

# SCS Carbon Transport LLC, Case No. PU-22-391

March 28, 2023 Formal Hearing

## ND PUBLIC SERVICE COMMISSION

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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

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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

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<p>1 compatibility and route permit concerning approximately</p> <p>2 320 miles of carbon dioxide pipeline ranging from 4.5 to</p> <p>3 24-inch diameter and associated facilities in Burleigh,</p> <p>4 Cass, Dickey, Emmons, Logan, McIntosh, Morton, Oliver,</p> <p>5 Richland, and Sargent counties, North Dakota. This</p> <p>6 hearing has been scheduled to focus primarily on the</p> <p>7 portions of the project in Dickey and Sargent counties.</p> <p>8 The notice of filing and notice of hearing</p> <p>9 specified the following issues to be considered</p> <p>10 concerning the application for waiver of procedures and</p> <p>11 time schedules:</p> <p>12 Number one. Are the proposed facilities of such</p> <p>13 length, design, location, and purpose that they will</p> <p>14 produce minimal adverse effects and that adherence to</p> <p>15 applicable procedures, requirements, and time schedules</p> <p>16 may be waived?</p> <p>17 And secondly, is it appropriate for the</p> <p>18 Commission to waive any procedures, requirements, and</p> <p>19 time schedules as requested in the application?</p> <p>20 Concerning the application for certificate of</p> <p>21 corridor compatibility and route permit, the issues to</p> <p>22 be considered are as follows:</p> <p>23 Number one. Will the construction, operation,</p> <p>24 and maintenance of the facility at the proposed</p> <p>25 locations produce minimal adverse effects on the</p> <p>PAGE 5</p>	<p>1 that's appearing with you today?</p> <p>2 MR. PELHAM: Good morning. Thank you, ALJ</p> <p>3 Hogan.</p> <p>4 My name is Zach Pelham. I'm a special assistant</p> <p>5 attorney general on behalf of the Public Service</p> <p>6 Commission in an advisory counsel role. To my left is</p> <p>7 Victor Schock. He is a public utilities analyst. And</p> <p>8 Victor may have some questions, and we ask that he be</p> <p>9 allowed to ask questions today of any witnesses.</p> <p>10 Thank you.</p> <p>11 ALJ HOGAN: Thank you.</p> <p>12 MR. BENDER: We don't have any objection to --</p> <p>13 ALJ HOGAN: All right. Thank you.</p> <p>14 And, Mr. Pranis, do you want to state your name</p> <p>15 for the record and introduce any witnesses you intend to</p> <p>16 call at today's hearing?</p> <p>17 MR. PRANIS: Thank you, Judge Hogan. Kevin</p> <p>18 Pranis on behalf of LIUNA, Minnesota and North Dakota.</p> <p>19 And I would intend to present myself with your</p> <p>20 permission on a report and introduce an exhibit and call</p> <p>21 Mr. Evan Whiteford as a witness.</p> <p>22 ALJ HOGAN: All right. Thank you.</p> <p>23 And it's my understanding that we may have a few</p> <p>24 party intervenors that are appearing today and wish to</p> <p>25 provide some comments. I'd ask that you please notify</p> <p>PAGE 7</p>
<p>1 environment and upon the welfare of the citizens of</p> <p>2 North Dakota?</p> <p>3 Number two. Is the proposed facility compatible</p> <p>4 with environmental preservation and the efficient use of</p> <p>5 resources?</p> <p>6 And number three. Will construction, operation,</p> <p>7 and maintenance of the facility at the proposed location</p> <p>8 minimize adverse human and environmental impact while</p> <p>9 ensuring continuing system reliability and integrity and</p> <p>10 ensuring that energy needs are met and fulfilled in an</p> <p>11 orderly and timely fashion?</p> <p>12 I'm now going to ask the parties to make their</p> <p>13 appearance for the record.</p> <p>14 Mr. Bender, do you want to please state your</p> <p>15 appearance for the record and introduce the witnesses</p> <p>16 you intend to call to testify today?</p> <p>17 MR. BENDER: Thank you, Your Honor.</p> <p>18 Lawrence Bender, PO Box 1855, Bismarck, North</p> <p>19 Dakota, appearing in this matter on behalf of the</p> <p>20 Applicant.</p> <p>21 We intend at this time to call one witness, Mr.</p> <p>22 Jimmy Powell.</p> <p>23 ALJ HOGAN: Thank you.</p> <p>24 Mr. Pelham, would you like to state your</p> <p>25 appearance for the record and introduce Commission staff</p> <p>PAGE 6</p>	<p>1 me at the break if you're a party intervenor as well</p> <p>2 have you provide your testimony before public testimony</p> <p>3 today.</p> <p>4 By a show of hands, is there anyone in the</p> <p>5 audience who may testify or comment regarding this</p> <p>6 matter today?</p> <p>7 All right. Thank you.</p> <p>8 Testimony from the public will be taken after</p> <p>9 the completion of the parties' testimony. I encourage</p> <p>10 everyone to take this opportunity to tell the</p> <p>11 commissioners what you think is important about this</p> <p>12 matter, but I would ask you to limit your testimony to</p> <p>13 the construction and the effect of the pipeline. And I</p> <p>14 would ask that concerns not be repeated. If somebody</p> <p>15 has already stated that concern, certainly you can just</p> <p>16 say that you agree with prior testimony rather than</p> <p>17 restating your concern. The goal of today is to have a</p> <p>18 safe and orderly hearing in which many voices are given</p> <p>19 the opportunity to be heard.</p> <p>20 If you would like to testify today, I'd ask you</p> <p>21 please mark that on the attendance sheet so I have an</p> <p>22 idea of how many people intend to testify this morning,</p> <p>23 but if you don't mark it on the attendance sheet, that's</p> <p>24 fine. I'm not going to hold you one way or the other to</p> <p>25 what the attendance sheet says.</p> <p>PAGE 8</p>

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<p>1 Further instructions on public testimony will be</p> <p>2 given when we get to that portion of the hearing, but if</p> <p>3 you have any questions about that, please don't hesitate</p> <p>4 to ask me at a break today.</p> <p>5 We'll now move to opening comments from the</p> <p>6 commissioners, and we'll start with Commissioner</p> <p>7 Christmann.</p> <p>8 COMMISSIONER CHRISTMANN: Thank you, Your Honor.</p> <p>9 And thanks everyone for being here today. The</p> <p>10 last hearing that we had on this project a couple weeks</p> <p>11 ago went very late. Hopefully, this one maybe won't go</p> <p>12 quite as late because we've been through some of the</p> <p>13 information already.</p> <p>14 I always like to point out to folks, because I</p> <p>15 come from an agriculture background before this job, and</p> <p>16 I know a lot of you have things you like to be doing at</p> <p>17 home, and especially if you're in the ranching business</p> <p>18 like I was, maybe there's calves being born already and</p> <p>19 you'd like to be home. And so it seems obvious, like</p> <p>20 let's let the public talk first and so they can get back</p> <p>21 home, but in order to create a good record for our</p> <p>22 decision, we need to have the company go first and</p> <p>23 present their evidence, and then you respond to that.</p> <p>24 Your response to something you heard uptown isn't as</p> <p>25 important to us as your response to what is actually</p> <p>PAGE 9</p>	<p>1 welcome you too, I think. And ultimately we'll have one</p> <p>2 in Linton as well. And so we're spreading these out</p> <p>3 because we want to hear from you. So thank you for</p> <p>4 being here.</p> <p>5 ALJ HOGAN: All right. Thank you.</p> <p>6 Commissioner Haugen-Hoffart.</p> <p>7 COMMISSIONER HAUGEN-HOFFART: Good morning,</p> <p>8 everyone. I first want to thank the two pilots that got</p> <p>9 us here safely. This North Dakota weather has been very</p> <p>10 challenging.</p> <p>11 So I applaud you for being here. I hope you</p> <p>12 guys are patient and have the opportunity to sit here</p> <p>13 through the day as we go through this case because I</p> <p>14 think there's a lot of information here that is</p> <p>15 beneficial to us all on making the right decision, as</p> <p>16 Chairman Christmann said. It's important that we hear</p> <p>17 from you and we want to hear from you. We want to keep</p> <p>18 it to the case.</p> <p>19 I know there's a lot of feelings about this</p> <p>20 case, and we're going to work through them based on</p> <p>21 facts, on the information that's presented to us. So I</p> <p>22 want to applaud you for being here; thank you for being</p> <p>23 here and welcoming us into the community.</p> <p>24 ALJ HOGAN: Thank you.</p> <p>25 Mr. Dawson.</p> <p>PAGE 11</p>
<p>1 being proposed.</p> <p>2 And so this is where the true proposal is laid</p> <p>3 out and so that's the process we follow, that the</p> <p>4 company will make their presentation first and we'll</p> <p>5 have questions and then potentially the intervenor</p> <p>6 that's here today and then the public testimony.</p> <p>7 But we do hope you'll be patient and take that</p> <p>8 opportunity. That's why we're out here. The convenient</p> <p>9 and, frankly, the efficient thing to do would be to just</p> <p>10 have these hearings in Bismarck where we don't have to</p> <p>11 travel and it's handy, but we want to be out here.</p> <p>12 Because my goal as a commissioner is not to see</p> <p>13 that this thing gets constructed and it's not to find a</p> <p>14 way to be a foot in the door to make sure it doesn't get</p> <p>15 constructed. My goal is to make a good decision based</p> <p>16 on the law and the parameters that the legislature has</p> <p>17 given us for making a decision on a project like this.</p> <p>18 And we can make the best decision when we have all the</p> <p>19 facts. That's why we take it out on the road like this,</p> <p>20 because we want to hear from the people.</p> <p>21 In a couple weeks we'll have another hearing in</p> <p>22 Wahpeton. And we're going to try to focus today, I</p> <p>23 think, primarily on Sargent and Dickey counties, but if</p> <p>24 someone can't make the Wahpeton one or something,</p> <p>25 hopefully we'll have some time at the end and we'd</p> <p>PAGE 10</p>	<p>1 SUBSTITUTE DECISIONMAKER DAWSON: Judge Hogan.</p> <p>2 Good morning, everybody. Thank you for coming.</p> <p>3 I'm Timothy Dawson. I am the director of the Office of</p> <p>4 Administrative Hearings. I have sat in Judge Hogan's</p> <p>5 chair many times for hearings like this, dozens of</p> <p>6 Public Service Commission hearings. Today I sit as</p> <p>7 substitute decisionmaker for Commissioner Julie</p> <p>8 Fedorchak who recused herself.</p> <p>9 My official title is substitute decisionmaker,</p> <p>10 which doesn't roll off the tongue very well so, please,</p> <p>11 you can all refer to me as "Mr. Dawson" if you'd like.</p> <p>12 Besides being a judge, I commission hearings. I have</p> <p>13 also worked for the legislature for 20 years in areas of</p> <p>14 energy, water, property, and natural resources. So I</p> <p>15 understand the law that we are addressing today and will</p> <p>16 faithfully apply it.</p> <p>17 Thanks again for coming.</p> <p>18 ALJ HOGAN: All right. Thank you.</p> <p>19 Just a recap on exhibits before we get started.</p> <p>20 At our prior hearing Summit offered exhibits labeled 1,</p> <p>21 2, and 3. We had a number of exhibits offered and</p> <p>22 entered from one of the Burleigh County intervenors, and</p> <p>23 I won't go through those. And then, finally, we had one</p> <p>24 exhibit that I labeled PT1, which were handouts received</p> <p>25 during public testimony in Burleigh County.</p> <p>PAGE 12</p>

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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

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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.

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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

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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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<p>1 <u>JAMES POWELL</u></p> <p>2 being first duly sworn, was examined and testified as</p> <p>3 follows:</p> <p>4 DIRECT EXAMINATION</p> <p>5 BY MR. BENDER:</p> <p>6 Q. Jimmy, would you state your full name for the</p> <p>7 record, please?</p> <p>8 A. James Ernest Powell, II.</p> <p>9 Q. And by whom are you employed and in what</p> <p>10 capacity?</p> <p>11 A. Summit Carbon Solutions as the chief operating</p> <p>12 officer.</p> <p>13 Q. And could you briefly describe for the</p> <p>14 Commission and the Commission staff your role with</p> <p>15 respect to this project?</p> <p>16 A. I'm accountable for the design, construction,</p> <p>17 and ultimately the operation of the Midwest Carbon</p> <p>18 Express pipeline system.</p> <p>19 Q. Okay. And give us a little bit more detail in</p> <p>20 terms of just what that all entails.</p> <p>21 A. So the project captures CO2 from the</p> <p>22 fermentation process at, at this point, 32 ethanol</p> <p>23 facilities in five states including North Dakota,</p> <p>24 compresses that CO2 to a super critical or dense phase</p> <p>25 state, injects that CO2 into a pipeline network that</p> <p>PAGE 17</p>	<p>1 Q. And you spent some time talking about the</p> <p>2 control center?</p> <p>3 A. Correct.</p> <p>4 Q. Just spend a little time telling us what a</p> <p>5 control center is for those people in the audience who</p> <p>6 may not know what that is?</p> <p>7 A. So a control center is a centralized location</p> <p>8 where the pipeline system and all the facilities are</p> <p>9 automated so they can be controlled remotely. And so</p> <p>10 the control center would have 24-hour-a-day continuous</p> <p>11 personnel that monitor the pipeline system at all of the</p> <p>12 facilities and they control the operation. So they're</p> <p>13 continually watching the system and how it's operating</p> <p>14 to make sure it's operating within acceptable and</p> <p>15 established boundaries, operating boundaries. And those</p> <p>16 personnel have the ability at any time to take action up</p> <p>17 to and including shutting down the pipeline system.</p> <p>18 Q. And is that a common practice, to have a control</p> <p>19 center when you have a pipeline certainly of this</p> <p>20 length?</p> <p>21 A. It is.</p> <p>22 Q. Okay. And at the March 14th hearing, did you</p> <p>23 also discuss operations of the pipeline?</p> <p>24 A. I did.</p> <p>25 Q. Okay. And did you spend some time talking about</p> <p>PAGE 19</p>
<p>1 consists of approximately 2,060 miles of, as the judge</p> <p>2 mentioned earlier, 4-inch to 24-inch pipe, and</p> <p>3 ultimately terminates northwest of Bismarck in Oliver,</p> <p>4 Mercer counties in pore space where we'll inject that</p> <p>5 CO2 subsurface for permanent and safe sequestration.</p> <p>6 Q. Okay. And at the Bismarck hearing, you provided</p> <p>7 detailed testimony and, of course, this information is</p> <p>8 set forth in detail as well in the application. And as</p> <p>9 I recall, at the March 14th hearing, you discussed the</p> <p>10 route. Do you recall that?</p> <p>11 A. Yes.</p> <p>12 Q. And you discussed the construction schedule; is</p> <p>13 that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you discussed the cost of the project?</p> <p>16 A. Yes.</p> <p>17 Q. And you discussed a public awareness; is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you also spent some time talking about</p> <p>21 pipeline safety; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And you spent some time talking about emergency</p> <p>24 response plans?</p> <p>25 A. Yes.</p> <p>PAGE 18</p>	<p>1 valve spacing?</p> <p>2 A. I did.</p> <p>3 Q. Okay. Just tell us very briefly, what is the</p> <p>4 proposed valve spacing for this pipeline?</p> <p>5 A. Well, in April of 2022, PHMSA adopted a new</p> <p>6 rule, PHMSA being the Pipeline and Hazardous Material</p> <p>7 Safety Administration, the federal body that will</p> <p>8 regulate the design, construction, and operation of this</p> <p>9 -- this project. They implemented a maximum valve</p> <p>10 spacing of 20 miles. So all valves along the system</p> <p>11 cannot be spaced more than 20 miles apart. And in high</p> <p>12 consequence areas that spacing would be 15 miles.</p> <p>13 Q. Okay. And you also spent some time at the</p> <p>14 Bismarck hearing talking about working with local</p> <p>15 emergency responders; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. Yeah. And as you indicated earlier, or in a</p> <p>18 question from me, the application is voluminous and you</p> <p>19 spent hours discussing a lot of these things at the</p> <p>20 Bismarck hearing; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. What I'd like you to do here today,</p> <p>23 Jimmy, is spend a little more time talking to us today</p> <p>24 about the pipeline with respect to its location in</p> <p>25 Dickey and Sargent counties. And when I talk about</p> <p>PAGE 20</p>

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<p>1 location, I'm mainly talking about, you know, the size</p> <p>2 of the pipeline, you know, the depth of the pipeline,</p> <p>3 and those sorts of things, but let's be specific with</p> <p>4 respect to Sargent and Dickey County.</p> <p>5 <b>A.</b> Okay. With respect to these two counties, I</p> <p>6 believe there's about 87 miles of pipe. The diameter in</p> <p>7 these two counties is 12-inch. So the main line, if you</p> <p>8 can -- if you can see on the map, the main line</p> <p>9 traverses kind of the central part of the state up in</p> <p>10 north and west of Bismarck. And a lateral that begins</p> <p>11 in South Dakota and moves northeast is 12-inch, and then</p> <p>12 there's another lateral that goes north to the</p> <p>13 Tharaldson plant in Casselton that -- Sargent and Dickey</p> <p>14 are obviously on the lateral that's going northeast</p> <p>15 that's 12-inch in diameter.</p> <p>16 <b>Q.</b> Okay. As compared to what is the size of the</p> <p>17 pipeline, what I'll call the trunkline, as it goes to</p> <p>18 the sequestration facility?</p> <p>19 <b>A.</b> That's a 24-inch diameter.</p> <p>20 <b>Q.</b> Okay. Let's talk a little bit about setback</p> <p>21 waivers. You understand that, by statute, Summit is</p> <p>22 required to have a certain setback to occupied</p> <p>23 dwellings?</p> <p>24 <b>A.</b> Yes.</p> <p>25 <b>Q.</b> And do you have a situation here in, I believe</p> <p>PAGE 21</p>	<p>1 <b>A.</b> It's my understanding, yes.</p> <p>2 <b>Q.</b> Let's talk a little bit about easement</p> <p>3 acquisition. You provided some information to the</p> <p>4 Commission at the previous hearing in terms of easement</p> <p>5 acquisition. Do you recall that testimony?</p> <p>6 <b>A.</b> Yes.</p> <p>7 <b>Q.</b> Okay. Do you recall generally what that</p> <p>8 testimony was with respect to what the acquisition</p> <p>9 percentage was in those various counties?</p> <p>10 <b>A.</b> Yes.</p> <p>11 <b>Q.</b> Okay. Do you have an update for the</p> <p>12 commissioners today in terms of additional acquisition</p> <p>13 that you've acquired?</p> <p>14 <b>A.</b> I do. And the commissioners were very</p> <p>15 interested in our acquisition progress. And from the</p> <p>16 last hearing on the 14th through yesterday, we've</p> <p>17 acquired an additional 18 miles of pipeline right of</p> <p>18 way, which is -- equates to almost 5 percent of the</p> <p>19 total route.</p> <p>20 So as we sit here today, we have acquired at</p> <p>21 least -- or we have obtained agreements with landowners</p> <p>22 for at least 50 percent of the right of way in all 10</p> <p>23 counties in North Dakota, and I believe six of those</p> <p>24 counties are 70 percent or so or greater. And so as we</p> <p>25 sit here today, we're at 67.79 percent of the route</p> <p>PAGE 23</p>
<p>1 it's in -- well, you tell me, what county do we need --</p> <p>2 did we need a -- I believe it was -- well, what county</p> <p>3 was the setback waiver required?</p> <p>4 <b>A.</b> As you stated, by state law, setbacks are</p> <p>5 required. Residences are what's considered one of an</p> <p>6 avoidance area and so we're required to be 500 feet from</p> <p>7 the nearest point of that residence. And so we had ten</p> <p>8 along the pipeline route. And we were able to move</p> <p>9 those other nine on the same property of the landowner</p> <p>10 but further away from the setback, and worked with those</p> <p>11 landowners to accomplish that.</p> <p>12 In Sargent County we had one where the landowner</p> <p>13 was comfortable with where the pipe was. That's my</p> <p>14 understanding. And so they signed a waiver, the</p> <p>15 landowner signed a waiver stating that they were</p> <p>16 comfortable with where the pipeline was. And so it</p> <p>17 still is within that 500-foot setback.</p> <p>18 <b>Q.</b> And in that situation where you obtained the</p> <p>19 waiver, it didn't move off of that landowner's property,</p> <p>20 it just moved somewhere on his property; is that right?</p> <p>21 His or hers.</p> <p>22 <b>A.</b> That's correct.</p> <p>23 <b>Q.</b> To your understanding, was a copy of that</p> <p>24 setback waiver, was that filed or will it be filed later</p> <p>25 today with the Commission?</p> <p>PAGE 22</p>	<p>1 being secured.</p> <p>2 <b>Q.</b> So approximately an additional 5 percent that</p> <p>3 Summit has acquired in terms of right of way in the last</p> <p>4 two weeks. Is that a fair statement?</p> <p>5 <b>A.</b> Approximately 18 miles and about 5 and a half</p> <p>6 percent; correct.</p> <p>7 <b>Q.</b> Okay. And do the percentages that you -- that</p> <p>8 you just mentioned, are they reflected on the handout</p> <p>9 that I just gave to the Commission?</p> <p>10 <b>A.</b> They are.</p> <p>11 <b>Q.</b> And as I asked you earlier, this has been or</p> <p>12 will be filed with the Commission later today?</p> <p>13 <b>A.</b> Correct.</p> <p>14 MR. BENDER: Okay. I don't have any objection.</p> <p>15 Are we on Exhibit 4?</p> <p>16 ALJ HOGAN: Yes. Exhibit 4 is received.</p> <p>17 BY MR. BENDER:</p> <p>18 <b>Q.</b> Jimmy, I want to spend just a little time, even</p> <p>19 though you discussed this in very great detail at the</p> <p>20 Bismarck hearing, I think it's important that the</p> <p>21 general public here today have an opportunity to have</p> <p>22 this information again today. What's the proposed</p> <p>23 construction schedule for this project?</p> <p>24 <b>A.</b> The construction schedule in North Dakota would</p> <p>25 be as soon as practical following what we hope to be</p> <p>PAGE 24</p>

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<p>1 approval from the Public Service Commission. So later</p> <p>2 this summer.</p> <p>3 Q. Okay. And in terms of anticipated cost, once</p> <p>4 again that was discussed at the Bismarck meeting, but</p> <p>5 I'd like you to provide for us the overall cost to the</p> <p>6 pipeline, not only in North Dakota but the other states</p> <p>7 in which the pipeline will traverse, as well as a</p> <p>8 breakdown of what that cost would be for construction of</p> <p>9 the pipeline just in North Dakota?</p> <p>10 A. Yes. So the total cost for the project, for all</p> <p>11 three aspects of the scope, capture, pipeline, and</p> <p>12 sequestration, is approximately 5.5 billion. The cost</p> <p>13 of construction in the state of North Dakota is</p> <p>14 approximately 900 million.</p> <p>15 Q. And what has Summit, at this point, done or what</p> <p>16 will it do in terms of providing the public more</p> <p>17 awareness of -- of this project as it proceeds to gather</p> <p>18 the necessary easements and the necessary permits and</p> <p>19 then ultimately construction?</p> <p>20 A. Yes. So each landowner has a land acquisition</p> <p>21 agent that's dedicated to that landowner. And so they</p> <p>22 maintain communication throughout the process even after</p> <p>23 an easement is signed, depending upon the frequency of</p> <p>24 communication that the landowner wants, we'll keep in</p> <p>25 touch, keep them abreast of the project and the</p> <p>PAGE 25</p>	<p>1 programs. So that's local schools, community</p> <p>2 organizations, people that are interested, we'll make</p> <p>3 sure that we communicate with them on a regular basis.</p> <p>4 Q. And, Jimmy, once again, at the Bismarck hearing</p> <p>5 you spent considerable time talking about the benefits</p> <p>6 of this project to the citizens of the state of North</p> <p>7 Dakota. I'd like you to briefly discuss that again here</p> <p>8 today and focus a little bit on what sort of benefits</p> <p>9 you see or your company sees in terms of benefits to</p> <p>10 farmers, ranchers, local communities.</p> <p>11 A. Yeah. I think as -- as globally and even in</p> <p>12 this country there's a push to decarbonize. So along</p> <p>13 those lines, we're an agricultural-based company. Our</p> <p>14 parent company, Summit Ag, has been farming in the</p> <p>15 Midwest for over three decades now. So we think it's</p> <p>16 important to protect commodity prices, primarily corn.</p> <p>17 We think it's important to help ethanol plants</p> <p>18 sustain their viability. And one way of doing that is</p> <p>19 to reduce their carbon intensity. And so currently</p> <p>20 these ethanol plants have carbon intensity scores in the</p> <p>21 60 to 70 point range. That may not mean a lot to a lot</p> <p>22 of people, but to sell their product to low-carbon fuel</p> <p>23 markets where they get a premium for that product, they</p> <p>24 have to reduce that score significantly.</p> <p>25 And just for reference, if they were to put in a</p> <p>PAGE 27</p>
<p>1 progress.</p> <p>2 And then we're required by PHMSA to develop a</p> <p>3 public awareness plan. So as we get closer to</p> <p>4 construction, we'll keep landowners notified when we</p> <p>5 think we'll be on their property to begin construction,</p> <p>6 the duration of that construction, and when we think</p> <p>7 we'll be complete.</p> <p>8 And then in parallel, we'll have a public</p> <p>9 awareness campaign with first responders and local</p> <p>10 stakeholders. So we'll develop our emergency response</p> <p>11 plan and our public awareness plans, and we already have</p> <p>12 Summit representatives that are in the communities</p> <p>13 talking to emergency planners and first responders. And</p> <p>14 as we get closer to operation, they will actually</p> <p>15 conduct drills of incidents that could happen, how they</p> <p>16 would respond.</p> <p>17 We'll work with the local first responders to</p> <p>18 determine, one, if they're trained properly, and then,</p> <p>19 secondly, if they have the equipment to support a</p> <p>20 response. And if they don't, then we'll supplement</p> <p>21 whatever equipment needs they have. After we're</p> <p>22 constructed, we're in operation, then we're required</p> <p>23 every year to follow up and have that training.</p> <p>24 So we'll do the formal training with first</p> <p>25 responders, but we'll also have public awareness</p> <p>PAGE 26</p>	<p>1 wind turbine or a solar farm to power their facility,</p> <p>2 they may reduce their score by 3 to 4 points. By</p> <p>3 pulling the CO2 off of the scrubber in the fermentation</p> <p>4 process so it's not emitted, they reduce their score by</p> <p>5 30 to 35 points. So it cuts it in half. So then</p> <p>6 they're a low cost -- or a low-carbon intensity provider</p> <p>7 to low-carbon fuel markets so their product is in</p> <p>8 demand.</p> <p>9 So we think this project helps sustain commodity</p> <p>10 prices by sustaining a demand for their product with</p> <p>11 ethanol plants, helps the ethanol plants be profitable,</p> <p>12 they can return that profit to their shareholders, they</p> <p>13 can expand. And then we think that it helps land</p> <p>14 values, because when commodity prices are high, then</p> <p>15 that supports higher land values.</p> <p>16 And then there's -- you know, the tax benefit as</p> <p>17 well. I'm not a tax accountant so I'm not sure how it's</p> <p>18 proportioned in the state of North Dakota, but Summit,</p> <p>19 as an asset, we'll pay taxes when we're in operation,</p> <p>20 but primarily it's to benefit the agriculture and the</p> <p>21 ethanol industry.</p> <p>22 Q. And then, Jimmy, finally, my understanding, in</p> <p>23 the back of the room there's a table that's been set up</p> <p>24 by Summit. During a break, if anyone in the public has</p> <p>25 questions about the project, wants to see maps, that</p> <p>PAGE 28</p>

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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.

