158:1, 158:17, 158:20, 158:23, 159:14, 159:17, 159:22, 160:2, 160:18</p> <p>Skunes [4] - 152:13, 152:14, 156:4, 156:13</p> <p>sleep [1] - 110:17</p> <p>slope [1] - 65:17</p> <p>smack [1] - 136:19</p> <p>small [7] - 67:10, 108:11, 110:2, 130:7, 131:2, 133:25, 140:14</p> <p>smallest [1] - 52:17</p> <p>smart [2] - 51:12, 51:24</p> <p>snow [1] - 171:24</p> <p>so.. [6] - 80:7, 132:23, 163:3, 163:8, 164:13, 175:14</p> <p>social [1] - 96:25</p> <p>Society [5] - 146:13, 146:16, 146:18, 147:7, 149:1</p> <p>society [1] - 149:10</p> <p>soil [21] - 48:17, 64:24, 64:25, 65:13, 65:19, 65:21, 66:4, 68:20, 68:23, 72:20, 72:24, 78:13, 79:6, 91:23, 91:24, 128:21, 131:10, 131:11</p> <p>solar [1] - 28:1</p> <p>solely [1] - 67:21</p> <p>Solutions [3] - 17:11, 86:21, 155:25</p> <p>Solutions' [1] - 153:9</p> <p>solve [1] - 152:1</p> <p>solves [1] - 173:15</p> <p>someone [10] - 10:24, 31:13, 36:2, 39:11, 44:12, 48:3, 48:14,</p>
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48:24, 57:19, 173:25 someplace [1] - 150:2 sometimes [4] - 42:12, 43:5, 79:3, 80:18 somewhat [3] - 101:24, 146:23, 146:25 somewhere [6] - 22:20, 73:1, 78:16, 79:2, 107:24, 143:25 soon [3] - 24:25, 68:23, 154:16 sophisticated [2] - 50:21, 50:23 sorry [12] - 34:12, 36:22, 57:4, 75:6, 76:7, 127:16, 130:1, 158:5, 165:16, 165:24, 167:7, 168:23 sort [9] - 27:8, 29:1, 59:13, 72:18, 73:20, 79:4, 84:10, 109:23, 110:6 sorts [2] - 21:3, 107:16 soul [1] - 132:9 sounds [1] - 171:15 source [1] - 87:3 sources [1] - 100:9 south [10] - 44:17, 44:19, 45:1, 45:5, 75:11, 76:15, 89:10, 93:13, 136:3, 142:21 South [3] - 21:11, 125:8, 126:4 southeast [3] - 55:2, 128:24, 149:22 southeastern [1] - 128:25 southwest [5] - 76:5, 136:4, 136:11, 136:21, 137:5 soybean [1] - 159:18 space [1] - 18:4 spaced [1] - 20:11 spacing [4] - 20:1, 20:4, 20:10, 20:12 spaghetti [1] - 114:16 span [1] - 176:15 speaking [3] - 37:9, 41:15, 146:15 speaks [1] - 31:19 special [1] - 7:4 specific [10] - 21:3, 32:25, 35:17, 41:11, 63:9, 63:10, 77:25, 107:12, 124:11, 151:2 specifically [6] - 31:24, 73:9, 98:2, 108:23, 109:3,	110:25 specifics [1] - 177:20 specified [1] - 5:9 spectrum [1] - 108:10 speed [1] - 61:11 SPEICH [21] - 127:11, 127:16, 127:19, 127:22, 128:1, 128:3, 128:5, 129:12, 129:17, 130:3, 130:7, 130:13, 130:16, 130:19, 130:24, 131:2, 131:7, 132:1, 132:5, 132:19, 133:4 Speich [3] - 127:11, 129:10, 129:14 spell [6] - 90:11, 117:24, 122:8, 133:6, 145:21, 165:19 spelled [1] - 16:11 spelling [4] - 16:9, 62:11, 85:19, 104:5 spend [6] - 19:4, 19:25, 20:23, 24:18, 98:23, 125:2 spent [8] - 15:19, 18:20, 18:23, 19:1, 20:13, 20:19, 27:5, 105:18 spill [1] - 123:19 spills [1] - 111:3 spread [4] - 31:8, 31:9, 31:10, 31:11 spreading [1] - 11:2 spring [2] - 64:10, 64:11 St [1] - 96:16 staff [15] - 6:25, 15:24, 17:14, 34:18, 39:10, 46:16, 53:14, 58:23, 60:11, 60:16, 