

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

April 22, 2024

Mandan, North Dakota

APPEARANCES

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

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Emmons County

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District Council of Minnesota and North Dakota (LIUNA)

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C O N T E N T S

SCS CARBON TRANSPORT LLC WITNESSES

DAN PICKERING

Direct Examination by MR. BENDER	18
Cross Examination by MR. PELHAM	26
Cross Examination by MR. BRATTEN	29
Cross Examination by MR. PRANIS	36
Questions by COMMISSION	37

WADE BOESHANS

Direct Examination by MR. BENDER	45
Cross Examination by MR. PELHAM	61
Cross Examination by MR. SCHOCK	66
Cross Examination by MR. BRATTEN	66
Questions by COMMISSION	70
Redirect Examination by MR. BENDER	84
Recross Examination by MR. PELHAM	85
Recross Examination by MR. BRATTEN	85

JAMES POWELL

Direct Examination by MR. DUBLINSKE	87
Cross Examination by MR. PELHAM	97
Cross Examination by MR. SCHOCK	105
Cross Examination by MR. BRATTEN	107
Questions by COMMISSION	110
Redirect Examination by MR. DUBLINSKE	129
Recross Examination by MR. SCHOCK	132
Recross Examination by MR. BRATTEN	134
Questions by COMMISSION	137

JON SCHMIDT

Direct Examination by MR. BENDER	280
Cross Examination by MR. PELHAM	286
Cross Examination by MR. BRATTEN	292
Questions by COMMISSION	297

PUBLIC TESTIMONY

LYNETTE DUNBAR 142

SUANN OLSON 152

GAYLEN DEWING 159

KARL RAKOW 172

CAROLLEE CARRUTH 179

CLINT FELAND 197

GAYLYNN BECKER 209

BAILEY ELKINS 216

MIKE BRANDENBURG 231

CHAD MOLDENHAUER 256

KEN HUBER 267

RANDY OLSON 272

PAUL BROWN 275

INTERVENOR LIUNA WITNESS

KEVIN PRANIS

 Testimony by KEVIN PRANIS 300

 Cross Examination by MR. PELHAM 305

1 ALJ HOGAN: Good morning. We are going to delay
2 the start of our hearing until 9:30. We've heard
3 there's been an accident on the bridge coming in from
4 Bismarck into Mandan. We're waiting to get an update on
5 traffic status. The hotel has gotten several calls from
6 people who are wishing to attend the hearing this
7 morning that are delayed coming over. So we will take
8 -- we're going to start with a break this morning until
9 9:30 and we will try to start at that time. So thank
10 you, everybody, for your patience.

11 (Recess)

12 ALJ HOGAN: All right. Good morning. We are
13 going to get started. Thank you all for your patience.

14 My name is Hope Hogan. I'm an administrative
15 law judge designated upon the request of the Public
16 Service Commission to serve as the hearing officer for
17 today's hearing. Let the record reflect it's
18 April 22nd, 2024, at 10 a.m. This is the time, date,
19 and place set by the Notice of Filing and Notice of
20 Hearing issued by the North Dakota Public Service
21 Commission on March 21st, 2024, for a hearing in the
22 Case No. PU-22-391. This hearing is being held today at
23 the Baymont Inn and Suites in Mandan, North Dakota.

24 As we begin, I would ask everybody to please
25 check their cell phones to make sure they're either

1 turned off or silenced so that we do not have cell phone
2 interruptions throughout our hearing today.

3 Also, I'd like to note that the Commission
4 understands that a lot of people in attendance at this
5 hearing have strong feelings regarding this case and the
6 subject matter of this case. I would ask that everybody
7 please refrain from any clapping, cheering, or verbal
8 commentary throughout our hearing today. This is an
9 administrative hearing and the Commission would like to
10 maintain decorum as we proceed so that we can conduct
11 this hearing in an orderly manner. Likewise, if you
12 have a sign, I will ask that you please put your sign
13 down and store it on the ground.

14 UNIDENTIFIED SPEAKER: I'd ask that they move
15 that sign blocking the door, the Summit Carbon sign.
16 Actually, it's blocking the notice that this is a public
17 hearing. So if they can have their propaganda -- not
18 the information table but this flag right out the door
19 here. That's how we were welcomed here today.

20 ALJ HOGAN: Okay. I wasn't aware of that, but,
21 sir, I'm going to --

22 UNIDENTIFIED SPEAKER: Well, look. You can make
23 yourself aware.

24 ALJ HOGAN: Sir, I'm going to ask you to put
25 your sign down. If you do not put your sign down, you

1 will be asked to leave the hearing room.

2 UNIDENTIFIED SPEAKER: I will put it by theirs
3 so people can see this too then.

4 ALJ HOGAN: I would ask that everybody please be
5 respectful of others today even if you disagree with the
6 content of their testimony or comments.

7 As I mentioned before, there are attendance
8 sheets located at the table outside the front door and
9 by the watercoolers at the back of the room. The
10 Commission would ask that everyone sign in so that
11 there's a record of those that are attending the hearing
12 for today. And if you'd like to offer public testimony,
13 I'd ask that you please indicate that on the attendance
14 sheet.

15 And just for planning purposes, can I ask
16 anybody that wishes to provide public testimony to
17 please raise their hand so I can get an estimate of how
18 many people we have?

19 All right. Thank you.

20 This hearing concerns the application of SCS
21 Carbon Transport LLC for a certificate of corridor
22 compatibility and route permit concerning approximately
23 320 miles of carbon dioxide pipeline ranging from 4.5-
24 to 24-inch diameter with associated facilities in
25 Burleigh County, Cass, Dickey, Emmons, Logan, McIntosh,

1 Morton, Oliver, Richland, and Sargent counties, North
2 Dakota.

3 On August 4th, 2023, the Commission issued
4 findings of fact, conclusions of law and an order
5 denying the application.

6 On September 15th, 2023, the Commission issued
7 an order granting SCS Carbon Transport's petition for
8 reconsideration.

9 This hearing has been scheduled to focus
10 primarily on the portions of the project in Oliver,
11 Morton, and Burleigh counties. The Notice of Filing and
12 Notice of Hearing specifies the issues to be considered
13 in this hearing with the proposed route adjustments and
14 supplemental filings and deficiencies noted in the
15 Commission's August 18th, 2023, order and including the
16 following questions:

17 Number one. Will construction, operation, and
18 maintenance of the facility at the proposed location
19 produce minimal adverse effects on the environment and
20 upon the welfare of the citizens of North Dakota?

21 Number two. Is the proposed facility compatible
22 with environmental preservation and the efficient use of
23 resources?

24 And number three. Will construction, operation,
25 and maintenance of the facility at the proposed location

1 minimize adverse human, environmental impact while
2 ensuring continuing system reliability and integrity and
3 ensuring that energy needs are met and fulfilled in an
4 orderly and timely fashion?

5 I'm now going to ask the parties to note their
6 appearance for the record.

7 Mr. Bender, I'll start with you if you want to
8 introduce yourself, your co-counsel, and identify the
9 witnesses you intend to call at this hearing.

10 MR. BENDER: Thank you, Your Honor.

11 ALJ HOGAN: Can you turn your mic on?

12 MR. BENDER: Thank you, Your Honor and
13 Commissioners. Lawrence Bender, PO Box 1855, Bismarck,
14 North Dakota, appearing in this matter on behalf of SCS
15 Carbon Transport LLC. I'm with Fredrikson & Byron Law
16 Firm. Also with me here today representing SCS Carbon
17 Transport LLC is Mr. Bret Dublinske with the firm of
18 Fredrikson & Byron and also Tyler Gludt with Fredrikson
19 & Byron.

20 The witnesses we plan on calling today, Your
21 Honor, are four. We initially intended on calling five
22 witnesses, but as we discussed before the hearing, one
23 of our witnesses is unavailable today and will be making
24 a request that that witness have an opportunity to
25 appear at the technical hearings that are going to be

1 scheduled at a later date. We're also going to do a
2 little bit of rearranging in the order in which we'll be
3 calling these witnesses. Our first witness will be Dan
4 Pickering; our second witness will be Wade Boeshans; our
5 third witness will be James Powell; and our fourth
6 witness will be Jon Schmidt. The witness we plan on
7 calling at a later date is Jeff Olson.

8 ALJ HOGAN: All right. Thank you.

9 Mr. Pelham, would you please state your
10 appearance for the record and introduce Commission staff
11 that's appearing with you today.

12 MR. PELHAM: Thank you. Zachary Pelham, special
13 assistant attorney on behalf of the Public Service
14 Commission. To my left is Victor Schock. He's the
15 director of Public Utilities. And he may ask some
16 questions today as well. Thank you.

17 ALJ HOGAN: Thank you.

18 And, Mr. Braaten, would you like to state your
19 appearance for the record?

20 MR. BRAATEN: Yeah, Derrick Braaten with Braaten
21 Law Firm here on behalf of Emmons County and also have
22 my paralegal, Desirae Zaste, with me here.

23 ALJ HOGAN: Mr. Braaten, it's my understanding
24 you do not intend to call any witnesses at this hearing?

25 MR. BRAATEN: That is correct.

1 ALJ HOGAN: All right.

2 And, Mr. Pranis, would you like to state your
3 appearance for the record and introduce the witnesses or
4 state the witnesses you intend to call at this hearing?

5 MR. PRANIS: Thank you, Judge Hogan. Kevin
6 Pranis on behalf of LIUNA Minnesota and North Dakota
7 representing construction laborers. We have three
8 potential witnesses' presentation from myself, Evan
9 Whiteford who is not here yet today but depending on the
10 schedule might be called, and Randy Oelschlager.

11 ALJ HOGAN: Thank you.

12 We will now take opening comments from the
13 commissioners and we'll start with Commissioner
14 Christmann.

15 COMMISSIONER CHRISTMANN: Thank you, Your Honor.
16 And thank you for explaining our decorum.

17 This agency, going way back before any of us
18 were here, has a long history of running orderly
19 meetings on controversial topics, all the way from the
20 -- going back to when siting laws were started with the
21 power plants back in the late '70s and '80s, coal mine
22 things, large power lines from North Dakota to the rest
23 of the country, Dakota Access. And so we hope that we
24 can maintain that kind of decorum long into the future,
25 because it's important that everybody be heard, and

1 nobody gets to be heard if everybody else is shouting
2 them down. The one thing that we can't do is hear from
3 everybody at once and so something has to give in that
4 regard.

5 I think back often to my ranch time and how
6 frustrating it would feel, especially in the spring when
7 it's calving time, to come to a meeting and the company
8 where people are drawing a salary spends hours going
9 first while I have to wait.

10 We understand that, but there is a reason why it
11 needs to be done this way, because we're out here
12 because we value public testimony, but your public
13 testimony, if you're testifying about something that has
14 been said at hearings in the past or that you've heard
15 uptown, but now the application has changed, it might
16 not be meaningful anymore because things have changed
17 now. And so it is important that the company be able to
18 lay out what the application is now and then we hear
19 from the public. So that's why we let at least the
20 general applicant witnesses go first. And hopefully
21 today yet we'll be able to bring in at least some public
22 testimony and get to it.

23 This hearing is scheduled for multiple days. We
24 don't know how long it's going to go, but we just ask
25 for patience in that regard because we -- as I said

1 before, we do value public testimony.

2 I don't know of another agency in state
3 government that goes out to places where things are
4 being built. We have future hearings like this
5 scheduled for Wahpeton and Linton. We had one at
6 Gwinner last year too in addition to these towns. We
7 want to hear from the people, and I think do it far
8 better than any other agency of state government. And
9 so we just ask for patience and decorum.

10 Thank you very much for being here and thanks in
11 advance for those that are still on their way after
12 making it through the accident, troubles on the bridge
13 this morning.

14 ALJ HOGAN: Thank you.

15 Commissioner Haugen-Hoffart.

16 COMMISSIONER HAUGEN-HOFFART: Thank you.

17 I think Hope and Commissioner Christmann have
18 summarized it very well. We do appreciate you guys
19 being here. It's very important that we hear from the
20 public. We want to hear from the public.

21 I'm just going to take a side note. To those
22 that were involved in the accident, our thoughts and
23 prayers are with you. We really hope there's no
24 injuries.

25 It's very important, when going through all this

1 information again, is for me, I really want to stick to
2 the facts of this. It's very important that we get
3 facts and facts only when it comes to making a
4 determination and which we are required to do. So I'm
5 going to really appreciate that, in sticking to the
6 facts and asking questions that are facts-based.

7 So, again, thank you for being here and I look
8 forward to hearing from many of you.

9 ALJ HOGAN: Thank you.

10 Mr. Dawson.

11 SUBSTITUTE DECISIONMAKER DAWSON: Thank you,
12 Your Honor. I am the substitute decisionmaker here. I
13 am filling in for Julie Fedorchak. And I do not want to
14 stand in the way any longer of this hearing that's been
15 delayed already so I'd like to thank you all for coming
16 and let's get going.

17 ALJ HOGAN: All right. Thank you.

18 So that everybody is aware, this is a
19 continuation of prior hearings that we have. The
20 Commission re-opened the record so all of the prior
21 evidence and testimony that was taken at our prior
22 hearings is still part of the record.

23 With that in mind, Mr. Bender, I believe Summit
24 has additional exhibits that it's going to offer today.
25 Maybe you could address that issue.

1 MR. BENDER: Certainly. Thank you, Your Honor.

2 As a result of the Commission granting the
3 petition for reconsideration, Summit filed with the
4 Commission numerous documents, many, many pages of
5 additional material. I have listed those materials on a
6 document that I had an opportunity to distribute to
7 Mr. Braaten as well as other counsel. And they have all
8 agreed that they have no objection to these exhibits
9 being admitted into the record except for we will have
10 one more exhibit, SC R-14, which is some maps. They're
11 similar to the maps that are presented in front of the
12 room and also in the back of the room. And we're going
13 to have Mr. Boeshans talk a little bit about that and
14 then I'll be offering that.

15 One other point I'd like to make with respect to
16 the exhibits we're asking to be entered into the record
17 is SC R-5. That's likely to be an exhibit that we're
18 going to talk quite a bit about today. There's usually
19 questions from the Commission and Commission staff about
20 that. That is what we refer to as a map book. We had a
21 map book in the original hearings and we prepared and
22 had previously submitted to the Commission a new map
23 book. And, once again, that is SCS R-5.

24 ALJ HOGAN: All right.

25 MR. BENDER: And if I may, Your Honor, one more

1 thing. Little unusual, but in this case we submitted
2 written testimony. The reason for submitting that
3 written testimony is so that we could save some time at
4 the Commission and so we could give more time to the
5 public to make comments. Summit also values the ideas,
6 comments, and concerns of the public so that was the
7 reason for doing that.

8 ALJ HOGAN: All right. Thank you.

9 Mr. Pelham, any objection to the offered
10 exhibits?

11 So I believe you said you're offering -- there's
12 no objection, 1 through 13, and 14 you were going to
13 offer later?

14 MR. BENDER: That's correct.

15 ALJ HOGAN: Okay. So any objection to 1 through
16 13?

17 MR. PELHAM: I don't.

18 I just want to make sure it's clear on the
19 record, though, as to what they are. So I don't know if
20 this document is -- do you have this document, Judge
21 Hogan?

22 ALJ HOGAN: I do. Yep.

23 MR. PELHAM: I don't have any objection. Thank
24 you.

25 ALJ HOGAN: All right. And, Mr. Braaten?

1 MR. BRAATEN: I don't have any objection.

2 ALJ HOGAN: Mr. Pranis?

3 MR. PRANIS: No objection, Your Honor.

4 ALJ HOGAN: Okay. So Exhibits 1 through 13 will
5 be entered into the record.

6 And I don't know that this document with the
7 exhibit list has made it onto the PSC docket yet. All
8 the documents labeled as exhibits are part of the docket
9 and available online. If anybody wishes to look at the
10 exhibit list, please let me know at a break and I'll
11 have a copy that you can look at.

12 All right. With that in mind, as far as hearing
13 procedure, we're going to start with a few of Summit's
14 witnesses. And once we've heard through -- I think
15 we're going to try to do three of Summit's witnesses and
16 then we will have a block of public testimony after
17 that. So we'll proceed in that manner.

18 With that in mind, I'll just ask if there's any
19 other preliminary matters we need to discuss before we
20 move to testimony.

21 Mr. Bender, did you have anything?

22 MR. BENDER: Perhaps one other point, Your
23 Honor. You know, we have submitted written testimony,
24 but to give the written testimony just a little bit of
25 perspective, our plan was to have the witness be sworn

1 and then we would just have that witness present some
2 very preliminary and summary information to sort of set
3 the stage for any questions the Commission may have or
4 any cross-examination by counsel.

5 ALJ HOGAN: Sure. I think that would be
6 helpful.

7 Mr. Pelham, any preliminary matters you want to
8 discuss?

9 MR. PELHAM: No, I don't think so. Thank you.

10 ALJ HOGAN: Mr. Braaten?

11 MR. BRAATEN: No, Your Honor.

12 ALJ HOGAN: Mr. Pranis?

13 MR. PRANIS: No, Your Honor.

14 ALJ HOGAN: All right. Then, Mr. Bender, you
15 can call your first witness.

16 MR. BENDER: Summit calls Dan Pickering.

17 ALJ HOGAN: Good morning.

18 DAN PICKERING: Good morning.

19 ALJ HOGAN: It sounds like your microphone is on
20 so --

21 DAN PICKERING: Yes.

22 ALJ HOGAN: -- I'll have you start by stating
23 your full name and spelling your last name for the
24 record.

25 DAN PICKERING: Daniel Ray Pickering. Last name

1 is spelled P-I-C-K-E-R-I-N-G.

2 ALJ HOGAN: And before you testify this morning,
3 I'm required by law to advise you on the penalties for
4 perjury in the state of North Dakota.

5 Perjury is a Class C felony, punishable by a
6 maximum fine of \$10,000, maximum five years'
7 imprisonment, or both.

8 Do you understand what perjury is?

9 DAN PICKERING: I do.

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

13 DAN PICKERING: I do.

14 ALJ HOGAN: All right. Thank you.

15 Go ahead, Mr. Bender.

16 MR. BENDER: Thank you, Your Honor. And as I
17 indicated in my introduction, we were calling these
18 witnesses a bit out of order and Mr. Pickering is a bit
19 out of order in that respect.

20 **DANIEL PICKERING,**

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

23 DIRECT EXAMINATION

24 BY MR. BENDER:

25 Q. Mr. Pickering, can you state your full name for

1 the record, please?

2 A. Yes. Daniel Ray Pickering.

3 Q. And can you spell your last name?

4 A. P-I-C-K-E-R-I-N-G.

5 Q. And what is your business address?

6 A. 100 Waugh Drive, Suite 600, Houston, Texas.

7 Q. And by whom are you employed?

8 A. Pickering Energy Partners.

9 Q. In what capacity?

10 A. I'm the founder and chief investment officer.

11 Q. And in preparation for today's hearing, have you
12 prepared certain written testimony that you've submitted
13 to the Commission?

14 A. I have.

15 Q. And in your -- well, was that testimony true and
16 correct when you prepared it?

17 A. It was.

18 Q. Is it true and correct as you sit here today?

19 A. There are a couple of adjustments I would like
20 to add for the record.

21 Q. Please do that now.

22 A. Sure. When preparing my testimony, I -- I used
23 a basis of -- for this particular project of, roughly,
24 32 sites where carbon would be gathered. My
25 understanding is that's now 57. The capital associated

1 with the project as I wrote up my testimony was around 5
2 billion. I've been made aware that number is closer to
3 8. And so, as such, I think some of the numbers that I
4 included in my testimony should be considered as
5 minimums as opposed to specifics. And one specific
6 example there, for instance, would be my estimate that
7 power consumption associated with the project would be,
8 roughly, \$4 million annually. I think that number is
9 now closer to 14 million given the increase in the
10 number of sites.

11 So I'd make those adjustments to the numbers in
12 my direct testimony.

13 Q. Okay. Mr. Pickering, let's talk a little bit
14 about why you're here. What's the purpose of your
15 testimony?

16 A. Sure. I'm here really to talk about what I
17 think are the benefits associated with the project for
18 the citizens of North Dakota, the state of North Dakota.

19 Q. And is it your understanding that in some of the
20 previous hearings there were some suggestions made that
21 the only benefit to the state of North Dakota was to the
22 Tharaldson Ethanol plant in Cass County, North Dakota?

23 A. That's correct. I think that there are
24 incremental benefits, and that's part of what I'm here
25 to talk about.

1 Q. So, in your opinion, there are other benefits
2 other than just the Tharaldson plant to the state of
3 North Dakota, is that correct, and its citizens?

4 A. Absolutely. They're included in my written
5 testimony. I'm happy to summarize them here if it's
6 helpful.

7 Q. Why don't you spend a few moments just
8 summarizing them and perhaps you can break them down, if
9 it's at all possible, into different parts?

10 A. Sure. I think there are two or three different
11 parts associated with the benefits of this project, jobs
12 being one and the resulting economic impact from those
13 jobs. There are other direct revenue opportunities.
14 And then I think a third category which I would call the
15 potential opportunity associated with the project and
16 the follow-on to the project.

17 Q. Okay. Let's talk about jobs first. I assume
18 there's going to be a certain number of jobs that will
19 be created as a result of construction of the pipeline?

20 A. That's correct. And so when we think about this
21 is a very big project that will last several years, the
22 expectation is there will be 1,500 to 2,000 jobs created
23 during that -- that pipeline construction process. The
24 estimates associated with that spending and follow-on
25 economic impact range from a billion one to a billion

1 three and with the potential for that to increase given
2 kind of an inflationary environment.

3 Q. Okay. And will there be some benefits with
4 respect to the job market after the line is constructed?

5 A. The ongoing operations of the business, the
6 indication of full-time ongoing employment, Summit
7 itself has indicated 30 to 50 full-time jobs with
8 associated vendors somewhere in the 60 to 150 jobs. So
9 if we think about that, it's sort of nine -- 90 to 200
10 in terms of total jobs. And the estimated economic
11 impact there would be, call it \$50 million plus. And
12 that's, roughly, 100 to \$200,000 per person or per job,
13 if you will, which is in line with what I've seen in
14 other large construction projects and big ongoing
15 operating facilities in other states.

16 Q. Okay. And I think everyone agrees now that this
17 will have some benefit with respect to the Tharaldson
18 plant. The Tharaldson plant is going to have some
19 benefits to the job market for construction of the
20 project, and you've also now discussed benefits to the
21 job market in terms of operations. What other benefits
22 will be received by the state of North Dakota and the
23 citizens of the state?

24 A. Sure. The ones that are tangible and immediate
25 upon startup of the project could fall into a couple of

1 different categories. One, where the carbon is being
2 injected into the pore space underground, there are
3 leaseholders that are being paid for the use of that
4 pore space. So there are pore space leases that --
5 where the benefit accrues directly to the landowners.

6 I mentioned power. So we'll pull -- we -- the
7 project will pull power from North Dakota sources which
8 should approximate, roughly, \$14 million. That's the
9 correction from the 4 million in my written testimony.

10 Q. And it's your understanding that Mr. Boeshans
11 will discuss that in a little bit further detail; is
12 that correct?

13 A. That's correct.

14 Q. Okay. Continue, please.

15 A. And so those are -- those are some of the direct
16 and obvious potential economic impacts that I think
17 haven't been mentioned previously. And then I turn to
18 the more opportunity-driven potential benefits.

19 Q. And let's discuss those first, please.

20 A. Sure. And so in my estimation what happens when
21 a project of this size and magnitude happens in an area
22 is success begets success, if you will. And so this is
23 -- this project is likely and potentially creates what I
24 would call kind of a first mover advantage in carbon
25 capture. And so as I think through what those things

1 mean, it just is the potential to attract more similar
2 carbon-related opportunities to the state.

3 And so one example of that would be future
4 projects that look like the current Summit project.
5 This current project is 40 million tons of annual
6 injection capacity. That's, roughly, .4 percent of
7 total U.S. carbon generation. So it's a very small
8 component of a very big opportunity set. And so there's
9 the potential that we would see more projects like this
10 that would be attracted to North Dakota because it's
11 been done here and had success here. So that's one
12 example.

13 The other -- the others would include, with more
14 carbon attracted to the state, again potential,
15 potential here, would be there are other businesses --
16 fertilizer, food and beverage, the ag business,
17 etcetera -- that use CO2. If there's more carbon in the
18 state, there's more potential for those jobs to be
19 created or those industries to come to the state. So
20 the expansion of kind of the carbon infrastructure, if
21 you will.

22 One other ancillary benefit could potentially
23 be, if we think about where the carbon for this
24 particular project is being sourced, it's coming from
25 ethanol plants across the country. Ethanol uses corn.

1 So if there's an uplift in the economics of ethanol
2 associated with carbon sequestration, then ethanol
3 plants have better economics. Those better economics
4 could attract more spending in the ethanol business,
5 which attracts more corn consumption. And so there's a
6 potential to at least support, if not enhance, the price
7 of corn which would then flow through to farmers here in
8 the state of North Dakota.

9 Q. Okay. Mr. Pickering, I want to keep this to a
10 summary to stand true to what I indicated as we don't
11 want to take a lot of time because you've submitted
12 written testimony. Anything else that you want to add?

13 A. The only thing I'd add, two final points. One
14 is there are uses in the energy business for CO2. And
15 so, again, with a carbon infrastructure that could
16 potentially develop in North Dakota, more carbon coming
17 into the state creates more opportunities for the energy
18 business to enhance their recovery. And so I think
19 there's a revenue generation possibility around energy.
20 That certainly would be an uplift for the energy sector
21 here in the state.

22 And then, finally, I think about the optionality
23 associated with this business in North Dakota. So
24 anything that diversifies revenue streams of the
25 citizens in the state, optionality is a good thing and

1 has value. And I think that this project and the
2 potential follow-ons, development of this carbon
3 ecosystem could be a positive.

4 MR. BENDER: No further questions, Your Honor.

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

7 MR. PELHAM: Thank you.

8 CROSS EXAMINATION

9 BY MR. PELHAM:

10 Q. Good morning, Mr. Pickering. You understand
11 that this is a pipeline siting case; right?

12 A. I do.

13 Q. All right. And a lot of -- well, some of the
14 information in your written testimony talks about carbon
15 capture generally; right?

16 A. Correct.

17 Q. In your written testimony, do you distinguish
18 between the economic benefit that you've provided in
19 your testimony between the carbon capture aspect, the
20 storage of it and pore space versus this case, the
21 pipeline siting case?

22 A. In my written testimony I haven't. And the way
23 I tend to think about this is it is an integrated
24 project. There is no need for the pipeline if the CO2
25 can't be sequestered. And so I view it as a system and

1 have talked about the numbers in aggregate because I
2 think that -- that you don't have one without the other.

3 Q. Understood.

4 So as far as, though, the estimates on 30 to 50
5 full-time jobs, is that for the pipeline or is that for
6 the overall project, is your estimate?

7 A. So that -- that would be -- that would be the
8 oversight of the project within the boundaries of North
9 Dakota.

10 Q. So do you have or are you able to provide a
11 number as to what your position would be as to the
12 number of full-time jobs for the pipeline aspect
13 after -- assuming it's approved and assuming it's
14 constructed, what is the number of full-time jobs that
15 Summit would be employing on the pipeline?

16 A. Someone else is going to have to give you that
17 number. I don't have that breakdown.

18 Q. Same question for the associated jobs. I think
19 you testified that there were 60 to 150 associated jobs.
20 Is that the same response that you'd have?

21 A. It would be.

22 Q. Do you know what type of jobs these would be?

23 A. Yeah. The answer is yes. They'll be anything
24 from system operators who would -- would monitor the
25 ongoing injection to maintenance and repair folks as

1 well. So those would be a couple of examples of the
2 types of jobs.

3 Q. Your testimony talks about enhanced oil
4 recovery. Are you familiar with that?

5 A. I am.

6 Q. Do you know whether or not Summit plans to
7 utilize carbon-CO2 from its pipeline for enhanced oil
8 recovery?

9 A. My understanding is there is no expectation that
10 the CO2 will be used in EOR. It will all be injected,
11 sequestered.

12 Q. So then I guess my question to you then is, if
13 that's the case, then why is that information in your
14 written testimony?

15 A. Sure. The -- there are a number of comments in
16 my testimony about the possible implications of the
17 project, and my expectation is that a successful carbon
18 sequestration project will -- will beget incremental
19 opportunities to develop what I call a carbon ecosystem.
20 And that carbon attracted to the state could then be
21 available for EOR.

22 Q. Thank you, sir. I don't have any other
23 questions for you.

24 A. Thank you.

25 ALJ HOGAN: Mr. Schock, any questions?

1 Mr. Braaten, any questions?

2 MR. BRAATEN: Yes, Your Honor. Thank you.

3 CROSS EXAMINATION

4 BY MR. BRAATEN:

5 Q. Mr. Pickering, what's Summit's plan for the
6 pipeline after the closure of the sequestration
7 facility?

8 A. I'm not aware of what the plan is.

9 Q. Do you have contracts with the ethanol plants
10 that go longer than the 10-year period for the injection
11 facility?

12 A. I'm not aware of the specific contract tenure
13 associated with the project.

14 Q. Do you know how long the contracts with the
15 ethanol plants go?

16 A. I don't.

17 Q. Do you know if it's more than 20 years?

18 A. I don't know.

19 Q. Is it your understanding that you have contracts
20 with ethanol plants for 10 years?

21 A. I'm not familiar with the duration of the
22 contracts with the ethanol plants. What I am confident
23 of is that there is ample pore space for any duration
24 contract that would be signed given -- given the pore
25 volume available in North Dakota.

1 Q. Summit's plan is to extend the pipeline up to
2 the Bakken oil patch to use CO2 for enhanced oil
3 operations in the Bakken after the closure of the
4 sequestration area; right?

5 A. I'm not familiar with -- with Summit's plans
6 post the project.

7 Q. Who is?

8 A. Who is familiar? I assume another witness could
9 answer that question that is associated with Summit.
10 I'm not a Summit employee.

11 Q. Which witness associated with Summit could
12 answer that question?

13 A. I don't know.

14 Q. You talked about economic benefits such as jobs
15 for the pipeline construction and you also talked about
16 opportunity-driven potential benefits. What other kinds
17 of carbon projects or facilities do you believe that
18 would be more likely to locate in North Dakota if Summit
19 is successful?

20 A. Yeah. So when we think about uses of CO2,
21 renewable fuels tend to -- tend to be associated with
22 carbon sequestration. And so while there aren't any of
23 those facilities today, you could see a sustainable
24 aviation fuel facility could potentially be justified
25 based on the ability to sequester the carbon. I

1 mentioned other industries. Fertilizer is a user of
2 CO2, as is the food and beverage industry. Metal
3 fabrication uses CO2. So there are a number of
4 potential industries that could utilize CO2 if it
5 becomes more readily available in North Dakota.

6 Q. If CO2 is utilized for sequestration by
7 obtaining 45Q credits, that CO2 cannot then be taken
8 back out of the ground for use for commercial purposes;
9 right?

10 A. That's the way I understand the 45Q credit,
11 correct.

12 Q. So any carbon that is sequestered under the 45Q
13 credit program is never going to be used for any kind of
14 commercial operation such as you've described?

15 A. Yeah. The intent of -- the intent of permanent
16 sequestration is that it's sequestration. And my
17 understanding of the Summit pipeline is all CO2 that
18 comes through this particular project will be
19 sequestered permanently. So none would be subsequently
20 removed.

21 Q. So the pipeline that is being built for the
22 Summit project will never be used to transport CO2
23 anywhere other than a permanent sequestration facility?

24 A. I couldn't -- I couldn't answer that with --
25 with any clarity because I don't know what Summit's

1 ultimate plans are and -- and the end users, the CO2
2 emitters, what they will ultimately want to do with the
3 CO2.

4 Q. So after the 10-year facility is over, they
5 could do whatever they wanted with that CO2?

6 A. Who's "they" in your question?

7 Q. The emitters you referred to.

8 A. Well, if -- if emitters are putting CO2 into the
9 pipeline and transporting it to North Dakota, then
10 they're going to have some idea of what happens to it.
11 If -- if -- that could be injection. That could be
12 other uses. But they'll know that before it goes into
13 the pipeline.

14 Q. But we don't know that right now, do we?

15 A. I think it's hard to know what happens 10 years
16 in the future.

17 Q. I think I understood you to be saying that
18 Summit's project could attract other carbon industries
19 and it could also eventually result in additional
20 business for the ethanol industry. And then you also
21 talked about jobs. Other than those, what benefits to
22 North Dakota do you see the pipeline that's being
23 proposed bringing to North Dakota citizens?

24 A. So I mentioned several of them in my -- in my
25 testimony. And I think what I would say is that it's

1 hard for any of us to know as a -- as this what I've
2 called carbon ecosystem develops, it's hard for any of
3 us to know exactly what that looks like and what
4 potential opportunities may -- may be created. Ethanol
5 and renewable fuels is clearly a -- one significant
6 beneficiary of the ability to sequester CO2. And so
7 other benefits include, as I mention, things like the
8 pore space leases, the potential of other -- other
9 industries, the power consumption.

10 So at this point I wouldn't have anything to add
11 other than the things I've mentioned both in my direct
12 testimony and then here.

13 Q. I understand there may be another witness to
14 speak to this, but how is power consumption a benefit to
15 North Dakota citizens?

16 A. Well, it's incremental. It's incremental
17 spending that occurs in the state. And so it's a GDP
18 enhancer. When you've got incremental consumption,
19 generation and consumption of power, that's more dollars
20 coming into the power co-ops.

21 Q. Can you identify any benefits to North Dakota of
22 the proposed pipeline that are not economic or benefits
23 to the tax base?

24 A. Just to make sure I understand the question. So
25 any benefits that are not economic benefits?

1 Q. Correct.

2 A. Yeah. I mean, I think the most meaningful one
3 is -- is this concept of what I call a halo of being
4 considered a first mover or among the first movers
5 around carbon capture and the carbon industry. Why?
6 Because I think the broad public perception is that
7 doing something to help climate change and reduce CO2 is
8 a positive and a good thing and so I believe that states
9 that are at the forefront of that will -- will be viewed
10 positively. So the qualitative benefit is,
11 quote/unquote, "those guys are doing good things." And
12 how that translates is also very difficult, but good
13 reputation has a lot of value.

14 Q. How do the leaseholders benefit from the pore
15 space leases?

16 A. The leaseholders receive a payment allowing the
17 pipeline project, the Summit project, to inject carbon
18 into their pore space that's under their -- the ground
19 underneath their acreage. And so it's a financial
20 benefit that they accrue at the time of the lease
21 payment.

22 Q. And is that financial benefit compensation for
23 the use of their property?

24 A. I don't know what -- I don't know what the legal
25 definition of "compensation" means, but -- but they are

1 being paid for that carbon to be stored under their
2 land.

3 Q. Why?

4 A. Because I believe the State of North Dakota has
5 -- has defined that that pore space, the landowner owns
6 the pore space and, therefore, if you're going to use
7 it, i.e., put something there that wasn't there before,
8 you have to pay the landowner for that use.

9 Q. Because you're compensating them for using their
10 property?

11 MR. BENDER: Your Honor, I'm going to object. I
12 don't have any problem with him answering the questions,
13 but insofar as it calls for a legal conclusion,
14 Mr. Pickering is not a lawyer so I would object on those
15 grounds.

16 ALJ HOGAN: Can you rephrase your question? And
17 were you looking for a legal conclusion? Maybe you
18 could clarify.

19 MR. BRAATEN: I'm just looking for -- no, I'm
20 not looking for a legal conclusion.

21 Q. (BY MR. BRAATEN) Are you paying the landowners
22 money in exchange for the use of their property?

23 MR. BENDER: Same objection.

24 ALJ HOGAN: I'll let him answer with the
25 understanding he's not a lawyer and this is not a legal

1 conclusion.

2 So you're answering to your knowledge and
3 understanding.

4 THE WITNESS: Sure.

5 A. Then the answer is yes.

6 MR. BRAATEN: No further questions.

7 ALJ HOGAN: Mr. Pranis, any questions?

8 MR. PRANIS: Yes, briefly, Your Honor.

9 CROSS EXAMINATION

10 BY MR. PRANIS:

11 Q. Mr. Pickering, so I just wanted to clarify that
12 while the numbers that you are citing, the estimates
13 you're citing for economic impact are for the project as
14 a whole, would it be correct to say that, in the absence
15 of the pipeline, if the pipeline were not to be
16 approved, that those numbers would likely be zero or
17 approximately zero?

18 A. There's a significant amount of spending that's
19 occurred, that has already occurred. If the project
20 doesn't move forward, I think it's very fair to say
21 there would be zero incremental or very low incremental
22 economic benefit.

23 Q. Thank you.

24 And, Mr. Pickering, to clarify, when you were
25 talking about the additional opportunities in carbon

1 management, you're referring to -- you were asked about,
2 you know, what was directly connected to this pipeline
3 project, but I want to clarify that I believe your
4 testimony was about potential investments that could be
5 elicited by demonstrating North Dakota's capabilities
6 and leadership in the carbon management space to
7 investors, operators, particularly from outside the
8 region that might make additional new investments in
9 different projects; is that correct?

10 A. That's correct. I'm -- my belief would be that
11 there would be incremental projects or benefits that
12 come as a result of this project.

13 Q. Thank you.

14 MR. PRANIS: No further questions.

15 ALJ HOGAN: Commissioner Christmann.

16 COMMISSIONER CHRISTMANN: I don't have very many
17 questions because actually your written testimony was
18 pretty clear, but I did have a couple of clarifications
19 and one, I guess, looming question.

20 On page 3 of your testimony, you said
21 approximately \$900 million will be spent in North
22 Dakota. Is that -- now in your testimony this morning,
23 I think you said 1.1 to 1.5 billion. Is that an update
24 on that number? Or when you said 1.1 to 1.5, is that
25 something different?

1 THE WITNESS: Yeah, thanks for the question.

2 So the \$900 million is the number associated
3 with capital spending in North Dakota. And the 1.1 to
4 1.2 that I mentioned is my expectation -- and I think I
5 quote that number in the testimony, that that's the
6 overall flow-through impact and there's some inflation
7 associated with that.

8 The number -- the \$900 million number is a bit
9 dated. It's kind of a 2022 estimate. And nothing that
10 cost X in 2022 costs X in 2024, 2025. So I think
11 there's inflation associated with that. How much, I'm
12 not sure, but there's inflation.

13 COMMISSIONER CHRISTMANN: Okay. And then the
14 next one I think you have ironed out, but I just want to
15 rephrase it --

16 THE WITNESS: Sure.

17 COMMISSIONER CHRISTMANN: -- to make sure I'm
18 understanding. On page 4, your testimony said
19 \$4 million of power will be sourced to North Dakota.
20 Now -- and I noticed before that Mr. Boeshans' testimony
21 had it by cooperative or by county, I can't remember
22 which way, and it totaled up to much more. You're
23 saying this should have been 14?

24 THE WITNESS: That's correct. Again, a 2022
25 estimate updated to 2024. And Mr. Boeshans' number, I

1 think, is a more accurate calculation.

2 COMMISSIONER CHRISTMANN: Because I think that's
3 about what --

4 THE WITNESS: Correct.

5 COMMISSIONER CHRISTMANN: -- his total up to.

6 THE WITNESS: Correct.

7 COMMISSIONER CHRISTMANN: Okay. And then in
8 reading this, I kept flipping pages, waiting for one
9 that you never addressed, and so maybe I'm
10 misunderstanding from previous hearings. Somewhere
11 along the line, once or probably multiple times, we've
12 heard of property tax exemption for a pipeline project
13 like this. I can't remember for how many years. It was
14 my understanding, though, that the -- when the State
15 developed that property tax exemption, that it was the
16 State doing that, not those counties and political
17 subdivisions, but that the counties get the property
18 taxes from the State, but the State doesn't collect them
19 from the property owner. Is that how you understand it?

20 THE WITNESS: I'm taking the proverbial Fifth on
21 that -- on that question. And the reason I say that is
22 I'm not a tax expert and I didn't really think about
23 taxes in this analysis. I thought more about the
24 economics of the project.

25 And so you're correct, there is no comment on

1 taxes in my prepared testimony because I just haven't
2 focused on it and don't understand the nuances of North
3 Dakota taxation.

4 COMMISSIONER CHRISTMANN: So as far as the
5 testimony, we don't know whether there's a benefit to
6 political subdivisions from additional revenue for
7 taxes?

8 THE WITNESS: I can't imagine that there won't
9 be taxes associated with this project and therefore
10 there have to be some. I just don't know how to
11 quantify them.

12 COMMISSIONER CHRISTMANN: Okay. I don't have
13 any other questions. Thank you.

14 THE WITNESS: Thank you.

15 ALJ HOGAN: Commissioner Haugen-Hoffart.

16 COMMISSIONER HAUGEN-HOFFART: Thank you.

17 I'm going to pick up there. In reading your
18 testimony, that is one of the things I was waiting to
19 find, is the political -- or the economic impact on the
20 counties in which the pipeline is going through. So I
21 don't know if you can get that for us or who for the
22 company can provide that economic impact per county.

23 MR. BENDER: We may be able to address that yet
24 today with another witness.

25 COMMISSIONER HAUGEN-HOFFART: Okay. So I look

1 forward to that. Thank you.

2 I always read with great interest when people do
3 modeling, what factors go into the modeling and what
4 assumptions for their -- I'm just curious in this, when
5 looking at this, did you take into account any -- just
6 looking at supply chain issues, lack of workforce,
7 housing, etcetera, how that impacts the modeling that
8 you presented?

9 THE WITNESS: Yeah. There was detailed modeling
10 done by a global consulting firm, EY, that resulted in a
11 2020 -- 2022 report that -- that is the basis for a
12 number of numbers that I use in my testimony.

13 MR. BENDER: Dan, excuse me for interrupting,
14 but can you describe the acronym "EY"?

15 THE WITNESS: I think Ernst & Young, they go by
16 "EY" these days, but, again, global nationally
17 recognized consulting firm, tax and audit as well.

18 So -- so the basis of that report involved very
19 detailed bottoms-up modeling of everything from supply
20 chain to employment to all -- several other things that
21 you mentioned, Commissioner. And so in a way I'm
22 analyzing the modeler or assessing the model. It's one
23 of the reasons that my assessment of costs and economic
24 impact is actually higher, because I do think that
25 things like supply chain and inflationary pressures over

1 the last two or three years have increased the costs
2 associated with the project.

3 COMMISSIONER HAUGEN-HOFFART: So that could have
4 negative impact on a project if there's delays.

5 THE WITNESS: It could. That's right. And, in
6 fact, I think what we've seen is the overall cost
7 estimate for the project has gone up fairly
8 substantially. And so, you know, this is an
9 economically-driven project, and at some point if costs
10 go too high it won't make sense to do.

11 COMMISSIONER HAUGEN-HOFFART: So what other
12 factors could prohibit a project going forward? Supply
13 chain? You don't get the pipe. What about the impact
14 to the landowners?

15 THE WITNESS: So other -- other things that
16 could -- access to capital. Investors that are
17 providing equity or debt capital for an \$8 billion
18 project might decide they don't want to do that. That
19 would make it hard to -- to complete the project. And
20 then, obviously, this process. You can't do a project
21 that's not permitted. And so, you know, clearly this is
22 the -- a key component. Access to capital is a key
23 component. And then the underlying -- the underlying
24 transporters of CO2 are another key component. You have
25 to have customers that want to take -- that want to give

1 you CO2 and inject it in your facility.

2 COMMISSIONER HAUGEN-HOFFART: Do you know if
3 there's any concerns with access to capital on this
4 project?

5 THE WITNESS: My experience in big projects is
6 there is always a concern about access to capital until
7 you have the money in the bank, but this is a project
8 that is both high profile and in the sweet spot of
9 infrastructure investing. Today there's a lot of money
10 interested in being involved in -- in low-carbon
11 projects. And so I don't think they'll have a problem
12 raising money, but my guess is, if you asked the
13 company, they would say they're always nervous about
14 where -- you know, funding the pipeline.

15 COMMISSIONER HAUGEN-HOFFART: I'm not quite
16 following the whole timeline. So when we -- my
17 understanding of this, we have this pipeline coming
18 through, or the request, and the purpose is
19 sequestration.

20 THE WITNESS: Yes, ma'am.

21 COMMISSIONER HAUGEN-HOFFART: That's got to be
22 for 12 years. So maybe I'm just not aware of other
23 interest with the 45Q where people are knocking at the
24 door or bringing forth other carbon-related things. Now
25 I'm not saying it's not being done, but I'm just trying

1 to connect some of the dots, and maybe that's -- the
2 onus is on me to get it, but I'm just not seeing it.

3 So thank you for your input. I have no other
4 questions.

5 ALJ HOGAN: Mr. Dawson.

6 SUBSTITUTE DECISIONMAKER DAWSON: Thank you,
7 Your Honor. I have no questions.

8 ALJ HOGAN: Mr. Bender, any redirect?

9 MR. BENDER: No redirect.

10 ALJ HOGAN: Mr. Pelham or Mr. Schock, any other
11 questions?

12 MR. PELHAM: No, Your Honor.

13 ALJ HOGAN: Mr. Braaten?

14 MR. BRAATEN: No, Your Honor.

15 ALJ HOGAN: Mr. Pranis?

16 MR. PRANIS: No, Your Honor.

17 ALJ HOGAN: All right. Well, thank you,
18 Mr. Pickering.

19 Mr. Bender, you can call your next witness.

20 MR. BENDER: Thank you. Summit calls Wade
21 Boeshans.

22 ALJ HOGAN: Good morning. I'll have you state
23 your full name for the record and spell your last name.

24 WADE BOESHANS: Good morning. Wade Boeshans.

25 ALJ HOGAN: Can you spell your last name,

1 please?

2 WADE BOESHANS: B-O-E-S-H-A-N-S.

3 ALJ HOGAN: And, Mr. Boeshans, were you in the
4 room and did you hear me go through the penalties for
5 perjury earlier?

6 WADE BOESHANS: I was.

7 ALJ HOGAN: And do you understand what perjury
8 is?

9 WADE BOESHANS: I do.

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

13 WADE BOESHANS: I do.

14 ALJ HOGAN: All right. Thank you.

15 Go ahead, Mr. Bender.

16 MR. BENDER: Thank you.

17 **WADE BOESHANS,**

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

20 DIRECT EXAMINATION

21 BY MR. BENDER:

22 Q. Wade, would you state your full name for the
23 record, please?

24 A. Wade Wayne Boeshans.

25 Q. And I apologize, Wade, for mispronouncing your

1 last name. Could you --

2 A. I'm used to it.

3 Q. Pardon me?

4 A. I'm used to it.

5 Q. Okay. Can you spell your last name, please?

6 A. B-O-E-S-H-A-N-S.

7 Q. And what is your business address?

8 A. 3442 East Century Avenue, Bismarck.

9 Q. And by whom are you employed?

10 A. Summit Carbon Solutions.

11 Q. In what capacity?

12 A. As executive vice president.

13 Q. And in preparation for today's hearing, have you
14 prepared written testimony that's been submitted to the
15 Commission?

16 A. I have.

17 Q. And when you prepared that testimony, was it
18 true and correct?

19 A. It was.

20 Q. And is it true and correct as you sit here
21 today?

22 A. It is.

23 Q. Mr. Pickering pointed out a discrepancy in his
24 testimony. Let's start with that. Can you just explain
25 what -- as you understand the discrepancy in his

1 testimony versus your written testimony?

2 A. Sure. As I understand it, Mr. Pickering used
3 the Ernst & Young report that he referenced. It was a
4 -- which was a report that was conducted in 2022 to
5 assess the economic impact of the project across the
6 entire footprint. Since that time, the number of plants
7 has increased and so we have a higher throughput, higher
8 volume associated with that, which is included in my
9 numbers.

10 Additionally, we've done -- you know, completed
11 front-end engineering and detailed design across the
12 system, which has then determined the pumping -- pump
13 sizes, pump capacities, motor sizes, and ultimately from
14 that we're able to develop then the -- the energy needs
15 of the project.

16 And my numbers reflect the current design of the
17 system, the current throughput of the system, etcetera.

18 Q. And the discrepancy that Mr. Pickering discussed
19 and that you've explained further, that discrepancy
20 doesn't result or wasn't an incorrect statement in your
21 testimony, it was an incorrect statement in
22 Mr. Pickering's testimony; is that correct?

23 A. Yeah. I would just characterize it as the
24 statements in my testimony are current 2024 estimates
25 versus Pickering's was 2022 estimates.

1 Q. And just to make it clear, the issue was the
2 number of ethanol plants going from 32 to 57; is that
3 correct?

4 A. That's correct.

5 Q. Mr. Boeshans, as the previous witness did, I'm
6 not going to have you go through every word of your
7 written testimony. The idea of presenting written
8 testimony was to save some of the commissioners' time
9 and allow more time for the public to testify, but I
10 want to have you summarize some of your written
11 testimony. Is that okay?

12 A. Yes.

13 Q. Let's start out with what the purpose of your
14 testimony is.

15 A. Yeah, the purpose of my testimony is to provide
16 testimony or an update on the Bismarck reroute, our
17 sequestration facility development, and our routing
18 across -- routing of the line across BNI and up to the
19 Young Station.

20 Q. And were you involved in preparing or having
21 prepared under your control and supervision some maps
22 that are going to be offered as SCS R-14?

23 A. Yes.

24 Q. Okay. And do you have those maps in front of
25 you?

1 A. Yes, I do.

2 Q. And I believe a copy should have been
3 distributed to each one of the commissioners as well as
4 counsel.

5 Could you just very briefly describe what that
6 packet is?

7 A. Sure. The packet includes, on the first page, a
8 map of the pipeline route around Bismarck. So it's
9 blown up to really identify the reroute around Bismarck.
10 And then subsequently we have a similar map for each one
11 of the counties across the footprint in North Dakota.
12 And so what you see on that map is the current route is
13 identified in blue and call it the previous route or old
14 route in red.

15 And so you'll see on the first page of the -- of
16 the packet the reroute around Bismarck. And so from
17 that you can see where we depart from the red line on
18 the east side of Bismarck, we routed, you know,
19 approximately eight miles to the north and then west,
20 crossing 83, or North Dakota Highway 83, about nine
21 miles north of Bismarck, and then making our way back
22 towards 1804 to the previous route.

23 Q. And your testimony today is primarily, at least
24 with respect to rerouting, is going to focus on the
25 reroute around Bismarck; is that correct?

1 A. That's correct.

2 Q. And the reason for that is you were
3 significantly involved in that reroute; is that correct?

4 A. Yeah, that's correct.

5 Q. And with respect to other reroutes in the other
6 counties, while you were aware of them, you were not
7 working on them directly. Is that a fair statement?

8 A. Yeah, that's correct.

9 MR. BENDER: We'd offer the Exhibit SC R-14.

10 ALJ HOGAN: Mr. Pelham, any objection?

11 MR. PELHAM: No objection.

12 ALJ HOGAN: Mr. Braaten?

13 MR. BRAATEN: Your Honor, I would have one
14 objection to the map containing Emmons County if the
15 underlying shapefiles are not provided to Emmons County.
16 If you can provide the underlying shapefile, I have no
17 objection and no objection to the rest of the exhibit.

18 MR. BENDER: Your Honor, the shapefiles that --
19 have been submitted to the Commission, but they're under
20 a protective order.

21 What information is it that you need,
22 Mr. Braaten? We might be able to provide you what you
23 need without having to modify the protective order.

24 MR. BRAATEN: I'd like the ability to use the
25 shapefiles. Is that something that's possible under the

1 protective order?

2 MR. BENDER: Your Honor, what I would suggest is
3 perhaps, when we take a break, I could meet with
4 Mr. Braaten and perhaps we could come up with something
5 that is in line with the protective order but gets
6 Mr. Braaten what he needs. I want to accommodate him,
7 if I can.

8 ALJ HOGAN: Okay.

9 MR. BRAATEN: That's good.

10 ALJ HOGAN: And, Mr. Pranis, any objection to
11 the exhibit?

12 MR. PRANIS: No, Your Honor.

13 ALJ HOGAN: All right. I will admit SCS R-14
14 with the caveat that we'll work to get Mr. Braaten the
15 information that he needs. All right. Go ahead.

16 Q. (BY MR. BENDER) Wade, let's talk a little bit
17 now more about your involvement in the reroute around
18 Bismarck. I believe your testimony was that you were
19 significantly involved in working through that reroute;
20 is that correct?

21 A. Yeah, that's correct. I led the team that did
22 the rerouting around Bismarck.

23 Q. And why don't you describe for us, subsequent to
24 the issuance by the Commission denying the application
25 and then the granting of the petition for

1 reconsideration, what did -- what did Summit do with
2 your help and involvement?

3 A. Sure. So after the denial of the previous
4 route, we met as a team, looked at the findings of fact,
5 after which I reached out to the Bismarck area
6 intervenors and I met with -- or contacted all of them,
7 met with some of them several times, just to better
8 understand what their concerns were.

9 Q. And let me stop you, Wade, just so -- for
10 everybody's benefit, can you describe or give the names
11 of those Bismarck intervenors? Who were they?

12 A. They were Chad Moldenhauer, Chad Wachter, and
13 John Warford.

14 Q. Okay. Please continue.

15 A. Yeah. So as I mentioned, had numerous meetings
16 with Bismarck area intervenors. Again, after that
17 learned, you know, really their primary concerns and,
18 you know, got some input on how to address them. From
19 that, then we started reaching out to landowners to
20 identify a suitable route that would go further north
21 and east in Bismarck, crossing somewhere between, you
22 know, midway and -- and the Baldwin road.

23 And so we started contacting landowners. Had
24 numerous meetings, often met with landowners several
25 times to introduce the project, educate them on the

1 project, answer their questions, address their concerns.
2 Sometimes it was in our office, sometimes it was in
3 their shops or their homes. And it was a very
4 interactive process.

5 Q. Let me stop you there. And I want you to
6 describe, was that -- was that the initial contact that
7 you were making where you talked about the process?

8 A. Yes. You know, the initial contact to -- yes,
9 yes, exactly.

10 Q. Okay. And how would you describe that process?
11 Was it -- was it favorable? Did the individuals that
12 you were contacting about right of way, did they seem
13 receptive to the right of way on their property?

14 A. Yeah, they were -- you know, they were -- they
15 were receptive. We -- they always had questions and
16 we'd address those questions, and sometimes we met
17 numerous times. And through that process we were -- we
18 then -- kind of the first step for us from there after
19 we started to develop, you know, an acceptable route
20 that the landowners had input on, and we went out and
21 started surveying the route.

22 Q. Did there come a time when that receptiveness
23 changed?

24 A. I would say as we worked through that process,
25 you know, through the -- through the survey, we were

1 able to secure voluntary survey access from over
2 90 percent of the landowners along the route. We
3 surveyed the route. We had one of our employees in the
4 field throughout that survey process. And, you know, we
5 found it to be very beneficial and they were in the
6 community and -- and as people are coming up and down
7 the road, they could stop and ask questions. We were
8 able to ensure that we were respecting the landowners'
9 property.

10 And we, you know, completed over 80 percent of
11 those surveys before -- before the winter set in and
12 were able to ultimately finalize a route and -- and
13 update the route and filed the updated route with the
14 Commission and into this docket, after which the route
15 was filed, then, you know, we got feedback from
16 landowners that they were being contacted by the North
17 Dakota Easement Team and being discouraged not to talk
18 to us and were feeling pressure and so it slowed down.

19 And it was -- you know, we were at a point where
20 we're still developing the permit, we're still
21 developing the -- preparing for the hearings and
22 ultimately, assuming approved, then the ability to
23 construct the line. So we didn't pressure them hard but
24 continued to engage, but clearly they were being
25 pressured by others.

1 Q. Okay. And what was Summit's approach with that
2 in terms of did you continue to work with those owners
3 in an attempt to acquire easements or did you just stop?

4 A. No. We continued to engage with them. But,
5 again, it was -- you know, we're understanding that they
6 -- many of those landowners wanted to wait and see if we
7 got a permit first and then continue the easement
8 discussions.

9 Q. Let's talk a little bit about the reroute, and
10 if it's helpful, certainly utilize Exhibit SCS R-14 in
11 describing the initial route for this pipeline and the
12 proposed new route for the pipeline. And there's page
13 numbers on those maps. When you're describing a map, it
14 might be useful for the Commission, Commission staff,
15 and counsel to know which map you're talking about by
16 referring to the page number.

17 A. Sure. So I'll start with page number 1 which,
18 again, is the route around Bismarck. You know, the red
19 line represents the old route, the blue line represents
20 the current route.

21 As I mentioned earlier, the reroute extends
22 about seven, almost eight miles further to the north
23 from the previous route, then makes its way to the -- to
24 the west, traverses about a mile south of the town of
25 Baldwin, crosses Highway 83, and then it kitty-corners

1 to the southwest, back to the original route, ties into
2 the original route at about Highway 1804 along the
3 Missouri River. And the Missouri River crossing is in
4 the same location.

5 Q. Okay. And I think you've testified that the
6 initial route, there was some concern by the Bismarck
7 intervenors; is that correct?

8 A. There was.

9 Q. And at least two of the Bismarck intervenors
10 were builders; is that correct?

11 A. That's correct.

12 Q. And they develop housing subdivisions; is that
13 correct?

14 A. Yeah, that's correct.

15 Q. And to your knowledge, are there any proposed
16 subdivisions in your new proposed route?

17 A. Not to my knowledge.

18 Q. Now, one of the items that the Commission
19 identified as a potential problem in denying the first
20 application was that the route passed over an area that
21 was covered by a coal permit from the Public Service
22 Commission that BNI had received. Are you aware of
23 that?