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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

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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?

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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?

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<p>1 <b>A.</b> Yes.</p> <p>2 <b>Q.</b> And those individuals have the authority to, for</p> <p>3 lack of a better phrase, push a button to shut the</p> <p>4 system down if they see an issue; is that correct?</p> <p>5 <b>A.</b> That's correct.</p> <p>6 <b>Q.</b> And shutting the system down, can you talk a</p> <p>7 little bit about that and what does that involve? You</p> <p>8 talked about the valves being, at a minimum, 30 miles</p> <p>9 apart, and in high consequence areas, being at least</p> <p>10 15 miles apart. What does that mean, effectively, if a</p> <p>11 button is pushed -- forgive me if that's not the proper</p> <p>12 term, but what actually happens, if you could walk us</p> <p>13 through that?</p> <p>14 <b>A.</b> Sure. So if there were a release, in the</p> <p>15 unlikely event that the pipeline is damaged and there is</p> <p>16 a release, then the valves on either side of that</p> <p>17 release point could be remotely closed, to your point,</p> <p>18 from the control center. And that -- the valves will be</p> <p>19 automated or actuated so they don't have to be manually</p> <p>20 closed. They can close automatically.</p> <p>21 And the valve closure time is seconds. As we</p> <p>22 talked in Bismarck, the consideration or the assumption</p> <p>23 we're making on average is about two minutes for the</p> <p>24 valve to close, and that's depending on where it is in</p> <p>25 the system, etcetera, but the consideration around other</p> <p>PAGE 33</p>	<p>1 that modeling. I think it's just been referred to as a</p> <p>2 dispersion model. Is that something that -- where are</p> <p>3 we at as far as that being provided to the Commission?</p> <p>4 <b>A.</b> That work has been completed and that -- that</p> <p>5 the -- not only the output of the model but the risk</p> <p>6 assessment that's associated with that, it's ready to be</p> <p>7 provided.</p> <p>8 <b>Q.</b> Okay. So do you think we'll have that by the</p> <p>9 next hearing? Or when will we have that? Do you know?</p> <p>10 MR. BENDER: I believe we can provide it to you</p> <p>11 before the next hearing, Mr. Pelham. And, of course, as</p> <p>12 we talked at the previous hearing, we're going to be</p> <p>13 requesting that it be filed confidentially.</p> <p>14 MR. PELHAM: Sure. Understood.</p> <p>15 BY MR. PELHAM:</p> <p>16 <b>Q.</b> Mr. Powell, I'm wondering if you could talk</p> <p>17 about any specific local requirements for either Dickey</p> <p>18 or Sargent counties that the company has to apply for or</p> <p>19 be permitted for for the proposed line?</p> <p>20 <b>A.</b> Yes, Mr. Pelham. Along the whole pipeline route</p> <p>21 there are about 641 non-environmental permits,</p> <p>22 conditional use permits, road crossing permits,</p> <p>23 etcetera. To date, we've applied for about 60 of those</p> <p>24 and received about 50 that have been approved. So we're</p> <p>25 in that process now. I don't, in hand, have what we</p> <p>PAGE 35</p>
<p>1 hydraulic actions in the pipeline system, I mean those</p> <p>2 actions have to be considered, but generally it's about</p> <p>3 two minutes. So those valves close. That isolates the</p> <p>4 volume of CO2 within that section of pipeline where the</p> <p>5 incident occurred.</p> <p>6 <b>Q.</b> And as far as -- you talked a little bit about</p> <p>7 the treatment, and I wasn't quite following you. I'm</p> <p>8 wondering if you could just elaborate a little bit. You</p> <p>9 were talking about treatment. Is that in the event of a</p> <p>10 release or is that during the construction of the line?</p> <p>11 I was a little bit --</p> <p>12 <b>A.</b> Yeah. Sorry. To be more clear, that's during</p> <p>13 construction.</p> <p>14 <b>Q.</b> Okay.</p> <p>15 <b>A.</b> So in remote areas, we feel that it's</p> <p>16 appropriate to have --</p> <p>17 <b>Q.</b> I see.</p> <p>18 <b>A.</b> -- medical staff onsite.</p> <p>19 <b>Q.</b> Okay. So high consequence areas. Are there any</p> <p>20 high consequence areas in Sargent or Dickey counties?</p> <p>21 Do you know?</p> <p>22 <b>A.</b> To my knowledge, there are not.</p> <p>23 <b>Q.</b> And we talked at the last hearing, the company</p> <p>24 agreed to provide a model of -- in the event of a</p> <p>25 release, modeling that has been done and the results of</p> <p>PAGE 34</p>	<p>1 have or have not applied for in Sargent or Dickey.</p> <p>2 <b>Q.</b> So is there someone here that can maybe answer</p> <p>3 to that and we can get that information on a break or</p> <p>4 something like that? Do you know?</p> <p>5 <b>A.</b> I can get that information for you.</p> <p>6 <b>Q.</b> There was some testimony at the prior hearing, I</p> <p>7 can't recall, sir, if it was you or one of your</p> <p>8 colleagues had mentioned that there were some reroutes</p> <p>9 that were in the process and the status of those, I</p> <p>10 believe. It was testified Burleigh, Oliver, and Morton</p> <p>11 counties. I'm wondering if there's any update on the</p> <p>12 Commission receiving the proposed reroutes for those</p> <p>13 three areas?</p> <p>14 <b>A.</b> I'll provide an update, Mr. Pelham.</p> <p>15 <b>Q.</b> Fair enough.</p> <p>16 Can you tell us anything about the meeting that</p> <p>17 took place yesterday with the state geologist?</p> <p>18 <b>A.</b> And we -- my apologies. We may have misinformed</p> <p>19 Mr. Bender. That meeting actually takes place at 2:00</p> <p>20 today.</p> <p>21 <b>Q.</b> Fair enough.</p> <p>22 <b>A.</b> So I'll own that one. Sorry.</p> <p>23 <b>Q.</b> No. That's okay. That's why we ask questions;</p> <p>24 right?</p> <p>25 Let's see here. The information about the</p> <p>PAGE 36</p>

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<p>1 abandoned mines that was provided, there was an email</p> <p>2 provided this morning. Are you able to testify or</p> <p>3 explain in any greater detail than what was provided by</p> <p>4 Mr. Bender this morning in an email?</p> <p>5 <b>A.</b> I can generally tell you that our team contacted</p> <p>6 folks within the PSC to discuss that issue. We do</p> <p>7 traverse the edge of the mine property, BNI. They're</p> <p>8 aware of it. And I think the guidance from the PSC, and</p> <p>9 I'm speaking generally, was that we need to make sure</p> <p>10 that their maps are updated to reflect the pipeline</p> <p>11 traversing that corner of the property and that any</p> <p>12 operating procedures are updated to reflect that there's</p> <p>13 a pipeline in the area.</p> <p>14 <b>Q.</b> And as a representative of the company, you're</p> <p>15 committed to working with the Commission and this</p> <p>16 division on -- the coal division in ensuring that any</p> <p>17 issues are worked out on that?</p> <p>18 <b>A.</b> Absolutely.</p> <p>19 MR. PELHAM: Thank you, Mr. Powell. I don't</p> <p>20 have any other questions for you. Mr. Schock may have</p> <p>21 some.</p> <p>22 MR. SCHOCK: I have no questions, Your Honor.</p> <p>23 ALJ HOGAN: Mr. Pranis, did you have any</p> <p>24 questions?</p> <p>25 MR. PRANIS: Only one, Your Honor.</p> <p>PAGE 37</p>	<p>1 analysis; correct?</p> <p>2 THE WITNESS: Yes.</p> <p>3 COMMISSIONER CHRISTMANN: And Mr. Bender said</p> <p>4 that that would probably be with a confidentiality</p> <p>5 request attached?</p> <p>6 THE WITNESS: Yes.</p> <p>7 COMMISSIONER CHRISTMANN: So I asked that</p> <p>8 question because I just want the people to understand,</p> <p>9 is the reason that you would -- that that would be</p> <p>10 maintained in confidence with Commission staff, because</p> <p>11 there could be information that someone who wants to do</p> <p>12 damage would learn from in order to figure out how to do</p> <p>13 that and so, thus, it is confidential?</p> <p>14 THE WITNESS: Yes, sir. So the -- there are</p> <p>15 some aspects of pipeline operation that are considered</p> <p>16 -- where pipelines are considered critical</p> <p>17 infrastructure. And some aspects like emergency</p> <p>18 response plans, like dispersement models, should be</p> <p>19 considered confidential or maintained confidential. And</p> <p>20 so dispersement modeling is one of those.</p> <p>21 COMMISSIONER CHRISTMANN: Okay. And then it was</p> <p>22 pretty late, but if you recall in the Bismarck hearing</p> <p>23 the land surveyors association made a presentation. Did</p> <p>24 you have any response to that today for us?</p> <p>25 THE WITNESS: Yes. And as you remember from the</p> <p>PAGE 39</p>
<p>1 ALJ HOGAN: Go ahead.</p> <p>2 CROSS EXAMINATION</p> <p>3 BY MR. PRANIS:</p> <p>4 <b>Q.</b> Mr. Powell, question. You referred to a</p> <p>5 contractor based in Wisconsin that has extensive</p> <p>6 experience building, installing pipelines in northern</p> <p>7 climates. And I just wanted to confirm in that --</p> <p>8 you're referring to Precision Pipeline?</p> <p>9 <b>A.</b> Yes.</p> <p>10 <b>Q.</b> Thank you.</p> <p>11 MR. PRANIS: No further.</p> <p>12 ALJ HOGAN: All right. Thank you.</p> <p>13 Commissioner Christmann.</p> <p>14 COMMISSIONER CHRISTMANN: So, first of all, I</p> <p>15 just want to say when we get back and I get that filing</p> <p>16 regarding the mine -- because that coal reclamation is a</p> <p>17 different division within our agency than public</p> <p>18 utilities that handle a pipeline siting so I'll have our</p> <p>19 reclamation people review that, because it's a very</p> <p>20 tricky situation, to make sure that we are in compliance</p> <p>21 with all of the federal mine requirements. So we'll</p> <p>22 look at that and maybe have questions at a future</p> <p>23 hearing regarding that.</p> <p>24 You mentioned, in response to Mr. Pelham's</p> <p>25 question, that you would provide that dispersement</p> <p>PAGE 38</p>	<p>1 Bismarck hearing, I'm not an expert in that, in</p> <p>2 easements, etcetera, but it's my understanding that</p> <p>3 there was a conflation between strip easements and</p> <p>4 blanket easements. So we're executing strip easements,</p> <p>5 which is common with pipeline projects, at least within</p> <p>6 my experience. And so it's my understanding that that</p> <p>7 fits the protocol required.</p> <p>8 MR. BENDER: And, Commissioner, I might mention</p> <p>9 we anticipated the testimony from the surveyors, and we</p> <p>10 did put on Micah Rorie prior to that, and we believe he</p> <p>11 did address those issues but --</p> <p>12 COMMISSIONER CHRISTMANN: Okay. I just wanted</p> <p>13 to know if there was anything more.</p> <p>14 MR. BENDER: Yep.</p> <p>15 THE WITNESS: Commissioner, I might add, on the</p> <p>16 dispersement model, the information that we intend to</p> <p>17 provide this Commission will be the same information</p> <p>18 that we'll also provide the Pipeline and Hazardous</p> <p>19 Material Safety Administration.</p> <p>20 COMMISSIONER CHRISTMANN: Thank you.</p> <p>21 In the Bismarck hearing, one of your witnesses,</p> <p>22 Mr. McCown -- I hope I'm pronouncing it right -- I asked</p> <p>23 whether PHMSA evaluates the capabilities of local</p> <p>24 agencies for emergency response and such. And at least</p> <p>25 by my notes, I didn't come back with a very clear answer</p> <p>PAGE 40</p>

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<p>1 on that. I think he was not sure. Do you have anything</p> <p>2 more to add on that?</p> <p>3 THE WITNESS: Sir, by agencies, you mean the</p> <p>4 capabilities of local agencies?</p> <p>5 COMMISSIONER CHRISTMANN: Correct.</p> <p>6 Firefighters, emergency response people, and such.</p> <p>7 THE WITNESS: In my experience, they do not.</p> <p>8 They evaluate the quality and robustness of the</p> <p>9 company's emergency response plan, public awareness</p> <p>10 plan, and then they do not extend -- they do have audit</p> <p>11 capabilities, but in my experience that is specific to</p> <p>12 the company or the operator and doesn't extend to the</p> <p>13 capability of local agencies.</p> <p>14 COMMISSIONER CHRISTMANN: Okay.</p> <p>15 THE WITNESS: I'm not speaking for PHMSA,</p> <p>16 obviously, but in my experience.</p> <p>17 COMMISSIONER CHRISTMANN: Okay. And previously,</p> <p>18 and I didn't even make a note of who the discussion was</p> <p>19 with, I'd asked about road crossing approvals with</p> <p>20 townships and counties, and the answer was that it was</p> <p>21 in the process. You mentioned the easements, which I'll</p> <p>22 have a couple more questions about, earlier, but is</p> <p>23 progress continuing to be made with road crossing</p> <p>24 approvals and any other local county or township</p> <p>25 approvals that are necessary?</p> <p>PAGE 41</p>	<p>1 either side at your entry and exits. And so even though</p> <p>2 you're drilling under that immediate area, you're</p> <p>3 disrupting on either side and a bigger footprint. So if</p> <p>4 you can open cut and keep your right of way construction</p> <p>5 area tight, sometimes, in my experience, it's better. I</p> <p>6 can't give you the scientific rationale behind it.</p> <p>7 COMMISSIONER CHRISTMANN: So some would probably</p> <p>8 be in areas where the wetland is just real narrow and so</p> <p>9 you'd barely dig anything up as opposed to a big</p> <p>10 footprint for boring?</p> <p>11 THE WITNESS: Correct. And as you know, if it's</p> <p>12 -- if it's a water body that continuously has water</p> <p>13 flowing through it, then typically we try to either bore</p> <p>14 or drill those.</p> <p>15 COMMISSIONER CHRISTMANN: In this Exhibit 4 that</p> <p>16 was handed out this morning, looking at the progress --</p> <p>17 and when we were in Bismarck I'd asked about a few of</p> <p>18 the counties that were lagging behind others. And some</p> <p>19 of them made pretty good progress, and it's by here so</p> <p>20 I'm going to ask you about Richland County. That one</p> <p>21 still does seem to be kind of lagging behind. Did you</p> <p>22 have anything more to add on that one?</p> <p>23 THE WITNESS: I can just tell you, sir, that our</p> <p>24 agents continue to work with landowners on a regular</p> <p>25 basis and -- and it doesn't always come. As we've seen</p> <p>PAGE 43</p>
<p>1 THE WITNESS: They are, sir. So generally I</p> <p>2 believe we have about 350 road crossing permits to</p> <p>3 secure. We've applied for about 60 of those. That's</p> <p>4 the 60 that I just mentioned to Mr. Pelham. And we've</p> <p>5 received approval for 50. So we've just begun that</p> <p>6 process in the last couple of months. And so we'll</p> <p>7 continue to work through that.</p> <p>8 COMMISSIONER CHRISTMANN: One of my questions,</p> <p>9 and then later I wished I had followed up on in</p> <p>10 Bismarck, was there was discussion, like when you hit</p> <p>11 wetlands or something, of open cutting versus HDD. And</p> <p>12 the answer that I got was sometimes it's just best to do</p> <p>13 open cutting, but I didn't really understand why,</p> <p>14 because in previous cases a lot of times -- of course,</p> <p>15 they were shorter pipelines and there's only a couple of</p> <p>16 wetlands being hit and they just told us they're HDD,</p> <p>17 which kind of led me to believe that that's just always</p> <p>18 better. When would open cutting be better?</p> <p>19 THE WITNESS: I'm not the expert. That was Mr.</p> <p>20 Schmidt that can speak to that. But in my experience,</p> <p>21 open cutting is better if we can -- if we can disrupt</p> <p>22 the minimal surface area and that there's not a concern</p> <p>23 that vegetation, etcetera, will re-establish. Because</p> <p>24 as you probably know, if you're boring or drilling,</p> <p>25 you've got a wider footprint or a bigger footprint on</p> <p>PAGE 42</p>	<p>1 over the last two weeks, we've secured quite a few</p> <p>2 easements, 44 tracts. It typically comes in waves. And</p> <p>3 so we continue to work with landowners, try to</p> <p>4 communicate effectively, share information, and</p> <p>5 eventually, hopefully, get to an agreement.</p> <p>6 COMMISSIONER CHRISTMANN: Okay. And then this</p> <p>7 is kind of a Burleigh County thing but I want to address</p> <p>8 it after listening to all that public testimony. There</p> <p>9 was discussion by some, you know, that if you just would</p> <p>10 stay a little bit -- if you would just go a little bit</p> <p>11 further north, and I don't remember if it was you or</p> <p>12 someone else from the company talked about cultural</p> <p>13 resources and things like that, that where you were</p> <p>14 proposing to cross the river seemed to be the best</p> <p>15 place.</p> <p>16 I would like a thorough analysis of what you</p> <p>17 would face to cross on the south side of Bismarck. As I</p> <p>18 look at a map and look at kind of the area, I don't know</p> <p>19 if you're familiar with all this, but like on the south</p> <p>20 side of the University of Mary, there's not nearly as</p> <p>21 much development occurring as on the north side. It</p> <p>22 would cross into Morton County in an area with, it</p> <p>23 appears, just from looking at maps, a lot less</p> <p>24 development.</p> <p>25 Have you already done or would you provide some</p> <p>PAGE 44</p>

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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

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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

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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

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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

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<p>1 that's a national program, but we'll actually have</p> <p>2 written communication we send to all the landowners in</p> <p>3 the area that will say there's a pipeline in this area.</p> <p>4 It's generally located here. We'll point out there's</p> <p>5 pipeline markers where you can -- you know, you can use</p> <p>6 to determine where the location of the pipeline is.</p> <p>7 Generally they'll be on sides of roads, on fences,</p> <p>8 etcetera. And then we'll have public awareness training</p> <p>9 like I mentioned. So that will be announced. Anyone in</p> <p>10 the community that wants to attend can attend.</p> <p>11 COMMISSIONER HAUGEN-HOFFART: Will you have</p> <p>12 security cameras on your pipeline?</p> <p>13 THE WITNESS: We won't have the security cameras</p> <p>14 on the pipeline, but we'll have them at facilities. So</p> <p>15 pump stations intermediate. There's one in Richland</p> <p>16 County. In North Dakota we'll have security cameras at</p> <p>17 the pump station facilities.</p> <p>18 COMMISSIONER HAUGEN-HOFFART: And that's hooked</p> <p>19 back up to the main control center. That's monitored</p> <p>20 24/7, 365?</p> <p>21 THE WITNESS: Correct.</p> <p>22 COMMISSIONER HAUGEN-HOFFART: Okay. I think</p> <p>23 that's all I have. Thank you.</p> <p>24 THE WITNESS: Thank you.</p> <p>25 ALJ HOGAN: All right. Thank you.</p> <p>PAGE 49</p>	<p>1 In fact, on either side of all the block valves there</p> <p>2 will be pressure indication.</p> <p>3 So we talked about closing the pipeline remotely</p> <p>4 from the control center, but at each valve location</p> <p>5 there will be pressure boundaries established. And if</p> <p>6 the pipe -- if those indicators on either side of a</p> <p>7 valve see a pressure variation that's greater than the</p> <p>8 normal operating boundary, they'll close automatically.</p> <p>9 So the control center doesn't close it at that point.</p> <p>10 The valve closes itself.</p> <p>11 SUBSTITUTE DECISIONMAKER DAWSON: There are</p> <p>12 these things called smart pigs that go through the line;</p> <p>13 correct?</p> <p>14 THE WITNESS: Correct.</p> <p>15 SUBSTITUTE DECISIONMAKER DAWSON: And what do</p> <p>16 they actually measure? Do they go through when the line</p> <p>17 is running and are they an X-ray machine or an MRI? Do</p> <p>18 you run them when you start up the pipeline or is it</p> <p>19 something that's done in the future?</p> <p>20 THE WITNESS: They're -- the regulation doesn't</p> <p>21 require you to run them when you start the pipeline.</p> <p>22 They require you to run them within five years of</p> <p>23 placing the pipeline in operation. But, yes, they are a</p> <p>24 smart pig. So there are various kinds, but generally</p> <p>25 the pigs that we'll run will determine any type of</p> <p>PAGE 51</p>
<p>1 Mr. Dawson.</p> <p>2 SUBSTITUTE DECISIONMAKER DAWSON: Your Honor.</p> <p>3 Mr. Powell, are there any beneficial uses for</p> <p>4 carbon dioxide?</p> <p>5 THE WITNESS: Good morning, Mr. Dawson. Yes.</p> <p>6 There's industrial uses like dry ice, wastewater</p> <p>7 treatment, carbonization. There are industrial uses.</p> <p>8 SUBSTITUTE DECISIONMAKER DAWSON: Are there any</p> <p>9 plans in the future for beneficial use in this state?</p> <p>10 THE WITNESS: We are a common carrier pipeline</p> <p>11 so if somebody wants to ship CO2 on the pipeline and</p> <p>12 provide a terminus -- a termination point where we can</p> <p>13 pull CO2 off the pipeline and they can use it for</p> <p>14 commercial practices, yes.</p> <p>15 SUBSTITUTE DECISIONMAKER DAWSON: You said that</p> <p>16 there is a hydraulic model that is used in the</p> <p>17 monitoring station and that it looks for pressure</p> <p>18 variations in the system from this control center. What</p> <p>19 are the data points on the system? Is there just a</p> <p>20 pressure gauge at the end and a pressure gauge at the</p> <p>21 beginning, or is there something more sophisticated than</p> <p>22 that?</p> <p>23 THE WITNESS: Yeah, a little more sophisticated,</p> <p>24 but at various points along the pipeline there will be</p> <p>25 flow indication and there will be pressure indication.</p> <p>PAGE 50</p>	<p>1 internal, external corrosion. So they can -- they can</p> <p>2 measure the wall thickness of the steel and they can</p> <p>3 determine whether there's an anomaly. So is there a pit</p> <p>4 or a defect or is there corrosion? And so we run those</p> <p>5 on at least a every-five-year frequency. And then you</p> <p>6 can continue to compare that.</p> <p>7 So if the wall -- the wall thickness is</p> <p>8 .750 inches when it's installed, you run a pig in five</p> <p>9 years, you can determine if there's any additional metal</p> <p>10 loss. And if there is, then you can adjust your</p> <p>11 integrity management program or your cathodic protection</p> <p>12 system to accommodate.</p> <p>13 SUBSTITUTE DECISIONMAKER DAWSON: And then you</p> <p>14 were saying the thickness of this pipe, you were talking</p> <p>15 about that just now. I see that in the application it</p> <p>16 varies from .189 to .70. Is that dependent on the size</p> <p>17 of the pipe; i.e., is the thinnest the smallest and the</p> <p>18 thickest the largest? Or am I wrong in my assumption?</p> <p>19 THE WITNESS: Generally it depends on the size</p> <p>20 of the pipe but also the strength of the pipe. So if</p> <p>21 it's -- if it has a yield strength -- you've heard the</p> <p>22 classifications X52, X60, X70? So that's the yield</p> <p>23 strength of the pipe. So if it's a higher yield, it can</p> <p>24 be a thinner wall and still maintain the same pressure.</p> <p>25 So generally we've got lower yield pipe. We do</p> <p>PAGE 52</p>