60:23, 61:6, 61:11, 170:11, 171:2 stakeholders [1] - 26:10 stand [3] - 117:4, 155:23, 178:20 standard [2] - 115:6, 115:18 standards [1] - 113:1 stands [2] - 53:18, 107:13 Star [1] - 97:11 start [15] - 9:6, 16:8, 29:21, 46:1, 46:3, 51:18, 51:21, 62:10, 85:17, 86:12, 91:4, 104:4, 117:1, 117:19, 175:4 started [6] - 4:2, 12:19, 58:16, 86:25,	105:21, 120:21 starts [2] - 93:10, 93:11 state [27] - 6:14, 6:24, 7:14, 16:14, 17:6, 17:25, 21:9, 22:4, 25:13, 27:6, 28:18, 29:22, 32:21, 36:17, 50:9, 80:17, 82:5, 86:13, 90:10, 98:3, 106:11, 106:16, 109:23, 144:6, 147:5, 147:9, 168:7 State [4] - 68:18, 147:19, 147:24, 148:17 State's [2] - 154:2, 154:5 state's [4] - 119:11, 121:2, 122:25, 153:15 statement [4] - 24:4, 61:7, 85:6, 126:10 statements [1] - 72:4 states [7] - 17:23, 25:6, 31:14, 97:21, 102:22, 109:10, 154:17 States [3] - 105:18, 153:21, 155:5 stating [5] - 16:8, 22:15, 62:11, 85:18, 104:4 station [2] - 49:17, 50:17 stations [2] - 49:15, 96:14 status [2] - 36:9, 71:16 statute [1] - 21:21 stay [7] - 44:10, 163:16, 163:19, 163:24, 168:23, 172:10, 175:6 stayed [1] - 143:19 steel [7] - 32:1, 32:2, 32:4, 46:11, 52:2, 65:2 step [3] - 85:2, 85:4, 138:16 STEVE [16] - 145:20, 145:22, 145:25, 146:3, 146:7, 146:9, 146:11, 146:25, 147:2, 150:15, 150:18, 150:24, 151:2, 151:12, 151:15, 152:10 Steve [2] - 145:20, 152:6 stewards [2] - 91:20, 106:19 stick [2] - 15:8, 110:3	still [15] - 22:17, 43:21, 52:24, 69:7, 80:6, 87:16, 108:6, 108:8, 132:21, 143:12, 151:25, 157:11, 161:21, 162:4, 166:17 stock [2] - 166:21, 167:19 stop [3] - 68:5, 143:15, 149:13 stops [1] - 65:23 storage [1] - 153:10 straight [7] - 76:15, 89:10, 89:16, 93:13, 131:1, 131:3, 137:6 strange [1] - 136:2 strategic [1] - 96:18 strategy [1] - 97:24 streams [1] - 68:22 strength [3] - 52:20, 52:21, 52:23 strictly [1] - 137:20 strike [4] - 46:10, 48:15, 66:25, 68:9 strikes [4] - 67:5, 67:9, 69:18, 77:6 stringent [1] - 29:22 strip [9] - 40:3, 40:4, 147:10, 147:17, 149:17, 149:18, 149:22, 149:23 strong [5] - 48:16, 153:8, 153:24, 154:7, 155:7 structure [1] - 84:9 struggling [1] - 72:19 stuck [2] - 73:5, 170:23 studies [1] - 97:12 study [2] - 14:18, 65:2 stuff [5] - 93:9, 128:9, 132:15, 137:10 subject [3] - 46:23, 113:19, 149:6 submits [1] - 164:12 submitted [4] - 60:16, 60:23, 61:6, 148:25 subsoil [1] - 64:23 substitute [2] - 12:7, 12:9 subsurface [11] - 18:5, 64:6, 64:8, 64:16, 65:6, 65:8, 65:11, 66:2, 66:6, 66:9, 67:7 success [2] - 107:4, 177:25 suffering [1] - 87:16 suffocate [1] - 87:12 suggesting [1] - 173:5 sum [1] - 100:18	summarize [1] - 97:15 summer [3] - 25:2, 161:19 Summit [47] - 12:20, 13:23, 15:12, 17:11, 21:21, 24:3, 25:15, 26:12, 27:14, 28:18, 28:24, 54:4, 60:16, 81:2, 83:8, 83:14, 83:16, 86:21, 87:4, 97:18, 97:25, 99:10, 103:1, 108:17, 118:20, 119:8, 119:11, 123:5, 126:2, 126:11, 126:23, 128:8, 128:11, 