24 A. Yes, I'm aware of that.

25 Q. Okay. And can you explain what Summit had done

1 prior to that order being denied and what Summit has
2 done since the order was denied in terms of working with
3 the PSC, working with BNI to resolve, if any, of that
4 issue?

5 A. Sure. I'll refer you to page 4 in the exhibits,
6 which is the Oliver County slide -- or map, excuse me.
7 Again, the blue line reflects the current route and the
8 red line reflects what I would describe as the old route
9 or the previous route.

10 So obviously, given my previous history as the
11 president and general manager of BNI, I was very
12 familiar with BNI's operations, its mining reserves, its
13 mining plans, etcetera. After the announcement of the
14 joint development agreement with Minnkota and the
15 decision to route a line up to the Minnkota storage
16 site, we met with the BNI general manager and
17 engineering manager in our office in about June of 2022.
18 We looked at a couple different routes. One was to kind
19 of the east side of BNI's permitted mine area. The
20 other was to the west side of BNI's permitted mine area.
21 Kind of through those discussions we determined that the
22 route on the west side was the favorable route.

23 And so then we proceeded then to get permission
24 to survey that route from the landowners. We surveyed
25 the route, did some route adjustments along the way, and

1 then went back to BNI to verify the route with them and
2 got their concurrence on the route.

3 Also engaged with the North Dakota PSC
4 Reclamation Division, Guy Welch, and confirmed the
5 process for -- and requirements for crossing a mining
6 permit with the -- with the regulator, the Reclamation
7 Division. And we got letters from both, both from BNI
8 and from the Reclamation Division, kind of affirming the
9 same.

10 Q. Okay. Now, Wade, when the previous witness was
11 testifying, there were some questions about
12 distinguishing between the pipeline and the
13 sequestration project. It might be useful for the
14 Commission and the staff for you to just give us a
15 little bit of information with respect to the status of
16 the sequestration project.

17 A. Sure, sure. I'll give you kind of a high-level
18 overview.

19 We, you know, initially identified an area in
20 Oliver and Mercer counties, about 170,000 acres. We
21 then engaged Naset Consulting and the Energy and
22 Environmental Research Center out of Grand Forks to do
23 site characterization on about a 150,000-acre area
24 within -- within that original call it "target area."
25 We completed that work. And then the EERC led the

1 effort to characterize or evaluate all of the data that
2 we collected, build it into a model, ultimately complete
3 our design and engineering and application for a storage
4 facility permit, which we -- which were recently
5 docketed. We have three docketed storage facility
6 permit hearings that will be coming up here in June for
7 three separate storage sites within that area, within
8 Oliver and Mercer counties.

9 Q. And Mr. Pickering provided some information with
10 respect to the economic benefits of this project. Did
11 you hear that testimony?

12 A. I did.

13 Q. And could you expand perhaps a bit -- I know you
14 did it in your written testimony, but just for the
15 benefit of the Commission and the general public that's
16 here today, just orally explain for us some of the
17 benefits to the agricultural economy, in your opinion.

18 A. Sure. So I'd just say that in North Dakota the
19 ag and energy economy represents 70 percent of our
20 economy. It's very material to our economic success.
21 Our project, which today includes 57 ethanol plants,
22 those 57 plants consume about 1.7 billion bushels of
23 corn. They represent about 30 percent of the ethanol
24 production in the U.S. That by extension represents
25 corn that is produced on about 30 million acres. So

1 that is very material to the corn markets, the U.S. corn
2 markets.

3 We also have the Tharaldson plant that's part of
4 our project. In North Dakota we produce 350, 400
5 million bushels of corn a year. Roughly half of that is
6 consumed by ethanol plants. The Tharaldson plant alone
7 consumes between 15 and 20 percent, about 60 million
8 bushels a year. So our project and Tharaldson are
9 material, in my opinion, to North Dakota's economy.

10 Q. Let's talk a little bit -- and, once again,
11 Mr. Pickering touched on this but benefit to electric
12 energy suppliers. How can this project benefit them?

13 A. So as I included in my written testimony and
14 Mr. Pickering testified to, you know, our project will
15 locate pump stations and facilities throughout North
16 Dakota that will purchase electricity from the local
17 cooperatives or utilities that serve those areas. And
18 so by increasing their load were able -- then they're
19 able to spread their fixed costs, if you will, over a
20 larger volume of sales.

21 And so it's good for North Dakota in terms of,
22 you know, we export -- about 70 percent of the
23 electricity produced in this state gets exported out of
24 the state. And so we're generating load and -- and
25 supporting our energy industry and at the same time

1 supporting the local cooperatives in which we operate.

2 Q. And what benefits will there be to pore space
3 owners?

4 A. Well, for the pore space owners, we will pay
5 royalties for the injection of CO2 into their -- into
6 their lands or beneath the surface of their lands.
7 We'll also pay -- you know, we pay them for the right to
8 do so. In the option and lease agreements, we made
9 bonus payments to them.

10 Q. So supplemental payments to farmers and ranchers
11 for utilization of the pore space. Is that a fair
12 statement?

13 A. That's a fair statement, yes.

14 Q. And they'll be able to utilize the surface just
15 as they did before CO2 was injected into the pore space.
16 Is that a fair statement?

17 A. Yeah, that's correct.

18 MR. BENDER: That's all the questions I have at
19 this time.

20 ALJ HOGAN: Mr. Pelham, any questions?

21 MR. PELHAM: Thank you.

22 CROSS EXAMINATION

23 BY MR. PELHAM:

24 Q. Good afternoon, Mr. Boeshans. Some questions
25 about your -- you filed testimony, page 11, you were

1 asked about the progress on the Bismarck reroute, and
2 you indicate that 25 out of 28 survey permissions have
3 been acquired from landowner groups; correct?

4 A. That's correct.

5 Q. And those three, can you tell us specifically
6 what the issues are with those three that you have not
7 -- that Summit has not been able to obtain yet?

8 A. Yes. I'm trying to recall specifically the
9 three individuals. Two of them wanted to wait until
10 after we have a permit before we advance or give us
11 permission to advance the survey activities and easement
12 discussions. One of them we met with and then since has
13 not returned a call or contact.

14 Q. And you include in an exhibit in your prefiled
15 testimony Exhibit A and it's some letters from Domina
16 Law Group. I'm just wondering, sir, can you tell the
17 Commission what it is that Summit believes these letters
18 from this law firm has caused issues to Summit
19 specifically as to this Bismarck reroute?

20 A. Yeah. So as I mentioned in my testimony, one of
21 the landowners brought that to us when he came in to
22 sign his agreement or shortly thereafter, I don't
23 recall. Provided us -- you know, "This is what I
24 received at my house. And my neighbors are receiving
25 the same. And we've had visits encouraging us to oppose

1 your project."

2 Q. So as to the two that have indicated they wish
3 to wait until after proceedings are done, permit
4 applications are concluded, have they specifically told
5 you that the reason is because of these letters from
6 this law -- law firm?

7 A. They have not specifically told me that.

8 Q. And as to the one, presumably you don't know
9 because you haven't been able to have a conversation.
10 Is that fair to say?

11 A. That's fair.

12 Q. You mentioned winter season. How has the winter
13 season impacted the surveying and has -- has that -- now
14 that winter is finally lifting, although we had a fairly
15 mild winter this last winter, how has that impacted the
16 survey for the Bismarck reroute area?

17 A. So we completed -- we completed the 80-plus
18 percent of survey that -- and I guess that has been
19 completed was done by November, early November, as I
20 recall. We will, you know, send surveyors back to the
21 field here, you know, now that, you know, the frost is
22 out and the snow is gone, upcoming and complete the
23 additional surveys.

24 Q. At this time, Mr. Boeshans, does Summit have any
25 plans to institute condemnation action for the three

1 remaining landowners in the Bismarck reroute area that
2 there's been no permission to survey their property yet?

3 A. We -- we do not.

4 Q. Aside from Emmons County and Burleigh County,
5 are you able to testify as to the status of conditional
6 use permits?

7 A. Are you asking me to testify to the status of
8 conditional use permits in which counties?

9 Q. Excepting Burleigh and Emmons. So for the areas
10 that we're here about, I mean Oliver County, Emmons --
11 not Emmons County, but Sargent County, other counties on
12 the project, where is Summit at in terms of obtaining
13 any necessary conditional use permits from counties
14 where the line is crossing?

15 A. Yeah, okay. Thank you.

16 So I know that we have obtained some of the road
17 crossing permits which are -- I don't know if you
18 classify those as --

19 Q. Let me ask you this --

20 A. -- conditional use permits --

21 Q. Are you familiar with a conditional use permit
22 and do you know what that conditional use permit is?
23 And maybe -- and if you're not the right witness for
24 this, then I -- we can ask someone else but --

25 A. Sure.

1 Q. Are you familiar with conditional use permits?

2 A. I am familiar with conditional use permits.

3 Q. So then a little bit different than road permits
4 and road use permits. Conditional use permit, can you
5 just update the Commission as to where that is, if you
6 -- if you're able to?

7 A. I'll have to defer to Jimmy Powell who has
8 responsibility for the rest of the system and the
9 conditional use permits. As I understand, it would be
10 associated with the pump stations.

11 Q. Fair enough.

12 Questions on HDD drilling under certain rivers
13 in North Dakota. Is that you or Mr. Schmidt?

14 A. Yeah, that would be Mr. Powell and Mr. Schmidt.

15 Q. Mr. Powell and Schmidt, okay.

16 Same question as to whether or not winter
17 construction is anticipated, is that a better question
18 for Mr. Powell or Mr. Schmidt?

19 A. It is.

20 Q. Do you have any -- well, strike that.

21 I don't have any other questions for you, sir.

22 ALJ HOGAN: Mr. Schock, any questions?

23 MR. SCHOCK: I think just a couple.

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CROSS EXAMINATION

BY MR. SCHOCK:

Q. So just to go back to those landowners we were just talking about, the three; so the two that are wanting to wait until the permit is issued by the Commission, have you been able to survey their property at all?

A. We have not.

Q. Okay. Would you be able to give us a number, what percent of the total North Dakota corridor has been surveyed at this point?

A. I'll have to defer to Jimmy on that one in terms of the percent of the total of North Dakota.

Q. Okay.

A. What I can tell you is we surveyed 92 percent -- or, excuse me, we surveyed 82 percent of the reroute and we got permission to survey 92 percent.

Q. Okay. My remaining questions are probably better for Jimmy based on your responses. So thank you.

ALJ HOGAN: Mr. Braaten, any questions?

MR. BRAATEN: Yes. Thank you, Your Honor.

CROSS EXAMINATION

BY MR. BRAATEN:

Q. Is it accurate to say that -- I think your written testimony stated that Minnkota and Summit have

1 an agreement to jointly develop CO2 storage facilities
2 near Center. Is that accurate?

3 A. That's accurate.

4 Q. And is that a separate facility than Minnkota's
5 storage facility it's using for Project Tundra?

6 A. Yes. We jointly developed a west storage
7 facility, DCC West.

8 Q. Okay. And DCC West is a project of both
9 Minnkota and Summit?

10 A. No. It's wholly owned by Minnkota.

11 Q. What is Summit's role with the development of
12 that project?

13 A. We engaged, I guess, with them. They were -- we
14 have a joint development arrangement with them but which
15 -- in which they were the leader. So we helped pay for
16 it.

17 Q. Does Summit have guaranteed -- let me start
18 over. Does Summit have a specific volume of guaranteed
19 access in Minnkota's storage facility?

20 MR. BENDER: Your Honor, I'm going to object. I
21 think we're getting far afield of a pipeline hearing.
22 And I think what Mr. Braaten is up to is he's conducting
23 a fishing operation to assist him in the hearing that's
24 going to take place before the Industrial Commission in
25 June.

1 ALJ HOGAN: Can you address relevance for this
2 proceeding?

3 MR. BRAATEN: Yeah. I'm asking questions
4 directly from his written testimony where he states how
5 does the project benefit North Dakota's energy industry
6 and then talks about the Minnkota and Summit joint
7 development of CO2 storage facilities for this pipeline.

8 ALJ HOGAN: I will note the objection, but I'll
9 allow him to answer.

10 Do you need the question repeated?

11 THE WITNESS: Yeah, can you repeat the question?

12 Q. (BY MR. BRAATEN) Did Summit -- does Summit
13 have a specific volume of guaranteed access into the
14 Minnkota facility?

15 A. We do not.

16 Q. If Summit is unable to permit its own
17 sequestration facilities, would the access to Minnkota's
18 facilities be enough to operate the pipeline as planned?

19 A. I have to go back. I don't recall specifically,
20 to address your question in detail. I don't believe so.

21 Q. Does Summit have plans to develop sequestration
22 sites in addition to the one it's developed with
23 Minnkota or the one it's attempting to develop on its
24 own?

25 A. Our current plans are to develop the sites that

1 we've applied permits for.

2 Q. With respect to the pipeline being sited here
3 today, are there plans for any additional sequestration
4 sites for that pipeline?

5 A. We don't have any plans that we've announced or
6 that we've, you know, quite frankly, developed at this
7 point.

8 Q. In your written testimony there's a question:
9 how does the project benefit North Dakota's energy
10 industry? And there's discussion of the Minnkota and
11 Summit facility. But other than the Minnkota and Summit
12 facility, can you tell me how you believe the project
13 benefits North Dakota's energy industry?

14 A. I would say just -- just broadly speaking, you
15 know, much in the same way that Mr. Pickering testified
16 earlier, that, in my now 20 years of -- you know, in the
17 energy industry, 20-plus years in the industry, being
18 involved in developing carbon capture and storage in
19 North Dakota for the last close to 15 years now, one of
20 the biggest challenges to moving -- moving --
21 commercializing carbon capture and storage was actually
22 being -- having that commercially done in the state at
23 large commercial scale. As Mr. Pickering indicated, as
24 Minnkota and Summit work together to commercialize CCS,
25 that then makes it less risky for others to follow and

1 do the same things or deploy CCS on other energy
2 facilities or on other projects. So certainly that's a
3 benefit to the state.

4 As I mentioned, I think, also in my written
5 testimony, these CCS projects are providing an
6 opportunity to landowners who own pore space to monetize
7 that resource. So that's clearly a benefit to the state
8 of North Dakota and the citizens of North Dakota.

9 Q. Could those landowners monetize that resource by
10 leasing their pore space to a different company?

11 A. I don't know. I'm not aware of what other
12 opportunities they have, if any.

13 Q. If they sign a lease with Summit, would they be
14 able to lease their pore space to another company?

15 A. They would not.

16 MR. BRAATEN: No further questions.

17 ALJ HOGAN: Mr. Pranis, any questions?

18 MR. PRANIS: No, Your Honor.

19 ALJ HOGAN: Commissioner Christmann.

20 COMMISSIONER CHRISTMANN: A few, but, first of
21 all, sorry that I of all people said Boeshans, but other
22 people were saying it. I thought it had evolved. I'm
23 glad you're back to where you were when -- when you were
24 a Miner and a Bison.

25 THE WITNESS: Thank you.

1 COMMISSIONER CHRISTMANN: In your testimony, you
2 mentioned that the reroute is nine miles north of
3 Bismarck city limits; is that correct?

4 THE WITNESS: That's correct. I would say --
5 let me correct you on that.

6 COMMISSIONER CHRISTMANN: There's some more
7 things in here, but I'm getting to them.

8 THE WITNESS: Okay.

9 COMMISSIONER CHRISTMANN: On page 4, and I think
10 at that point -- and this is what I wanted to clarify
11 with this. You're talking about, like, kind of in the
12 Highway 83 area.

13 THE WITNESS: Correct.

14 COMMISSIONER CHRISTMANN: Okay. And then later
15 on, on page 13, it mentions seven miles north on the
16 west side. So I'm assuming kind of in that 1806 area;
17 correct?

18 THE WITNESS: That's correct.

19 COMMISSIONER CHRISTMANN: And that's the city
20 limits. It seems like in previous hearings there's been
21 confusion when we have company people on and later
22 individual testimony differing back and forth between
23 city limits and extraterritorial limits.

24 THE WITNESS: Yes.

25 COMMISSIONER CHRISTMANN: So in each of those

1 places at Highway 83 and where you're referencing to the
2 west side, do you know what the -- how far north the
3 reroute is from the extraterritorial boundaries?

4 THE WITNESS: Let me look at the map here. So
5 we cross Highway 83 six miles north of the ETA.

6 COMMISSIONER CHRISTMANN: Six miles north of the
7 ETA.

8 THE WITNESS: Yes.

9 COMMISSIONER CHRISTMANN: Okay.

10 THE WITNESS: And then as we then traverse
11 around to the northwest side, it's about four and a half
12 miles --

13 COMMISSIONER CHRISTMANN: Okay.

14 THE WITNESS: -- from the ETA.

15 COMMISSIONER CHRISTMANN: Oh, yeah, and that is
16 on page 13 too, at that one. Okay. And then -- but
17 unless I missed it, I didn't see anything on the east
18 side. And so when I'm looking at the new map that got
19 handed out today, not down by the interstate but kind of
20 by that 1804 corridor, it looks like you're -- well,
21 right by the 1804 corridor, you're probably just a
22 little over three miles from what appears to be housing
23 addition. But do you know, on that east side, how far
24 you are from city limits and from ETA at the -- maybe
25 the closest points?

1 THE WITNESS: Yes. So where we cross Interstate
2 94 to the east of Bismarck, so the route didn't change,
3 the crossing of the route didn't change in that area,
4 which is, as it is, about three miles to the east of the
5 ETA and five miles to the east of the city limit, as I
6 understand it.

7 COMMISSIONER CHRISTMANN: So anything we see
8 that looks like houses, if they were in fact houses,
9 those are just outside development areas outside of
10 Bismarck?

11 THE WITNESS: Yeah, I would say that -- if you
12 look at the map, the furthest development to the east is
13 Silver Ranch just on the north side of I-94.

14 COMMISSIONER CHRISTMANN: Okay.

15 THE WITNESS: Which is the end of the -- or
16 close to the city limits.

17 COMMISSIONER CHRISTMANN: Okay. And do you know
18 offhand -- so on the -- now I'm going back to the west
19 side again.

20 THE WITNESS: Yeah.

21 COMMISSIONER CHRISTMANN: About how far are you
22 from the Double Ditch site there?

23 THE WITNESS: We're about three and a half miles
24 upriver.

25 COMMISSIONER CHRISTMANN: Okay.

1 THE WITNESS: Between three and a quarter and
2 three and a half.

3 COMMISSIONER CHRISTMANN: Okay. Your Honor, I'm
4 sorry, but along the way I thought of another one that
5 might be best directed for him, but I'm not thinking of
6 it now so I might want to come back after the others,
7 but I won't hold things up.

8 ALJ HOGAN: Sure.
9 Commissioner Haugen-Hoffart.

10 COMMISSIONER HAUGEN-HOFFART: Thank you.

11 I'm going to go kind of page by page on your
12 testimony so I'm going to apologize if you're going to
13 have to go back and address some questions.

14 On page 5 you say Summit will continue to engage
15 with other ethanol plants within the state. Can you
16 tell me how many more ethanol plants you are engaging
17 with in North Dakota?

18 THE WITNESS: So there are -- the five ethanol
19 plants in North Dakota, two of them have already
20 developed a carbon capture and storage, Blue Flint and
21 Red Trail, and so they're injecting today and doing the
22 same thing we're proposing to do in our project.
23 There's the Tharaldson plant who we've already
24 contracted with. And so there's two remaining plants
25 that -- which we think are possible to join our project.

1 COMMISSIONER HAUGEN-HOFFART: So you're in
2 negotiations with them or talks with them?

3 THE WITNESS: We've had commercial discussions
4 with them, yes.

5 COMMISSIONER HAUGEN-HOFFART: Okay. I'm going
6 to go to the Minnkota and Summit project. It says "the
7 agreement provides." Has an agreement been signed with
8 Minnkota?

9 THE WITNESS: Can you clarify that question?

10 COMMISSIONER HAUGEN-HOFFART: It says "the
11 agreement provides." It says "How does this project
12 benefit North Dakota energy industry?" on page 6.

13 "First, Minnkota and Summit have an agreement."

14 Has the agreement been signed?

15 THE WITNESS: Yeah. As I mentioned earlier, we
16 signed a joint development agreement with Minnkota. We
17 announced that in April of 2022.

18 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.

19 You go on to state on page 6 "We have completed
20 a preliminary study of the anticipated power."

21 Are you willing to share that study with us?

22 THE WITNESS: I think we -- we could share that.

23 MR. BENDER: I don't think that would be a
24 problem.

25 COMMISSIONER HAUGEN-HOFFART: Okay. The reason

1 why I want to explore this a little further is when
2 we're looking at some of the utilities, looking at some
3 of the other issues in our realm of regulation, is all
4 these cooperatives belong to Basin, which are within the
5 SPP region. And we've already noted that there is some
6 congestion up in the western part of the state. So I
7 guess I would like, as the Commission, for us to really
8 look at does this create any additional concerns --

9 THE WITNESS: Sure.

10 COMMISSIONER HAUGEN-HOFFART: -- with that. So
11 that's the relevance of why I'm getting at that. So I
12 would like -- for myself, I would really like to explore
13 that further as far as the energy needs and the impact
14 it might have on that. So I look forward to that
15 report.

16 I want to talk about when you met with some of
17 the intervenors in north Bismarck. You mentioned two of
18 the developers, they had a -- I would say a strong
19 objection to where the initial route was based on their
20 development. So after you met with them and you moved
21 the route out of their development area, I believe there
22 was concerns from others regarding the route north such
23 as other landowners, county commissioners, etcetera.
24 Did you engage them in your discussion on the proposed
25 where -- route north, or was it after you met with those

1 developers you ceased conversation?

2 THE WITNESS: So we -- as I testified already,
3 we met with the intervenors. I also reached out to the
4 City of Bismarck and met with Commissioner Zenker. We
5 had numerous meetings with emergency managers and first
6 responders in both Burleigh County and the city of
7 Bismarck and as well as across the footprint of the
8 project.

9 We did not go back and meet with every landowner
10 that was on the old route. We communicated to them, and
11 I think that's been filed in a document, that we had
12 moved off of their properties.

13 So our -- as it relates to landowners, our
14 communication was primarily directed at the landowners
15 that we were proposing to route the line across to get
16 their input and acceptance on the proposed reroute.

17 COMMISSIONER HAUGEN-HOFFART: So did
18 Commissioner Zenker, emergency management, first
19 responders, or anyone have additional route suggestions?

20 THE WITNESS: Not -- not on the route, no.
21 Those discussions were primarily focused on emergency
22 response and -- and emergency planning versus routing of
23 the project.

24 COMMISSIONER HAUGEN-HOFFART: So what I'm
25 hearing is if a landowner or someone is still opposed,

1 there has been limited communication between Summit and
2 those landowners or those still in opposition?

3 THE WITNESS: Yeah, I can't testify to all of
4 the interactions with landowners in and around Bismarck,
5 especially outside of the Bismarck reroute. I do know
6 that we held safety meetings, you know, last -- I guess
7 it was last summer, fall that were -- the public was
8 invited and announced to attend, but we have not had
9 specific meetings with all of the intervenors on the
10 route, if that's your question.

11 COMMISSIONER HAUGEN-HOFFART: Okay. Well, I
12 thought I read in this that you were -- you were the one
13 who led the reroute in north Bismarck.

14 THE WITNESS: I was.

15 COMMISSIONER HAUGEN-HOFFART: Correct?

16 THE WITNESS: Yes. Jimmy Powell leads
17 everything outside of that.

18 COMMISSIONER HAUGEN-HOFFART: I want to talk a
19 little bit about the emergency management meetings that
20 you've had. You list -- you gave us a document that had
21 numerous dates on it where you met with them. Can you
22 give me an overall view, on those dates that you met,
23 what was discussed? I understand some confidential
24 information on GIS and dispersion models, but can you
25 give me -- like did you discuss policy, your response,

1 emergency response plans and stuff? Can you give me an
2 overview of those conversations?

3 THE WITNESS: Sure. I'll just -- I'll start
4 with safety and emergency response related to the
5 pipeline are under Jimmy Powell's leadership. These may
6 be better questions for him. But I can tell you at a
7 high level I did attend five of --

8 COMMISSIONER HAUGEN-HOFFART: I don't mean to
9 interrupt, but if he can give me the details of that,
10 then I'll be more than happy to defer to save time.

11 THE WITNESS: Sure.

12 COMMISSIONER HAUGEN-HOFFART: So would you
13 rather have him answer it?

14 THE WITNESS: Yeah, I can let Jimmy answer it.

15 COMMISSIONER HAUGEN-HOFFART: Okay.

16 THE WITNESS: Affirm that I did attend five of
17 those.

18 COMMISSIONER HAUGEN-HOFFART: Okay. So not only
19 in Burleigh but in Morton and I think one of the --

20 THE WITNESS: I attended meetings in Oliver,
21 Mercer, Burleigh, city of Bismarck, and Dickey County.

22 COMMISSIONER HAUGEN-HOFFART: Okay. I'm just
23 going to ask you one follow-up. Did any of the
24 emergency managers make any requests of Summit?

25 THE WITNESS: I don't recall specific requests.

1 I don't recall specific requests. There was a lot of
2 discussion around emergency response, emergency
3 planning, training, equipment, those kinds of things.

4 COMMISSIONER HAUGEN-HOFFART: Okay. I can -- I
5 can defer that to Mr. Powell and the emergency managers.

6 THE WITNESS: Sure.

7 COMMISSIONER HAUGEN-HOFFART: We talked at the
8 last hearing about plans of potential growth in north
9 Bismarck, east Bismarck. Have you reviewed any current
10 growth plans for Bismarck in relationship to the new
11 route that you're proposing?

12 THE WITNESS: We've reviewed the Bismarck 2045
13 growth plan. And I believe that was discussed in the
14 previous hearings as well. Additionally, I looked at
15 the Burleigh County, I guess, future development plan --
16 maybe I'm using the wrong term there -- where they laid
17 out zoning areas for future development or zoning types
18 for future development. I found those on their website.
19 But those would be the two things that we looked at
20 rather to -- related to future plans, other than our
21 interactions with the Bismarck intervenors that were
22 developers.

23 COMMISSIONER HAUGEN-HOFFART: So I believe you
24 said that in looking at -- working with the developers
25 that you talked to and now with this growth plan, this

1 route did not impact any future growth in the -- in your
2 proposed area?

3 THE WITNESS: That's my understanding, yes.

4 COMMISSIONER HAUGEN-HOFFART: Okay. That's all
5 the questions I have. Thank you.

6 THE WITNESS: Thank you.

7 ALJ HOGAN: Mr. Dawson, any questions?

8 SUBSTITUTE DECISIONMAKER DAWSON: Thank you,
9 Your Honor.

10 What is the status of the setback waivers on the
11 rerouted route?

12 THE WITNESS: So we have one setback waiver on
13 the reroute portion. We have -- we have a signed waiver
14 from the landowner.

15 SUBSTITUTE DECISIONMAKER DAWSON: Can you
16 compare that to how it was before you rerouted? Were
17 there more setback waivers on the original route?

18 THE WITNESS: I can't. I don't know that
19 information. Jimmy probably does.

20 SUBSTITUTE DECISIONMAKER DAWSON: No further
21 questions.

22 ALJ HOGAN: Commissioner Christmann, did you get
23 your other question?

24 COMMISSIONER CHRISTMANN: I did, Your Honor, and
25 it's two.

1 We've -- the project has gone from 30-some
2 plants to 57?

3 THE WITNESS: That's correct.

4 COMMISSIONER CHRISTMANN: Okay. But the
5 pipeline diameter is the same; correct?

6 THE WITNESS: That's correct.

7 COMMISSIONER CHRISTMANN: And I know I'm
8 comparing liquids to gases here, but when we did the
9 approval for the Dakota Access Pipeline optimization, it
10 involved adding pump stations. Is there anything that
11 has changed as far as additional pump stations in North
12 Dakota or increased diameter of the pipeline?

13 THE WITNESS: Not that I'm aware of. Jimmy can
14 answer that specifically as he's responsible for the
15 pipeline engineering and construction aspects.

16 COMMISSIONER CHRISTMANN: Okay.

17 THE WITNESS: Not that I'm aware of.

18 COMMISSIONER CHRISTMANN: Okay. And then
19 outside of that, in the bigger map that was filed in, I
20 think, February --

21 THE WITNESS: Okay. I don't have that in front
22 of me.

23 COMMISSIONER CHRISTMANN: Do you have that?

24 THE WITNESS: Is that in this book?

25 MR. BENDER: Yes.

1 COMMISSIONER CHRISTMANN: Yes. The February
2 version, I believe it was.

3 THE WITNESS: Which page is that?

4 COMMISSIONER CHRISTMANN: I'm not even -- I'm
5 not even seeing a page number on here.

6 (Pause)

7 COMMISSIONER CHRISTMANN: 40. Down in the
8 bottom left there's a -- if we're both on the same page,
9 there's a notation that a waiver has been obtained for a
10 domestic structure or business.

11 THE WITNESS: I see the note.

12 COMMISSIONER CHRISTMANN: Okay. What about the
13 one right to the north of it? It seems like that would
14 be about the same distance away too and it appears to be
15 a domestic structure or business.

16 THE WITNESS: I can't comment on that. I don't
17 know the distance. I believe this is, again, outside of
18 the Burleigh -- or the Bismarck reroute so I'll defer to
19 Jimmy.

20 COMMISSIONER CHRISTMANN: Oh, yeah.

21 THE WITNESS: He may know --

22 COMMISSIONER CHRISTMANN: I was thinking of
23 Burleigh County, but you said the Bismarck reroute was
24 your domain. Okay. I'll waive that one for Jimmy too
25 then.

1 Nothing else, Your Honor. Thank you.

2 ALJ HOGAN: Mr. Bender, any redirect?

3 MR. BENDER: Yes, Your Honor, just one question,
4 and I inadvertently forgot to ask this as a result of
5 some questions that were posed to Mr. Pickering.

6 REDIRECT EXAMINATION

7 BY MR. BENDER:

8 Q. Wade, can you help us understand the tax
9 structure on this pipeline? I think you're aware of how
10 it will be taxed and where that money is going to come
11 from. Can you help us with that?

12 A. You're talking about the state taxes or property
13 taxes?

14 Q. Yeah, the state tax and the fact that there's an
15 exemption but yet the county will still receive the tax.
16 Do you understand that whole system?

17 A. Yeah, generally I understand it.

18 Q. Can you describe it for the commissioners?

19 A. Yeah. Essentially, the State has provided a
20 ten-year tax incentive for building lots of different
21 types of infrastructure including carbon dioxide
22 pipelines in North Dakota, which underneath that law
23 essentially the State pays the county the tax liability
24 for the first ten years.

25 Q. So there's no loss of tax revenue to the county?

1 MR. BRAATEN: No further questions.

2 ALJ HOGAN: Mr. Pranis, any questions?

3 MR. PRANIS: No, Your Honor.

4 ALJ HOGAN: Any other Commission questions?

5 All right. Well, thank you, Mr. Boeshans.

6 THE WITNESS: Thank you.

7 ALJ HOGAN: It's about 10 to 12 so I think we'll
8 take our lunch break now rather than starting another
9 witness. And we will try to reconvene at 1:00.

10 (Recess)

11 ALJ HOGAN: All right. If everybody wants to
12 make their way back to their seats, I think we're going
13 to get started.

14 All right. Mr. Dublinske, would you like to
15 call your next witness?

16 MR. DUBLINSKE: Thank you, Your Honor. SCS
17 calls James Powell.

18 ALJ HOGAN: Good afternoon, Mr. Powell. Can I
19 have you state your full name and spell your last name
20 for the record?

21 JAMES POWELL: Yes. Good afternoon. James
22 Ernest Powell, spelling P-O-W-E-L-L.

23 ALJ HOGAN: And, Mr. Powell, were you in the
24 room this morning when I went through the penalties for
25 perjury?

1 JAMES POWELL: I was.

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

4 JAMES POWELL: I do.

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

8 JAMES POWELL: I do.

9 ALJ HOGAN: All right. Thank you.

10 All right. Go ahead, Mr. Dublinske.

11 MR. DUBLINSKE: Thank you, Your Honor.

12 **JAMES POWELL,**

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

15 DIRECT EXAMINATION

16 BY MR. DUBLINSKE:

17 Q. Mr. Powell, what is your business address?

18 A. It's 2321 North Loop, Ames, Iowa 50010.

19 Q. And by whom are you employed?

20 A. Summit Carbon Solutions.

21 Q. And in what capacity are you employed by Summit?

22 A. I'm the chief operating officer.

23 Q. Did you cause or did you prepare written
24 testimony and cause to be prefiled before the hearing
25 today written testimony in this matter?

1 A. I did.

2 Q. And when you prepared that testimony, was it
3 true and correct?

4 A. It was.

5 Q. Are there any corrections you need to make to
6 your testimony before we begin today?

7 A. No.

8 Q. And if I asked you the questions in your
9 prefiled written testimony on the stand today, would
10 your answers be the same?

11 A. Yes.

12 Q. You filed 20 pages, roughly, of testimony and
13 attached exhibits. The exhibits were A through D; is
14 that correct?

15 A. I believe that's correct, yes.

16 Q. And as was true with Mr. Bender earlier, I don't
17 want to recreate all 20 pages, but for the benefit of
18 folks who have not had an opportunity to read it, I do
19 want to highlight a little bit and summarize that
20 testimony. Okay?

21 A. Yes.

22 Q. Is it your understanding and certainly the
23 purpose of your testimony that this proceeding is to
24 address changes that have been made or developments
25 subsequent to this Commission's August 2023 order?

1 A. Yes.

2 Q. And that order raised several issues that the
3 Commission said would require further development to
4 move forward. Is that a fair statement?

5 A. That's accurate.

6 Q. And you were here for Mr. Boeshans' testimony;
7 correct?

8 A. Yes.

9 Q. And he addressed one of those, which was the
10 reroute around Bismarck. Am I correct that your
11 testimony addresses how the majority of the other issues
12 raised by the Commission have been addressed by SCS?

13 A. That's correct.

14 Q. And, again, without going into all the details
15 in your testimony, I'd like to at least summarize those
16 areas that you have listed in your testimony.
17 Mr. Boeshans addressed the reroute around Bismarck, but
18 the company has made other reroutes and adjustments to
19 the route that is being presented to the Commission;
20 correct?

21 A. That's correct.

22 Q. And can you summarize the nature and how those
23 came to be and what those other adjustments are?

24 A. Yes. So we heard in the previous evidentiary
25 hearings, we heard input from landowners and the

1 commissioners, and so we tried to address with the
2 reroutes, tried to accommodate specific landowners that
3 testified about the pipeline traversing their property.
4 And in total we've routed off approximately 42
5 landowners that were on the original route that was
6 filed with the original application in October of '22.
7 Now, a portion of those 42 are obviously on the northern
8 Bismarck reroute.

9 Q. And there is an Exhibit 14 that was handed out
10 today that was discussed with Mr. Boeshans. It is a
11 series of maps county-by-county. And those other route
12 adjustments are reflected in subsequent pages of those
13 maps; correct?

14 A. That's correct.

15 Q. And am I correct that another one of the
16 modifications that has been made is a reduction of the
17 width of the requested corridor?

18 A. That's correct. So, again, we heard from the
19 commissioners in the previous hearings, they -- they
20 suggested or challenged us if we could reduce the width
21 of the 300-foot corridor which was the original width in
22 the original application. And the route at this point,
23 even including the reroutes, is mature enough and enough
24 field survey work and other investigation has been
25 completed to the point where we felt confident we could

1 reduce the width of the corridor.

2 Q. And I believe your testimony also includes an
3 update for the Commission on your work collaborating
4 with the North Dakota Geological Survey; is that
5 correct?

6 A. That's correct. So --

7 Q. Can you summarize that update for us?

8 A. Yeah. So with the -- including the reroutes,
9 there are now 18 locations that present some geological
10 risk. And so we worked with the North Dakota Geological
11 Survey to evaluate each of those. We had a consultant
12 that actually completed either Phase I or Phase II
13 assessments on each of those 18, which are reflected in
14 the map books, the map books that were submitted, you
15 know, with the petition for reconsideration information.

16 And so those have all been addressed
17 satisfactorily. And what I mean by that is the risk has
18 been mitigated. Either we directionally drill them so
19 there's no surface disturbance or we've moved the
20 pipeline sufficiently away from the geohazard itself.
21 And the state geologist has concurred.

22 Q. And that concurrence was attached to your
23 prefiled testimony as an exhibit; correct?

24 A. It was.

25 Q. You also talked some about in your testimony

1 regarding updates on emergency response outreach and
2 coordination. Could you give us a summary of what your
3 testimony says about those activities?

4 A. Yes. And I'll go back even a little further if
5 that's okay in that.

6 Since, essentially, late fall of 2021, we've had
7 an emergency response professional on staff, and in the
8 beginning he met with emergency managers and first
9 responders in every county that the project traverses,
10 introduced himself, introduced the project, and so has
11 maintained a line of communication. But after we issued
12 the petition for reconsideration and the changes in the
13 route, we updated our dispersement modeling. And so
14 then we scheduled meetings with as many emergency
15 managers, not only in North Dakota but across the
16 footprint, as we could to review the latest information.

17 And that's just part of this iterative process
18 of working with emergency managers and first responders
19 to be prepared by the time the pipeline goes into
20 operation for an event if one should occur.

21 Q. And I believe where your written testimony left
22 off was that SCS had extended invitations for emergency
23 management teams along the route to go to Texas A&M for
24 some specialized training. Do you have an update on
25 that training activity?

1 A. Yes. So Texas A&M University has one of the
2 premier firefighting programs in the country. And as
3 part of that, they've amended that to include CO2 and
4 CO2 pipeline releases and they started that this past
5 fall.

6 And so we've attended four of those sessions.
7 They're about every other month. And so we invite --
8 and we have an opportunity to provide spots for two
9 people. And so we've had firefighters from South
10 Dakota, for instance, that have attended. In fact, one
11 was just held last Saturday. And Dave Daum, who's our
12 director of Health, Safety, Security, and Environmental,
13 attended that one. And we had two firefighters from
14 South Dakota.

15 And we're extending that invitation to North
16 Dakota as well. And when we met with Burleigh County
17 and the City of Bismarck emergency manager and first
18 responders, we extended that invitation at that point,
19 and also extended that invitation to Ms. Senger, who I
20 believe also has accountability for Emmons County. They
21 declined, but that's an open invitation. And they said
22 that they would be interested in the future.

23 So we'll maintain that all the way through
24 operation and beyond. And that's just one element of
25 training that we'll provide.

1 Q. Thank you.

2 I think the last area that you had said in your
3 testimony that you were providing an update on was
4 easement acquisition. I know that there is a table that
5 lays out all of the details on that as Attachment D or
6 Exhibit D to your testimony, but can you summarize for
7 the Commission what that table reflects?

8 A. Yeah. And if the commissioners remember, you
9 know, last fall or late last summer when we conducted
10 the previous hearings or part of the previous hearings,
11 I think our overall percentage was about 75 percent.
12 This percentage, which is about 81 percent in miles or
13 about 78 or 9 percent in number of tracts or parcels,
14 that reflects up to today and that reflects the
15 reroutes.

16 So specifically the reroutes that I mentioned
17 earlier added about 55 miles of new pipeline to the --
18 to the route, a net of only about 11 but 55 new miles.
19 And those 55 new miles have new landowners. And so on
20 the -- on the north Bismarck reroute, we're at about
21 42 percent as far as acquisition. On the remainder of
22 the reroutes, we're at almost 80 percent. So in
23 aggregate, about 55 percent of all the new reroute
24 mileage that was added October of last year we've
25 acquired.

1 Q. And with that new mileage around Bismarck, what
2 is the overall percentage right now of acquisition for
3 Burleigh County?

4 A. I believe Burleigh County's about 63 percent.

5 Q. And just in terms of the other two counties that
6 are the particular focus of today's hearing, what are
7 the percent acquisition for Morton County?

8 A. Yeah. Morton is 90 percent.

9 Q. And for Oliver County?

10 A. And Oliver is 92 percent.

11 We only have two counties below 80 percent and
12 that's -- that's Burleigh and Richland.

13 Q. Are there any other areas that I might have
14 forgotten to mention that you wanted to update or
15 summarize the updates in your testimony?

16 A. Well, I think we mentioned in my testimony about
17 the southern route analysis.

18 Q. Absolutely. If you want to tell us a little bit
19 about what your testimony says about the southern route
20 analysis, please do.

21 A. I think at a high level -- I know the
22 commissioners asked us to evaluate a route to the south
23 of Bismarck. And if I can back up just for a second,
24 you know, when we -- when we looked at the routing
25 across the footprint, especially in the Bismarck area,

1 initially you look to collate your -- or co-locate,
2 excuse me, your pipeline with other infrastructure. And
3 so I think everyone knows the Dakota Access Pipeline
4 actually crosses south of the city of Bismarck. And so
5 we looked at that first. But then we evaluated the
6 risk, you know, the flood plain, the proximity to the
7 city of Bismarck, the number of potential encroachments,
8 you know, for the 500-foot setback in North Dakota, and
9 ultimately determined to go to the north of Bismarck.

10 So in that southern route analysis, we laid out
11 in much more detail the risk associated with building
12 the pipeline on the south side of Bismarck versus the
13 north side of Bismarck.

14 Q. And I know you had mentioned -- I want to back
15 up a little bit to your discussion about the reroutes
16 generally, but there were a handful of specifically
17 identified landowners in that August 2023 order. Just
18 to be clear, have you moved the route, the currently
19 proposed route, off of those named landowners?

20 A. Yes. The four landowners that were specifically
21 named in the -- in the denial order, we have completely
22 routed off of those landowners. And I would add, Mr.
23 Dublinske, that of the 42 landowners that we routed off
24 of, we notified all of those landowners in writing that
25 they were no longer impacted by the project, at least

1 directly impacted by the project.

2 Q. Thank you for that clarification.

3 I know there was a handful of issues and
4 questions that were directed to you, but I will let the
5 folks that originally asked those decide whether or not
6 they want to bring those to you now.

7 MR. DUBLINSKE: And, with that, I would tender
8 the witness for cross.

9 ALJ HOGAN: All right. Thank you.

10 Mr. Pelham, any questions?

11 CROSS EXAMINATION

12 BY MR. PELHAM:

13 Q. Mr. Powell, Dotzenrods, Vculeks, Bernhardtts, and
14 Doolittles are the four landowners that you're
15 specifically referencing; correct?

16 A. That's correct.

17 Q. And the line, proposed line, in those areas has
18 been rerouted outside of those landowners' property.
19 I'm wondering, have you been able to attain the
20 easements of their neighbors?

21 A. For the most part, yes. As I mentioned,
22 Mr. Pelham, we've attained almost 70 percent of the
23 right of way on the reroute. So that's not every
24 landowner but the majority of the landowners.

25 Q. Mr. Powell, would you say there's a common

1 denominator for those landowners with -- who have yet to
2 execute an easement with Summit?

3 A. I -- I don't think so. I think -- at least I'm
4 not directly communicating with most, but the feedback
5 from our right of way team and other project folks in
6 our organization that meet with those various
7 landowners, it's a variety. Some want to wait until we
8 get a permit from the Public Service Commission. Others
9 have other reasons why they're not signing immediately.
10 But it's my understanding that our right of way team
11 feels confident they can get there with all of those
12 landowners.

13 Q. And I understand that's -- that's the hope or
14 desire of the -- what Summit is working towards. What
15 is -- what is going to happen if voluntary easements are
16 not able to be obtained?

17 A. Well, we -- we have -- I mean, we've served --
18 we've been given or granted survey access by the
19 majority of those landowners, over 80 percent. So
20 that's -- that's not always a certainty, but it's a
21 leading indicator that eventually you can reach an
22 agreement with those landowners. And so we're working
23 to try to accommodate them.

24 Q. So you testified a little bit today and in your
25 prefiled testimony you included testimony related to

1 meetings with emergency managers in the counties where
2 the proposed line is crossing -- is proposed to cross as
3 well as emergency first responders. I'm wondering, sir,
4 were you in attendance at those meetings?

5 A. In North Dakota I only attended one, which was
6 the Burleigh County and City of Bismarck meeting.

7 Q. And so at that meeting that you attended, sir,
8 I'm wondering what type of -- what type of cited
9 concerns were stated by the emergency managers and the
10 first responders at the meeting to Summit?

11 A. I think it was a fairly common set of questions
12 in that they want to understand how the CO2 reacts in
13 certain situations, whether it's a full breach, whether
14 it's a third-party line strike, how it reacts in certain
15 types of environmental conditions, and then what they
16 would need as first responders to support a response to
17 a release.

18 Q. And as far as what they would need, were there
19 any specific requests of Summit to provide what was
20 needed?

21 A. We have -- no, not in that meeting, but I will
22 say that we have -- Rod Dillon, our emergency response
23 director, has actually solicited a list of potential
24 equipment and training from most emergency managers. I
25 don't know that that's a hundred percent across the

1 footprint. And so we have a good understanding, but as
2 you might -- I'm sure you know, it depends on the
3 location and whether they're a voluntary fire department
4 or they're the City of Bismarck, which is a more
5 well-resourced fire department. So it's -- it's a wide
6 range. But no specifics. As far as equipment, there
7 was -- there were requests about documentation.

8 Q. And I understand you weren't at other meetings
9 in other communities in North Dakota, sir, but I'm
10 wondering if you know whether or not, in other meetings
11 that Summit personnel attended and presented to
12 emergency manager and first responders, whether or not
13 there were any specific requests for any type of
14 equipment that may be needed in the event of some type
15 of response in the event of a release?

16 A. There was. And Mr. Dillon maintains a
17 spreadsheet, a list, by county, by fire department. And
18 that typically ranges from CO2 monitors or gas detectors
19 to fresh air breathing equipment.

20 Q. As far as the invitation to attend this Texas
21 A&M training, do you know the reason given why it was
22 declined for Burleigh County's emergency manager?

23 A. It's my understanding it was just a conflict.
24 So we're trying to make sure that we let them know what
25 the dates are well in advance so, if there's an

1 opportunity for them to adjust their schedules, they can
2 do that.

3 Q. So it sounds to me -- you correct me if I'm
4 wrong, sir, it sounds to me that there is a willingness
5 to attend, it's just it didn't work out in the schedule;
6 everyone's got a schedule. Is that fair to say?

7 A. I think that's correct. And if I -- if it
8 sounded like I inferred something differently, I didn't
9 intend to. So I think it was just a scheduling
10 conflict.

11 Q. Do you know of any emergency managers, county
12 manager -- county emergency managers and/or first
13 responders that have attended this training in Texas
14 that are from North Dakota?

15 A. None to this date.

16 Q. Do you know why that is?

17 A. One, it's a fairly fresh program. I think this
18 is the fourth session. And so we're just getting those
19 invitations out over the last couple of months. So it's
20 just a matter of getting on people's calendars. And we
21 started with emergency managers and fire chiefs. And
22 then I'm sure that will then be filtered down through
23 battalion chiefs and firefighters, etcetera. So we
24 hope, over the next two, two and a half years before
25 this pipeline goes into operation, that we've been able

1 to touch as many of those folks as we can.

2 Q. Have you attended the training, sir?

3 A. I have not, but as I mentioned, Mr. Daum, who's
4 here today, and others within our organization have
5 attended.

6 Q. Sir, I asked Mr. Boeshans about conditional use
7 permits. Outside of Burleigh County and Emmons County,
8 are you aware of the status of any conditional use
9 permits that are active -- actively been applied for by
10 the company and what the status of those are?

11 A. Well, there will be four pump stations in North
12 Dakota. The other two counties are Richland and
13 McIntosh, I believe. And then I believe Logan, the
14 township in Logan, requires a conditional use permit.

15 But no conditional permits have been applied
16 for, Mr. Pelham, and that's primarily because, as we've
17 added the additional plants, size of the pipeline
18 doesn't change, but depending on where that volume comes
19 online, the location of the pump stations may move. And
20 so we've just finalized that. And as you're probably
21 aware, we've got to have an agreement with the
22 landowner, we've got to have that specific information
23 about the property, etcetera.

24 So it's our intention to file those conditional
25 use permits in the next six months.

1 Q. And I think Commissioner Christmann asked it,
2 but I've got it on my list too about the pump stations.
3 I understand, is it four pump stations in North Dakota?
4 Am I right?

5 A. That's correct.

6 Q. And that number hasn't changed, has it?

7 A. No, sir. The number of stations hasn't changed.
8 What has changed is that -- when they will come online.
9 So with -- we've almost doubled the volume with these
10 additional plants and so we were going to initially have
11 six online with the initial startup and now it will be
12 significantly more pump stations online.

13 Q. There were some HDD hydrotechnical assessment
14 memos that were done -- are you familiar with those? --
15 of the James River, Missouri River, Sheyenne River, and
16 Bois de Sioux River?

17 A. Yeah, I'm generally familiar with those, yes,
18 sir.

19 Q. And there were some recommendations that were
20 made in there by the consultants. For example,
21 Geosyntec --

22 Is Geosyntec, is that the consultant that was
23 retained by Summit?

24 A. That's correct.

25 Q. -- recommends moving the east bank at a minimum

1 station and made other recommendations for movements for
2 the hydrodirectional drilling of riverbeds, these four
3 riverbeds that I mentioned.

4 Do you know if Summit is going to heed those
5 recommendations?

6 A. We already have, sir. So, yes, that -- they try
7 to maintain -- industry tries to maintain a safety
8 factor of 1.5, and they look at scour and they look at
9 lateral, you know, migration, etcetera. And when they
10 consider all those facts, they'll make a recommendation
11 if -- do we move the exit or entry points of the drills
12 or do we make the drills deeper below the mudline? For
13 instance, across the Missouri River, the recommendation
14 was to lower the depth of the drill. And now that
15 the -- the shortest distance from the top of pipe to the
16 bottom of the mudline in -- in the Missouri is 49 feet.
17 So, yes, we have made those changes.

18 MR. PELHAM: Okay. And just for purposes of the
19 record, I'm referring to what has now been marked as
20 SCS R-6, which is Docket No. 437, which contains
21 Summit's response to supplemental filing 3.1.4 and those
22 are specifically contained in there.

23 Mr. Powell, I don't have any other questions for
24 you. Thank you.

25 THE WITNESS: Thank you.

1 ALJ HOGAN: Mr. Schock, any questions?

2 MR. SCHOCK: Just a couple.

3 CROSS EXAMINATION

4 BY MR. SCHOCK:

5 Q. Survey access. So what percentage of the route
6 in North Dakota or the corridor, I should say, has been
7 surveyed?

8 A. Of the original route, Mr. Schock, it was
9 mid 90s, 93, 94 percent. And when I say "survey," I
10 mean land, biological, cultural on the reroutes. So
11 that 55 miles or so, it's about 78 percent. And as
12 Mr. Boeshans mentioned, you know, we -- we got as much
13 done as we could weather permitting in the fall so we
14 were actually ready to launch a campaign in May to begin
15 surveying again.

16 Q. Okay. And how much -- so there are kind of --
17 slightly different question. What percentage of it do
18 you have permission to survey?

19 A. I don't know off the top of my head, Mr. Schock.
20 We can get you that information, but I don't know off
21 the top of my head.

22 Q. Okay. If you'd be able to file just a simple
23 document just stating that percentage.

24 And you, sir, talk a little bit about, with the
25 addition of more ethanol plants being added to this

1 line, you would not need to increase the size of the
2 pipe or increase the number of pump stations; is that
3 correct?

4 A. That's correct.

5 Q. So you would just -- your original application
6 listed four pump stations in North Dakota. That would
7 be to allow for the maximum throughput from the original
8 application. Am I understanding that correct?

9 A. That's correct.

10 Q. Okay. So your initial plan was maybe to build
11 two of those pump stations now and build the other two
12 later on once the throughput becomes sufficient enough
13 to support additional flow?

14 A. Yeah. And, Mr. Schock, I think the original
15 plan was to only build one but now it's to -- to build
16 all four, correct.

17 Q. Does the location of those pump stations change
18 in any way or are they as where -- originally where as
19 proposed?

20 A. They changed slightly. And when I mean
21 "slightly," within a mile or two, which may not sound
22 practical, but, you know, when you're -- when we're
23 designing the system for mass capacity, depending on
24 where that volume comes in -- let me back up. When we
25 initially did it, we guessed where the volume was going

1 to come in. And when I say "guess," it was an educated
2 guess based on where the sources were. But it would
3 depend on if that volume came on in Iowa or Nebraska
4 versus South Dakota or even in North Dakota. So as the
5 volumes actually materialized, then we've refined that.

6 And so typically in North Dakota, it's my
7 understanding these pump stations have moved within a
8 mile or two, not significant, even in the same counties,
9 but it may affect different landowners.

10 Q. Sure. That makes sense.

11 And just for understanding purposes, so you can
12 increase the throughput of a line significantly by
13 adding pump stations while not increasing the maximum
14 pressure; is that correct?

15 A. That's correct.

16 Q. Okay. I think that's all I have. Thank you.

17 A. Thank you.

18 ALJ HOGAN: Mr. Braaten, any questions?

19 MR. BRAATEN: Yes, Your Honor. Thank you.

20 CROSS EXAMINATION

21 BY MR. BRAATEN:

22 Q. Mr. Powell, is it accurate to say that you do
23 not have agreements for the pump stations with
24 landowners yet?

25 A. I do not believe we have those agreements in

1 North Dakota, but I can confirm.

2 Q. Are you confident you'll be able to get
3 agreements for the pump stations?

4 A. I think so just from the feedback that I
5 received from our -- our right of way team and their
6 conversations with prospective landowners.

7 Q. And what is that feedback?

8 A. Is that they've had substantive conversations
9 with potentially impacted landowners and -- and they
10 think they can reach agreement.

11 Q. You have an easement acquisition update attached
12 as Exhibit D to your written testimony. Do you know
13 what I'm referring to?

14 A. Yes.

15 Q. And that chart indicates that it's progress as
16 of April 8th, 2024. Do you have an understanding of how
17 frequently this chart gets updated?

18 A. Daily.

19 Q. It gets updated daily?

20 A. That's correct.

21 Q. Have -- have you continued to make progress on
22 easement acquisition in North Dakota?

23 A. We have.

24 Q. And approximately how much progress would you
25 say you've made in the last six months?

1 A. As I mentioned before, it may not be totally
2 accurate, but I believe in late last summer, that the
3 acquisition was about -- based on the mileage acquired,
4 was about 75, 76 percent. Today it's 81 percent.

5 Q. And if someone said that it was 90 percent, that
6 would be inaccurate; right?

7 A. Today if they said 90 percent?

8 Q. Right.

9 A. In aggregate, yes, that's incorrect.

10 Q. Okay. If landowners raise issues with the idea
11 of putting the easement or the pipeline across their
12 property, do you ever work those out in the easement
13 document?

14 A. Yes. In the Exhibit C, that's where the
15 specific accommodations to landowners are -- are
16 captured.

17 Q. Do you feel like you and Summit have been
18 successful in accommodating landowner concerns?

19 A. I do. And I think the -- the success in
20 acquisition underscores that.

21 Q. And are you confident that you're going to be
22 able to get the majority of the remaining easements
23 needed to complete the project?

24 A. I will just tell you we've been working for two
25 years to try to secure those easements and will continue

1 to work every day to try to secure them.

2 Q. Do you feel like you're making progress?

3 A. I do.

4 Q. And do you feel like you'll be able to
5 ultimately get the easements you need in order to finish
6 your project?

7 A. I do.

8 Q. And do you feel like you'll be able to get other
9 agreements needed from landowners, whether for private
10 waterway crossing or driveway or setback variance?

11 A. I do.

12 MR. BRAATEN: No further questions.

13 ALJ HOGAN: Mr. Pranis, any questions?

14 Commissioner Christmann.

15 COMMISSIONER CHRISTMANN: Okay. First, you have
16 a copy of your prefiled testimony handy, I presume?

17 THE WITNESS: I do.

18 COMMISSIONER CHRISTMANN: So on page 5 you --
19 well, just shortly before there, you had addressed in
20 here that you were reducing at our request -- and by the
21 way, I appreciate it -- reducing that corridor width
22 from 300 to 200 feet, but then you mention a deviation
23 buffer of up to 100 feet. And I'd like to know more
24 about your reasoning for that request.

25 But also maybe I probably should have just

1 stepped back a moment. I'm sure we might have people in
2 the room unfamiliar with the difference between the
3 corridor and the route. So perhaps you want to explain
4 your interpretation of the corridor versus the route and
5 then you can explain to me the reason for this request
6 for a 100-foot route buffer.

7 THE WITNESS: Sure. So my understanding is that
8 the corridor, in this case 200 feet, is the -- is the
9 general area that we can site the pipeline. A lot of
10 factors, as you know, come into play, whether it's
11 setbacks or cultural, environmental features, etcetera,
12 but our commitment is to stay within that 200 feet. We
13 view the centerline or try to make sure the centerline
14 of the pipe is in the middle of that corridor so we've
15 got a hundred feet on either side so we've got some
16 flexibility. Because as I mentioned before, we haven't
17 completed a hundred percent of the survey.

18 The deviation is simply for -- let me be clear.
19 We can construct the pipeline within 200 feet as it sits
20 today and is in the petition -- or the map books in
21 front of you. But the deviation is for workspace
22 outside of that in which we already have agreement from
23 landowners, whether it's pullback for directional drills
24 or access from a roadway into the right of way, things
25 of that nature. So that is what that deviation is for.