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<p>1 have some X70 pipe that's lower yield pipe for thicker</p> <p>2 wall, and that helps with the -- helps mitigate the risk</p> <p>3 of crack propagation.</p> <p>4 SUBSTITUTE DECISIONMAKER DAWSON: I have no</p> <p>5 further questions.</p> <p>6 THE WITNESS: Thank you.</p> <p>7 ALJ HOGAN: All right. Thank you.</p> <p>8 Mr. Bender, did you have any redirect?</p> <p>9 MR. BENDER: Just a follow-up question or two.</p> <p>10 REDIRECT EXAMINATION</p> <p>11 BY MR. BENDER:</p> <p>12 Q. Mr. Powell, we've been using the term "PHMSA" a</p> <p>13 lot this morning, and certainly members of the</p> <p>14 Commission and Commission staff understand what PHMSA</p> <p>15 means. My understanding is it's an acronym. Is that</p> <p>16 your understanding?</p> <p>17 A. Yes.</p> <p>18 Q. And can you tell me what that acronym stands</p> <p>19 for?</p> <p>20 A. It's Pipeline Hazardous Material Safety</p> <p>21 Administration.</p> <p>22 Q. And that's a federal agency; is that correct?</p> <p>23 A. It is.</p> <p>24 Q. Okay. And that's an agency that has many</p> <p>25 different rules and regulations with respect to</p> <p>PAGE 53</p>	<p>1 MR. BENDER: Let me check, Mr. Commissioner.</p> <p>2 This isn't testimony. I show it in the southeast</p> <p>3 quarter of 5-131-54, Sargent County.</p> <p>4 THE WITNESS: I have them here. The only reason</p> <p>5 I hesitated, Commissioner Christmann, is I'm assuming</p> <p>6 that the coordinates won't divulge the landowner, but I</p> <p>7 have those coordinates here.</p> <p>8 MR. BENDER: And it is something we're going to</p> <p>9 have to make a part of the public record so --</p> <p>10 THE WITNESS: Okay. I'm just always hesitant to</p> <p>11 release landowner information without their permission.</p> <p>12 MR. BENDER: I fully understand and appreciate</p> <p>13 that.</p> <p>14 COMMISSIONER CHRISTMANN: Well, can you find</p> <p>15 section 12 of 131 north and 54 west? Is that -- that</p> <p>16 seemed particularly close to me, just in looking at the</p> <p>17 map.</p> <p>18 THE WITNESS: I don't know if we have the maps</p> <p>19 here.</p> <p>20 ALJ HOGAN: It's under the binders, the map</p> <p>21 book.</p> <p>22 MR. BENDER: Section 12 of what?</p> <p>23 COMMISSIONER CHRISTMANN: 131-54.</p> <p>24 THE WITNESS: What page are you on,</p> <p>25 Commissioner?</p> <p>PAGE 55</p>
<p>1 construction and operation of a pipeline; is that</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. And Summit is going to have to comply with all</p> <p>5 those rules and regulations in the construction and</p> <p>6 operation of that pipeline if this permit is granted; is</p> <p>7 that correct?</p> <p>8 A. Yes.</p> <p>9 MR. BENDER: That's all the questions I have.</p> <p>10 ALJ HOGAN: All right. Thank you.</p> <p>11 Mr. Pelham, any other questions?</p> <p>12 MR. PELHAM: No.</p> <p>13 ALJ HOGAN: Mr. Schock? Mr. Pranis?</p> <p>14 MR. PRANIS: No, Your Honor.</p> <p>15 ALJ HOGAN: Commissioner Christmann?</p> <p>16 COMMISSIONER CHRISTMANN: I did. The residence</p> <p>17 with the waiver, do you know what page that is in the</p> <p>18 map book?</p> <p>19 THE WITNESS: I do not. I know the coordinates,</p> <p>20 but I do not know the page.</p> <p>21 COMMISSIONER CHRISTMANN: The coordinates. You</p> <p>22 mean like the section and township?</p> <p>23 THE WITNESS: Yes, sir.</p> <p>24 COMMISSIONER CHRISTMANN: Is that in section 12,</p> <p>25 131 north, 54 west?</p> <p>PAGE 54</p>	<p>1 COMMISSIONER CHRISTMANN: I don't even see page</p> <p>2 numbers on these.</p> <p>3 THE WITNESS: Oh. They're sheet number.</p> <p>4 COMMISSIONER HAUGEN-HOFFART: Nine of 36?</p> <p>5 THE WITNESS: Yeah, I'm close. Okay, I have it.</p> <p>6 COMMISSIONER CHRISTMANN: That yellow mark</p> <p>7 there, that's more than 500 feet or is that an area</p> <p>8 that's been worked around or what?</p> <p>9 THE WITNESS: I -- the scale -- yes. If you</p> <p>10 look at the scale on the bottom left, sir, if you're</p> <p>11 looking at the one in the center in section 11? Or</p> <p>12 you're looking at one in section 12?</p> <p>13 COMMISSIONER CHRISTMANN: In section 12.</p> <p>14 THE WITNESS: Yeah, that is -- that is within</p> <p>15 500 feet, yes. Less than 500 feet.</p> <p>16 COMMISSIONER CHRISTMANN: But you said that's</p> <p>17 not the one that has the waiver?</p> <p>18 THE WITNESS: I believe that one is.</p> <p>19 COMMISSIONER CHRISTMANN: Oh, okay.</p> <p>20 THE WITNESS: Yes.</p> <p>21 COMMISSIONER CHRISTMANN: Okay.</p> <p>22 THE WITNESS: That is the one -- that is the one</p> <p>23 with the waiver.</p> <p>24 MR. BENDER: Perhaps after we take a break we</p> <p>25 can find out in more detail just what this is and we'll</p> <p>PAGE 56</p>

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<p>1 get back to you. Does that work for you, Commissioner?</p> <p>2 COMMISSIONER CHRISTMANN: I don't think that</p> <p>3 came through on the mic but --</p> <p>4 MR. BENDER: I'm sorry.</p> <p>5 COMMISSIONER CHRISTMANN: Your Honor, that is</p> <p>6 fine with me if we just get a response to it afterwards.</p> <p>7 Just in -- in just scouring through these maps, one that</p> <p>8 kind of jumped out at me that I wanted to double-check</p> <p>9 on.</p> <p>10 MR. BENDER: And what we'll do is --</p> <p>11 THE WITNESS: I need to double-check too.</p> <p>12 MR. BENDER: We'll check with our right of way</p> <p>13 department and find out just exactly where this is from</p> <p>14 the route.</p> <p>15 COMMISSIONER CHRISTMANN: Okay. And part of the</p> <p>16 question is -- I mean, there were others that were close</p> <p>17 that I assume they're right on, but this one, there's a</p> <p>18 road in between so it could be a different landowner.</p> <p>19 I'm just wanting to make sure someone didn't get left</p> <p>20 out of the process here.</p> <p>21 ALJ HOGAN: Are there any other commissioner</p> <p>22 questions? No? All right.</p> <p>23 So I think there's a couple things that</p> <p>24 Mr. Powell wanted to double-check so maybe we'll take</p> <p>25 our morning break and we can get that information and</p> <p>PAGE 57</p>	<p>1 the corridor. Are you on page 9?</p> <p>2 A. I am.</p> <p>3 Q. Okay. And there were some questions about if</p> <p>4 the route in that area was closer than 500 feet to a</p> <p>5 house. Do you recall those questions?</p> <p>6 A. Yes.</p> <p>7 Q. And have you had an opportunity to speak with</p> <p>8 some people in the right of way department and others as</p> <p>9 to that information?</p> <p>10 A. I have.</p> <p>11 Q. And what have you learned in terms of how close</p> <p>12 the route is to, first of all, just buildings, like</p> <p>13 barns, sheds, that sort of thing?</p> <p>14 A. To buildings, barns, it's about -- a little over</p> <p>15 600 feet. 610 feet.</p> <p>16 Q. Okay. And then in terms of how close the route</p> <p>17 would be to a house, did you get any information on</p> <p>18 that?</p> <p>19 A. It's about 515 feet.</p> <p>20 Q. Okay. And there's a yellow diamond on this map.</p> <p>21 Is that to designate a house or is that to designate</p> <p>22 something else?</p> <p>23 A. That's a water well.</p> <p>24 Q. Okay. And there were some questions,</p> <p>25 Mr. Powell, with respect to local permits. Can you</p> <p>PAGE 59</p>
<p>1 then have Mr. Powell, or whoever you want to have answer</p> <p>2 those questions. And then we'll go from there.</p> <p>3 I'll just remind everybody, if you haven't</p> <p>4 signed the attendance sheet, I'd ask that you please do</p> <p>5 that during the break. And also it was my understanding</p> <p>6 that there were some party intervenors that are</p> <p>7 represented by Attorney Leibel and Attorney Jorde that</p> <p>8 were going to appear today. If that's you, if you want</p> <p>9 to just identify yourselves, come and talk to me during</p> <p>10 the break, I'd appreciate that.</p> <p>11 But with that said, we'll take our morning break</p> <p>12 and we'll shoot for about a 15-minute, so about 10:25 or</p> <p>13 so. Thank you.</p> <p>14 (Recess)</p> <p>15 ALJ HOGAN: All right. We are going to get</p> <p>16 started again.</p> <p>17 Go ahead, Mr. Bender.</p> <p>18 MR. BENDER: Thank you, Your Honor.</p> <p>19 REDIRECT EXAMINATION</p> <p>20 BY MR. BENDER:</p> <p>21 Q. Jimmy, just a few follow-up questions as a</p> <p>22 result of some of the questions from the commissioners</p> <p>23 and the Commission staff.</p> <p>24 Let's go to page 9 of 36 in the large booklet</p> <p>25 that contains a lot of the photographs of the route and</p> <p>PAGE 58</p>	<p>1 provide us with a little bit more information now as to</p> <p>2 where you are in Sargent and Dickey County with respect</p> <p>3 to local permits?</p> <p>4 A. Yes. So in these two counties we've only</p> <p>5 applied for Department of Transportation permits at this</p> <p>6 point. I believe there are 30 or so of those. And then</p> <p>7 once we receive those Department of Transportation</p> <p>8 permits, then we'll apply for the other local permits,</p> <p>9 probably the next two months.</p> <p>10 Q. Okay. And there were also some questions from</p> <p>11 Commission staff with respect to reroutes. Are you</p> <p>12 aware of the fact that the Commission had made a request</p> <p>13 for information about reroutes on a previous occasion?</p> <p>14 A. Yes.</p> <p>15 Q. And is it your understanding that the company,</p> <p>16 Summit, submitted to the Commission staff those</p> <p>17 reroutes?</p> <p>18 A. Yes.</p> <p>19 Q. And there were three of them, possible reroutes;</p> <p>20 is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. And has that changed at all since those were</p> <p>23 submitted to the Commission staff?</p> <p>24 A. It has.</p> <p>25 Q. And how has it changed?</p> <p>PAGE 60</p>

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<p>1       <b>A.</b> 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       <b>Q.</b> 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       <b>A.</b> It is. 9       <b>Q.</b> 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       <b>A.</b> 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.</p> <p>PAGE 61</p>	<p>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       <u><b>BENJAMIN DOTZENROD.</b></u> 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</p> <p>PAGE 63</p>
<p>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.</p> <p>PAGE 62</p>	<p>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</p> <p>PAGE 64</p>



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<p>1 classified as very limited on the shallow excavation</p> <p>2 study tool. On a related note, corrosion of steel was</p> <p>3 classified as high. You should be able to find those in</p> <p>4 those folders.</p> <p>5 The current route delivered via a blanket</p> <p>6 easement crosses a plethora of subsurface drain tile</p> <p>7 lines on the schoolhouse quarter. The latest proposal</p> <p>8 was for the subsurface lines to be damaged during</p> <p>9 installation and repaired at some point.</p> <p>10 In discussions with my drain tile contractor,</p> <p>11 they revealed the weakest point in any subsurface tile</p> <p>12 system is where connections, reconnections, or repairs</p> <p>13 are made with loose soil around the tile which the</p> <p>14 installation process will create.</p> <p>15 And I wanted to bring a piece just to</p> <p>16 demonstrate. You know, when this is installed, it's on</p> <p>17 a perfect grade, a perfect slope. And if you get a</p> <p>18 little dip in it, which, you know, the ground moves over</p> <p>19 time, especially if it is -- the soil is not settled.</p> <p>20 You know, you dig a hole and you fill it back in with</p> <p>21 loose dirt, that soil eventually compresses to -- it</p> <p>22 removes the air. And so when you get a dip, it kind of</p> <p>23 stops functioning and eventually they get -- these lines</p> <p>24 get ripped apart. And so that's -- just wanted to</p> <p>25 explain that visually.</p> <p>PAGE 65</p>	<p>1 today wants to avoid.</p> <p>2 Now add the knowledge that pipeline heaving has</p> <p>3 been observed in Richland County with other pipelines</p> <p>4 and we have the conditions where there is reasonable</p> <p>5 expectation for unintentional third-party strikes.</p> <p>6 Something no one wants to be involved with on any level.</p> <p>7 When you consider how many of these subsurface</p> <p>8 tile lines will be repaired and, therefore, how many</p> <p>9 risk points to unintentional third-party strikes exist</p> <p>10 in a very small area, it is clear current routing did</p> <p>11 not minimize impacts to North Dakota landowners, nearby</p> <p>12 homeowners, and workers, or value the operational</p> <p>13 integrity of the pipeline.</p> <p>14 Additionally, these breaks would definitely</p> <p>15 prevent drainage on areas beyond the easement area,</p> <p>16 causing higher costs followed by revenue and profit</p> <p>17 losses on land outside the easement area.</p> <p>18 The current route through the schoolhouse</p> <p>19 quarter clearly affects my job, how I operate, and how</p> <p>20 my family and I live. In fact, it already has, as I am</p> <p>21 considering creating a different business entity solely</p> <p>22 for the purpose of operating the property because I</p> <p>23 believe there will be a significant personal injury as a</p> <p>24 direct result of this pipeline routed as proposed. This</p> <p>25 entity would come at dramatically increased insurance,</p> <p>PAGE 67</p>
<p>1 Certainly risks to the integrity of this</p> <p>2 subsurface drain tile system will be further amplified</p> <p>3 beyond natural circumstances by the presence of freshly</p> <p>4 disturbed soil. In an already unstable soil, these</p> <p>5 conditions will exist for several years after pipe</p> <p>6 installation and beyond the initial subsurface repair</p> <p>7 window.</p> <p>8 Couple this with firsthand experience I have</p> <p>9 with subsurface tile breakages. These breaks just about</p> <p>10 always result in a sinkhole. Before the sinkhole forms,</p> <p>11 an air pocket forms. This is invisible to the eye.</p> <p>12 What scares me is when this air pocket forms around this</p> <p>13 pipeline but underground and the normal use of heavy</p> <p>14 machinery crosses the pipeline. These air pockets</p> <p>15 eventually collapse.</p> <p>16 I would like to avoid expensive equipment in</p> <p>17 excess of 50,000 pounds from falling onto an operating</p> <p>18 pressurized carbon dioxide pipe. I would also like to</p> <p>19 avoid an employee, myself, or direct family member,</p> <p>20 while operating a machine in a normal way, from falling</p> <p>21 onto the pressurized pipe. I would like to avoid</p> <p>22 volunteer emergency responder workers from responding to</p> <p>23 this incident. I would like to avoid nearby homeowners</p> <p>24 from being impacted. I believe this would constitute an</p> <p>25 unintentional third-party strike which everyone here</p> <p>PAGE 66</p>	<p>1 professional and management costs, which would otherwise</p> <p>2 be completely unnecessary. It is difficult for me to</p> <p>3 quantify this impact as I lack the resources to</p> <p>4 efficiently manage multiple farming businesses.</p> <p>5 It will also stop altogether the additional</p> <p>6 irrigation investment which has been planned on this</p> <p>7 property, because anything invested will be put at more</p> <p>8 than significant financial risk given the sinkhole,</p> <p>9 unintentional third-party strike situation.</p> <p>10 Therefore, placing the pipe on the current route</p> <p>11 removes future income and opportunities.</p> <p>12 Lastly, but of great importance to me</p> <p>13 personally, is the effect this pipeline installation and</p> <p>14 operation will have on the conservation practices that</p> <p>15 have been used continuously over the past eight years.</p> <p>16 There are numerous benefits to these practices.</p> <p>17 Through these practices, water infiltration rates have</p> <p>18 increased. According to Tyler Groh, Ph.D., Penn State</p> <p>19 University, quote, "The greater the amount of water</p> <p>20 infiltrating into the soil, the less water available to</p> <p>21 run off a field. This translates to less sediment and</p> <p>22 nutrient export to streams," unquote.</p> <p>23 The important point here is as soon as the soil</p> <p>24 is heavily tilled once, which will be necessary after</p> <p>25 pipeline installation, most of these benefits are gone.</p> <p>PAGE 68</p>

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<p>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.</p> <p>PAGE 69</p>	<p>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</p> <p>PAGE 71</p>
<p>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</p> <p>PAGE 70</p>	<p>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 --</p> <p>PAGE 72</p>

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<p>1 that dirt just gets washed down somewhere down there.</p> <p>2 And so we can have issues, you know, outside of</p> <p>3 where they even worked. And so it -- unless the entire</p> <p>4 system is warrantied, you know, I -- I'm pretty</p> <p>5 concerned that we're going to get stuck holding the</p> <p>6 bill --</p> <p>7 Q. Sure.</p> <p>8 A. -- so to speak.</p> <p>9 Q. So then specifically have there been discussions</p> <p>10 with the company as far as any type of warranty, that a</p> <p>11 blanket warranty on the entire system?</p> <p>12 A. I don't think anything's been offered, no.</p> <p>13 MR. PELHAM: I don't have any other questions.</p> <p>14 Mr. Schock may.</p> <p>15 CROSS EXAMINATION</p> <p>16 BY MR. SCHOCK:</p> <p>17 Q. Just to kind of further down that road. Is that</p> <p>18 something that would give you some satisfaction in this</p> <p>19 kind of an arrangement where, if the company was willing</p> <p>20 to provide you a warranty or some sort of assurances</p> <p>21 that your drain tile would continue to function long</p> <p>22 term? I know you listed out a number of concerns, but</p> <p>23 that seems to be one of your primary ones.</p> <p>24 A. I'd say my biggest concern is the sinkholes next</p> <p>25 to the pipeline. You know, we want to make sure that</p> <p>PAGE 73</p>	<p>1 it's not even in that quarter very much. Am I correct?</p> <p>2 THE WITNESS: This red line, that red line --</p> <p>3 how do I -- the dashed black line is the northwest</p> <p>4 quarter.</p> <p>5 COMMISSIONER CHRISTMANN: Oh, okay. I thought</p> <p>6 this was a section. Okay. I'm sorry about that.</p> <p>7 THE WITNESS: Yeah. So that's just -- yeah.</p> <p>8 Okay.</p> <p>9 COMMISSIONER CHRISTMANN: Okay. Up on top, the</p> <p>10 description lists it as the section, not the quarter.</p> <p>11 Okay. So it does traverse all the way north to south at</p> <p>12 an angle but all the way across the whole quarter.</p> <p>13 What kind of -- you said you recommended a</p> <p>14 different route outside of this quarter and an</p> <p>15 additional route that did cross the quarter that would</p> <p>16 be more preferable to you. Can you kind of explain what</p> <p>17 that was?</p> <p>18 THE WITNESS: You know, the main -- so the route</p> <p>19 outside was really -- I think I -- I just threw out that</p> <p>20 if you could get this away from drain tile, I think --</p> <p>21 COMMISSIONER CHRISTMANN: Sure.</p> <p>22 THE WITNESS: -- everyone would be happier. And</p> <p>23 so --</p> <p>24 COMMISSIONER CHRISTMANN: But what was your</p> <p>25 proposal if they did traverse this quarter?</p> <p>PAGE 75</p>
<p>1 this pipe has integrity, that it keeps operating. And</p> <p>2 so I -- I don't think this pipe belongs around tile, is</p> <p>3 what I'm trying to say.</p> <p>4 MR. SCHOCK: Okay. I have no further questions.</p> <p>5 Thank you.</p> <p>6 ALJ HOGAN: Mr. Pranis, any questions?</p> <p>7 MR. PRANIS: No, Your Honor.</p> <p>8 ALJ HOGAN: Commissioner Christmann.</p> <p>9 COMMISSIONER CHRISTMANN: Thank you for being</p> <p>10 here, Mr. Dotzenrod.</p> <p>11 THE WITNESS: Thank you.</p> <p>12 COMMISSIONER CHRISTMANN: I am concerned I'm not</p> <p>13 understanding your explanation as it relates to the map</p> <p>14 that -- although we'll have our own exhibit number for</p> <p>15 everything, as I understood it, your entire packet is</p> <p>16 one, but you have it labeled as Exhibit B, preliminary</p> <p>17 route.</p> <p>18 THE WITNESS: Yes. You want me to just explain</p> <p>19 what's going on here?</p> <p>20 COMMISSIONER CHRISTMANN: Let me explain what's</p> <p>21 confusing me.</p> <p>22 THE WITNESS: Okay.</p> <p>23 COMMISSIONER CHRISTMANN: The northwest quarter,</p> <p>24 it looks like the pipeline route would just kind of be</p> <p>25 in maybe the very northeast 40 of that quarter like --</p> <p>PAGE 74</p>	<p>1 THE WITNESS: Within this quarter? For it to go</p> <p>2 on either the west edge or the east edge -- yeah,</p> <p>3 yeah -- of this quarter.</p> <p>4 COMMISSIONER CHRISTMANN: Okay. I'm from</p> <p>5 southwest North Dakota so we don't do too much drain</p> <p>6 tiling out there, like zero. If your drain tile was</p> <p>7 mapped on here -- sorry don't know much about this -- is</p> <p>8 it all running to one common discharge point --</p> <p>9 THE WITNESS: Correct.</p> <p>10 COMMISSIONER CHRISTMANN: -- just a series of</p> <p>11 pipes, or do they run a little bit and then feed into a</p> <p>12 larger one? Can you kind of explain how many times this</p> <p>13 might cross your existing tiling?</p> <p>14 THE WITNESS: So as proposed, it -- you know, if</p> <p>15 the pipeline was running straight north-south, just say</p> <p>16 if it was, most of the tile lines run from east to west</p> <p>17 so it would hit every single line in this field. So I'm</p> <p>18 -- as far as how many that would be, it would be a lot.</p> <p>19 You need a number?</p> <p>20 COMMISSIONER CHRISTMANN: How far are they</p> <p>21 apart?</p> <p>22 THE WITNESS: Roughly a hundred feet.</p> <p>23 COMMISSIONER CHRISTMANN: Okay. And what's the</p> <p>24 depth of them?</p> <p>25 THE WITNESS: They vary. Typically three to</p> <p>PAGE 76</p>