134:15, 135:20, 137:13, 149:11, 150:20, 153:9, 155:25, 157:8, 157:9, 158:24, 165:7, 166:24, 168:3, 169:23 Summit's [3] - 97:9, 99:25, 175:23 sun [1] - 77:9 super [1] - 17:24 superior [1] - 110:13 supper [1] - 15:6 supplement [1] - 26:20 supply [1] - 110:23 support [4] - 26:19, 155:19, 159:10, 175:11 supporter [1] - 153:9 supporting [1] - 108:18 supports [2] - 28:15, 154:1 Surface [1] - 82:21 surface [3] - 42:22, 64:12, 64:14 survey [4] - 64:25, 147:6, 148:3, 148:19 Survey [3] - 14:2, 14:5, 149:25 surveyor [2] - 146:12, 148:13 surveyors [9] - 39:23, 40:9, 131:8, 147:22, 147:25, 148:2, 148:6, 149:5, 152:1 Surveyors [5] - 146:14, 146:16, 146:18, 147:8, 149:1 survive [1] - 91:12 sustain [2] - 27:18, 28:9 sustaining [1] - 28:10 swamps [1] - 105:24 swear [2] - 94:24,
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<p>127:14 sworn [16] - 17:2, 63:7, 86:10, 91:2, 96:2, 105:2, 117:5, 118:16, 122:22, 128:4, 133:23, 142:19, 146:10, 153:2, 161:10, 166:13 system [30] - 6:9, 17:18, 19:8, 19:11, 19:13, 19:17, 20:10, 30:3, 30:6, 30:8, 33:4, 33:6, 33:25, 34:1, 48:1, 50:18, 50:19, 52:12, 63:20, 64:7, 64:8, 64:17, 64:19, 65:12, 66:2, 73:4, 73:11, 148:18, 148:19, 149:25 System [2] - 148:17, 149:25 systems [2] - 140:18, 141:16</p>	<p>107:8, 109:24, 111:20, 112:16, 112:23, 115:17, 115:21, 150:21, 167:24 testified [21] - 17:2, 36:10, 63:7, 86:10, 91:2, 96:2, 101:8, 105:2, 118:16, 122:22, 128:4, 133:23, 142:19, 146:10, 150:14, 150:17, 151:8, 153:2, 161:10, 166:13 testify [12] - 6:16, 8:5, 8:20, 8:22, 13:11, 16:12, 37:2, 86:24, 101:16, 157:12, 164:23, 175:16 testifying [4] - 70:25, 79:19, 103:12, 103:14 testimony [48] - 8:2, 8:8, 8:9, 8:12, 8:16, 9:1, 10:6, 12:25, 13:14, 14:23, 18:7, 23:5, 23:8, 32:5, 32:22, 36:6, 40:9, 44:8, 55:2, 79:20, 84:7, 97:8, 114:1, 116:22, 116:23, 116:25, 117:2, 117:12, 119:18, 129:11, 142:23, 144:13, 145:7, 152:6, 160:20, 163:1, 165:15, 169:14, 169:16, 171:8, 172:5, 174:19, 175:5, 175:21, 175:24, 176:13, 178:11 testing [1] - 64:13 Tharaldson [1] - 21:13 THE [97] - 39:2, 39:6, 39:14, 39:25, 40:15, 41:3, 41:7, 41:15, 42:1, 42:19, 43:11, 43:23, 45:2, 45:12, 46:4, 46:6, 47:16, 47:19, 48:5, 48:7, 48:12, 48:25, 49:13, 49:21, 49:24, 50:5, 50:10, 50:23, 51:14, 51:20, 52:19, 53:6, 54:19, 54:23, 55:4, 55:10, 55:18, 55:24, 56:3, 56:5, 56:9, 56:14, 56:18, 56:20, 56:22, 57:11, 62:3, 74:11, 74:18, 74:22, 75:2, 75:7, 75:18,</p>	<p>75:22, 76:1, 76:9, 76:14, 76:22, 76:25, 77:8, 77:17, 77:22, 77:24, 78:5, 78:10, 78:19, 79:1, 79:10, 80:1, 80:11, 80:14, 80:23, 81:13, 81:19, 81:24, 82:18, 83:1, 83:6, 83:9, 83:12, 83:21, 84:11, 88:21, 88:25, 89:3, 89:8, 89:14, 89:19, 90:2, 93:7, 93:17, 93:20, 93:23, 93:25, 94:4, 115:17, 116:16 themselves [1] - 124:16 thereabouts [1] - 130:21 therefore [2] - 67:8, 68:10 they've [7] - 30:20, 45:23, 118:21, 128:11, 144:4, 157:11, 158:25 thicker [1] - 53:1 thickest [1] - 52:18 thickness [3] - 52:2, 52:7, 52:14 thinking [2] - 151:25, 172:8 thinner [1] - 52:24 thinnest [1] - 52:17 third [10] - 48:14, 66:25, 67:5, 67:9, 68:9, 69:18, 77:6, 130:8, 130:20 third-party [7] - 48:14, 66:25, 67:5, 67:9, 68:9, 69:18, 77:6 thirds [2] - 128:20, 130:9 thorough [1] - 44:16 thoughts [5] - 175:18, 175:19, 177:13, 177:14, 178:19 threats [1] - 111:1 three [16] - 6:6, 25:11, 27:15, 29:25, 36:13, 60:19, 76:25, 86:22, 87:5, 93:10, 93:15, 135:1, 136:23, 140:6, 158:11, 178:10 threshold [1] - 164:5 threw [1] - 75:19 throughout [1] - 25:22 throw [1] - 114:16 tie [3] - 115:24, 115:25, 151:1 tie-ins [1] - 115:24 tied [2] - 149:24, 153:19</p>	<p>tier [1] - 30:19 tight [1] - 43:5 tile [30] - 63:20, 64:5, 64:7, 64:8, 64:16, 64:22, 65:6, 65:10, 65:11, 65:13, 66:2, 66:9, 67:8, 70:4, 72:2, 72:15, 72:23, 72:25, 73:21, 74:2, 75:20, 76:6, 76:16, 77:12, 81:4, 82:13, 82:15, 157:15, 158:6, 158:9 tiled [7] - 78:17, 89:7, 93:24, 93:25, 130:23, 137:2, 157:4 tiles [7] - 81:8, 82:11, 82:23, 83:3, 113:17, 113:19, 158:2 tiling [12] - 76:6, 76:13, 77:7, 77:15, 78:2, 78:7, 115:13, 140:18, 156:23, 157:18, 159:13 tilings [1] - 78:3 tillage [2] - 91:21 tilled [1] - 68:24 timely [1] - 6:11 Timothy [1] - 12:3 title [2] - 12:9, 105:6 today [72] - 4:12, 4:17, 6:16, 7:1, 7:9, 7:24, 8:3, 8:6, 8:17, 8:20, 9:4, 9:9, 10:6, 10:22, 12:6, 12:15, 13:2, 13:22, 14:8, 15:5, 15:21, 16:22, 20:22, 20:23, 22:25, 23:12, 23:20, 23:25, 24:12, 24:21, 24:22, 27:8, 36:20, 39:24, 58:8, 63:3, 63:10, 67:1, 69:12, 70:25, 86:6, 87:16, 90:23, 95:9, 96:5, 97:8, 104:17, 108:7, 108:9, 118:12, 121:14, 122:18, 127:25, 133:19, 142:15, 146:6, 146:15, 152:22, 153:4, 161:6, 164:24, 166:9, 169:14, 169:17, 169:19, 172:5, 172:10, 175:2, 177:10, 177:20, 178:10 today's [3] - 4:6, 4:22, 7:16 together [4] - 31:18, 111:6, 142:21, 171:8 tongue [1] - 12:10 took [2] - 36:17,</p>	<p>125:12 tool [1] - 65:2 top [11] - 30:19, 75:9, 78:8, 112:21, 114:9, 115:7, 115:14, 152:3, 158:9, 158:15, 172:19 top-notch [1] - 112:21 top-tier [1] - 30:19 topics [2] - 97:3, 97:14 topsoil [1] - 92:1 total [5] - 23:19, 25:10, 98:3, 153:16, 175:20 touch [1] - 25:25 touched [1] - 45:24 tough [1] - 46:10 town [3] - 87:13, 143:6, 145:13 township [16] - 41:24, 54:22, 134:3, 134:4, 134:20, 136:1, 136:2, 137:21, 138:6, 140:8, 140:9, 140:22, 141:6, 141:8, 141:22, 168:21 Township [7] - 63:11, 69:24, 86:19, 92:25, 134:2, 139:12, 168:24 townships [11] - 41:20, 88:24, 119:1, 124:7, 124:8, 124:14, 138:23, 138:25, 139:3, 139:9 tractor [2] - 141:23, 142:1 tracts [1] - 44:2 trades [1] - 108:12 trained [3] - 26:18, 110:19, 122:1 training [11] - 26:23, 26:24, 49:8, 108:3, 110:18, 110:21, 123:4, 123:6, 126:13, 126:23, 144:8 transfer [1] - 134:11 transient [1] - 30:6 transit [1] - 31:17 translates [1] - 68:21 transmission [1] - 115:11 Transport [1] - 4:25 Transportation [2] - 60:5, 60:7 transportation [1] - 153:10 travel [1] - 10:11 traveling [1] - 109:9 travels [1] - 172:2</p>