1 It's just to add that extra lagniappe, if you will, to
2 accommodate where we already have agreements but is not
3 specifically within that 200 feet.

4 COMMISSIONER CHRISTMANN: So you're viewing this
5 deviation buffer as a deviation from the corridor as
6 opposed to the route?

7 THE WITNESS: Yes, sir.

8 COMMISSIONER CHRISTMANN: Because typically our
9 -- in more recent years we've sometimes allowed a buffer
10 from the route within the corridor so that, you know, if
11 there was some obstacle, not -- not to move it even
12 anywhere within the corridor without notifying us but
13 maybe a few feet one way or the other has been all
14 right, but I don't think we've been usually allowing a
15 buffer outside of the corridor.

16 And so that's going to take a little more work
17 here, in my opinion, unless now with my response to you,
18 if you want to add anything else.

19 THE WITNESS: No. I think that -- just that we
20 can construct that pipe within that 200-foot corridor.
21 Now, we haven't completed a hundred percent of the
22 survey, but we know where the cultural risk is,
23 etcetera, so we feel comfortable that we can address
24 that.

25 COMMISSIONER CHRISTMANN: Okay. Then I want to

1 jump to page 9. And the meetings that you had on your
2 dispersion modeling methodology, first I was a little --
3 felt like I was off on the count. On a different page
4 you list them, and you had Mercer in there, which isn't
5 along the pipeline route, and combined with Oliver so
6 you threw me off for one, but of the ones where you had
7 these meetings, I don't see anything mentioned about
8 Logan, Cass, or McIntosh. Now, Logan is less than two
9 miles so I can understand that maybe they're lumped in
10 with McIntosh or Emmons or something like that, but
11 explain -- and you can add more to that if there's other
12 reasons, but I would like explanation of why I see
13 nothing for Cass or McIntosh. And I would just
14 highlight McIntosh has the third most parcels of any of
15 the 10 counties.

16 THE WITNESS: Yes, sir. I think it's -- it's
17 specifically scheduling. So I know our team has reached
18 out to individuals, emergency managers, and even county
19 commissioners, etcetera, trying to schedule a time. So
20 I think it's -- at least the understanding I have is
21 within the next few months we will have completed that.
22 It's just at this point in time we have not been able to
23 schedule those meetings with every county that we're
24 impacting.

25 COMMISSIONER CHRISTMANN: Okay. And then my

1 next questions are on your Exhibit A. On page 4 you
2 make the statement that SCS has not filed eminent domain
3 suits on any North Dakota landowners.

4 I'll let you get to your page.

5 So the third paragraph there, just below the
6 middle of the page, you see that line "SCS has not filed
7 eminent domain suits on any North Dakota landowners"?

8 THE WITNESS: And that's in Exhibit A, sir?

9 COMMISSIONER CHRISTMANN: Yes. Page 4. You're
10 not matching up?

11 THE WITNESS: No, I'm not. Excuse me.

12 (Pause)

13 THE WITNESS: Yes, sir, I have it. It's -- it's
14 on page 4 here. It was a different number at the
15 bottom. Sorry.

16 COMMISSIONER CHRISTMANN: Okay. So that's your
17 testimony?

18 THE WITNESS: Correct.

19 COMMISSIONER CHRISTMANN: Okay. And then the
20 next paragraph, and I'm kind of starting in the middle
21 of the sentence, "permission to survey the vast majority
22 (greater than 90 percent) of the pipeline route in North
23 Dakota, there have been a limited number of instances
24 where state law has been invoked to allow this critical
25 work to continue."

1 Is that still your testimony?

2 THE WITNESS: Yes, sir.

3 COMMISSIONER CHRISTMANN: Okay. Because later
4 on we get public comments. In the past we've gotten
5 testimony about how "eminent domain was used on my
6 neighbors here in North Dakota." And I'd like you to
7 explain -- I have my opinion, but you're the one
8 testifying. You explain to me the difference between
9 using eminent domain as opposed to invoking state law
10 for survey access.

11 THE WITNESS: This is -- this is intended to
12 reference survey permission. So that's actually
13 accessing or gaining survey permission via the court.
14 That's what this is intended to refer to.

15 COMMISSIONER CHRISTMANN: So what -- am I
16 understanding your testimony right that the court
17 procedure to get survey access is not really eminent
18 domain?

19 THE WITNESS: That's my understanding, correct.
20 We're not trying to take the property or even get
21 permission to construct the pipeline on the property.
22 We're just surveying to see if it's possible to route
23 the pipeline on the property.

24 COMMISSIONER CHRISTMANN: Okay. And then the
25 last paragraph on that page you mention that there is no

1 need for a landowner to secure insurance due to the
2 pipeline's presence, the operator is responsible for
3 that. Is that still your testimony?

4 THE WITNESS: It is.

5 COMMISSIONER CHRISTMANN: And so that was in
6 reference to some testimony about people feeling like
7 they would be unable to get insurance. And so are you
8 just saying here they would probably continue to need
9 their regular insurance that they had before, but they
10 don't need any liability insurance for any liability
11 involving this pipeline?

12 THE WITNESS: That's correct. We heard that in
13 testimony and I've heard that in individual meetings
14 with landowners, that they're concerned about having
15 insurance to cover any -- any incidence that's
16 associated with the pipeline, either construction or
17 operation thereof.

18 And what we have conveyed to them is, yes, you
19 will need your typical property insurance, liability
20 insurance for anything outside of our operation, but
21 anything that's -- that's caused by the pipeline or
22 construction or operation of it is totally our
23 responsibility.

24 And as Mr. Braaten mentioned in the easement
25 agreement, we very clearly say -- at least I think it's

1 very clear -- that we're indemnifying the landowner of
2 anything except a willful egregious act. So they have
3 to dig the pipeline up and intentionally damage it.
4 Anything aside -- if they accidentally hit it in a
5 farming practice or something like that -- which we hope
6 they won't, it's four-foot deep or deeper -- etcetera,
7 that's still our responsibility.

8 COMMISSIONER CHRISTMANN: Okay. And then I want
9 to get to the big map book filed in February. Sadly, I
10 asked Mr. Boeshans this so I probably gave you an
11 opportunity to do your research.

12 THE WITNESS: You asked about that one. If I
13 remember correctly, Mr. Christmann, you asked about that
14 one in one of the previous hearings.

15 COMMISSIONER CHRISTMANN: Well, I probably
16 should apologize for that then, but I'm not going to.

17 (Laughter)

18 THE WITNESS: I didn't expect you to, sir.

19 COMMISSIONER CHRISTMANN: Clearly, I've
20 forgotten the answer so you'll have to tell me again.

21 THE WITNESS: Was that on page 40?

22 COMMISSIONER CHRISTMANN: Yes.

23 THE WITNESS: Yeah, on page 40, I believe the
24 structure that you talked about is a -- it's a long --
25 it's almost like a single car garage but it's -- it

1 appears, at least in aerial imagery, that it's 40 or 50
2 feet long. That's that structure. It's about 350 feet
3 but we -- we determined at least and in conversations
4 with the landowner that that wasn't where -- that
5 doesn't have an office, a living quarters, etcetera.

6 COMMISSIONER CHRISTMANN: The one right to the
7 north of the waiver that's been already received is what
8 you're talking about?

9 THE WITNESS: I believe that's correct.

10 COMMISSIONER CHRISTMANN: Okay. This time I
11 should be able to remember.

12 THE WITNESS: And I will just say, if I can,
13 that we -- we do an evaluation, aerial imagery, but then
14 if there's a -- if there's a structure that's in
15 question, we have someone actually physically go out in
16 the field and look at that structure. And if we have an
17 easement with a landowner, we'll talk to the landowner
18 about that structure, if necessary.

19 COMMISSIONER CHRISTMANN: Got it.

20 I don't have any other questions at this time,
21 Your Honor.

22 ALJ HOGAN: Commissioner Haugen-Hoffart.

23 COMMISSIONER HAUGEN-HOFFART: Thank you.

24 I'm going to go back, I'm going to reference
25 this table, updated Table 6.2.8, emergency management

1 counties, and I'm going to go to McIntosh. And on there
2 it says "date." And I believe that this represents
3 dates that Summit has contacted them. You have
4 March 29th, 2023, June 15th, 2022, July 10th, 2023, and
5 November 8th, 2023. And then over to the right it says
6 "to be scheduled."

7 Can you explain that to me, when you write or
8 put in through your testimony that Summit continues to
9 address landowners' concerns during its safety tour
10 meetings, discussion with county emergency managers,
11 first responders, county commissioners, and landowners
12 along the pipeline, then you have McIntosh and those
13 five dates and it says "to be scheduled"? Can you tell
14 me what's going on there?

15 THE WITNESS: The only thing I can tell you,
16 Commissioner, is that our team has been in communication
17 with the emergency managers trying to find the time that
18 accommodates them, and not only them but -- and we'll
19 conduct a meeting if it's just the emergency manager,
20 but if they can get others to attend, whether it's fire
21 chiefs, sheriffs, anybody that may be involved with a
22 response, it's preferable. There are even counties
23 where we've went back twice because some different
24 people may attend.

25 COMMISSIONER HAUGEN-HOFFART: So you're saying,

1 just for clarification, you've reached out five times to
2 McIntosh emergency manager or directors and no one has
3 responded or you haven't been able to schedule a
4 meeting?

5 THE WITNESS: Yeah, that's my understanding.
6 And someone has responded. They just haven't been able
7 to agree to a time to meet.

8 COMMISSIONER HAUGEN-HOFFART: Okay. I want to
9 talk about landowners. And I'm going to give you a
10 situation. And what I'm seeking to do is understand
11 when you do a reroute or if you work with the landowner
12 on maybe a recommendation. And the thing that comes to
13 my mind is -- I'm going to use the Vculeks. So going
14 back to the first hearings, the Vculeks testified and
15 they gave you a recommendation on how to do a reroute on
16 their land, still staying on their land. Then we get
17 documentation that you've rerouted it so, therefore, now
18 we must have new landowners; correct?

19 THE WITNESS: Yes.

20 COMMISSIONER HAUGEN-HOFFART: So help me
21 understand why you didn't use Vculeks' recommended
22 reroute on their parcel versus doing a complete reroute
23 affecting a new landowner?

24 THE WITNESS: Well, to your point, Commissioner,
25 it's much easier to reach an agreement with a landowner

1 that we had planned to cross versus reaching out to one,
2 and sometimes it's more than one landowner that would be
3 impacted that isn't impacted in the original route. So
4 if there was a way to get to an agreement with that
5 landowner, we would be there.

6 I mean, we've rerouted over several hundred
7 times. You guys have that information. And we've added
8 27 miles. This isn't including the north -- the reroute
9 around the north side of Bismarck. This is generally.
10 Because a landowner may want us to hug the property line
11 versus cross diagonally and that adds length to the
12 pipeline. And we've agreed to do that.

13 Now, I will say, Commissioner too, occasionally
14 it is compensation. I mean, if there's -- that's
15 atypical, but sometimes landowners, you know, their --
16 their desire for compensation is way outside of what we
17 deem practical for us, but that's the exception.

18 COMMISSIONER HAUGEN-HOFFART: So it gets down to
19 what I'm hearing is maybe compensation.

20 THE WITNESS: Rarely, but it -- occasionally it
21 does.

22 COMMISSIONER HAUGEN-HOFFART: So the main reason
23 why not accepting a reroute on someone's parcel of land
24 would be what?

25 THE WITNESS: Why they wouldn't accept our

1 reroute?

2 COMMISSIONER HAUGEN-HOFFART: No. Why you
3 wouldn't.

4 THE WITNESS: We would. That's what I'm saying.
5 So if -- if someone agrees to -- say, "You can run down
6 the west side of my property," we'll do it. We've done
7 that even when -- when you get this mature in the
8 process as we are and you've got 81 percent of the
9 landowners and you've acquired that property, typically
10 to route off of someone, you've got to change the entry
11 and exit to their property if we've signed the
12 landowners on either side. So not only does that
13 involve a new landowner, it involves amendments on
14 existing landowners. So that's -- we've done that and
15 we do that a lot, but it's not preferable because you're
16 impacting landowners you've already agreed with.

17 And so our preference is to always try to make
18 it work with the landowner that we're crossing. So if
19 they give us an option that is doable -- now, if it's
20 not -- if it's -- if there's a cultural restriction or
21 something where they want us to put the pipeline and we
22 can't because it's an avoidance area, it's a wildlife
23 production area, or something we cannot cross, other
24 than that, we'll do just about whatever it takes.

25 COMMISSIONER HAUGEN-HOFFART: There had to be

1 some situation why you didn't accept the Vculeks'
2 reroute.

3 THE WITNESS: I'm sorry, you're talking about
4 the Vculeks?

5 COMMISSIONER HAUGEN-HOFFART: Yeah. They
6 offered you -- I'm trying to understand --

7 THE WITNESS: I'm sorry, I didn't know that you
8 were mentioning the Vculeks.

9 COMMISSIONER HAUGEN-HOFFART: Yes.

10 THE WITNESS: I can tell you specifically --

11 (Simultaneous speaking)

12 COMMISSIONER HAUGEN-HOFFART: -- Summit's
13 philosophy. When you have a landowner that gives you a
14 recommendation that "I don't want it, like, diagonally
15 here but I'm offering you a reroute," why you wouldn't
16 accept that?

17 THE WITNESS: Well, I can tell you specifically
18 with the Vculeks, at least one of the tracts. Potato
19 farmers. And one of those tracts had, I believe it was
20 a hundred -- over 120 drain tile laterals, they're every
21 10 feet, which is extremely unusual, at least in my
22 experience. I mean even in Iowa you may see them on 30
23 or 40-foot centers. And so to cross that would have
24 been extremely difficult and potentially risky for the
25 landowner. Because I don't mind guaranteeing drain tile

1 for the life of the project, we're doing that, but
2 that's a lot of drain tile.

3 So in that case, Commissioner, we approached --
4 our land team approached the landowners around the
5 Vculeks and were able to reach agreement or at least
6 thought that their landowners were receptive. And so
7 rather than impact the Vculeks and their operation and
8 110 drain tile, we chose to route around. But that --
9 that's an unusual situation.

10 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you
11 for that clarification.

12 So do you have any more landowners that have
13 made you recommendations on reroutes on their land that
14 you are not considering?

15 THE WITNESS: Not that I'm aware of.

16 COMMISSIONER HAUGEN-HOFFART: Maybe they're just
17 -- haven't agreed to sign an easement.

18 THE WITNESS: That's true. I mean, we've still
19 got -- we've got about 550 landowners along the route
20 that's before the Commission and we've signed about 440.
21 So we still got 110 landowners to work with.

22 COMMISSIONER HAUGEN-HOFFART: Out of that 110,
23 someone's negotiating with you on recommendations to
24 still stay on their parcel but just doing some tweaks
25 here and there?

1 THE WITNESS: I think --

2 COMMISSIONER HAUGEN-HOFFART: You think that --

3 (Simultaneous speaking)

4 THE WITNESS: No. There are -- there are
5 several of those landowners that are -- that may have a
6 requirement to adjust the pipeline where we are on their
7 property. I mean, I'll give you another example. So
8 the -- Kevin Bernhardt, we routed off of his property.
9 And so there were some landowners that said, yeah, if
10 you put it to the east side, not the west side, or, you
11 know -- we agreed.

12 So the preference is always to work with a
13 landowner that's agreeable. And the vast majority of
14 the time their -- their preferences are acceptable,
15 again, unless it's something that we can't avoid, like
16 there's a -- there's a cultural resource on the
17 northeast corner of their property, we just cannot cross
18 that.

19 COMMISSIONER HAUGEN-HOFFART: Okay. I'm going
20 through my notes so...

21 THE WITNESS: I'm on your time, Commissioner.

22 COMMISSIONER HAUGEN-HOFFART: I'll bet.

23 I know this has to do with Sargent County but I
24 -- I just -- we talk about collaboration, working with
25 landowners, but I'm going to read you a letter and let

1 you respond. We received this on April 10th, Docket No.
2 513. And it has to do with a landowner. And it says --
3 it is addressed to counsel. "I have been trying to have
4 a dialogue with you and your client for many months now
5 related to certain landowners and your client has been
6 largely non-responsive especially in the past four or so
7 months."

8 So tell me a little bit about -- those easements
9 that aren't signed, I mean how is communication moving
10 forward to show that there is good faith on trying to
11 resolve -- on both sides, but how would you -- how do
12 you respond to correspondence like this that there's
13 been no correspondence in four months?

14 THE WITNESS: Well, I can just tell you, at
15 least in -- and I'm not involved on a daily basis with
16 the land acquisition team, but I'm involved on a regular
17 basis. And I will tell you that it's my objective, is
18 to sign as much right of way as quickly as we can.

19 And so we are not -- it's my understanding we
20 are not avoiding any landowner. And if someone reaches
21 out and wants to talk to us, we're very responsive. And
22 we have a right of way team that's active in this state.
23 And, in fact, as Mr. Boeshans testified to, even his
24 team, his office in Bismarck, they are part of that --
25 that team that reaches out to landowners.

1 And so I'm happy to follow up on any individual
2 landowner, but I do know that we -- we want to talk with
3 landowners. The more we get in front of, the more we're
4 able to talk with them, we can even see their -- we can
5 get there with them, understand what their concerns and
6 issues are, or we can't get there with them and then we
7 can see if there's options.

8 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.

9 ALJ HOGAN: Mr. Dawson, any questions?

10 SUBSTITUTE DECISIONMAKER DAWSON: Thanks, Your
11 Honor.

12 I have a question about survey access. What
13 percentage of landowners don't give you survey access
14 and you have to take them to court, approximately?

15 THE WITNESS: I'm going to guess, Mr. Dawson, so
16 I apologize, but I know we surveyed on the original
17 route about 92 percent, on the reroutes about
18 78 percent, but I'm trying to think through the number
19 of court cases and I know it's a handful. I don't know
20 if that's three or that's ten. I'd have to defer to
21 counsel to help me with that one or we can get you that
22 information.

23 SUBSTITUTE DECISIONMAKER DAWSON: Is there any
24 incentive for a person to provide survey access?

25 THE WITNESS: I think the incentive is -- well,

1 if they're -- if they're opposed to the project and know
2 that they never want the pipeline or entertain having
3 the pipeline, there may not be an incentive. If you're
4 a landowner that -- that may entertain having the
5 pipeline, then it's beneficial because then you know as
6 the landowner where there may be constraints and then
7 you can tell us "I want you to put this --" as
8 Commissioner Haugen-Hoffart just said, you can tell us
9 "We want the property on the west side," and that's
10 where we survey. And if there are no constraints,
11 thumbs up, we'll give you -- we'll put the sketch
12 together. That's our commitment to route the pipeline
13 on the west side.

14 SUBSTITUTE DECISIONMAKER DAWSON: So if you're
15 out in the field and you don't get survey access from
16 somebody, do you look to reroute right away or what's
17 the procedure? It would seem to be a foreshadowing.

18 THE WITNESS: I think the answer is yes, you
19 look at your options. Because maybe to your point, if
20 someone doesn't want to grant survey access, it could be
21 timing. Don't bother me until you have a permit and
22 then we'll talk. Or it may be they just -- they're not
23 interested in the project. So, again, as I mentioned,
24 an indicator to me that someone maybe will sign an
25 easement is they grant survey permission. So the

1 opposite would be true.

2 And so, yes, it gets more tricky as we get this
3 mature in the process because you have -- as I mentioned
4 earlier, you have individual tracts sometimes that are
5 bound by people that have signed, and if every time we
6 move off a parcel of property we're impacting at least
7 one additional landowner, but I follow your logic. It
8 makes sense to look at options.

9 SUBSTITUTE DECISIONMAKER DAWSON: No further
10 questions. Thank you.

11 ALJ HOGAN: Mr. Dublinske, any redirect?

12 MR. DUBLINSKE: Yes, Your Honor, just a couple.

13 REDIRECT EXAMINATION

14 BY MR. DUBLINSKE:

15 Q. Mr. Powell, you had some questions about
16 scheduling the emergency management coordination meeting
17 in McIntosh County. Do you know, and let me know if you
18 don't, but do you know if part of the scheduling issue,
19 there may have been some turnover in personnel in terms
20 of the emergency manager in McIntosh?

21 A. I do not know if that's the case.

22 Q. I want to go back to a conversation you had with
23 Commissioner Christmann. Do you have your testimony
24 there with you?

25 A. Yes.

1 Q. Can you look at the bottom of page 4 over into
2 page 5 and just briefly read that testimony to yourself
3 there and let me know when you've had a chance to read
4 that?

5 A. "As stated above, Summit continues to receive
6 input from landowners and other stakeholders --"

7 Q. Sorry. Can you read that to yourself and let me
8 know when you've read that.

9 A. I follow instructions, Mr. Dublinske.

10 (Pause)

11 A. Yes.

12 Q. You had a conversation with Commissioner
13 Christmann about a deviation buffer. Do you recall
14 that?

15 A. I do.

16 Q. When I read here at the top of page 5, the
17 question at line 3 about following the procedures in the
18 Siting Act regarding route adjustments, I just want to
19 make sure that we're all using the same language. I
20 read your answer there to mean that the deviation buffer
21 gives you an ability, for example, if you would need a
22 route adjustment because, you know, when you actually
23 got doing the work you discovered something unexpected
24 as a subterranean feature, to be able to have some
25 latitude without having to come back to the Commission

1 for small route adjustments?

2 A. Yeah, that's correct. I misspoke with
3 Commissioner Christmann and was confusing access in
4 other areas with the deviation buffer. So that was my
5 mistake.

6 Q. Okay. So when you were talking with
7 Commissioner Christmann, what you were describing was
8 temporary workspace --

9 A. Yes.

10 Q. -- as temporary access; correct?

11 A. Yes. I misspoke.

12 Q. Okay. So the corridor is the extent of the area
13 in which you could put the route. The route is
14 centerline in the middle of that and is a subset of the
15 corridor; is that correct?

16 A. That is correct.

17 Q. And the deviation buffer allows you to move the
18 route due to -- a small distance due to unexpected
19 circumstances. Fair?

20 A. Fair.

21 Q. Appreciate that clarification.

22 I want to go back again just to make sure that
23 everyone is clear. You had some questions about whether
24 or not the addition of ethanol plants from 32 up to 57
25 requires larger pipe diameter. And to be clear, your

1 answer to that was?

2 A. It does not.

3 Q. And does it require any additional pump
4 stations?

5 A. Not above that -- the original complement that
6 was in the original application but the timing of them.
7 So they will be constructed and brought online sooner.

8 Q. And to be clear, that is because SCS designed
9 and planned the pipeline looking forward to additional
10 growth in volumes over time; correct?

11 A. Yeah. We design for a certain capacity. The
12 only variable is where does that volume come on. Is it
13 where -- where in the system does it come on?

14 MR. DUBLINSKE: Nothing further, Your Honor.

15 ALJ HOGAN: Mr. Pelham, any other questions?

16 MR. PELHAM: Mr. Schock has some questions.

17 RECROSS EXAMINATION

18 BY MR. SCHOCK:

19 Q. I want to go back to the corridor and the route
20 buffer here just to put a little bit of finer point on
21 it. Okay. Originally you were asking for a
22 300-foot-wide corridor. You're now asking for a
23 200-foot wide corridor; correct?

24 A. Correct.

25 Q. Okay. And I think we would both agree that the

1 corridor is a place that's designated by the Commission
2 that's generally a good place to locate a pipeline or
3 other facility upon designation?

4 A. Correct.

5 Q. Okay. A route is an infinitesimally small line
6 within that corridor. Historically, let's pretend we're
7 having this conversation ten years ago. When the
8 Commission approves that route, that is the route,
9 there's no deviation permitted. Now for the -- since
10 then the Commission has been approving deviation buffers
11 that you're kind of speaking to there, but generally
12 they've been much narrower than a hundred feet, which
13 basically encompasses the entire corridor.

14 So I can't speak for the commissioners and what
15 they will ultimately approve, but more so the time
16 I'm -- I'm seeing more like 10 to 20-foot buffers.
17 Would that be an acceptable route buffer that Summit
18 could live with?

19 A. I think -- I think it would be. And if -- if
20 there's a -- an avoidance area that would require
21 something beyond that, we would have to come back to the
22 Commission with that request.

23 Q. Sure. Well, I think that would, you know, per
24 our siting laws and rules and even the certification
25 document that would ultimately have to be signed by the

1 company, you could not impact any exclusion or avoidance
2 areas when doing such route deviation so...

3 MR. SCHOCK: That's all I had. I just wanted to
4 clean that up a little bit finer.

5 ALJ HOGAN: Mr. Braaten, any other questions?

6 MR. BRAATEN: Yes. Thank you, Your Honor.

7 RE CROSS EXAMINATION

8 BY MR. BRAATEN:

9 Q. Sir, you were asked about the surveying that is
10 done by Summit. And on page -- pages 4 to 5 that we
11 were just looking at, there's a reference to certain
12 cultural or environmentally sensitive areas. Is that
13 what the surveyors are looking for when they're out on
14 the landowners' property?

15 A. Mr. Braaten, there's really three phases of
16 survey. One is land where we just look for property
17 boundaries and the centerline of the proposed route, if
18 you will. Then there's environmental survey and then
19 there's cultural survey. So cultural is one piece of
20 that, yes.

21 Q. What do the environmental and cultural surveys
22 consist of?

23 A. The environmental crews are biologists
24 typically, and Mr. Schmidt can speak more specifically
25 to it, but looking for endangered -- threatened and

1 endangered species and things of that nature that we've
2 identified on desktop but looking for signs of those on
3 the right of way. And then the cultural --
4 archaeological and cultural features, and those crews
5 typically have an archaeologist but also, if they choose
6 to participate, a tribal member as well.

7 Q. And the culturally and environmentally sensitive
8 sites, are those generally areas on the property that
9 need to be avoided when development occurs?

10 A. Yes.

11 Q. And what is it that Summit does with that survey
12 information that they gather after they go onto the
13 landowner's property?

14 A. So that's catalogued and then that largely
15 becomes part of the information that's shared with the
16 State Historical Preservation officer and/or the Corps
17 of Engineers.

18 Q. So federal and state agencies it's shared with?

19 A. Yes, sir.

20 Q. So you're going to go onto a landowner's
21 property and find all the endangered species habitat,
22 catalog it, index it, and report it to the Federal
23 Government?

24 A. That's my understanding of it. Mr. Schmidt can
25 be more specific about that.

1 Q. Some landowners don't want you to do that;
2 right?

3 A. I'm not sure. I know -- I know cultural
4 features, sometimes there's an issue.

5 Q. When you bring a court action to get survey
6 access, do you need to bring that lawsuit in order to
7 get access to the landowner's property to do these
8 surveys?

9 A. That's my understanding, yes.

10 Q. And you wouldn't have a right to go onto that
11 property without that court-granted access; right?

12 A. Without the landowner's permission, that's
13 correct.

14 Q. And so the court is giving you property rights?

15 A. They're giving us access to the property to
16 survey.

17 Q. So they're giving you a right to enter the
18 property?

19 A. Yes.

20 Q. Which is a property right?

21 MR. DUBLINSKE: Objection. Calls for a legal
22 conclusion.

23 ALJ HOGAN: I tend to agree. I think that's a
24 legal conclusion.

25 MR. BRAATEN: No further questions.

1 ALJ HOGAN: Mr. Pranis, any questions?

2 MR. PRANIS: No thank you, Your Honor.

3 ALJ HOGAN: All right. Commissioner Christmann.

4 COMMISSIONER CHRISTMANN: I did miss one
5 clarification. When we talked about those meetings in,
6 I believe, seven of these 10 counties, eight meetings
7 in seven of the 10 counties with the emergency managers
8 and emergency responders, was the dispersion modeling
9 methodology that's confidential, was that shared or at
10 least offered to be shared with those managers and
11 responders?

12 THE WITNESS: Mr. Christmann -- Commissioner
13 Christmann, the methodology, what the inputs are and
14 what the outputs are, and then kind of a generic output
15 would be discussed, not specific to the area in those
16 general meetings, but it's our -- it's our feeling that
17 if someone, that someone being emergency manager
18 or first responder or fire department personnel,
19 etcetera, may be part of the response, then they have to
20 have specific information.

21 COMMISSIONER CHRISTMANN: No other questions.

22 ALJ HOGAN: Commissioner Haugen-Hoffart.

23 COMMISSIONER HAUGEN-HOFFART: No, I do not.

24 ALJ HOGAN: Mr. Dawson.

25 SUBSTITUTE DECISIONMAKER DAWSON: No thank you,

1 Your Honor.

2 ALJ HOGAN: All right. Well, thank you,
3 Mr. Powell. That's all the questions we have for you.

4 Let's take a 15-minute break and then when we
5 come back we will start with public testimony.

6 And the Commission would like to hear from
7 impacted landowners first. So if you are an impacted
8 landowner that would like to provide public testimony,
9 if you want to all -- I'll go through instructions on
10 testimony when we come back, but you'll have to testify
11 from the witness table there. So if you want to make
12 your way to the front or sit at the front when we get
13 back, that would be great.

14 Let's reconvene at 2:25.

15 (Recess)

16 ALJ HOGAN: All right. If people want to make
17 their way back to their seats, we're going to get
18 started again.

19 COMMISSIONER CHRISTMANN: Your Honor, could I
20 have just an announcement chance?

21 ALJ HOGAN: Sure. Go ahead.

22 COMMISSIONER CHRISTMANN: I usually do this
23 right at the beginning of a hearing, I guess it goes
24 back to my state Senate days, but I really appreciate
25 everybody from the public coming as I talked about this

1 morning with public comments, but I appreciate
2 legislators coming. Because a lot of times they're here
3 on their own time. This isn't a session day or
4 something like that where they're getting compensated.

5 I see Representative SuAnn Olson here. I see
6 Representative Mike Brandenburg. I thought this morning
7 I saw Representative Brandon Prichard, but I'm not
8 seeing him right now so maybe I'm wrong. And I know
9 this morning Senator Keith Boehm was here, and I ran
10 into him over lunch and he said he had another hearing
11 this afternoon. And so I don't know if I'm missing
12 anybody --

13 UNIDENTIFIED SPEAKER: Yep, somebody's in the
14 back. Yep, there he is. Stand up.

15 COMMISSIONER CHRISTMANN: Oh, Senator Gerhardt
16 from here in Mandan. Sorry, I didn't remember. I
17 actually talked to him over lunch too. So sorry about
18 that. But, anyway, just appreciate them being here on
19 behalf of their constituents.

20 And now I'm ready to move on, Your Honor.

21 ALJ HOGAN: All right. Thank you.

22 Okay. As I mentioned before the break, we are
23 going to start with public testimony, and just a few
24 comments regarding public testimony before we would
25 start. As I mentioned, the Commission would like to

1 hear from impacted landowners first so I'm going to ask
2 those parties to come forward first.

3 If you choose to testify today, I'll have you
4 take a seat at the witness stand like our prior
5 witnesses. You will be sworn in and all the parties
6 will be asked if they want to ask you questions so
7 please be prepared for that. If you represent a group
8 or an entity, if you could identify who you are
9 representing, that would be helpful. Likewise, if you
10 are a landowner, if you could specify where your land is
11 located, that will be helpful as well.

12 You are providing testimony in an evidentiary
13 hearing. This is not an opportunity to ask questions of
14 the parties or the commissioners. It's your opportunity
15 to provide information or evidence to the Commission.

16 I'd ask that you limit your testimony to the
17 construction and effect of the pipeline and refrain from
18 discussing issues that the Commission doesn't have
19 jurisdiction over like eminent domain. If somebody
20 prior to you stated your concern, I'd ask you just state
21 that you agree with that statement rather than restating
22 everything that's been previously testified to. If the
23 point is made by another party, the Commission will
24 consider it. Similarly, the testimony taken at prior
25 hearings is still part of the record in the case. So if

1 you previously testified at one of the hearings last
2 year, there's no need to repeat that testimony at this
3 hearing as well.

4 So with that in mind, if we have impacted
5 landowners. And I know there's some that were -- that
6 checked yes on the sign-in sheets so whoever would like
7 to come -- or start, if you'd come forward, I'd
8 appreciate that.

9 Good afternoon. I'll have you start by -- well,
10 first I'm going to ask if that microphone is on. It
11 should have a green light. Okay, perfect.

12 I'll have you state your full name and spell
13 your last name for the record.

14 LYNETTE DUNBAR: I'm Lynette Dunbar,
15 D-U-N-B-A-R.

16 ALJ HOGAN: And, Ms. Dunbar, were you in the
17 room earlier when I went through the penalties for
18 perjury?

19 LYNETTE DUNBAR: I was.

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

22 LYNETTE DUNBAR: Yes.

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

1 LYNETTE DUNBAR: I do.

2 ALJ HOGAN: All right. Thank you. You can go
3 ahead.

4 LYNETTE DUNBAR,

5 being first duly sworn, testified as follows:

6 LYNETTE DUNBAR: Okay. Commissioners and others
7 present, I am Lynette Dunbar and I live on 188th Avenue
8 Northeast, Baldwin. I strongly urge a vote to the
9 permitting of -- sorry, I'm just a little nervous. I
10 strongly urge a "no" vote to the permitting of Summit
11 Carbon Solutions CO2 pipeline.

12 I'm born, raised, educated, and work in North
13 Dakota. I want to state that I am not against
14 pipelines. Each pipeline should be handled due to what
15 it is actually transporting. Nothing highly
16 asphyxiating should be a continuous high-pressure flow
17 close to anyone's residence or any town.

18 I don't like that people are being characterized
19 as demons or for attacking the growth of the state's oil
20 and gas industry like in mediums and media. We are all
21 adults and we need to act civilized.

22 It's about protecting people's lives, their
23 houses, their buildings, and the animals they raise as
24 well as wildlife and lands. Some people depend on their
25 land and animals to make a living.

1 Our county road is maybe a half mile and there
2 are 12 homes in that short span. Some homes are maybe
3 500 feet away from the pipeline and others 1,200 to
4 1,600 feet away. This is too close. And the majority
5 are on the north side of the pipeline which is the
6 direction of the strong prevailing winds. There are at
7 least a couple thousand homes just a short distance
8 north of our county road as well. And Bismarck is not
9 that far. I can drive to Bismarck within 15 minutes.

10 So with the winds we have, the plume will reach
11 all the homes and Bismarck in a matter of a couple
12 minutes. You don't need a plume model to know that. I
13 mean, watch the snow blow across the grounds with the
14 high winds which seem to be more and more frequent in
15 North Dakota. And a shelter in place is not going to
16 work and it has been proven in other CO2 pipeline leaks.

17 As for myself, we have lived on our property for
18 23 years and our house is estimated about 1,200 feet
19 from the pipeline and our property joins the county
20 road. I am extremely concerned for our neighbors'
21 safety, our safety, our animals' safety, and all of our
22 possessions. I make a living from my animals. We
23 raised our children on this place. We hand-planted
24 thousands of trees, pounded hundreds of fence posts, and
25 now we feel we are being forced to throw that all away

1 for something that will not benefit the public, even
2 though they say it will, but it won't.

3 We loved where we live. We should feel -- we
4 will -- we shouldn't feel uneasy on our own property or
5 in our own home. It's going to feel like being
6 terrorized every day if this pipeline is allowed by our
7 property. Every out-of-the-ordinary sound will cause
8 anxiety and fear. Nobody should have to deal with this.

9 Our current liability insurance will not cover
10 any damages due to the pipeline. We pay for that, but
11 we will not have coverage. They say to go and sue the
12 pipeline owner. Well, for me, that's just kind of like
13 saying "good luck with that" just from how things go in
14 this world.

15 I mean, there is no way I can come back from
16 that if all my animals are dead and other buildings
17 damaged, that is if we survive, which is highly
18 unlikely. It seems like the mindset of a lot of North
19 Dakota elected officials and Summit, in my opinion,
20 you'll all be dead so what's it matter? That's how I
21 feel, especially the way things are being handled.
22 Others feel this way too. No emergency services will
23 reach us whether it's gas or diesel-powered vehicles.
24 How are the emergency personnel going to feel when they
25 can't help? How are the people voting on the pipeline

1 going to live with themselves after a big disaster that
2 will happen?

3 What are we going to do with all of the dead
4 animals? We make our living off of that. If those
5 animals somehow survive, they're going to have
6 neurological disorders. We're still going to have to
7 put them down. That's going to be very hard. If people
8 and animals miraculously survive, they will all have
9 neurological issues. Who's going to pay for that?
10 That's not right in any way.

11 The thickness and the depth of the pipeline
12 needs to be addressed. I mean, we bury our loved ones
13 deeper than this pipeline is going to go.

14 What about the massive amounts of water that
15 will be wasted where there's a lot of areas now that
16 don't have enough to support their people? That's going
17 to happen here eventually. I mean the Missouri is low
18 again.

19 I see nothing but costs rising for North
20 Dakotans especially with the high electricity needed to
21 support this pipeline. We can't even support our
22 current infrastructures with the electricity we have
23 now. Yeah, we can increase the output, but that's also
24 going to increase the costs to North Dakotans again.

25 I know there are many other issues I'd love to

1 address here, but I want to keep it short, but I can't
2 believe a company with such deceitfulness is allowed to
3 continue to proceed working in the state of North
4 Dakota.

5 And elected officials are duly bound to protect
6 the health and safety of the citizens of North Dakota.
7 The citizens are smart and will do the correct research
8 for you to make the best decision if you would only
9 listen to them and not listen to outside forces that are
10 not being completely truthful.

11 I strongly urge a "no" to the Summit Carbon
12 Solutions CO2 pipeline.

13 Thank you for your time.

14 ALJ HOGAN: Thank you.

15 Mr. Bender, any questions?

16 MR. BENDER: No, no questions, Your Honor.

17 ALJ HOGAN: Mr. Pelham.

18 MR. PELHAM: Good afternoon, Ms. Dunbar. I'm
19 just wondering, does the proposed line cross your
20 property?

21 LYNETTE DUNBAR: It does not cross our property,
22 but it is right across the county road --

23 MR. PELHAM: Sure.

24 LYNETTE DUNBAR: -- from our property line.

25 MR. PELHAM: And you used the word

1 "deceitfulness." I'm just wondering if you could
2 elaborate on that with any specifics.

3 LYNETTE DUNBAR: When you listen to certain
4 people when they talk, you can tell they're begging the
5 question. There's a lot of that that's been going on.
6 And I don't think that's right. They need to tell the
7 truth whether it's going to be hurting people or not.
8 We need the whole truth.

9 MR. PELHAM: Thanks for being here today. I
10 don't have any other questions.

11 ALJ HOGAN: Mr. Schock, any questions?
12 Mr. Braaten?

13 MR. BRAATEN: No, Your Honor.

14 ALJ HOGAN: Mr. Pranis?

15 MR. PRANIS: No, Your Honor.

16 ALJ HOGAN: Commissioner Christmann.

17 COMMISSIONER CHRISTMANN: I think you said 180
18 and -- 180 and a half --

19 LYNETTE DUNBAR: 188th Avenue.

20 COMMISSIONER CHRISTMANN: Oh, 188th. And can I
21 just get your address?

22 LYNETTE DUNBAR: Yep. It's 199 188th Avenue
23 Northeast, Baldwin, North Dakota 58521.

24 COMMISSIONER CHRISTMANN: And then can I have
25 the -- I was trying to hurry through a lot of maps to

1 see Baldwin and trying to get a feel for the description
2 you're giving.

3 And this will be for everybody that's talking
4 about specific properties so you -- maybe I don't have
5 to ask everyone. Do you have your township and section
6 and range?

7 LYNETTE DUNBAR: We are in the Glenview
8 Township. Oh, goodness, I should know our section. We
9 are the second one in from Highway 83. It would be
10 Earsleys, which the pipeline goes on, they are right on
11 Highway 83. And then we are the next property over. I
12 couldn't give you my actual plot.

13 COMMISSIONER CHRISTMANN: But you don't have
14 like 140-81 section 20 or something like that?

15 LYNETTE DUNBAR: I couldn't tell you that right
16 off the --

17 COMMISSIONER CHRISTMANN: Okay.

18 LYNETTE DUNBAR: I should know it, but I don't.

19 COMMISSIONER CHRISTMANN: I'll find it later.
20 And I think you've given a pretty good description of it
21 so I'll recognize the picture and get a better feel.
22 Thank you for being here, Lynette.

23 ALJ HOGAN: Commissioner Haugen-Hoffart.

24 COMMISSIONER HAUGEN-HOFFART: Oh, you just got
25 to wait, Lynette.

1 LYNETTE DUNBAR: Sorry.

2 COMMISSIONER HAUGEN-HOFFART: A couple more.

3 You said you raise animals --

4 LYNETTE DUNBAR: I do.

5 COMMISSIONER HAUGEN-HOFFART: -- livestock? Can
6 you tell me a little bit more about that? What's your
7 livestock operation?

8 LYNETTE DUNBAR: I raise cattle, I raise pigs, I
9 raise chickens, I have geese, and of course the normal
10 cats and dogs. But I make a third income off of my
11 animals.

12 COMMISSIONER HAUGEN-HOFFART: There was
13 meetings, and I believe they were open to the public,
14 when they talked about -- safety meetings.

15 LYNETTE DUNBAR: Okay.

16 COMMISSIONER HAUGEN-HOFFART: Did you attend any
17 of the safety meetings that have been --

18 LYNETTE DUNBAR: I did not know about them. The
19 only people that have been contacted are the people who
20 are -- or I should say the landowners who are going to
21 have the pipeline or some part of the pipeline on their
22 land. Nobody else has been contacted in our area or
23 invited to any meetings, other than the ones that we put
24 on ourself.

25 COMMISSIONER HAUGEN-HOFFART: Okay. I have no

1 further questions. Thank you.

2 ALJ HOGAN: Mr. Dawson, any questions?

3 SUBSTITUTE DECISIONMAKER DAWSON: No questions,
4 Your Honor.

5 ALJ HOGAN: Got one?

6 COMMISSIONER CHRISTMANN: I think I found it.
7 So this proposal has this pipeline going about a mile
8 south of Baldwin.

9 LYNETTE DUNBAR: Yes.

10 COMMISSIONER CHRISTMANN: And I'm thinking, like
11 from that intersection then, you're about one to
12 two miles further west; right?

13 LYNETTE DUNBAR: No. From our house to Baldwin
14 is right about a mile.

15 COMMISSIONER CHRISTMANN: Okay. And you're on
16 the north side of that road?

17 LYNETTE DUNBAR: Correct. 188th.

18 COMMISSIONER CHRISTMANN: No, you're on the
19 south side --

20 LYNETTE DUNBAR: We're on -- sorry -- the south
21 side of 188th.

22 COMMISSIONER CHRISTMANN: And the pipeline is on
23 the north.

24 LYNETTE DUNBAR: The pipeline is on the north
25 side. And then curves right by 83.

1 COMMISSIONER CHRISTMANN: Yeah, I see these
2 multiple residences so --

3 LYNETTE DUNBAR: Yeah.

4 COMMISSIONER CHRISTMANN: Thank you, Lynette.

5 ALJ HOGAN: All right. Thank you.

6 Who would like to go next?

7 Good afternoon. Can I have you state your full
8 name and spell your last name for the record?

9 SUANN OLSON: My name is SuAnn Olson, O-L-S-O-N.

10 ALJ HOGAN: That sounds better. Why don't you
11 restate it?

12 SUANN OLSON: SuAnn Olson, O-L-S-O-N.

13 ALJ HOGAN: And, Ms. Olson, were you in the room
14 earlier when I went through the penalties for perjury?

15 SUANN OLSON: I was.

16 ALJ HOGAN: And do you understand what perjury
17 is?

18 SUANN OLSON: Yes.

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

22 SUANN OLSON: Yes.

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

24 SUANN OLSON: Okay. Thank you.

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SUANN OLSON,

being first duly sworn, testified as follows:

SUANN OLSON: As stated, my name is SuAnn Olson and I am testifying before you on behalf of myself and my husband. Together we are landowners that will not be paid by Summit. Our residence is located about three-quarters of a mile south of the new proposed route. For reference, we live between 188th Street and 175th Street. And I did just look up, if you want the legal description, I could tell you. So we would be T141, Range 80, Section 26 in Glenview Township.

And I think as you've already heard, there are a number of landowners who, in fact, will be much closer to the proposed route than we are. Some will be right across the road from the pipeline and, like us, will not be receiving any kind of payment from anyone even though our proximity to the pipeline has the potential to put our lives at risk and devastate our property values.

One of the concerns I have is for safety. I don't believe it has still been properly addressed. Mr. Powell states that safety meetings were held in various counties. Surely that is not all that will be required to obtain a permit. Questions remain. Who will pay for the specialized equipment that is needed to manage a CO2 emergency? How will rural counties

1 adequately maintain training for a largely volunteer
2 force? How will communities make sure that residents
3 know what to do? I would hope that shelter in place is
4 not the extent of the safety plan.

5 500 feet from a residence is the setback being
6 used. Is that safe? Burleigh County didn't think so
7 when they passed their own ordinances.

8 I would also ask: has topography been
9 considered? You know, the area north of Bismarck has
10 many hills and valleys. And since CO2 will flow to the
11 lowest elevation, do we know where those critical points
12 are? Does the route avoid areas where a break would
13 endanger more people who are living in those low-lying
14 areas?

15 I have a concern for property values. The
16 proposed route was moved to accommodate the concerns of
17 various developers, and I'm happy they did that because
18 that keeps lots of residences out of the way of the
19 pipeline. So from a safety standpoint, that's great.
20 There was a comment in the report submitted by attorneys
21 on August 18th, though, that states "The effect of the
22 project will be adequately minimized because the
23 adjusted route is not located in the vicinity of any
24 existing or known planned developments."

25 Well, every parcel of land has an owner and a

1 value. It is unjust to assert that a large block of
2 land owned by a few developers is more important than
3 land held by individual owners. The message received
4 really is that the route can be moved to accommodate
5 important people, but small individual owners just
6 simply don't matter as much.

7 If there is a break anywhere along the route,
8 anywhere along the route, not just North Dakota,
9 property values in the vicinity of the entire route will
10 suffer. It is doubtful that buyers will think a
11 500-foot setback from a pipeline will be adequate then.
12 For most of us, our residences are our biggest single
13 asset. So all of us will have a lot to lose.

14 I have a concern for the electrical grid. In
15 testimony provided, they're stating that the CCUS
16 projects will require a meaningful amount of power and
17 that Mr. Boeshans noted that the estimated annual
18 utility costs are expected to be over \$14 and a half
19 million per year, supplying, and I quote, "Income for
20 the co-ops for continued maintenance and improvements to
21 their facilities and infrastructure."

22 Now, I have to be honest that that was not --
23 the reaction I had was "Oh, no! Where is this power
24 going to come from?" All of us are very clear and none
25 other more than the PSC about how tenuous our grid is.

1 And it then makes me wonder, because I think there's no
2 question we're -- we're very quickly coming to a time
3 when the power supply is not going to keep up. And so
4 when we have a problem, when we've maxed out, who goes
5 dark first? Is it the citizens of North Dakota? Is it
6 all these residents of Burleigh County, Emmons County,
7 and in fact counties not at all where this pipeline is
8 located? I don't know the details, but I'm venturing to
9 guess that it would be dangerous to turn the power off
10 for those pump stations and whatnot at the pipeline,
11 which means the people that will need to go dark are the
12 citizens. How is that good for North Dakota? Should we
13 not care about the citizens first?

14 I mean, we've got an example already of what's
15 happened when this kind of thing happens with -- in
16 northwestern North Dakota. That area is looking at an
17 increase in rates because of the crypto mining center.
18 I don't know that this would be very much different.

19 Finally, Summit is probably going to bring in
20 somewhere in the neighborhood of \$20 billion in tax
21 credits alone. And we get so callous to the numbers.
22 We hear billions in the news all the time. But here is
23 an example of how big a billion is. A million seconds
24 is about 11 and a half days. A billion seconds is
25 nearly 32 years.

1 The massive amount of money that goes to the --
2 to the unknown owners of this pipeline are the big
3 winners in this deal. I don't think you can make a case
4 that this pipeline is anywhere nearly as good for our
5 fossil fuel, certainly not for coal or for agriculture.

6 That's the extent of my comments.

7 ALJ HOGAN: Thank you.

8 Mr. Bender, any questions?

9 MR. BENDER: No questions.

10 ALJ HOGAN: Mr. Pelham.

11 MR. PELHAM: Thank you for being here,
12 Ms. Olson -- Representative Olson. And I just have a
13 question for you as far as whether or not you or your
14 husband have had any contact with Summit on any of the
15 issues you've outlined here today.

16 SUANN OLSON: I have not.

17 MR. PELHAM: They haven't reached out to you,
18 you haven't reached out to them.

19 SUANN OLSON: Over time Wade Boeshans has, I
20 think, tried to contact me twice and we tried to get
21 together, and every time it was like I was somewhere out
22 of the country or whatever we were doing and it just
23 never --

24 MR. PELHAM: Sure.

25 SUANN OLSON: -- never got together.

1 MR. PELHAM: And you understand as a legislator
2 the 500-foot setback requirement is a state statute;
3 correct?

4 SUANN OLSON: Correct. I would also venture
5 it's been in statute for a while. Again, probably at a
6 time when we weren't considering this type of a
7 pipeline.

8 MR. PELHAM: And some of the issues the
9 Commission has jurisdiction over, some of the issues the
10 Commission simply does not have jurisdiction over. You
11 understand that?

12 SUANN OLSON: Yes.

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

15 ALJ HOGAN: Mr. Schock, any questions?

16 Mr. Braaten.

17 MR. BRAATEN: No, Your Honor.

18 ALJ HOGAN: Mr. Pranis?

19 MR. PRANIS: No, Your Honor.

20 ALJ HOGAN: Commissioner Christmann.

21 COMMISSIONER CHRISTMANN: I do not, but thanks
22 for being here, Representative Olson.

23 ALJ HOGAN: Commissioner Haugen-Hoffart.

24 COMMISSIONER HAUGEN-HOFFART: No, I do not, but
25 thank you, SuAnn.

1 ALJ HOGAN: Mr. Dawson.

2 SUBSTITUTE DECISIONMAKER DAWSON: One question.
3 Representative Olson, do you live next to Ms. Dunbar?

4 SUANN OLSON: We don't live terribly far apart.
5 I mean, if we cross-countried it, it won't be
6 terribly --

7 SUBSTITUTE DECISIONMAKER DAWSON: Can you
8 estimate how far?

9 SUANN OLSON: I'm really terrible --

10 SUBSTITUTE DECISIONMAKER DAWSON: No, that's
11 fine.

12 SUANN OLSON: My husband said a quarter mile.
13 He would know better than I.

14 SUBSTITUTE DECISIONMAKER DAWSON: That's pretty
15 close. I have no further questions. Thank you.

16 ALJ HOGAN: All right. Thank you.

17 Who would like to go next?

18 Good afternoon. Can I get your name and if you
19 want to spell your last name for the record.

20 GAYLEN DEWING: Good afternoon. First of all,
21 thank you, Commissioners and others, for allowing me
22 this time. My name is Gaylen Dewing. That last name is
23 spelled D-E-W-I-N-G.

24 ALJ HOGAN: And, Mr. Dewing, were you in the
25 room this morning when I went through the penalties for

1 perjury?

2 GAYLEN DEWING: I was.

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

5 GAYLEN DEWING: I do.

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

9 GAYLEN DEWING: I do.

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

11 GAYLEN DEWING: Thank you.

12 **GAYLEN DEWING,**

13 being first duly sworn, testified as follows:

14 GAYLEN DEWING: I live on a farm/ranch that is
15 approximately four to five miles straight east of the
16 Bismarck airport. For full disclosure, I want to say
17 that I'm the chairman of the Apple Creek Township board,
18 but I am not in any way representing the township today.
19 I'm speaking as a private citizen. I also should
20 probably say that I have been, in the past, a long-time
21 employee of Basin Electric Power Cooperative and was
22 their financial reporting manager for several years.

23 Sitting here today, I feel totally, completely
24 snubbed by an organization called Summit Carbon
25 Solutions and I feel that the North Dakota Public

1 Service commissioners should also feel snubbed.

2 Public Service commissioners made the correct
3 decision when they rejected the first request by Summit.
4 In their rejection of that, you gave several reasons as
5 to why. One of those reasons was that they believed the
6 route of this pipeline should be moved further from the
7 east side and the north side of Bismarck. In their
8 reply, Summit completely snubbed us. They moved the
9 pipeline not one inch east of Bismarck. They completely
10 ignored that. Even in their diagram they show that line
11 in red meaning that's cast in stone, we didn't move it.
12 Yes, they did move it north of Bismarck. They did not
13 move it east of Bismarck. So I don't feel that they did
14 a very good job of answering your concerns.

15 There's also a community southeast of Bismarck
16 by the name of Lincoln. They've given no consideration
17 for that community at all. They talk about the
18 developments that are happening north of Bismarck.
19 Nobody mentions the developments around Lincoln.
20 Lincoln was a very small community. In a very short
21 number of years that community has grown to almost 5,000
22 people.

23 Right now as we speak there's initial talk of
24 development around Lincoln to include a golf course with
25 many very expensive homes that could be built out there.

1 That's in very preliminary discussions, but what do you
2 think those homes will be worth if they know that a CO2
3 pipeline is only a short distance away? There's also
4 talk of a 320-home development just on the east side of
5 Lincoln that's within four miles of this pipeline.
6 Nobody mentions that. Nobody mentions the farms outside
7 of the east side of Bismarck.

8 One of the very good intervenors this morning or
9 earlier this afternoon asked the question of one of the
10 Summit testifiers as to why they don't think the
11 landowners want these surveyors on that land. That
12 person was unable to answer the question. Well, I can
13 give you one possible reason, and that is that maybe the
14 rancher has thousands of dollars' worth of cows, calves,
15 or horses, sometimes expensive show horses, that are
16 ranging on that land and are not used to having strange
17 pickups or strange people wandering around amongst them
18 at all times of the day without notice. That might be
19 one reason why the farmer/rancher does not want
20 surveyors out on their property without notice. Maybe
21 Summit could do a better job of looking into what
22 they're trying to build and become familiar with the
23 project they're trying to build and how it impacts the
24 farmers and ranchers.

25 Right now there are four generations of my

1 family that are spending time out on my ranch.

2 I'm sorry, Commissioner Christmann, I should
3 have told you my ranch's location is 130-79, sections --
4 part of sections 15, 14, and 13 in Apple Creek Township.

5 My home -- there's two homes on that farm. One
6 is occupied by my -- or three. One is occupied by
7 myself, one by my daughter and her family, another one
8 for my older daughter and her family.

9 We're approximately three-quarters of a mile
10 south of Apple Creek School. The pipeline right now as
11 it's drawn runs about a quarter of a mile from my
12 property lines. That puts it within about two miles of
13 Apple Creek School.

14 I've talked before at the PSC about the safety
15 issues concerning this pipeline. The safety issues
16 remain basically the same, except when you increase the
17 amount of CO2 to be carried from that of 32 plants up to
18 57, it just exacerbates my concern for safety which
19 means there's even more reasons to say no to this
20 project.

21 This morning Summit referred to the fact that
22 this project was important because it was going to
23 attract more of the same type or similar businesses by
24 capturing and sequestering carbon. This seems to infer
25 that others will follow Summit and be encouraged to use

1 North Dakota as their dumping grounds. How far do we
2 carry this idea of making North Dakota a dumping grounds
3 for their waste product?

4 CO2 emitted into the air is terribly safe and
5 used by our plants. I don't want to get into a science
6 project here because I'm not a scientist. I happen to
7 be an accountant, a rancher, and a farmer, not a
8 scientist, but I know one thing. I do not want North
9 Dakota to become a dumping grounds for the new green
10 deal, and that's where we're headed. A vast majority of
11 North Dakota citizens oppose the Green New Deal, and I
12 ask that our North Dakota Public Service Commission join
13 with those citizens in opposing a project that,
14 regardless of what Summit says, is just an extension of
15 the Green New Deal.

16 We talked a little bit -- or previous presenters
17 talked a little bit about the amount of power that this
18 project would take. On my farm right now I have some
19 electric water heat -- waterers that will water my
20 horses, water my cattle during the cold North Dakota
21 winters. If we're facing brownouts and we start turning
22 off the electricity to the farms across North Dakota
23 because there is not enough electricity to keep the
24 farms going or the pumps along the pipeline, what's
25 going to happen to the herds of cattle that cannot drink

1 water because their electric waterers are shut off and
2 they've frozen? We're facing brownouts and possibly
3 next blackouts.

4 Not only is it a lack but also look at what the
5 increased rates. I happen to be on Capital Electric and
6 Capital Electric rates are going up. They have already.
7 They're going up again this summer. And I've heard
8 mention of possibly next summer an increase of up to
9 15 percent again for electric rates. The burden that
10 puts on North Dakota farmers is not going to set well
11 when the North Dakota farmers realize that the pipeline
12 is still pressurized with electricity, but their
13 electric waterers are not heated so their cattle don't
14 have water.

15 Speaking of first responders, we've heard a lot
16 of talk about how Summit has been meeting with first
17 responders. Have we heard any talk about how many
18 dollars Summit has pledged to buy equipment for these
19 first responders? Are they going to pledge to pay every
20 cent of the equipment that's going to be needed to be
21 able to operate first responder vehicles in an area
22 within a plume where the oxygen has been depleted by
23 CO2? Are they going to pay a hundred percent of the
24 cost of that equipment? A hundred percent of the cost
25 of more responders?

1 What's going to happen in the emergency rooms in
2 our hospitals when there's a pipeline burst or leak and
3 people start falling sick? Our emergency rooms here in
4 Bismarck are already overcapacity. People sit for long
5 periods of time waiting to be seen in the emergency
6 rooms of Bismarck's hospitals. That's only going to get
7 worse.