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<p>1 four feet.</p> <p>2 COMMISSIONER CHRISTMANN: Okay. And nothing</p> <p>3 lasts forever. I think you said that these -- that this</p> <p>4 was installed eight or ten years ago or something like</p> <p>5 that. How long do you expect -- if nothing else</p> <p>6 happened and outside of third-party strikes or something</p> <p>7 unusual, how long should that tiling last?</p> <p>8 THE WITNESS: Well, it's plastic, and I'm told</p> <p>9 that plastic, if it hits the sun it will break down, but</p> <p>10 if it's buried in the ground, it really doesn't break</p> <p>11 down. So I'm not aware of anyone who's retiled with</p> <p>12 plastic tile because it wore out. I think it lasts</p> <p>13 forever, pretty much.</p> <p>14 COMMISSIONER CHRISTMANN: When you talked to</p> <p>15 your tiling contractor, that wasn't a general tiling --</p> <p>16 I assume you're talking about this project; correct?</p> <p>17 THE WITNESS: Correct.</p> <p>18 COMMISSIONER CHRISTMANN: So when you've</p> <p>19 discussed an easement, have you discussed the depth of</p> <p>20 the CO2 pipeline with him? Do you know what that is</p> <p>21 proposed to be?</p> <p>22 THE WITNESS: Do I know what the depth of the --</p> <p>23 COMMISSIONER CHRISTMANN: Correct.</p> <p>24 THE WITNESS: I've heard anywhere from four to</p> <p>25 six feet but nothing specific on this property.</p> <p>PAGE 77</p>	<p>1 THE WITNESS: So regarding how often repairs are</p> <p>2 done, there's usually one somewhere on our farm every</p> <p>3 year, sometimes more than one. We've never had anything</p> <p>4 plugged up, but this is also sort of a different</p> <p>5 situation. We have had neighbors that have had plugged</p> <p>6 lines, especially on our soil types with more sand.</p> <p>7 Sand, I think, is more apt to plug things up than clay.</p> <p>8 COMMISSIONER CHRISTMANN: Can they be blown out</p> <p>9 somehow or do they have to be dug up and replaced?</p> <p>10 THE WITNESS: The neighbor we had, he had to</p> <p>11 replace all the lines.</p> <p>12 COMMISSIONER CHRISTMANN: Okay. I don't think I</p> <p>13 have any other questions, Your Honor.</p> <p>14 Thank you, Ben.</p> <p>15 ALJ HOGAN: Thank you.</p> <p>16 Commissioner Haugen-Hoffart.</p> <p>17 COMMISSIONER HAUGEN-HOFFART: Thank you.</p> <p>18 Ben, thank you so much for coming and</p> <p>19 testifying. We appreciate it.</p> <p>20 On your written testimony that you went through,</p> <p>21 on the second page, you heard prior discussion or</p> <p>22 questions about heaving, and you said, "Now add the</p> <p>23 knowledge that pipeline heaving has been observed in</p> <p>24 Richland County with other pipelines." Can you explain</p> <p>25 that more, what you have witnessed?</p> <p>PAGE 79</p>
<p>1 COMMISSIONER CHRISTMANN: And so when you're</p> <p>2 talking to your tiling contractor, if -- where they</p> <p>3 cross the existing tilings, you're going to have -- all</p> <p>4 those will need to be repaired; correct?</p> <p>5 THE WITNESS: Correct.</p> <p>6 COMMISSIONER CHRISTMANN: Is it yours and your</p> <p>7 tiling contractor's assumption that the newly repaired</p> <p>8 line will go over the top of the CO2 pipeline or</p> <p>9 underneath the CO2 pipeline?</p> <p>10 THE WITNESS: My assumption was the repairs</p> <p>11 would be above.</p> <p>12 COMMISSIONER CHRISTMANN: Okay. And when you're</p> <p>13 -- you talked about soil getting into the pipeline and</p> <p>14 clogging things up far away from the easement. How</p> <p>15 often does that happen outside of something like this?</p> <p>16 I assume once in a while you get a break somewhere. Is</p> <p>17 that fairly frequent or do most of your tiled fields go</p> <p>18 for years without an episode like that?</p> <p>19 THE WITNESS: The question is how often are</p> <p>20 repairs done?</p> <p>21 COMMISSIONER CHRISTMANN: Correct. And -- well,</p> <p>22 I guess two questions. How often do you have to do</p> <p>23 repairs? And then how often do the repairs involve</p> <p>24 unclogging something where, before the repair was made,</p> <p>25 sediment had gotten downstream?</p> <p>PAGE 78</p>	<p>1 THE WITNESS: Sure. So what -- what I heard</p> <p>2 said was that the models said that there would not be</p> <p>3 heaving. Now, it might be true, but I can tell you that</p> <p>4 we have -- there's other farmers in Richland County that</p> <p>5 have had saddles put onto the pipe because it was</p> <p>6 heaving and it -- you know, it still kind of heaved</p> <p>7 so...</p> <p>8 COMMISSIONER HAUGEN-HOFFART: What caused the</p> <p>9 heaving or -- you know, they had to do it? I mean, is</p> <p>10 it --</p> <p>11 THE WITNESS: I don't know.</p> <p>12 COMMISSIONER HAUGEN-HOFFART: -- heavy</p> <p>13 equipment? Is it frost? Do you know?</p> <p>14 THE WITNESS: My assumption is that it's frost</p> <p>15 because, you know, if this pipe is at -- let's just say</p> <p>16 it's at four feet. Well, there's a reason we put our</p> <p>17 waterlines at six feet in this state. It's because it</p> <p>18 freezes sometimes. Maybe not this year, maybe not next</p> <p>19 year, but it does freeze to four feet on a regular</p> <p>20 basis.</p> <p>21 COMMISSIONER HAUGEN-HOFFART: Which can create</p> <p>22 the heaving?</p> <p>23 THE WITNESS: I imagine.</p> <p>24 COMMISSIONER HAUGEN-HOFFART: Okay. Okay.</p> <p>25 Thank you.</p> <p>PAGE 80</p>

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<p>1 I'm looking at the application and like the</p> <p>2 communication that's between Summit and the landowners,</p> <p>3 and I'm just going to read some of this that's in the</p> <p>4 application regarding drain tile. And the reason why</p> <p>5 I'm reading it is to get your feedback if this has</p> <p>6 occurred or been communicated with you as a potential</p> <p>7 route:</p> <p>8 "Drain tiles disturbed or damaged by pipeline</p> <p>9 construction will be replaced to its original or better</p> <p>10 condition."</p> <p>11 Has anyone explained that to you in talking with</p> <p>12 you?</p> <p>13 THE WITNESS: I mean, they -- they offered to</p> <p>14 repair -- repair it in some way.</p> <p>15 COMMISSIONER HAUGEN-HOFFART: But did you go</p> <p>16 through your -- like your scenario with them, your</p> <p>17 concerns, and say "Would this be covered? Would this be</p> <p>18 covered?"</p> <p>19 THE WITNESS: Just in reading the easement, I</p> <p>20 don't see how that could be covered. My understanding</p> <p>21 was it was limited to the easement area.</p> <p>22 COMMISSIONER HAUGEN-HOFFART: Okay. I'm going</p> <p>23 to go on --</p> <p>24 THE WITNESS: The issues would be limited to the</p> <p>25 easement area because that's what they're -- they're</p> <p>PAGE 81</p>	<p>1 THE WITNESS: Could you repeat that, please?</p> <p>2 COMMISSIONER HAUGEN-HOFFART: Yes.</p> <p>3 "Drain tiles disturbed or damaged by pipeline</p> <p>4 construction will be repaired to its original or better</p> <p>5 condition."</p> <p>6 THE WITNESS: And this is in the application?</p> <p>7 COMMISSIONER HAUGEN-HOFFART: Yes. This is in</p> <p>8 the application we received from Summit.</p> <p>9 THE WITNESS: Is that language in the easement?</p> <p>10 COMMISSIONER HAUGEN-HOFFART: I don't know. I</p> <p>11 haven't read an easement.</p> <p>12 THE WITNESS: You don't get an easement?</p> <p>13 COMMISSIONER HAUGEN-HOFFART: We don't see the</p> <p>14 easements. It's between the landowner and Summit.</p> <p>15 The purpose of this is what -- what I'm getting</p> <p>16 at is you said you had communications with Summit, and</p> <p>17 you expressed concerns and you expressed them very much</p> <p>18 here. I'm just wondering what they have stated in their</p> <p>19 application, has that been in any way communicated with</p> <p>20 you in discussion of obtaining the easement?</p> <p>21 THE WITNESS: I think it was understood that</p> <p>22 they would repair the initial -- I don't know how to</p> <p>23 word this, but -- so they -- you know, they have to dig</p> <p>24 a trench, I imagine. I don't know what they do. But</p> <p>25 this gets cut at some point. They repair that. That's</p> <p>PAGE 83</p>
<p>1 purchasing, so to speak. Maybe that's an assumption on</p> <p>2 my part.</p> <p>3 COMMISSIONER HAUGEN-HOFFART: Okay. I'm just</p> <p>4 going to read a little bit more in their application,</p> <p>5 what they state.</p> <p>6 MR. PELHAM: If you could just say where you're</p> <p>7 reading it so we have it on the record.</p> <p>8 COMMISSIONER HAUGEN-HOFFART: Okay. Section</p> <p>9 2.2.12.3, second paragraph.</p> <p>10 "Permanent repair and replacement of damaged</p> <p>11 drain tiles will be performed in accordance with the</p> <p>12 following requirements:</p> <p>13 "All damaged, broken, or cracked tile will be</p> <p>14 removed.</p> <p>15 "Only unobstructed tile will be used for</p> <p>16 replacement."</p> <p>17 And it goes on.</p> <p>18 THE WITNESS: So I don't hear anything in there</p> <p>19 that addresses my concerns.</p> <p>20 COMMISSIONER HAUGEN-HOFFART: Okay. Okay. And</p> <p>21 then they say also in Section 8.3.4.1, Surface Damage</p> <p>22 (sic), the last sentence:</p> <p>23 "As discussed in Section 2.2.12, drain tiles</p> <p>24 disturbed or damaged by pipeline construction will be</p> <p>25 repaired to its original or better condition."</p> <p>PAGE 82</p>	<p>1 fine. But what happens after that? That's my concern.</p> <p>2 And that was never really addressed.</p> <p>3 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.</p> <p>4 I have no further questions.</p> <p>5 ALJ HOGAN: Mr. Dawson.</p> <p>6 SUBSTITUTE DECISIONMAKER DAWSON: Mr. Dotzenrod,</p> <p>7 it says in your testimony that you're managing the</p> <p>8 property. Are you renting it or do you -- are you part</p> <p>9 of a business association or family structure of some</p> <p>10 sort?</p> <p>11 THE WITNESS: Prior to -- let's see. So I'm</p> <p>12 farming in an LLC in 2023. Prior to that it was -- I</p> <p>13 was renting it as a -- I've been renting it for the past</p> <p>14 ten years. This next year I'll be renting it as an</p> <p>15 owner of an LLC. In the past I've rented it as an</p> <p>16 individual.</p> <p>17 SUBSTITUTE DECISIONMAKER DAWSON: I have no</p> <p>18 further questions.</p> <p>19 ALJ HOGAN: Are there any other commissioner</p> <p>20 questions?</p> <p>21 Mr. Pelham.</p> <p>22 RECROSS EXAMINATION</p> <p>23 BY MR. PELHAM:</p> <p>24 Q. Just a brief follow-up, Mr. Dotzenrod. As far</p> <p>25 as the owner's position on the proposed route of this</p> <p>PAGE 84</p>

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<p>1 line on the northwest quarter, what is your</p> <p>2 understanding, the owner's position? Is it in step with</p> <p>3 what your position is?</p> <p>4 <b>A. Yes. And -- it's in step with mine. And she</b></p> <p>5 <b>was waiting on some information. She wanted to add to</b></p> <p>6 <b>her statement. I believe she's planning on commenting</b></p> <p>7 <b>at one of the next couple meetings.</b></p> <p>8 MR. PELHAM: Thank you. Thank you. No further</p> <p>9 questions.</p> <p>10 ALJ HOGAN: All right. Thank you,</p> <p>11 Mr. Dotzenrod.</p> <p>12 BENJAMIN DOTZENROD: Thank you.</p> <p>13 ALJ HOGAN: Can I ask the other intervenors to</p> <p>14 come forward?</p> <p>15 Good morning.</p> <p>16 SHIRLEY WALOCH: Good morning.</p> <p>17 ALJ HOGAN: I'll have you start like the others</p> <p>18 with just stating your full name for the record and</p> <p>19 spelling your last name.</p> <p>20 SHIRLEY WALOCH: Shirley Waloch. Last name is</p> <p>21 W-A-L-O-C-H.</p> <p>22 ALJ HOGAN: And, Ms. Waloch, were you in the</p> <p>23 room earlier when I went through the penalties for</p> <p>24 perjury?</p> <p>25 SHIRLEY WALOCH: Yes, I was.</p> <p>PAGE 85</p>	<p>1 bought land, most on contract of deed, which it was a</p> <p>2 financial hardship. My husband passed away in 1993.</p> <p>3 The land is my main source of income.</p> <p>4 Now Summit Carbon wants to run a big pipeline</p> <p>5 through three quarters which will affect production for</p> <p>6 many years. They will also be driving on the land to</p> <p>7 check pipeline, checking it out, ruining crops.</p> <p>8 Concerns are damage to farmland, damage to crops,</p> <p>9 property values, and pipeline safety.</p> <p>10 This project is about a hazardous carbon</p> <p>11 pipeline. And when a pipeline explodes, it could</p> <p>12 suffocate or intoxicate anyone in the area. This</p> <p>13 happened in a little town in Mississippi as recently as</p> <p>14 2020. Dozens were sent to the hospital and many had</p> <p>15 seizures and machinery was made inoperable and residents</p> <p>16 today are still suffering chronic fatigue and lung</p> <p>17 dysfunction.</p> <p>18 Why can't they move this pipeline across the</p> <p>19 land where the owners are okay with it or run it along</p> <p>20 highways or interstate highways?</p> <p>21 Thank you.</p> <p>22 ALJ HOGAN: All right. Thank you.</p> <p>23 Mr. Bender, are you going to withhold questions</p> <p>24 of Ms. Waloch as well?</p> <p>25 MR. BENDER: Yes. We have the same agreement</p> <p>PAGE 87</p>
<p>1 ALJ HOGAN: And do you understand what perjury</p> <p>2 is?</p> <p>3 SHIRLEY WALOCH: Yes, I do.</p> <p>4 ALJ HOGAN: And being advised of the potential</p> <p>5 penalties for perjury, do you promise to tell the truth</p> <p>6 in this case today?</p> <p>7 SHIRLEY WALOCH: Yes.</p> <p>8 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>9 <b><u>SHIRLEY WALOCH.</u></b></p> <p>10 being first duly sworn, testified as follows:</p> <p>11 SHIRLEY WALOCH: Okay. I'm just --</p> <p>12 ALJ HOGAN: Maybe before you start, can I just</p> <p>13 have you, for the commissioners, can you state if you're</p> <p>14 a landowner or what your interest is?</p> <p>15 SHIRLEY WALOCH: I am a landowner.</p> <p>16 ALJ HOGAN: Okay. And can you give them an idea</p> <p>17 where your property is?</p> <p>18 SHIRLEY WALOCH: I am -- I am section 12 and 14</p> <p>19 in Bowen Township.</p> <p>20 ALJ HOGAN: Thank you. Go ahead.</p> <p>21 SHIRLEY WALOCH: Okay. Summit Carbon Solutions</p> <p>22 wants to run a pipeline through three quarters of my</p> <p>23 land. I said "no" so I have to come to a meeting to</p> <p>24 testify.</p> <p>25 My husband and I started farming in 1959. We</p> <p>PAGE 86</p>	<p>1 with counsel for this intervenor as the previous</p> <p>2 intervenor.</p> <p>3 ALJ HOGAN: All right. Thank you.</p> <p>4 Mr. Pelham, any questions?</p> <p>5 CROSS EXAMINATION</p> <p>6 BY MR. PELHAM:</p> <p>7 <b>Q.</b> Good morning, Ms. Waloch. I'm just wondering if</p> <p>8 any discussions were had between you and company</p> <p>9 representatives as far as potential reroutes around your</p> <p>10 property or is it just a firm "no"?</p> <p>11 <b>A. It was a firm "no". I don't want -- I don't</b></p> <p>12 <b>want it on my property.</b></p> <p>13 MR. PELHAM: I don't have any other questions</p> <p>14 for you. Thank you.</p> <p>15 ALJ HOGAN: Mr. Schock? Mr. Pranis?</p> <p>16 MR. PRANIS: No, Your Honor.</p> <p>17 ALJ HOGAN: Commissioner Christmann.</p> <p>18 COMMISSIONER CHRISTMANN: Thank you for being</p> <p>19 here, Shirley. Is your land primarily cropland or is it</p> <p>20 grasslands?</p> <p>21 THE WITNESS: Primarily cropland. There's some</p> <p>22 grassland but...</p> <p>23 COMMISSIONER CHRISTMANN: And I'm not familiar</p> <p>24 with the townships. Is it in Sargent County?</p> <p>25 THE WITNESS: Yes, Sargent County.</p> <p>PAGE 88</p>

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<p>1 COMMISSIONER CHRISTMANN: Is it east or west</p> <p>2 Sargent County?</p> <p>3 THE WITNESS: It would be halfway between here</p> <p>4 and Forman, North Dakota, is basically where it's</p> <p>5 located.</p> <p>6 COMMISSIONER CHRISTMANN: And is any of your</p> <p>7 land tiled?</p> <p>8 THE WITNESS: No.</p> <p>9 COMMISSIONER CHRISTMANN: Does it run pretty</p> <p>10 much straight east and west or north and south as it</p> <p>11 traverses your land or is it -- I don't know if you were</p> <p>12 able to see Mr. Dotzenrod's maps where it was kind of</p> <p>13 running diagonally through part of a quarter.</p> <p>14 THE WITNESS: It runs diagonally, yes.</p> <p>15 COMMISSIONER CHRISTMANN: Okay. Would it make a</p> <p>16 difference to you if it were running straight as opposed</p> <p>17 to diagonally, or is that not a factor in your dislike</p> <p>18 for the project?</p> <p>19 THE WITNESS: I just don't dislike the project.</p> <p>20 I think we have to protect our cropland, agricultural</p> <p>21 land also.</p> <p>22 COMMISSIONER CHRISTMANN: Okay. Thank you. I</p> <p>23 don't have any other questions.</p> <p>24 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>25 COMMISSIONER HAUGEN-HOFFART: Thank you for</p> <p>PAGE 89</p>	<p>1 <u>RANDALL WALOCH</u>,</p> <p>2 being first duly sworn, testified as follows:</p> <p>3 RANDALL WALOCH: Good morning. I'd like to</p> <p>4 first start with saying my number one concern is safety,</p> <p>5 much like most people who live close to the proposed</p> <p>6 pipeline route.</p> <p>7 I also have a couple other concerns. I am a</p> <p>8 farmer and cattle rancher. We raise crops and</p> <p>9 livestock. The proposed carbon pipeline route is less</p> <p>10 than a half a mile from my house and runs right</p> <p>11 alongside my calving pasture. In the event of a</p> <p>12 rupture, my cattle would not survive a blast and loss of</p> <p>13 oxygen.</p> <p>14 I have a copy of -- a certified insurance copy</p> <p>15 stated that it would not cover any losses incurred if</p> <p>16 this happens. How could I make up for the \$600,000</p> <p>17 economical loss with no insurance coverage and 50 years</p> <p>18 of breeding genetics?</p> <p>19 Being a farmer and a rancher, we are good</p> <p>20 stewards of the land. I have worked for years on making</p> <p>21 land more productive with minimum tillage, no tillage,</p> <p>22 and planting cover crops. With these practices, they</p> <p>23 will increase organic matter in the soil which will</p> <p>24 result in the soil being able to hold more water and air</p> <p>25 which will increase the yields. By putting a pipeline</p> <p>PAGE 91</p>
<p>1 coming, but I have no questions for you.</p> <p>2 THE WITNESS: Okay.</p> <p>3 ALJ HOGAN: Hang on.</p> <p>4 Mr. Dawson.</p> <p>5 SUBSTITUTE DECISIONMAKER DAWSON: Thank you. I</p> <p>6 have no questions.</p> <p>7 ALJ HOGAN: All right. Thank you, Ms. Waloch.</p> <p>8 Good morning.</p> <p>9 RANDALL WALOCH: Morning.</p> <p>10 ALJ HOGAN: Can I have you state your full name</p> <p>11 and spell your last name for the record?</p> <p>12 RANDALL WALOCH: My name is Randall Waloch,</p> <p>13 W-A-L-O-C-H.</p> <p>14 ALJ HOGAN: And, Mr. Waloch, were you in the</p> <p>15 room earlier when I went through the penalties for</p> <p>16 perjury?</p> <p>17 RANDALL WALOCH: Yes, I was.</p> <p>18 ALJ HOGAN: And do you understand what perjury</p> <p>19 is?</p> <p>20 RANDALL WALOCH: Yes.</p> <p>21 ALJ HOGAN: And being advised of the potential</p> <p>22 penalties for perjury, do you promise to tell the truth</p> <p>23 in this case today?</p> <p>24 RANDALL WALOCH: Yes.</p> <p>25 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>PAGE 90</p>	<p>1 in, it would destroy fertile topsoil and cause severe</p> <p>2 compaction which would decrease yields for years or</p> <p>3 forever.</p> <p>4 My experience in the past is any time you're</p> <p>5 trying to push through something really fast, there's</p> <p>6 probably something wrong with it.</p> <p>7 ALJ HOGAN: All right. Thank you.</p> <p>8 Similar situation, Mr. Bender?</p> <p>9 MR. BENDER: Yes, Your Honor.</p> <p>10 ALJ HOGAN: All right. Mr. Pelham, any</p> <p>11 questions?</p> <p>12 CROSS EXAMINATION</p> <p>13 BY MR. PELHAM:</p> <p>14 Q. Good morning, Mr. Waloch. I'm just wondering if</p> <p>15 you had any discussions or negotiations with the company</p> <p>16 as far as the proposed route on your property?</p> <p>17 A. I have not.</p> <p>18 MR. PELHAM: I don't have any other questions</p> <p>19 for you. Thank you.</p> <p>20 ALJ HOGAN: Mr. Schock.</p> <p>21 CROSS EXAMINATION</p> <p>22 BY MR. SCHOCK:</p> <p>23 Q. Would you be willing to identify the parcels of</p> <p>24 property that the proposed route crosses?</p> <p>25 A. It's on section 14, Bowen Township, 131, 56.</p> <p>PAGE 92</p>

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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.

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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,

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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.  
24  
25

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1 KEVIN PRANIS.  
2 being first duly sworn, testified as follows:  
3 MR. PRANIS: Thank you, Judge Hogan,  
4 Commissioners. Appreciate the opportunity to be here  
5 today.  
6 My name is Kevin Pranis, and I currently serve  
7 as the marketing manager for LIUNA Minnesota and North  
8 Dakota, an affiliate of the Laborers International Union  
9 of North America on behalf of the LIUNA Great Lakes  
10 Organizing Committee. My organization represents more  
11 than 14,000 skilled construction laborers engaged in  
12 construction of building, civil, and energy  
13 infrastructure projects across Minnesota and North  
14 Dakota including pipelines, pump stations, and other  
15 associated facilities. My business address is 81 East  
16 Little Canada Road, St. Paul, Minnesota.  
17 For the past nine years I've managed LIUNA's  
18 strategic growth programs and energy policy portfolio in  
19 Minnesota and North Dakota, including directing and  
20 conducting extensive research on a wide range of energy  
21 issues and projects. Prior to accepting my current  
22 position with LIUNA, I served as a -- directed national  
23 research and growth initiatives for LIUNA and the Change  
24 to Win Labor Federation in Washington, DC.  
25 I earned a master's of art's degree in social

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<p>1 sciences from the University of Chicago and have</p> <p>2 conducted extensive quantitative and qualitative</p> <p>3 research on topics ranging from criminal justice policy</p> <p>4 to workforce to energy over the past 25 years. During</p> <p>5 that time I've authored and participated in the</p> <p>6 development of numerous published reports and white</p> <p>7 papers.</p> <p>8 I'm here today to present testimony on the</p> <p>9 potential economic and employment impacts of Summit's</p> <p>10 proposed carbon capture pipeline project based on a</p> <p>11 report prepared for LIUNA by North Star Policy Action, a</p> <p>12 Minneapolis-based think tank that studies the economic</p> <p>13 and employment impacts of construction investments along</p> <p>14 with other topics. That report is Exhibit L1.</p> <p>15 So I want to just briefly summarize what I think</p> <p>16 are the key points of the report that are relevant to</p> <p>17 this proceeding and first point out that the report</p> <p>18 agrees with Summit on the importance of building</p> <p>19 infrastructure for carbon capture and sequestration in</p> <p>20 terms of both the economic benefits to North Dakota and</p> <p>21 to the other states that would be served by this project</p> <p>22 as well as to the potential environmental and climate</p> <p>23 benefits.</p> <p>24 The construction workforce strategy used by</p> <p>25 Summit and the company's contractors, the report finds,</p> <p>PAGE 97</p>	<p>1 When we looked at the comparison if just one --</p> <p>2 if 50 -- we see the difference of \$95 million if half of</p> <p>3 the construction workforce on the project is filled by</p> <p>4 local workers. As we find on what we consider to be</p> <p>5 high local utilization projects compared to just 10</p> <p>6 percent on low worker utilization projects, the</p> <p>7 difference in economic impact is approximately \$95</p> <p>8 million.</p> <p>9 The report also finds that the economic analysis</p> <p>10 commissioned by Summit could significantly overstate the</p> <p>11 local benefits of the project in areas where the</p> <p>12 company's construction contractors rely heavily on local</p> <p>13 workforce. That's because to the degree that we could</p> <p>14 ascertain, the economic analysis relies on an</p> <p>15 unrealistic assumption that local workers would account</p> <p>16 for more than 90 percent of the project's construction</p> <p>17 workforce. That's something that we almost never see in</p> <p>18 a project of this size, whether union or a non-union</p> <p>19 project.</p> <p>20 Fortunately, for the portions of the project</p> <p>21 that will be built by Precision, including the portions</p> <p>22 of the project located here in Sargent and Dickey</p> <p>23 County, we expect the economic benefits could actually</p> <p>24 equal or exceed the benefits that are being projected by</p> <p>25 Summit's estimate.</p> <p>PAGE 99</p>
<p>1 will significantly impact the project's economic</p> <p>2 impacts. Specifically, the report finds a difference of</p> <p>3 \$96 million in total economic impact for the state of</p> <p>4 North Dakota depending on whether the workforce is</p> <p>5 significantly local or whether the contractors use</p> <p>6 workforce that is overwhelmingly non-local based on our</p> <p>7 research -- the author's research into these energy</p> <p>8 projects.</p> <p>9 The report further finds that a local</p> <p>10 construction pipeline worker, in other words, a pipeline</p> <p>11 construction worker who lives in the area -- and we're</p> <p>12 talking about as in construction commuting distance of</p> <p>13 150 miles or more are not uncommon, so we're talking</p> <p>14 about somebody who's from North Dakota or western</p> <p>15 Minnesota -- will contribute four times more to the</p> <p>16 local economy than a non-local worker over the short</p> <p>17 term, 63,000 a year estimated versus \$16,000 per job</p> <p>18 year, and five times more over the long term once</p> <p>19 retirement benefits are included, a figure of \$79,000 in</p> <p>20 net contributions to the economy compared to just</p> <p>21 \$16,000 for a non-local worker.</p> <p>22 The reason for that are common sense. Local</p> <p>23 workers spend their money in the local economy and</p> <p>24 non-local workers generally take most of their paycheck</p> <p>25 back home to their place of residence.</p> <p>PAGE 98</p>	<p>1 The reason for that is, while we anticipate that</p> <p>2 actual hiring levels will be -- of local workers will be</p> <p>3 lower than 90 percent; we think 50 percent is more</p> <p>4 realistic based on our past experience with Precision.</p> <p>5 On the other hand, compensation levels for workers,</p> <p>6 including our members who work for Precision, are</p> <p>7 significantly higher than the numbers assumed by the</p> <p>8 Ernst &amp; Young report, both in terms of wages and</p> <p>9 especially benefits due to the sources that Ernst &amp;</p> <p>10 Young relies on which do not include the value of --</p> <p>11 very significant value of health and retirement benefits</p> <p>12 that pipeline workers employed by Precision typically</p> <p>13 earn.</p> <p>14 So I think the good news is that the net impact</p> <p>15 of the project here built by Precision as proposed by</p> <p>16 the company would be very positive and would, in our</p> <p>17 view, maximize the potential economic benefits.</p> <p>18 And so that's the -- you know, the sum of it.</p> <p>19 Happy to take any questions.</p> <p>20 ALJ HOGAN: All right. Thank you.</p> <p>21 Mr. Bender, any questions?</p> <p>22 MR. BENDER: No questions.</p> <p>23 ALJ HOGAN: Mr. Pelham.</p> <p>24</p> <p>25</p> <p>PAGE 100</p>