T				
<p>table [6] - 28:23, 29:1, 129:5, 131:25, 132:1, 168:3 tank [1] - 97:12 tasks [1] - 108:15 tax [6] - 28:16, 28:17, 118:24, 118:25, 119:6, 164:12 taxes [4] - 28:19, 119:2, 119:3, 164:7 taxing [1] - 164:4 team [1] - 37:5 teams [1] - 31:9 technical [3] - 46:16, 46:20, 112:25 telecommunication [1] - 115:13 temporary [2] - 106:12, 106:13 ten [4] - 22:7, 63:14, 77:4, 84:14 term [8] - 33:12, 53:12, 73:22, 98:17, 98:18, 106:12, 107:7, 112:3 terminates [1] - 18:3 termination [1] - 50:12 terminus [1] - 50:12 terms [23] - 17:20, 23:4, 23:12, 24:3, 25:3, 25:16, 27:9, 59:11, 59:16, 97:20, 100:8, 101:19, 103:2, 105:20,</p>				

<p>traverse ^[4] - 25:7, 37:7, 75:11, 75:25</p> <p>traverses ^[3] - 21:9, 89:11, 130:5</p> <p>traversing ^[1] - 37:11</p> <p>treated ^[1] - 31:15</p> <p>treatment ^[4] - 31:12, 34:7, 34:9, 50:7</p> <p>trees ^[1] - 161:22</p> <p>tremendous ^[1] - 109:1</p> <p>trench ^[3] - 83:24, 112:1, 112:16</p> <p>tricky ^[1] - 38:20</p> <p>tried ^[1] - 171:5</p> <p>truck ^[1] - 137:9</p> <p>true ^[2] - 10:2, 80:3</p> <p>trunkline ^[1] - 21:17</p> <p>Trust ^[1] - 147:19</p> <p>truth ^[15] - 16:21, 63:2, 86:5, 90:22, 95:8, 104:16, 118:11, 122:17, 127:24, 133:18, 142:14, 146:5, 152:21, 161:5, 166:8</p> <p>try ^[10] - 10:22, 15:8, 15:25, 43:13, 44:3, 110:9, 167:2, 175:8, 176:21, 176:22</p> <p>trying ^[4] - 74:3, 92:5, 124:24, 126:4</p> <p>tune ^[1] - 149:15</p> <p>turbine ^[1] - 28:1</p> <p>turn ^[6] - 4:15, 64:7, 107:8, 109:3, 110:6, 172:13</p> <p>two ^[42] - 6:3, 11:8, 21:5, 21:7, 24:4, 33:23, 34:3, 44:1, 47:19, 47:24, 48:10, 53:9, 60:4, 60:9, 61:3, 71:19, 71:20, 78:22, 111:16, 112:12, 128:20, 128:23, 129:15, 130:9, 132:12, 134:21, 135:15, 136:3, 136:6, 136:8, 136:17, 136:18, 137:14, 138:16, 154:23, 158:3, 163:25, 171:25, 173:5, 173:8, 175:12, 177:9</p> <p>two-foot ^[1] - 112:12</p> <p>two-inch ^[1] - 135:15</p> <p>two-meeting ^[1] - 134:21</p> <p>two-part ^[1] - 111:16</p> <p>two-step ^[1] - 138:16</p> <p>two-thirds ^[2] - 128:20, 130:9</p>	<p>Tyler ^[1] - 68:18</p> <p>type ^[9] - 31:24, 48:24, 51:25, 64:25, 72:12, 73:10, 126:14, 129:14, 147:14</p> <p>types ^[1] - 79:6</p> <p>typical ^[2] - 102:1</p> <p>typically ^[11] - 43:13, 44:2, 76:25, 100:12, 101:17, 101:22, 102:20, 110:2, 112:12, 114:10, 115:18</p>	<p>68:19, 97:1</p> <p>unless ^[2] - 73:3, 141:2</p> <p>unlikely ^[1] - 33:15</p> <p>unnecessary ^[2] - 64:20, 68:2</p> <p>unobstructed ^[1] - 82:15</p> <p>unquote ^[1] - 68:22</p> <p>unrealistic ^[1] - 99:15</p> <p>unstable ^[1] - 66:4</p> <p>unusual ^[1] - 77:7</p> <p>up ^[40] - 15:23, 19:16, 21:9, 26:23, 28:23, 42:9, 43:9, 49:19, 51:18, 53:9, 58:21, 61:11, 75:9, 78:14, 79:4, 79:7, 79:9, 84:24, 91:16, 93:11, 94:19, 107:2, 