8 And Summit keeps telling us they've met with
9 first responders. They haven't done a thing about
10 telling anybody other than maybe a few first responders
11 what their plan is for these emergencies. They haven't
12 met with any of the people, any of the landowners that
13 are concerned about safety. It's not even mentioned.

14 All they talk about is dollars. Dollars and
15 cents. There's a saying that people use from the --
16 comes from the Bible that says money is the root of all
17 evil. That's actually a misquote. The bible says the
18 love of money is the root of all evil.

19 I urge the Public Service Commission of the
20 state of North Dakota to make the right decision and
21 reject this project. That is not one to be proud of.

22 Thank you for your time. I stand for any
23 questions.

24 ALJ HOGAN: Thank you.

25 Mr. Bender, any questions?

1 MR. BENDER: No questions.

2 ALJ HOGAN: Mr. Pelham, any questions?

3 MR. PELHAM: Thank you, Mr. Dewing, for being
4 here. Just wondering, a little bit more information if
5 you have it on this development of a golf course. You
6 just -- how do you know that and any specifics you can
7 provide to the Commission on that.

8 GAYLEN DEWING: I could provide a lot of
9 specifics, but I need to say that the developers of that
10 particular project are in the initial stages. They have
11 come to the Apple Creek Township board who has zoning
12 authority over that area right now. They've suggested
13 the possible use of what is called a PUD. The people of
14 Apple Creek Township moved out into the countryside to
15 maintain a rural type setting. The people of Apple
16 Creek Township voiced their concerns about this and
17 voted very strongly we do not want to get into the use
18 of PUDs for developing property out there that we would
19 like to see remain rural instead.

20 MR. PELHAM: Sure.

21 GAYLEN DEWING: The developers are now in the
22 process of talking to the City of Lincoln about possibly
23 extending their city limits so that this property would
24 become part of their zoning authority rather than Apple
25 Creek Township's. That's about as far as I know right

1 now.

2 There's a meeting this afternoon, I believe it's
3 scheduled at 6:00, to discuss that with the City of
4 Lincoln.

5 MR. PELHAM: Sure.

6 GAYLEN DEWING: So that's about all the
7 information I have at this point in time.

8 The other thing I should tell you is that in
9 Apple Creek Township we require a density of at least
10 five acres per lot within sub-developments. And the
11 people wanting to develop the course would like to see
12 it higher density so they could have more homes around
13 the golf course. So that's why we're at that point
14 right now where their initial developments and stuff,
15 they're looking towards Lincoln rather than Apple Creek
16 Township.

17 MR. PELHAM: Thank you. Appreciate that
18 clarification, sir.

19 And I know you said you're here not -- you're
20 here as a citizen, not as a chairman of Apple Creek
21 Township, but I'm wondering, has there been any contact
22 that the township that you're aware of has had with
23 Summit for its proposed pipeline?

24 GAYLEN DEWING: Yeah, the -- the clear answer to
25 that is no, but I don't believe that Summit, in their

1 business plan, has done much of a job. They want to
2 ignore even the counties. So the townships -- and, of
3 course, we have a lot of townships that would be
4 involved by being passed by this pipeline. As far as I
5 know, there's been no contact between Summit and any of
6 the townships in the state of North Dakota that I know
7 of. Certainly not Apple Creek Township.

8 Now, Apple Creek township, I have to tell you,
9 has considered the pipeline information from concerned
10 citizens, has come before the township board, and the
11 township board has voted unanimously to support Burleigh
12 County in its objection to the pipeline.

13 We have also passed a resolution and put into
14 our zoning ordinances that no township road can be open
15 cut by any pipeline. The State doesn't allow it, the
16 counties don't allow it, and I don't see why the
17 townships should be any less. So we have passed a
18 resolution that if a pipeline crosses a township road,
19 they have to bore under it. They cannot cut through it.
20 No open cutting. And we have the authorization, I
21 believe, to -- and authority to do that.

22 MR. PELHAM: Appreciate you being here. I have
23 no further questions.

24 GAYLEN DEWING: Thank you.

25 ALJ HOGAN: Mr. Schock, any questions?

1 Mr. Braaten, any questions?

2 MR. BRAATEN: No, Your Honor.

3 ALJ HOGAN: Mr. Pranis?

4 MR. PRANIS: No, Your Honor.

5 ALJ HOGAN: Commissioner Christmann.

6 COMMISSIONER CHRISTMANN: Yeah, Mr. Dewing, am I
7 on the right map page? Like, do you live on section 13?

8 GAYLEN DEWING: No. I actually live now on
9 section 15. My original farm site that I bought
10 53 years ago was on section 14. That's where my oldest
11 daughter and her family live now. I live on section 15,
12 on 93rd Street, but I own property in section 13, within
13 about a quarter -- less than a half a mile from where
14 the pipeline is now routed.

15 COMMISSIONER CHRISTMANN: And you must own the
16 west half?

17 GAYLEN DEWING: I own the northwest quarter of
18 section 13.

19 COMMISSIONER CHRISTMANN: Okay. Because we
20 don't have all the maps of like all of Burleigh County.
21 This is near the pipeline route so I see section 13.
22 And so -- so this map shows it being not on the very
23 edge but within maybe a thousand feet of the eastern
24 edge of section 13.

25 So how far is that to Lincoln west and how far

1 north or south?

2 GAYLEN DEWING: If I may expand on my answer a
3 little bit, Commissioner Christmann, that -- you're
4 right, that line runs about a thousand feet or so from
5 the eastern edge of the township. There are actually
6 homes between the edge of that -- between the route of
7 that pipeline and the eastern edge of our township. So
8 that shows you how close they are to the homes.

9 COMMISSIONER CHRISTMANN: And I think they
10 signed waivers, according to this.

11 GAYLEN DEWING: Say that again.

12 COMMISSIONER CHRISTMANN: They've signed
13 waivers, according to this.

14 GAYLEN DEWING: Okay. That could be.

15 COMMISSIONER CHRISTMANN: So how far is this
16 from Lincoln?

17 GAYLEN DEWING: It's approximately, from the
18 city of Lincoln, I would say that pipeline is less than
19 four miles -- I'm just kind of guessing now -- less than
20 four miles from the city of Lincoln. And that would put
21 it from three miles from Lincoln's ETA.

22 COMMISSIONER CHRISTMANN: Okay. Thank you. No
23 other questions.

24 ALJ HOGAN: Commissioner Haugen-Hoffart.

25 COMMISSIONER HAUGEN-HOFFART: Thank you, but I

1 have no further questions.

2 ALJ HOGAN: Mr. Dawson.

3 SUBSTITUTE DECISIONMAKER DAWSON: No questions.

4 Thank you.

5 ALJ HOGAN: All right. Thank you, Mr. Dewing.

6 GAYLEN DEWING: Thank you so much for your time.

7 ALJ HOGAN: Who would like to go next?

8 I'll have you start by stating your full name
9 and spelling your last name, please.

10 KARL RAKOW: My name is Karl Rakow. Last name
11 is R-A-K-O-W. I live in Burnt Creek Township, section
12 16. I was going to call my wife for the exact, but
13 she's picking up my daughter from the hospital so I
14 couldn't reach her. But bottom of the Burnt Creek
15 Valley on 83.

16 ALJ HOGAN: Mr. Rakow, were you in the room
17 earlier when I went through the penalties for perjury?

18 KARL RAKOW: Yes, I was.

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

21 KARL RAKOW: Yes, I do.

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

25 KARL RAKOW: Yes.

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

2 KARL RAKOW,

3 being first duly sworn, testified as follows:

4 KARL RAKOW: Mine won't take about five minutes
5 or less. We want to deal with some facts. And my
6 biggest concern is the safety of this project.

7 First of all, I believe that the plume study
8 should be available to state, county, and citizens. I
9 believe we should know what we are in for. The comments
10 that I had heard is that, well, for safety or for
11 terrorism we really can't, you know, disclose, or
12 whatever that rationale is, but, quite frankly, when
13 they're digging a 2,000-mile trench and with the
14 compressor or stations that are aboveground, I believe
15 it's not going to be a secret where it is. I think
16 that -- personally, that the reason that it is not being
17 disclosed is because the size of what that plume could
18 actually be and how it would impact Bismarck.

19 The coordinated inner agency response plan,
20 which again gets back to safety, what was previously
21 brought up, what will the cost on that be? Well, for an
22 example, when Jerry Briggs, the fire chief of Satartia,
23 Mississippi, who had first-hand experience, I believe in
24 there he showed that he figured to upgrade everything
25 would be in excess of \$700,000. Now, Satartia,

1 according to the 2020 census, has 44 people and 305
2 people that live within a .1-square-mile radius. So I
3 think he would speak to the fact of what it might be for
4 a community. I can only say what would that be for
5 Bismarck.

6 Fire chief in Iowa, and I was trying to find
7 that sheet this morning, but it was in the paper where
8 he had taken one of his officers and used the current
9 tanks hooked up to the oxygen and walked a mile and a
10 half and, when he turned around to come back, didn't
11 feel he could make it all the way back to where it
12 started. And to upgrade to bigger tanks that would
13 facilitate perhaps more of a distance would be like
14 \$9,000 a tank, is what the article said. And, again, a
15 smaller community in Iowa.

16 Again trying to deal with facts, that fact is
17 something that we know -- not that we, well, how -- what
18 if something happened north of Bismarck? What if
19 something -- you know, what would it be? And, again, I
20 think everyone should know what the impact would be if
21 there were something north of town.

22 In Satartia, fact from PHMSA, that was a 24-inch
23 pipeline but under 1,400 PSI and half full and that
24 plume went 16 miles. And I know you've heard this
25 before, but I think it bears a -- concerns people had.

1 A natural explosion of CO2 in Cameroon, Africa, killed
2 1,740 people and 3,500 animals and, again, fact,
3 traveled at 62 miles an hour.

4 So if we take the Satartia plume -- and I have
5 the Burleigh County map. And I was, like, 500 -- my
6 property was, like, 500 foot of where it was running in
7 Burnt Creek, and now where it's moved further north, the
8 testimony was up by 83 it was eight miles, I believe
9 it's five miles north of where it would be. But this is
10 the Satartia plume 16 miles if it were up here. This
11 would encompass the entire city of Bismarck. That is a
12 concern to me. Bismarck is certainly more populated
13 than communities in Africa.

14 And I don't think -- again, my whole thing is
15 the safety of if something happened.

16 On Saturday morning I was watching an ag thing
17 and it was an ancillary business that was -- you know,
18 that -- they had a CAT, you know, a big track 650-horse
19 IH tractor, and the comment was that their tiling spade
20 would go seven-foot. Again a concern, if this is all
21 in, time goes, properties, renters change, you know,
22 someone rents a piece of property and, all of a sudden,
23 they're there with whatever it would be. You know, so I
24 believe it is dangerous.

25 I believe Summit would have an idea of when

1 you're dealing with a high density population, of what
2 it would cost to support the emergency equipment and
3 that where necessary.

4 As just mentioned before, and just the last
5 sentence, Bismarck couldn't handle the Covid. This goes
6 over our hospitals. If something did happen, and I
7 think we have to look at that, we certainly couldn't
8 handle this.

9 You know, safety should be the utmost and I
10 think that the plume, everyone should know so that we
11 have the ability to -- this is what could happen and how
12 would we address it, individuals or as a city.

13 Thank you for your time.

14 ALJ HOGAN: Thank you.

15 Mr. Bender, any questions?

16 MR. BENDER: No questions.

17 ALJ HOGAN: Mr. Pelham.

18 MR. PELHAM: Thank you for being here,
19 Mr. Rakow. I have some questions for you. You
20 mentioned PHMSA a few times. And you understand PHMSA
21 is a federal agency --

22 KARL RAKOW: Yes.

23 MR. PELHAM: -- that is primarily tasked with
24 setting safety standards for hazardous pipelines in the
25 United States; correct?

1 KARL RAKOW: True. And I wasn't going to
2 repeat. Because like one thing with PHMSA, after the
3 Satartia, was that they are having a study of everything
4 from pipe thickness to safety, all of that, and that
5 they figured would probably take two years to come out.
6 And one of my comments in previous testimony was, if
7 this is going to be lasting 10, 15, 20 years, what have
8 you, that at least we should wait if this were the case
9 until they came out with the new guidelines that it
10 would be safe with every aspect.

11 MR. PELHAM: And as far as the jurisdiction of
12 the Commission as to safety, you understand PHMSA
13 primarily has the jurisdiction over safety, over
14 federally regulated interstate pipeline.

15 KARL RAKOW: I understand that. But certainly
16 the safety requirements that they would have on pipe,
17 pipe size, and all of that would be germane whether it
18 be to Summit or whether it to be anyone here.

19 MR. PELHAM: Sure.

20 KARL RAKOW: Again, my personal opinion is that
21 we're trying to get this through, or they are, before
22 these new guidelines come out. And if the new
23 guidelines were more strict, then it would simply be,
24 no, I believe it would be grandfathered in. The
25 question was asked at one of the last ones we had or

1 whether Summit would feel -- because one of the
2 attorneys asked that question. Because I said, hey, I
3 can't ask that question but I wonder what, and one of
4 the attorneys that asked, and Summit said, yes, they
5 believe they would be grandfathered in.

6 MR. PELHAM: Okay. And I remember you being
7 here too. I just wanted to --

8 KARL RAKOW: Yeah.

9 MR. PELHAM: All right. Thank you, sir. I
10 don't have any other questions for you.

11 ALJ HOGAN: Mr. Schock, any questions?

12 Mr. Braaten?

13 MR. BRAATEN: No, Your Honor.

14 ALJ HOGAN: Mr. Pranis?

15 MR. PRANIS: No, Your Honor.

16 ALJ HOGAN: Commissioner Christmann.

17 COMMISSIONER CHRISTMANN: No, I do not, but
18 thank you.

19 KARL RAKOW: Thank you for your time.

20 ALJ HOGAN: Commissioner Haugen-Hoffart.

21 COMMISSIONER HAUGEN-HOFFART: Yeah, I just have
22 more of a comment. I thank Counsel Pelham for outlining
23 the jurisdiction of the safety of the pipeline is within
24 PHMSA, on clarifying that, but this is our first day of
25 testimony on this rehearing, and I think we've been

1 trying very diligently to get information from Summit on
2 their collaboration with the emergency managers and
3 first responders. And I would hope that we get more
4 detailed information from them on the efforts that they
5 are making to work with them so we do have some
6 assurance. I'm not satisfied with this table. I'll be
7 honest with you. And I think I've been very clear so
8 far that I'm not satisfied, but rest assured this is day
9 one. So I am really hoping that we do get some
10 additional information.

11 So I just want to say that that's my intent. I
12 can't speak on behalf of the other commissioners, but I
13 do look forward to some detailed information. And I
14 also know that we have on a witness list an emergency
15 manager so we can get some of that information and get
16 some information to put to rest that, hopefully, there
17 is -- that safety is the utmost concern.

18 KARL RAKOW: Absolutely. Appreciate your
19 concern. Thank you all.

20 ALJ HOGAN: Mr. Dawson, any questions?

21 SUBSTITUTE DECISIONMAKER DAWSON: No questions,
22 Your Honor.

23 ALJ HOGAN: All right. Thank you, Mr. Rakow.

24 Are there other affected landowners that would
25 like to offer testimony this afternoon?

1 I'll have you start by stating your full name
2 and spelling your last name for the record.

3 CAROLLEE CARRUTH: CarolLee Carruth,
4 C-A-R-R-U-T-H.

5 ALJ HOGAN: And were you in the room earlier
6 when I went through the penalties for perjury?

7 CAROLLEE CARRUTH: Yes, I was.

8 ALJ HOGAN: And do you understand what perjury
9 is?

10 CAROLLEE CARRUTH: Yes.

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

14 CAROLLEE CARRUTH: I do.

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

16 UNIDENTIFIED SPEAKER: Can't hear.

17 CAROLLEE CARRUTH: Is that better?

18 UNIDENTIFIED SPEAKER: Thank you.

19 **CAROLLEE CARRUTH,**
20 being first duly sworn, testified as follows:

21 CAROLLEE CARRUTH: I was born and raised in
22 North Dakota. I live and farm in Dickey County. I live
23 about two miles south of Ellendale.

24 I have allowed my land to be used for public
25 utilities, an electrical line which was put on some of

1 my land a couple of years ago. So I'm not against my
2 land being used for public necessity and good, but that
3 is not what this pipeline is about. I'm here to tell
4 you that there's no way you should consider approving
5 this deadly CO2 pipeline. There are too many adverse
6 effects on the people of North Dakota.

7 All along the pipeline it is too close to
8 dwellings and cities where people live. It is less than
9 a half a mile from my house and my farm where we live.
10 It is less than three miles away from the city of
11 Ellendale which has public schools, nursing homes, and
12 people living in it. We are all in the deadly kill
13 zone. You had Summit move the pipeline further away
14 from Bismarck. Each one of their lives and our lives in
15 rural North Dakota are just as important as each of
16 those people in Bismarck. The public should have to be
17 just as far away from every house as it is from
18 Bismarck.

19 CO2 is a deadly explosive gas. Each of us has
20 to live with that every day next to our house thinking
21 about that, where we live and where our children live.
22 This is up to a 24-inch pipeline under 2,100 PSI that is
23 only four foot underground. We farm. And when our
24 equipment gets stuck, it often goes down further than
25 four feet. To have this equipment go directly on top of

1 that pipeline when one of my sons is in that equipment
2 and it busts that pipeline, there's no way they would
3 live. And there's no way the people that live in my
4 house would live either. This makes it too dangerous to
5 build in North Dakota and it should not be approved.

6 It does not meet any energy need that North
7 Dakota has. It's too close to our house. And the
8 deadly pipeline burst would endanger all of us, and
9 along the whole pipeline, it is too close to people's
10 houses all along the pipeline. Summit does not care who
11 would die, but as a North Dakota Public Service
12 Commission, you need to care about and be responsible to
13 the lives of the people in North Dakota.

14 We just built our house three years ago. Now
15 this will devalue my property. There's no one in their
16 right mind would ever build by my house that close to
17 that pipeline. And I'd actually hoped the generations
18 of my family would live in it.

19 I farm with my sons. And on the quarter where
20 we live where this pipeline is by, they -- we want to
21 expand. We wanted to build them a house there. Right
22 by where the pipeline is, is where I wanted to build a
23 house for my son, that he could build a house. We want
24 to be in the same quarter where our grain bins are,
25 where our shop is, where our storage is. And now that

1 is taking the right -- we own this land. We put our
2 blood, sweat, and tears into this land. We pay taxes on
3 this land. We're responsible. And yet we wouldn't be
4 able to build on our own land because that -- you take
5 that right away from us. We couldn't build that close
6 to this deadly pipeline.

7 And it's not just us. This would be that way
8 along this whole pipeline. It would stop all economic
9 development along this whole pipeline. People couldn't
10 build houses there. They couldn't expand their farms
11 there. They couldn't put grain bins there. They can't
12 put feedlots up. Cities can't develop. Golf courses
13 can't develop. Anything we want to do along this whole
14 pipeline is stopped.

15 And agriculture is the basis of North Dakota.
16 It always has been. Land would not produce well again
17 all the way along that pipeline. You can still look at
18 pipeline that has been put in 20 years ago and you can
19 look at the corn beside the disturbed ground and the
20 corn on it, and it does not produce well. That land
21 would be affected forever. And also, that land when
22 they put it back is going to be soft. And so to be over
23 that with farm equipment would be even more likely that
24 we would get stuck into a depth that would be four feet,
25 would mean our heavy equipment would be right on that

1 pipeline with all that pressure on it and likely break
2 it.

3 They say that it would bring jobs to North
4 Dakota, but it would kill jobs. It would kill our
5 agriculture economy along that whole pipeline. You
6 know, those are all businesses that aren't going to be
7 building shops, houses, feedlots. All that construction
8 will be -- will be gone.

9 It also destroys relationships in North Dakota
10 and in our towns. For the -- you know, you say for the
11 people who would sign next to me, on the land next to
12 me, that then would endanger my family. These used to
13 be our friends. This used to be a close community. And
14 now it's tearing it apart, neighbor hating neighbor,
15 because they're allowing a deadly pipeline to be put
16 next to them.

17 Because, you know, some of the people, they say
18 that they have signed, but they may not live on that
19 land, but their neighbor may be right across the road.
20 And what does that do to them when they have allowed
21 this pipeline to be put on their land right next to
22 someone else's house? It destroys relationships. It
23 destroys our communities.

24 And when they say there's only 110 left to sign,
25 that they already have over 400, but you know that's

1 probably in direct proportion to the people who it's
2 close to where they live and it affects the livelihood
3 and their houses. For an absentee landowner or even a
4 farmer who doesn't live near that corner it may be easy
5 to sign because it doesn't affect them and so that
6 signature is easy. And it's -- the 110 people left,
7 it's not just that we want more money. There's no
8 amount of money you could give me to kill my children.
9 It's not just about the money.

10 Summit has lied to me in their negotiations.
11 Last summer Summit came to me and said that their PSC
12 permit was approved so I better sign the lease or they
13 would just use eminent domain. And I said, "Really?"
14 Because I was just in contact with the governor's office
15 two days before that asking about this and they said
16 that the permit, it was not decided on yet.

17 And so I asked Summit, the land negotiators, I
18 said, "Do you -- I just called there and, plus, I follow
19 many sites about this pipeline and nothing has come out
20 about this. The governor's office told me two days ago
21 the decision wasn't made." I said, "Are you getting
22 news before us? Have they directly called you and told
23 you before the public that this -- that their permit was
24 approved?" And he said, "We just know." I said, "How
25 do you know? Are they telling you?" He kind of skirted

1 the issues, he wouldn't tell me how they knew, but he
2 said they knew that it was approved so I better just
3 sign or they will just use eminent domain.

4 I asked to talk to his supervisor and he -- or
5 to get the number for his supervisor and he said they
6 would not give that out. I asked repeatedly for the
7 number of their supervisor and he refused to give it to
8 me. Eventually he did call the supervisor but only on
9 his phone. He would not let me do it so that I would
10 have the number. And she said the same thing. She
11 said, "I'll just repeat what he said is true." And she
12 would not give me her number and they would not give me
13 anyone else to talk to.

14 So I did not sign. They left. And the next
15 week we found out that the PSC denied their permit. He
16 flat-out lied to me. These are the tactics they use to
17 get people to sign. Fear and intimidation and lying.

18 People are fighting all along this pipeline.
19 Counties are trying to make setbacks. I was in at my
20 county trying to make a setback. Summit was there
21 fighting it. They're fighting. When we're trying to
22 just make this safe for our people there, they're
23 fighting it. Fighting our safety setbacks so they do
24 not have to build this so that it would be safe for the
25 people. There's no concern for the people. In every

1 county along the way they are fighting the safety
2 setbacks we are trying to create so our people are safe,
3 and animals.

4 That's why, since you're in public service, we
5 are so desperate for you to listen to us and to care
6 about the people of North Dakota and our safety and the
7 safety of our businesses, our farming, our families, our
8 communities, our animals. A private for-profit business
9 should not be able to just come and take our land with
10 something that is so dangerous to us.

11 This is not -- no one knows the dangers of that
12 sequestration site. We have never buried this much CO2
13 in the ground. We do not know what that's going to do.
14 And this is not a danger you should put on the people of
15 North Dakota to assume the risk of what could happen to
16 that site if it explodes or the gas leaks into the
17 Missouri River.

18 So many people rely on that river and the dam
19 for water for many, many states. And we have no idea --
20 well, we do know what CO2 does when it mixes with water.
21 They can't drink it. And we have no idea, if that could
22 get to that water source, what fissures there are
23 underground, how that CO2 is going to move. This is all
24 stuff we do not know and we should not risk the North
25 Dakota people with this danger.

1 I live in rural North Dakota where most first
2 responders are volunteer. In a pipeline explosion, they
3 would never get to my family and me before we are
4 asphyxiated. Even if they could afford the proper
5 equipment, which they can't, which I'm sure they
6 couldn't, we don't have any extra money to buy \$700,000
7 worth of equipment. And the volunteers have to get to
8 their truck -- they come in from all over -- get to
9 their trucks, get out to me. I would be asphyxiated
10 before they ever got to me.

11 Earlier today someone said they think you should
12 do this because they think it would create a good image
13 for North Dakota as if we're more worried about our
14 image to some greater people outside of North Dakota
15 than we are about our own North Dakota people and their
16 safety.

17 But even at that, I don't think it would create
18 a good image. It would create a horrible image of North
19 Dakota, taking away the property rights of American
20 citizens and setting the legal precedence for doing
21 that. It also creates a horrible image of North Dakota
22 not listening to its citizens but instead listening to
23 an out-of-state big business. It also creates a
24 horrible image of North Dakota allowing a deadly
25 pipeline to be built near its citizens with no concern

1 for their safety.

2 As they proved here today, they will not release
3 pertinent information that the public should have. They
4 want to give it to a person or two. They won't really
5 release how much money and how much equipment they're
6 going to give to each fire -- each town along the whole
7 way for their emergency responders. They've said before
8 that the responders would have to decide themselves if
9 they would risk their lives to go save someone else. So
10 that's the spot they're putting us in.

11 We as the public should be able to see that
12 information and not just have it given to someone in
13 secret. This should be an honest open discussion. I
14 think it is incomprehensible that we are even
15 considering approving this, looking at what it is doing
16 to the residents of North Dakota.

17 I beg you to not approve this. It is way too
18 dangerous for North Dakota citizens. I thank you for
19 your time and allowing us to speak.

20 ALJ HOGAN: Thank you.

21 Mr. Bender, any questions?

22 MR. BENDER: Ma'am, your comments about what a
23 Summit representative told you is concerning to me.
24 Would you spend some time after the meeting with a
25 Summit representative to talk with him about that issue?

1 CAROLLEE CARRUTH: I surely would.

2 MR. BENDER: Okay. Thank you.

3 ALJ HOGAN: Mr. Pelham, any questions?

4 MR. PELHAM: Thank you, Ms. Carruth. Who was
5 the Summit person that you spoke with?

6 CAROLLEE CARRUTH: He was one of their land
7 agents.

8 MR. PELHAM: Do you know his name?

9 CAROLLEE CARRUTH: No. I thought I had
10 everything in my car this morning and, sadly, forgot my
11 file, but I do believe I have his card. And I think
12 Summit also knows the agent that was in my area so I
13 could get that for you.

14 MR. PELHAM: Do you know whether or not they
15 were a Summit employee or were they a contracted
16 employees?

17 CAROLLEE CARRUTH: I believe they are a
18 contracted agent.

19 MR. PELHAM: Do you know what the name of that
20 company was --

21 CAROLLEE CARRUTH: No.

22 MR. PELHAM: -- is?

23 CAROLLEE CARRUTH: Not offhand.

24 MR. PELHAM: What about the supervisor? Do you
25 know the name of the supervisor?

1 CAROLLEE CARRUTH: No. Because they would do --
2 they wouldn't give me her name or phone number so I
3 could not get any of that information.

4 MR. PELHAM: The agent that you were meeting
5 with, it was at your home or --

6 CAROLLEE CARRUTH: Yes.

7 MR. PELHAM: -- where was it at?

8 CAROLLEE CARRUTH: Yes, at my home.

9 MR. PELHAM: At your home. And he dialed on his
10 cell phone? Yeah.

11 CAROLLEE CARRUTH: And it said like supervisor
12 or something on it. Because, yeah, of course when I was
13 talking to her on the phone, I tried to see the phone
14 number or name, and it wasn't up there.

15 MR. PELHAM: Happen to see the area code or
16 anything like that?

17 CAROLLEE CARRUTH: No, nothing. The number
18 wasn't there or a name.

19 MR. PELHAM: Fair enough.

20 CAROLLEE CARRUTH: I -- I thought of that, but I
21 couldn't see anything that was important.

22 MR. PELHAM: Are you -- you said that you
23 believe you have his card. Are you able to share that
24 with the Commission?

25 CAROLLEE CARRUTH: I could, yes.

1 MR. PELHAM: As far as -- and at first I thought
2 you had said that your property wasn't on the proposed
3 route, but now I think I understand that your property
4 is on the proposed route; right?

5 CAROLLEE CARRUTH: So after that we were
6 fighting -- you know, I was fighting with them to get it
7 away from me. And I'm not sure, they haven't contacted
8 me lately, and I don't know because they've lied to me
9 so it's very hard to know what to believe, but there is
10 word out that they may have moved it to my neighbor's
11 that's like right across the property line, but that
12 extra 20 feet is not going to give me any more safety
13 for my dwelling.

14 MR. PELHAM: Because you testified -- at one
15 point you said "explosive gas." You understand CO2
16 isn't flammable? You understand that?

17 CAROLLEE CARRUTH: No, but it comes out in a
18 plume and it, like, I guess, explodes in a plume. Or
19 maybe there's a better word for the plume than
20 "explode" --

21 MR. PELHAM: Right.

22 CAROLLEE CARRUTH: -- I'm not sure, but when you
23 look at the pictures or the videos of it coming out, it
24 looks like a big round --

25 MR. PELHAM: I see. I understand what you mean.

1 CAROLLEE CARRUTH: -- explosion.

2 MR. PELHAM: Yeah. And as far as the depth, you
3 testified that farm equipment can get stuck and go
4 below. What circumstances specifically have you
5 observed of that happening?

6 CAROLLEE CARRUTH: In the spring when it's wet,
7 in the fall when we combine and going around wet areas.
8 We have many -- like where they're trying to put it,
9 where they're trying to put it, they're probably
10 crossing three, four little wood areas that are wet all
11 the time. So all the ground right around that is very
12 wet and you have to get right up to that with your
13 equipment.

14 MR. PELHAM: So is it crossing -- I'm trying to
15 understand. Have they provided any maps or anything
16 like that to you as far as where the route is proposed
17 to cross the property?

18 CAROLLEE CARRUTH: Well, not exactly. Like are
19 they going to try and go out and around those wet areas?
20 I've never got that from them. Or whether they're going
21 to go underneath them. They've never given that exact
22 of a map.

23 MR. PELHAM: Have you talked to the agent that
24 you were in contact with as far as modifying the
25 proposed route as to avoid some of those concerns?

1 CAROLLEE CARRUTH: There's no way you could
2 cross our quarter without hitting several lowlands like
3 that. It's all over. And those are wetlands that
4 someone put in the wildlife reserve so those are not
5 mitigable. They're spread throughout the land.

6 And anywhere that is -- it's on the southern end
7 and we live more on the northern end. So anywhere they
8 moved it would actually put it closer to our house if it
9 was on our land.

10 MR. PELHAM: Do you know if anyone has ever
11 mentioned boring underneath portions of wetland at all?
12 If you do or not. Boring as opposed to trenching.

13 CAROLLEE CARRUTH: Not that I have dealt with in
14 any of the construction that we've done.

15 MR. PELHAM: Thank you for your testimony. No
16 further questions.

17 CAROLLEE CARRUTH: Thanks.

18 ALJ HOGAN: Mr. Schock, any questions?

19 MR. SCHOCK: I'm just trying to narrow in on
20 where your property is. So I think you said you're
21 about two miles directly south of Ellendale?

22 CAROLLEE CARRUTH: Right. And then on
23 Highway 281, if you see it, I am directly west of 281.
24 Like my quarter touches Highway 281.

25 MR. SCHOCK: Okay. So I think I have it here.

1 Do you know your township, range, section, by chance?

2 CAROLLEE CARRUTH: I don't.

3 MR. SCHOCK: You don't.

4 CAROLLEE CARRUTH: It's the north -- we live on
5 the northeast quarter of that section.

6 MR. SCHOCK: Okay. Are you willing to share
7 your address or --

8 CAROLLEE CARRUTH: Yeah. 8860 100 Street
9 Southeast, Ellendale, North Dakota 58436.

10 MR. SCHOCK: Thank you. No other questions.

11 ALJ HOGAN: Mr. Braaten, any questions?

12 MR. BRAATEN: No, Your Honor.

13 ALJ HOGAN: Mr. Pranis?

14 MR. PRANIS: No, Your Honor.

15 ALJ HOGAN: Commissioner Christmann.

16 COMMISSIONER CHRISTMANN: I think Mr. Pelham
17 covered mine. Thank you.

18 ALJ HOGAN: Commissioner Haugen-Hoffart.

19 COMMISSIONER HAUGEN-HOFFART: I just want to
20 clarify. So we do not know for sure if your land now is
21 in route of the pipeline?

22 CAROLLEE CARRUTH: Yeah. I'm not sure if it has
23 been moved off to this point or not.

24 COMMISSIONER HAUGEN-HOFFART: Okay.

25 CAROLLEE CARRUTH: I have not been in contact

1 with them lately. And I've been signed up with Brian
2 Jorde to handle the legal matters with him. And I
3 contacted him this week and his office in Bismarck that
4 works with them, and they couldn't be sure either.

5 COMMISSIONER HAUGEN-HOFFART: Okay. And I just
6 have one further question for clarification. Let's say
7 you are in -- on the route. Did you propose a reroute?
8 And if so, did you receive any response from Summit
9 regarding a reroute?

10 CAROLLEE CARRUTH: I did not because I do not
11 own any of the quarters right around me so I cannot
12 propose it to be moved further away from me.

13 COMMISSIONER HAUGEN-HOFFART: Okay.

14 CAROLLEE CARRUTH: And on the quarter I'm on,
15 it's already -- like I said, it's in the southern end
16 and we're on -- we live in the northern end so there
17 would really be no route on my land that would move it
18 further away than it is right now.

19 COMMISSIONER HAUGEN-HOFFART: Okay. I fibbed.
20 I do have a further question. Your land is used for
21 agriculture?

22 CAROLLEE CARRUTH: Yes. We raise corn and
23 soybeans.

24 COMMISSIONER HAUGEN-HOFFART: Any livestock?

25 CAROLLEE CARRUTH: No.

1 COMMISSIONER HAUGEN-HOFFART: Any future use of
2 your land? Do you have any future use on how you would
3 use your land besides ag?

4 CAROLLEE CARRUTH: No. We want to keep using it
5 for ag. I have sons that want to farm with us. We
6 actually want to expand our ag operation, which is why
7 we would like to put more buildings on our site and
8 houses.

9 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you
10 so much for your testimony.

11 CAROLLEE CARRUTH: Thank you. Thank you all.

12 ALJ HOGAN: Mr. Dawson, any questions?

13 SUBSTITUTE DECISIONMAKER DAWSON: No questions
14 for me.

15 ALJ HOGAN: All right. Thank you.

16 CAROLLEE CARRUTH: Thank you.

17 ALJ HOGAN: I'll have you state your full name
18 and spell your last name for the record, please.

19 CLINT FELAND: Clint Feland, and it's
20 F-E-L-A-N-D.

21 ALJ HOGAN: And, Mr. Feland, were you in the
22 room earlier today when I went through the penalties for
23 perjury?

24 CLINT FELAND: Yes, ma'am.

25 ALJ HOGAN: And do you understand what perjury

1 is?

2 CLINT FELAND: I do.

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

6 CLINT FELAND: I do.

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

8 **CLINT FELAND,**

9 being first duly sworn, testified as follows:

10 CLINT FELAND: I reside in 21 -- part of
11 21-140-81. I can -- I'll be able to look out my front
12 window and sandbar where this -- in the area where this
13 is crossing. And I have land over in 14-141-80. I've
14 got 160 acres. This pipeline is not crossing any land
15 that I own, but it's affecting land in both locations.

16 Kind of -- kind of following Mrs. Dunbar and Mr.
17 Dewing, you know, kind of have some similar issues with
18 the fact it's crossing not only by where -- where I live
19 but my other land I have. The land that I have, the
20 four 40-acre tracts that I'm talking about are in
21 walking distance of the Dunbars' place.

22 And it's maybe a stretch of the word
23 "subdivision," but, you know, we think of subdivisions
24 as being more densely populated. That area up around
25 Baldwin has been known for, and it's due to Burleigh

1 County ordinances, that area is saturated of 40-acre
2 parcels. And so there's not a lot of big farming that
3 goes on up there, but there are a lot of 40-acre tracts
4 where you have people living, rural residences, that
5 they maybe have a hobby farm, maybe some of them are
6 actively farming.

7 But when you want to tell me it isn't going to
8 have an adverse effect on my property, I'm a real estate
9 broker and you're going to put a pipeline valve right
10 out the front, the way I understand in this area where
11 it got moved so it's -- there's going to be something
12 visible, it will always be a reminder. You're having a
13 horrible effect on the value of those four 40-acre
14 parcels. That's where it moved. As far as where --
15 kind of following Mr. Dewing, where I live there was no
16 consideration for moving it. I live over next to the
17 Missouri River.

18 And kind of following some other comments, I
19 know Mrs. Dunbar mentioned something about the fact -- I
20 forget how or why she heard it had moved, through the
21 grapevine. Summit hasn't gone out or had to been
22 required to go out and notify people. You know, I
23 wonder if everybody living in Sundown Acres knows about
24 this pipeline. Because there's people that live down in
25 the area where I live -- I'm on south side of Double

1 Ditch, if you know where that's at. Sundown Acres is on
2 the north side. And it's kind of a little, maybe even
3 forgotten about development because there's not a paved
4 road going to it, but there's a bunch of beautiful homes
5 back there that this pipeline is crossing right next to
6 that they're not profiting. So I can't imagine that --
7 you know, if they've heard about it, do they know
8 exactly where it's crossing? Probably not.

9 You know, at some point in time all the people
10 that live down there, you get busy in life. Not all of
11 us are this passionate to come out, testify at a hearing
12 and go before people. There's a lot of young people
13 living in developments like Hogue Island, Ponderosa,
14 Misty Waters. There's a brand-new development going in
15 as we speak. The Knutsons bought land where Gandruds
16 had a horse ranch right near us out by Double Ditch
17 that -- there again, there was some controversy with
18 zoning.

19 A previous ruling by the Public Service
20 Commission -- that's another one of my aggravations here
21 today. You guys have kind of thrown a stick of dynamite
22 in on Burleigh County because you're taking away their
23 ability to zone this project. So I as a landowner, do I
24 have to follow Burleigh County zoning ordinances anymore
25 or don't I? Summit don't have to. I guess maybe I

1 shouldn't have to. You know, we're all forced to follow
2 these rules.

3 We have a governor who is spending in excess of
4 \$300,000 of taxpayer money to reeducate me. I don't
5 want or need to be reeducated. My simple little
6 education that I had in rural North Dakota suffices to
7 tell me that it makes no sense to bury carbon.

8 And if we think this is going to save our
9 coal-fired power plants, it is not going to save our
10 coal-fired power plants. We're already talking about
11 we're going to have manmade jet fuel. There's no future
12 to North Dakota in this. This is part of the end.
13 We're -- we're bowing to climate activists that it's
14 complete nonsense.

15 And the Public Service Commission, on your
16 homepage it talks about one of the responsibilities of
17 the PSC is -- is for the public safety for pipelines and
18 underground damage. We're playing God here. What is
19 going to happen when we bury all this CO2? To me, it's
20 completely crazy. And, you know, we've got other
21 projects where we're going to pull -- try to pull CO2
22 out of the air and put it underground.

23 You know, we need to be passing a bunch of
24 ordinances. This is a money grab of tax dollars that
25 the money shouldn't be there. And the governor's zero

1 by 30 program is a bunch of BS as far as most any of us
2 that have any mental capacity are -- are concerned.
3 Carbon is an element of life. And, if anything, how do
4 I give my plant life a shot of carbon. I'm looking for
5 more carbon, not less.

6 And so when we call people out, that is how to
7 save our coal industry. It isn't to bury our heads in
8 the sand and go along with it. It's to fight against
9 it.

10 And I guess, with that, I don't have a lot else
11 to say.

12 ALJ HOGAN: All right. Thank you.

13 Mr. Bender, any questions?

14 MR. BENDER: No questions.

15 ALJ HOGAN: Mr. Pelham.

16 MR. PELHAM: Thanks for being here, Mr. Feland.
17 Just wondering as a real estate broker if you can tell
18 the Commission about any instances of property value
19 losses associated with pipelines that you've experienced
20 in your career, which I assume is a lengthy career
21 here --

22 CLINT FELAND: Yeah, sure. I mean, I can go
23 into probably almost every development in Bismarck, no
24 matter the age, and I can find a lot that was never
25 built on that says "underground pipeline" or it has a

1 transmission line on it or maybe it has a phone pedestal
2 and some other things. Planners are doing a better job
3 nowadays of trying to work around those things, but that
4 -- that brings up with the fact of this pipeline.

5 You are condemning a corridor of land up where
6 I'm talking 40-acre parcels that absolutely it's going
7 to have a negative effect on a 40-acre parcel because
8 you've condemned that strip of land to agricultural use
9 only. And so when I want to buy this 40-acre tract of
10 ground and plant a beautiful tree grove and I want to
11 build some corrals and have livestock and a barn here or
12 two, no, Summit's going to say there's some strip of
13 land and it just so happens to cut at an angle across
14 where I've got some 40-acre parcels potentially. I
15 don't, but it's going to have a negative effect. And
16 people that don't think it's going to have a negative
17 effect, it's going to have a negative effect.

18 MR. PELHAM: As far as instances where you've
19 been involved in a transaction where a buyer has said,
20 "Well, I'm not going to purchase this property because
21 of a pipeline or because of a valve," have you had those
22 experiences yourself?

23 CLINT FELAND: I certainly had experiences where
24 we use that as a negotiation tactic. So any time
25 there's an easement of any sort, in my opinion it's

1 going to have a negative value on the property.

2 MR. PELHAM: And in your instance as far as your
3 property, I understand and you testified that there's
4 not -- the route isn't proposed to cross any of your
5 property but it's within -- within -- how far is the
6 line crossing your property?

7 CLINT FELAND: It crosses the river, I'm going
8 to say, less than a mile. And I'm going to say where it
9 crosses over by Baldwin, there again we're probably
10 right at a mile.

11 MR. PELHAM: And as far as -- and I think you
12 said something about the pipeline valves being visible.
13 Do you know whether or not there's a main line valve
14 that's proposed in your area? You're just --

15 CLINT FELAND: Shit, I don't know half the
16 stuff. This pipeline's a secret. Whatever little maps
17 were given out we're supposed to go by so I -- I spent a
18 good portion of my career in industry, and I'll tell you
19 one thing, when it comes to cell towers or any other
20 pipeline, I have never seen such BS drawings for a
21 project of this magnitude that people have to hunt to
22 figure out what's going where.

23 MR. PELHAM: So where you -- there's been
24 mention of meetings that Summit has held. Have you
25 attended any of those meetings?

1 CLINT FELAND: No, I haven't been invited to
2 other than public hearings like this. I -- you know
3 what? If I wouldn't be paying attention, I wouldn't
4 have a clue this is going on other than a -- like I
5 said, if I read a Bismarck Tribune headline or heard it
6 on the radio. Ahh, probably doesn't affect me anyway.

7 MR. PELHAM: And, look, I'm not arguing with you
8 as far as the climate control policy, as far as your
9 references to the governor, but you do understand that
10 the governor is not on this Commission and the
11 Commission has no jurisdiction over the governor;
12 correct?

13 CLINT FELAND: Certainly.

14 MR. PELHAM: Okay. And as far as the Federal
15 45Q credits, you understand that the Commission doesn't
16 have any jurisdiction --

17 CLINT FELAND: Oh, so --

18 MR. PELHAM: -- over --

19 CLINT FELAND: -- so honestly --

20 MR. PELHAM: -- the 45Q credits.

21 CLINT FELAND: -- so honestly I'm going to
22 interject and throw in there that although I understand
23 that, these rulings and this guidance has an effect
24 within every agency in our state. If you don't think
25 what our governor says and has pull to all these

1 agencies, it certainly does.

2 MR. PELHAM: No, I don't --

3 CLINT FELAND: He comes out with a program and
4 says zero by 30 and it's mirroring a Biden
5 Administration program, we're hearing this from the
6 Federal Government and the heads of state --

7 MR. PELHAM: Look --

8 CLINT FELAND: -- this is the program and the
9 page we're on, that's where we're at.

10 MR. PELHAM: And I -- I appreciate all of -- all
11 of what you've said here, but you understand the
12 Commission is charged by the Century Code on a siting
13 pipeline case. The siting of a pipeline, while it's a
14 CO2 pipeline, you agree with me that the Commission has
15 to follow the state statute as to the siting of a
16 pipeline, whereas I understand you're saying all of
17 these other issues --

18 CLINT FELAND: I question -- I question the
19 Commission's decision when they denied this, that they
20 allowed them to alter it and take off where they left
21 off. As far as I'm concerned, when it was denied, they
22 should have started out from ground zero completely.
23 They should have started off from scratch, which we're
24 short-cutting some of the process here.

25 MR. PELHAM: And you understand everything that

1 was said at those prior recorded hearings is part of the
2 record in this.

3 CLINT FELAND: Sure.

4 MR. PELHAM: And if it had been denied in that
5 fashion, none of that would have been preserved for this
6 particular proceeding. Do you understand that?

7 CLINT FELAND: Let's start all over from
8 scratch. That's the way it should be.

9 MR. PELHAM: All right. Thanks for being here.
10 I appreciate it.

11 CLINT FELAND: You bet.

12 ALJ HOGAN: Hang on, hang on. I got to ask some
13 more people if they've got questions.

14 Mr. Schock, any questions?

15 Mr. Braaten?

16 MR. BRAATEN: No, Your Honor.

17 ALJ HOGAN: Mr. Pranis?

18 MR. PRANIS: No, Your Honor.

19 ALJ HOGAN: Commissioner Christmann.

20 COMMISSIONER CHRISTMANN: I do, one.

21 In a lot of pipeline hearings we've discussed
22 setbacks, but it typically is regarding something being
23 built close to a residence or occupied structure. And
24 North Dakota law sets that at 500 feet. And your --
25 with your development experience, are you saying that

1 then when the pipeline is in the ground, that they are
2 able to prevent construction of something? I think you
3 had something within -- within a 40-acre tract?

4 CLINT FELAND: Well, what I'm --

5 COMMISSIONER CHRISTMANN: How far are you --

6 CLINT FELAND: What I'm referring to is a
7 40-acre tract. If this is a 40-acre tract and this is
8 the pipeline, obviously I'm not doing anything in this
9 area where the pipeline is laying; correct? Are you
10 going to let me plant a tree grove over the top of the
11 pipeline?

12 COMMISSIONER CHRISTMANN: If it's square, if
13 we're thinking it through the same, so I'm thinking
14 your 40-acre tract would be about a quarter mile by a
15 quarter mile; correct?

16 CLINT FELAND: Yep, if -- if we're fortunate
17 enough that it's following a boundary.

18 COMMISSIONER CHRISTMANN: So about 1,320 feet.
19 So are you suggesting that the pipeline company could
20 prohibit someone from building --

21 CLINT FELAND: That's not what I'm suggesting.

22 COMMISSIONER CHRISTMANN: -- 500 feet away?

23 CLINT FELAND: What I'm suggesting is it may not
24 in all cases be following the line -- the property line.

25 COMMISSIONER CHRISTMANN: Okay.

1 CLINT FELAND: I mean, there's angles and this
2 thing zigzags around. So I've got land DAPL crosses at
3 an angle. It's covering three quarters. I didn't want
4 that either. I'm not against an oil pipeline, but I
5 didn't like an easement to cut a jag. It did not
6 improve the value of my property. It gave it a negative
7 value. There was a one-time payment. I'd gladly pay it
8 back today if they'd get it off of there.

9 COMMISSIONER CHRISTMANN: Thank you.

10 ALJ HOGAN: Commissioner Haugen-Hoffart.

11 COMMISSIONER HAUGEN-HOFFART: Clint, no further
12 questions.

13 ALJ HOGAN: Hang on.

14 Mr. Dawson, do you have any questions?

15 SUBSTITUTE DECISIONMAKER DAWSON: I have no
16 further questions.

17 CLINT FELAND: Thank you.

18 ALJ HOGAN: By a show of hands, can I get an
19 idea of how many more people want to testify this
20 afternoon?

21 Four. Okay. We're going to take a short
22 ten-minute break and then we will come back and take the
23 testimony of those last four people.

24 (Recess)

25 ALJ HOGAN: All right. Can people make their

1 way back to their seats so we can get started again?

2 All right. Can I get your name, sir? Can you turn that
3 microphone on?

4 GAYLYNN BECKER: It's on, it is a green light.

5 ALJ HOGAN: Perfect. That sounds better.

6 GAYLYNN BECKER: The name is Gaylynn Becker.

7 Becker is spelled B-E-C-K-E-R.

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

11 GAYLYNN BECKER: Yes.

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

14 GAYLYNN BECKER: Yes.

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

18 GAYLYNN BECKER: Yes.

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

20 **GAYLYNN BECKER,**

21 being first duly sworn, testified as follows:

22 GAYLYNN BECKER: Okay. Public Service
23 Commission, you're faced with a decision of utmost
24 importance as you probably already know.

25 Late last night, in preparing for today, I read

1 through the 19 questions I asked you a year ago to
2 consider in making your decision regarding Summit Carbon
3 Solutions pipeline request. I'm sure you don't want me
4 to reread them, but I trust you either already answered
5 them sufficiently or are still in the process of
6 considering those questions. I would like to think that
7 perhaps the answer to those questions helped you say no
8 to last year's decision to reject the CO2 pipeline
9 request.

10 Last night I read an article from Duke Nicholas
11 School of the Environment titled "Leaks From CO2 Stored
12 Deep Underground Could Contaminate Drinking Water,"
13 dated November 8, 2010. Here is what some of it found.
14 And the website is on the copy that I've given you.

15 "Leaks from carbon dioxide injected deep
16 underground to help fight climate change could bubble up
17 into drinking water aquifers near the surface, driving
18 up levels of contaminants in water tenfold or more in
19 some places, according to a study by Duke University
20 scientists."

21 Then I got the website where it's located at. I
22 couldn't get access to the entire site because it wanted
23 money for me to see all of it.

24 My second point is I'd like to know how CO2,
25 which has a specific gravity of approximately 1.53, can

1 travel from the surface of the planet to high in the
2 atmosphere to contribute to global warming or global
3 change. The CO2 from these ethanol plants instead would
4 flow outward along the ground and enhance plant growth.
5 Taking this CO2 and storing it underground will
6 contribute to less plant growth and consequently less
7 food for human and animal use.

8 At best, I hope you don't approve this
9 potentially disastrous project of making North Dakota a
10 national garbage dump of the nation, or worse, once the
11 CO2 is underground, it works its way upward, either
12 along cemented oil wells, plugged or operating, and as
13 it makes its way to underground water aquifers and the
14 CO2 mixing with water to make carbonic acid, thus,
15 destroying freshwater sources for us at or near the
16 surface, and, at worst, we experience a pipeline break
17 that could potentially be four times as bad as the
18 Satartia, Mississippi, CO2 pipeline break and
19 potentially kill thousands of people here in Bismarck,
20 Mandan, and surrounding area.

21 I know that Summit Carbon Solutions
22 representatives have said it's a safe pipeline. If they
23 really believe that it -- if they really believe that
24 and if you the Public Service Commission also believe
25 that, then please put in the agreement that Summit

1 Carbon Solutions and each of the executives of Summit
2 Carbon Solutions will be responsible for any and all
3 expenses for a CO2 leak for a hundred years. If Summit
4 Carbon Solutions doesn't want to agree to this, then
5 that tells me that they are not so sure of the leak or
6 accidental -- accident potential as they've stated.

7 I was asked today -- it isn't in my written
8 today, but the person would like to know how many
9 legislators, if the governor and any state-elected
10 officials or federal delegation, how many have ownership
11 in Summit or coal plants or any other of these projects
12 who stand to benefit from this Summit pipeline and the
13 federal money. I believe if the federal money wouldn't
14 be tied to it we wouldn't be sitting here. None of us
15 would have wasted all this time or have to deal with
16 this, including you as a commission.

17 Please keep in mind the safety of the citizens
18 of North Dakota and, once again, as you did last year,
19 turn down this CO2 pipeline reconsideration request.
20 You made the right decision last year. Thank you for
21 your time. And God guide you in your decision-making
22 process and bless each of you.

23 I'm here to answer any questions you might have.

24 ALJ HOGAN: Thank you.

25 Mr. Bender, any questions?

1 MR. BENDER: No questions.

2 ALJ HOGAN: Mr. Pelham.

3 MR. PELHAM: Thank you, Mr. Becker. You
4 provided some information about the permitting process.
5 And you understand -- and I've said it a couple of times
6 here today, but you understand the North Dakota
7 Industrial Commission is the state agency that permits
8 the injection wells and the storage sites of
9 sequestration of the carbon; right?

10 GAYLYNN BECKER: Yes.

11 MR. PELHAM: Okay. So the Commission here is
12 just permitting the proposed line.

13 GAYLYNN BECKER: Yes. But if the line is not
14 permitted, there won't be any injection sites.

15 MR. PELHAM: Sure. And I understand that logic,
16 but you understand that the Commission is bound by the
17 statute, the Century --

18 GAYLYNN BECKER: Absolutely.

19 MR. PELHAM: -- follow the Century Code --

20 GAYLYNN BECKER: Absolutely.

21 MR. PELHAM: -- to provide the procedure in
22 place for permitting a pipeline and that's irregardless
23 of what another agency may or may not do.

24 GAYLYNN BECKER: Yes.

25 MR. PELHAM: Do you understand?

1 GAYLYNN BECKER: And I didn't talk about the
2 State Industrial Commission either but --

3 MR. PELHAM: Right. And I apologize if I said
4 that. I didn't mean that. I know you didn't. But I
5 just wanted to clarify that. I don't have any other
6 questions for you.

7 GAYLYNN BECKER: Thank you.

8 MR. PELHAM: Thank you.

9 ALJ HOGAN: Mr. Schock, any questions?
10 Mr. Braaten?

11 MR. BRAATEN: No, Your Honor.

12 ALJ HOGAN: Mr. Pranis?

13 MR. PRANIS: No, Your Honor.

14 ALJ HOGAN: Commissioner Christmann.

15 COMMISSIONER CHRISTMANN: I do not, but thanks
16 for being here again.

17 GAYLYNN BECKER: You're welcome. Thank you.

18 ALJ HOGAN: Commissioner Haugen-Hoffart.

19 COMMISSIONER HAUGEN-HOFFART: Yeah, I do.

20 Gaylynn, I'm curious, what's your Ph.D. in?

21 GAYLYNN BECKER: Teaching and learning higher
22 education. And that's kind of a nebulous term, but it's
23 for teaching in the graduate school of education in the
24 areas of research, statistics, curriculum, and education
25 foundations.

1 COMMISSIONER HAUGEN-HOFFART: Wow.
2 Congratulations.

3 GAYLYNN BECKER: Thank you.

4 COMMISSIONER HAUGEN-HOFFART: All but
5 dissertation done in educational leadership so...

6 GAYLYNN BECKER: Oh.

7 COMMISSIONER HAUGEN-HOFFART: Mine is more of a
8 curiosity question. And I know this has to do with
9 sequestration and we didn't do it. So are you familiar
10 with Red Trail Energy and Blue Flint Ethanol?

11 GAYLYNN BECKER: Just slightly.

12 COMMISSIONER HAUGEN-HOFFART: Okay. And I've
13 had the privilege of being out there to go and do a site
14 tour on both of them and just really seeking to
15 understand. And so I guess I was just wondering what
16 your opinion is and if you've had a chance to go out
17 there and look at the facility and what they do and all
18 the makeup of it. Have you had a chance to tour that?

19 GAYLYNN BECKER: No, I've never toured it. I've
20 just driven by on the interstate.

21 COMMISSIONER HAUGEN-HOFFART: Okay. Okay. So
22 I'm not going to ask you any further questions, but
23 thank you for your time and your testimony. And I
24 appreciate the written.

25 GAYLYNN BECKER: Thank you.

1 ALJ HOGAN: Mr. Dawson, any questions?

2 SUBSTITUTE DECISIONMAKER DAWSON: No questions.

3 Thank you.

4 ALJ HOGAN: All right. Thank you.

5 GAYLYNN BECKER: Thank you.

6 ALJ HOGAN: Who would like to go next?

7 Can I get your name and will you spell your last
8 name please?

9 BAILEY ELKINS: Bailey Elkins, E-L-K-I-N-S.

10 ALJ HOGAN: And, Ms. Elkins, were you in the
11 room earlier when I went through the penalties for
12 perjury?

13 BAILEY ELKINS: I was.

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

16 BAILEY ELKINS: I do.

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

20 BAILEY ELKINS: I do.

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

22 **BAILEY ELKINS,**

23 being first duly sworn, testified as follows:

24 BAILEY ELKINS: Commissioner Christmann, I
25 reside at the southeast corner of -- in 41-78 section

1 30.

2 COMMISSIONER CHRISTMANN: 78 what?

3 BAILEY ELKINS: Section 30. Cromwell Township.
4 This is south of where the proposed reroute turns from
5 the north to the west. I live there with my husband and
6 my twin four-year-old boys. I come to you as a
7 concerned resident of Cromwell Township and our great
8 state.

9 I have a bachelor's of science in geology and
10 graduate work in geophysics. I chose a career with an
11 environmental engineering firm to allow me to return to
12 North Dakota rather than accepting a higher salary in
13 oil and gas. I worked in pipeline spill remediation,
14 permitting, and maintenance permitting. I took a
15 position shortly after in the drinking water industry
16 and utilized my knowledge of the subsurface to help the
17 communities of North Dakota develop pragmatic plans to
18 protect their drinking water and develop emergency
19 response plans for their drinking water systems.