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<p>1 CROSS EXAMINATION</p> <p>2 BY MR. PELHAM:</p> <p>3 Q. Just wondering what the local component of the</p> <p>4 portion of pipeline that's proposed to be built in North</p> <p>5 Dakota is, if you know?</p> <p>6 A. If you could clarify, Mr. Bender (sic). Do you</p> <p>7 mean the local percentage of workforce?</p> <p>8 Q. Well, I think you testified that the</p> <p>9 Precision -- you know, there's a distinction between the</p> <p>10 Precision pipeline portion, which, as I understand, is</p> <p>11 going to be the main contractor for this proposed line.</p> <p>12 Do you know what the local North Dakota worker</p> <p>13 percentage is for that component?</p> <p>14 A. Thank you, Judge Hogan, Mr. Pelham.</p> <p>15 So in the Precision, our experience -- and my</p> <p>16 witness, Mr. Whiteford, can testify to this directly</p> <p>17 based on his experience, but our experience is typically</p> <p>18 that Precision employs roughly half and half. And</p> <p>19 that's according to the terms of the contracts that</p> <p>20 Precision has with their labor unions for, like, us that</p> <p>21 require that half of the workforce be sent by the local</p> <p>22 halls and half of the workforce is typically brought by</p> <p>23 the contractor.</p> <p>24 Now, it can vary somewhat depending on the</p> <p>25 availability of local workforce, but 50 percent local is</p> <p>PAGE 101</p>	<p>1 I don't know what policies or agreements Summit</p> <p>2 might have with Pumpco in terms of use of local</p> <p>3 workforce. Certainly it's a concern of ours that you</p> <p>4 could see a much lower percentage of local workforce on</p> <p>5 those portions of the project.</p> <p>6 MR. PELHAM: Thank you, Mr. Pranis. I don't</p> <p>7 have any other questions for you.</p> <p>8 ALJ HOGAN: Mr. Schock.</p> <p>9 MR. SCHOCK: No questions.</p> <p>10 ALJ HOGAN: Commissioner Christmann.</p> <p>11 COMMISSIONER CHRISTMANN: Did you say that</p> <p>12 Mr. Whiteford is going to be testifying?</p> <p>13 MR. PRANIS: Thank you, Commissioner Christmann.</p> <p>14 Yes, Mr. Whiteford will be testifying.</p> <p>15 COMMISSIONER CHRISTMANN: I think my question</p> <p>16 will be for Evan. Thanks.</p> <p>17 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>18 COMMISSIONER HAUGEN-HOFFART: No questions.</p> <p>19 ALJ HOGAN: Mr. Dawson.</p> <p>20 SUBSTITUTE DECISIONMAKER DAWSON: I'll wait as</p> <p>21 well.</p> <p>22 ALJ HOGAN: All right. You can call your</p> <p>23 witness then.</p> <p>24 MR. PRANIS: Thank you, Your Honor. He's a much</p> <p>25 better witness than I am. I can understand holding your</p> <p>PAGE 103</p>
<p>1 pretty typical and has been typical for past large</p> <p>2 construction projects. That's for the Precision</p> <p>3 portion.</p> <p>4 As I believe Mr. Powell indicated in the</p> <p>5 Bismarck hearing, Pumpco, the other contractor, will be</p> <p>6 performing the balance of the work and our members do</p> <p>7 not work for Pumpco. I'm not aware of any such contract</p> <p>8 that would require Pumpco to use local workforce.</p> <p>9 Q. So in Dickey and Sargent County, it's my</p> <p>10 understanding Precision is the primary contractor. But</p> <p>11 Pumpco is where?</p> <p>12 A. Our understanding, and obviously Mr. Powell</p> <p>13 could answer that question better, but our understanding</p> <p>14 is that the main line portions of the pipeline would be</p> <p>15 built by Pumpco. So I believe that's more in the Linton</p> <p>16 to Bismarck area.</p> <p>17 Q. So do you have a position on the Pumpco portion</p> <p>18 of the line, how it would impact economically, how it</p> <p>19 impacts your members?</p> <p>20 A. Our experience has typically been that when</p> <p>21 large contractors, pipeline or other energy contractors,</p> <p>22 come to North Dakota from other states and don't already</p> <p>23 have a significant local workforce, it's a much lower</p> <p>24 percentage of local workforce. We've seen as low as 10</p> <p>25 percent or lower.</p> <p>PAGE 102</p>	<p>1 questions. So I'd like to call Mr. Evan Whiteford.</p> <p>2 ALJ HOGAN: Good morning.</p> <p>3 EVAN WHITEFORD: How are you doing?</p> <p>4 ALJ HOGAN: Can I have you start by stating your</p> <p>5 full name and spelling your last name for the record?</p> <p>6 EVAN WHITEFORD: Evan Whiteford,</p> <p>7 W-H-I-T-E-F-O-R-D.</p> <p>8 ALJ HOGAN: And, Mr. Whiteford, were you in the</p> <p>9 room earlier when I went through the penalties for</p> <p>10 perjury?</p> <p>11 EVAN WHITEFORD: Yep.</p> <p>12 ALJ HOGAN: And do you understand what perjury</p> <p>13 is?</p> <p>14 EVAN WHITEFORD: Yep.</p> <p>15 ALJ HOGAN: And being advised of the potential</p> <p>16 penalties for perjury, do you promise to tell the truth</p> <p>17 in this case today?</p> <p>18 EVAN WHITEFORD: I do.</p> <p>19 ALJ HOGAN: All right. Thank you.</p> <p>20 Go ahead, Mr. Pranis.</p> <p>21 MR. PRANIS: Thank you, Your Honor.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>PAGE 104</p>

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<p>1 <u>EVAN WHITEFORD</u></p> <p>2 being first duly sworn, was examined and testified as</p> <p>3 follows:</p> <p>4 DIRECT EXAMINATION</p> <p>5 BY MR. PRANIS:</p> <p>6 Q. Mr. Whiteford, could you give us your title and</p> <p>7 place of employment and address?</p> <p>8 A. So I am a marketing representative for the Great</p> <p>9 Lakes Regional Organizing Committee associated with the</p> <p>10 Laborers International Unions of North Dakota based out</p> <p>11 of Ray, North Dakota. Office address is 2210 East</p> <p>12 Broadway Avenue in Bismarck.</p> <p>13 Q. Thank you.</p> <p>14 And can you briefly describe your experience in</p> <p>15 the pipeline construction industry?</p> <p>16 A. I've got over 20,000 hours in the field</p> <p>17 installing pipeline projects working for various</p> <p>18 contractors all over the United States. I spent the</p> <p>19 last five years of my installation career in North</p> <p>20 Dakota so I'm very familiar with North Dakota in terms</p> <p>21 of putting in pipelines. It's also where I started my</p> <p>22 career as a pipeliner, was here in North Dakota.</p> <p>23 Since then I've been over in the mountains,</p> <p>24 Pennsylvania, West Virginia. I've been in the swamps of</p> <p>25 Louisiana. I've worked for all the big brand of</p> <p>PAGE 105</p>	<p>1 relay this information back to our contractors as far as</p> <p>2 issues that come up maybe years down the line that are</p> <p>3 not seen, you know, within the first couple years of the</p> <p>4 install. The success here is that, you know, when we</p> <p>5 have this communication with our contractors and folks</p> <p>6 that we deal with, they can make changes to better the</p> <p>7 outcome long term down the road.</p> <p>8 Q. Have you, in terms of -- I want to turn to</p> <p>9 workforce recruitment and where you get workforce for a</p> <p>10 large project. Have you personally recruited local</p> <p>11 workers to work on a large pipeline project?</p> <p>12 A. Yes, I have. I guess a real specific one that</p> <p>13 stands out would be the Dakota Access Pipeline.</p> <p>14 Roughly -- in Williams and McKenzie County alone,</p> <p>15 roughly 60 or so workers that we have placed onto these</p> <p>16 projects coming from all sorts of different backgrounds.</p> <p>17 Q. Did those workers all have extensive pipeline</p> <p>18 experience or construction experience?</p> <p>19 A. So the experience that we seen with the groups</p> <p>20 of individuals that we recruited varied, some going from</p> <p>21 absolutely zero construction experience all the way up</p> <p>22 to folks that had minimal experience in the pipeline</p> <p>23 but, I'd say, you know, a little bit of construction</p> <p>24 background somewhere or some common knowledge of how a</p> <p>25 construction project goes underway. But we have been</p> <p>PAGE 107</p>
<p>1 contractors. Henkels &amp; McCoy, Price Gregory, Precision,</p> <p>2 UPI, Infrasource, several others that aren't really</p> <p>3 coming to mind right this minute.</p> <p>4 Q. Thanks.</p> <p>5 And in your current role working for the union,</p> <p>6 what is your experience and what work have you continued</p> <p>7 to do in pipeline other than construction?</p> <p>8 A. So a big part of what I do now is recruiting and</p> <p>9 monitoring projects, both projects that we have underway</p> <p>10 and projects that we do not have. We've recruited</p> <p>11 numerous members all over the state of North Dakota for</p> <p>12 long-term careers. Projects are temporary, but in our</p> <p>13 industry we make a whole career out of temporary</p> <p>14 employment, so to speak.</p> <p>15 As far as the oversight of pipelines, I have</p> <p>16 driven all over the state from corner to corner and laid</p> <p>17 eyes on just about every pipeline project that's ever</p> <p>18 under -- ever been installed in North Dakota. We are</p> <p>19 monitoring projects of our own to become better stewards</p> <p>20 of the industry, to have better integrity with our</p> <p>21 contractors, to do better installs, to leave land better</p> <p>22 conditioned.</p> <p>23 A lot of this info is not really relayed between</p> <p>24 project owners and the companies that are installing it.</p> <p>25 I do a lot of meet-and-greets with landowners and I can</p> <p>PAGE 106</p>	<p>1 able to recruit anybody of any skill level and place</p> <p>2 them into these positions with skilled experienced</p> <p>3 people to do the on-job training portion of pipeline</p> <p>4 construction.</p> <p>5 Q. And are some of the local workers that you</p> <p>6 recruited onto the Dakota Access project still working</p> <p>7 in the construction industry today?</p> <p>8 A. Yeah. The majority of them are still around</p> <p>9 today. They may not all be doing pipeline right now,</p> <p>10 but we have a broad spectrum of projects that we cover</p> <p>11 from -- you know, energy is a small -- is just a portion</p> <p>12 of what we do. We do a lot of building trades work and</p> <p>13 a lot of highway work. And so these people have -- we</p> <p>14 have retained them and they have made a career out of</p> <p>15 doing labor tasks as union labor.</p> <p>16 Q. Do you see the current project that's proposed</p> <p>17 by Summit as an opportunity to bring new local workers</p> <p>18 from this area into family-supporting construction</p> <p>19 careers?</p> <p>20 A. Absolutely. Folks might think, oh, it's just a</p> <p>21 pipeline project, they're going to be here for the</p> <p>22 install and then where do they go next? This area of</p> <p>23 North Dakota, maybe not specifically here in Gwinner,</p> <p>24 but the eastern half of North Dakota is exploding lately</p> <p>25 with projects. The amount of growth in this area is</p> <p>PAGE 108</p>

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<p>1 tremendous, and we would have zero issues keeping people</p> <p>2 placed into a job.</p> <p>3 Q. I want to turn to Precision specifically. So</p> <p>4 you mentioned you worked for Precision. Have you</p> <p>5 witnessed Precision working on a large pipeline</p> <p>6 construction project in North Dakota?</p> <p>7 A. Yes. That would be the Dakota Access Pipeline.</p> <p>8 Q. And what would you say was the share of local</p> <p>9 workforce employed by Precision versus their traveling</p> <p>10 hands from other states?</p> <p>11 A. I would say, you know, contract-wise it would be</p> <p>12 50 percent, but it was actually more -- I would say more</p> <p>13 like 70 to 80 percent local workforce considering that</p> <p>14 North Dakota has been the breeding ground for the future</p> <p>15 of pipeliners that are coming from all over and</p> <p>16 relocating here.</p> <p>17 The advantage that Precision and several other</p> <p>18 of our contractors have is over the years they have hung</p> <p>19 on to these folks that we have recruited in and so they</p> <p>20 do live here, they do call North Dakota home, and they</p> <p>21 do work here.</p> <p>22 Q. What has your experience been with other</p> <p>23 national sort of out-of-state contractors that don't</p> <p>24 work with the union in terms of their use of local</p> <p>25 workforce if they come in to do a big project?</p> <p>PAGE 109</p>	<p>1 experience, are some of the biggest threats to the</p> <p>2 integrity of the pipeline, to the ability for the</p> <p>3 pipeline to operate without spills or leaks?</p> <p>4 A. So everybody is focused on the welding</p> <p>5 procedures, which that is a very important part of the</p> <p>6 pipeline, obviously, it's what holds the pipe together,</p> <p>7 but pipe handling is often overlooked. You know, we've</p> <p>8 got this coating on this pipe that is there to protect</p> <p>9 the pipe, similar to a paint job on your car. Well,</p> <p>10 improper handling will put voids in this coating and</p> <p>11 leave it vulnerable for corrosion. And if you are not</p> <p>12 experienced with handling pipe or you're not using the</p> <p>13 appropriate methods to handle pipe, you're going to</p> <p>14 jeopardize the coating, which is ultimately your first</p> <p>15 line of defense in the integrity of your pipeline.</p> <p>16 And the other part is the two-part epoxy</p> <p>17 coating, which is the most commonly used, to coat the</p> <p>18 welds after the welds have been completed and X-rayed.</p> <p>19 Coating in itself is probably just as important, if not</p> <p>20 more important, than the weld itself in terms of how</p> <p>21 long the pipe is going to last.</p> <p>22 So pipe handling is probably where I've seen a</p> <p>23 lot of people fall short who have -- people that have no</p> <p>24 experience handling it.</p> <p>25 I think that answers your question.</p> <p>PAGE 111</p>
<p>1 A. You see a little increase in hiring locally.</p> <p>2 Typically, they're filling a small void. And they run</p> <p>3 through with the project and very few of them stick with</p> <p>4 that company. They're pretty much looking for work when</p> <p>5 they leave. We see that a lot.</p> <p>6 Q. Okay. I want to turn to sort of quality of</p> <p>7 construction and safety. What is -- what are the</p> <p>8 measures, first of all, that your organization takes to</p> <p>9 try to make sure that pipelines are installed correctly</p> <p>10 and safely?</p> <p>11 A. Well, I think first and foremost is the level of</p> <p>12 experience that our members have that are currently</p> <p>13 installing the projects is superior. I mean, they -- we</p> <p>14 have individuals that have been in this industry their</p> <p>15 whole lives. You know, we're talking anybody from early</p> <p>16 20s on up to in their 60s. All they know is pipelines.</p> <p>17 They live, eat, sleep, and breathe the pipelines.</p> <p>18 We have our training facility where we send</p> <p>19 folks to go get trained up to know the roots of what</p> <p>20 we're doing and how to do this safely and properly.</p> <p>21 So between our training center and our</p> <p>22 experience in the field, we are very confident that we</p> <p>23 can supply the knowledge needed to safely build a</p> <p>24 pipeline that is going to be done correctly.</p> <p>25 Q. So can I ask specifically about what, in your</p> <p>PAGE 110</p>	<p>1 Q. Can I ask about the trench construction and</p> <p>2 filling, placement and filling, and what -- if there are</p> <p>3 risks there to long-term integrity of the pipeline?</p> <p>4 A. So when you have a pipeline project that's going</p> <p>5 underground, you've got an open excavation. And</p> <p>6 obviously excavation safety is a concern with the people</p> <p>7 working there, but more so when we're talking about the</p> <p>8 safety of the pipe, you know, we ensure that we are</p> <p>9 padding the pipe with loose material free of debris. I</p> <p>10 don't think there's anything worse that could happen</p> <p>11 than to have a pipe sitting on a rock wearing a hole in</p> <p>12 that pipe. And so typically you do about a two-foot</p> <p>13 area around the pipe that is padded dirt that's been</p> <p>14 sifted of all rocks and debris.</p> <p>15 Q. Can I ask your experience with Precision in</p> <p>16 terms of these different practices, coating, the trench,</p> <p>17 the pipe handling, what the -- you know, what you</p> <p>18 believe the level of quality of work is with Precision</p> <p>19 based on your experience working for them or seeing</p> <p>20 their work on Dakota Access?</p> <p>21 A. My opinion, Precision is a top-notch contractor.</p> <p>22 They're one of the best in the industry.</p> <p>23 In terms of handling, I mean, we've got several</p> <p>24 of their folks are NACE-certified individuals that -- if</p> <p>25 you're not familiar with NACE, it's the technical</p> <p>PAGE 112</p>

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<p>1 standards for pipeline coatings and they certify</p> <p>2 individuals to apply and handle these coatings in the</p> <p>3 correct fashion. Just with experience alone, you know,</p> <p>4 without the NACE certifications, they show exceptional</p> <p>5 care about how they're handling their products going</p> <p>6 into the ground.</p> <p>7 Q. All right. Thank you.</p> <p>8 MR. PRANIS: No further questions.</p> <p>9 ALJ HOGAN: All right. Thank you.</p> <p>10 Mr. Bender, any questions?</p> <p>11 MR. BENDER: No questions.</p> <p>12 ALJ HOGAN: Mr. Pelham.</p> <p>13 CROSS EXAMINATION</p> <p>14 BY MR. PELHAM:</p> <p>15 Q. Good morning, Mr. Whiteford. I was just</p> <p>16 wondering if you had -- in your years working at a</p> <p>17 pipeline, if you had any experience when drain tiles are</p> <p>18 present on a project?</p> <p>19 A. I am not your subject expert on drain tiles.</p> <p>20 Q. Fair enough.</p> <p>21 A. I have seen a few but I really -- I'm not the</p> <p>22 one to answer them questions.</p> <p>23 Q. That's fine.</p> <p>24 And as far as installation of lines in cold</p> <p>25 weather climate such as North Dakota, some prior</p> <p>PAGE 113</p>	<p>1 CROSS EXAMINATION</p> <p>2 BY MR. SCHOCK:</p> <p>3 Q. The pipelines you were just referencing in the</p> <p>4 Bakken, were those buried to a similar depth of</p> <p>5 around four feet?</p> <p>6 A. That is the standard through the industry, is</p> <p>7 four feet to the top of the pipe, so yeah.</p> <p>8 MR. SCHOCK: No further questions.</p> <p>9 ALJ HOGAN: Commissioner Christmann.</p> <p>10 COMMISSIONER CHRISTMANN: When you've worked on</p> <p>11 projects of major transmission lines like this would be,</p> <p>12 a PHMSA-regulated line, and you cross anything else,</p> <p>13 whether it's drain tiling or telecommunication lines or</p> <p>14 some other pipeline, are those able to go over the top</p> <p>15 of the PHMSA-regulated line or do they need to be routed</p> <p>16 underneath it?</p> <p>17 THE WITNESS: That -- I couldn't speak in terms</p> <p>18 of what the standard is from PHMSA on that. Typically,</p> <p>19 these utilities are shallower than what the pipeline</p> <p>20 would be so the pipe would actually be underneath.</p> <p>21 And, you know, in terms of actually cutting that</p> <p>22 utility, there are ways of getting the pipeline under</p> <p>23 that utility without cutting it. It would just be a</p> <p>24 series of tie-ins. You'd kind of fish the pipe under</p> <p>25 the utility and then tie your pipe in and shore up the</p> <p>PAGE 115</p>
<p>1 testimony about concerns with heaving. Have you seen</p> <p>2 that or are there construction methods that are used to</p> <p>3 address that potential of preventing heaving?</p> <p>4 A. So -- yeah, as that was brought up, as they</p> <p>5 really kind of had me running through my mind. The only</p> <p>6 known heaving that I have witnessed in my career is</p> <p>7 usually in lowlands, wetlands, where, you know, the pipe</p> <p>8 may not have been properly anchored to where it actually</p> <p>9 floats, over time it just works its way to the top, in</p> <p>10 which case, you know, typically when you're installing a</p> <p>11 pipeline through a low-lying area, you would use a</p> <p>12 concrete-coated pipe or pipe weights to eliminate that</p> <p>13 pipe from floating.</p> <p>14 But as far as a pipe working its way out of the</p> <p>15 ground due to frost, I have not seen that. I live in</p> <p>16 the Bakken where there's -- you throw spaghetti on the</p> <p>17 map in North Dakota and that's what the Bakken looks</p> <p>18 like underground. And some of these pipelines are</p> <p>19 dating back to what? '50s? They don't just come out of</p> <p>20 the ground.</p> <p>21 MR. PELHAM: Thank you. I don't have any other</p> <p>22 questions.</p> <p>23 ALJ HOGAN: Mr. Schock.</p> <p>24</p> <p>25</p> <p>PAGE 114</p>	<p>1 utility as you backfill.</p> <p>2 COMMISSIONER CHRISTMANN: Okay. No other</p> <p>3 questions.</p> <p>4 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>5 COMMISSIONER HAUGEN-HOFFART: Thank you. My</p> <p>6 questions have been asked so I have no further</p> <p>7 questions.</p> <p>8 ALJ HOGAN: Mr. Dawson.</p> <p>9 SUBSTITUTE DECISIONMAKER DAWSON: Thank you. I</p> <p>10 have no questions.</p> <p>11 ALJ HOGAN: All right. Anything further,</p> <p>12 Mr. Pranis?</p> <p>13 MR. PRANIS: No, Your Honor.</p> <p>14 ALJ HOGAN: All right. Thank you,</p> <p>15 Mr. Whiteford.</p> <p>16 THE WITNESS: Thank you.</p> <p>17 ALJ HOGAN: Does that conclude your</p> <p>18 presentation, Mr. Pranis?</p> <p>19 MR. PRANIS: That does, Your Honor.</p> <p>20 ALJ HOGAN: Okay. Let's see. Can I get a show</p> <p>21 of hands of how many people want to provide public</p> <p>22 testimony? Okay. Just a handful.</p> <p>23 Is everybody okay with doing public testimony</p> <p>24 rather than breaking for lunch? Okay. So we will move</p> <p>25 to public testimony.</p> <p>PAGE 116</p>