107:21, 110:16, 110:19, 114:4, 115:25, 119:3, 128:23, 131:24, 134:16, 137:6, 138:11, 138:14, 141:25, 154:22, 167:2, 170:14, 173:1, 174:3</p> <p>update ^[4] - 14:7, 23:11, 36:11, 36:14</p> <p>updated ^[3] - 37:10, 37:12, 173:14</p> <p>UPI ^[1] - 106:2</p> <p>uptown ^[1] - 9:24</p> <p>uses ^[3] - 50:3, 50:6, 50:7</p> <p>utilities ^[4] - 7:7, 38:18, 115:19, 147:11</p> <p>utility ^[6] - 115:22, 115:23, 115:25, 116:1, 147:9, 148:21</p> <p>utilization ^[2] - 99:5, 99:6</p> <p>utilize ^[1] - 30:5</p>	<p>33:8, 33:16, 33:18, 34:3, 47:12, 47:15, 48:19, 48:21, 51:1</p> <p>van ^[1] - 168:22</p> <p>Van ^[1] - 168:24</p> <p>variable ^[1] - 63:24</p> <p>variation ^[3] - 48:18, 51:7, 140:4</p> <p>variations ^[1] - 50:18</p> <p>varied ^[1] - 107:20</p> <p>varies ^[1] - 52:16</p> <p>various ^[6] - 23:9, 46:17, 50:24, 51:24, 105:17, 172:17</p> <p>vary ^[2] - 76:25, 101:24</p> <p>vegetation ^[1] - 42:23</p> <p>vehicle ^[1] - 31:10</p> <p>venue ^[2] - 176:22, 176:24</p> <p>verified ^[1] - 64:24</p> <p>version ^[1] - 151:10</p> <p>versus ^[3] - 42:11, 98:17, 109:9</p> <p>via ^[1] - 65:5</p> <p>viability ^[1] - 27:18</p> <p>Victor ^[2] - 7:7, 7:8</p> <p>view ^[1] - 100:17</p> <p>Viking ^[2] - 63:11, 69:24</p> <p>Virginia ^[1] - 105:24</p> <p>visits ^[1] - 46:24</p> <p>visually ^[1] - 65:25</p> <p>vital ^[1] - 153:24</p> <p>voice ^[1] - 167:12</p> <p>voices ^[1] - 8:18</p> <p>void ^[1] - 110:2</p> <p>voids ^[1] - 111:10</p> <p>volume ^[3] - 34:4, 48:19, 48:20</p> <p>voluminous ^[2] - 15:17, 20:18</p> <p>volunteer ^[3] - 66:22, 69:15, 145:11</p> <p>vulnerable ^[1] - 111:11</p>	<p>141:2</p> <p>waived ^[1] - 5:16</p> <p>waiver ^[13] - 5:10, 22:3, 22:14, 22:15, 22:19, 22:24, 54:17, 56:17, 56:23, 140:25, 141:1, 162:21, 163:2</p> <p>waivers ^[1] - 21:21</p> <p>waives ^[2] - 141:4, 141:8</p> <p>walk ^[1] - 33:12</p> <p>wall ^[5] - 52:2, 52:7, 52:24, 53:2</p> <p>WALOCH ^[18] - 85:16, 85:20, 85:25, 86:3, 86:7, 86:9, 86:11, 86:15, 86:18, 86:21, 90:9, 90:12, 90:17, 90:20, 90:24, 91:1, 91:3, 94:13</p> <p>Waloch ^[8] - 85:20, 85:22, 87:24, 88:7, 90:7, 90:12, 90:14, 92:14</p> <p>wants ^[13] - 25:24, 28:25, 39:11, 49:10, 50:11, 67:1, 67:6, 86:22, 87:4, 117:17, 174:19, 175:22, 178:8</p> <p>warehouse ^[1] - 136:24</p> <p>warehouses ^[1] - 140:16</p> <p>warrantied ^[1] - 73:4</p> <p>warranty ^[4] - 72:12, 73:10, 73:11, 73:20</p> <p>washed ^[1] - 73:1</p> <p>Washington ^[1] - 96:24</p> <p>waste ^[2] - 143:9, 143:10</p> <p>wastewater ^[1] - 50:6</p> <p>WASWICK ^[30] - 142:7, 142:11, 142:16, 142:18, 142:20, 144:14, 144:17, 145:1, 145:4, 145:8, 145:12, 145:15, 145:17, 160:22, 160:25, 161:3, 161:7, 161:9, 161:11, 162:4, 162:7, 162:11, 162:16, 162:24, 163:4, 163:6, 163:20, 163:23, 164:8, 164:11</p> <p>Waswick ^[6] - 142:7, 142:9, 160:22, 160:23, 162:21,</p>	
	<p>U</p>				