20 In my career I've witnessed many different ways
21 that pipes can fail. I have serious concerns regarding
22 the safety of this pipeline. I've read the information
23 provided on Summit's website and that they've shared
24 through their LinkedIn as well as many documents that
25 have been provided over the course of this hearing.

1 I've tried to approach this pipeline with an open mind;
2 however, I cannot convince myself that this pipeline is
3 safe. There are too many ambiguities, omissions, and
4 unknowns in the information that has been provided to
5 us, the public.

6 One of my largest concerns is the ground
7 movement. I will recognize that Summit has submitted
8 additional information that I have not had a chance to
9 review. However, many of the studies that have been
10 done are on slides that have already occurred. This
11 pipeline will be crossing unstable areas. Any of the
12 residents in my neighborhood will be able to tell you
13 that the ground is slumping. The ground moves. There's
14 many frost heaves. Even our roadbeds aren't stable.
15 Yet we're going to be permitting a 24-inch supercritical
16 CO2 pipeline to be moving through.

17 The reroute slope stability previously had only
18 received cursory desktop studies that highlighted areas
19 where landslides have occurred. For safety, more
20 substantial data should be collected. I have not
21 reviewed those most recent studies, as I said, but I
22 believe this should be added to the surveys that have
23 been described today.

24 Those of us in Burleigh and Morton County have
25 seen many different ways that slopes have failed. For

1 example, along the Missouri River, at Double Ditch,
2 University of Mary, even along river road. And even
3 places with more data and engineering have experienced
4 slope stability issues. For example, the dragline that
5 fell into the pit when their bench failed at one of our
6 state's mines.

7 As a geologist, I was trained that the present
8 is the key to the past. However, I also believe that
9 the past can be a clue to the present. PHMSA's released
10 guidance document that highlights how the subsurface
11 movement can impact pipelines, they called out multiple
12 instances nationwide between 2016 and 2022, including
13 the 12,000-plus barrel Ash Coulee Creek spill here in
14 North Dakota caused by land movement.

15 Unexpected weather events can and do happen.
16 And the earth moves in manners that are unexpected even
17 for us who are trained in earth science. Even
18 geoscientists with oil and gas companies with
19 significant amounts of data can drill dry holes that
20 don't produce as expected. Dams fail to unknown faults
21 or even unexpected rainfall. Unexpected erosion can
22 cause pipelines to rupture. For example, the Poplar
23 spill on the Yellowstone in Montana caused by scouring.
24 We're seeing more and more of these events.

25 Here in Burleigh County a family friend was

1 impacted by a significant rainstorm, over four and a
2 half inches in 45 minutes. That storm caused scouring
3 on ephemeral streams in the order of feet. Ice jams
4 continue to scour the Missouri River and its
5 tributaries.

6 The past is the key to the present in this case.
7 We can't dismiss these instances as extreme occurrences
8 or one-off events.

9 In addition, carbon dioxide, as many have said,
10 is highly corrosive and Summit has not proposed to run
11 regular smart pigs for corrosion. The best information
12 that I have been able to glean is that they plan to run
13 these smart pigs every five years. This does not seem
14 adequate, Commissioners, for a highly corrosive
15 hazardous supercritical fluid.

16 I've reviewed some of the proposed safety plans
17 and they appear to be little more than a staffing plan.
18 In my time assisting communities with emergency
19 planning, I've witnessed such plans regularly become
20 lost in filing cabinets. Ultimately, they're forgotten
21 due to staff turnover or even complacency. I've
22 witnessed a large North Dakota municipality not even be
23 able to provide their emergency plans to regulators on
24 inspection.

25 Emergency response plans with little more than

1 staffing information and no plans for regular updates
2 are not the living documents that they're intended to
3 be. They don't facilitate a response as intended. The
4 past is the key to the present.

5 More recently, our legislative assemblies have
6 passed legislation that now makes you, our Public
7 Service Commission, the only say on this siting. I
8 implore you to vote "no" on the siting permit. Local
9 townships have indicated their opposition along with
10 many counties along the main line.

11 Given the past history of pipeline integrity, I
12 have serious doubts and anxiety regarding the safety of
13 this proposed pipeline. A rupture of supercritical CO2
14 heavier than air has immediate impacts on human health
15 and safety, displacing oxygen. Oil pipeline ruptures
16 have impacts on environmental health, potential impacts
17 on animal health, and secondary impacts on human health.

18 My -- as I said earlier, my property is situated
19 inside the proposed northeast corner of the reroute.
20 When my husband and I purchased our property, part of
21 our criteria was to be away from some of our state's
22 larger industrial facilities. There was strong coherent
23 zoning ordinances in Cromwell Township and we felt that
24 the hearing processes outlined would help to adequately
25 protect our interest in maintaining residence in an

1 agricultural pastoral situation. In fact, Cromwell's
2 zoning ordinances specifically promote agriculture use.
3 We were sure that the special hearing processes would
4 help facilitate our interests and that our neighbors,
5 the township officers, would be in agreement with us.

6 Again, now you are the only ones standing there.
7 There aren't additional layers of government to help
8 protect me and my family.

9 The proposed reroute will be across the street
10 from me. East, northeast, and north. The prevailing
11 winds are north and northeast. The potential impacts of
12 a rupture would provide little warning, if any, in a
13 catastrophic failure.

14 My family enjoys our rural lifestyle. My
15 four-year-old sons love playing all over our property.
16 They love going on adventures, riding their ponies,
17 searching for rocks, and giving themselves dirt showers,
18 rolling down our hillsides. All of that's to say we're
19 frequently outdoors. How would we find shelter? How
20 would we know that there's a release?

21 I've searched for peace of mind in the
22 information that Summit's provided through the Public
23 Service Commission and through their own public
24 information campaign. I came away with more questions
25 and anxiety. Models have only been conducted in high

1 density areas, according to information provided on
2 Summit's LinkedIn page, but there's no definition on
3 "high density." Are the four rural residences on our
4 street considered dense enough to merit additional
5 safety measures? There were also no mentions of the
6 models used, assumptions within those models, or the
7 results of those models. How can the citizens of North
8 Dakota feel safe with this project as a neighbor when we
9 can't even determine the quality of science that's being
10 done for ourselves?

11 As I've said, there are significant ambiguities,
12 omissions, and unknowns. I've asked myself, if the past
13 is the key to the present, will Summit's operations be
14 straightforward with safety concerns in the future?

15 How will we know if there's a leak? Summit's
16 information stated that people would see a white mist.
17 The past is the key to the present. Those in Satartia,
18 Missouri (sic), saw impacts to human health over a mile
19 away from the rupture. The victims indicated that they
20 were unaware of the hazard.

21 This past week a valve leaked on another CO2
22 pipeline in Louisiana. The operator was alerted to 911.
23 Their fire department were the first on scene and
24 repairs took over two hours. Assuming that there is a
25 white mist as Summit has indicated, how are we citizens

1 of North Dakota to differentiate between the CO2 and
2 low-lying fog that's frequently in this area?

3 Being the mother of young boys, I frequently
4 tell them "My job is to keep you safe." I want my sons
5 to be confident in this matter and that the past is the
6 key to the present. I will keep them safe. I've run
7 through the scenarios of this failure in my head in this
8 particular pipeline. I'm familiar with the prevailing
9 winds in my area. In the event of a rupture in my area,
10 I can't think of a way that my family would be able to
11 evacuate. Our only option would be to have supplied
12 breathing air.

13 I believe Mr. Warford had submitted evidence on
14 the price of that and others have also indicated the
15 price of that. It would be very expensive for a family
16 of four to have enough air for all of us. Not -- how
17 many places on our property should we have that
18 equipment stashed to adequately mitigate this risk?
19 Should it be in our vehicles as well since we'll be
20 driving past this pipeline route?

21 My husband's worked in industrial safety. We're
22 aware of the technicalities that go into being -- or
23 utilizing supplied breathing air and requiring fit
24 tests. Can you imagine the expenses of fit-testing
25 young children as they're constantly growing like weeds?

1 Or keeping a mask on a child that has sensory aversions.
2 Would our vehicles run? The past, Satartia, indicates
3 no.

4 How long would it take for first responders to
5 get to us? I came upon a single-vehicle accident
6 several years ago in my area on my way home. An
7 individual had been ejected from her car. The first
8 responders arrived over 45 minutes later on summer roads
9 in North Dakota.

10 This reroute crosses multiple jurisdictions for
11 volunteer fire departments, especially in my area. The
12 potential that the wrong agencies could be paged out is
13 strong, further delaying care, or weather significantly
14 impacting the ability for first responders to reach us.
15 Even if it were 45 minutes, that's a long time to be
16 without oxygen.

17 The prospect of this pipeline is anxiety
18 inducing. There's no pragmatic means to mitigate that
19 risk in the event of a rupture. My children have even
20 picked up on this anxiety. Saying "yes" to this permit
21 will impact my ability to feel safe in my own home.

22 Approval of this permit will likely open my
23 neighborhood and others neighborhoods -- other
24 neighborhoods along this pipeline to additional
25 hazardous materials pipelines. They've said that they

1 prefer to continue siting within existing corridors.
2 Now my neighborhood has become a corridor. Summit has
3 indicated that they're the frontrunner to this, that
4 success in this permit will likely bring more permits
5 and more pipelines.

6 They've not proven their project to be safe to
7 those of us in the public and I urge you not to
8 jeopardize my family's safety or that of any other North
9 Dakotans purely for economic gain. Many of my neighbors
10 feel this permit is a foregone conclusion and that these
11 hearings are merely a formality. It's been expressed to
12 me time and time again.

13 Commissioners, I urge you to vote "no" on this
14 permit. Protect the safety of the citizens of North
15 Dakota and show our citizens that our government
16 processes remain effective in protecting our health and
17 safety. Please reject this permit.

18 ALJ HOGAN: Thank you.

19 Mr. Bender, any questions?

20 MR. BENDER: No questions.

21 ALJ HOGAN: Mr. Pelham.

22 MR. PELHAM: Thank you.

23 Ms. Elkins, I'm just wondering, and I think you
24 testified to this, but does the line occupy -- proposed
25 line occupy any of your property that you own or it's

1 across the street?

2 BAILEY ELKINS: It is across the street and
3 north of my property, on the lot adjacent to the north.

4 MR. PELHAM: Approximately how far?

5 BAILEY ELKINS: As others have said, that is
6 very difficult to discern given the odd scales of the
7 maps that have been provided. And the shapefiles have
8 not been released for us to measure.

9 MR. PELHAM: And as far as -- and I think you
10 testified that you reviewed some of the application
11 material on the PSC's website; is that right?

12 BAILEY ELKINS: That's correct. And with over
13 500 exhibits and being the mother of twins in a rural
14 property with a full-time job, it's very difficult to
15 review everything.

16 MR. PELHAM: And you got a degree in geology?

17 BAILEY ELKINS: Correct.

18 MR. PELHAM: So do you know the state geologist?

19 BAILEY ELKINS: I do. I interned at the North
20 Dakota Geological Survey.

21 MR. PELHAM: And do you understand that there is
22 a -- there's a letter from the geologist --

23 BAILEY ELKINS: I do understand that there's a
24 letter from them. And I also understand the constraints
25 that some government agencies are under and -- they've

1 detailed that it was a desktop study.

2 MR. PELHAM: Okay. And as far as the specifics
3 as to that particular opinion of the geologist
4 indicating that there aren't any concerns with the
5 landslide aspects, have you reviewed any of that?

6 BAILEY ELKINS: I have reviewed the state's
7 landslide maps that have been published and they're
8 publishing where the existing slides have been. They're
9 working off of old aerials. And as I said, it's a
10 cursory desktop study. The information provided on
11 their maps have indicated that it was not out in the
12 field.

13 MR. PELHAM: Okay. So as far as your particular
14 concern as far as a non-desktop, what is it that you
15 propose that the company should actually do?

16 BAILEY ELKINS: I would like to see them have
17 field geologists in the field looking for these
18 particular slopes along their lines as part of their
19 surface.

20 MR. PELHAM: Are there particular areas that you
21 are familiar with that you believe should be focused on
22 for that?

23 BAILEY ELKINS: I think any area of extreme
24 terrain along the entire survey. It's hard to review
25 their map books to see everything. And as I said, I

1 have a very limited amount of time.

2 MR. PELHAM: No. And I'm not questioning that
3 at all. I'm just -- you're a -- I'm not a geologist so
4 I'm just trying -- I'm more or less just curious as to
5 that.

6 And you said the specific type -- is there a
7 specific type of terrain that you believe should be
8 focused in on for potential landslides?

9 BAILEY ELKINS: I think along the entire route
10 unless there is incredibly limited relief.

11 MR. PELHAM: Thanks for being here. I don't
12 have any other questions. Thank you.

13 BAILEY ELKINS: Thank you.

14 ALJ HOGAN: Mr. Schock, any questions?

15 MR. SCHOCK: Just to clarify.

16 I think I found your parcel of property. So are
17 you in the far southeast quarter of section 30?

18 BAILEY ELKINS: The southeast quarter, yes.
19 It's an L-shaped lot.

20 MR. SCHOCK: I guess I can't tell the shape of
21 the lot from the image that I have here, but I think I
22 know where your parcel is. So your driveway faces to
23 the east?

24 BAILEY ELKINS: Correct.

25 MR. SCHOCK: Okay. I think I have you. Thank

1 you. I have no other questions.

2 ALJ HOGAN: Mr. Braaten, any questions?

3 MR. BRAATEN: No, Your Honor.

4 ALJ HOGAN: Mr. Pranis?

5 MR. PRANIS: No, Your Honor.

6 ALJ HOGAN: Commissioner Christmann.

7 COMMISSIONER CHRISTMANN: I do not. Thank you.

8 ALJ HOGAN: Commissioner Haugen-Hoffart.

9 COMMISSIONER HAUGEN-HOFFART: Thank you for your
10 in-depth testimony. Zach talked about your suggestion
11 on doing a field study, that only a desktop was done.
12 Do you have any other suggestions based on -- not all
13 your review of the application, based on your expertise.

14 BAILEY ELKINS: At this moment, no. As I said,
15 I have not had a substantial amount of time to review
16 it. And most of my review has centered on the area
17 surrounding my property.

18 COMMISSIONER HAUGEN-HOFFART: Okay. Well, I
19 appreciate that. Thank you so much for your testimony.

20 ALJ HOGAN: Mr. Dawson, any questions?

21 SUBSTITUTE DECISIONMAKER DAWSON: Thank you for
22 your testimony today. I have no further questions.

23 BAILEY ELKINS: Thank you all for your time and
24 consideration.

25 ALJ HOGAN: Thank you.

1 I'll have you start by stating your full name
2 for the record and if you want to spell your last name.

3 MIKE BRANDENBURG: My name is Mike Brandenburg,
4 B-R-A-N-D-E-N-B-U-R-G.

5 ALJ HOGAN: Mr. Brandenburg, were you in the
6 room earlier when I went through the penalties for
7 perjury?

8 MIKE BRANDENBURG: Yes, I was.

9 ALJ HOGAN: And do you understand what perjury
10 is?

11 MIKE BRANDENBURG: Yes, I do.

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

15 MIKE BRANDENBURG: I do.

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

17 **MIKE BRANDENBURG,**
18 being first duly sworn, testified as follows:

19 MIKE BRANDENBURG: All right. Thank you. And
20 members of the Public Service Commission, my name is
21 Mike Brandenburg. I'm a corn farmer from Edgeley, North
22 Dakota, and I serve District 28 in the North Dakota
23 House of Representatives.

24 This statement that I'm reading is also from
25 State Senator Terry Wanzek of District 29 of Jamestown.

1 Senator Wanzek is also a corn producer and he's not back
2 from Arizona yet. And I do have in my -- when I turn in
3 my testimony, I have an email from him quantifying that
4 I am speaking for him and we have agreed to this
5 testimony that I'm presenting today.

6 We are farmers who come from a multigenerational
7 family farm -- farm families. The Brandenburg family
8 goes back to the early 1900s; in fact, 1902. The Wanzek
9 family goes back to 1885. With this rich agricultural
10 history in our backgrounds, we understand the need to
11 adapt and grow to meet the market demands. Senator
12 Wanzek and I are presenting this testimony because we
13 are very concerned about the future of North Dakota corn
14 producers and the plants that use corn to produce
15 ethanol.

16 Two things will happen quickly if the Summit
17 pipeline is not built in the near future.

18 Corn prices paid to farmers will drop and slip
19 below a break-even price. That means that our state
20 will lose farmers. Two --

21 (Multiple responses from audience.)

22 ALJ HOGAN: Again, I would ask no comments from
23 the audience today or from the public that's attending
24 our hearing. We need to maintain decorum at this
25 hearing.

1 MIKE BRANDENBURG: Thank you.

2 Just, for example, two years ago we were getting
3 close to seven bucks a bushel for corn. Today it's four
4 bucks. And I'll go into further testimony and I can
5 explain further.

6 Ethanol sales will drastically decrease because
7 ethanol produced to the industry standards will be
8 purchased from other ethanol-producing countries such as
9 Brazil. That means our largest customer, Canada, will
10 have to go elsewhere for the quantity of ethanol they
11 require. The result will be the loss of ethanol plants
12 in North Dakota and other ethanol-producing states.

13 Please consider these statistics:

14 The ethanol industry's impact in our state is
15 estimated at 1.78 billion, according to North Dakota
16 State University.

17 North Dakota farmers will sell 210 million
18 bushels of corn annually to ethanol plants in the state
19 of North Dakota and we produce about 400 million bushels
20 of corn. Of that, 550 million gallons of ethanol is
21 produced in North Dakota.

22 But I would quantify that too. It's not just
23 about the ethanol plants. Because I heard earlier talk
24 about it's only gotten Casselton with Tharaldson's.
25 We've got Dakota Spirit in Spiritwood. They're looking

1 for an outtake. They got to do something. We know down
2 in Hankinson they've got to do something. There's five
3 ethanol plants right across the border in South Dakota.
4 And if you go down to those South Dakota plants in Mina
5 and Aberdeen and Groton, you're going to see half the
6 trucks are North Dakota trucks. So North Dakota corn is
7 going to those ethanol plants. And that same pipeline
8 is going to carbon capture those ethanol plants in the
9 northern part of South Dakota. So this is not just
10 about one ethanol plant.

11 It's estimated that the ethanol production in
12 North Dakota has increased pay to the farmers -- and
13 this is -- this is one of the reasons that Senator
14 Wanzek and myself got involved in this, because this is
15 so important. Because we worked so hard in this state
16 to get ethanol production in this state and we have now
17 five ethanol plants, and there could be more in the
18 future, but you got to have a place to sell your
19 product. And so if you don't have a carbon score, you
20 can't sell your product. And so it's estimated that
21 ethanol production in North Dakota has increased pay to
22 the farmers for their corn by 50 cents. And I can
23 guarantee you that's an absolute solid number. And
24 sometimes, depending on the basis and during the year,
25 you can get up to a buck more a bushel. And if you take

1 that away, the ethanol plants disappear, what is that
2 going to do to the price of corn?

3 90 percent of the ethanol is also dried as, you
4 know, feed, for corn oil produced. You got distillers
5 grain, which wet ones usually go to the feedlots
6 locally, the dry distillers grain ends up being sold
7 nationwide. It goes, in fact, worldwide.

8 National and international buyers want the
9 carbon intensity of ethanol lowered which means reducing
10 carbon emissions. That is exactly what Summit pipeline
11 would enable the plants to do.

12 This last summer the Canadian fuel standards
13 went into effect July 1, 2023. It requires the U.S.
14 plants to continue to reduce the carbon intensity of
15 ethanol sold into Canada. Canada is our country's
16 single biggest export market. They buy 400 to 500
17 million gallons of ethanol. We cannot afford to lose
18 that market.

19 Looking into the future, the single biggest
20 market opportunity for low-carbon ethanol is sustainable
21 aviation fuel for airplanes. The best opportunity for
22 North Dakota ethanol plants is to produce lower carbon
23 intensity ethanol and capture and storage, namely the
24 Summit pipeline.

25 Aviation fuel, right now in the United States we

1 produce about 15 billion gallons of ethanol in the
2 United States. And with what's coming up, you know,
3 with more electric cars, there's going to be less and
4 less use of ethanol as well as gasoline. And so the
5 aviation fuel market, they've got to also meet the
6 carbon score. And these ethanol plants are somewhere
7 around a score of 70 -- you know, 70 to 75. They got to
8 get down below 50 with that carbon score to be able to
9 sell into the -- we've already lost the California
10 market to Brazil.

11 The Europeans are not -- we've lost 20 percent
12 of our exports because when these buyers from other
13 countries come and buy products, they just don't buy
14 corn. They buy soybeans, they buy wheat, they buy other
15 products that -- because the buyers, they do a package
16 deal. And we're losing those export markets. And
17 that's why we've dropped from -- \$7 was probably an
18 abnormal price, but six bucks was probably -- five and a
19 half, six bucks is a good price. We're sitting right at
20 four bucks. And that's not -- not a good price.

21 And I've been to many marketing meetings this
22 winter and I've always asked them "How come we ain't
23 talking about carbon capture?" Well, you know, it's a
24 -- well, you can tell by the boos, it's a tough
25 situation to step up here and start talking about what

1 is important to agriculture. And that's why it's where
2 it is today, is we're losing our markets, we're losing
3 our place to sell our ethanol.

4 Red Trail and Blue Flint have carbon capture.
5 They have the formation underneath. So we could keep
6 two ethanol plants open in the state. Spiritwood
7 doesn't. Hankinson doesn't. Tharaldson doesn't. The
8 ones in South Dakota don't. So if we're not eating up
9 this corn, where is it going to go?

10 Where I was going with the sustainable aviation
11 fuel, which is a really good market, 15 billion, that
12 market is predicted to be somewhere around 50 billion.
13 Could be 75, but that might be out there. I mean,
14 you're talking two to three times more of a market for
15 the corn market, the ethanol market, as well as the oil
16 market too because you got to have gasoline. It blends
17 with ethanol. You know, that's what -- just how it
18 works. So it's a win-win for both.

19 If North Dakota ethanol plants cannot lower
20 their product's carbon intensity, Brazil is ready to
21 fill the demand. They already are. And Brazil is the
22 second largest ethanol producer in the country -- in the
23 world, second only to the U.S. Their ethanol meets the
24 carbon intensity growing standards, as well as Argentina
25 and Australia and other countries are moving on this. A

1 lot of things are happening with carbon intensity. It's
2 the world today. That's what we're dealing with.

3 Senator Wanzek and I respectfully request the
4 Commission to approve the Summit pipeline to benefit
5 North Dakota's farmers, ethanol plants, our state's
6 overall economy and the future. And thank you from both
7 of us.

8 Just something else, Commissioners and staff
9 here. Just so you know, I'm familiar with this
10 pipeline. In my district, I got 113.5 miles of this
11 pipeline in my district. Two years ago I wouldn't have
12 been up here defending and talking about this pipeline
13 because it -- it did have some problems in the
14 beginning. They had some bad landmen out there and
15 there are still some bad feelings from those first
16 landmen. They fired them and they hired some good
17 people that go out there and deal with the farmers, the
18 landowners.

19 The landowners out there are smart people. You
20 cannot -- you can't just think about -- if you got
21 80 percent of the landowners already signed up, that
22 means that they're doing something right. And so over
23 the last -- dealing down in my district, there was a
24 number of them that signed up and were with a law firm
25 and they came to a good agreement and they settled. And

1 they said we can -- you know, are they completely happy?
2 No. But they realize the ramifications. If you're a
3 corn farmer or any farmer, you realize how this is going
4 to help agriculture too. And so...

5 And then also I would say too I've heard
6 comments, questions, as far as with the safety. And I
7 know that Summit has been out there and they met with
8 the Sargent County firefighters and the ambulance
9 service, and I heard comments back from those people and
10 they really enjoyed the -- you know, what this is all
11 about. As well as in Dickey County they met with
12 firefighters and ambulance people there. And so they
13 are out there trying to actively meet with them and
14 teach them and tell them what the carbon capture
15 pipeline is all about.

16 So with that, Madam Chair, I would answer any
17 questions.

18 ALJ HOGAN: Thank you.

19 Mr. Bender, any questions?

20 MR. BENDER: Thank you for your testimony,
21 Representative Brandenburg. I have no questions.

22 ALJ HOGAN: Mr. Pelham.

23 MR. PELHAM: Senator Brandenburg, you had given
24 some statistics. Did you have some provided material
25 that -- is that -- are you offering that as an exhibit

1 and does that contain that -- those statistics, is that
2 contained in that material?

3 MIKE BRANDENBURG: Mr. Peller (phonetic) --

4 MR. PELHAM: Pelham.

5 MIKE BRANDENBURG: Pelham, okay. Mr. Pelham,
6 I've got -- the statistics came from the ethanol
7 industry as well as the corn growers. I can provide
8 more information where I got all that data and that
9 information. It is listed in here, but I have -- I can
10 get that for you and I can get it to the Commission.
11 And it's -- the numbers are solid and real.

12 MR. PELHAM: Yeah, and I'm really asking because
13 you're testifying and I'm just wondering where it's
14 based on. But it sounds like you have --

15 Judge Hogan, do you have that?

16 ALJ HOGAN: He's going to pass them out, I
17 think.

18 MR. PELHAM: You're going to pass -- are you
19 going to pass those out, sir?

20 MIKE BRANDENBURG: Well, sir, she asked me to
21 wait --

22 MR. PELHAM: Oh, I see.

23 MIKE BRANDENBURG: -- until I hand them out
24 because --

25 MR. PELHAM: Okay.

1 MIKE BRANDENBURG: -- didn't want a bunch of
2 papers on --

3 MR. PELHAM: Understand.

4 MIKE BRANDENBURG: -- mixed up, but I can walk
5 around and hand them to you if you would like that.

6 MR. PELHAM: I think to the point that they are
7 -- been testified to, they should be part of the record.

8 ALJ HOGAN: Yes, correct.

9 MR. PELHAM: If they're not, then they should be
10 made part of the record.

11 ALJ HOGAN: At the other hearings, the handouts
12 that have come with public testimony, I've been labeling
13 them as one packet of exhibits.

14 MR. PELHAM: Okay.

15 ALJ HOGAN: So yes.

16 MR. PELHAM: All right. I just wanted to make
17 sure on that point.

18 And, sir, you've heard me say it before, that
19 you understand that the Commission is charged with
20 following the siting code in the Century Code; correct?

21 MIKE BRANDENBURG: Uh-huh. Yep.

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

24 MIKE BRANDENBURG: Thank you, sir.

25 ALJ HOGAN: Mr. Schock, any questions?

1 Mr. Braaten?

2 MR. BRAATEN: Thank you, Your Honor.

3 You talked about a number of benefits that would
4 flow to farmers and to the ethanol industry from this
5 Summit project, but those benefits would flow from any
6 kind of carbon sequestration focused on the ethanol
7 plants; right?

8 MIKE BRANDENBURG: So I guess I'm trying to
9 understand the question.

10 MR. BRAATEN: Are you familiar with the
11 Navigator project?

12 MIKE BRANDENBURG: Yeah. I've heard about that.
13 There's other projects out there with carbon capture,
14 but I'm not sure just where that one's at right now.

15 MR. BRAATEN: And if another company were to
16 capture carbon from ethanol plants, that would have the
17 same beneficial impacts for agriculture as if Summit
18 does it; right?

19 MIKE BRANDENBURG: Correct, yep, yep.

20 MR. BRAATEN: No further questions.

21 MIKE BRANDENBURG: Okay.

22 ALJ HOGAN: Mr. Pranis, any questions?

23 MR. PRANIS: No. Thank you very much for your
24 testimony.

25 ALJ HOGAN: Commissioner Christmann.

1 COMMISSIONER CHRISTMANN: Is this close to --
2 two questions. How close does this get to any of your
3 property and how close to your residence?

4 MIKE BRANDENBURG: Commissioner Christmann, I'm
5 -- I'm 30 miles away from the pipeline so you don't need
6 my range, but I have a lot of friends that are
7 benefiting from the pipeline going through their land.
8 And I can tell you, because they talk to me because, you
9 know, I'm their legislator, and their concern was that
10 they be treated fair, you know, because they're good --
11 good businessmen.

12 And I think these that haven't signed in my
13 district, that at this point -- they're good businessmen
14 and -- and farmers know what they're doing. And I keep
15 telling them too, if you don't want the pipeline, you
16 know, I tell the Summit people "Stay away from them. Go
17 north, go south, go east, go west, go around them, find
18 a way to build this pipeline with -- leave them alone.
19 They don't want it. Let them be." That's what I tell
20 them. And that's what I tell the people back home too.

21 And at this point, that's why a lot of them are
22 -- are going to another landowner and going around them
23 and finding somebody that does want the -- you know, is
24 okay with it and they'll take it.

25 COMMISSIONER CHRISTMANN: Okay. So you're

1 further away, but I think you had said 113 miles of it
2 is in your legislative district. So about a third of
3 the whole project?

4 MIKE BRANDENBURG: Yep. I've got right at a
5 third. 33 percent of the project is in my district,
6 113 miles.

7 COMMISSIONER CHRISTMANN: So looking out for
8 them, communicating with them, we have heard a lot of
9 talk today and in previous hearings about the impact
10 that people suspect this will have on property values.
11 What are your thoughts on that? Or what are your
12 constituents' thoughts that are closer to it?

13 MIKE BRANDENBURG: Well, Commissioner
14 Christmann, I can tell you, talking to some people and
15 some of the payments that they've received, some people
16 have been able to go out and buy some -- make a good
17 down payment on some other land that they bought and the
18 land prices have not went down in my area. You know,
19 we're -- we're sitting at anywhere from 5 to 7,000 bucks
20 an acre for farmland down in my district. You know,
21 probably out in McIntosh County, it's probably more like
22 three to five. You get over in Sargent County where you
23 got a lot more drain tile, heavier ground, and you can
24 even push a little higher.

25 We're not seeing the softening of prices from --

1 from a pipeline, to my -- from any of my people that are
2 saying -- unless you've got -- and you've got some
3 people, they hate it, they don't like it, and I tell
4 them "Stay away from them, go somewhere else." And
5 there's some people that want nothing to do with it and
6 that's how -- that's their right.

7 COMMISSIONER CHRISTMANN: You mentioned the Corn
8 Growers Association. Have they taken an official
9 position on that?

10 MIKE BRANDENBURG: Yeah, thank you,
11 Commissioner. Actually, the Corn Growers and the
12 ethanol producers have had a number of meetings where ag
13 -- you know, ag and energy are working together. In
14 fact, they had one here in Bismarck which I attended
15 when they had a panel of coal and oil and EERC, John
16 Harju, an ethanol producer from Tharaldson, Ryan -- I
17 can't think of his last name now but -- Ryan Carter, and
18 then also a corn grower, they had Drew Courtney on it.
19 And then also in Fargo here a week ago they had another
20 friends of ag and energy meeting. You get the
21 information and the knowledge out there.

22 Because a lot of people are trying to figure out
23 -- two years ago I didn't know this. And they had --
24 and so, yeah, they're working together. Because this is
25 really a win for ag and energy to be able to find a way

1 to keep our energy -- if you believe in coal and you
2 believe in oil and you believe in ethanol, this benefits
3 all three.

4 COMMISSIONER CHRISTMANN: Have any of the other
5 ag groups taken positions on this?

6 MIKE BRANDENBURG: Commissioner Christmann, you
7 know, they're all being -- I would say that the corn
8 growers have come out, the ethanol producers have come
9 out, because they're the most affected by this pipeline.
10 The other ag groups are sitting there going "When are we
11 going to jump in? What are we going to do?" I think
12 that's why they're having the meetings with ag and
13 energy together, to get a commitment out. Because when
14 we do come into -- into -- they're going to have to do
15 something pretty soon because this is important to
16 agriculture.

17 And I wouldn't be sitting up here -- last night
18 -- I'll just tell this. Last night I was sitting here
19 because I had all this stuff I was putting together. I
20 didn't get home from the field until about 10:30. So
21 about midnight I was putting all my stuff together and
22 I'm going "Why am I going to Bismarck when I could be
23 home putting wheat in through the day?" The reason I'm
24 here today is because my sons, my grandsons and
25 granddaughters and my daughters-in-law and the people

1 that are involved in our farm and the heritage that we
2 carry, because this is so important. So what are you
3 going to do?

4 The carbon intensity score, it's here to stay.
5 I mean, this is something that the people on the East
6 Coast, the West Coast -- and people can say this is a
7 boondoggle and it's a Green New Deal, whatever, but it's
8 here. And we're going to have to deal with what the
9 world puts in front of us. And that's what this --
10 that's why I'm here today, because it's part of life.
11 It's what we're dealing with today for the future if
12 we're going to be a part of it.

13 And I hope that answers your question.

14 COMMISSIONER CHRISTMANN: It does. I thank you
15 for being here.

16 And no other questions, Your Honor.

17 ALJ HOGAN: Commissioner Haugen-Hoffart.

18 COMMISSIONER HAUGEN-HOFFART: Yes, I have some
19 questions.

20 MIKE BRANDENBURG: All right. You always do for
21 me.

22 COMMISSIONER HAUGEN-HOFFART: I do. I do.

23 You talked about property values and that people
24 were buying up property, but the pipeline hasn't been
25 built. So it's kind of subjective to say that it has

1 any impact on values or not because there's no pipeline
2 there.

3 MIKE BRANDENBURG: Commissioner Haugen-Hoffart,
4 I can't -- I agree with you, but I will tell you this:
5 we do have other pipelines that are in the area and, you
6 know, the pipeline's under the ground and people still
7 pay a good price for the farmland.

8 You know, time will tell what that does, but the
9 reality is in the past with the past pipelines -- we
10 have a number of them coming through there. The
11 pipeline -- I'm trying to think. It's not the Northern,
12 but it's the Alliance that's going through my district.
13 That hasn't hurt the -- the property values at all. We
14 got -- we got another pipeline coming through with the
15 -- for propane and nobody knows it's there. It's been
16 there 20, 30 years. Nobody seems to -- to matter.

17 So I'm using a past experience with the other
18 pipelines. In fact, some of it goes through -- one of
19 the pipelines goes through land that we rent and farm
20 and we have no problem with it.

21 COMMISSIONER HAUGEN-HOFFART: Well, thanks for
22 clarifying that -- saying time will tell.

23 MIKE BRANDENBURG: Yeah.

24 COMMISSIONER HAUGEN-HOFFART: You talked about
25 people signing and then you used the word

1 "ramifications." I'm uncertain why you used
2 ramifications on if they don't sign or sign. Can you
3 explain your statement? I don't know why you -- in what
4 context you used the word "ramifications."

5 MIKE BRANDENBURG: Commissioner Haugen-Hoffart,
6 I guess I'm going to have to think back what I said,
7 where I said "ramifications." So I'm trying to think
8 what that would be.

9 I guess, you know, when I think I was talking
10 about if people want it, that's their choice. If they
11 don't and it goes somewhere else, goes around them or
12 goes to a different person, you know, those are the
13 ramifications that they're going to have to live with.
14 Because some of these situations are that, you know,
15 these guys are paying pretty good money.

16 I always asked myself -- when they first came
17 out, I think there was a little cherry-picking with that
18 first bunch, I know there was, but they're paying good
19 money for this pipeline. I always asked myself, "If it
20 came through my land, would I be happy with the price
21 they're paying today?" And I can tell you that I would
22 sign and allow this pipeline to go through my land if it
23 came through my land.

24 And so other people that don't want it and then,
25 all of a sudden, their neighbor -- maybe they're holding

1 out for more money, maybe they -- they just don't want
2 it, that's fine. But then when the neighbor gets it
3 because they were holding out and they signed, the
4 deal's done. That's the ramifications that you've got
5 to live with. Because as a part -- as a part when
6 you're dealing, whether you're buying a tractor or
7 you're buying a pickup or you're buying a car, you know,
8 sometimes you got to pull the plug and make the deal.

9 COMMISSIONER HAUGEN-HOFFART: Makes sense. I'm
10 learning phrases from you, Mr. Brandenburg.
11 Cherry-picking with the first bunch.

12 MIKE BRANDENBURG: Cherry-picking is when they
13 -- that first bunch of landmen came out there, there was
14 some early people that -- that signed that talked to me
15 and they just -- now they're mad that they did sign.
16 And the worst part is that I sit in the seed store, I
17 meet these people, I know them, and they go, "See, I
18 told you, you shouldn't have signed so soon, you should
19 have waited because you're going to get more money if
20 you would have waited." And that's true. That's
21 reality.

22 COMMISSIONER HAUGEN-HOFFART: So they're mad
23 they signed too soon. What I hear you say, they're --
24 landowners are disappointed because they signed too soon
25 because they could have got more money?

1 MIKE BRANDENBURG: There are some.

2 COMMISSIONER HAUGEN-HOFFART: That is
3 cherry-picking with the first bunch?

4 MIKE BRANDENBURG: That's cherry-picking.

5 COMMISSIONER HAUGEN-HOFFART: Okay. Thanks.
6 One more question, I think. You talked --

7 MIKE BRANDENBURG: I might start -- I might give
8 you another one.

9 COMMISSIONER HAUGEN-HOFFART: You indicated that
10 in Sargent County, that -- you indicated that you met
11 with some first responders and that they had a meeting.
12 Was that meeting with Summit?

13 MIKE BRANDENBURG: Summit people met with the
14 ambulance people and also the firefighters. And they
15 did that in Dickey County too. And then some of the
16 members -- I wasn't there, but some of the members that
17 attended the meeting from the firefighters and the
18 ambulance service said it was a really good
19 informational meeting.

20 COMMISSIONER HAUGEN-HOFFART: With Summit
21 personnel?

22 MIKE BRANDENBURG: With the Summit personnel,
23 yes.

24 COMMISSIONER HAUGEN-HOFFART: Here's where I'm
25 confused. It's not on you. It's based on the

1 information we were provided and the testimony from
2 Mr. Powell. Again, going back to this table and it says
3 Sargent, dates, March 25th, 29th, 30th, 2022,
4 April 19th, 2022, August 15th, 2022, June 15th, 2022,
5 September 21st, 2023, to be scheduled.

6 MIKE BRANDENBURG: Well --

7 COMMISSIONER HAUGEN-HOFFART: The only -- the
8 reason why I bring that up is, again, just looking for
9 facts of what has been communicated and with whom.

10 So, again, I'm going to ask you, is it your
11 understanding, Mr. Brandenburg, that in Sargent County
12 you met with first responders and ambulance and Summit
13 personnel was there?

14 MIKE BRANDENBURG: Commissioner Haugen-Hoffart,
15 I was at a steak fry in Gwinner with the firefighters,
16 with the ambulance people, and the Summit people, and
17 they had -- the conversation was that they really
18 learned a lot from the Summit people. They actually
19 gave them some money for some equipment that they would
20 need for that project. So, yeah, there's been a meeting
21 with the firemen. And I was there eating steak. And I
22 paid for it too so I didn't violate the ethics rule
23 so --

24 COMMISSIONER HAUGEN-HOFFART: Okay. And I'm
25 just seeking facts. That's it.

1 MIKE BRANDENBURG: Well, I think -- and,
2 Commissioner Haugen-Hoffart, in visiting with some of
3 the Summit people too, because I said, "You guys have
4 been doing this so why is this not in here?" And they
5 were saying, too, there's so much in the testimony
6 that's been provided and put in there that -- and they
7 probably would like a chance to talk more about it
8 because they have been working on meeting with fire
9 departments and ambulance services and giving them
10 training and telling them what it's all about.

11 And so I had the conversation with the fire --
12 firemen and ambulance people in Gwinner, and that's
13 Sargent County. And then I had the conversation also
14 with some of the emergency management people in Dickey
15 County when they had the meeting in Dickey County and
16 they said that it was really good information.

17 So I don't think everything is caught up with
18 the paperwork here with -- with what they're doing.

19 COMMISSIONER HAUGEN-HOFFART: And that could be,
20 but Mr. Powell was before us and some of those questions
21 were asked. So we can seek clarification.

22 I guess I'm just going to ask you one more.
23 Steak, medium rare?

24 MIKE BRANDENBURG: I like mine well done.

25 COMMISSIONER HAUGEN-HOFFART: No more questions.

1 ALJ HOGAN: Mr. Dawson, any questions?

2 SUBSTITUTE DECISIONMAKER DAWSON: Representative
3 Brandenburg, I have no questions after that "well done"
4 comment.

5 ALJ HOGAN: All right. Thank you. And if you
6 want to give me your handouts, I'll pass them out.

7 Do we have anybody else that wants to provide
8 public testimony this afternoon?

9 MR. DUBLINSKE: Your Honor, while we're between
10 speakers here, can I just point out, I think I have a
11 clarification that may be helpful to Commissioner
12 Haugen-Hoffart in terms of what that table says. And if
13 we need to put Mr. Powell back up to confirm it, I'm
14 happy -- we can make arrangements for that.

15 But if you look, for example, at the first line
16 of that table, and I'm not sure Mr. Powell had it in
17 front of him when he was answering the questions, but it
18 talks about emergency management contacts, has a date
19 column, two of those five dates then are also reflected
20 in the last column about the dispersion analysis
21 presented. What I believe this table is saying is there
22 were contacts made with emergency management directors
23 or emergency management staff on all of the dates in the
24 date column. "To be scheduled" is for a particular type
25 of meeting where a particular analysis is being

1 presented. So it doesn't mean that there's never been a
2 contact. It just means that we are also tracking when
3 certain information is being provided specifically.

4 That's, I believe, what the table represents, if
5 that's helpful. I hope it is.

6 COMMISSIONER HAUGEN-HOFFART: Well, I don't
7 believe that that's what I heard to be -- that there was
8 no contact. So I guess if there can be more
9 documentation that substantiates that when meetings have
10 been done and what was discussed. I understand the
11 confidentiality. But "to be scheduled" was there had
12 been no contact. So I would ask you guys to provide
13 some written document on that.

14 MR. DUBLINSKE: Happy to do that, Your Honor.

15 ALJ HOGAN: All right. Is there anybody else
16 that wants to provide public comments?

17 Good afternoon. I'll have you start by stating
18 your full name for the record and spelling your last
19 name.

20 CHAD MOLDENHAUER: My name is Chad Moldenhauer.
21 C-H-A-D. Moldenhauer, M-O-L-D-E-N-H-A-U-E-R.

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

25 CHAD MOLDENHAUER: I wasn't in the room, but I

1 was watching it on the internet so I think --

2 ALJ HOGAN: You heard me go through them?

3 CHAD MOLDENHAUER: Yes, I did.

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

6 CHAD MOLDENHAUER: Yes, I do.

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 CHAD MOLDENHAUER: Yes, I do.

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

12 CHAD MOLDENHAUER: Thank you.

13 **CHAD MOLDENHAUER,**

14 being first duly sworn, testified as follows:

15 CHAD MOLDENHAUER: Commissioners, my name is
16 Chad Moldenhauer. I know that you're familiar with me
17 because I was an intervenor with the Bismarck
18 intervenors group here a few months back and I'm the
19 owner of K & L Homes, also the owner of Heritage
20 Development. We have a development called Heritage
21 Reserve that is about four miles at the closest point to
22 the current pipeline route.

23 And I was not planning on offering testimony
24 today, I was prepared to sit in my office and watch the
25 proceedings on the internet, but there were some things

1 that were said about me and my participation in the
2 reroute that -- that were untrue. And so what I would
3 like to do today is offer some testimony and set the
4 record straight with the conversations that have gone on
5 with Summit and my participation in them.

6 So I thought it would be helpful to just go
7 through a really quick timeline of events. It helped me
8 kind of piece together some of the conversations that
9 have been had.

10 The first event that I have on my timeline is
11 back on May 13th of 2023. And there was some
12 conversation at the last public hearing about that
13 meeting. The meeting took place at Summit's office here
14 in Bismarck and the attendees of that meeting were Lee
15 Blank, Jim Powell, Wade Boeshans, myself, Chad Wachter,
16 and John Warford. And I don't want to be too
17 duplicitous and get into too much of what was said, but
18 essentially the meeting prior to the PSC's decision and
19 prior to the public hearing was to get our feedback and
20 get some of that participation in the conversation.

21 And during that meeting there was some comments
22 that were made that I believe I shared at the last
23 public hearing where Lee Blank said, you know, "We can't
24 go south and we go too far north," and Jim Powell said,
25 "And crossing the river at a different location is off

1 the table." And so after that initial -- those
2 boundaries were set, they put a route up on the board
3 that looks very familiar to me. It looks a lot like the
4 route that we're discussing here today. And it
5 essentially had some movement of the route north of my
6 development and north of John Warford's area, but
7 essentially the route to the east was the same, the
8 crossing on the river was the same.

9 And I said in that meeting, you know, "What
10 exactly are we here to discuss if you're only
11 essentially pushing away the areas that you don't have
12 easements anyway? It doesn't really seem like you're
13 really solving the problems that have been presented by
14 Burleigh County Commission or the city commission. And,
15 you know, we're not really at a point where we can
16 negotiate any route with you anyway." And so it wasn't
17 a very productive meeting.

18 And then that, as you recall, was the topic of
19 quite a bit of conversation on my last testimony. So I
20 want to just kind of run through some of the
21 conversations that I had after that.

22 On August 4th, as of course you know very well,
23 the PSC denies the siting permit for Summit Carbon --
24 Summit Carbon pipeline project.

25 On August 16th, which was a couple days later,

1 Mr. Boeshans left me a voicemail. He said he wanted a
2 meeting with me. A couple days later I sent
3 Mr. Boeshans a message and I said, "I don't think it
4 would be proper for you to just meet with me so maybe
5 we'll get together -- we'll get together with the other
6 -- the other intervenors, Mr. Wachter and Mr. Warford."

7 On that same day that we were having that
8 conversation, Summit files a notice of route adjustment
9 and request for a limited rehearing. And I didn't have
10 immediate notification of that. So the conversation
11 about this meeting was kind of ongoing. Then, you know,
12 on that 23rd email we decided that we were going to have
13 a meeting on September 7th.

14 Shortly after that 23rd email I was informed
15 that there was a new route that was posted. The route
16 looked the same, at least as far as northern Bismarck
17 was concerned, to the one that we had seen prior to the
18 last public hearing.

19 And so I messaged Mr. Boeshans back and I said,
20 "I don't believe that a meeting to determine route
21 feasibility would be appropriate now that Summit has
22 already presented an alternative route in its petition
23 for reconsideration. I will pass on a meeting at this
24 time. So what's the purpose of a meeting to get our
25 feedback on this route if you've already published it

1 and you have no intention of changing it?" So I don't
2 think that was a good use of my time.

3 That is the last communication that I've had
4 with Mr. Boeshans, which is that -- like I said, that
5 September 7th conversation. In no way have I
6 collaborated with Summit Carbon Solutions to determine
7 this new route. Any assertions made by Mr. Boeshans or
8 Summit Carbon Solutions that I participated in their
9 decision to place this route where it is right now is a
10 lie and a complete fabrication.

11 My reputation is very important to me and this
12 community. I would never push my problems onto somebody
13 else. I would never value my own property over somebody
14 else's property. So to say that I was in cahoots with
15 Summit in generating this new pipeline route is just --
16 is just inaccurate.

17 I was listening, like I said, in my office, I
18 wasn't planning on being here, but I was making some
19 notes. And one of the things that Commissioner
20 Haugen-Hoffart asked Wade Boeshans about was after he
21 met with the intervenors, you know, assuming that this
22 meeting actually occurred, did you meet with other
23 landowners? You know, who else did you take into
24 account when you were having this conversation? And how
25 did you determine that it will not impact any future

1 development and did you determine that? And
2 Mr. Boeshans said -- and I was trying to scribble notes
3 while I'm at my desk so they might not be -- they might
4 not be perfect, but he said that is correct.

5 And then the conversation kind of continued and
6 we started talking about meetings with firemen, and I
7 think even Greg Zenker or Bismarck city commission was
8 brought up, and the question was asked, "Did anyone
9 offer any concerns about the new route?" And
10 Mr. Boeshans says, "Well, not that I recall."

11 And I don't know if it's just a problem with
12 specifics or, you know, if everybody seemed okay with
13 it, but I guess I would -- I would ask you this: it
14 seems to me that at least around Bismarck only the
15 northeast corner of the route changed. So it got moved
16 about four to five miles to the north, east of
17 Highway 83, which is further away from my development,
18 but that route didn't change across the river. I
19 believe it changed very little west of Highway 83.

20 And, you know, I can tell you that I think some
21 of the Bismarck intervenors would also like to be here
22 today, but they were surprised by the statements by
23 Summit about our participation in this new route. It
24 certainly didn't help Chad Wachter at all. He's still
25 got his development east of Bismarck. That's still the

1 fastest-growing development in the city of Bismarck.
2 And I'm sure he would have liked to have seen that route
3 further away.

4 And I would proffer that if -- if Summit Carbon
5 Solutions really thinks that the City of Bismarck is
6 okay with the current route, why are they intervenors to
7 this action? You know, why do we still have the City's
8 resolution that asks it to be 25 miles away from the
9 ETA? If Burleigh County -- and, you know, Wade said he
10 had those meetings with the county officials, they're
11 okay with this route, you know, why are they intervenors
12 in this action and why have they asked it to be ten
13 miles away from the ETA?

14 And so it really bothers me because, like I
15 said, I've worked hard to set this reputation, or at
16 least the reputation I believe I have in the community,
17 and so when I have Representative SuAnn Olson get up and
18 say this route was modified to accommodate developers,
19 that's -- you know, that's something that Summit is
20 saying. It's not something that we have done. Because,
21 once again, nobody's property, nobody's life is worth
22 more than -- more than another.

23 There's also been some statements kind of made
24 even in the media that somehow these intervenors, they
25 must be okay with the new route because they -- because

1 they withdrew their intervenor status. And that's --
2 that's not the case. My goal as an intervenor was to
3 open the public eyes to the impact of the pipeline and
4 how it may affect the growth of the community.

5 When the City of Bismarck and Burleigh County
6 got involved in the action as intervenors, I concluded
7 that they could better represent the community's
8 interest than I could and our interests are essentially
9 aligned. That's why I withdrew as an intervenor. It's
10 not because I explicitly or implicitly approve of this
11 project or the reroute. And I just wanted to make sure
12 that I made that clear to the Commission.

13 ALJ HOGAN: All right. Thank you.

14 Mr. Bender, any questions?

15 MR. BENDER: Yes, thank you. Thank you.

16 Mr. Moldenhauer, just a few questions, and I'm
17 not going to try to quarrel with you, just want to
18 understand what you're saying. I mean, you do admit
19 when you were before the Commission on the initial
20 route, you opposed the initial route because it was too
21 close to your housing sub-development; is that correct?

22 CHAD MOLDENHAUER: I opposed that route for many
23 reasons, one of which being the proximity to my
24 development, yes.

25 MR. BENDER: And then after that Summit moved

1 the pipeline or proposed to move the pipeline
2 considerably further north of that initial location; is
3 that correct?

4 CHAD MOLDENHAUER: That is correct.

5 MR. BENDER: And then shortly thereafter you
6 withdrew your intervenor status; is that correct?

7 CHAD MOLDENHAUER: I don't believe I would
8 characterize it as "shortly thereafter," because I
9 believe the route was presented in, like, September and
10 we withdrew as intervenors, I believe, in February. So
11 there's more of a process. It's not as immediate as --

12 MR. BENDER: But you did ultimately withdraw; is
13 that correct?

14 CHAD MOLDENHAUER: That is correct.

15 MR. BENDER: And did you withdraw because the
16 pipeline proposal was further away from your housing
17 development?

18 CHAD MOLDENHAUER: As I said earlier in my
19 testimony, I withdrew because our goal really from the
20 start was to get the county involved, get the city
21 involved, so they were aware of it. Once they became
22 intervenors, we felt like having that counsel in place
23 would be duplicitous. And naturally every intervenor is
24 going to have their own -- their own budget and their
25 own funds, and so we felt like the city and the county

1 were going to better -- better basically address those
2 concerns than we were.

3 MR. BENDER: No further questions.

4 ALJ HOGAN: Mr. Pelham, any questions?

5 MR. PELHAM: Mr. Moldenhauer, as I understand
6 your testimony summed up, essentially you're here to
7 clarify that your input with Summit Carbon Solutions was
8 there was no input because no meeting took place and the
9 decision of Summit to modify its route after the denial
10 in August of 2023 was not a result of anything that you
11 had in terms of a meeting with Summit. Do I have that
12 summed up?

13 CHAD MOLDENHAUER: That's correct.

14 MR. PELHAM: Okay. And your being here today is
15 to clarify what you perceive at least prior testimony
16 from today that you heard?

17 CHAD MOLDENHAUER: Yes.

18 MR. PELHAM: I understand. Well, I hope you can
19 see some of Mason's baseball game after this.

20 CHAD MOLDENHAUER: Yeah, he got a triple, from
21 what I understand, a couple feet from the fence so...

22 MR. PELHAM: Good deal.

23 CHAD MOLDENHAUER: The little prices we pay to
24 be a business owner and a community resident, I guess.

25 ALJ HOGAN: Mr. Schock, any questions?

1 Mr. Braaten?

2 MR. BRAATEN: No, Your Honor.

3 ALJ HOGAN: Mr. Pranis?

4 MR. PRANIS: No, Your Honor.

5 ALJ HOGAN: Commissioner Christmann.

6 COMMISSIONER CHRISTMANN: I do not, but thank
7 you for being here, Chad.

8 CHAD MOLDENHAUER: Yes, sir.

9 ALJ HOGAN: Commissioner Haugen-Hoffart.

10 COMMISSIONER HAUGEN-HOFFART: Chad, thank you
11 for your testimony and clarification that I did have
12 some questions concerning that and your timeline was
13 very well laid out. So thank you.

14 CHAD MOLDENHAUER: Thank you, Commissioner. I
15 appreciate it.

16 ALJ HOGAN: Mr. Dawson.

17 SUBSTITUTE DECISIONMAKER DAWSON: Thanks. No
18 questions.

19 CHAD MOLDENHAUER: Thank you, Commissioner.

20 ALJ HOGAN: All right. Thank you.

21 Anybody else that would like to provide public
22 testimony?

23 KEN HUBER: Thank you, members of the
24 Commission.

25 ALJ HOGAN: I'll have you start by stating your

1 full name and --

2 KEN HUBER: Well, I just --

3 ALJ HOGAN: -- spelling your last name.

4 KEN HUBER: -- want to thank you first before I
5 forget to do that. My name is Ken Huber. I live
6 northwest Bismarck, 8930 Blue Spruce Road.

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

9 KEN HUBER: I was.

10 ALJ HOGAN: And do you understand what perjury
11 is?

12 KEN HUBER: Sure do.

13 ALJ HOGAN: And being advised of the -- the
14 possible penalties for perjury -- I've said it too many
15 times today -- do you promise to tell the truth in this
16 case today?

17 KEN HUBER: I do.

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

19 KEN HUBER: Thank you.

20 KEN HUBER,

21 being first duly sworn, testified as follows:

22 KEN HUBER: One comment I'm going to make from
23 the start is, Mr. Brandenburg, we in Bismarck are not
24 willing to give up our safety for the price of corn.
25 How about the livestock producers who are affected by

1 the price of corn? I know firsthand as I operated and
2 owned a feedlot for 28 years in south central North
3 Dakota. How does this pipeline affect me? I have two
4 separate parcels of land in Emmons County that now are
5 within a half mile of this pipeline. Two different
6 parcels of cropland.

7 I live three miles, three and a quarter miles
8 southeast of where the pipeline, which never got moved,
9 crosses the Missouri River. Also, I noticed here there
10 is a valve up there, but it's not right to the river.
11 If you look at what happened in Missouri with that
12 pipeline rupture, which is the same as this pipeline,
13 where did it fail? Near water where it was crossing --
14 where a creek was close by. Now we're talking about the
15 Missouri River.

16 So what I'm concerned about is our safety as far
17 as being in Bismarck. We look at that. What is it?
18 Ten miles from the heart of Bismarck. We've got
19 several, several residents before we get to the heart of
20 Bismarck. And that pipeline is northwest of there.
21 Which way is the wind 30, 40 miles an hour the most
22 from? Northwest, of course. We all know that. We've
23 lived here long enough to know that.

24 The other thing that concerns me is I know Mr.
25 -- I'm sorry, I can't think of his first name now, but

1 the gentleman that was a realtor also brought it up, but
2 there's a development right within 200 feet of where I
3 live that is proposed to build 600 homes. They already
4 moved a lot of dirt last year. If they get the
5 approval, if I'm correct, from the -- as far as the
6 water permit, they would be building this summer. So
7 where that land ends, we're looking at probably two
8 miles away from where it crosses the river. I think
9 that should be a concern also.

10 And I just look at the safety of our people.
11 We're talking thousands and thousands of people. And
12 yet we're willing to jeopardize the safety. I don't
13 think anybody understands what could happen, but I hope
14 everybody in this room understood what happened in
15 Missouri. Because they didn't either. They didn't
16 think that was going to happen. Nobody can be prepared
17 for something like that. And I think life is precious
18 no matter whose life it is.

19 And I have children that live in Bismarck. I
20 have grandchildren that live in Bismarck. And that's
21 very concerning to me. It probably won't happen in my
22 lifetime, but am I guaranteed it's not going to happen
23 in their lifetime?

24 The other thing is I know Summit had talked
25 about at one time in the previous hearing about the

1 pipeline that goes from Beulah to Canada. I had a visit
2 with a gentleman that works there recently, within the
3 last two months. I asked him, is that pipeline -- how
4 big is that pipeline? I have no idea. I didn't
5 research it. He said it's 36 inches. I said so it's
6 not as large -- I mean, it's not under high pressure?
7 He said no. And he says they hardly use it anymore
8 because Canada doesn't even need the CO2 anymore, is the
9 understanding I have. Now, you can check the facts.
10 I'm just going by hearsay from a gentleman that works
11 there. I didn't do any more homework on it, I'm sorry.