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<p>1 Just a few items before we start that portion of</p> <p>2 our hearing. If you wish to provide public testimony,</p> <p>3 I'm going to have you come forward and sit at the</p> <p>4 witness stand. Like the other witnesses this morning,</p> <p>5 you will be sworn in and the parties and the</p> <p>6 commissioners will be allowed to ask you questions.</p> <p>7 If you represent a group or an entity, if you</p> <p>8 could identify that and your relationship to the group,</p> <p>9 that would be helpful. Also, if you're a landowner, if</p> <p>10 you could indicate that to the Commission along with</p> <p>11 where your property is located, that would be helpful.</p> <p>12 Let's see here. You are providing testimony at</p> <p>13 an evidentiary hearing so this is not the time to ask</p> <p>14 other parties or witnesses questions or the</p> <p>15 commissioners questions.</p> <p>16 So I think that's all I need to indicate at this</p> <p>17 point. So I'll just ask whoever wants to go first, if</p> <p>18 you could come forward. Yeah. And if you do wish to</p> <p>19 provide public comment, if you would like to start</p> <p>20 making your way to the front here, that would be</p> <p>21 helpful.</p> <p>22 JASON ARTH: Hello.</p> <p>23 ALJ HOGAN: Good morning. Could I get your name</p> <p>24 and have you spell your last name for the record?</p> <p>25 JASON ARTH: Jason Arth, A-R-T-H.</p> <p>PAGE 117</p>	<p>1 distributed to schools, townships, fire departments, and</p> <p>2 within the county. With rising land taxes every year,</p> <p>3 it seems like land taxes go up. I mean, I believe that</p> <p>4 this could potentially help with an issue like that,</p> <p>5 bringing close to half a million dollars to the county</p> <p>6 in tax revenue.</p> <p>7 Anything that our Sargent County board has</p> <p>8 worked with Interstate Engineering for -- with Summit</p> <p>9 Carbon pipeline on recommendations going through county</p> <p>10 roads and doing that the proper way and any agreements</p> <p>11 with Summit Carbon pipeline will go through our state's</p> <p>12 attorney and we will go with the recommendations of the</p> <p>13 people we have on board.</p> <p>14 So I guess that's about all I had or wanted to</p> <p>15 say, I guess.</p> <p>16 ALJ HOGAN: All right. Thank you.</p> <p>17 Mr. Bender, any questions?</p> <p>18 MR. BENDER: Thank you for your testimony. No</p> <p>19 questions.</p> <p>20 ALJ HOGAN: Mr. Pelham.</p> <p>21 MR. PELHAM: Thank you, Commissioner.</p> <p>22 Just wondering if you know about any conditional</p> <p>23 use permit requirements that Sargent County has?</p> <p>24 JASON ARTH: Yes. Well, we have -- work within</p> <p>25 right of way permits that they will have to fill out</p> <p>PAGE 119</p>
<p>1 ALJ HOGAN: And Mr. Arth, were you in the room</p> <p>2 earlier when I went through the penalties for perjury?</p> <p>3 JASON ARTH: I was not.</p> <p>4 ALJ HOGAN: All right. Well, I'm required by</p> <p>5 law to do it. So perjury is a Class C felony punishable</p> <p>6 by a maximum fine of \$10,000, a maximum five years'</p> <p>7 imprisonment, or both.</p> <p>8 Do you understand what perjury is?</p> <p>9 JASON ARTH: Yes.</p> <p>10 ALJ HOGAN: And being advised of the potential</p> <p>11 penalties for perjury, do you promise to tell the truth</p> <p>12 in this case today?</p> <p>13 JASON ARTH: Yes.</p> <p>14 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>15 <u>JASON ARTH.</u></p> <p>16 being first duly sworn, testified as follows:</p> <p>17 JASON ARTH: Okay. I guess I'm a Sargent County</p> <p>18 commissioner. Been on the board for about six years</p> <p>19 now.</p> <p>20 We've been working with Summit Carbon pipeline</p> <p>21 on the information that they've been giving us. I'm</p> <p>22 just going to go over what -- what their proposal is for</p> <p>23 the annual revenue they're going to -- this pipeline</p> <p>24 would bring \$465,000 of tax revenue to Sargent County,</p> <p>25 added to the tax base. That money, you know, is</p> <p>PAGE 118</p>	<p>1 when crossing any of our right of ways.</p> <p>2 MR. PELHAM: Any zoning or setback requirements</p> <p>3 that the county has?</p> <p>4 JASON ARTH: I believe so, but our engineer</p> <p>5 would have that information. I don't know what it is</p> <p>6 right offhand.</p> <p>7 MR. PELHAM: That's fine. Thank you. I don't</p> <p>8 have any other questions for you. Thank you.</p> <p>9 ALJ HOGAN: Mr. Schock.</p> <p>10 MR. SCHOCK: Are there any services the company</p> <p>11 has otherwise requested from the county as far as</p> <p>12 emergency services, anything other than, you know, kind</p> <p>13 of the crossing permits but --</p> <p>14 JASON ARTH: Not that I know of.</p> <p>15 MR. SCHOCK: Okay. I have no other questions.</p> <p>16 Thank you.</p> <p>17 ALJ HOGAN: Mr. Pranis, any questions?</p> <p>18 MR. PRANIS: No, Your Honor.</p> <p>19 ALJ HOGAN: Commissioner Christmann.</p> <p>20 COMMISSIONER CHRISTMANN: So I'm understanding</p> <p>21 they have started with the process of applying for some</p> <p>22 road crossing permits and things like that. Did I</p> <p>23 understand that right?</p> <p>24 JASON ARTH: We have -- they have the permit,</p> <p>25 but I haven't seen any come across our desk yet.</p> <p>PAGE 120</p>

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<p>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</p> <p>PAGE 121</p>	<p>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?</p> <p>PAGE 123</p>
<p>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 <u>LYLE BOPP.</u> 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.</p> <p>PAGE 122</p>	<p>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</p> <p>PAGE 124</p>

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<p>1 leak. So the issue you're raising was that, in that</p> <p>2 case, the sheriff's office had to spend a lot of time</p> <p>3 providing security and such and nothing was --</p> <p>4 LYLE BOPP: It didn't --</p> <p>5 COMMISSIONER CHRISTMANN: -- reimbursed for</p> <p>6 that?</p> <p>7 LYLE BOPP: Excuse me. It didn't come out of</p> <p>8 Sargent County's pocket because it was in South Dakota,</p> <p>9 just across the border from Sargent County. So they</p> <p>10 paid our sheriff's office and personnel, they paid them,</p> <p>11 Keystone pipeline paid for their services down there.</p> <p>12 It just took them away from our services here and it was</p> <p>13 -- that's my concern, is, is there a safety issue even</p> <p>14 though we've been assured that there isn't with this</p> <p>15 pipeline? We were assured the same thing with Keystone,</p> <p>16 that there wasn't.</p> <p>17 COMMISSIONER CHRISTMANN: So you're not</p> <p>18 concerned about not getting reimbursed if something like</p> <p>19 that could happen.</p> <p>20 LYLE BOPP: No.</p> <p>21 COMMISSIONER CHRISTMANN: You're concerned about</p> <p>22 just the distraction of time and such.</p> <p>23 LYLE BOPP: Yeah. And -- and they did it on</p> <p>24 their own time, but it was -- it -- that wasn't the</p> <p>25 issue, I guess, is -- is -- but it was a big concern</p> <p>PAGE 125</p>	<p>1 COMMISSIONER HAUGEN-HOFFART: I have no further</p> <p>2 questions but just to thank you for your years of</p> <p>3 service to the community.</p> <p>4 LYLE BOPP: Yeah.</p> <p>5 ALJ HOGAN: Mr. Dawson.</p> <p>6 SUBSTITUTE DECISIONMAKER DAWSON: No questions.</p> <p>7 Thanks for coming.</p> <p>8 ALJ HOGAN: Thank you.</p> <p>9 LYLE BOPP: Okay.</p> <p>10 ALJ HOGAN: Good morning.</p> <p>11 BRUCE SPEICH: Bruce Speich, S-P-E-I-C-H. I'm a</p> <p>12 local landowner and I also have signed easement. I do</p> <p>13 believe --</p> <p>14 ALJ HOGAN: Hang on. I've got to swear you</p> <p>15 in first.</p> <p>16 BRUCE SPEICH: Oh, I'm sorry.</p> <p>17 ALJ HOGAN: Did you hear me go through the</p> <p>18 penalties for perjury?</p> <p>19 BRUCE SPEICH: I did.</p> <p>20 ALJ HOGAN: And do you understand what perjury</p> <p>21 is?</p> <p>22 BRUCE SPEICH: Yes.</p> <p>23 ALJ HOGAN: And being advised of the potential</p> <p>24 penalties for perjury, do you promise to tell the truth</p> <p>25 in this case today?</p> <p>PAGE 127</p>
<p>1 that they had to have security hired for that area. I'm</p> <p>2 hoping that pipe -- this Summit pipeline doesn't have</p> <p>3 the same issue in Sargent County that they had with the</p> <p>4 Keystone in South Dakota. That's the point I was trying</p> <p>5 to make.</p> <p>6 COMMISSIONER CHRISTMANN: Okay. Thank you for</p> <p>7 being here.</p> <p>8 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>9 COMMISSIONER HAUGEN-HOFFART: I guess mine is</p> <p>10 just more of a statement. In reading through the</p> <p>11 application on the safety matters, Summit puts in their</p> <p>12 application that they will work with local on the</p> <p>13 training and -- our goal is not, if approved, would</p> <p>14 never be to have any type of leak. You know, that's</p> <p>15 anywhere in the U.S. or around the world. So I think</p> <p>16 it's got to be very local, if this is approved, that the</p> <p>17 locals work with the company and what the resources are</p> <p>18 needed and to make sure that people feel comfortable, if</p> <p>19 something happens, what's the plan.</p> <p>20 LYLE BOPP: Our county emergency management</p> <p>21 director, I believe, in response to that has been in</p> <p>22 contact with the fire departments, the ambulances, and I</p> <p>23 -- I do believe that Summit has provided some training</p> <p>24 with our emergency management director in coordination</p> <p>25 with these emergency services.</p> <p>PAGE 126</p>	<p>1 BRUCE SPEICH: I do.</p> <p>2 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>3 <u>BRUCE SPEICH,</u></p> <p>4 being first duly sworn, testified as follows:</p> <p>5 BRUCE SPEICH: So I'm a local landowner. I have</p> <p>6 signed my easement. I do believe in this project.</p> <p>7 Safety is the -- probably my biggest concern, that</p> <p>8 Summit does what they promise with the safety issues and</p> <p>9 stuff.</p> <p>10 The personnel that I have dealt with with</p> <p>11 Summit, they've always been good, productive</p> <p>12 conversations. I can't -- everybody that I've had</p> <p>13 questions about anything, they have referred me to</p> <p>14 somebody else if they didn't know the answer, and I have</p> <p>15 gotten feedback, and 95 percent of that's been positive.</p> <p>16 Our property happens to be the area in eastern</p> <p>17 Sargent County where the pipeline crosses the Wild Rice</p> <p>18 River, and that will be a complete bore under -- it's a</p> <p>19 half mile of mine that the pipeline goes across and</p> <p>20 about, I'm going to say, two-thirds of that will be a</p> <p>21 bore so there will not be any soil disturbance.</p> <p>22 One other comment that I would like to make</p> <p>23 about the pipeline rising up. We have two pipelines</p> <p>24 that run north of our property right in the southeast --</p> <p>25 southeastern corner of Ransom County through some land</p> <p>PAGE 128</p>



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<p>1 that we rent. Several years ago, I don't know if it was</p> <p>2 in the '80s, there was a pipeline that came through in</p> <p>3 the mid '70s and then there was a larger pipeline came</p> <p>4 through in the early '80s, I believe. And they did have</p> <p>5 issues with that because of the high water table and</p> <p>6 they did have to come back, lower it and put saddles on</p> <p>7 it to keep it from rising.</p> <p>8 ALJ HOGAN: All right. Thank you.</p> <p>9 Mr. Bender, any questions?</p> <p>10 MR. BENDER: Thank you, Mr. Speich, for your</p> <p>11 testimony. No questions.</p> <p>12 BRUCE SPEICH: Thank you.</p> <p>13 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>14 MR. PELHAM: Mr. Speich, any idea what type of</p> <p>15 pipeline those two other lines you reference that they</p> <p>16 had to put saddles on?</p> <p>17 BRUCE SPEICH: I know for one is a natural gas</p> <p>18 pipeline, and the other I do not know.</p> <p>19 MR. PELHAM: Thank you, sir. No other</p> <p>20 questions.</p> <p>21 MR. SCHOCK: No questions.</p> <p>22 ALJ HOGAN: All right. Mr. Pranis, any</p> <p>23 questions?</p> <p>24 MR. PRANIS: No, Your Honor.</p> <p>25 ALJ HOGAN: Commissioner Christmann.</p> <p>PAGE 129</p>	<p>1 diagonally or straight?</p> <p>2 BRUCE SPEICH: Very small diagonal. Pretty</p> <p>3 close to straight but -- without looking at the map, I</p> <p>4 couldn't tell you exactly but --</p> <p>5 COMMISSIONER CHRISTMANN: No other questions.</p> <p>6 Thank you for being here.</p> <p>7 BRUCE SPEICH: A couple other comments. I was</p> <p>8 asked why aren't there any surveyors coming out. I did</p> <p>9 give them permission. Because of the -- they also asked</p> <p>10 last fall to come out and do soil sampling where they're</p> <p>11 going to do the soil bore. I was asked in advance about</p> <p>12 that. I did give them permission.</p> <p>13 I was out at the site, met with the people doing</p> <p>14 it. Things went well. They didn't have an easement for</p> <p>15 that, to do that. I allowed them to do that. And very</p> <p>16 little crop damage was done, and they offered to pay for</p> <p>17 it, which they did. So, like I said earlier, I've had</p> <p>18 good response with the company.</p> <p>19 COMMISSIONER CHRISTMANN: Good. No other</p> <p>20 questions.</p> <p>21 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>22 COMMISSIONER HAUGEN-HOFFART: Thank you.</p> <p>23 Thank you, Bruce. I just -- further question on</p> <p>24 the pipeline that you saw rising up. You said it was</p> <p>25 due to a rising water table.</p> <p>PAGE 131</p>
<p>1 COMMISSIONER CHRISTMANN: I'm sorry, but I</p> <p>2 didn't catch your first name.</p> <p>3 BRUCE SPEICH: Bruce.</p> <p>4 COMMISSIONER CHRISTMANN: Bruce. And where this</p> <p>5 traverses your land, is that mostly grasslands or is it</p> <p>6 mostly croplands or what?</p> <p>7 BRUCE SPEICH: A small percentage of it is</p> <p>8 cropland. I'd say one-third -- one-third cropland,</p> <p>9 two-thirds native range land.</p> <p>10 COMMISSIONER CHRISTMANN: And have you had</p> <p>11 communication with them about what kind of a grass seed</p> <p>12 mix is going to be seeded?</p> <p>13 BRUCE SPEICH: That's not necessary because it</p> <p>14 will be a bore.</p> <p>15 COMMISSIONER CHRISTMANN: Oh, the --</p> <p>16 BRUCE SPEICH: Yes.</p> <p>17 COMMISSIONER CHRISTMANN: -- grassland part is</p> <p>18 all under the bore?</p> <p>19 BRUCE SPEICH: Yes. And that's approximately a</p> <p>20 third of a mile maybe, maybe a little bit less but</p> <p>21 thereabouts.</p> <p>22 COMMISSIONER CHRISTMANN: Okay. On your</p> <p>23 cropland, is that tiled land or --</p> <p>24 BRUCE SPEICH: No, it's not.</p> <p>25 COMMISSIONER CHRISTMANN: And does it run</p> <p>PAGE 130</p>	<p>1 BRUCE SPEICH: Just high water table land all</p> <p>2 the time.</p> <p>3 COMMISSIONER HAUGEN-HOFFART: About how long --</p> <p>4 how much of the pipeline was affected?</p> <p>5 BRUCE SPEICH: That, I do not remember. It went</p> <p>6 through my wife's great uncle's land and I know that</p> <p>7 they talked about it and that they had to come put</p> <p>8 saddles on. And he's not the most -- God bless his</p> <p>9 soul, he's passed away, but he wasn't the most easy guy</p> <p>10 to get along with all the time. And I believe it was</p> <p>11 Alliance and Williams -- don't hold me to that -- as the</p> <p>12 two pipelines, but he always spoke very well of them</p> <p>13 over the years. Now, I don't know if that was the case</p> <p>14 when they were going through his land, but compensation</p> <p>15 and stuff that he got for the stuff, he was -- always</p> <p>16 had a positive attitude.</p> <p>17 COMMISSIONER HAUGEN-HOFFART: So you didn't</p> <p>18 witness this, you just heard about it.</p> <p>19 BRUCE SPEICH: Well, we live four and a half</p> <p>20 miles away and we farmed his land for several years</p> <p>21 after he retired. Still do. But -- yes, I -- I seen</p> <p>22 when things were going on and was a witness to some of</p> <p>23 it, but that's been 40 years ago now so...</p> <p>24 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.</p> <p>25 ALJ HOGAN: Mr. Dawson.</p> <p>PAGE 132</p>

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<p>1 SUBSTITUTE DECISIONMAKER DAWSON: No questions.</p> <p>2 Thank you.</p> <p>3 ALJ HOGAN: All right. Thank you.</p> <p>4 BRUCE SPEICH: Thank you.</p> <p>5 ALJ HOGAN: Can I get your name and will you</p> <p>6 spell your last name for me, please.</p> <p>7 DAN DELAHOYDE: Dan Delahoyde,</p> <p>8 D-E-L-A-H-O-Y-D-E. And you're in luck, because you've</p> <p>9 been talking about conditional use permits --</p> <p>10 ALJ HOGAN: Well, before you get to that, I have</p> <p>11 to go through the perjury questions. Did you hear me go</p> <p>12 through the penalties for perjury?</p> <p>13 DAN DELAHOYDE: Yes.</p> <p>14 ALJ HOGAN: And do you understand what perjury</p> <p>15 is?</p> <p>16 DAN DELAHOYDE: Yes.</p> <p>17 ALJ HOGAN: And being advised of the potential</p> <p>18 penalties for perjury, do you promise to tell the truth</p> <p>19 in this case today?</p> <p>20 DAN DELAHOYDE: Yes.</p> <p>21 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>22 <u>DAN DELAHOYDE.</u></p> <p>23 being first duly sworn, testified as follows:</p> <p>24 DAN DELAHOYDE: Okay. The pipeline did go</p> <p>25 through diagonally a small part of mine, but that's not</p> <p>PAGE 133</p>	<p>1 they originally routed it, routed it past three of our</p> <p>2 residences within -- you know, just outside the</p> <p>3 500 feet. And our zoning is 2,640. Part of the</p> <p>4 conditional use permit number one was to move the</p> <p>5 pipeline. And Keystone went back to the PSC and did</p> <p>6 reroute it for five miles and they moved it 2,000 feet</p> <p>7 over. So I mean, Keystone, to me, was very easy to work</p> <p>8 with.</p> <p>9 I mean we had several others. We had a</p> <p>10 requirement of one pipeline and one pipeline only on the</p> <p>11 easement, which most of the easements that the Keystone</p> <p>12 was handing out at that time was called -- they called</p> <p>13 for multiple pipelines to be placed in the easement.</p> <p>14 We also required them to bore under all our</p> <p>15 roads. They put a two-inch gravel base once they were</p> <p>16 done whether -- any road that they drove on. So they</p> <p>17 were easy to work with.</p> <p>18 But I guess -- I keep hearing about this</p> <p>19 500 feet. We do have a 2,640, and I think Keystone</p> <p>20 honored that and I guess I -- we expect that Summit</p> <p>21 would honor that also.</p> <p>22 ALJ HOGAN: All right. Thank you. Mr. --</p> <p>23 DAN DELAHOYDE: The --</p> <p>24 ALJ HOGAN: Go ahead.</p> <p>25 DAN DELAHOYDE: The only other thing I have --</p> <p>PAGE 135</p>
<p>1 why I'm here. I'm here -- I'm the chairman of Jackson</p> <p>2 Township in Sargent County. And we've had experience --</p> <p>3 we had the Keystone XL pipeline go through our township,</p> <p>4 personally through my land and through the township.</p> <p>5 And I know I sent our zoning to the PSC when</p> <p>6 they asked for it. We have extensive zoning on</p> <p>7 pipelines as well as everything else with the pipeline,</p> <p>8 but we have extensive zoning on the pipeline. And it</p> <p>9 covers everything from how it's put in, what</p> <p>10 qualifications it takes to put in, maintenance of it,</p> <p>11 transfer of it, abandonment of it, how much liability</p> <p>12 you have to carry on it, how much insurance you have to</p> <p>13 carry on it.</p> <p>14 And like I said, I know I sent it to the PSC. I</p> <p>15 talked to Pam Maloney, it says auditor, and I see Summit</p> <p>16 just picked up our zoning yesterday so they probably</p> <p>17 haven't looked at it.</p> <p>18 We also have an offset of 2,640 feet in our</p> <p>19 zoning. And I can go through -- like I said, the</p> <p>20 township went through the conditional use -- it's a</p> <p>21 two-meeting process for a permit.</p> <p>22 Keystone went through this. I mean, I can tell</p> <p>23 you what Keystone -- what we did with Keystone. I</p> <p>24 couldn't tell you what we're going to do with you</p> <p>25 because I'm just the chairman. What Keystone did when</p> <p>PAGE 134</p>	<p>1 the only other concern, the township that I have is our</p> <p>2 township is kind of strange. We have -- our residences</p> <p>3 cluster in two areas, kind of in the south -- or in the</p> <p>4 northeast and in the southwest. And, you know, within</p> <p>5 the first half mile where I live, we have -- all our</p> <p>6 residents live on two roads basically. So I mean, in a</p> <p>7 winter like this, it's great, you only have to plow out</p> <p>8 two roads.</p> <p>9 But there's a cluster of them, and the pipeline</p> <p>10 seems to go right through the cluster, both clusters on</p> <p>11 the southwest and in the northeast, which is kind of --</p> <p>12 you know, of the eight residences on the east side, it</p> <p>13 goes right down the middle of six of them. You know,</p> <p>14 they're 500 feet away right now with their pipeline.</p> <p>15 But if you go the first half mile from the first house</p> <p>16 to that -- four of them live within a half -- you know,</p> <p>17 houses are a half mile apart. You got two -- and then</p> <p>18 you got two more about a half mile back. You got a</p> <p>19 pipeline -- you got the pipeline going right smack</p> <p>20 through that.</p> <p>21 Same thing over in the southwest corner. You've</p> <p>22 got -- we got six people over there. It's going to go</p> <p>23 by three of them, half of them, but you also have a</p> <p>24 potato warehouse, potato facility right down there that</p> <p>25 it goes right next to. 4,800-unit hog finishing</p> <p>PAGE 136</p>

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<p>1 facility that it goes right next to. And because of the</p> <p>2 potatoes down there, almost all of that ground is tiled</p> <p>3 and irrigated.</p> <p>4 And, unfortunately, the land between the</p> <p>5 southwest and the northeast is probably the worst land</p> <p>6 you could ever go through. It is straight up hilly,</p> <p>7 rocky. I don't know why -- I mean, we have pasture out</p> <p>8 in there. You can't drive a pickup, you can't drive a</p> <p>9 truck. I don't even take my Gator out there because of</p> <p>10 the rocks and stuff. It is just -- we had a fire there</p> <p>11 several years ago. We couldn't put it out. We couldn't</p> <p>12 get anything in there.</p> <p>13 And I don't know, Summit seems to have this</p> <p>14 diagonal going through the two clusters of homes and</p> <p>15 going through some of the roughest ground they're ever</p> <p>16 going to go through. I mean if something would happen</p> <p>17 out in that ground, a leak or something like that, I</p> <p>18 don't even know how they'd get to it. But I guess</p> <p>19 that's -- I mean, that's -- that's a concern just</p> <p>20 strictly for that -- you know, as the chairman of the</p> <p>21 township. If something would happen, it would be hard</p> <p>22 to do.</p> <p>23 ALJ HOGAN: Anything further?</p> <p>24 DAN DELAHOYDE: No.</p> <p>25 ALJ HOGAN: I don't want to cut you off.</p> <p>PAGE 137</p>	<p>1 DAN DELAHOYDE: No.</p> <p>2 MR. PELHAM: Do you know whether or not other</p> <p>3 townships have similar zoning requirements and setback</p> <p>4 requirements?</p> <p>5 DAN DELAHOYDE: Probably not as extensive as</p> <p>6 ours because we had Keystone go through. Anybody that</p> <p>7 has -- NDSU or the extension office came out in 1995</p> <p>8 with a model zoning and they came around to all the</p> <p>9 townships. If the townships adopted that, then they</p> <p>10 would have a conditional use. It was a part of</p> <p>11 the 1995 --</p> <p>12 MR. PELHAM: Jackson Township has modified that</p> <p>13 since?</p> <p>14 DAN DELAHOYDE: Yes. We've modified that more</p> <p>15 than once.</p> <p>16 MR. PELHAM: Sure. Thank you, sir. I don't</p> <p>17 have any other questions for you.</p> <p>18 ALJ HOGAN: Mr. Schock?</p> <p>19 MR. SCHOCK: No questions.</p> <p>20 ALJ HOGAN: Mr. Pranis.</p> <p>21 MR. PRANIS: No, Your Honor.</p> <p>22 ALJ HOGAN: Commissioner Christmann.</p> <p>23 COMMISSIONER CHRISTMANN: Did you get to see</p> <p>24 Exhibit 4 that was handed out this morning regarding the</p> <p>25 amounts of easements that are -- that are acquired</p> <p>PAGE 139</p>
<p>1 DAN DELAHOYDE: No.</p> <p>2 ALJ HOGAN: Mr. Bender, any questions?</p> <p>3 MR. BENDER: No questions.</p> <p>4 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>5 MR. PELHAM: Just wondering if you're -- if you</p> <p>6 know of any other members of the township or commission</p> <p>7 have had any discussions with the company on the</p> <p>8 permitting that's going to be required?</p> <p>9 DAN DELAHOYDE: No.</p> <p>10 MR. PELHAM: I think you said that they -- you</p> <p>11 believe that they just picked up the application</p> <p>12 yesterday?</p> <p>13 DAN DELAHOYDE: I sent Charity the application</p> <p>14 here a while back. She hadn't picked up the zoning. We</p> <p>15 haven't acted on anything because I told Charity,</p> <p>16 because it's a two-step process, we do have a fee for a</p> <p>17 conditional use permit. So I said, until the PSC rules,</p> <p>18 it would be premature to have conditional use permit</p> <p>19 hearings, to me anyway, or to the board. So we're</p> <p>20 waiting for the ruling on the PSC before we'd have a</p> <p>21 formal ruling on it.</p> <p>22 MR. PELHAM: As far as any discussions you've</p> <p>23 had with any other townships where the line is proposed</p> <p>24 to cross, have you had any other discussions with other</p> <p>25 townships?</p> <p>PAGE 138</p>	<p>1 already?</p> <p>2 DAN DELAHOYDE: No.</p> <p>3 COMMISSIONER CHRISTMANN: So for Sargent County,</p> <p>4 it's around 75 to 80 percent. The variation has to do</p> <p>5 with whether you're measuring parcels of land or linear</p> <p>6 feet or whatever. So a good, let's say, three quarters.</p> <p>7 Do you know or have a feel, based on your residences in</p> <p>8 your township, for about how much of the land has been</p> <p>9 leased in your township?</p> <p>10 DAN DELAHOYDE: To my knowledge, there isn't</p> <p>11 any. I mean, I can name -- like I said, it goes through</p> <p>12 mine. I can go through the -- I can go through the</p> <p>13 landowners in my head going across. And as far as I</p> <p>14 know, it might -- it would be a very small number, is</p> <p>15 what I understand, especially when you get down into the</p> <p>16 potato warehouses and things like that where you're</p> <p>17 going to go -- you're going to be going through their</p> <p>18 irrigation and their tiling systems. And off knowledge</p> <p>19 -- I don't have any knowledge of anybody that signed.</p> <p>20 COMMISSIONER CHRISTMANN: In --</p> <p>21 DAN DELAHOYDE: I can tell you -- I can tell you</p> <p>22 a lot of people, you know, out of my township that have.</p> <p>23 I can tell you that.</p> <p>24 COMMISSIONER CHRISTMANN: In your offset</p> <p>25 requirements, is there a waiver process if --</p> <p>PAGE 140</p>