	<p>U.S ^[1] - 126:15</p> <p>ultimately ^[5] - 11:1, 17:17, 18:3, 25:19, 111:14</p> <p>unavoidable ^[1] - 64:20</p> <p>uncle's ^[1] - 132:6</p> <p>unclogging ^[1] - 78:24</p> <p>uncommon ^[1] - 98:13</p> <p>under ^[11] - 43:2, 55:20, 72:23, 106:18, 115:22, 115:24, 128:18, 130:18, 135:14, 148:1, 165:5</p> <p>underground ^[7] - 63:20, 66:13, 112:5, 114:18, 141:16, 141:25, 147:12</p> <p>underneath ^[3] - 78:9, 115:16, 115:20</p> <p>underpins ^[1] - 29:21</p> <p>understood ^[4] - 35:14, 47:13, 74:15, 83:21</p> <p>underway ^[2] - 106:9, 107:25</p> <p>unfortunately ^[3] - 137:4, 155:10, 173:22</p> <p>UNIDENTIFIED ^[4] - 164:25, 165:2, 165:8, 165:9</p> <p>unintentional ^[5] - 66:25, 67:5, 67:9, 68:9, 69:18</p> <p>union ^[5] - 99:18, 106:5, 108:15, 109:24</p> <p>Union ^[1] - 96:8</p> <p>unions ^[1] - 101:20</p> <p>Unions ^[1] - 105:10</p> <p>United ^[3] - 105:18, 153:21, 155:5</p> <p>universal ^[1] - 148:18</p> <p>University ^[3] - 44:20,</p>	<p>V</p>			
		<p>valuable ^[2] - 144:24, 170:25</p> <p>value ^[4] - 67:12, 100:10, 100:11, 153:16</p> <p>values ^[5] - 28:14, 28:15, 87:9, 153:25, 155:14</p> <p>valve ^[11] - 20:1, 20:4, 20:9, 33:21, 33:24, 47:14, 47:25, 48:8, 51:4, 51:7, 51:10</p> <p>valves ^[10] - 20:10,</p>	<p>W</p>		
			<p>W-A-L-O-C-H ^[2] - 85:21, 90:13</p> <p>W-A-S-W-I-C-K ^[1] - 142:8</p> <p>W-H-I-T-E-F-O-R-D ^[1] - 104:7</p> <p>wages ^[1] - 100:8</p> <p>Wahpeton ^[4] - 10:22, 10:24, 176:6, 178:11</p> <p>wait ^[1] - 103:20</p> <p>waiting ^[2] - 85:5, 138:20</p> <p>waive ^[3] - 5:18, 71:3,</p>		

164:22 watch ^[1] - 123:18 watching ^[1] - 19:13 water ^[21] - 12:14, 43:12, 59:23, 64:9, 64:12, 64:14, 68:17, 68:19, 68:20, 69:1, 72:25, 91:24, 129:5, 131:25, 132:1, 147:12, 163:21, 163:24, 167:17, 167:18 waterlines ^[1] - 80:17 waves ^[1] - 44:2 ways ^[2] - 115:22, 120:1 weakest ^[1] - 65:11 wearing ^[1] - 112:11 weather ^[3] - 11:9, 94:3, 113:25 web ^[1] - 64:24 week ^[2] - 64:2, 163:25 weeks ^[4] - 9:10, 10:21, 24:4, 44:1 weigh ^[1] - 153:14 weights ^[1] - 114:12 welcome ^[1] - 11:1 welcoming ^[1] - 11:23 weld ^[1] - 111:20 welding ^[4] - 46:24, 46:25, 47:1, 111:4 welds ^[5] - 30:13, 47:2, 111:18 welfare ^[1] - 6:1 wells ^[2] - 166:21, 167:19 West ^[1] - 105:24 west ^[9] - 21:10, 54:25, 55:15, 63:12, 69:24, 76:2, 76:16, 89:1, 89:10 western ^[1] - 98:14 wetland ^[1] - 43:8 wetlands ^[3] - 42:11, 42:16, 114:7 whatsoever ^[1] - 163:25 white ^[1] - 97:6 Whiteford ^[10] - 7:21, 101:16, 103:12, 103:14, 104:1, 104:6, 104:8, 105:6, 113:15, 116:15 WHITEFORD ^[6] - 104:3, 104:6, 104:11, 104:14, 104:18, 105:1 whole ^[4] - 35:20, 75:12, 106:13, 110:15 wide ^[3] - 96:20, 149:21	wider ^[1] - 42:25 wife's ^[1] - 132:6 Wild ^[1] - 128:17 Williams ^[2] - 107:14, 132:11 willing ^[3] - 73:19, 92:23, 168:19 Win ^[1] - 96:24 wind ^[1] - 28:1 window ^[1] - 66:7 winter ^[1] - 136:7 winters ^[1] - 32:7 Wisconsin ^[2] - 30:20, 38:5 wise ^[1] - 109:11 wish ^[3] - 7:24, 117:2, 117:18 wished ^[1] - 42:9 wishes ^[1] - 169:13 withhold ^[1] - 87:23 WITNESS ^[97] - 39:2, 39:6, 39:14, 39:25, 40:15, 41:3, 41:7, 41:15, 42:1, 42:19, 43:11, 43:23, 45:2, 45:12, 46:4, 46:6, 47:16, 47:19, 48:5, 48:7, 48:12, 48:25, 49:13, 49:21, 49:24, 50:5, 50:10, 50:23, 51:14, 51:20, 52:19, 53:6, 54:19, 54:23, 55:4, 55:10, 55:18, 55:24, 56:3, 56:5, 56:9, 56:14, 56:18, 56:20, 56:22, 57:11, 62:3, 74:11, 74:18, 74:22, 75:2, 75:7, 75:18, 75:22, 76:1, 76:9, 76:14, 76:22, 76:25, 77:8, 77:17, 77:22, 77:24, 78:5, 78:10, 78:19, 79:1, 79:10, 80:1, 80:11, 80:14, 80:23, 81:13, 81:19, 81:24, 82:18, 83:1, 83:6, 83:9, 83:12, 83:21, 84:11, 88:21, 88:25, 89:3, 89:8, 89:14, 89:19, 90:2, 93:7, 93:17, 93:20, 93:23, 93:25, 94:4, 115:17, 116:16 witness ^[13] - 6:21, 7:21, 14:10, 15:10, 15:12, 101:16, 103:23, 103:25, 117:4, 132:18, 132:22, 150:20, 175:24 witnessed ^[3] - 79:25, 109:5, 114:6 witnesses ^[13] - 6:15,	7:9, 7:15, 40:21, 62:4, 117:4, 117:14, 174:17, 175:13, 176:2, 177:15, 177:17, 178:10 wondered ^[1] - 171:9 wondering ^[17] - 29:16, 34:8, 35:16, 36:11, 72:11, 83:18, 88:7, 92:14, 101:3, 113:16, 119:22, 124:4, 124:13, 138:5, 151:8, 151:9, 162:20 word ^[1] - 83:23 words ^[1] - 98:10 wore ^[1] - 77:12 worker ^[6] - 98:10, 98:11, 98:16, 98:21, 99:6, 101:12 workers ^[16] - 64:21, 66:22, 67:12, 69:16, 98:23, 98:24, 99:4, 99:15, 100:2, 100:5, 100:12, 107:11, 107:15, 107:17, 108:5, 108:17 workforce ^[21] - 97:4, 97:24, 98:4, 98:6, 99:3, 99:13, 99:17, 101:7, 101:21, 101:22, 101:25, 102:8, 102:23, 102:24, 103:3, 103:4, 107:9, 109:9, 109:13, 109:25 works ^[5] - 13:11, 114:9, 152:1, 168:25, 174:8 world ^[1] - 126:15 worse ^[1] - 112:10 worst ^[1] - 137:5 wrap ^[1] - 170:14 written ^[2] - 49:2, 79:20 Wyoming ^[1] - 32:16	32:24, 52:5, 71:17, 71:18, 79:3, 80:18, 80:19, 84:14, 98:17, 98:18, 119:2, 146:19, 154:3, 157:10 years ^[38] - 12:13, 51:22, 52:9, 63:14, 63:22, 66:5, 68:15, 69:1, 72:13, 77:4, 78:18, 84:14, 87:6, 91:17, 91:20, 92:2, 96:17, 97:4, 105:19, 107:2, 107:3, 109:18, 113:16, 118:18, 122:25, 123:11, 123:12, 123:15, 127:2, 129:1, 132:13, 132:20, 132:23, 137:11, 154:8, 155:18, 158:3, 164:3 years' ^[3] - 16:16, 118:6, 166:4 yellow ^[2] - 56:6, 59:20 yesterday ^[7] - 14:4, 23:16, 36:17, 70:23, 134:16, 138:12, 174:14 yield ^[6] - 52:21, 52:22, 52:23, 52:25, 53:1, 63:25 yields ^[2] - 91:25, 92:2 Young ^[2] - 100:8, 100:10 yourselves ^[1] - 58:9
Z			
Zach ^[1] - 7:4 zero ^[3] - 76:6, 107:21, 109:1 zoned ^[1] - 124:8 zoning ^[15] - 120:2, 124:4, 124:9, 124:11, 124:14, 124:15, 134:5, 134:6, 134:8, 134:16, 134:19, 135:3, 138:14, 139:3, 139:8			
X			
X-ray ^[2] - 30:13, 51:17 X-rayed ^[1] - 111:18 X-rays ^[1] - 47:2 X52 ^[1] - 52:22 X60 ^[1] - 52:22 X70 ^[2] - 52:22, 53:1 XL ^[2] - 134:3, 165:4			
Y			
year ^[15] - 26:23,			