12 But, Commissioners, what I'm asking you is to
13 really think about the safety. It's not about the price
14 of corn. It's about the safety of our residents. We're
15 talking hundreds and -- I mean, thousands of people.
16 And that is concerning. Because if that pipeline
17 ruptures, we probably won't be here today, but it's
18 still your decision.

19 Thank you for your time.

20 ALJ HOGAN: Thank you.

21 Mr. Bender, any questions?

22 MR. BENDER: No questions.

23 ALJ HOGAN: Mr. Pelham.

24 MR. PELHAM: I don't have any questions. Thank
25 you, sir.

1 ALJ HOGAN: Mr. Schock? Mr. Braaten?

2 MR. BRAATEN: No, Your Honor.

3 ALJ HOGAN: Mr. Pranis?

4 MR. PRANIS: No, Your Honor.

5 ALJ HOGAN: Commissioner Christmann.

6 COMMISSIONER CHRISTMANN: I do not.

7 ALJ HOGAN: Commissioner Haugen-Hoffart.

8 COMMISSIONER HAUGEN-HOFFART: Yes. Ken, I'm
9 sorry I didn't catch it. You were talking about a
10 development of 600 homes. Where is that?

11 KEN HUBER: Right north of Hawktree Golf Course
12 and northwest of Hawktree Golf Course. A development by
13 Cam and Ron Knutson. 1,100 acres. Some high-end homes,
14 some medium homes.

15 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.
16 I have no further questions.

17 KEN HUBER: Thank you.

18 ALJ HOGAN: Mr. Dawson.

19 SUBSTITUTE DECISIONMAKER DAWSON: No questions.

20 ALJ HOGAN: All right. Thank you.

21 Anybody else that wants to provide public
22 testimony?

23 Can I get your name?

24 RANDY OLSON: Randy Olson.

25 ALJ HOGAN: And do you want to spell your last

1 name for me?

2 RANDY OLSON: O-L-S-O-N.

3 ALJ HOGAN: And, Mr. Olson, were you in the room
4 earlier when I went through the penalties for perjury?

5 RANDY OLSON: Yes, I was.

6 ALJ HOGAN: And do you understand what perjury
7 is?

8 RANDY OLSON: Yes, I do.

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

12 RANDY OLSON: Yes, I do.

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

14 **RANDY OLSON,**

15 being first duly sworn, testified as follows:

16 RANDY OLSON: Yeah. I'm retired from Falkirk
17 coal mine. And I was affiliated with the power plant
18 maintenance on both ends of it at the power plant. They
19 would call us over and we would take and run the cranes
20 and help them out. Otherwise, we did the maintenance
21 over at Falkirk.

22 And the stories I hear about the benefits to
23 agriculture and oil and coal, I'm not seeing it.
24 Because if you take and get the CO2 collection out of
25 these ethanol plants, where is that benefiting the coal

1 mines? That's not benefiting coal. And the same with
2 the oil. If you can't use that CO2 for 12 years if it's
3 got to be sequestered, then what's the point of this?

4 I mean, I'm not into making North Dakota a
5 dumping grounds or a hazardous waste site just for the
6 sake of some money because, you know, there's people
7 willing to take and sell their soul for another \$4 for a
8 bushel of corn, but I'm not seeing it. I mean, we've
9 got to take and keep our morals together. You know,
10 this state is noted for beautiful scenery, you know,
11 opportunities to go hunting and fishing.

12 If we have a break there, you know, say in the
13 sequestered area, who's been down there to inspect that
14 area? Nobody. But yet if you take and put a tank out
15 in the oil field, that tank is pressure tested or
16 ultrasounded or X-rayed. But here we're going on
17 geology opinion that it's going to take and hold. With
18 all the fracking that's been going on in the western
19 part of the state, who's to say that that isn't going to
20 start leaching out after you start pumping how many
21 millions of tons in on high pressure? I just don't see
22 it. I -- I would rather not see it.

23 That's my opinion.

24 ALJ HOGAN: All right. Thank you.

25 Mr. Bender, any questions?

1 MR. BENDER: No questions.

2 ALJ HOGAN: Mr. Pelham.

3 MR. PELHAM: Thanks for being here and providing
4 testimony, Mr. Olson. You do understand, I think I've
5 said it, but I just want to make sure that you
6 understand that the Public Service Commission permits
7 the pipeline --

8 RANDY OLSON: Right.

9 MR. PELHAM: -- it doesn't permit the injection
10 of the CO2 into the ground.

11 RANDY OLSON: Right.

12 MR. PELHAM: Do you understand?

13 RANDY OLSON: Right.

14 MR. PELHAM: Okay. Thank you.

15 ALJ HOGAN: Mr. Schock, any questions?

16 Mr. Braaten?

17 MR. BRAATEN: No, Your Honor.

18 ALJ HOGAN: Mr. Pranis?

19 MR. PRANIS: No, Your Honor.

20 ALJ HOGAN: Commissioner Christmann.

21 COMMISSIONER CHRISTMANN: None, but thank you,
22 Randy.

23 ALJ HOGAN: Commissioner Haugen-Hoffart.

24 COMMISSIONER HAUGEN-HOFFART: None, but thank
25 you, Mr. Olson.

1 ALJ HOGAN: Mr. Dawson.

2 SUBSTITUTE DECISIONMAKER DAWSON: No, Your
3 Honor.

4 ALJ HOGAN: All right. Thank you.

5 RANDY OLSON: Thank you.

6 ALJ HOGAN: Anyone else want to provide public
7 testimony?

8 PAUL BROWN: Hello.

9 ALJ HOGAN: All right. Can I get your name and
10 if you can spell your last name for me.

11 PAUL BROWN: Name is Paul Brown, B-R-O-W-N.

12 ALJ HOGAN: And, Mr. Brown, were you in the room
13 earlier when I went through the penalties for perjury?

14 PAUL BROWN: I was.

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

17 PAUL BROWN: Yes.

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

21 PAUL BROWN: Yes.

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

23 **PAUL BROWN,**

24 being first duly sworn, testified as follows:

25 PAUL BROWN: Okay. I'm a third-generation

1 farmer and rancher just east of Bismarck. Live in Gibbs
2 Township, section 22, and also own section 1.

3 To my understanding now we're on the fifth
4 reroute. Four of the other reroutes previously were
5 supposed to go through our land, but now it's off of our
6 land, thankfully. And to my understanding, the
7 centerline of the pipeline is supposed to be 150 feet
8 east of our section line. So due to state statute that
9 there's a 500-foot setback, I'm very concerned that
10 there's 350 feet on my personal property that is then
11 affected because my neighbor signed on to that easement.

12 So just one point I wanted to make is, you know,
13 how do I get compensated for that? Not that I want to
14 sell the land or intend to, but there is a lost value
15 for sure that comes along with that. So that's the main
16 point that I wanted to make that really hadn't been
17 touched on too much. Some people have alluded to that.
18 But I figure if there's 350 feet along a one-mile
19 stretch of land, that's 42 acres. So what's that value
20 worth? Land around us is probably going for around
21 \$6,000 an acre. So even though statute says you can't
22 -- or you can build within 500 feet of a pipeline, you
23 know, who would want to?

24 So that's the main point I wanted to make.

25 ALJ HOGAN: All right. Thank you.

1 Mr. Bender, any questions?

2 MR. BENDER: No questions.

3 ALJ HOGAN: Mr. Pelham.

4 MR. PELHAM: No questions. Thank you.

5 ALJ HOGAN: Mr. Schock?

6 Mr. Braaten?

7 MR. BRAATEN: No, Your Honor.

8 ALJ HOGAN: Mr. Pranis?

9 MR. PRANIS: No, Your Honor.

10 ALJ HOGAN: Commissioner Christmann.

11 COMMISSIONER CHRISTMANN: Our books don't have
12 township names, just the township numbers and ranges. I
13 got section 22, but do you have the township number and
14 range?

15 PAUL BROWN: Yeah. 32-139.

16 COMMISSIONER CHRISTMANN: Thank you.

17 PAUL BROWN: Yep.

18 ALJ HOGAN: Commissioner Haugen-Hoffart.

19 COMMISSIONER HAUGEN-HOFFART: Yeah. Thanks,
20 Paul, for being here. I do have a question. You say
21 you farm. Raise crop? Cattle? I mean, do you have
22 cattle, livestock? Can you --

23 PAUL BROWN: Yeah, I guess our business is
24 direct to consumer. So we raise cattle, sheep, pigs,
25 chickens, we have bees for honey, and we direct market

1 right to people's doors.

2 So it is concerning to me too that, you know, we
3 got a lot of livestock that are -- that we make a living
4 off of it. And it is concerning, if there was a break
5 or rupture, what would happen to all of them let alone
6 us that run the place?

7 COMMISSIONER HAUGEN-HOFFART: And I have one
8 more question. You said this was the fifth reroute.
9 Initially was -- was it on your land?

10 PAUL BROWN: First one was supposed to go
11 through Silver Ranch. Then the second reroute went
12 through some of our land and it keep -- it kept
13 progressing east as time went on. And now, to my
14 knowledge, it is east of us 150 feet.

15 COMMISSIONER HAUGEN-HOFFART: So you were never
16 in negotiations with Summit Carbon on --

17 PAUL BROWN: No. I did have to ask the
18 surveyors to kindly get off of our land.

19 COMMISSIONER HAUGEN-HOFFART: Did they have
20 permission to be on your land?

21 PAUL BROWN: They did not.

22 COMMISSIONER HAUGEN-HOFFART: Did they exit your
23 land after you asked them to leave?

24 PAUL BROWN: They did.

25 COMMISSIONER HAUGEN-HOFFART: Okay. No more

1 questions. Thank you.

2 ALJ HOGAN: Mr. Dawson, any questions?

3 SUBSTITUTE DECISIONMAKER DAWSON: Thanks for
4 coming today. No questions.

5 ALJ HOGAN: All right. Thank you.

6 PAUL BROWN: Thank you.

7 ALJ HOGAN: Any other individuals who would like
8 to testify this afternoon or evening, I guess?

9 All right. It's my understanding Summit has one
10 more witness they want to present and perhaps Mr. Pranis
11 wants to testify, and I think we're going to proceed
12 with that rather than come back in the morning. Is
13 everybody okay with that? Yes?

14 All right. Then I'll ask --

15 MR. BENDER: Summit would like to call Jon
16 Schmidt.

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

19 JON SCHMIDT: Jon Schmidt. It's J-O-N. Last
20 name Schmidt, S-C-H-M-I-D-T.

21 ALJ HOGAN: Mr. Schmidt, were you in the room
22 earlier when I went through the penalties for perjury?

23 JON SCHMIDT: No, but I watched on the internet.

24 ALJ HOGAN: So you heard me go through those?

25 JON SCHMIDT: Yes.

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

3 JON SCHMIDT: Yes.

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

7 JON SCHMIDT: I do.

8 ALJ HOGAN: All right. Thank you.

9 Go ahead, Mr. Bender.

10 **JON SCHMIDT,**

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

13 DIRECT EXAMINATION

14 BY MR. BENDER:

15 Q. Jon, what's your business address?

16 A. It's 2510 Miccosukee Road, Suite 200,
17 Tallahassee, Florida.

18 Q. And by whom are you employed?

19 A. EXP Energy Services.

20 Q. In what capacity?

21 A. Vice president of environmental and regulatory
22 services.

23 Q. And in this particular matter you've been
24 retained by Summit; is that correct?

25 A. Yes. Our company was hired to provide project

1 management support to Summit for permitting and
2 environmental surveys.

3 Q. And in some of the previous hearings you offered
4 oral testimony; is that correct?

5 A. Correct.

6 Q. But for today's hearing you prepared some
7 written testimony; is that correct?

8 A. Correct.

9 Q. Was that testimony true and correct at the time
10 that you prepared it?

11 A. Yes.

12 Q. And is it true and correct as you sit here
13 today?

14 A. Yes.

15 Q. And now, Jon, what I've done with some of the
16 other witnesses I'd like to do with you as well, and
17 that's not have you go through every question that is in
18 your written testimony or every answer that's in your
19 written testimony, but let's just provide a summary for
20 the Commission and the Commission staff. Do you
21 understand that?

22 A. Yes.

23 Q. Okay. Let's start then about what the purpose
24 of your testimony is.

25 A. Provide an update of the environmental

1 information that was part of the PSC application to
2 update for the current route as well as additional
3 surveys that were completed after the initial hearing.

4 Q. So you provided after -- or after the request
5 for reconsideration, you prepared certain additional
6 studies and reports; is that correct?

7 A. Correct. We updated certain tables that were in
8 the application to correspond with the current route as
9 well as the additional surveys. There were some reports
10 in the appendices and reports filed with the SHPO's
11 office.

12 Q. And let's go through each one of those and not
13 in detail but just generally speaking what some of those
14 reports concerned.

15 A. In Appendix 7 there is a wetland delineation
16 report which was updated to the current route and the
17 reduced corridor width as well as additional surveys.
18 Also in that appendix was an endangered species report
19 which included, again, reduction of the corridor, the
20 new route, and additional surveys. We updated the weed
21 management plan for additional consultations we had with
22 the weed boards in each county. The HDD plan was
23 updated. I think that's it, if I remember correctly.

24 Q. Does the route or corridor cross any avoidance
25 or exclusion areas?

1 A. Yes. So the original route across the Missouri
2 River crosses a U.S. Fish and Wildlife designated
3 critical habitat for the piping plover. That hasn't
4 changed. That's a directional drill. And Fish and
5 Wildlife and the Corps have agreed that we've avoided
6 that habitat.

7 There's several categories of avoidance areas.
8 There's waterfowl production areas, the residences,
9 which other witnesses have talked to, geologically
10 unstable areas, which was discussed by another witness.
11 We cross through service areas for rural water
12 districts. And I believe that's it.

13 Q. And the order that was issued denying Summit's
14 application, it had some discussion about game
15 management areas. Do you recall that?

16 A. Yes.

17 Q. And was there some confusion in your mind in how
18 the Commission addressed the issue of game management
19 areas?

20 A. I don't know if there was confusion on the part
21 of the commissioners, but I know it was characterized as
22 a wildlife management area probably in the initial
23 application. Fish and Wildlife considers those prairie
24 pothole wetland easements. Waterfowl protection is a
25 secondary benefit. Regardless, it's an avoidance area

1 and we avoid all of them through HDD on the current
2 route.

3 Q. And talk to us a bit about the Class III
4 cultural resources report that was filed with SHPO?

5 A. So there was another firm that was involved in
6 conducting the cultural resource surveys in 2021 to
7 2022. They prepared an initial report, which the SHPO
8 didn't accept. Even though they followed the protocol
9 that the SHPO agreed with, there were some issues with
10 the report itself. Since that time, that consulting
11 firm has been released.

12 Our firm was asked to pick up that report. We
13 revised it for the SHPO. There was a lot of
14 back-and-forth because they had us add additional work
15 that was completed after the first firm was done. They
16 had us reformat a lot of the appendices and so forth.

17 Since then we've also filed a second volume
18 which covers the surveys from 2023. So now the SHPO's
19 reviewing both volumes, and correspondence as of this
20 week is, you know, they're getting close to getting
21 through those.

22 Q. Jon, in my experience, many times the Commission
23 will issue an order that's subject to SHPO concurrence.
24 Are you familiar with that procedure?

25 A. Yes.

1 Q. And if that happens in this case, if the permit
2 is issued and it's subject to SHPO concurrence, will
3 Summit start construction on the pipeline before it gets
4 SHPO concurrence?

5 A. It won't start construction in any area until an
6 agency has cleared that area. So if we have concurrence
7 in Oliver County for all the archaeology sites in that
8 county, we can start work there if we have all the other
9 permits, but areas where they have not finished their
10 review we can't start work.

11 Q. Okay. And one of the requirements in the
12 Commission statutes and rules has to do with notifying a
13 number of agencies. And did you notify that list of
14 agencies the first go-around?

15 A. Yes. Summit did so and provided a table in
16 January, I believe, of this year of all the updates.

17 Q. And after the Commission granted the request for
18 reconsideration and a rehearing, did Summit provide any
19 additional notice to that same list of agencies?

20 A. Yes. In January they sent out letters to all
21 the agencies. And since then we've held meetings with
22 DEQ, Game and Fish, Department of Water Resources, Corps
23 of Engineers, and others.

24 Q. Can you provide for the Commission and the
25 Commission staff any noteworthy responses to that second

1 round of notifications to the list of agencies?

2 A. I think a few agencies responded, had no
3 concerns, and our meetings have not indicated any
4 concerns.

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

7 ALJ HOGAN: Mr. Pelham, any questions?

8 MR. PELHAM: Thank you.

9 CROSS EXAMINATION

10 BY MR. PELHAM:

11 Q. Mr. Schmidt, if agencies indicate concerns, what
12 is it that Summit is going to do?

13 A. Depends on the concern, I guess. I mean, we
14 received some additional correspondence in the first
15 application about drilling some rivers which we have
16 since incorporated, so if it's concerns like that.

17 Q. If concerns are noted by agencies, will Summit
18 notify the Commission of those concerns?

19 A. I assume they'll send us something in writing
20 and, yes, it would be filed.

21 Q. Well, send you something in writing, but is
22 Summit going to send that to the Commission --

23 A. Yes.

24 Q. -- then to notify the Commission? All right.

25 The Class III survey, what is -- what are the

1 issues? What's going on? I mean, because we've got a
2 firm that's been released and that's not common. And
3 I'm not going to get into the specifics --

4 A. Yeah.

5 Q. -- release, but what is going on and what's the
6 disconnect with SHPO and Summit?

7 A. Well, you know, you have a new SHPO which was
8 brought in about the time our first application was
9 filed. So there's been changes in the staff and how
10 they're reviewing these projects.

11 I've been in this business for 38 years, worked
12 with every state SHPO pretty much. This is not an exact
13 science. The archaeologists will tell you you follow a
14 set procedure in your surveys. Then you develop a
15 recommendation. They review the data and your
16 recommendation and they either concur or they don't
17 concur. So there's a lot of back-and-forth. It's not a
18 one-and-done where you write the report and you get the
19 letter saying they concur. I've never seen that happen.
20 It takes a lot of back-and-forth.

21 We have hundreds of miles -- keep in mind, we've
22 surveyed not only the route that's before you but every
23 previous route. So they have to still review that and
24 agree with that, because those records go into the
25 SHPO's files. So even if it's no longer on the project,

1 there's hundreds of sites that have to be reviewed.

2 Q. Understand. It looks like the last
3 correspondence that was sent, is the ball in SHPO's
4 court as far as Summit is concerned?

5 A. Yes. And we're in communication with them every
6 week. As they get the review done, "Hey, can you
7 provide us this," and we'll send them whatever they
8 need.

9 Q. And it appeared in your testimony that -- your
10 prefiled testimony April 12th was the last documentation
11 provided to SHPO; is that right?

12 A. Correct, yes.

13 Q. Have they given any indication as to when they
14 will complete the review of that? I mean, I'm not going
15 to quote you but it just --

16 A. Well, they have 30 days usually, but they can
17 take longer if they want so...

18 Q. As far as the game management areas, and I know
19 you provided testimony as to Mr. Bender's questions, but
20 I just want to confirm, the game management areas that
21 were identified were the Richland County Waterfowl
22 Production Area, the Sargent County Waterfowl Production
23 Area, the Dickey County Waterfowl Production Area, the
24 McIntosh County Waterfowl Production Area, Emmons County
25 Waterfowl Production Area, Burleigh County Waterfowl

1 Production Area. Those are all going to be HDD drilled
2 and avoided; is that correct?

3 A. Correct. It's shown on the map books as well.

4 Q. Any consultation with the Army Corps of
5 Engineers for the river crossings in North Dakota?

6 A. Yes. We started working with them back in late
7 '21, early '22. We filed an initial nationwide permit
8 pre-construction notification package with them in '22.
9 It's since been put on hold because of the route changes
10 that are being undertaken in South Dakota and North
11 Dakota. But we meet with them every two weeks, have
12 phone calls with them. They've reviewed pretty much all
13 the data we have to date. No concerns identified with
14 the river crossings.

15 Q. When you say no concerns with river crossings,
16 is there a permit that's required?

17 A. So Nationwide Permit 58 is a general permit
18 that's for utilities such as this. And so this permit
19 would be issued after their review of all the water body
20 crossings, wetland crossings.

21 Q. So Summit is waiting on the approval from the
22 Corps on --

23 A. We have to refile once the route is finalized.
24 And once they've reviewed that, it takes them several
25 months. Then they'll issue a nationwide permit.

1 Q. So even the route, as it were, as far as the
2 Missouri crossing as well as James River or Sheyenne, I
3 don't think those have changed, there's still a
4 requirement to resubmit even though those crossings
5 haven't changed; is that correct?

6 A. Correct.

7 Q. I heard some testimony from a landowner,
8 Ms. Elkins, as to the geologic instability and there was
9 mention of field studies for landslides. Are you
10 familiar with field studies for landslide or areas prone
11 for geologic instability?

12 A. It wasn't under our scope, but I think Jimmy
13 Powell mentioned when the North Dakota Geological Survey
14 identified areas of concern, Summit hired two different
15 firms. One investigated those areas in the field and
16 another firm actually looked at lateral stream migration
17 to make sure that the crossing lengths and burial depths
18 would be properly designed for any future lateral
19 migration. So both of those studies were handled by
20 Summit. We didn't manage those.

21 Q. And as far as -- I'm just wondering just in
22 terms of practicality, is it practical or is it
23 feasible, rather, to do a field survey for an entire
24 route for geologic instability, in your opinion?

25 A. I've not really seen it done in a lot of other

1 projects I worked on. They use a lot of tools. Like
2 this -- geologic survey is using recent LiDAR data,
3 which is data collected from airplanes. It gets really
4 detailed topographic mapping. They -- they like that
5 data. They're very confident in it. And that's why
6 they did a separate review from the USGS which has its
7 own data set. So there's a lot of tools out there.

8 I did a massive project in Alaska where they
9 didn't walk every foot. They used these tools. They
10 did selected studies in certain areas. And that's what
11 the Geologic Survey recommended as well here.

12 Q. And if that was recommended here, do you know if
13 Summit is doing that?

14 A. Well, they did for the initial pass that the
15 Geologic Survey reviewed, yes.

16 Q. And as I understand it, and my understanding
17 could be incorrect so I'll admit that, but my
18 understanding is there was a desktop survey that was
19 done for areas that were prone to geologic instability;
20 correct?

21 A. Correct.

22 Q. Those are areas that was -- that the LiDAR was
23 done; correct?

24 A. That was the initial pass by the Geologic
25 Survey. They identified the areas. Then they hired a

1 firm and went out in the field and looked at them and
2 studied them, gave the report to the Geological Survey
3 to review.

4 Q. So only those areas were --

5 A. Field --

6 Q. -- field tested, for lack of a better term,
7 non-scientific term.

8 Any other areas on the proposed route that would
9 merit the field studies, in your opinion?

10 A. I'm not a geologist and they handle that scope
11 of work. They hired two really good firms to do that
12 work. I would imagine if the State felt that it was
13 needed, they would have said "You need to survey, you
14 know, this part of the county" or -- but I've not seen
15 projects whole surveyed for geology for the whole
16 length.

17 Q. Thank you, sir. I don't have any other
18 questions for you.

19 ALJ HOGAN: Mr. Schock, any questions?

20 Mr. Braaten, any questions?

21 MR. BRAATEN: Yes. Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. BRAATEN:

24 Q. Does Summit need to conduct an on-the-ground
25 survey on each parcel of property in order to construct

1 the pipeline on that property?

2 A. Depends on the permit or review which species or
3 -- what are you talking about? What aspect?

4 Q. Can you build the pipeline on properties if you
5 haven't been able to get out there to do survey?

6 A. There's certain surveys that are required on the
7 ground. Cultural resource requires you to be on the
8 ground. You can't do that remotely, as much as we would
9 like. It still requires digging shovel tests. There
10 are some species that the Fish and Wildlife will require
11 on-the-ground surveys for. But for, say the Corps of
12 Engineers, you can do desktop for the Corps, but lately
13 they've required you to get out and do as much as you
14 can on the ground because desktop is desktop.

15 Q. When you say "do as much as you can on the
16 ground," would they allow you to move for -- are you
17 talking about the Corps right now?

18 A. Uh-huh. Yes.

19 Q. Would they allow you to move forward if you
20 hadn't been on the ground on each parcel?

21 A. They would, but they would also require -- so
22 their Nationwide Permit 58 review requires Section 106
23 consultation, which is archaeology, and endangered
24 species consultation, which is Fish and Wildlife. So
25 whatever conditions they have for on-the-ground surveys,

1 the Corps would put into their nationwide permit.

2 Q. When you go out onto a property to conduct
3 activities in support of the wetland delineation report,
4 can you describe what they're doing on the actual
5 property?

6 A. For wetlands, they are looking at the
7 vegetation, filling in data sheets on the types of
8 vegetation. They're taking soil probes to describe and
9 characterize the soils. And they're also looking for
10 benchmarks of hydrology. That would be used to identify
11 the boundary of a water of the U.S. And then they GPS
12 that with a GPS receiver and fill in their data sheets.

13 Q. What do they do with that information?

14 A. It's brought into a GIS system and then the
15 footprint of the project is overlain on it and they --
16 we use that to calculate the temporary and permanent
17 impacts as part of the Nationwide 58 Permit application.

18 Q. And so the information on the wetlands and
19 specifically the delineation of boundaries done by your
20 folks is something that then gets reported to the
21 Federal Government?

22 A. Yes.

23 Q. Are you aware of times when the delineation of
24 wetlands through one of your reports causes problems for
25 farmers?

1 A. I've not -- I've not heard any.

2 Q. Do you actually mark on with like a shapefile,
3 for example, the exact boundaries of the wetlands when
4 you delineate them?

5 A. Yes. We use a GPS receiver in the field to walk
6 the boundary of the feature.

7 Q. Did you make any attempt to match that up with
8 the Fish and Wildlife easements the Federal Government
9 might have on the property?

10 A. Actually, we request -- that information is not
11 publicly available so we have to -- we do a FOIA request
12 every couple of months with the Farm Service Bureau, the
13 U.S. Fish and Wildlife Service, all the agencies that
14 hold these easements. We provide them with the route
15 and they tell us where the protected areas are.

16 Q. And do you provide them then with your
17 information regarding the delineation of those wetlands?

18 A. Yeah, they're a reviewer. Fish and Wildlife's a
19 reviewer, yeah.

20 Q. And when the staffers are going out looking for
21 endangered species habitat and endangered species, can
22 you describe a little bit about what they're actually
23 doing on the ground?

24 A. Well, it varies by species. So plant species,
25 you're doing vegetative surveys, filling in data sheets.

1 Animal species, you're looking for the habitat and
2 you're qualifying the condition of that habitat. Fish
3 and reptiles are -- we hire specialty surveyors, people
4 that specialize just in that particular species and they
5 do -- we don't do any trapping. The only trapping we've
6 done is for the American burying beetle in Nebraska.
7 But up here we haven't done any trapping. So it's
8 primarily characterizing the habitat and then qualifying
9 the condition of the habitat, whether it's high, medium,
10 or low.

11 Q. Do you also note the presence of endangered
12 species if --

13 A. If they're seen, yes.

14 Q. And what do you do with that information after
15 you've gathered it?

16 A. It's provided to the Fish and Wildlife Service
17 on a confidential basis.

18 Q. And when you say "confidential basis," what do
19 you mean by that?

20 A. So the Fish and Wildlife Service likes us to
21 provide the information as privileged and confidential
22 to protect the location of species.

23 Q. But you're still reporting to the Federal Fish
24 and Wildlife Service the location of any potential
25 endangered species habitat on specific parcels of

1 property?

2 A. Correct.

3 MR. BRAATEN: No further questions.

4 ALJ HOGAN: Mr. Pranis, any questions?

5 MR. PRANIS: No, Your Honor.

6 ALJ HOGAN: Commissioner Christmann.

7 COMMISSIONER CHRISTMANN: I do.

8 Do I understand your testimony right, on page 6,
9 I'm reading this as that there are six structures that
10 need -- within 500 feet so you would need waivers. And
11 one of them was on the original route but five of them
12 are on the new reroute.

13 THE WITNESS: Correct.

14 COMMISSIONER CHRISTMANN: And they've all been
15 obtained?

16 THE WITNESS: Correct.

17 COMMISSIONER CHRISTMANN: And then Exhibit A is
18 those six waivers?

19 THE WITNESS: Correct.

20 COMMISSIONER CHRISTMANN: Since we denied the
21 project in August so the reroute would have been,
22 presumably, developed after that, how is it that four
23 out of these six are dated before August of 2023?

24 THE WITNESS: I wasn't involved in negotiating
25 with the landowners. I just put them as part of the

1 application. So you'd have to ask Summit.

2 COMMISSIONER CHRISTMANN: Okay. Then I'm going
3 to ask one more of you since you're there on their
4 behalf and they can figure out how to answer this, but
5 would you turn to that Exhibit A?

6 THE WITNESS: I don't have a copy in front of
7 me.

8 COMMISSIONER CHRISTMANN: It's probably not
9 necessary. Let me read a sentence. "By signing the
10 waiver agreement, you as owner of the inhabited
11 residence on the property acknowledge that you do not
12 object to the placement of one or both of Summit Carbon
13 Solutions LLC's pipelines within 500 feet of said
14 inhabited residence."

15 What does "or both" mean?

16 THE WITNESS: I can't answer that. I didn't
17 draft those documents or negotiate with the landowners.

18 COMMISSIONER CHRISTMANN: We have subsequent
19 hearings coming so I'll look forward to an answer to
20 those two questions. No others. Thank you.

21 ALJ HOGAN: Commissioner Haugen-Hoffart.

22 COMMISSIONER HAUGEN-HOFFART: Mr. Christmann
23 asked my question so no.

24 ALJ HOGAN: Mr. Dawson, any questions?

25 SUBSTITUTE DECISIONMAKER DAWSON: No questions.

1 ALJ HOGAN: Any redirect, Mr. Bender?

2 MR. BENDER: No redirect.

3 ALJ HOGAN: Mr. Pelham, any other questions?

4 MR. PELHAM: No. Thank you.

5 ALJ HOGAN: Mr. Schock?

6 Mr. Braaten?

7 MR. BRAATEN: No, Your Honor.

8 ALJ HOGAN: Mr. Pranis?

9 MR. PRANIS: No, Your Honor.

10 ALJ HOGAN: All right. Thank you, Mr. Schmidt.

11 All right. And, Mr. Pranis, did you want to
12 provide some testimony?

13 MR. PRANIS: If I may briefly.

14 ALJ HOGAN: Sure, yep.

15 MR. PRANIS: Would you like me to go --

16 ALJ HOGAN: I think so. That might be easier.
17 We can all see you.

18 Like our other witnesses, I'll have you state
19 your full name and spell your last name for the record.

20 MR. PRANIS: Kevin Pranis, P-R-A-N-I-S.

21 ALJ HOGAN: And, Mr. Pranis, did you hear me go
22 through the penalties for perjury earlier?

23 MR. PRANIS: I did, Your Honor.

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

1 MR. PRANIS: I do.

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

5 MR. PRANIS: I do.

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

7 **KEVIN PRANIS,**

8 being first duly sworn, testified as follows:

9 MR. PRANIS: Thank you. So I'll keep this very
10 brief. I just wanted an opportunity to update the
11 testimony that we've provided previously in this record
12 based on changes that Summit made to the project as well
13 as work that we've done since the testimony was
14 provided, including conversations with investors and
15 carbon management experts.

16 You have already in the record before you
17 testimony from Lucas Franco on the short- and long-term
18 economic impacts of jobs and career opportunities
19 created by the project and you also have testimony from
20 Mr. Evan Whiteford on the skills and experience of the
21 pipeline construction workforce represented by LIUNA and
22 fellow crafts as well as the experience and capacities
23 of Precision Pipeline, the pipeline contractor selected
24 to build portions of the project previously. And,
25 finally, Mr. Franco and Mr. Whiteford both testified to

1 the potential to recruit and develop additional skilled
2 local workforce from North Dakota and from the
3 communities surrounding the pipeline.

4 As the Commission knows, Summit has made a
5 number of changes designed to strengthen the project and
6 address concerns raised by the Commission, landowners,
7 and other stakeholders including our organization.
8 These changes not only include changes to the route but
9 also to the contracting and workforce plans,
10 specifically selection of a contractor with extensive
11 experience building similar large pipeline projects in
12 North Dakota and the region. We believe these changes
13 will work to minimize risks and maximize the benefits
14 associated with the project.

15 Specifically in terms of the economic impact, as
16 Mr. Franco's testimony indicated before, there is a net
17 nearly hundred million dollar economic impact associated
18 in benefits, including benefits associated with health
19 and retirement benefits and training that's associated
20 with use of a -- of a 50 percent local workforce, which
21 we can now reasonably expect. So, in other words,
22 that's almost -- it's \$95 million in additional benefits
23 on top of the benefits that we were anticipating based
24 on our prior testimony because of changes that Summit
25 has made to the project. That's not including some

1 additional mileage of pipeline which will obviously
2 require additional work and result in additional
3 economic investment or the impacts of inflation.

4 Second, workforce and contractor capabilities.
5 We had raised some questions before in terms of
6 particularly the most sensitive portion of the route,
7 the main line portion that's going through Morton County
8 and Burleigh County. And I'm happy to report that we
9 have full confidence in the company's current proposal
10 in terms of the most capable, safest workforce and the
11 most capable contractor that you could possibly ask for,
12 a contractor that has experience building the largest
13 pipeline projects that have been built in the Upper
14 Midwest including both Dakota Access Pipeline as well as
15 the Line 3 pipeline.

16 And, finally, in terms of development of skilled
17 local workforce, that the opportunities that will be
18 created for local workers on this job as a result of
19 changes that Summit has made to the project will be
20 increased substantially, meaning that we can improve the
21 impact of the project on development of skilled
22 construction workforce for future pipeline and other
23 energy projects.

24 I think the other thing that's important for
25 everyone to know is that we're going to have skilled

1 North Dakotans working on this project who understand --
2 that know the quality of the work they do affects them
3 and affects their neighbors. In particular, I point out
4 that our membership is, within North Dakota,
5 concentrated very much in this area. Our members have
6 worked for generations in the power plants as well as on
7 pipelines. It's those same members who live
8 particularly in Burleigh and Morton County and Oliver
9 County who will be working on this project, helping to
10 build it. These are members who not only have extensive
11 skills and experience and access to training. They're
12 also people who understand that this project, because
13 they live near the project and because they are
14 neighbors to the folks who are living near the project,
15 affects them and they have a direct interest in making
16 sure that it's built to the absolute top, best quality,
17 both in terms of what's underground and its safety as
18 well as the proper restoration of the land that's
19 impacted.

20 Finally, I would say the project is important to
21 our Minnesota members as well. There's plans for
22 pipeline construction connecting ethanol plants in
23 Minnesota. Those plans depend entirely on approval of a
24 project that ultimately can bury carbon in North Dakota.

25 There was some discussion of the Navigator

1 pipeline project. And we were working closely with
2 Navigator and very excited about that project.
3 Unfortunately, the Navigator project is no more because
4 of the regulatory environment in Illinois where they had
5 planned to do the carbon sequestration. It's an
6 unfortunate problem, it's a political problem, but it
7 means that there isn't a second project with the
8 potential to do what Summit does. There's only one
9 project.

10 And our concern is that if this pipeline is not
11 approved, there won't be any large pipeline projects
12 providing what Mr. Brandenburg described as the
13 important benefits for the agriculture industry, for
14 ethanol producers. There won't be any other options.

15 I can certainly say our -- in addition to
16 representing members on the ground, we also manage
17 pension funds that invest in projects like Summit and
18 like Navigator. And I can say that the signal that has
19 been sent by, I think, first the failure of Navigator
20 and the concerns over Summit are very strongly heard in
21 the investment community as they look at these projects.

22 And so we believe that this is not only the
23 first train leaving the station, we want to make sure
24 it's not the last train ever leaving the station in
25 terms of those opportunities, whether it's opportunities

1 for our members to build safe pipelines and continue to
2 put their skills to work, or whether it's the
3 opportunity for the agriculture economy or, frankly, for
4 many of the others that -- you know, for example, our
5 energy industry that needs to figure out how to
6 decarbonize to be able to continue to export
7 successfully. So I appreciate that.

8 And, last, I will say that I would absolutely --
9 I served for the past several months as chair of a
10 working group in the state of Minnesota that's looking
11 at clean fuel standards and alternative lower-carbon
12 fuels, and I can say that I endorse everything that
13 Mr. Brandenburg said about where the industry is headed
14 and the essential importance of carbon management as a
15 tool to make sure that our agriculture industry can help
16 meet energy needs.

17 Thank you. And I'm available for any questions.

18 ALJ HOGAN: Thank you.

19 Mr. Bender, any questions?

20 MR. BENDER: Mr. Pranis, thank you for your
21 testimony and I don't have any questions.

22 ALJ HOGAN: Mr. Pelham, any questions?

23 CROSS EXAMINATION

24 BY MR. PELHAM:

25 Q. Mr. Pranis, the last time you were here there

1 was cause for concern of your organization and one of
2 the contractors. What changed?

3 A. Thank you, Mr. Pelham. The contractor changed.
4 So we are now -- the company's current plan, as we
5 understand it, is to rely on Precision Pipeline. And we
6 have testimony already in the record from Mr. Whiteford
7 who's worked with and for Precision Pipeline on the work
8 that they've done.

9 Our concern was primarily with the main line
10 construction as we know there's a lot of concerns about
11 safety that have been raised here and those are concerns
12 that sound very similar to concerns we hear elsewhere
13 about oil and gas pipelines. But we think that the --
14 we're very familiar with Precision's practices and have
15 absolute confidence in terms of the best quality
16 construction of pipeline that will be applied to this
17 project.

18 Q. So your testimony, as I understand it, is that
19 the company -- Summit is going to utilize Precision
20 Pipeline solely for the construction of the proposed
21 line; is that correct?

22 A. It's our understanding that that's the plan for
23 the state of North Dakota. I think there will be other
24 companies used in other areas. And our understanding is
25 that they're looking -- across the footprint they're

1 looking at a list of contractors that are all of sort of
2 similar sort of capabilities and quality to Precision,
3 but our current understanding is Precision is the
4 contractor that's been tapped for North Dakota.

5 Q. And I'm -- a bit imprecise but working on
6 understandings, can you be more specific as to what --
7 have they told you this? Have they written this to you?
8 What's the understanding specifically?

9 A. That has been our conversation with Mr. Powell
10 and with the company. And our experience has been that,
11 you know, they've been very straightforward, I'll say.
12 When we had disagreements they were straightforward and
13 when we have agreements they've been straightforward.

14 Q. Thank you, sir. No further questions.

15 ALJ HOGAN: Mr. Schock, any questions?

16 Mr. Braaten?

17 MR. BRAATEN: No, Your Honor.

18 ALJ HOGAN: Commissioner Christmann.

19 COMMISSIONER CHRISTMANN: I only want to say
20 it's a little outside of the normal way we do things so
21 I appreciate your patience in allowing the public
22 comments to go so those people can get on with their
23 day. Thank you for your patience.

24 MR. PRANIS: Thank you.

25 ALJ HOGAN: Commissioner Haugen-Hoffart.

1 COMMISSIONER HAUGEN-HOFFART: No questions.

2 ALJ HOGAN: Mr. Dawson.

3 SUBSTITUTE DECISIONMAKER DAWSON: No questions.

4 ALJ HOGAN: All right. Well, thank you,
5 Mr. Pranis.

6 That concludes the scheduled testimony for
7 today. I'm just going to go around the room to see if
8 there's anything else the parties want to put on the
9 record before we conclude.

10 Mr. Bender.

11 MR. BENDER: Not at this time, Your Honor.

12 ALJ HOGAN: Mr. Pelham.

13 MR. PELHAM: Your Honor, I think there were some
14 late-filed exhibits -- or I suppose they wouldn't be
15 late-filed exhibits, but the commissioners and staff
16 have requested. So my thinking would be is to
17 coordinate with Mr. Bender as far as getting that
18 information for the next scheduled hearing. But I don't
19 have anything else. Thank you.

20 ALJ HOGAN: All right. Is that agreeable,
21 Mr. Bender?

22 MR. BENDER: That's agreeable.

23 ALJ HOGAN: Mr. Braaten, anything else?

24 MR. BRAATEN: Nothing further, Your Honor.

25 ALJ HOGAN: All right. And I'll just ask if the

1 commissioners have any closing remarks before we
2 conclude.

3 Commissioner Christmann.

4 COMMISSIONER CHRISTMANN: I will just say I
5 didn't even take the time to make a note of the dates,
6 but there are -- after this, what was potentially a
7 multi-day hearing, there are future days scheduled for a
8 hearing in Wahpeton, I believe is the next one, followed
9 by Linton. And because a couple of the intervenors did
10 not come to this, we had discussed previously a need for
11 like a technical hearing that I expect will be virtual
12 whereby those -- specifically those intervenors who are
13 not here and that requested the opportunity would be
14 required to present their witnesses and cross-examine
15 the Summit witnesses. But those dates aren't set.
16 Staff has been working with staff, but that's where
17 we're at right now. But they will, of course, be made
18 public.

19 ALJ HOGAN: Just note that the date for the
20 Wahpeton hearing is May 24th and the date for the Linton
21 hearing is June 4th.

22 Commissioner Haugen-Hoffart, any closing
23 remarks?

24 COMMISSIONER HAUGEN-HOFFART: I would just thank
25 everyone for staying here and participating, and have a

1 good evening.

2 ALJ HOGAN: And Mr. Dawson, any closing remarks?

3 SUBSTITUTE DECISIONMAKER DAWSON: Thank you for
4 coming today. We had a lot of good information and I
5 appreciate it.

6 ALJ HOGAN: All right. Thank you. We will
7 stand in recess in this case.

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Dated this date of October 15, 2025.

Lisa A. Hulm

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\$	155:24 110 [5] - 124:8, 124:21, 124:22, 183:24, 184:6 113 [2] - 244:1, 244:6 113.5 [1] - 238:10 12 [4] - 43:22, 86:7, 143:2, 273:2 12,000-plus [1] - 219:13 120 [1] - 123:20 12th [1] - 288:10 13 [11] - 15:12, 15:16, 16:4, 71:15, 72:16, 162:4, 169:7, 169:12, 169:18, 169:21, 169:24 130-79 [1] - 162:3 13th [1] - 257:11 14 [6] - 15:12, 20:9, 38:23, 90:9, 162:4, 169:10 14-141-80 [1] - 197:13 140-81 [1] - 148:14 15 [10] - 60:7, 69:19, 143:9, 162:4, 164:9, 169:9, 169:11, 176:7, 236:1, 237:11 15-minute [1] - 138:4 150 [4] - 22:8, 27:19, 276:7, 278:14 150,000-acre [1] - 58:23 15th [4] - 7:6, 119:4, 252:4 16 [3] - 171:12, 173:24, 174:10 160 [1] - 197:14 16th [1] - 258:25 170,000 [1] - 58:20 175th [1] - 152:9 18 [2] - 91:9, 91:13 180 [2] - 147:17, 147:18 1804 [4] - 49:22, 56:2, 72:20, 72:21 1806 [1] - 71:16 1855 [1] - 8:13 1885 [1] - 232:9 188th [7] - 142:7, 147:19, 147:20, 147:22, 150:17, 150:21, 152:8 18th [2] - 7:15, 153:21 19 [1] - 210:1 1900s [1] - 232:8 1902 [1] - 232:8 199 [1] - 147:22 19th [1] - 252:4 1:00 [1] - 86:9	2	29th [2] - 119:4, 252:3 2:25 [1] - 138:14	440 [1] - 124:20 45 [3] - 220:2, 225:8, 225:15 45Q [6] - 31:7, 31:10, 31:12, 43:23, 204:15, 204:20 49 [1] - 104:16 4th [3] - 7:3, 258:22, 309:21
'	'21 [1] - 289:7 '22 [3] - 90:6, 289:7, 289:8 '70s [1] - 10:21 '80s [1] - 10:21	2,000 [1] - 21:22 2,000-mile [1] - 172:13 2,100 [1] - 180:22 20 [11] - 29:17, 60:7, 69:16, 88:12, 88:17, 148:14, 176:7, 182:18, 191:12, 236:11, 248:16 20-foot [1] - 133:16 20-plus [1] - 69:17 200 [8] - 22:9, 110:22, 111:8, 111:12, 111:19, 112:3, 269:2, 280:16 200-foot [2] - 112:20, 132:23 2010 [1] - 210:13 2016 [1] - 219:12 2020 [2] - 41:11, 173:1 2021 [2] - 92:6, 284:6 2022 [15] - 38:9, 38:10, 38:24, 41:11, 47:4, 47:25, 57:17, 75:17, 119:4, 219:12, 252:3, 252:4, 284:7 2023 [14] - 7:3, 7:6, 7:15, 88:25, 96:17, 119:4, 119:5, 235:13, 252:5, 257:11, 265:10, 284:18, 297:23 2024 [6] - 4:18, 4:21, 38:10, 38:25, 47:24, 108:16 2025 [1] - 38:10 2045 [1] - 80:12 21 [1] - 197:10 21-140-81 [1] - 197:11 210 [1] - 233:17 21st [2] - 4:21, 252:5 22 [2] - 276:2, 277:13 22nd [1] - 4:18 23 [1] - 143:18 2321 [1] - 87:18 23rd [2] - 259:12, 259:14 24-inch [4] - 6:24, 173:22, 180:22, 218:15 24th [1] - 309:20 25 [2] - 62:2, 262:8 2510 [1] - 280:16 25th [1] - 252:3 26 [1] - 152:11 27 [1] - 121:8 28 [3] - 62:2, 231:22, 268:2 281 [3] - 193:23, 193:24 29 [1] - 231:25	3	3 [3] - 37:20, 130:17, 302:15 3,500 [1] - 174:2 3.1.4 [1] - 104:21 30 [14] - 22:7, 27:4, 59:23, 59:25, 123:22, 201:1, 205:4, 217:1, 217:3, 229:17, 243:5, 248:16, 268:21, 288:16 30-some [1] - 82:1 300 [1] - 110:22 300-foot [1] - 90:21 300-foot-wide [1] - 132:22 305 [1] - 173:1 30th [1] - 252:3 32 [5] - 19:24, 48:2, 131:24, 155:25, 162:17 32-139 [1] - 277:15 320 [1] - 6:23 320-home [1] - 161:4 33 [1] - 244:5 3442 [1] - 46:8 350 [4] - 60:4, 118:2, 276:10, 276:18 36 [1] - 270:5 38 [1] - 287:11
1	1 [6] - 15:12, 15:15, 16:4, 55:17, 235:13, 276:2 1,100 [1] - 271:13 1,200 [2] - 143:3, 143:18 1,320 [1] - 207:18 1,400 [1] - 173:23 1,500 [1] - 21:22 1,600 [1] - 143:4 1,740 [1] - 174:2 1-square-mile [1] - 173:2 1.1 [3] - 37:23, 37:24, 38:3 1.2 [1] - 38:4 1.5 [3] - 37:23, 37:24, 104:8 1.53 [1] - 210:25 1.7 [1] - 59:22 1.78 [1] - 233:15 10 [10] - 4:18, 29:20, 32:15, 86:7, 113:15, 123:21, 133:16, 137:6, 137:7, 176:7 10-year [2] - 29:10, 32:4 100 [4] - 19:6, 22:12, 110:23, 194:8 100-foot [1] - 111:6 106 [1] - 293:22 10:30 [1] - 246:20 10th [2] - 119:4, 126:1 11 [3] - 61:25, 94:18,	4	4 [13] - 20:8, 23:9, 24:6, 38:18, 38:19, 57:5, 71:9, 114:1, 114:9, 114:14, 130:1, 134:10, 273:7 4.5 [1] - 6:23 40 [6] - 24:5, 83:7, 117:21, 117:23, 118:1, 268:21 40-acre [12] - 197:20, 198:1, 198:3, 198:13, 202:6, 202:7, 202:9, 202:14, 207:3, 207:7, 207:14 40-foot [1] - 123:23 400 [4] - 60:4, 183:25, 233:19, 235:16 41-78 [1] - 216:25 42 [5] - 90:4, 90:7, 94:21, 96:23, 276:19 437 [1] - 104:20 44 [1] - 173:1	
		5	5 [7] - 20:1, 74:14, 110:18, 130:2, 130:16, 134:10, 244:19 5,000 [1] - 160:21 50 [7] - 22:7, 27:4, 118:1, 234:22, 236:8, 237:12, 301:20 500 [11] - 143:3, 153:5, 174:5, 174:6, 206:24, 207:22, 227:13, 235:16, 276:22, 297:10, 298:13 500-foot [4] - 96:8, 154:11, 157:2, 276:9 50010 [1] - 87:18 513 [1] - 126:2 53 [1] - 169:10 55 [5] - 94:17, 94:18, 94:19, 94:23, 105:11 550 [2] - 124:19, 233:20 57 [7] - 19:25, 48:2, 59:21, 59:22, 82:2, 131:24, 162:18 58 [3] - 289:17, 293:22, 294:17 58436 [1] - 194:9 58521 [1] - 147:23	
		6	6 [3] - 75:12, 75:19, 297:8 6.2.8 [1] - 118:25 60 [3] - 22:8, 27:19, 60:7 600 [3] - 19:6, 269:3, 271:10 62 [1] - 174:3 63 [1] - 95:4 650-horse [1] - 174:18 6:00 [1] - 167:3	
		7	7 [2] - 236:17, 282:15	

<p>7,000 [1] - 244:19 70 [5] - 59:19, 60:22, 97:22, 236:7 75 [4] - 94:11, 109:4, 236:7, 237:13 76 [1] - 109:4 78 [4] - 94:13, 105:11, 127:18, 217:2 7th [2] - 259:13, 260:5</p>	<p>60:19, 61:14, 62:7, 63:9, 64:5, 65:6, 66:6, 66:9, 70:14, 97:19, 98:16, 101:25, 105:22, 108:2, 109:22, 110:4, 110:8, 113:22, 118:11, 120:3, 120:6, 124:5, 127:4, 130:24, 164:21, 182:4, 186:9, 188:11, 190:23, 197:11, 207:2, 218:12, 220:12, 220:23, 224:10, 236:8, 244:16, 245:25, 293:5, 305:6 abnormal [1] - 236:18 aboveground [1] - 172:14 absence [1] - 36:14 absentee [1] - 184:3 absolute [3] - 234:23, 303:16, 306:15 absolutely [7] - 21:4, 95:18, 178:18, 202:6, 213:18, 213:20, 305:8 accept [4] - 121:25, 123:1, 123:16, 284:8 acceptable [3] - 53:19, 125:14, 133:17 acceptance [1] - 77:16 accepting [2] - 121:23, 217:12 Access [4] - 10:23, 82:9, 96:3, 302:14 access [26] - 42:16, 42:22, 43:3, 43:6, 54:1, 67:19, 68:13, 68:17, 98:18, 105:5, 111:24, 115:10, 115:17, 127:12, 127:13, 127:24, 128:15, 128:20, 131:3, 131:10, 136:6, 136:7, 136:11, 136:15, 210:22, 303:11 accessing [1] - 115:13 accident [5] - 4:3, 12:12, 12:22, 212:6, 225:5 accidental [1] - 212:6 accidentally [1] - 117:4 accommodate [7] - 51:6, 90:2, 98:23, 112:2, 153:16, 154:4, 262:18 accommodates [1] -</p>	<p>119:18 accommodating [1] - 109:18 accommodations [1] - 109:15 according [6] - 170:10, 170:13, 173:1, 210:19, 223:1, 233:15 account [2] - 41:5, 260:24 accountability [1] - 93:20 accountant [1] - 163:7 accrue [1] - 34:20 accrues [1] - 23:5 accurate [7] - 39:1, 66:24, 67:2, 67:3, 89:5, 107:22, 109:2 acid [1] - 211:14 acknowledge [1] - 298:11 acquire [1] - 55:3 acquired [4] - 62:3, 94:25, 109:3, 122:9 acquisition [9] - 94:4, 94:21, 95:2, 95:7, 108:11, 108:22, 109:3, 109:20, 126:16 acre [2] - 244:20, 276:21 acreage [1] - 34:19 Acres [2] - 198:23, 199:1 acres [6] - 58:20, 59:25, 167:10, 197:14, 271:13, 276:19 acronym [1] - 41:14 act [2] - 117:2, 142:21 Act [1] - 130:18 action [5] - 63:25, 136:5, 262:7, 262:12, 263:6 active [2] - 102:9, 126:22 actively [3] - 102:9, 198:6, 239:13 activists [1] - 200:13 activities [3] - 62:11, 92:3, 294:3 activity [1] - 92:25 actual [2] - 148:12, 294:4 adapt [1] - 232:11 add [9] - 19:20, 25:12, 25:13, 33:10, 96:22, 112:1, 112:18, 113:11, 284:14 added [6] - 94:17, 94:24, 102:17, 105:25, 121:7,</p>	<p>218:22 adding [2] - 82:10, 107:13 addition [7] - 12:6, 68:22, 72:23, 105:25, 131:24, 220:9, 304:15 additional [36] - 13:24, 14:5, 32:19, 36:25, 37:8, 40:6, 63:23, 69:3, 76:8, 77:19, 82:11, 102:17, 103:10, 106:13, 129:7, 132:3, 132:9, 178:10, 218:8, 222:7, 223:4, 225:24, 282:2, 282:5, 282:9, 282:17, 282:20, 282:21, 284:14, 285:19, 286:14, 301:1, 301:22, 302:1, 302:2 additionally [2] - 47:10, 80:14 address [22] - 13:25, 19:5, 40:23, 46:7, 52:18, 53:1, 53:16, 68:1, 68:20, 74:13, 87:17, 88:24, 90:1, 112:23, 119:9, 146:1, 147:21, 175:12, 194:7, 265:1, 280:15, 301:6 addressed [10] - 39:9, 89:9, 89:12, 89:17, 91:16, 110:19, 126:3, 145:12, 152:20, 283:18 addresses [1] - 89:11 adds [1] - 121:11 adequate [2] - 154:11, 220:14 adequately [4] - 153:1, 153:22, 221:24, 224:18 adjacent [1] - 227:3 adjust [2] - 101:1, 125:6 adjusted [1] - 153:23 adjustment [2] - 130:22, 259:8 adjustments [9] - 7:13, 19:19, 20:11, 57:25, 89:18, 89:23, 90:12, 130:18, 131:1 Administration [1] - 205:5 administrative [2] - 4:14, 5:9 admit [3] - 51:13, 263:18, 291:17</p>	<p>admitted [1] - 14:9 adults [1] - 142:21 advance [4] - 12:11, 62:10, 62:11, 100:25 advantage [1] - 23:24 adventures [1] - 222:16 adverse [4] - 7:19, 8:1, 180:5, 198:8 advise [1] - 18:3 advised [18] - 18:10, 45:10, 87:5, 141:23, 151:19, 159:6, 171:22, 179:11, 197:3, 209:15, 216:17, 231:12, 256:7, 267:13, 272:9, 275:18, 280:4, 300:2 aerial [2] - 118:1, 118:13 aerials [1] - 228:9 affect [5] - 107:9, 184:5, 204:6, 263:4, 268:3 affected [5] - 178:24, 182:21, 246:9, 267:25, 276:11 affecting [2] - 120:23, 197:15 affects [4] - 184:2, 303:2, 303:3, 303:15 affiliated [1] - 272:17 affirm [1] - 79:16 affirming [1] - 58:8 afford [2] - 187:4, 235:17 afield [1] - 67:21 Africa [2] - 174:1, 174:13 afternoon [16] - 61:24, 86:18, 86:21, 139:11, 141:9, 146:18, 151:7, 158:18, 158:20, 161:9, 167:2, 178:25, 208:20, 254:8, 255:17, 279:8 ag [13] - 24:16, 59:19, 174:16, 196:3, 196:5, 196:6, 245:12, 245:13, 245:20, 245:25, 246:5, 246:10, 246:12 age [1] - 201:24 agencies [13] - 135:18, 205:1, 225:12, 227:25, 285:13, 285:14, 285:19, 285:21, 286:1, 286:2, 286:11, 286:17,</p>
8				
<p>8 [3] - 20:3, 42:17, 210:13 80 [6] - 54:10, 94:22, 95:11, 98:19, 152:11, 238:21 80-plus [1] - 63:17 81 [3] - 94:12, 109:4, 122:8 82 [1] - 66:16 83 [13] - 49:20, 55:25, 71:12, 72:1, 72:5, 148:9, 148:11, 150:25, 171:15, 174:8, 261:17, 261:19 8860 [1] - 194:8 8930 [1] - 267:6 8th [2] - 108:16, 119:5</p>				
9				
<p>9 [2] - 94:13, 113:1 90 [7] - 22:9, 54:2, 95:8, 109:5, 109:7, 114:22, 235:3 90s [1] - 105:9 911 [1] - 223:22 92 [4] - 66:15, 66:17, 95:10, 127:17 93 [1] - 105:9 93rd [1] - 169:12 94 [2] - 73:2, 105:9 9:30 [2] - 4:2, 4:9</p>				
A				
<p>A&M [3] - 92:23, 93:1, 100:21 a.m [1] - 4:18 Aberdeen [1] - 234:5 ability [9] - 30:25, 33:6, 50:24, 54:22, 130:21, 175:11, 199:23, 225:14, 225:21 able [50] - 11:17, 11:21, 27:10, 40:23, 47:14, 50:22, 54:1, 54:8, 54:12, 60:18,</p>				