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<p>1 DAN DELAHOYDE: There's a waiver, yes. It's</p> <p>2 2,640 unless you waive that right.</p> <p>3 COMMISSIONER CHRISTMANN: And is it the resident</p> <p>4 that waives it or --</p> <p>5 DAN DELAHOYDE: Landowner.</p> <p>6 COMMISSIONER CHRISTMANN: -- the township?</p> <p>7 DAN DELAHOYDE: The landowner or the resident</p> <p>8 waives it, not the township.</p> <p>9 COMMISSIONER CHRISTMANN: No other questions.</p> <p>10 Thank you.</p> <p>11 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>12 COMMISSIONER HAUGEN-HOFFART: No questions.</p> <p>13 Thank you.</p> <p>14 ALJ HOGAN: Mr. Dawson.</p> <p>15 SUBSTITUTE DECISIONMAKER DAWSON: You mentioned</p> <p>16 irrigation systems. Do they have underground pipe?</p> <p>17 DAN DELAHOYDE: Yes. And also, I forgot, the</p> <p>18 hog facility down there, the 4,800-hog facilities, they</p> <p>19 use the liquid manure and they inject it into the</p> <p>20 ground. And what they have is they have pipelines</p> <p>21 running -- you know, because they -- it goes through</p> <p>22 some of our township roads, you know, things like that,</p> <p>23 through the fields. They drive the tractor down. They</p> <p>24 have pipes that hook onto the back. They pump it out of</p> <p>25 the hog facility through these pipes underground, up</p> <p>PAGE 141</p>	<p>1 dissension and dissension between even friends. A lot</p> <p>2 of people here probably are the people that haven't</p> <p>3 signed contracts, and most of them I've known all my</p> <p>4 life. And it's really not fair of me to speak about</p> <p>5 safety of the pipeline to those people when I don't live</p> <p>6 out on my land. I live in town. And I think their</p> <p>7 concerns are real.</p> <p>8 But I would also like to just point out to those</p> <p>9 people that, you know, we have a waste facility here,</p> <p>10 waste management landfill, and that's not deemed common</p> <p>11 carrier, and a lot of people fought hard against that</p> <p>12 and it still came.</p> <p>13 This project has been deemed common carrier, so</p> <p>14 even though the majority of my family is opposed to it,</p> <p>15 we decided, well, we don't know that we can stop them so</p> <p>16 we should make the best of it and work with them. So we</p> <p>17 did and we signed a contract. I would say that the</p> <p>18 process, I feel, went well. They were professional,</p> <p>19 courteous, and stayed in really good contact with us.</p> <p>20 But yet I respect other people's decision not to</p> <p>21 sign contracts, and I guess I'm -- I'm just offering</p> <p>22 that if any of those people have questions about it or</p> <p>23 decide to go through with it, that I'm open to</p> <p>24 conversation with them.</p> <p>25 And I know we had somewhere near 30 addendums to</p> <p>PAGE 143</p>
<p>1 above ground and into that injector as the tractor goes</p> <p>2 down the field. So you're going to run into, yeah, hog</p> <p>3 manure likewise too.</p> <p>4 SUBSTITUTE DECISIONMAKER DAWSON: Thank you.</p> <p>5 ALJ HOGAN: All right. Thank you.</p> <p>6 Can I get your name?</p> <p>7 JERRY WASWICK: Yes. It's Jerry Waswick,</p> <p>8 W-A-S-W-I-C-K.</p> <p>9 ALJ HOGAN: Mr. Waswick, were you in the room</p> <p>10 when I went through the penalties for perjury?</p> <p>11 JERRY WASWICK: I was not, but I heard you go</p> <p>12 through that and I understand the penalties of perjury</p> <p>13 and accept.</p> <p>14 ALJ HOGAN: And you promise to tell the truth in</p> <p>15 this case today?</p> <p>16 JERRY WASWICK: Yes.</p> <p>17 ALJ HOGAN: All right. Go ahead.</p> <p>18 <u>JERRY WASWICK.</u></p> <p>19 being first duly sworn, testified as follows:</p> <p>20 JERRY WASWICK: I'm a landowner. My family owns</p> <p>21 land together a couple miles south of Milnor. We did</p> <p>22 sign a contract.</p> <p>23 And my testimony isn't particularly in favor or</p> <p>24 opposed. We're pretty neutral. The scope of a project</p> <p>25 like this is big and it can cause a lot of family</p> <p>PAGE 142</p>	<p>1 our contract to address all of our family concerns. And</p> <p>2 the pipeline wasn't opposed to any of those and accepted</p> <p>3 all of our addendums and concerns. So I believe they</p> <p>4 are good to work with. They've been, like I said,</p> <p>5 professional and courteous.</p> <p>6 And the only other thing I have to state is that</p> <p>7 I am a fireman and they have -- the pipeline has said</p> <p>8 they will provide us with the training and equipment</p> <p>9 that we need. That's it.</p> <p>10 ALJ HOGAN: All right. Mr. Bender, any</p> <p>11 questions?</p> <p>12 MR. BENDER: No questions.</p> <p>13 Thank you for your testimony.</p> <p>14 JERRY WASWICK: Thank you.</p> <p>15 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>16 MR. PELHAM: No questions. Thank you.</p> <p>17 JERRY WASWICK: Thank you.</p> <p>18 ALJ HOGAN: Mr. Schock.</p> <p>19 MR. SCHOCK: No questions. Thank you.</p> <p>20 ALJ HOGAN: Mr. Pranis.</p> <p>21 MR. PRANIS: No, Your Honor.</p> <p>22 ALJ HOGAN: Commissioner Christmann.</p> <p>23 COMMISSIONER CHRISTMANN: I do not think I do,</p> <p>24 but thank you for being here. That's valuable insight</p> <p>25 that --</p> <p>PAGE 144</p>

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<p>1 JERRY WASWICK: Thank you.</p> <p>2 COMMISSIONER CHRISTMANN: -- that you're able to</p> <p>3 work on addendums. Thank you.</p> <p>4 JERRY WASWICK: Thank you.</p> <p>5 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>6 COMMISSIONER HAUGEN-HOFFART: No, that's fine.</p> <p>7 Thank you for your testimony. I have no questions.</p> <p>8 JERRY WASWICK: Thank you very much.</p> <p>9 ALJ HOGAN: Mr. Dawson.</p> <p>10 SUBSTITUTE DECISIONMAKER DAWSON: Who are you a</p> <p>11 volunteer fireman for?</p> <p>12 JERRY WASWICK: With the Gwinner Fire Department</p> <p>13 right in town here.</p> <p>14 SUBSTITUTE DECISIONMAKER DAWSON: Thank you.</p> <p>15 JERRY WASWICK: Yes, thank you.</p> <p>16 ALJ HOGAN: All right. Thank you.</p> <p>17 JERRY WASWICK: Thank you.</p> <p>18 ALJ HOGAN: Good afternoon. Can I get your</p> <p>19 name?</p> <p>20 STEVE ACKERMAN: My name is Steve Ackerman.</p> <p>21 ALJ HOGAN: Can you spell your last name?</p> <p>22 STEVE ACKERMAN: A-C-K-E-R-M-A-N.</p> <p>23 ALJ HOGAN: Mr. Ackerman, you were in the room</p> <p>24 when I went through the penalties for perjury?</p> <p>25 STEVE ACKERMAN: Yes, Your Honor.</p> <p>PAGE 145</p>	<p>1 ALJ HOGAN: Yes, go ahead.</p> <p>2 STEVE ACKERMAN: A couple minutes.</p> <p>3 "To the Executive Secretary and the Director of</p> <p>4 Administration of the North Dakota Public Service</p> <p>5 Commission regarding consideration to ensure that state</p> <p>6 land survey rules, laws, and codes are followed.</p> <p>7 "Dear Chair, The North Dakota Society of</p> <p>8 Professional Land Surveyors, NDSPLS, encourages that all</p> <p>9 utility corridor easements within the state of North</p> <p>10 Dakota be strip easements, not blanket easements for all</p> <p>11 utilities, such as, but not limited to, overhead and</p> <p>12 underground electrical lines and water, oil and gas</p> <p>13 pipelines.</p> <p>14 "Blanket type easements create needless</p> <p>15 servitudes, or non-appurtenant restrictions on the</p> <p>16 grantor's use of real property over aliquot parts of a</p> <p>17 section where a strip easement would satisfy the</p> <p>18 easement need of the grantee.</p> <p>19 "North Dakota State Department of Trust Lands</p> <p>20 and Federal Lands do not allow for the use of blanket</p> <p>21 easements on their land holdings. Furthermore,</p> <p>22 practicing professional land surveyors follow these</p> <p>23 guidelines:</p> <p>24 "The State of North Dakota already has</p> <p>25 requirements codified for licensed land surveyors to</p> <p>PAGE 147</p>
<p>1 ALJ HOGAN: And do you understand what perjury</p> <p>2 is?</p> <p>3 STEVE ACKERMAN: Yes.</p> <p>4 ALJ HOGAN: And being advised of the potential</p> <p>5 penalties for perjury, do you promise to tell the truth</p> <p>6 in this case today?</p> <p>7 STEVE ACKERMAN: Yes.</p> <p>8 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>9 <u>STEVE ACKERMAN.</u></p> <p>10 being first duly sworn, testified as follows:</p> <p>11 STEVE ACKERMAN: I am a 38-year registered</p> <p>12 professional land surveyor in North Dakota. I've been a</p> <p>13 member of the North Dakota Society of Professional Land</p> <p>14 Surveyors since its inception in 1979. And I'm here</p> <p>15 today speaking in the capacity as a representative of</p> <p>16 the North Dakota Society of Professional Land Surveyors.</p> <p>17 The Public Service Commission was given a letter</p> <p>18 from the Society of Professional Land Surveyors in</p> <p>19 February of this year. And, of course, the PSC is aware</p> <p>20 of that letter, but the folks in this room are not aware</p> <p>21 of that letter. And with your permission, I would like</p> <p>22 to read that letter. Would that be all right?</p> <p>23 ALJ HOGAN: Yeah. It's -- it's somewhat short;</p> <p>24 right?</p> <p>25 STEVE ACKERMAN: Somewhat short.</p> <p>PAGE 146</p>	<p>1 follow under North Dakota Century Code 47-05-02.1.</p> <p>2 "Land surveyors are bound by the North Dakota</p> <p>3 Administrative Code 28-02.1-13-01: Survey requirements</p> <p>4 for the preparation of legal descriptions and the</p> <p>5 conveyance of property.</p> <p>6 "Land surveyors are bound by the North Dakota</p> <p>7 Attorney General's Opinion 2017-L-03, dated May 12,</p> <p>8 2017, indicating that pursuant to North Dakota Century</p> <p>9 Code 43-19.1-30, the items which need to be included as</p> <p>10 exhibits relevant to documents or attachments, as well</p> <p>11 as when they are the main documents being recorded.</p> <p>12 These documents must include the signature and seal of a</p> <p>13 North Dakota registered professional land surveyor, even</p> <p>14 if the document is part of an exhibit or an attachment</p> <p>15 to easements.</p> <p>16 "NDSPLS encourages the use of the North Dakota</p> <p>17 State Plane Coordinate System, per North Dakota Century</p> <p>18 Code, as the base coordinate system used for a universal</p> <p>19 survey mapping system.</p> <p>20 "We are requesting the Public Service Commission</p> <p>21 to review all aspects of all utility easements and to</p> <p>22 ensure that all current laws and rules for easements in</p> <p>23 North Dakota are followed as part of the review and</p> <p>24 permit process.</p> <p>25 "Respectfully submitted, the North Dakota</p> <p>PAGE 148</p>

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<p>1 Society of Professional Land Surveyors."</p> <p>2 So I've seen only one exhibit that was passed</p> <p>3 around from the committee that is assigned to -- looking</p> <p>4 at this pipeline.</p> <p>5 By the way, the surveyors are neutral on the</p> <p>6 subject. We're neither for nor against it. We're just</p> <p>7 concerned about the use of easement language in these</p> <p>8 documents.</p> <p>9 I've seen one of the easements that have come</p> <p>10 around the circles in the society that was prepared by</p> <p>11 Summit, and we feel that it does not meet the</p> <p>12 requirements of the Century Code. And the question</p> <p>13 arises where does the buck stop when these easements are</p> <p>14 taken to the recorder's office to see that they are in</p> <p>15 tune with the Century Code?</p> <p>16 And so I did hear Mr. Bender comment earlier</p> <p>17 about they are using strip easements, but there are a</p> <p>18 manner of different strip easements, and some are good</p> <p>19 and some are bad.</p> <p>20 If, for instance, you are describing a parcel</p> <p>21 that's 50 feet wide or a hundred feet wide that lies</p> <p>22 across the southeast quarter, that's a strip easement,</p> <p>23 but it's not a proper strip easement. A proper strip</p> <p>24 easement would be one that is tied to the section lines</p> <p>25 land system, the Public Land Survey System.</p> <p>PAGE 149</p>	<p>1 as-built plat does not tie to the section pins?</p> <p>2 STEVE ACKERMAN: I cannot speak to that specific</p> <p>3 plat.</p> <p>4 MR. BENDER: Okay. No questions -- no further</p> <p>5 questions. Excuse me.</p> <p>6 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>7 MR. PELHAM: Good afternoon, Mr. Ackerman. Just</p> <p>8 wondering, you testified that you saw an easement as an</p> <p>9 exhibit. I'm just wondering if that was recorded, a</p> <p>10 recorded version from a county recorder's office, or</p> <p>11 not?</p> <p>12 STEVE ACKERMAN: Yes, it was a recorded</p> <p>13 document.</p> <p>14 MR. PELHAM: Do you know what county it was?</p> <p>15 STEVE ACKERMAN: Burleigh County.</p> <p>16 MR. PELHAM: I don't have any other questions</p> <p>17 for you. Thank you.</p> <p>18 ALJ HOGAN: Mr. Schock.</p> <p>19 MR. SCHOCK: No questions. Thank you.</p> <p>20 ALJ HOGAN: Mr. Pranis.</p> <p>21 MR. PRANIS: No, Your Honor.</p> <p>22 ALJ HOGAN: Commissioner Christmann.</p> <p>23 COMMISSIONER CHRISTMANN: I don't think I have</p> <p>24 any questions right now, but I do appreciate this</p> <p>25 because I'm still thinking through how that as-built</p> <p>PAGE 151</p>
<p>1 So the easement description would begin at a</p> <p>2 section corner someplace and then run across a section</p> <p>3 line until it intersects the centerline of the pipeline,</p> <p>4 and then describes the course of the pipeline by bearing</p> <p>5 a distance until it exits the ownership limits of the</p> <p>6 property involved. And the easement exhibit that I saw</p> <p>7 did not do that. And I just want to bring that to your</p> <p>8 attention.</p> <p>9 That's all I have.</p> <p>10 ALJ HOGAN: All right. Thank you.</p> <p>11 Mr. Bender, any questions?</p> <p>12 MR. BENDER: Just a few questions.</p> <p>13 Mr. Ackerman, a member of your organization</p> <p>14 testified at the Bismarck hearing; is that correct?</p> <p>15 STEVE ACKERMAN: That's correct.</p> <p>16 MR. BENDER: And did you have any conversations</p> <p>17 with those members who testified after they testified?</p> <p>18 STEVE ACKERMAN: Only one.</p> <p>19 MR. BENDER: Okay. And did they tell you that</p> <p>20 Summit had a witness at that hearing and explained</p> <p>21 precisely what they do in terms of recording easements</p> <p>22 and then also having a certified plat which is an</p> <p>23 as-built drawing?</p> <p>24 STEVE ACKERMAN: Yes.</p> <p>25 MR. BENDER: Okay. And are you saying that the</p> <p>PAGE 150</p>	<p>1 plat works out to solve the issues that the surveyors</p> <p>2 are bringing forward. Thank you for being here and</p> <p>3 keeping that on top of my mind. Thank you.</p> <p>4 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>5 COMMISSIONER HAUGEN-HOFFART: Thank you for your</p> <p>6 testimony, Steve. I have no questions.</p> <p>7 SUBSTITUTE DECISIONMAKER DAWSON: No questions.</p> <p>8 Thank you.</p> <p>9 ALJ HOGAN: All right. Thank you.</p> <p>10 STEVE ACKERMAN: Thank you.</p> <p>11 ALJ HOGAN: Good afternoon. Can I get your</p> <p>12 name?</p> <p>13 KEVIN SKUNES: Kevin Skunes, S-K-U-N-E-S.</p> <p>14 ALJ HOGAN: Mr. Skunes, were you in the room</p> <p>15 when I went through the penalties for perjury?</p> <p>16 KEVIN SKUNES: Yes, I was.</p> <p>17 ALJ HOGAN: And do you understand what perjury</p> <p>18 is?</p> <p>19 KEVIN SKUNES: Yes.</p> <p>20 ALJ HOGAN: And being advised of the potential</p> <p>21 penalties for perjury, do you promise to tell the truth</p> <p>22 in this case today?</p> <p>23 KEVIN SKUNES: I do.</p> <p>24 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>25</p> <p>PAGE 152</p>

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<p>1                    <u>KEVIN SKUNES,</u></p> <p>2    being first duly sworn, testified as follows:</p> <p>3                    KEVIN SKUNES: Well, thanks for having me here</p> <p>4    today. I'm a farmer from Arthur, North Dakota.</p> <p>5    Additionally, I previously served as the president of</p> <p>6    the National Corn Growers Association and currently I'm</p> <p>7    a board member of the North Dakota Corn Growers</p> <p>8    Association. Based on these experiences, I'm a strong</p> <p>9    supporter of Summit Carbon Solutions' proposed carbon</p> <p>10   capture, transportation, and storage project that the</p> <p>11   North Dakota Public Service Commission is currently</p> <p>12   considering.</p> <p>13                  Here are a few of the background facts I think</p> <p>14   are important to keep in mind as you weigh this critical</p> <p>15   investment in our state's future. First, corn</p> <p>16   production provides a total annual economic value of</p> <p>17   about \$2.2 billion here in North Dakota, making it one</p> <p>18   of the most critical components of our broader ag</p> <p>19   economy. Of course, ethanol is very much tied to this</p> <p>20   figure as ethanol plants purchase approximately</p> <p>21   40 percent of the corn grown in the United States, and</p> <p>22   in North Dakota that's a much higher percentage of the</p> <p>23   corn that we use for ethanol, which makes it absolutely</p> <p>24   vital to maintaining strong commodity prices and land</p> <p>25   values. Of course, that is in addition to the fact that</p> <p>PAGE 153</p>	<p>1    move forward. That will give participating ethanol</p> <p>2    plants the ability to sell into these low-carbon fuel</p> <p>3    markets. It means that the same ethanol plants can</p> <p>4    continue to purchase 40 percent of the corn grown in the</p> <p>5    United States. It means that they can expand their</p> <p>6    operations and hire more people. And it means the price</p> <p>7    of corn remaining strong.</p> <p>8                  The other side of the equation is preventing</p> <p>9    carbon capture projects from being built.</p> <p>10   Unfortunately, that future involves ethanol plants</p> <p>11   closing down their operations and laying off their</p> <p>12   employees. It means corn growers losing one of their</p> <p>13   largest customers and the price of that commodity</p> <p>14   decreasing. And it means land values are adversely</p> <p>15   impacted as well.</p> <p>16                  I think the choice is clear. North Dakota</p> <p>17   policymakers have been preparing for the carbon capture</p> <p>18   industry for years and have recognized it as a mechanism</p> <p>19   to support our most important economic industries,</p> <p>20   create new jobs, and generate new revenues for farmers</p> <p>21   and communities alike.</p> <p>22                  Respectfully, I would ask that the members of</p> <p>23   the PSC stand with our farmers, ethanol producers, and</p> <p>24   the broader energy industry to allow the carbon capture</p> <p>25   project like Summit Carbon Solutions to move forward.</p> <p>PAGE 155</p>
<p>1    the ethanol industry supports 10,000 jobs in North</p> <p>2    Dakota and contributes about \$640 million to the State's</p> <p>3    GDP every year.</p> <p>4                  While we all understand the importance of</p> <p>5    agriculture and ethanol to the State's economy, we need</p> <p>6    to keep reminding ourselves that it takes investment and</p> <p>7    innovation in order to keep these industries strong in</p> <p>8    the years to come. And that is exactly why carbon</p> <p>9    capture projects are, to use a phrase from the leader of</p> <p>10   the renewable energy sector, a matter of life and death</p> <p>11   for ethanol products and, by extension, our corn</p> <p>12   farmers.</p> <p>13                  Regardless of what you may think of the concept</p> <p>14   of low-carbon fuels, it's clear that the marketplace is</p> <p>15   moving in this direction. Liquid fuels are not going</p> <p>16   away any time soon and agriculture depends on liquid</p> <p>17   fuels. More and more states and countries, including</p> <p>18   Canada, are adopting policies that pay more for</p> <p>19   low-carbon fuels. At the national level, the Next</p> <p>20   Generation Fuels Act has been re-introduced. This</p> <p>21   legislation would lower fuel prices, reduce carbon</p> <p>22   emissions, and help shore up America's energy security.</p> <p>23                  That gives us two very different possible</p> <p>24   outcomes that we should clearly outline. One side of</p> <p>25   that equation is allowing carbon capture projects to</p> <p>PAGE 154</p>	<p>1    Thank you for your consideration.</p> <p>2                  ALJ HOGAN: Thank you.</p> <p>3                  Mr. Bender, any questions?</p> <p>4                  MR. BENDER: Thank you, Mr. Skunes. I don't</p> <p>5    have any questions.</p> <p>6                  ALJ HOGAN: Mr. Pelham, any questions?</p> <p>7                  MR. PELHAM: No questions. Thank you.</p> <p>8                  ALJ HOGAN: Mr. Schock.</p> <p>9                  MR. SCHOCK: No questions.</p> <p>10                  ALJ HOGAN: Mr. Pranis.</p> <p>11                  MR. PRANIS: No, Your Honor.</p> <p>12                  ALJ HOGAN: Commissioner Christmann.</p> <p>13                  COMMISSIONER CHRISTMANN: Mr. Skunes, where did</p> <p>14    you say you live?</p> <p>15                  KEVIN SKUNES: I'm in Arthur.</p> <p>16                  COMMISSIONER CHRISTMANN: In Arthur. And have</p> <p>17    you been here all morning?</p> <p>18                  KEVIN SKUNES: I got here about 9:30'ish.</p> <p>19                  COMMISSIONER CHRISTMANN: You caught</p> <p>20    Mr. Dotzenrod?</p> <p>21                  KEVIN SKUNES: Yes.</p> <p>22                  COMMISSIONER CHRISTMANN: So I'm curious on your</p> <p>23    operation, your corn operation, do you use any tiling?</p> <p>24                  KEVIN SKUNES: Yes.</p> <p>25                  COMMISSIONER CHRISTMANN: And so what -- and</p> <p>PAGE 156</p>