<p>295:13 agency [9] - 10:17, 12:2, 12:8, 172:19, 175:21, 204:24, 213:7, 213:23, 285:6 agent [4] - 189:12, 189:18, 190:4, 192:23 agents [1] - 189:7 aggravations [1] - 199:20 aggregate [3] - 27:1, 94:23, 109:9 ago [12] - 133:7, 169:10, 180:1, 181:14, 182:18, 184:20, 210:1, 225:6, 233:2, 238:11, 245:19, 245:23 agree [8] - 120:7, 132:25, 136:23, 140:21, 205:14, 212:4, 248:4, 287:24 agreeable [3] - 125:13, 308:20, 308:22 agreed [8] - 14:8, 121:12, 122:16, 124:17, 125:11, 232:4, 283:5, 284:9 agreement [21] - 57:14, 62:22, 67:1, 75:7, 75:11, 75:13, 75:14, 75:16, 98:22, 102:21, 108:10, 111:22, 116:25, 120:25, 121:4, 124:5, 211:25, 222:5, 238:25, 298:10 agreements [7] - 61:8, 107:23, 107:25, 108:3, 110:9, 112:2, 307:13 agrees [2] - 22:16, 122:5 agricultural [4] - 59:17, 202:8, 222:1, 232:9 agriculture [13] - 156:5, 182:15, 183:5, 195:21, 222:2, 237:1, 239:4, 242:17, 246:16, 272:23, 304:13, 305:3, 305:15 ahead [20] - 18:15, 45:15, 51:15, 87:10, 138:21, 142:3, 151:23, 159:10, 172:1, 179:15, 197:7, 209:19,</p>	<p>216:21, 231:16, 256:11, 267:18, 272:13, 275:22, 280:9, 300:6 ahh [1] - 204:6 ain't [1] - 236:22 air [7] - 100:19, 163:4, 200:22, 221:14, 224:12, 224:16, 224:23 airplanes [2] - 235:21, 291:3 airport [1] - 159:16 Alaska [1] - 291:8 alerted [1] - 223:22 aligned [1] - 263:9 Alliance [1] - 248:12 allow [10] - 48:9, 68:9, 106:7, 114:24, 168:15, 168:16, 217:11, 249:22, 293:16, 293:19 allowed [6] - 112:9, 144:6, 146:2, 179:24, 183:20, 205:20 allowing [7] - 34:16, 112:14, 158:21, 183:15, 187:24, 188:19, 307:21 allows [1] - 131:17 alluded [1] - 276:17 almost [8] - 55:22, 94:22, 97:22, 103:9, 117:25, 160:21, 201:23, 301:22 alone [4] - 60:6, 155:21, 243:18, 278:5 alter [1] - 205:20 alternative [2] - 259:22, 305:11 ambiguities [2] - 218:3, 223:11 ambulance [8] - 239:8, 239:12, 251:14, 251:18, 252:12, 252:16, 253:9, 253:12 amended [1] - 93:3 amendments [1] - 122:13 American [2] - 187:19, 296:6 Ames [1] - 87:18 amount [8] - 36:18, 154:16, 156:1, 162:17, 163:17, 184:8, 229:1, 230:15 amounts [2] - 145:14, 219:19 ample [1] - 29:23 analysis [6] - 39:23,</p>	<p>95:17, 95:20, 96:10, 254:20, 254:25 analyzing [1] - 41:22 ancillary [2] - 24:22, 174:17 angle [2] - 202:13, 208:3 angles [1] - 208:1 animal [3] - 211:7, 221:17, 296:1 animals [12] - 142:23, 142:25, 143:22, 144:16, 145:4, 145:5, 145:8, 149:3, 149:11, 174:2, 186:3, 186:8 animals' [1] - 143:21 announced [3] - 69:5, 75:17, 78:8 announcement [2] - 57:13, 138:20 annual [2] - 24:5, 154:17 annually [2] - 20:8, 233:18 answer [25] - 27:23, 30:9, 30:12, 31:24, 35:24, 36:5, 53:1, 68:9, 79:13, 79:14, 82:14, 117:20, 128:18, 130:20, 132:1, 161:12, 167:24, 170:2, 210:7, 212:23, 239:16, 281:18, 298:4, 298:16, 298:19 answered [1] - 210:4 answering [4] - 35:12, 36:2, 160:14, 254:17 answers [2] - 88:10, 247:13 anticipated [2] - 65:17, 75:20 anticipating [1] - 301:23 anxiety [5] - 144:8, 221:12, 222:25, 225:17, 225:20 anyway [4] - 139:18, 204:6, 258:12, 258:16 apart [2] - 158:4, 183:14 apologize [5] - 45:25, 74:12, 117:16, 127:16, 214:3 appear [2] - 8:25, 220:17 appearance [4] - 8:6, 9:10, 9:19, 10:3 appeared [1] - 288:9 appearing [2] - 8:14,</p>	<p>9:11 appendices [2] - 282:10, 284:16 Appendix [1] - 282:15 appendix [1] - 282:18 Apple [13] - 159:17, 162:4, 162:10, 162:13, 166:11, 166:14, 166:15, 166:24, 167:9, 167:15, 167:20, 168:7, 168:8 applicant [1] - 11:20 application [22] - 6:20, 7:5, 11:15, 11:18, 51:24, 56:20, 59:3, 90:6, 90:22, 106:5, 106:8, 132:6, 227:10, 230:13, 282:1, 282:8, 283:14, 283:23, 286:15, 287:8, 294:17, 298:1 applications [1] - 63:4 applied [4] - 69:1, 102:9, 102:15, 306:16 appreciate [19] - 12:18, 13:5, 110:21, 131:21, 138:24, 139:1, 139:18, 141:8, 167:17, 168:22, 178:18, 205:10, 206:10, 215:24, 230:19, 266:15, 305:7, 307:21, 310:5 approach [2] - 55:1, 218:1 approached [2] - 124:3, 124:4 appropriate [1] - 259:21 approval [5] - 82:9, 225:22, 269:5, 289:21, 303:23 approve [5] - 133:15, 188:17, 211:8, 238:4, 263:10 approved [8] - 27:13, 36:16, 54:22, 181:5, 184:12, 184:24, 185:2, 304:11 approves [1] - 133:8 approving [3] - 133:10, 180:4, 188:15 approximate [1] - 23:8 April [6] - 4:18, 75:17, 108:16, 126:1, 252:4, 288:10 aquifers [2] - 210:17, 211:13</p>	<p>archaeological [1] - 135:4 archaeologist [1] - 135:5 archaeologists [1] - 287:13 archaeology [2] - 285:7, 293:23 area [58] - 23:21, 30:4, 52:5, 52:16, 56:20, 57:19, 57:20, 58:19, 58:23, 58:24, 59:7, 63:16, 64:1, 71:12, 71:16, 73:3, 76:21, 81:2, 94:2, 95:25, 111:9, 122:22, 122:23, 131:12, 133:20, 137:15, 149:22, 153:9, 155:16, 164:21, 166:12, 189:12, 190:15, 197:12, 197:24, 198:1, 198:10, 198:25, 203:14, 207:9, 211:20, 224:2, 224:9, 225:6, 225:11, 228:23, 230:16, 244:18, 248:5, 258:6, 273:13, 273:14, 283:22, 283:25, 285:5, 285:6, 303:5 Area [6] - 288:22, 288:23, 288:24, 288:25, 289:1 areas [44] - 60:17, 64:9, 73:9, 80:17, 89:16, 95:13, 97:17, 131:4, 134:2, 134:12, 135:8, 145:15, 153:12, 153:14, 192:7, 192:10, 192:19, 214:24, 218:11, 218:18, 223:1, 228:20, 258:11, 282:25, 283:7, 283:8, 283:10, 283:11, 283:15, 283:19, 285:9, 288:18, 288:20, 290:10, 290:14, 290:15, 291:10, 291:19, 291:22, 291:25, 292:4, 292:8, 295:15, 306:24 Argentina [1] - 237:24 arguing [1] - 204:7 Arizona [1] - 232:2 Army [1] - 289:4 arrangement [1] -</p>
---	---	---	---	---

<p>67:14 arrangements [1] - 254:14 arrived [1] - 225:8 article [2] - 173:14, 210:10 Ash [1] - 219:13 aside [2] - 64:4, 117:4 aspect [4] - 26:19, 27:12, 176:10, 293:3 aspects [2] - 82:15, 228:5 asphyxiated [2] - 187:4, 187:9 asphyxiating [1] - 142:16 assemblies [1] - 221:5 assert [1] - 154:1 assertions [1] - 260:7 assess [1] - 47:5 assessing [1] - 41:22 assessment [2] - 41:23, 103:13 assessments [1] - 91:13 asset [1] - 154:13 assist [1] - 67:23 assistant [1] - 9:13 assisting [1] - 220:18 associated [31] - 6:24, 19:25, 20:7, 20:17, 21:11, 21:15, 21:24, 22:8, 25:2, 25:23, 27:18, 27:19, 29:13, 30:9, 30:11, 30:21, 38:2, 38:7, 38:11, 40:9, 42:2, 47:8, 65:10, 85:2, 96:11, 116:16, 201:19, 301:14, 301:17, 301:18, 301:19 Association [1] - 245:8 assume [5] - 21:17, 30:8, 186:15, 201:20, 286:19 assuming [6] - 27:13, 54:22, 71:16, 223:24, 260:21 assumptions [2] - 41:4, 223:6 assurance [1] - 178:6 assured [1] - 178:8 atmosphere [1] - 211:2 attached [3] - 88:13, 91:22, 108:11 Attachment [1] - 94:5 attacking [1] - 142:19 attain [1] - 97:19 attained [1] - 97:22 attempt [3] - 55:3, 85:20, 295:7</p>	<p>attempting [1] - 68:23 attend [9] - 4:6, 78:8, 79:7, 79:16, 100:20, 101:5, 119:20, 119:24, 149:16 attendance [4] - 5:4, 6:7, 6:13, 99:4 attended [13] - 79:20, 93:6, 93:10, 93:13, 99:5, 99:7, 100:11, 101:13, 102:2, 102:5, 203:25, 245:14, 251:17 attendees [1] - 257:14 attending [2] - 6:11, 232:23 attention [1] - 204:3 attorney [1] - 9:13 attorneys [3] - 153:20, 177:2, 177:4 attract [4] - 24:1, 25:4, 32:18, 162:23 attracted [3] - 24:10, 24:14, 28:20 attracts [1] - 25:5 atypical [1] - 121:15 audience [2] - 232:21, 232:23 audit [1] - 41:17 August [11] - 7:3, 7:15, 88:25, 96:17, 153:21, 252:4, 258:22, 258:25, 265:10, 297:21, 297:23 Australia [1] - 237:25 authority [3] - 166:12, 166:24, 168:21 authorization [1] - 168:20 available [7] - 16:9, 28:21, 29:25, 31:5, 172:8, 295:11, 305:17 Avenue [4] - 46:8, 142:7, 147:19, 147:22 aversions [1] - 225:1 aviation [5] - 30:24, 235:21, 235:25, 236:5, 237:10 avoid [4] - 125:15, 153:12, 192:25, 284:1 avoidance [6] - 122:22, 133:20, 134:1, 282:24, 283:7, 283:25 avoided [3] - 135:9, 283:5, 289:2 avoiding [1] - 126:20 aware [21] - 5:20, 5:23, 13:18, 20:2,</p>	<p>29:8, 29:12, 43:22, 50:6, 56:22, 56:24, 70:11, 82:13, 82:17, 84:9, 102:8, 102:21, 124:15, 167:22, 224:22, 264:21, 294:23</p> <p style="text-align: center;">B</p> <p>B-E-C-K-E-R [1] - 209:7 B-O-E-S-H-A-N-S [2] - 45:2, 46:6 B-R-A-N-D-E-N-B-U-R-G [1] - 231:4 B-R-O-W-N [1] - 275:11 bachelor's [1] - 217:9 back-and-forth [3] - 284:14, 287:17, 287:20 backgrounds [1] - 232:10 bad [3] - 211:17, 238:14, 238:15 BAILEY [22] - 216:9, 216:13, 216:16, 216:20, 216:22, 216:24, 217:3, 227:2, 227:5, 227:12, 227:17, 227:19, 227:23, 228:6, 228:16, 228:23, 229:9, 229:13, 229:18, 229:24, 230:14, 230:23 Bailey [1] - 216:9 Bakken [2] - 30:2, 30:3 Baldwin [9] - 52:22, 55:25, 142:8, 147:23, 148:1, 150:8, 150:13, 197:25, 203:9 ball [1] - 288:3 bank [2] - 43:7, 103:25 barn [1] - 202:11 barrel [1] - 219:13 base [1] - 33:23 baseball [1] - 265:19 based [12] - 13:6, 30:25, 66:19, 76:19, 107:2, 109:3, 230:12, 230:13, 240:14, 251:25, 300:12, 301:23 Basin [2] - 76:4, 159:21 basis [9] - 19:23, 41:11, 41:18,</p>	<p>126:15, 126:17, 182:15, 234:24, 296:17, 296:18 battalion [1] - 101:23 Baymont [1] - 4:23 bears [1] - 173:25 beautiful [3] - 199:4, 202:10, 273:10 became [1] - 264:21 BECKER [22] - 209:4, 209:6, 209:11, 209:14, 209:18, 209:20, 209:22, 213:10, 213:13, 213:18, 213:20, 213:24, 214:1, 214:7, 214:17, 214:21, 215:3, 215:6, 215:11, 215:19, 215:25, 216:5 Becker [4] - 209:6, 209:7, 209:8, 213:3 become [5] - 161:22, 163:9, 166:24, 220:19, 226:2 becomes [3] - 31:5, 106:12, 135:15 bees [1] - 277:25 beetle [1] - 296:6 beg [1] - 188:17 beget [1] - 28:18 begets [1] - 23:22 begging [1] - 147:4 begin [3] - 4:24, 88:6, 105:14 beginning [3] - 92:8, 138:23, 238:14 behalf [8] - 8:14, 9:13, 9:21, 10:6, 139:19, 152:4, 178:12, 298:4 belief [1] - 37:10 believes [1] - 62:17 belong [1] - 76:4 below [6] - 95:11, 104:12, 114:5, 192:4, 232:19, 236:8 bench [1] - 219:5 benchmarks [1] - 294:10 Bender [30] - 8:7, 8:13, 13:23, 16:21, 17:14, 18:15, 44:8, 44:19, 45:15, 84:2, 88:16, 146:15, 156:8, 165:25, 175:15, 188:21, 201:13, 212:25, 226:19, 239:19, 263:14, 270:21, 273:25, 277:1, 280:9, 299:1, 305:19, 308:10,</p>	<p>308:17, 308:21 BENDER [55] - 8:10, 8:12, 14:1, 14:25, 15:14, 16:22, 17:16, 18:16, 18:24, 26:4, 35:11, 35:23, 40:23, 41:13, 44:9, 44:20, 45:16, 45:21, 50:9, 50:18, 51:2, 51:16, 61:18, 67:20, 75:23, 82:25, 84:3, 84:7, 85:3, 146:16, 156:9, 166:1, 175:16, 188:22, 189:2, 201:14, 213:1, 226:20, 239:20, 263:15, 263:25, 264:5, 264:12, 264:15, 265:3, 270:22, 274:1, 277:2, 279:15, 280:14, 286:5, 299:2, 305:20, 308:11, 308:22 Bender's [1] - 288:19 beneath [1] - 61:6 beneficial [3] - 54:5, 128:5, 242:17 beneficiary [1] - 33:6 benefit [26] - 20:21, 22:17, 23:5, 24:22, 26:18, 33:14, 34:10, 34:14, 34:20, 34:22, 36:22, 40:5, 52:10, 59:15, 60:11, 60:12, 68:5, 69:9, 70:3, 70:7, 75:12, 88:17, 144:1, 212:12, 238:4, 283:25 benefiting [3] - 243:7, 272:25, 273:1 benefits [33] - 20:17, 20:24, 21:1, 21:11, 22:3, 22:19, 22:20, 22:21, 23:18, 30:14, 30:16, 32:21, 33:7, 33:21, 33:22, 33:25, 37:11, 59:10, 59:17, 61:2, 69:13, 242:3, 242:5, 246:2, 272:22, 301:13, 301:18, 301:19, 301:22, 301:23, 304:13 Bernhardt [1] - 125:8 Bernhardts [1] - 97:13 beside [1] - 182:19 best [7] - 74:5, 146:8, 211:8, 220:11, 235:21, 303:16, 306:15 bet [2] - 125:22, 206:11</p>
---	--	--	---	---

<p>better [21] - 12:8, 25:3, 52:7, 65:17, 66:19, 79:6, 148:21, 151:10, 158:13, 161:21, 179:17, 184:12, 185:2, 191:19, 202:2, 209:5, 263:7, 265:1, 292:6</p> <p>between [17] - 26:18, 26:19, 52:21, 58:12, 60:7, 71:22, 74:1, 78:1, 111:2, 115:8, 152:8, 168:5, 170:6, 219:12, 224:1, 254:9</p> <p>Beulah [1] - 270:1</p> <p>beverage [2] - 24:16, 31:2</p> <p>beyond [2] - 93:24, 133:21</p> <p>Bible [1] - 165:16</p> <p>bible [1] - 165:17</p> <p>Biden [1] - 205:4</p> <p>big [13] - 21:21, 22:14, 24:8, 43:5, 117:9, 145:1, 155:23, 156:2, 174:18, 187:23, 191:24, 198:2, 270:4</p> <p>bigger [2] - 82:19, 173:12</p> <p>biggest [5] - 69:20, 154:12, 172:6, 235:16, 235:19</p> <p>billion [13] - 20:2, 21:25, 37:23, 42:17, 59:22, 155:20, 155:23, 155:24, 233:15, 236:1, 237:11, 237:12</p> <p>billions [1] - 155:22</p> <p>bins [2] - 181:24, 182:11</p> <p>biological [1] - 105:10</p> <p>biologists [1] - 134:23</p> <p>Bismarck [103] - 4:4, 8:13, 46:8, 48:16, 49:8, 49:9, 49:16, 49:18, 49:21, 49:25, 51:18, 51:22, 52:5, 52:11, 52:16, 52:21, 55:18, 56:6, 56:9, 62:1, 62:19, 63:16, 64:1, 71:3, 73:2, 73:10, 76:17, 77:4, 77:7, 78:4, 78:5, 78:13, 79:21, 80:9, 80:10, 80:12, 80:21, 83:18, 83:23, 89:10, 89:17, 90:8, 93:17, 94:20, 95:1, 95:23, 95:25, 96:4, 96:7, 96:9, 96:12, 96:13,</p>	<p>99:6, 100:4, 121:9, 126:24, 143:8, 143:9, 143:11, 153:9, 159:16, 160:7, 160:9, 160:12, 160:13, 160:15, 160:18, 161:7, 165:4, 172:18, 173:5, 173:18, 174:11, 174:12, 175:5, 180:14, 180:16, 180:18, 195:3, 201:23, 204:5, 211:19, 245:14, 246:22, 256:17, 257:14, 259:16, 261:7, 261:14, 261:21, 261:25, 262:1, 262:5, 263:5, 267:6, 267:23, 268:17, 268:18, 268:20, 269:19, 269:20, 276:1</p> <p>Bismarck's [1] - 165:6</p> <p>Bison [1] - 70:24</p> <p>bit [33] - 9:2, 14:13, 14:18, 16:24, 18:18, 20:13, 23:11, 38:8, 51:16, 55:9, 58:15, 59:13, 60:10, 65:3, 78:19, 88:19, 95:18, 96:15, 98:24, 105:24, 126:8, 132:20, 134:4, 149:6, 163:16, 163:17, 166:4, 170:3, 258:19, 284:3, 295:22, 307:5</p> <p>blackouts [1] - 164:3</p> <p>Blank [2] - 257:15, 257:23</p> <p>blends [1] - 237:16</p> <p>bless [1] - 212:22</p> <p>block [2] - 16:16, 154:1</p> <p>blocking [2] - 5:15, 5:16</p> <p>blood [1] - 182:2</p> <p>blow [1] - 143:13</p> <p>blown [1] - 49:9</p> <p>Blue [4] - 74:20, 215:10, 237:4, 267:6</p> <p>blue [3] - 49:13, 55:19, 57:7</p> <p>BNI [7] - 48:18, 56:22, 57:3, 57:11, 57:16, 58:1, 58:7</p> <p>BNI's [3] - 57:12, 57:19, 57:20</p> <p>board [5] - 159:17, 166:11, 168:10, 168:11, 258:2</p>	<p>boards [1] - 282:22</p> <p>body [1] - 289:19</p> <p>Boehm [1] - 139:9</p> <p>BOESHANS [6] - 44:24, 45:2, 45:6, 45:9, 45:13, 45:17</p> <p>Boeshans [29] - 9:4, 14:13, 23:10, 44:21, 44:24, 45:3, 45:24, 48:5, 61:24, 63:24, 70:21, 86:5, 89:17, 90:10, 102:6, 105:12, 117:10, 126:23, 154:17, 156:19, 257:15, 259:1, 259:3, 259:19, 260:4, 260:7, 260:20, 261:2, 261:10</p> <p>Boeshans' [3] - 38:20, 38:25, 89:6</p> <p>Bois [1] - 103:16</p> <p>bonus [1] - 61:9</p> <p>book [5] - 14:20, 14:21, 14:23, 82:24, 117:9</p> <p>books [6] - 91:14, 111:20, 228:25, 277:11, 289:3</p> <p>boondoggle [1] - 247:7</p> <p>boos [1] - 236:24</p> <p>border [1] - 234:3</p> <p>bore [1] - 168:19</p> <p>boring [2] - 193:11, 193:12</p> <p>born [2] - 142:12, 179:21</p> <p>bother [1] - 128:21</p> <p>bothers [1] - 262:14</p> <p>bottom [5] - 83:8, 104:16, 114:15, 130:1, 171:14</p> <p>bottoms [1] - 41:19</p> <p>bottoms-up [1] - 41:19</p> <p>bought [3] - 169:9, 199:15, 244:17</p> <p>bound [3] - 129:5, 146:5, 213:16</p> <p>boundaries [6] - 27:8, 72:3, 134:17, 258:2, 294:19, 295:3</p> <p>boundary [3] - 207:17, 294:11, 295:6</p> <p>bowing [1] - 200:13</p> <p>Box [1] - 8:13</p> <p>boys [2] - 217:6, 224:3</p> <p>Braaten [38] - 9:18, 9:20, 9:23, 14:7, 15:25, 17:10, 29:1, 44:13, 50:12, 50:22, 51:4, 51:6, 51:14,</p>	<p>66:20, 67:22, 85:13, 107:18, 116:24, 134:5, 134:15, 147:12, 157:16, 169:1, 177:12, 194:11, 206:15, 214:10, 230:2, 242:1, 266:1, 271:1, 274:16, 277:6, 292:20, 299:6, 307:16, 308:23</p> <p>BRAATEN [49] - 9:20, 9:25, 16:1, 17:11, 29:2, 29:4, 35:19, 35:21, 36:6, 44:14, 50:13, 50:24, 51:9, 66:21, 66:23, 68:3, 68:12, 70:16, 85:14, 85:16, 86:1, 107:19, 107:21, 110:12, 134:6, 134:8, 136:25, 147:13, 157:17, 169:2, 177:13, 194:12, 206:16, 214:11, 230:3, 242:2, 242:10, 242:15, 242:20, 266:2, 271:2, 274:17, 277:7, 292:21, 292:23, 297:3, 299:7, 307:17, 308:24</p> <p>brand [1] - 199:14</p> <p>brand-new [1] - 199:14</p> <p>BRANDENBURG [38] - 231:3, 231:8, 231:11, 231:15, 231:17, 231:19, 233:1, 240:3, 240:5, 240:20, 240:23, 241:1, 241:4, 241:21, 241:24, 242:8, 242:12, 242:19, 242:21, 243:4, 244:4, 244:13, 245:10, 246:6, 247:20, 248:3, 248:23, 249:5, 250:12, 251:1, 251:4, 251:7, 251:13, 251:22, 252:6, 252:14, 253:1, 253:24</p> <p>Brandenburg [13] - 139:6, 231:3, 231:5, 231:21, 232:7, 239:21, 239:23, 250:10, 252:11, 254:3, 267:23, 304:12, 305:13</p> <p>Brandon [1] - 139:7</p>	<p>Brazil [4] - 233:9, 236:10, 237:20, 237:21</p> <p>breach [1] - 99:13</p> <p>break [16] - 4:8, 16:10, 21:8, 51:3, 86:8, 138:4, 139:22, 153:12, 154:7, 183:1, 208:22, 211:16, 211:18, 232:19, 273:12, 278:4</p> <p>break-even [1] - 232:19</p> <p>breakdown [1] - 27:17</p> <p>breathing [3] - 100:19, 224:12, 224:23</p> <p>Bret [1] - 8:17</p> <p>Brian [1] - 195:1</p> <p>bridge [2] - 4:3, 12:12</p> <p>brief [1] - 300:10</p> <p>briefly [5] - 36:8, 49:5, 85:5, 130:2, 299:13</p> <p>Briggs [1] - 172:22</p> <p>bring [8] - 11:21, 97:6, 136:5, 136:6, 155:19, 183:3, 226:4, 252:8</p> <p>bringing [2] - 32:23, 43:24</p> <p>brings [1] - 202:4</p> <p>bridle [1] - 34:6</p> <p>broadly [1] - 69:14</p> <p>broker [2] - 198:9, 201:17</p> <p>brought [7] - 62:21, 132:7, 172:21, 261:8, 269:1, 287:8, 294:14</p> <p>BROWN [15] - 275:8, 275:11, 275:14, 275:17, 275:21, 275:23, 275:25, 277:15, 277:17, 277:23, 278:10, 278:17, 278:21, 278:24, 279:6</p> <p>Brown [1] - 275:11</p> <p>brown [1] - 275:12</p> <p>brownouts [2] - 163:21, 164:2</p> <p>BS [2] - 201:1, 203:20</p> <p>bubble [1] - 210:16</p> <p>buck [1] - 234:25</p> <p>bucks [6] - 233:3, 233:4, 236:18, 236:19, 236:20, 244:19</p> <p>budget [1] - 264:24</p> <p>buffer [11] - 110:23, 111:6, 112:5, 112:9, 112:15, 130:13, 130:20, 131:4,</p>
---	--	--	---	--

<p>131:17, 132:20, 133:17 buffers [2] - 133:10, 133:16 build [24] - 59:2, 106:10, 106:11, 106:15, 161:22, 161:23, 181:5, 181:16, 181:21, 181:22, 181:23, 182:4, 182:5, 182:10, 185:24, 202:11, 243:18, 269:3, 276:22, 293:4, 300:24, 303:10, 305:1 builders [1] - 56:10 building [7] - 84:20, 96:11, 183:7, 207:20, 269:6, 301:11, 302:12 buildings [3] - 142:23, 144:16, 196:7 built [11] - 12:4, 31:21, 160:25, 181:14, 187:25, 201:25, 206:23, 232:17, 247:25, 302:13, 303:16 bunch [8] - 199:4, 200:23, 201:1, 241:1, 249:18, 250:11, 250:13, 251:3 burden [1] - 164:9 Bureau [1] - 295:12 burial [1] - 290:17 buried [1] - 186:12 Burleigh [34] - 6:25, 7:11, 64:4, 64:9, 77:6, 79:19, 79:21, 80:15, 83:18, 83:23, 85:18, 93:16, 95:3, 95:4, 95:12, 99:6, 100:22, 102:7, 153:6, 155:6, 168:11, 169:20, 174:5, 197:25, 199:22, 199:24, 218:24, 219:25, 258:14, 262:9, 263:5, 288:25, 302:8, 303:8 Burnt [3] - 171:11, 171:14, 174:7 burst [2] - 165:2, 181:8 bury [5] - 145:12, 200:7, 200:19, 201:7, 303:24 burying [1] - 296:6 bushel [3] - 233:3, 234:25, 273:8</p>	<p>bushels [5] - 59:22, 60:5, 60:8, 233:18, 233:19 business [20] - 19:5, 22:5, 24:16, 25:4, 25:14, 25:18, 25:23, 32:20, 46:7, 83:10, 83:15, 87:17, 168:1, 174:17, 186:8, 187:23, 265:24, 277:23, 280:15, 287:11 businesses [4] - 24:15, 162:23, 183:6, 186:7 businessmen [2] - 243:11, 243:13 busts [1] - 181:2 busy [1] - 199:10 buy [10] - 164:18, 187:6, 202:9, 235:16, 236:13, 236:14, 244:16 buyer [1] - 202:19 buyers [4] - 154:10, 235:8, 236:12, 236:15 buying [4] - 247:24, 250:6, 250:7 BY [25] - 18:24, 26:9, 29:4, 35:21, 36:10, 45:21, 51:16, 61:23, 66:2, 66:23, 68:12, 84:7, 85:7, 85:16, 87:16, 97:12, 105:4, 107:21, 129:14, 132:18, 134:8, 280:14, 286:10, 292:23, 305:24 Byron [3] - 8:15, 8:18, 8:19</p>	<p>Canadian [1] - 235:12 cannot [10] - 31:7, 122:23, 125:17, 163:25, 168:19, 195:11, 218:2, 235:17, 237:19, 238:20 capabilities [3] - 37:5, 302:4, 307:2 capable [2] - 302:10, 302:11 capacities [2] - 47:13, 300:22 capacity [8] - 19:9, 24:6, 46:11, 87:21, 106:23, 132:11, 201:2, 280:20 Capital [2] - 164:5, 164:6 capital [7] - 19:25, 38:3, 42:16, 42:17, 42:22, 43:3, 43:6 capture [14] - 23:25, 26:15, 26:19, 34:5, 69:18, 69:21, 74:20, 234:8, 235:23, 236:23, 237:4, 239:14, 242:13, 242:16 captured [1] - 109:16 capturing [1] - 162:24 car [4] - 117:25, 189:10, 225:7, 250:7 carbon [70] - 6:23, 19:24, 23:1, 23:24, 24:2, 24:7, 24:14, 24:17, 24:20, 24:23, 25:2, 25:15, 25:16, 26:2, 26:14, 26:19, 28:7, 28:17, 28:19, 28:20, 30:17, 30:22, 30:25, 31:12, 32:18, 33:2, 34:5, 34:17, 35:1, 36:25, 37:6, 43:10, 43:24, 69:18, 69:21, 74:20, 84:21, 162:24, 200:7, 201:3, 201:4, 201:5, 210:15, 213:9, 220:9, 234:8, 234:19, 235:9, 235:10, 235:14, 235:20, 235:22, 236:6, 236:8, 236:23, 237:4, 237:20, 237:24, 238:1, 239:14, 242:6, 242:13, 242:16, 247:4, 300:15, 303:24, 304:5, 305:11, 305:14 Carbon [23] - 5:15,</p>	<p>6:21, 7:7, 8:15, 8:16, 46:10, 87:20, 142:11, 146:11, 159:24, 210:2, 211:21, 212:1, 212:2, 212:4, 258:23, 258:24, 260:6, 260:8, 262:4, 265:7, 278:16, 298:12 carbon-CO2 [1] - 28:7 carbon-related [2] - 24:2, 43:24 carbonic [1] - 211:14 card [2] - 189:11, 190:23 care [5] - 155:13, 181:10, 181:12, 186:5, 225:13 career [6] - 201:20, 203:18, 217:10, 217:20, 300:18 CAROLLEE [42] - 179:3, 179:7, 179:10, 179:14, 179:17, 179:19, 179:21, 189:1, 189:6, 189:9, 189:17, 189:21, 189:23, 190:1, 190:6, 190:8, 190:11, 190:17, 190:20, 190:25, 191:5, 191:17, 191:22, 192:1, 192:6, 192:18, 193:1, 193:13, 193:17, 193:22, 194:2, 194:4, 194:8, 194:22, 194:25, 195:10, 195:14, 195:22, 195:25, 196:4, 196:11, 196:16 CarolLee [1] - 179:3 carried [1] - 162:17 CARRUTH [42] - 179:3, 179:7, 179:10, 179:14, 179:17, 179:19, 179:21, 189:1, 189:6, 189:9, 189:17, 189:21, 189:23, 190:1, 190:6, 190:8, 190:11, 190:17, 190:20, 190:25, 191:5, 191:17, 191:22, 192:1, 192:6, 192:18, 193:1, 193:13, 193:17, 193:22, 194:2, 194:4, 194:8, 194:22, 194:25, 195:10, 195:14, 195:22, 195:25, 196:4, 196:11, 196:16 Carroll [1] - 179:3 carried [1] - 162:17 CARRUTH [42] - 179:3, 179:7, 179:10, 179:14, 179:17, 179:19, 179:21, 189:1, 189:6, 189:9, 189:17, 189:21, 189:23, 190:1, 190:6, 190:8, 190:11, 190:17, 190:20, 190:25, 191:5, 191:17, 191:22, 192:1, 192:6, 192:18, 193:1, 193:13, 193:17, 193:22, 194:2, 194:4, 194:8, 194:22, 194:25, 195:10, 195:14, 195:22, 195:25, 196:4, 196:11, 196:16</p>	<p>194:22, 194:25, 195:10, 195:14, 195:22, 195:25, 196:4, 196:11, 196:16 Carruth [2] - 179:3, 189:4 carry [2] - 163:2, 247:2 cars [1] - 236:3 Carter [1] - 245:17 case [36] - 5:5, 5:6, 15:1, 18:12, 26:11, 26:20, 26:21, 28:13, 45:12, 87:7, 111:8, 124:3, 129:21, 140:25, 141:25, 151:21, 156:3, 159:8, 171:24, 176:8, 179:13, 197:5, 205:13, 209:17, 216:19, 220:6, 231:14, 256:9, 263:2, 267:16, 272:11, 275:20, 280:6, 285:1, 300:4, 310:7 Case [1] - 4:22 cases [2] - 127:19, 207:24 Cass [4] - 6:25, 20:22, 113:8, 113:13 Cassellton [1] - 233:24 cast [1] - 160:11 CAT [1] - 174:18 catalog [1] - 135:22 catalogued [1] - 135:14 catastrophic [1] - 222:13 catch [1] - 271:9 categories [2] - 23:1, 283:7 category [1] - 21:14 cats [1] - 149:10 cattle [7] - 149:8, 163:20, 163:25, 164:13, 277:21, 277:22, 277:24 caught [1] - 253:17 caused [5] - 62:18, 116:21, 219:14, 219:23, 220:2 causes [1] - 294:24 caveat [1] - 51:14 CCS [3] - 69:24, 70:1, 70:5 CCUS [1] - 154:15 ceased [1] - 77:1 cell [4] - 4:25, 5:1, 190:10, 203:19 cemented [1] - 211:12 census [1] - 173:1</p>
C				
	<p>C-A-R-R-U-T-H [1] - 179:4 C-H-A-D [1] - 255:21 cabinets [1] - 220:20 cahoots [1] - 260:14 calculate [1] - 294:16 calculation [1] - 39:1 calendars [1] - 101:20 California [1] - 236:9 callous [1] - 155:21 calves [1] - 161:14 calving [1] - 11:7 Cam [1] - 271:13 Cameroon [1] - 174:1 campaign [2] - 105:14, 222:24 Canada [5] - 233:9, 235:15, 270:1, 270:8</p>			

<p>cent [1] - 164:20 center [1] - 155:17 Center [2] - 58:22, 67:2 centered [1] - 230:16 centerline [5] - 111:13, 131:14, 134:17, 276:7 centers [1] - 123:23 central [1] - 268:2 cents [2] - 165:15, 234:22 Century [5] - 46:8, 205:12, 213:17, 213:19, 241:20 certain [14] - 19:12, 21:18, 65:12, 99:13, 99:14, 126:5, 132:11, 134:11, 147:3, 255:3, 282:5, 282:7, 291:10, 293:6 certainly [15] - 14:1, 25:20, 55:10, 70:2, 88:22, 156:5, 168:7, 174:12, 175:7, 176:15, 202:23, 204:13, 205:1, 261:24, 304:15 certainty [1] - 98:20 certificate [1] - 6:21 certification [1] - 133:24 CHAD [20] - 255:20, 255:25, 256:3, 256:6, 256:10, 256:12, 256:13, 256:15, 263:22, 264:4, 264:7, 264:14, 264:18, 265:13, 265:17, 265:20, 265:23, 266:8, 266:14, 266:19 Chad [8] - 52:12, 255:20, 256:16, 257:15, 261:24, 266:7, 266:10 chain [4] - 41:6, 41:20, 41:25, 42:13 Chair [1] - 239:16 chair [1] - 305:9 challenged [1] - 90:20 challenges [1] - 69:20 chance [7] - 130:3, 138:20, 194:1, 215:16, 215:18, 218:8, 253:7 change [10] - 34:7, 73:2, 73:3, 102:18, 106:17, 122:10, 174:21, 210:16, 211:3, 261:18 changed [15] - 11:15,</p>	<p>11:16, 53:23, 82:11, 103:6, 103:7, 103:8, 106:20, 261:15, 261:19, 283:4, 290:3, 290:5, 306:2, 306:3 changes [12] - 88:24, 92:12, 104:17, 287:9, 289:9, 300:12, 301:5, 301:8, 301:12, 301:24, 302:19 changing [1] - 260:1 characterization [1] - 58:23 characterize [4] - 47:23, 59:1, 264:8, 294:9 characterized [2] - 142:18, 283:21 characterizing [1] - 296:8 charged [2] - 205:12, 241:19 chart [2] - 108:15, 108:17 check [2] - 4:25, 270:9 checked [1] - 141:6 cheering [1] - 5:7 cherry [5] - 249:17, 250:11, 250:12, 251:3, 251:4 cherry-picking [5] - 249:17, 250:11, 250:12, 251:3, 251:4 chickens [2] - 149:9, 277:25 chief [4] - 19:10, 87:22, 172:22, 173:6 chiefs [3] - 101:21, 101:23, 119:21 child [1] - 225:1 children [6] - 143:23, 180:21, 184:8, 224:25, 225:19, 269:19 choice [1] - 249:10 choose [2] - 135:5, 140:3 chose [2] - 124:8, 217:10 Christmann [38] - 10:14, 12:17, 37:15, 70:19, 81:22, 103:1, 110:14, 117:13, 129:23, 130:13, 131:3, 131:7, 137:3, 137:12, 137:13, 147:16, 157:20, 162:2, 169:5, 170:3, 177:16, 194:15, 206:19, 214:14, 216:24, 230:6,</p>	<p>242:25, 243:4, 244:14, 246:6, 266:5, 271:5, 274:20, 277:10, 297:6, 298:22, 307:18, 309:3 CHRISTMANN [116] - 10:15, 37:16, 38:13, 38:17, 39:2, 39:5, 39:7, 40:4, 40:12, 70:20, 71:1, 71:6, 71:9, 71:14, 71:19, 71:25, 72:6, 72:9, 72:13, 72:15, 73:7, 73:14, 73:17, 73:21, 73:25, 74:3, 81:24, 82:4, 82:7, 82:16, 82:18, 82:23, 83:1, 83:4, 83:7, 83:12, 83:20, 83:22, 110:15, 110:18, 112:4, 112:8, 112:25, 113:25, 114:9, 114:16, 114:19, 115:3, 115:15, 115:24, 116:5, 117:8, 117:15, 117:19, 117:22, 118:6, 118:10, 118:19, 137:4, 137:21, 138:19, 138:22, 139:15, 147:17, 147:20, 147:24, 148:13, 148:17, 148:19, 150:6, 150:10, 150:15, 150:18, 150:22, 151:1, 151:4, 157:21, 169:6, 169:15, 169:19, 170:9, 170:12, 170:15, 170:22, 177:17, 194:16, 206:20, 207:5, 207:12, 207:18, 207:22, 207:25, 208:9, 214:15, 217:2, 230:7, 243:1, 243:25, 244:7, 245:7, 246:4, 247:14, 266:6, 271:6, 274:21, 277:11, 277:16, 297:7, 297:14, 297:17, 297:20, 298:2, 298:8, 298:18, 307:19, 309:4 circumstances [2] - 131:19, 192:4 cited [1] - 99:8 cities [2] - 180:8,</p>	<p>182:12 citing [2] - 36:12, 36:13 citizen [2] - 159:19, 167:20 citizens [26] - 7:20, 20:18, 21:3, 22:23, 25:25, 32:23, 33:15, 70:8, 146:6, 146:7, 155:5, 155:12, 155:13, 163:11, 163:13, 168:10, 172:8, 187:20, 187:22, 187:25, 188:18, 212:17, 223:7, 223:25, 226:14, 226:15 City [8] - 77:4, 93:17, 99:6, 100:4, 166:22, 167:3, 262:5, 263:5 city [21] - 71:3, 71:19, 71:23, 72:24, 73:5, 73:16, 77:6, 79:21, 96:4, 96:7, 166:23, 170:18, 170:20, 174:11, 175:12, 180:10, 258:14, 261:7, 262:1, 264:20, 264:25 City's [1] - 262:7 civilized [1] - 142:21 clapping [1] - 5:7 clarification [10] - 97:2, 120:1, 124:11, 131:21, 137:5, 167:18, 195:6, 253:21, 254:11, 266:11 clarifications [1] - 37:18 clarify [11] - 35:18, 36:11, 36:24, 37:3, 71:10, 75:9, 194:20, 214:5, 229:15, 265:7, 265:15 clarifying [2] - 177:24, 248:22 clarity [1] - 31:25 Class [3] - 18:5, 284:3, 286:25 classify [1] - 64:18 clean [2] - 134:4, 305:11 clear [13] - 15:18, 37:18, 48:1, 96:18, 111:18, 117:1, 131:23, 131:25, 132:8, 154:24, 167:24, 178:7, 263:12 cleared [1] - 285:6 clearly [6] - 33:5, 42:21, 54:24, 70:7,</p>	<p>116:25, 117:19 client [2] - 126:4, 126:5 climate [4] - 34:7, 200:13, 204:8, 210:16 CLINT [28] - 196:19, 196:24, 197:2, 197:6, 197:8, 197:10, 201:22, 202:23, 203:7, 203:15, 204:1, 204:13, 204:17, 204:19, 204:21, 205:3, 205:8, 205:18, 206:3, 206:7, 206:11, 207:4, 207:6, 207:16, 207:21, 207:23, 208:1, 208:17 Clint [2] - 196:19, 208:11 close [21] - 69:19, 73:16, 142:17, 143:4, 158:15, 170:8, 180:7, 181:7, 181:9, 181:16, 182:5, 183:13, 184:2, 206:23, 233:3, 243:1, 243:2, 243:3, 263:21, 268:14, 284:20 closely [1] - 304:1 closer [5] - 20:2, 20:9, 152:13, 193:8, 244:12 closest [2] - 72:25, 256:21 closing [3] - 309:1, 309:22, 310:2 closure [2] - 29:6, 30:3 clue [2] - 204:4, 219:9 co [4] - 8:8, 33:20, 96:1, 154:20 co-counsel [1] - 8:8 co-locate [1] - 96:1 co-ops [2] - 33:20, 154:20 CO2 [67] - 24:17, 25:14, 26:24, 28:7, 28:10, 30:2, 30:20, 31:2, 31:3, 31:4, 31:6, 31:7, 31:17, 31:22, 32:1, 32:3, 32:5, 32:8, 33:6, 34:7, 42:24, 43:1, 61:5, 61:15, 67:1, 68:7, 93:3, 93:4, 99:12, 100:18, 142:11, 143:16, 146:12, 152:25,</p>
---	---	---	--	--

<p>153:10, 161:2, 162:17, 163:4, 164:23, 174:1, 180:5, 180:19, 186:12, 186:20, 186:23, 191:15, 200:19, 200:21, 205:14, 210:8, 210:11, 210:24, 211:3, 211:5, 211:11, 211:14, 211:18, 212:3, 212:19, 218:16, 221:13, 223:21, 224:1, 270:8, 272:24, 273:2, 274:10</p> <p>coal [13] - 10:21, 56:21, 156:5, 200:9, 200:10, 201:7, 212:11, 245:15, 246:1, 272:17, 272:23, 272:25, 273:1</p> <p>coal-fired [2] - 200:9, 200:10</p> <p>Coast [2] - 247:6</p> <p>code [2] - 190:15, 241:20</p> <p>Code [3] - 205:12, 213:19, 241:20</p> <p>coherent [1] - 221:22</p> <p>cold [1] - 163:20</p> <p>collaborated [1] - 260:6</p> <p>collaborating [1] - 91:3</p> <p>collaboration [2] - 125:24, 178:2</p> <p>collate [1] - 96:1</p> <p>collect [1] - 39:18</p> <p>collected [3] - 59:2, 218:20, 291:3</p> <p>collection [1] - 272:24</p> <p>column [3] - 254:19, 254:20, 254:24</p> <p>combine [1] - 192:7</p> <p>combined [1] - 113:5</p> <p>comfortable [1] - 112:23</p> <p>coming [19] - 4:3, 4:7, 13:15, 24:24, 25:16, 33:20, 43:17, 54:6, 59:6, 138:25, 139:2, 155:2, 191:23, 236:2, 248:10, 248:14, 279:4, 298:19, 310:4</p> <p>comment [7] - 39:25, 83:16, 153:20, 174:19, 177:22, 254:4, 267:22</p> <p>commentary [1] - 5:8</p>	<p>comments [19] - 6:6, 10:12, 15:5, 15:6, 28:15, 115:4, 139:1, 139:24, 156:6, 172:9, 176:6, 188:22, 198:18, 232:22, 239:6, 239:9, 255:16, 257:21, 307:22</p> <p>commercial [4] - 31:8, 31:14, 69:23, 75:3</p> <p>commercialize [1] - 69:24</p> <p>commercializing [1] - 69:21</p> <p>commercially [1] - 69:22</p> <p>Commission's [3] - 7:15, 88:25, 205:19</p> <p>Commissioners [5] - 8:13, 158:21, 220:14, 238:8, 270:12</p> <p>commissioners [21] - 10:13, 49:3, 76:23, 84:18, 90:1, 90:19, 94:8, 95:22, 113:19, 119:11, 133:14, 140:14, 142:6, 160:1, 160:2, 178:12, 226:13, 256:15, 283:21, 308:15, 309:1</p> <p>commissioners' [1] - 48:8</p> <p>commitment [3] - 111:12, 128:12, 246:13</p> <p>common [3] - 97:25, 99:11, 287:2</p> <p>communicated [2] - 77:10, 252:9</p> <p>communicating [2] - 98:4, 244:8</p> <p>communication [7] - 77:14, 78:1, 92:11, 119:16, 126:9, 260:3, 288:5</p> <p>communities [8] - 100:9, 153:2, 174:13, 183:23, 186:8, 217:17, 220:18, 301:3</p> <p>community [13] - 54:6, 160:15, 160:17, 160:20, 160:21, 173:4, 173:15, 183:13, 260:12, 262:16, 263:4, 265:24, 304:21</p> <p>community's [1] - 263:7</p>	<p>companies [2] - 219:18, 306:24</p> <p>company [18] - 11:7, 11:17, 40:22, 43:13, 70:10, 70:14, 71:21, 89:18, 102:10, 134:1, 146:2, 189:20, 207:19, 228:15, 242:15, 280:25, 306:19, 307:10</p> <p>company's [2] - 302:9, 306:4</p> <p>compare [1] - 81:16</p> <p>comparing [1] - 82:8</p> <p>compatibility [1] - 6:22</p> <p>compatible [1] - 7:21</p> <p>compensated [2] - 139:4, 276:13</p> <p>compensating [1] - 35:9</p> <p>compensation [5] - 34:22, 34:25, 121:14, 121:16, 121:19</p> <p>complacency [1] - 220:21</p> <p>complement [1] - 132:5</p> <p>complete [8] - 42:19, 59:2, 63:22, 109:23, 120:22, 200:14, 260:10, 288:14</p> <p>completed [14] - 47:10, 54:10, 58:25, 63:17, 63:19, 75:19, 90:25, 91:12, 111:17, 112:21, 113:21, 282:3, 284:15</p> <p>completely [8] - 96:21, 146:10, 159:23, 160:8, 160:9, 200:20, 205:22, 239:1</p> <p>component [4] - 24:8, 42:22, 42:23, 42:24</p> <p>compressor [1] - 172:14</p> <p>concentrated [1] - 303:5</p> <p>concept [1] - 34:3</p> <p>concern [21] - 43:6, 56:6, 140:20, 153:15, 154:14, 162:18, 172:6, 174:12, 174:20, 178:17, 178:19, 185:25, 187:25, 228:14, 243:9, 269:9, 286:13, 290:14, 304:10,</p>	<p>306:1, 306:9</p> <p>concerned [13] - 116:14, 143:20, 165:13, 168:9, 201:2, 205:21, 217:7, 232:13, 259:17, 268:16, 276:9, 282:14, 288:4</p> <p>concerning [8] - 6:22, 162:15, 188:23, 266:12, 269:21, 270:16, 278:2, 278:4</p> <p>concerns [38] - 6:20, 15:6, 43:3, 52:8, 52:17, 53:1, 76:8, 76:22, 99:9, 109:18, 119:9, 127:5, 152:19, 153:16, 160:14, 166:16, 173:25, 192:25, 217:21, 218:6, 223:14, 228:4, 261:9, 265:2, 268:24, 286:3, 286:4, 286:11, 286:16, 286:17, 286:18, 289:13, 289:15, 301:6, 304:20, 306:10, 306:11, 306:12</p> <p>conclude [2] - 308:9, 309:2</p> <p>concluded [2] - 63:4, 263:6</p> <p>concludes [1] - 308:6</p> <p>conclusion [7] - 35:13, 35:17, 35:20, 36:1, 136:22, 136:24, 226:10</p> <p>conclusions [1] - 7:4</p> <p>concur [3] - 287:16, 287:17, 287:19</p> <p>concurred [1] - 91:21</p> <p>concurrence [6] - 58:2, 91:22, 284:23, 285:2, 285:4, 285:6</p> <p>condemnation [1] - 63:25</p> <p>condemned [1] - 202:8</p> <p>condemning [1] - 202:5</p> <p>condition [2] - 296:2, 296:9</p> <p>conditional [15] - 64:5, 64:8, 64:13, 64:20, 64:21, 64:22, 65:1, 65:2, 65:4, 65:9, 102:6, 102:8, 102:14, 102:15, 102:24</p> <p>conditions [2] - 99:15, 293:25</p>	<p>conduct [4] - 5:10, 119:19, 292:24, 294:2</p> <p>conducted [3] - 47:4, 94:9, 222:25</p> <p>conducting [2] - 67:22, 284:6</p> <p>confidence [2] - 302:9, 306:15</p> <p>confident [7] - 29:22, 90:25, 98:11, 108:2, 109:21, 224:5, 291:5</p> <p>confidential [5] - 78:23, 137:9, 296:17, 296:18, 296:21</p> <p>confidentiality [1] - 255:11</p> <p>confirm [3] - 108:1, 254:13, 288:20</p> <p>confirmed [1] - 58:4</p> <p>conflict [2] - 100:23, 101:10</p> <p>confused [1] - 251:25</p> <p>confusing [1] - 131:3</p> <p>confusion [3] - 71:21, 283:17, 283:20</p> <p>congestion [1] - 76:6</p> <p>congratulations [1] - 215:2</p> <p>connect [1] - 44:1</p> <p>connected [1] - 37:2</p> <p>connecting [1] - 303:22</p> <p>consequently [1] - 211:6</p> <p>consider [5] - 104:10, 140:24, 180:4, 210:2, 233:13</p> <p>considerably [1] - 264:2</p> <p>consideration [3] - 160:16, 198:16, 230:24</p> <p>considered [6] - 7:12, 20:4, 34:4, 153:9, 168:9, 223:4</p> <p>considering [4] - 124:14, 157:6, 188:15, 210:6</p> <p>considers [1] - 283:23</p> <p>consist [1] - 134:22</p> <p>constantly [1] - 224:25</p> <p>constituents [1] - 139:19</p> <p>constituents' [1] - 244:12</p> <p>constraints [3] - 128:6, 128:10, 227:24</p> <p>construct [5] - 54:23, 111:19, 112:20,</p>
--	---	---	--	---

<p>115:21, 292:25 constructed [3] - 22:4, 27:14, 132:7 construction [25] - 7:17, 7:24, 10:7, 21:19, 21:23, 22:14, 22:19, 30:15, 65:17, 82:15, 116:16, 116:22, 140:17, 183:7, 193:14, 207:2, 285:3, 285:5, 289:8, 300:21, 302:22, 303:22, 306:10, 306:16, 306:20 consultant [2] - 91:11, 103:22 consultants [1] - 103:20 consultation [3] - 289:4, 293:23, 293:24 consultations [1] - 282:21 Consulting [1] - 58:21 consulting [3] - 41:10, 41:17, 284:10 consume [1] - 59:22 consumed [1] - 60:6 consumer [1] - 277:24 consumes [1] - 60:7 consumption [6] - 20:7, 25:5, 33:9, 33:14, 33:18, 33:19 contact [13] - 53:6, 53:8, 62:13, 156:14, 156:20, 167:21, 168:5, 184:14, 192:24, 194:25, 255:2, 255:8, 255:12 contacted [7] - 52:6, 54:16, 119:3, 149:19, 149:22, 191:7, 195:3 contacting [2] - 52:23, 53:12 contacts [2] - 254:18, 254:22 contain [1] - 240:1 contained [2] - 104:22, 240:2 containing [1] - 50:14 contains [1] - 104:20 contaminants [1] - 210:18 Contaminate [1] - 210:12 content [1] - 6:6 context [1] - 249:4 continuation [1] - 13:19 continue [14] - 23:14, 52:14, 55:2, 55:7,</p>	<p>74:14, 109:25, 114:25, 116:8, 146:3, 220:4, 226:1, 235:14, 305:1, 305:6 continued [5] - 54:24, 55:4, 108:21, 154:20, 261:5 continues [2] - 119:8, 130:5 continuing [1] - 8:2 continuous [1] - 142:16 contract [2] - 29:12, 29:24 contracted [3] - 74:24, 189:15, 189:18 contracting [1] - 301:9 contractor [7] - 300:23, 301:10, 302:4, 302:11, 302:12, 306:3, 307:4 contractors [2] - 306:2, 307:1 contracts [4] - 29:9, 29:14, 29:19, 29:22 contribute [2] - 211:2, 211:6 control [2] - 48:21, 204:8 controversial [1] - 10:19 controversy [1] - 199:17 conversation [17] - 63:9, 77:1, 129:22, 130:12, 133:7, 252:17, 253:11, 253:13, 257:12, 257:20, 258:19, 259:8, 259:10, 260:5, 260:24, 261:5, 307:9 conversations [8] - 79:2, 108:6, 108:8, 118:3, 257:4, 257:8, 258:21, 300:14 conveyed [1] - 116:18 convince [1] - 218:2 cooperative [1] - 38:21 Cooperative [1] - 159:21 cooperatives [3] - 60:17, 61:1, 76:4 coordinate [1] - 308:17 coordinated [1] - 172:19 coordination [2] - 92:2, 129:16 copy [5] - 16:11, 49:2, 110:16, 210:14,</p>	<p>298:6 Corn [2] - 245:7, 245:11 corn [34] - 24:25, 25:5, 25:7, 59:23, 59:25, 60:1, 60:5, 182:19, 182:20, 195:22, 231:21, 232:1, 232:13, 232:14, 232:18, 233:3, 233:18, 233:20, 234:6, 234:22, 235:2, 235:4, 236:14, 237:9, 237:15, 239:3, 240:7, 245:18, 246:7, 267:24, 268:1, 270:14, 273:8 corner [5] - 125:17, 184:4, 216:25, 221:19, 261:15 corners [1] - 55:25 Corps [9] - 135:16, 283:5, 285:22, 289:4, 289:22, 293:11, 293:12, 293:17, 294:1 corrals [1] - 202:11 correct [141] - 9:25, 15:14, 19:16, 19:18, 20:23, 21:3, 21:20, 23:12, 23:13, 26:16, 31:11, 34:1, 36:14, 37:9, 37:10, 38:24, 39:4, 39:6, 39:25, 46:18, 46:20, 47:22, 48:3, 48:4, 49:25, 50:1, 50:3, 50:4, 50:8, 51:20, 51:21, 56:7, 56:10, 56:11, 56:13, 56:14, 61:17, 62:3, 62:4, 71:3, 71:4, 71:5, 71:13, 71:17, 71:18, 78:15, 82:3, 82:5, 82:6, 85:9, 85:10, 85:19, 88:3, 88:14, 88:15, 89:7, 89:10, 89:13, 89:20, 89:21, 90:13, 90:14, 90:15, 90:18, 91:5, 91:6, 91:23, 97:15, 97:16, 101:3, 101:7, 103:5, 103:24, 106:3, 106:4, 106:8, 106:9, 106:16, 107:14, 107:15, 108:20, 114:18, 115:19, 116:12, 118:9, 120:18, 131:2, 131:10, 131:15, 131:16, 132:10, 132:23, 132:24,</p>	<p>133:4, 136:13, 146:7, 150:17, 157:3, 157:4, 160:2, 175:25, 204:12, 207:9, 207:15, 227:12, 227:17, 229:24, 241:8, 241:20, 242:19, 261:4, 263:21, 264:3, 264:4, 264:6, 264:13, 264:14, 265:13, 269:5, 280:24, 281:4, 281:5, 281:7, 281:8, 281:9, 281:12, 282:6, 282:7, 288:12, 289:2, 289:3, 290:5, 290:6, 291:20, 291:21, 291:23, 297:2, 297:13, 297:16, 297:19, 306:21 correction [1] - 23:9 corrections [1] - 88:5 correctly [2] - 117:13, 282:23 correspond [1] - 282:8 correspondence [5] - 126:12, 126:13, 284:19, 286:14, 288:3 corridor [31] - 6:21, 66:10, 72:20, 72:21, 90:17, 90:21, 91:1, 105:6, 110:21, 111:3, 111:4, 111:8, 111:14, 112:5, 112:10, 112:12, 112:15, 112:20, 131:12, 131:15, 132:19, 132:22, 132:23, 133:1, 133:6, 133:13, 202:5, 226:2, 282:17, 282:19, 282:24 corridors [1] - 226:1 corrosion [1] - 220:11 corrosive [2] - 220:10, 220:14 cost [6] - 38:10, 42:6, 164:24, 172:21, 175:2 costs [8] - 38:10, 41:23, 42:1, 42:9, 60:19, 145:19, 145:24, 154:18 Coulee [1] - 219:13 counsel [8] - 8:8, 14:7, 17:4, 49:4, 55:15, 126:3, 127:21, 264:22</p>	<p>Counsel [1] - 177:22 count [1] - 113:3 counties [29] - 7:1, 7:11, 39:16, 39:17, 40:20, 49:11, 50:6, 58:20, 59:8, 64:8, 64:11, 64:13, 95:5, 95:11, 99:1, 102:12, 107:8, 113:15, 119:1, 119:22, 137:6, 137:7, 152:22, 152:25, 155:7, 168:2, 168:16, 185:19, 221:10 countried [1] - 158:5 countries [3] - 233:8, 236:13, 237:25 country [5] - 10:23, 24:25, 93:2, 156:22, 237:22 country's [1] - 235:15 countryside [1] - 166:14 County [65] - 6:25, 9:21, 20:22, 50:14, 50:15, 57:6, 64:4, 64:10, 64:11, 77:6, 79:21, 80:15, 83:23, 85:18, 85:21, 85:22, 93:16, 93:20, 95:3, 95:7, 95:9, 99:6, 102:7, 125:23, 129:17, 153:6, 155:6, 168:12, 169:20, 174:5, 179:22, 198:1, 199:22, 199:24, 218:24, 219:25, 239:8, 239:11, 244:21, 244:22, 251:10, 251:15, 252:11, 253:13, 253:15, 258:14, 262:9, 263:5, 268:4, 285:7, 288:21, 288:22, 288:23, 288:24, 288:25, 302:7, 302:8, 303:8, 303:9 county [31] - 38:21, 40:22, 76:23, 84:15, 84:23, 84:25, 85:1, 90:11, 92:9, 100:17, 101:11, 101:12, 113:18, 113:23, 119:10, 119:11, 143:1, 143:8, 143:19, 146:22, 172:8, 185:20, 186:1, 262:10, 264:20, 264:25, 282:22, 285:8,</p>
--	--	--	--	---