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<p>1 this doesn't cross your land, though; correct?</p> <p>2 KEVIN SKUNES: No, it doesn't. No.</p> <p>3 COMMISSIONER CHRISTMANN: What concerns do you</p> <p>4 have about this crossing tiled fields, especially when</p> <p>5 it's diagonal and not on the edge of the fields?</p> <p>6 KEVIN SKUNES: Well, I would certainly be</p> <p>7 concerned about it, but in the discussions that I've had</p> <p>8 with Summit -- and believe me, I have no official</p> <p>9 business with Summit. They have asked me. You know, I</p> <p>10 did a radio commercial for them earlier this year.</p> <p>11 Well, it's still playing. And they've asked me to</p> <p>12 testify.</p> <p>13 But, you know, I -- I've been assured in talking</p> <p>14 to them, that whoever they use for their -- for their</p> <p>15 tile company that is going to do the repairs after the</p> <p>16 line goes through, I've been assured that -- you know,</p> <p>17 that they'll do them properly.</p> <p>18 And, you know, we've done most of our own tiling</p> <p>19 on our land, and I know that you can go back in and you</p> <p>20 can -- you can fix -- you know, I cannot speak to</p> <p>21 Mr. Dotzenrod's land. I know what our land would be</p> <p>22 like and I know that we've gone in and fixed a few</p> <p>23 lines.</p> <p>24 COMMISSIONER CHRISTMANN: How deep are your</p> <p>25 pipes?</p> <p>PAGE 157</p>	<p>1 done some work for us. They did one quarter of a</p> <p>2 landlord of mine and they -- you know, they did a couple</p> <p>3 other pieces in the area. And I actually know them</p> <p>4 quite well, the Ellingsons.</p> <p>5 And, you know, I've been assured by them and --</p> <p>6 you know, that they will -- they will fix it and they'll</p> <p>7 come back and fix it later on. But I don't have -- you</p> <p>8 know, I'm -- I don't have any land in this area so it's</p> <p>9 a little -- it's a little different for me.</p> <p>10 I support the concept of carbon capture and a</p> <p>11 carbon pipeline.</p> <p>12 COMMISSIONER CHRISTMANN: And is Ellingsons a</p> <p>13 tiling contractor?</p> <p>14 KEVIN SKUNES: Yes.</p> <p>15 COMMISSIONER CHRISTMANN: Okay. And do you</p> <p>16 raise other commodities besides corn?</p> <p>17 KEVIN SKUNES: We're primarily a corn and</p> <p>18 soybean farm.</p> <p>19 COMMISSIONER CHRISTMANN: Are you in any other</p> <p>20 growers' groups like the Grain Growers or -- or just the</p> <p>21 corn growers?</p> <p>22 KEVIN SKUNES: Just the Corn Growers right now,</p> <p>23 yeah.</p> <p>24 COMMISSIONER CHRISTMANN: Okay. Are you aware</p> <p>25 of any other -- any of the other ag commodity groups</p> <p>PAGE 159</p>
<p>1 KEVIN SKUNES: Well, so our -- you know, our</p> <p>2 main tiles go probably -- I expect the one project we</p> <p>3 did two years ago, it was eight feet at the deepest for</p> <p>4 the main --</p> <p>5 Oh, crap, my phone. Sorry.</p> <p>6 The main tile, you know, was probably eight feet</p> <p>7 at its deepest that we had to go in and use the pump.</p> <p>8 All of the laterals out in the field range from -- we</p> <p>9 like to keep the top of the tile below 30 inches and</p> <p>10 probably in some places going through a ridge might be</p> <p>11 three, four, maybe five feet deep. That's about as deep</p> <p>12 as it would go.</p> <p>13 COMMISSIONER CHRISTMANN: So I believe the</p> <p>14 application indicates that the pipe would have a minimum</p> <p>15 depth at four feet to the top of the pipe. So it's very</p> <p>16 similar to your laterals.</p> <p>17 KEVIN SKUNES: Yes.</p> <p>18 COMMISSIONER CHRISTMANN: And so I guess I'm</p> <p>19 imagining quite a few cuts and repairs.</p> <p>20 KEVIN SKUNES: Yes.</p> <p>21 COMMISSIONER CHRISTMANN: That wouldn't concern</p> <p>22 you much?</p> <p>23 KEVIN SKUNES: I don't think so. I don't think</p> <p>24 so. I mean, I have -- so in my discussions with Summit,</p> <p>25 you know, they've said that -- you know, Ellingson has</p> <p>PAGE 158</p>	<p>1 that have a position on this project?</p> <p>2 KEVIN SKUNES: You know, the -- the North Dakota</p> <p>3 Corn Growers are relatively neutral on it. I'm here as</p> <p>4 basically an individual. I just told you, you know,</p> <p>5 that I was past president of the National Corn and that</p> <p>6 I am a member of the -- of the North Dakota Corn</p> <p>7 Growers, but I am not here in an official capacity of</p> <p>8 that.</p> <p>9 COMMISSIONER CHRISTMANN: Okay. Thank you. No</p> <p>10 other questions.</p> <p>11 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>12 COMMISSIONER HAUGEN-HOFFART: No questions.</p> <p>13 Thank you.</p> <p>14 ALJ HOGAN: Mr. Dawson.</p> <p>15 SUBSTITUTE DECISIONMAKER DAWSON: No questions</p> <p>16 for me. Thank you.</p> <p>17 ALJ HOGAN: Thank you.</p> <p>18 KEVIN SKUNES: Thank you so much.</p> <p>19 ALJ HOGAN: Are there others who would like to</p> <p>20 provide public testimony?</p> <p>21 Can I get your name?</p> <p>22 GENEVA WASWICK: I am Geneva Waswick.</p> <p>23 ALJ HOGAN: And, Ms. Waswick, were you in the</p> <p>24 room when I went through the penalties for perjury?</p> <p>25 GENEVA WASWICK: Yes, I was.</p> <p>PAGE 160</p>



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<p>1 ALJ HOGAN: And do you understand what perjury</p> <p>2 is?</p> <p>3 GENEVA WASWICK: Yes.</p> <p>4 ALJ HOGAN: And being advised of the potential</p> <p>5 penalties for perjury, do you promise to tell the truth</p> <p>6 in this case today?</p> <p>7 GENEVA WASWICK: Yes, I do.</p> <p>8 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>9 <u>GENEVA WASWICK.</u></p> <p>10 being first duly sworn, testified as follows:</p> <p>11 GENEVA WASWICK: I'm part ownership of one</p> <p>12 quarter of land which this pipeline will go through.</p> <p>13 And my concern is that our property was -- I</p> <p>14 believe the one identified in Sargent County where the</p> <p>15 easement would go closer to 100 feet -- or 500 feet of a</p> <p>16 dwelling. That distance is 172 feet, as I understand.</p> <p>17 This property is not rented or occupied at one time.</p> <p>18 It's for family enjoyment. Friends come out and hunt.</p> <p>19 One summer it was rented, rented during the summer.</p> <p>20 But my concern is we did sign the contract, but</p> <p>21 it still bothers me that 172 feet is from this dwelling</p> <p>22 and there will be numerous trees and everything's</p> <p>23 destroyed in this process.</p> <p>24 That's all I have.</p> <p>25 ALJ HOGAN: All right. Thank you.</p> <p>PAGE 161</p>	<p>1 with -- I guess I don't understand. Your testimony</p> <p>2 differs. Because the waiver says what it says and you</p> <p>3 signed it so...</p> <p>4 GENEVA WASWICK: Yep. No, I understand that.</p> <p>5 MR. PELHAM: Okay.</p> <p>6 GENEVA WASWICK: But I was just going to point</p> <p>7 out, you know, how close it does come to a dwelling</p> <p>8 so...</p> <p>9 MR. PELHAM: Sure. Okay. All right. I don't</p> <p>10 have any other questions for you. Thank you.</p> <p>11 ALJ HOGAN: Mr. Schock.</p> <p>12 MR. SCHOCK: No questions. Thank you.</p> <p>13 ALJ HOGAN: Mr. Pranis.</p> <p>14 MR. PRANIS: No, Your Honor.</p> <p>15 ALJ HOGAN: Commissioner Christmann.</p> <p>16 COMMISSIONER CHRISTMANN: When people stay there</p> <p>17 when they're hunting, do they -- is that -- do you mean</p> <p>18 they maybe use it to clean birds or something, or do</p> <p>19 they stay there for days and --</p> <p>20 GENEVA WASWICK: Yeah, they --</p> <p>21 COMMISSIONER CHRISTMANN: -- you have water and</p> <p>22 electricity and things like that at this residence?</p> <p>23 GENEVA WASWICK: Yes. There's electricity and</p> <p>24 water out there and it's -- and they do stay maybe a</p> <p>25 week or two or a few days, whatsoever, you know. They</p> <p>PAGE 163</p>
<p>1 Mr. Bender, any questions?</p> <p>2 MR. BENDER: When was the last time you rented</p> <p>3 it for hunting purposes?</p> <p>4 GENEVA WASWICK: It is still rented for hunting</p> <p>5 purposes.</p> <p>6 MR. BENDER: Okay.</p> <p>7 GENEVA WASWICK: Or not rented for hunting</p> <p>8 purposes. It is farmed. It is farmed.</p> <p>9 MR. BENDER: Did you mention that it was rented</p> <p>10 for hunting purposes at one time or did I misunderstand?</p> <p>11 GENEVA WASWICK: No, it's not rented for --</p> <p>12 rented for hunting purposes. It is friends,</p> <p>13 acquaintances come out and hunt.</p> <p>14 MR. BENDER: Okay. All right. No further</p> <p>15 questions.</p> <p>16 GENEVA WASWICK: And if we give any -- receive</p> <p>17 any compensation, it's whatever they decide to give us.</p> <p>18 MR. BENDER: Okay. Thank you. Appreciate that.</p> <p>19 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>20 MR. PELHAM: I guess I'm just wondering, Ms.</p> <p>21 Waswick, if -- the setback waiver was signed, and it</p> <p>22 looks like you signed it in July of '22. I mean, are</p> <p>23 you saying --</p> <p>24 GENEVA WASWICK: I believe that's right.</p> <p>25 MR. PELHAM: -- there's issues that you have</p> <p>PAGE 162</p>	<p>1 -- it's a -- it's an old house.</p> <p>2 COMMISSIONER CHRISTMANN: Well, might I ask --</p> <p>3 and you don't have to answer this -- but in recent years</p> <p>4 there's been more counties that are taxing dwellings if</p> <p>5 a certain threshold of income isn't received from</p> <p>6 agriculture. Do you pay on that as a -- as a -- do you</p> <p>7 pay extra taxes on that as a residence?</p> <p>8 GENEVA WASWICK: No. It's such -- such few</p> <p>9 dollars that we receive. It's just a little bit so I --</p> <p>10 COMMISSIONER CHRISTMANN: Okay.</p> <p>11 GENEVA WASWICK: I have no idea because it's in</p> <p>12 the tax information that my daughter-in-law submits</p> <p>13 so...</p> <p>14 COMMISSIONER CHRISTMANN: Thank you for</p> <p>15 providing the information.</p> <p>16 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>17 COMMISSIONER HAUGEN-HOFFART: No questions.</p> <p>18 Thank you.</p> <p>19 ALJ HOGAN: Mr. Dawson.</p> <p>20 SUBSTITUTE DECISIONMAKER DAWSON: No questions.</p> <p>21 Thank you.</p> <p>22 ALJ HOGAN: All right. Thank you, Ms. Waswick.</p> <p>23 Are there others that would like to testify</p> <p>24 today?</p> <p>25 UNIDENTIFIED SPEAKER: Can I ask a question?</p> <p>PAGE 164</p>

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<p>1 ALJ HOGAN: What's your question?</p> <p>2 UNIDENTIFIED SPEAKER: Okay. (Inaudible) our</p> <p>3 house is, CO2 -- CO2 pipeline has to cross the Keystone</p> <p>4 XL pipeline just east of my place. How -- are they</p> <p>5 going to go under it or over?</p> <p>6 ALJ HOGAN: I would maybe ask you to speak with</p> <p>7 the Summit representatives over there.</p> <p>8 UNIDENTIFIED SPEAKER: Sure.</p> <p>9 UNIDENTIFIED SPEAKER: I can talk to you about</p> <p>10 it.</p> <p>11 ALJ HOGAN: I'll have you do that outside the</p> <p>12 hearing maybe. Mr. Powell can have a conversation with</p> <p>13 you.</p> <p>14 Is there anyone else wanting to provide public</p> <p>15 testimony?</p> <p>16 LINDA GAYMAN: Sorry, I'm not contagious but --</p> <p>17 ALJ HOGAN: That's okay. Can I get your name?</p> <p>18 LINDA GAYMAN: Linda Gayman.</p> <p>19 ALJ HOGAN: And can you spell your last name?</p> <p>20 LINDA GAYMAN: G-A-Y-M-A-N.</p> <p>21 ALJ HOGAN: And, Ms. Gayman, were you in the</p> <p>22 room when I went through the penalties for perjury?</p> <p>23 LINDA GAYMAN: No.</p> <p>24 ALJ HOGAN: I'm sorry, I didn't catch your --</p> <p>25 LINDA GAYMAN: No.</p> <p>PAGE 165</p>	<p>1 I haven't -- I have not been to a lot of the</p> <p>2 meetings. I try to keep up, but there's a lot of</p> <p>3 information changing. Who is addressing that?</p> <p>4 I mean, you're just -- you have the landowners</p> <p>5 that are directly affected but what are you going to do</p> <p>6 to protect the ones who are just outside the bounds if</p> <p>7 an accident does happen? Are you going to -- I'm sorry,</p> <p>8 I'm having a hard time breathing.</p> <p>9 Are you going to have rules in place,</p> <p>10 regulations? I mean, are you going to let this be an</p> <p>11 easy, you know, forget it, you're not part of it, just</p> <p>12 -- you know, you don't have a voice? But if this goes</p> <p>13 through, you know there's more pipelines coming.</p> <p>14 So, you know, if we can foresee some of the</p> <p>15 other issues other people who have to live right next to</p> <p>16 it and who do not have a contract. I mean, if you have</p> <p>17 anything to share with us about water rights and damaged</p> <p>18 water, I mean, who would be responsible if we lost our</p> <p>19 wells or our stock ponds?</p> <p>20 ALJ HOGAN: All right.</p> <p>21 Mr. Bender, any questions?</p> <p>22 MR. BENDER: Maybe just a -- just a few.</p> <p>23 Ma'am, I can't advise you with respect to, you</p> <p>24 know, who you might counsel with in terms of a lawyer or</p> <p>25 anything like that, but I don't know if you were at the</p> <p>PAGE 167</p>
<p>1 ALJ HOGAN: Okay. So I'm required by law to</p> <p>2 advise you on the penalties for perjury. Perjury is a</p> <p>3 Class C felony punishable by a maximum fine of \$10,000,</p> <p>4 a maximum five years' imprisonment, or both.</p> <p>5 Do you understand what perjury is?</p> <p>6 LINDA GAYMAN: Yes.</p> <p>7 ALJ HOGAN: And being advised of the potential</p> <p>8 penalties for perjury, do you promise to tell the truth</p> <p>9 in this case today?</p> <p>10 LINDA GAYMAN: Yes.</p> <p>11 ALJ HOGAN: All right. Thank you. Go ahead.</p> <p>12 <u>LINDA GAYMAN</u></p> <p>13 being first duly sworn, testified as follows:</p> <p>14 LINDA GAYMAN: One of the things that I haven't</p> <p>15 heard a lot in -- at one -- at one point my land was in</p> <p>16 the -- in the pipeline. Then it moved to the corridor.</p> <p>17 I guess I'm still considered the corridor in Dickey</p> <p>18 County. No one is addressing our corridor people or --</p> <p>19 well, I guess maybe I'm not understanding it -- and the</p> <p>20 people that live just outside of that corridor. We have</p> <p>21 cattle, we have stock ponds, we have wells.</p> <p>22 And our main concern is what if something</p> <p>23 happens on a bust, whatever, who is responsible for that</p> <p>24 if we're not on a contract with Summit because we're</p> <p>25 just outside? That's one of the main concerns I have.</p> <p>PAGE 166</p>	<p>1 meeting earlier when I encouraged the public, if they</p> <p>2 had any questions, to talk with representatives of</p> <p>3 Summit. We have a table there at the end of the room.</p> <p>4 And certainly go and talk to those people. If they</p> <p>5 don't have the answers, I'm sure they will provide you</p> <p>6 with a business card for people that you can talk to.</p> <p>7 LINDA GAYMAN: No. But I mean as a state, how</p> <p>8 are you going to protect your other landowners? It's</p> <p>9 not just the ones that are on the pipeline. It is other</p> <p>10 people outside the corridor. This could be an issue</p> <p>11 that balloons. What are you -- what are you as North</p> <p>12 Dakota going to do to protect us? Have you thought</p> <p>13 about that? That's why I'm here.</p> <p>14 ALJ HOGAN: Okay. Thank you.</p> <p>15 Mr. Pelham, any questions?</p> <p>16 MR. PELHAM: I don't have any questions. Thank</p> <p>17 you.</p> <p>18 ALJ HOGAN: Mr. Schock.</p> <p>19 MR. SCHOCK: Would you be willing to identify</p> <p>20 like where your property is in relation to the pipeline,</p> <p>21 even just like township, range, section?</p> <p>22 LINDA GAYMAN: Van Meter. I have the map back</p> <p>23 there. Sorry, numbers don't stay in my head. I can</p> <p>24 provide that for you. But it's in Van Meter Township.</p> <p>25 MR. SCHOCK: Okay. That works.</p> <p>PAGE 168</p>

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<p>1 ALJ HOGAN: Mr. Pranis, any questions?</p> <p>2 MR. PRANIS: No, Your Honor.</p> <p>3 ALJ HOGAN: Commissioner Christmann.</p> <p>4 COMMISSIONER CHRISTMANN: I don't have any</p> <p>5 questions either, but thank you for being here.</p> <p>6 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>7 COMMISSIONER HAUGEN-HOFFART: No questions.</p> <p>8 Thank you.</p> <p>9 ALJ HOGAN: And Mr. Dawson.</p> <p>10 SUBSTITUTE DECISIONMAKER DAWSON: None for me.</p> <p>11 Thank you.</p> <p>12 ALJ HOGAN: All right. Thank you.</p> <p>13 Is there anyone else that wishes to provide</p> <p>14 public testimony today?</p> <p>15 All right. Seeing none, that will conclude our</p> <p>16 public testimony portion of the hearing. And I'll --</p> <p>17 before we conclude today, I'm just going to go around</p> <p>18 the room and see if there's any additional matters we</p> <p>19 need to address today.</p> <p>20 Mr. Bender.</p> <p>21 MR. BENDER: I don't believe so, Your Honor. I</p> <p>22 will have to take a look at my notes, and certainly if</p> <p>23 there were things that were requested of Summit that we</p> <p>24 indicated we'd provide after the hearing, we'll</p> <p>25 certainly do that.</p> <p>PAGE 169</p>	<p>1 good decision based on the law.</p> <p>2 The other thing that I just talked to staff</p> <p>3 about, the Bismarck hearing went very late and, in fact,</p> <p>4 we would have been evicted out of the Heritage Center if</p> <p>5 we tried to go longer. And so it was contemplated, I</p> <p>6 believe, at that point to probably schedule a fifth</p> <p>7 hearing again in Bismarck because we weren't able to</p> <p>8 finish the public testimony. And while we're together,</p> <p>9 I wondered if we could go ahead and just discuss that.</p> <p>10 ALJ HOGAN: Sure.</p> <p>11 COMMISSIONER CHRISTMANN: It's not necessarily</p> <p>12 part of the hearing. I don't know if you want to</p> <p>13 adjourn the hearing first and then do it or what, but</p> <p>14 while we're here, if we could schedule that.</p> <p>15 ALJ HOGAN: Okay. That sounds good. I'll just</p> <p>16 ask before we get to that if there's any other closing</p> <p>17 remarks.</p> <p>18 Commissioner Haugen-Hoffart.</p> <p>19 COMMISSIONER HAUGEN-HOFFART: Thank you. I just</p> <p>20 want to echo what Commissioner Christmann said. We do</p> <p>21 appreciate people being here. It's an opportunity for</p> <p>22 all of us to learn more.</p> <p>23 And I have to thank Dan for giving us some</p> <p>24 levity about all the snow we got. The first benefit I</p> <p>25 heard was there was only two roads to plow. So thank</p> <p>PAGE 171</p>
<p>1 ALJ HOGAN: All right. Thank you.</p> <p>2 Mr. Pelham.</p> <p>3 MR. PELHAM: I don't have anything. Thank you.</p> <p>4 ALJ HOGAN: All right. Mr. Pranis.</p> <p>5 MR. PRANIS: No, Your Honor.</p> <p>6 ALJ HOGAN: All right. And I'll just ask if</p> <p>7 there's any closing comments that the commissioners want</p> <p>8 to make.</p> <p>9 Commissioner Christmann.</p> <p>10 COMMISSIONER CHRISTMANN: Would you, Your Honor,</p> <p>11 indulge me with a couple minutes to talk to staff --</p> <p>12 ALJ HOGAN: Sure.</p> <p>13 COMMISSIONER CHRISTMANN: -- about something</p> <p>14 that I might want to wrap up?</p> <p>15 ALJ HOGAN: Yep. Absolutely.</p> <p>16 COMMISSIONER CHRISTMANN: Do that now?</p> <p>17 ALJ HOGAN: Yes. Go ahead.</p> <p>18 (Pause)</p> <p>19 ALJ HOGAN: All right. Commissioner Christmann.</p> <p>20 COMMISSIONER CHRISTMANN: Thank you for</p> <p>21 indulging me on that, Your Honor. I don't really have</p> <p>22 any opening -- or closing comments for the group except</p> <p>23 for to thank everyone that stuck around and provided</p> <p>24 this information. As I said at the beginning, it's very</p> <p>25 valuable for us in order for us to be able to make a</p> <p>PAGE 170</p>	<p>1 you for sharing that with us.</p> <p>2 And may all your travels be safe.</p> <p>3 ALJ HOGAN: Mr. Dawson.</p> <p>4 SUBSTITUTE DECISIONMAKER DAWSON: Yes. Thank</p> <p>5 you for coming today. I do appreciate the testimony</p> <p>6 that is provided. And I do go back and think about it</p> <p>7 and ponder it. So even if I don't ask a question, I am</p> <p>8 thinking intently of what you said. So thank you.</p> <p>9 ALJ HOGAN: All right. Well, that will conclude</p> <p>10 our hearing for today, but we'll stay on the record to</p> <p>11 discuss hearing dates before we officially recess. So I</p> <p>12 guess I'll let the chairman --</p> <p>13 COMMISSIONER CHRISTMANN: I turn it over to Mr.</p> <p>14 Schock who has some proposed dates.</p> <p>15 ALJ HOGAN: Oh, okay.</p> <p>16 MR. SCHOCK: Yes. So I've been working with the</p> <p>17 various parties on some --</p> <p>18 ALJ HOGAN: Move your mic closer.</p> <p>19 MR. SCHOCK: I thought I was right on top of</p> <p>20 this thing.</p> <p>21 So I've been -- I reached out to all of the</p> <p>22 parties, and I will just say there was pretty much no</p> <p>23 days that work for everyone so we're just going to have</p> <p>24 to choose some that work for most. The ones that seemed</p> <p>25 to work best at this point -- honestly, and I thought I</p> <p>PAGE 172</p>

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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

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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

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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

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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

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<p>1 would do that, if that's at all a concern, I guess.</p> <p>2 But I guess to Mr. Bender's point, maybe that's</p> <p>3 not the preference, is to go later.</p> <p>4 ALJ HOGAN: Mr. Pelham.</p> <p>5 MR. PELHAM: My only thought is, is that we need</p> <p>6 to establish at a prehearing conference what the order</p> <p>7 is going to be. We need to establish what the order is</p> <p>8 going to be at a prehearing conference. And we've got</p> <p>9 two intervenors that are -- counsel's not present so, I</p> <p>10 mean, I don't necessarily think we can decide this today</p> <p>11 without their input.</p> <p>12 ALJ HOGAN: Right.</p> <p>13 MR. PELHAM: Because they may have some thoughts</p> <p>14 as to that. They also may have some thoughts as to the</p> <p>15 number of witnesses, as to what they plan to ask. You</p> <p>16 know, at the time maybe there were going to be eight</p> <p>17 witnesses, but that may have changed since then. And I</p> <p>18 think we need to get their input.</p> <p>19 So I don't know that we can really decide this,</p> <p>20 the specifics of it, today. I think it's good to talk</p> <p>21 about, but I think that we need to involve them on the</p> <p>22 process.</p> <p>23 ALJ HOGAN: I agree.</p> <p>24 COMMISSIONER HAUGEN-HOFFART: We achieved a date</p> <p>25 so that's success.</p> <p>PAGE 177</p>	<p><u>CERTIFICATE OF TRANSCRIPTIONIST</u></p> <p>STATE OF NORTH DAKOTA ) ss.</p> <p>I, Lisa A. Hulm, CET-783, a certified electronic transcriber, do hereby certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter, to the best of my professional skills and abilities. I further state that I was not present during these recorded proceedings, and I am only the transcriber of the recorded proceedings.</p> <p>I further certify that I am not a relative or employee or attorney or counsel of any of the parties hereto, nor a relative or employee of such attorney or counsel; nor do I have any interest in the outcome or events of the action.</p> <p>Dated this date of July 17, 2025.</p> <p>LISA A. HULM, CET-783</p> <p>The foregoing certification of this transcript does not apply to the reproduction of the same by any means, unless under the direct control and/or direction of the certifying transcriber.</p> <p>PAGE 179</p>
<p>1 ALJ HOGAN: I agree. I don't think we can</p> <p>2 finalize anything, but it's helpful getting some</p> <p>3 feedback from the Commission on how you would like to</p> <p>4 see it run that day.</p> <p>5 COMMISSIONER CHRISTMANN: One additional piece</p> <p>6 of feedback, though. I would mention that I could</p> <p>7 imagine that the one intervenor with clients, I think</p> <p>8 exclusively in Burleigh County, probably wants to</p> <p>9 present at this hearing, but maybe the other intervenor,</p> <p>10 besides the three witnesses that came forward today, can</p> <p>11 present their testimony in Wahpeton. Maybe we don't</p> <p>12 have to do everything in Bismarck.</p> <p>13 MR. PELHAM: Or Linton.</p> <p>14 ALJ HOGAN: Or Linton.</p> <p>15 COMMISSIONER CHRISTMANN: Or Linton.</p> <p>16 ALJ HOGAN: Yeah.</p> <p>17 MR. PELHAM: Or both.</p> <p>18 ALJ HOGAN: Okay. All right. That's helpful.</p> <p>19 Any other comments or thoughts?</p> <p>20 All right. Then we will stand in recess in Case</p> <p>21 PU-22-391.</p> <p>22 -----</p> <p>23</p> <p>24</p> <p>25</p> <p>PAGE 178</p>	

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# SCS Carbon Transport LLC, Case No. PU-22-391

March 28, 2023 Formal Hearing

## ND PUBLIC SERVICE COMMISSION

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# SCS Carbon Transport LLC, Case No. PU-22-391

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March 28, 2023 Formal Hearing

## ND PUBLIC SERVICE COMMISSION

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