<p>292:14 County's [2] - 95:4, 100:22 county-by-county [1] - 90:11 couple [19] - 19:19, 22:25, 28:1, 37:18, 57:18, 65:23, 101:19, 105:2, 129:12, 143:7, 143:11, 149:2, 180:1, 213:5, 258:25, 259:2, 265:21, 295:12, 309:9 course [11] - 149:9, 160:24, 166:5, 167:11, 167:13, 168:3, 190:12, 217:25, 258:22, 268:22, 309:17 Course [2] - 271:11, 271:12 courses [1] - 182:12 court [8] - 115:13, 115:16, 127:14, 127:19, 136:5, 136:11, 136:14, 288:4 court-granted [1] - 136:11 Courtney [1] - 245:18 cover [2] - 116:15, 144:9 coverage [1] - 144:11 covered [2] - 56:21, 194:17 covering [1] - 208:3 covers [1] - 284:18 Covid [1] - 175:5 cows [1] - 161:14 crafts [1] - 300:22 cranes [1] - 272:19 crazy [1] - 200:20 create [5] - 76:8, 186:2, 187:12, 187:17, 187:18 created [6] - 21:19, 21:22, 24:19, 33:4, 300:19, 302:18 creates [4] - 23:23, 25:17, 187:21, 187:23 credit [2] - 31:10, 31:13 credits [4] - 31:7, 155:21, 204:15, 204:20 Creek [17] - 159:17, 162:4, 162:10, 162:13, 166:11, 166:14, 166:16, 166:25, 167:9,</p>	<p>167:15, 167:20, 168:7, 168:8, 171:11, 171:14, 174:7, 219:13 creek [1] - 268:14 crews [2] - 134:23, 135:4 criteria [1] - 221:21 critical [3] - 114:24, 153:11, 283:3 Cromwell [3] - 217:3, 217:7, 221:23 Cromwell's [1] - 222:1 crop [1] - 277:21 cropland [1] - 268:6 CROSS [12] - 26:8, 29:3, 36:9, 61:22, 66:1, 66:22, 97:11, 105:3, 107:20, 286:9, 292:22, 305:23 cross [19] - 17:4, 72:5, 73:1, 97:8, 99:2, 121:1, 121:11, 122:23, 123:23, 125:17, 146:19, 146:21, 158:5, 192:17, 193:2, 203:4, 282:24, 283:11, 309:14 cross-countried [1] - 158:5 cross-examination [1] - 17:4 cross-examine [1] - 309:14 crosses [10] - 55:25, 96:4, 168:18, 203:7, 203:9, 208:2, 225:10, 268:9, 269:8, 283:2 crossing [24] - 49:20, 52:21, 56:3, 58:5, 64:14, 64:17, 73:3, 99:2, 110:10, 122:18, 192:10, 192:14, 197:13, 197:14, 197:18, 199:5, 199:8, 203:6, 218:11, 257:25, 258:8, 268:13, 290:2, 290:17 crossings [6] - 289:5, 289:14, 289:15, 289:20, 290:4 crypto [1] - 155:17 cultural [15] - 105:10, 111:11, 112:22, 122:20, 125:16, 134:12, 134:19, 134:21, 135:3, 135:4, 136:3, 284:4, 284:6, 293:7</p>	<p>culturally [1] - 135:7 curiosity [1] - 215:8 curious [3] - 41:4, 214:20, 229:4 current [22] - 24:4, 24:5, 47:16, 47:17, 47:24, 49:12, 55:20, 57:7, 68:25, 80:9, 144:9, 145:22, 173:8, 256:22, 262:6, 282:2, 282:8, 282:16, 284:1, 302:9, 306:4, 307:3 curriculum [1] - 214:24 cursorly [2] - 218:18, 228:10 curves [1] - 150:25 customer [1] - 233:9 customers [1] - 42:25 cut [4] - 168:15, 168:19, 202:13, 208:5 cutting [2] - 168:20, 205:24</p>	<p>146:4, 146:6, 147:23, 154:8, 155:5, 155:12, 155:16, 159:25, 163:1, 163:2, 163:9, 163:11, 163:12, 163:20, 163:22, 164:10, 164:11, 165:20, 168:6, 179:22, 180:6, 180:15, 181:5, 181:7, 181:11, 181:13, 182:15, 183:4, 183:9, 186:6, 186:15, 186:25, 187:1, 187:13, 187:14, 187:15, 187:19, 187:21, 187:24, 188:16, 188:18, 194:9, 200:6, 200:12, 206:24, 211:9, 212:18, 213:6, 217:12, 217:17, 219:14, 220:22, 223:8, 224:1, 225:9, 226:15, 227:20, 231:22, 232:13, 233:12, 233:15, 233:17, 233:19, 233:21, 233:25, 234:3, 234:4, 234:6, 234:9, 234:12, 234:21, 235:22, 237:8, 237:19, 268:3, 273:4, 289:5, 289:10, 289:11, 290:13, 301:2, 301:12, 302:14, 303:4, 303:24, 306:23, 307:4 Dakota's [6] - 37:5, 60:9, 68:5, 69:9, 69:13, 238:5 Dakotans [4] - 145:20, 145:24, 226:9, 303:1 dam [1] - 186:18 damage [2] - 117:3, 200:18 damaged [1] - 144:17 damages [1] - 144:10 dams [1] - 219:20 DAN [5] - 17:18, 17:21, 17:25, 18:9, 18:13 Dan [3] - 9:3, 17:16, 41:13 danger [2] - 186:14, 186:25 dangerous [5] - 155:9, 174:24, 181:4, 186:10, 188:18 dangers [1] - 186:11</p>	<p>Daniel [2] - 17:25, 19:2 DANIEL [1] - 18:20 DAPL [1] - 208:2 dark [2] - 155:5, 155:11 data [14] - 59:1, 218:20, 219:3, 219:19, 240:8, 287:15, 289:13, 291:2, 291:3, 291:5, 291:7, 294:7, 294:12, 295:25 date [10] - 4:18, 9:1, 9:7, 101:15, 119:2, 254:18, 254:24, 289:13, 309:19, 309:20 dated [3] - 38:9, 210:13, 297:23 dates [10] - 78:21, 78:22, 100:25, 119:3, 119:13, 252:3, 254:19, 254:23, 309:5, 309:15 daughter [4] - 162:7, 162:8, 169:11, 171:13 daughters [1] - 246:25 daughters-in-law [1] - 246:25 Daum [2] - 93:11, 102:3 Dave [1] - 93:11 Dawson [22] - 13:10, 44:5, 81:7, 127:9, 127:15, 137:24, 150:2, 158:1, 171:2, 178:20, 196:12, 208:14, 216:1, 230:20, 254:1, 266:16, 271:18, 275:1, 279:2, 298:24, 308:2, 310:2 DAWSON [29] - 13:11, 44:6, 81:8, 81:15, 81:20, 127:10, 127:23, 128:14, 129:9, 137:25, 150:3, 158:2, 158:7, 158:10, 158:14, 171:3, 178:21, 196:13, 208:15, 216:2, 230:21, 254:2, 266:17, 271:19, 275:2, 279:3, 298:25, 308:3, 310:3 days [10] - 11:23, 41:16, 138:24, 155:24, 184:15, 184:20, 258:25,</p>
D				
<p>D-E-W-I-N-G [1] - 158:23 D-U-N-B-A-R [1] - 141:15 daily [3] - 108:18, 108:19, 126:15 Dakota [170] - 4:20, 4:23, 7:2, 7:20, 8:14, 10:6, 10:22, 10:23, 18:4, 20:18, 20:21, 20:22, 21:3, 22:22, 23:7, 24:10, 25:8, 25:16, 25:23, 27:9, 29:25, 30:18, 31:5, 32:9, 32:22, 32:23, 33:15, 33:21, 35:4, 37:22, 38:3, 38:19, 40:3, 49:11, 49:20, 54:17, 58:3, 59:18, 60:4, 60:16, 60:21, 65:13, 66:10, 66:13, 69:19, 70:8, 74:17, 74:19, 75:12, 82:9, 82:12, 84:22, 91:4, 91:10, 92:15, 93:10, 93:14, 93:16, 96:3, 96:8, 99:5, 100:9, 101:14, 102:12, 103:3, 105:6, 106:6, 107:4, 107:6, 108:1, 108:22, 114:3, 114:7, 114:23, 115:6, 142:13, 143:15, 144:19,</p>				

<p>259:2, 288:16, 309:7 DCC [2] - 67:7, 67:8 de [1] - 103:16 dead [3] - 144:16, 144:20, 145:3 deadly [7] - 180:5, 180:12, 180:19, 181:8, 182:6, 183:15, 187:24 Deal [3] - 163:11, 163:15, 247:7 deal [11] - 144:8, 156:3, 163:10, 172:5, 173:16, 212:15, 236:16, 238:17, 247:8, 250:8, 265:22 deal's [1] - 250:4 dealing [5] - 175:1, 238:2, 238:23, 247:11, 250:6 dealt [1] - 193:13 debt [1] - 42:17 decarbonize [1] - 305:6 deceitfulness [2] - 146:2, 147:1 decide [3] - 42:18, 97:5, 188:8 decided [2] - 184:16, 259:12 decision [15] - 57:15, 146:8, 160:3, 165:20, 184:21, 205:19, 209:23, 210:2, 210:8, 212:20, 212:21, 257:18, 260:9, 265:9, 270:18 decision-making [1] - 212:21 decisionmaker [1] - 13:12 declined [2] - 93:21, 100:22 decorum [5] - 5:10, 10:16, 10:24, 12:9, 232:24 decrease [1] - 233:6 deem [1] - 121:17 deep [2] - 117:6, 210:15 Deep [1] - 210:12 deeper [3] - 104:12, 117:6, 145:13 defending [1] - 238:12 defer [6] - 65:7, 66:12, 79:10, 80:5, 83:18, 127:20 deficiencies [1] - 7:14 defined [1] - 35:5 definition [2] - 34:25, 223:2</p>	<p>degree [1] - 227:16 delay [1] - 4:1 delayed [2] - 4:7, 13:15 delaying [1] - 225:13 delays [1] - 42:4 delegation [1] - 212:10 delineate [1] - 295:4 delineation [5] - 282:15, 294:3, 294:19, 294:23, 295:17 demand [1] - 237:21 demands [1] - 232:11 demons [1] - 142:19 demonstrating [1] - 37:5 denial [3] - 52:3, 96:21, 265:9 denied [7] - 57:1, 57:2, 185:15, 205:19, 205:21, 206:4, 297:20 denies [1] - 258:23 denominator [1] - 98:1 dense [1] - 223:4 densely [1] - 197:24 density [5] - 167:9, 167:12, 175:1, 223:1, 223:3 denying [4] - 7:5, 51:24, 56:19, 283:13 depart [1] - 49:17 department [5] - 100:3, 100:5, 100:17, 137:18, 223:23 Department [1] - 285:22 departments [2] - 225:11, 253:9 depleted [1] - 164:22 deploy [1] - 70:1 depth [5] - 104:14, 145:11, 182:24, 192:2, 230:10 depths [1] - 290:17 DEQ [1] - 285:22 Derrick [1] - 9:20 describe [11] - 41:14, 49:5, 51:23, 52:10, 53:6, 53:10, 57:8, 84:18, 294:4, 294:8, 295:22 described [3] - 31:14, 218:23, 304:12 describing [3] - 55:11, 55:13, 131:7 description [3] - 148:1, 148:20, 152:10</p>	<p>design [4] - 47:11, 47:16, 59:3, 132:11 designated [3] - 4:15, 133:1, 283:2 designation [1] - 133:3 designed [3] - 132:8, 290:18, 301:5 designing [1] - 106:23 Desirae [1] - 9:22 desire [2] - 98:14, 121:16 desk [1] - 261:3 desktop [10] - 135:2, 218:18, 228:1, 228:10, 228:14, 230:11, 291:18, 293:12, 293:14 desperate [1] - 186:5 destroying [1] - 211:15 destroys [3] - 183:9, 183:22, 183:23 detail [4] - 23:11, 68:20, 96:11, 282:13 detailed [7] - 41:9, 41:19, 47:11, 178:4, 178:13, 228:1, 291:4 details [4] - 79:9, 89:14, 94:5, 155:8 detectors [1] - 100:18 determination [1] - 13:4 determine [5] - 223:9, 259:20, 260:6, 260:25, 261:1 determined [4] - 47:12, 57:21, 96:9, 118:3 devalue [1] - 181:15 devastate [1] - 152:18 develop [16] - 25:16, 28:19, 47:14, 53:19, 56:12, 67:1, 68:21, 68:23, 68:25, 167:11, 182:12, 182:13, 217:17, 217:18, 287:14, 301:1 developed [6] - 39:15, 67:6, 68:22, 69:6, 74:20, 297:22 developers [9] - 76:18, 77:1, 80:22, 80:24, 153:17, 154:2, 166:9, 166:21, 262:18 developing [4] - 54:20, 54:21, 69:18, 166:18 Development [1] - 256:20 development [38] -</p>	<p>26:2, 48:17, 57:14, 67:11, 67:14, 68:7, 73:9, 73:12, 75:16, 76:20, 76:21, 80:15, 80:17, 80:18, 89:3, 135:9, 160:24, 161:4, 166:5, 182:9, 199:3, 199:14, 201:23, 206:25, 256:20, 258:6, 261:1, 261:17, 261:25, 262:1, 263:21, 263:24, 264:17, 269:2, 271:10, 271:12, 302:16, 302:21 developments [7] - 88:24, 153:24, 160:18, 160:19, 167:10, 167:14, 199:13 develops [1] - 33:2 deviation [13] - 110:22, 111:18, 111:21, 111:25, 112:5, 130:13, 130:20, 131:4, 131:17, 133:9, 133:10, 134:2 DEWING [19] - 158:20, 159:2, 159:5, 159:9, 159:11, 159:12, 159:14, 166:8, 166:21, 167:6, 167:24, 168:24, 169:8, 169:17, 170:2, 170:11, 170:14, 170:17, 171:6 Dewing [7] - 158:22, 158:24, 166:3, 169:6, 171:5, 197:17, 198:15 diagonally [2] - 121:11, 123:14 diagram [1] - 160:10 dialed [1] - 190:9 dialogue [1] - 126:4 diameter [4] - 6:24, 82:5, 82:12, 131:25 Dickey [8] - 6:25, 79:21, 179:22, 239:11, 251:15, 253:14, 253:15, 288:23 die [1] - 181:11 diesel [1] - 144:23 diesel-powered [1] - 144:23 difference [2] - 111:2, 115:8 different [21] - 21:9, 21:10, 23:1, 37:9,</p>	<p>37:25, 57:18, 65:3, 70:10, 84:20, 105:17, 107:9, 113:3, 114:14, 119:23, 155:18, 217:20, 218:25, 249:12, 257:25, 268:5, 290:14 differentiate [1] - 224:1 differently [1] - 101:8 differing [1] - 71:22 difficult [4] - 34:12, 123:24, 227:6, 227:14 dig [1] - 117:3 digging [2] - 172:13, 293:9 diligently [1] - 178:1 Dillon [2] - 99:22, 100:16 dioxide [4] - 6:23, 84:21, 210:15, 220:9 DIRECT [4] - 18:23, 45:20, 87:15, 280:13 direct [8] - 20:12, 21:13, 23:15, 33:11, 184:1, 277:24, 277:25, 303:15 directed [3] - 74:5, 77:14, 97:4 direction [1] - 143:6 directional [2] - 111:23, 283:4 directionally [1] - 91:18 directly [10] - 23:5, 37:2, 50:7, 68:4, 97:1, 98:4, 180:25, 184:22, 193:21, 193:23 director [3] - 9:15, 93:12, 99:23 directors [2] - 120:2, 254:22 dirt [2] - 222:17, 269:4 disagree [1] - 6:5 disagreements [1] - 307:12 disappear [1] - 235:1 disappointed [1] - 250:24 disaster [1] - 145:1 disastrous [1] - 211:9 discern [1] - 227:6 disclose [1] - 172:11 disclosed [1] - 172:17 disclosure [1] - 159:16 disconnect [1] - 287:6 discouraged [1] - 54:17 discovered [1] -</p>
--	--	---	--	--

<p>130:23</p> <p>discrepancy [4] - 46:23, 46:25, 47:18, 47:19</p> <p>discuss [7] - 16:19, 17:8, 23:11, 23:19, 78:25, 167:3, 258:10</p> <p>discussed [11] - 8:22, 22:20, 47:18, 78:23, 80:13, 90:10, 137:15, 206:21, 255:10, 283:10, 309:10</p> <p>discussing [2] - 140:18, 258:4</p> <p>discussion [8] - 69:10, 76:24, 80:2, 96:15, 119:10, 188:13, 283:14, 303:25</p> <p>discussions [6] - 55:8, 57:21, 62:12, 75:3, 77:21, 161:1</p> <p>dismiss [1] - 220:7</p> <p>disorders [1] - 145:6</p> <p>dispersement [1] - 92:13</p> <p>dispersion [4] - 78:24, 113:2, 137:8, 254:20</p> <p>displacing [1] - 221:15</p> <p>dissertation [1] - 215:5</p> <p>distance [8] - 83:14, 83:17, 104:15, 131:18, 143:7, 161:3, 173:13, 197:21</p> <p>distillers [2] - 235:4, 235:6</p> <p>distinguish [1] - 26:17</p> <p>distinguishing [1] - 58:12</p> <p>distribute [1] - 14:6</p> <p>distributed [1] - 49:3</p> <p>district [8] - 238:10, 238:11, 238:23, 243:13, 244:2, 244:5, 244:20, 248:12</p> <p>District [2] - 231:22, 231:25</p> <p>districts [1] - 283:12</p> <p>disturbance [1] - 91:19</p> <p>disturbed [1] - 182:19</p> <p>Ditch [4] - 73:22, 199:1, 199:16, 219:1</p> <p>diversifies [1] - 25:24</p> <p>Division [3] - 58:4, 58:7, 58:8</p> <p>doable [1] - 122:19</p> <p>Docket [2] - 104:20,</p>	<p>126:1</p> <p>docket [3] - 16:7, 16:8, 54:14</p> <p>docketed [2] - 59:5</p> <p>document [11] - 14:6, 15:20, 16:6, 77:11, 78:20, 105:23, 109:13, 133:25, 219:10, 255:13</p> <p>documentation [4] - 100:7, 120:17, 255:9, 288:10</p> <p>documents [5] - 14:4, 16:8, 217:24, 221:2, 298:17</p> <p>dogs [1] - 149:10</p> <p>dollar [1] - 301:17</p> <p>dollars [5] - 33:19, 164:18, 165:14, 200:24</p> <p>dollars' [1] - 161:14</p> <p>domain [9] - 83:24, 114:2, 114:7, 115:5, 115:9, 115:18, 140:19, 184:13, 185:3</p> <p>domestic [2] - 83:10, 83:15</p> <p>Domina [1] - 62:15</p> <p>done [39] - 11:11, 24:11, 41:10, 43:25, 47:10, 56:25, 57:2, 63:3, 63:19, 69:22, 103:14, 105:13, 122:6, 122:14, 134:10, 165:9, 168:1, 193:14, 215:5, 218:10, 223:10, 230:11, 250:4, 253:24, 254:3, 255:10, 262:20, 281:15, 284:15, 287:18, 288:6, 290:25, 291:19, 291:23, 294:19, 296:6, 296:7, 300:13, 306:8</p> <p>Doolittles [1] - 97:14</p> <p>door [4] - 5:15, 5:18, 6:8, 43:24</p> <p>doors [1] - 278:1</p> <p>dots [1] - 44:1</p> <p>Dotzenrods [1] - 97:13</p> <p>Double [4] - 73:22, 198:25, 199:16, 219:1</p> <p>doubled [1] - 103:9</p> <p>doubtful [1] - 154:10</p> <p>doubts [1] - 221:12</p> <p>down [26] - 5:13, 5:25, 11:2, 21:8, 54:6, 54:18, 72:19, 83:7,</p>	<p>101:22, 121:18, 122:5, 145:7, 180:24, 198:24, 199:10, 212:19, 222:18, 234:1, 234:4, 236:8, 238:23, 244:17, 244:18, 244:20, 273:13</p> <p>draft [1] - 298:17</p> <p>dragline [1] - 219:4</p> <p>drain [5] - 123:20, 123:25, 124:2, 124:8, 244:23</p> <p>drastically [1] - 233:6</p> <p>drawing [1] - 11:8</p> <p>drawings [1] - 203:20</p> <p>drawn [1] - 162:11</p> <p>Drew [1] - 245:18</p> <p>dried [1] - 235:3</p> <p>drill [4] - 91:18, 104:14, 219:19, 283:4</p> <p>drilled [1] - 289:1</p> <p>drilling [3] - 65:12, 104:2, 286:15</p> <p>drills [3] - 104:11, 104:12, 111:23</p> <p>drink [2] - 163:25, 186:21</p> <p>Drinking [1] - 210:12</p> <p>drinking [4] - 210:17, 217:15, 217:18, 217:19</p> <p>drive [1] - 143:9</p> <p>Drive [1] - 19:6</p> <p>driven [4] - 23:18, 30:16, 42:9, 215:20</p> <p>driveway [2] - 110:10, 229:22</p> <p>driving [2] - 210:17, 224:20</p> <p>drop [1] - 232:18</p> <p>dropped [1] - 236:17</p> <p>dry [2] - 219:19, 235:6</p> <p>Dublinske [6] - 8:17, 86:14, 87:10, 96:23, 129:11, 130:9</p> <p>DUBLINSKE [10] - 86:16, 87:11, 87:16, 97:7, 129:12, 129:14, 132:14, 136:21, 254:9, 255:14</p> <p>due [8] - 116:1, 131:18, 142:14, 144:10, 197:25, 220:21, 276:8</p> <p>Duke [2] - 210:10, 210:19</p> <p>duly [19] - 18:21, 45:18, 87:13, 142:5, 146:5, 152:2,</p>	<p>159:13, 172:3, 179:20, 197:9, 209:21, 216:23, 231:18, 256:14, 267:21, 272:15, 275:24, 280:11, 300:8</p> <p>dump [1] - 211:10</p> <p>dumping [4] - 163:1, 163:2, 163:9, 273:5</p> <p>DUNBAR [25] - 141:14, 141:19, 141:22, 142:1, 142:4, 142:6, 146:21, 146:24, 147:3, 147:19, 147:22, 148:7, 148:15, 148:18, 149:1, 149:4, 149:8, 149:15, 149:18, 150:9, 150:13, 150:17, 150:20, 150:24, 151:3</p> <p>Dunbar [7] - 141:14, 141:16, 142:7, 146:18, 158:3, 197:16, 198:19</p> <p>Dunbars' [1] - 197:21</p> <p>duplicitous [2] - 257:17, 264:23</p> <p>duration [2] - 29:21, 29:23</p> <p>during [5] - 21:23, 119:9, 163:20, 234:24, 257:21</p> <p>dwelling [1] - 191:13</p> <p>dwelling [1] - 180:8</p> <p>dynamite [1] - 199:21</p>	<p>easier [2] - 120:25, 299:16</p> <p>east [28] - 49:18, 52:21, 57:19, 72:17, 72:23, 73:2, 73:4, 73:5, 73:12, 80:9, 103:25, 125:10, 159:15, 160:7, 160:9, 160:13, 161:4, 161:7, 222:10, 229:23, 243:17, 258:7, 261:16, 261:25, 276:1, 276:8, 278:13, 278:14</p> <p>East [2] - 46:8, 247:5</p> <p>eastern [3] - 169:23, 170:5, 170:7</p> <p>easy [2] - 184:4, 184:6</p> <p>eating [2] - 237:8, 252:21</p> <p>economic [22] - 21:12, 21:25, 22:10, 23:16, 26:18, 30:14, 33:22, 33:25, 36:13, 36:22, 40:19, 40:22, 41:23, 47:5, 59:10, 59:20, 182:8, 226:9, 300:18, 301:15, 301:17, 302:3</p> <p>economically [1] - 42:9</p> <p>economically-driven [1] - 42:9</p> <p>economics [4] - 25:1, 25:3, 39:24</p> <p>economy [7] - 59:17, 59:19, 59:20, 60:9, 183:5, 238:6, 305:3</p> <p>ecosystem [3] - 26:3, 28:19, 33:2</p> <p>edge [5] - 169:23, 169:24, 170:5, 170:6, 170:7</p> <p>Edgeley [1] - 231:21</p> <p>educate [1] - 52:25</p> <p>educated [2] - 107:1, 142:12</p> <p>education [4] - 200:6, 214:22, 214:23, 214:24</p> <p>educational [1] - 215:5</p> <p>EERC [2] - 58:25, 245:15</p> <p>effect [10] - 140:17, 153:21, 198:8, 198:13, 202:7, 202:15, 202:17, 204:23, 235:13</p> <p>effective [1] - 226:16</p> <p>effects [2] - 7:19, 180:6</p>
E				
<p>E-L-K-I-N-S [1] - 216:9</p> <p>early [4] - 63:19, 232:8, 250:14, 289:7</p> <p>Earsleys [1] - 148:10</p> <p>earth [2] - 219:16, 219:17</p> <p>Easement [1] - 54:17</p> <p>easement [15] - 55:7, 62:11, 94:4, 98:2, 108:11, 108:22, 109:11, 109:12, 116:24, 118:17, 124:17, 128:25, 202:25, 208:5, 276:11</p> <p>easements [11] - 55:3, 97:20, 98:15, 109:22, 109:25, 110:5, 126:8, 258:12, 283:24, 295:8, 295:14</p>				

<p>efficient [1] - 7:22</p> <p>effort [1] - 59:1</p> <p>efforts [1] - 178:4</p> <p>egregious [1] - 117:2</p> <p>eight [4] - 49:19, 55:22, 137:6, 174:8</p> <p>either [14] - 4:25, 91:12, 91:18, 111:15, 116:16, 122:12, 181:4, 195:4, 208:4, 210:4, 211:11, 214:2, 269:15, 287:16</p> <p>ejected [1] - 225:7</p> <p>elaborate [1] - 147:2</p> <p>elected [3] - 144:19, 146:5, 212:9</p> <p>Electric [3] - 159:21, 164:5, 164:6</p> <p>electric [6] - 60:11, 163:19, 164:1, 164:9, 164:13, 236:3</p> <p>electrical [2] - 154:14, 179:25</p> <p>electricity [7] - 60:16, 60:23, 145:20, 145:22, 163:22, 163:23, 164:12</p> <p>element [2] - 93:24, 201:3</p> <p>elevation [1] - 153:11</p> <p>elicited [1] - 37:5</p> <p>ELKINS [22] - 216:9, 216:13, 216:16, 216:20, 216:22, 216:24, 217:3, 227:2, 227:5, 227:12, 227:17, 227:19, 227:23, 228:6, 228:16, 228:23, 229:9, 229:13, 229:18, 229:24, 230:14, 230:23</p> <p>Elkins [4] - 216:9, 216:10, 226:23, 290:8</p> <p>Ellendale [4] - 179:23, 180:11, 193:21, 194:9</p> <p>elsewhere [2] - 233:10, 306:12</p> <p>email [3] - 232:3, 259:12, 259:14</p> <p>emergencies [1] - 165:11</p> <p>emergency [57] - 77:5, 77:18, 77:21, 77:22, 78:19, 79:1, 79:4, 79:24, 80:2, 80:5, 92:1, 92:7, 92:8, 92:14, 92:18, 92:22, 93:17, 99:1, 99:3,</p>	<p>99:9, 99:22, 99:24, 100:12, 100:22, 101:11, 101:12, 101:21, 113:18, 118:25, 119:10, 119:17, 119:19, 120:2, 129:16, 129:20, 137:7, 137:8, 137:17, 144:22, 144:24, 152:25, 165:1, 165:3, 165:5, 175:2, 178:2, 178:14, 188:7, 217:18, 220:18, 220:23, 220:25, 253:14, 254:18, 254:22, 254:23</p> <p>eminent [8] - 114:2, 114:7, 115:5, 115:9, 115:17, 140:19, 184:13, 185:3</p> <p>emissions [1] - 235:10</p> <p>emitted [1] - 163:4</p> <p>emitters [3] - 32:2, 32:7, 32:8</p> <p>Emmons [16] - 6:25, 9:21, 50:14, 50:15, 64:4, 64:9, 64:10, 64:11, 85:21, 85:22, 93:20, 102:7, 113:10, 155:6, 268:4, 288:24</p> <p>employed [5] - 19:7, 46:9, 87:19, 87:21, 280:18</p> <p>employee [3] - 30:10, 159:21, 189:15</p> <p>employees [2] - 54:3, 189:16</p> <p>employing [1] - 27:15</p> <p>employment [2] - 22:6, 41:20</p> <p>enable [1] - 235:11</p> <p>encompass [1] - 174:11</p> <p>encompasses [1] - 133:13</p> <p>encouraged [1] - 162:25</p> <p>encouraging [1] - 62:25</p> <p>encroachments [1] - 96:7</p> <p>end [9] - 32:1, 47:11, 73:15, 193:6, 193:7, 195:15, 195:16, 200:12, 271:13</p> <p>endanger [3] - 153:13, 181:8, 183:12</p> <p>endangered [9] - 134:25, 135:1,</p>	<p>135:21, 282:18, 293:23, 295:21, 296:11, 296:25</p> <p>endorse [1] - 305:12</p> <p>ends [3] - 235:6, 269:7, 272:18</p> <p>energy [25] - 8:3, 25:14, 25:17, 25:19, 25:20, 47:14, 59:19, 60:12, 60:25, 68:5, 69:9, 69:13, 69:17, 70:1, 75:12, 76:13, 181:6, 245:13, 245:20, 245:25, 246:1, 246:13, 302:23, 305:5, 305:16</p> <p>Energy [4] - 19:8, 58:21, 215:10, 280:19</p> <p>engage [4] - 54:24, 55:4, 74:14, 76:24</p> <p>engaged [3] - 58:3, 58:21, 67:13</p> <p>engaging [1] - 74:16</p> <p>engineering [6] - 47:11, 57:17, 59:3, 82:15, 217:11, 219:3</p> <p>Engineers [4] - 135:17, 285:23, 289:5, 293:12</p> <p>enhance [3] - 25:6, 25:18, 211:4</p> <p>enhanced [3] - 28:3, 28:7, 30:2</p> <p>enhancer [1] - 33:18</p> <p>enjoyed [1] - 239:10</p> <p>enjoys [1] - 222:14</p> <p>ensure [1] - 54:8</p> <p>ensuring [2] - 8:2, 8:3</p> <p>enter [1] - 136:17</p> <p>entered [2] - 14:16, 16:5</p> <p>entertain [2] - 128:2, 128:4</p> <p>entire [8] - 47:6, 133:13, 154:9, 174:11, 210:22, 228:24, 229:9, 290:23</p> <p>entirely [1] - 303:23</p> <p>entity [1] - 140:8</p> <p>entry [2] - 104:11, 122:10</p> <p>Environment [1] - 210:11</p> <p>environment [3] - 7:19, 22:2, 304:4</p> <p>Environmental [2] - 58:22, 93:12</p> <p>environmental [12] - 7:22, 8:1, 99:15, 111:11, 134:18,</p>	<p>134:21, 134:23, 217:11, 221:16, 280:21, 281:2, 281:25</p> <p>environmentally [2] - 134:12, 135:7</p> <p>EOR [2] - 28:10, 28:21</p> <p>ephemeral [1] - 220:3</p> <p>equipment [22] - 80:3, 99:24, 100:6, 100:14, 100:19, 152:24, 164:18, 164:20, 164:24, 175:2, 180:24, 180:25, 181:1, 182:23, 182:25, 187:5, 187:7, 188:5, 192:3, 192:13, 224:18, 252:19</p> <p>equity [1] - 42:17</p> <p>Ernest [1] - 86:22</p> <p>Ernst [2] - 41:15, 47:3</p> <p>erosion [1] - 219:21</p> <p>especially [7] - 11:6, 78:5, 95:25, 126:6, 144:21, 145:20, 225:11</p> <p>essential [1] - 305:14</p> <p>essentially [9] - 84:19, 84:23, 92:6, 257:18, 258:5, 258:7, 258:11, 263:8, 265:6</p> <p>estate [2] - 198:8, 201:17</p> <p>estimate [7] - 6:17, 20:6, 27:6, 38:9, 38:25, 42:7, 158:8</p> <p>estimated [6] - 22:10, 143:18, 154:17, 233:15, 234:11, 234:20</p> <p>estimates [5] - 21:24, 27:4, 36:12, 47:24, 47:25</p> <p>estimation [1] - 23:20</p> <p>ETA [8] - 72:5, 72:7, 72:14, 72:24, 73:5, 170:21, 262:9, 262:13</p> <p>etcetera [14] - 24:17, 41:7, 47:17, 57:13, 76:23, 101:23, 102:23, 104:9, 111:11, 112:23, 113:19, 117:6, 118:5, 137:19</p> <p>Ethanol [2] - 20:22, 215:10</p> <p>ethanol [70] - 24:25, 25:1, 25:2, 25:4, 29:9, 29:15, 29:20, 29:22, 32:20, 33:4, 48:2, 59:21, 59:23,</p>	<p>60:6, 74:15, 74:16, 74:18, 105:25, 131:24, 211:3, 232:15, 233:6, 233:7, 233:8, 233:10, 233:11, 233:12, 233:14, 233:18, 233:20, 233:23, 234:3, 234:7, 234:8, 234:10, 234:11, 234:16, 234:17, 234:21, 235:1, 235:3, 235:9, 235:15, 235:17, 235:20, 235:22, 235:23, 236:1, 236:4, 236:6, 237:3, 237:6, 237:15, 237:17, 237:19, 237:22, 237:23, 238:5, 240:6, 242:4, 242:6, 242:16, 245:12, 245:16, 246:2, 246:8, 272:25, 303:22, 304:14</p> <p>ethanol-producing [2] - 233:8, 233:12</p> <p>ethics [1] - 252:22</p> <p>Europeans [1] - 236:11</p> <p>evacuate [1] - 224:11</p> <p>evaluate [3] - 59:1, 91:11, 95:22</p> <p>evaluated [1] - 96:5</p> <p>evaluation [1] - 118:13</p> <p>Evan [2] - 10:8, 300:20</p> <p>evening [2] - 279:8, 310:1</p> <p>event [6] - 92:20, 100:14, 100:15, 224:9, 225:19, 257:10</p> <p>events [4] - 219:15, 219:24, 220:8, 257:7</p> <p>eventually [4] - 32:19, 98:21, 145:17, 185:8</p> <p>evidence [3] - 13:21, 140:15, 224:13</p> <p>evidentiary [2] - 89:24, 140:12</p> <p>evil [2] - 165:17, 165:18</p> <p>evolved [1] - 70:22</p> <p>exacerbates [1] - 162:18</p> <p>exact [4] - 171:12, 192:21, 287:12, 295:3</p> <p>exactly [6] - 33:3, 53:9, 192:18, 199:8,</p>
--	--	--	---	---

<p>235:10, 258:10 examination [1] - 17:4 EXAMINATION [22] - 18:23, 26:8, 29:3, 36:9, 45:20, 61:22, 66:1, 66:22, 84:6, 85:6, 85:15, 87:15, 97:11, 105:3, 107:20, 129:13, 132:17, 134:7, 280:13, 286:9, 292:22, 305:23 examine [1] - 309:14 examined [4] - 18:21, 45:18, 87:13, 280:11 example [16] - 20:6, 24:3, 24:12, 103:20, 125:7, 130:21, 155:14, 155:23, 172:22, 219:1, 219:4, 219:22, 233:2, 254:15, 295:3, 305:4 examples [1] - 28:1 except [3] - 14:9, 117:2, 162:16 excepting [1] - 64:9 exception [1] - 121:17 excess [2] - 172:25, 200:3 exchange [1] - 35:22 excited [1] - 304:2 exclusion [2] - 134:1, 282:25 excuse [5] - 41:13, 57:6, 66:16, 96:2, 114:11 execute [1] - 98:2 executive [1] - 46:12 executives [1] - 212:1 exemption [3] - 39:12, 39:15, 84:15 exhibit [9] - 14:10, 14:17, 16:7, 16:10, 50:17, 51:11, 62:14, 91:23, 239:25 Exhibit [11] - 50:9, 55:10, 62:15, 90:9, 94:6, 108:12, 109:14, 114:1, 114:8, 297:17, 298:5 exhibits [12] - 13:24, 14:8, 14:16, 15:10, 16:8, 57:5, 88:13, 227:13, 241:13, 308:14, 308:15 Exhibits [1] - 16:4 existing [4] - 122:14, 153:24, 226:1, 228:8 exit [3] - 104:11, 122:11, 278:22 EXP [1] - 280:19 expand [5] - 59:13,</p>	<p>170:2, 181:21, 182:10, 196:6 expansion [1] - 24:20 expect [3] - 117:18, 301:21, 309:11 expectation [4] - 21:22, 28:9, 28:17, 38:4 expected [2] - 154:18, 219:20 expenses [2] - 212:3, 224:24 expensive [3] - 160:25, 161:15, 224:15 experience [13] - 43:5, 123:22, 172:23, 206:25, 211:16, 248:17, 284:22, 300:20, 300:22, 301:11, 302:12, 303:11, 307:10 experienced [2] - 201:19, 219:3 experiences [2] - 202:22, 202:23 expert [1] - 39:22 expertise [1] - 230:13 experts [1] - 300:15 explain [11] - 46:24, 56:25, 59:16, 111:3, 111:5, 113:11, 115:7, 115:8, 119:7, 233:5, 249:3 explained [1] - 47:19 explaining [1] - 10:16 explanation [1] - 113:12 explicitly [1] - 263:10 explode [1] - 191:20 explodes [2] - 186:16, 191:18 explore [2] - 76:1, 76:12 explosion [3] - 174:1, 187:2, 192:1 explosive [2] - 180:19, 191:15 export [4] - 60:22, 235:16, 236:16, 305:6 exported [1] - 60:23 exports [1] - 236:12 expressed [1] - 226:11 extend [1] - 30:1 extended [3] - 92:22, 93:18, 93:19 extending [2] - 93:15, 166:23 extends [1] - 55:21 extension [2] - 59:24, 163:14</p>	<p>extensive [2] - 301:10, 303:10 extent [3] - 131:12, 153:4, 156:6 extra [3] - 112:1, 187:6, 191:12 extraterritorial [2] - 71:23, 72:3 extreme [2] - 220:7, 228:23 extremely [3] - 123:21, 123:24, 143:20 EY [3] - 41:10, 41:14, 41:16 eyes [1] - 263:3</p> <p style="text-align: center;">F</p> <p>F-E-L-A-N-D [1] - 196:20 fabrication [2] - 31:3, 260:10 faced [1] - 209:23 faces [1] - 229:22 facilitate [3] - 173:13, 221:3, 222:4 facilities [12] - 6:24, 22:15, 30:17, 30:23, 60:15, 67:1, 68:7, 68:17, 68:18, 70:2, 154:21, 221:22 facility [21] - 7:18, 7:21, 7:25, 29:7, 29:11, 30:24, 31:23, 32:4, 43:1, 48:17, 59:4, 59:5, 67:4, 67:5, 67:7, 67:19, 68:14, 69:11, 69:12, 133:3, 215:17 facings [2] - 163:21, 164:2 fact [22] - 7:4, 42:6, 52:4, 73:8, 84:14, 93:10, 126:23, 152:13, 155:7, 162:21, 173:3, 173:16, 173:22, 174:2, 197:18, 198:19, 202:4, 222:1, 232:8, 235:7, 245:14, 248:18 factor [1] - 104:8 factors [3] - 41:3, 42:12, 111:10 facts [11] - 13:2, 13:3, 13:6, 104:10, 172:5, 173:16, 252:9, 252:25, 270:9 facts-based [1] - 13:6 fail [3] - 217:21, 219:20, 268:13</p>	<p>failed [2] - 218:25, 219:5 failure [3] - 222:13, 224:7, 304:19 fair [14] - 36:20, 50:7, 61:11, 61:13, 61:16, 63:10, 63:11, 65:11, 89:4, 101:6, 131:19, 131:20, 190:19, 243:10 fairly [4] - 42:7, 63:14, 99:11, 101:17 faith [1] - 126:10 Falkirk [2] - 272:16, 272:21 fall [7] - 22:25, 78:7, 92:6, 93:5, 94:9, 105:13, 192:7 falling [1] - 165:3 familiar [22] - 28:4, 29:21, 30:5, 30:8, 57:12, 64:21, 65:1, 65:2, 85:22, 103:14, 103:17, 161:22, 215:9, 224:8, 228:21, 238:9, 242:10, 256:16, 258:3, 284:24, 290:10, 306:14 families [2] - 186:7, 232:7 family [15] - 162:1, 162:7, 162:8, 169:11, 181:18, 183:12, 187:3, 219:25, 222:8, 222:14, 224:10, 224:15, 232:7, 232:9 family's [1] - 226:8 far [58] - 12:7, 16:12, 27:4, 40:4, 67:21, 72:2, 72:23, 73:21, 76:13, 82:11, 94:21, 99:18, 100:6, 100:20, 143:9, 156:13, 158:4, 158:8, 163:1, 166:25, 168:4, 169:25, 170:15, 176:11, 178:8, 180:17, 191:1, 192:2, 192:16, 192:24, 198:14, 201:1, 202:18, 203:2, 203:5, 203:11, 204:8, 204:14, 205:21, 207:5, 227:4, 227:9, 228:2, 228:13, 228:14, 229:17, 239:6, 257:24, 259:16, 268:16, 269:5, 288:4,</p>	<p>288:18, 290:1, 290:21, 308:17 Fargo [1] - 245:19 Farm [1] - 295:12 farm [16] - 162:5, 163:18, 169:9, 179:22, 180:9, 180:23, 181:19, 182:23, 192:3, 196:5, 198:5, 232:7, 247:1, 248:19, 277:21 farm/ranch [1] - 159:14 farmer [6] - 163:7, 184:4, 231:21, 239:3, 276:1 farmer/rancher [1] - 161:19 farmers [17] - 25:7, 61:10, 123:19, 161:24, 164:10, 164:11, 232:6, 232:18, 232:20, 233:17, 234:12, 234:22, 238:5, 238:17, 242:4, 243:14, 294:25 farming [4] - 117:5, 186:7, 198:2, 198:6 farmland [2] - 244:20, 248:7 farms [4] - 161:6, 163:22, 163:24, 182:10 fashion [2] - 8:4, 206:5 fastest [1] - 262:1 fastest-growing [1] - 262:1 faults [1] - 219:20 favorable [2] - 53:11, 57:22 fear [2] - 144:8, 185:17 feasibility [1] - 259:21 feasible [1] - 290:23 feature [2] - 130:24, 295:6 features [3] - 111:11, 135:4, 136:4 February [4] - 82:20, 83:1, 117:9, 264:10 federal [5] - 135:18, 175:21, 212:10, 212:13 Federal [6] - 135:22, 204:14, 205:6, 294:21, 295:8, 296:23 federally [1] - 176:14 Fedorchak [1] - 13:13 feed [1] - 235:4 feedback [6] - 54:15,</p>
---	---	--	--	--

<p>98:4, 108:4, 108:7, 257:19, 259:25</p> <p>feedlot [1] - 268:2</p> <p>feedlots [3] - 182:12, 183:7, 235:5</p> <p>feelings [2] - 5:5, 238:15</p> <p>feet [35] - 104:16, 110:22, 110:23, 111:8, 111:12, 111:15, 111:19, 112:3, 112:13, 118:2, 123:21, 133:12, 143:3, 143:4, 143:18, 153:5, 169:23, 170:4, 180:25, 182:24, 191:12, 206:24, 207:18, 207:22, 220:3, 265:21, 269:2, 276:7, 276:10, 276:18, 276:22, 278:14, 297:10, 298:13</p> <p>FELAND [28] - 196:19, 196:24, 197:2, 197:6, 197:8, 197:10, 201:22, 202:23, 203:7, 203:15, 204:1, 204:13, 204:17, 204:19, 204:21, 205:3, 205:8, 205:18, 206:3, 206:7, 206:11, 207:4, 207:6, 207:16, 207:21, 207:23, 208:1, 208:17</p> <p>Feland [3] - 196:19, 196:21, 201:16</p> <p>fell [1] - 219:5</p> <p>fellow [1] - 300:22</p> <p>felony [1] - 18:5</p> <p>felt [6] - 90:25, 113:3, 221:23, 264:22, 264:25, 292:12</p> <p>fence [2] - 143:24, 265:21</p> <p>fertilizer [2] - 24:16, 31:1</p> <p>few [12] - 16:13, 21:7, 70:20, 112:13, 113:21, 139:23, 154:2, 165:10, 175:20, 256:18, 263:16, 286:2</p> <p>fibbed [1] - 195:19</p> <p>field [20] - 54:4, 63:21, 90:24, 118:16, 128:15, 228:12, 228:17, 230:11,</p>	<p>246:20, 273:15, 290:9, 290:10, 290:15, 290:23, 292:1, 292:5, 292:6, 292:9, 295:5</p> <p>Fifth [1] - 39:20</p> <p>fifth [2] - 276:3, 278:8</p> <p>fight [2] - 201:8, 210:16</p> <p>fighting [8] - 185:18, 185:21, 185:23, 186:1, 191:6</p> <p>figure [5] - 203:22, 245:22, 276:18, 298:4, 305:5</p> <p>figured [2] - 172:24, 176:5</p> <p>file [3] - 102:24, 105:22, 189:11</p> <p>filed [19] - 14:3, 54:13, 54:15, 61:25, 77:11, 82:19, 88:12, 90:6, 114:2, 114:6, 117:9, 282:10, 284:4, 284:17, 286:20, 287:9, 289:7, 308:14, 308:15</p> <p>files [2] - 259:8, 287:25</p> <p>filing [2] - 104:21, 220:20</p> <p>Filing [2] - 4:19, 7:11</p> <p>filings [1] - 7:14</p> <p>fill [2] - 237:21, 294:12</p> <p>filling [3] - 13:13, 294:7, 295:25</p> <p>filtered [1] - 101:22</p> <p>final [1] - 25:13</p> <p>finalize [1] - 54:12</p> <p>finalized [2] - 102:20, 289:23</p> <p>finally [6] - 25:22, 63:14, 155:19, 300:25, 302:16, 303:20</p> <p>financial [3] - 34:19, 34:22, 159:22</p> <p>findings [2] - 7:4, 52:4</p> <p>fine [3] - 18:6, 158:11, 250:2</p> <p>finer [2] - 132:20, 134:4</p> <p>finish [1] - 110:5</p> <p>finished [1] - 285:9</p> <p>fire [13] - 100:3, 100:5, 100:17, 101:21, 119:20, 137:18, 172:22, 173:6, 188:6, 223:23, 225:11, 253:8, 253:11</p> <p>fired [3] - 200:9, 200:10, 238:16</p>	<p>firefighters [8] - 93:9, 93:13, 101:23, 239:8, 239:12, 251:14, 251:17, 252:15</p> <p>firefighting [1] - 93:2</p> <p>firemen [3] - 252:21, 253:12, 261:6</p> <p>Firm [2] - 8:16, 9:21</p> <p>firm [14] - 8:17, 41:10, 41:17, 62:18, 63:6, 217:11, 238:24, 284:5, 284:11, 284:12, 284:15, 287:2, 290:16, 292:1</p> <p>firms [2] - 290:15, 292:11</p> <p>first [94] - 9:3, 11:9, 11:20, 17:15, 18:21, 21:17, 23:19, 23:24, 34:4, 45:18, 49:7, 49:15, 53:18, 55:7, 56:19, 70:20, 75:13, 77:5, 77:18, 84:24, 87:13, 92:8, 92:18, 93:17, 96:5, 99:3, 99:10, 99:16, 100:12, 101:12, 110:15, 113:2, 119:11, 120:14, 137:18, 138:7, 140:1, 140:2, 141:10, 142:5, 152:2, 155:5, 155:13, 158:20, 159:13, 160:3, 164:15, 164:16, 164:19, 164:21, 165:9, 165:10, 172:3, 172:7, 172:23, 177:24, 178:3, 179:20, 187:1, 191:1, 197:9, 209:21, 216:23, 223:23, 225:4, 225:7, 225:14, 231:18, 238:15, 249:16, 249:18, 250:11, 250:13, 251:3, 251:11, 252:12, 254:15, 256:14, 257:10, 267:4, 267:21, 268:25, 272:15, 275:24, 278:10, 280:11, 284:15, 285:14, 286:14, 287:8, 300:8, 304:19, 304:23</p> <p>first-hand [1] - 172:23</p> <p>firsthand [1] - 268:1</p> <p>Fish [10] - 283:2, 283:4, 285:22,</p>	<p>293:10, 293:24, 295:8, 295:13, 296:16, 296:20, 296:23</p> <p>fish [3] - 283:23, 295:18, 296:2</p> <p>fishing [2] - 67:23, 273:11</p> <p>fissures [1] - 186:22</p> <p>fit [2] - 224:23, 224:24</p> <p>fit-testing [1] - 224:24</p> <p>five [20] - 8:21, 18:6, 73:5, 74:18, 79:7, 79:16, 119:13, 120:1, 159:15, 167:10, 172:4, 174:9, 220:13, 234:2, 234:17, 236:18, 244:22, 254:19, 261:16, 297:11</p> <p>fixed [1] - 60:19</p> <p>flag [1] - 5:18</p> <p>flammable [1] - 191:16</p> <p>flat [1] - 185:16</p> <p>flat-out [1] - 185:16</p> <p>flexibility [1] - 111:16</p> <p>Flint [3] - 74:20, 215:10, 237:4</p> <p>flipping [1] - 39:8</p> <p>flooding [1] - 96:6</p> <p>Florida [1] - 280:17</p> <p>flow [8] - 25:7, 38:6, 106:13, 142:16, 153:10, 211:4, 242:4, 242:5</p> <p>flow-through [1] - 38:6</p> <p>fluid [1] - 220:15</p> <p>focus [3] - 7:9, 49:24, 95:6</p> <p>focused [5] - 40:2, 77:21, 228:21, 229:8, 242:6</p> <p>fog [1] - 224:2</p> <p>FOIA [1] - 295:11</p> <p>folks [7] - 27:25, 88:18, 97:5, 98:5, 102:1, 294:20, 303:14</p> <p>follow [15] - 21:16, 21:24, 26:2, 69:25, 79:23, 127:1, 129:7, 130:9, 162:25, 184:18, 199:24, 200:1, 205:15, 213:19, 287:13</p> <p>follow-on [2] - 21:16, 21:24</p> <p>follow-ons [1] - 26:2</p> <p>follow-up [1] - 79:23</p> <p>followed [2] - 284:8,</p>	<p>309:8</p> <p>following [9] - 7:16, 43:16, 130:17, 197:16, 198:15, 198:18, 207:17, 207:24, 241:20</p> <p>follows [18] - 18:22, 45:19, 87:14, 142:5, 152:2, 159:13, 172:3, 179:20, 197:9, 209:21, 216:23, 231:18, 256:14, 267:21, 272:15, 275:24, 280:12, 300:8</p> <p>food [3] - 24:16, 31:2, 211:7</p> <p>foot [5] - 117:6, 174:6, 174:20, 180:23, 291:9</p> <p>footprint [8] - 47:6, 49:11, 77:7, 92:16, 95:25, 100:1, 294:15, 306:25</p> <p>for-profit [1] - 186:8</p> <p>force [1] - 153:2</p> <p>forced [2] - 143:25, 200:1</p> <p>forces [1] - 146:9</p> <p>forefront [1] - 34:9</p> <p>flipping [1] - 226:10</p> <p>foreshadowing [1] - 128:17</p> <p>forever [1] - 182:21</p> <p>forget [2] - 198:20, 267:5</p> <p>forgot [2] - 84:4, 189:10</p> <p>forgotten [4] - 95:14, 117:20, 199:3, 220:20</p> <p>Forks [1] - 58:22</p> <p>formality [1] - 226:11</p> <p>formation [1] - 237:5</p> <p>forth [6] - 43:24, 71:22, 284:14, 284:16, 287:17, 287:20</p> <p>fortunate [1] - 207:16</p> <p>forward [13] - 13:8, 36:20, 41:1, 42:12, 76:14, 89:4, 126:10, 132:9, 140:2, 141:7, 178:13, 293:19, 298:19</p> <p>fossil [1] - 156:5</p> <p>foundations [1] - 214:25</p> <p>founder [1] - 19:10</p> <p>four [38] - 8:21, 72:11, 93:6, 96:20, 97:14, 102:11, 103:3, 104:2, 106:6,</p>
--	--	--	---	---

<p>106:16, 117:6, 126:6, 126:13, 159:15, 161:5, 161:25, 170:19, 170:20, 180:23, 180:25, 182:24, 192:10, 197:20, 198:13, 208:21, 208:23, 211:17, 217:6, 220:1, 222:15, 223:3, 224:16, 233:3, 236:20, 256:21, 261:16, 276:4, 297:22</p> <p>four-foot [1] - 117:6</p> <p>four-year-old [2] - 217:6, 222:15</p> <p>fourth [2] - 9:5, 101:18</p> <p>fracking [1] - 273:18</p> <p>Franco [2] - 300:17, 300:25</p> <p>Franco's [1] - 301:16</p> <p>frankly [3] - 69:6, 172:12, 305:3</p> <p>Fredrikson [3] - 8:15, 8:18</p> <p>frequent [1] - 143:14</p> <p>frequently [4] - 108:17, 222:19, 224:2, 224:3</p> <p>fresh [2] - 100:19, 101:17</p> <p>freshwater [1] - 211:15</p> <p>friend [1] - 219:25</p> <p>friends [3] - 183:13, 243:6, 245:20</p> <p>front [14] - 6:8, 14:11, 47:11, 48:24, 82:21, 111:21, 127:3, 138:12, 197:11, 198:10, 247:9, 254:17, 298:6</p> <p>front-end [1] - 47:11</p> <p>frontrunner [1] - 226:3</p> <p>frost [2] - 63:21, 218:14</p> <p>frozen [1] - 164:2</p> <p>frustrating [1] - 11:6</p> <p>fry [1] - 252:15</p> <p>fuel [9] - 30:24, 156:5, 200:11, 235:12, 235:21, 235:25, 236:5, 237:11, 305:11</p> <p>fuels [3] - 30:21, 33:5, 305:12</p> <p>fulfilled [1] - 8:3</p> <p>full [25] - 17:23, 18:25, 22:6, 22:7, 27:5, 27:12, 27:14, 44:23,</p>	<p>45:22, 86:19, 99:13, 141:12, 151:7, 159:16, 171:8, 173:23, 179:1, 196:17, 227:14, 231:1, 255:18, 267:1, 279:18, 299:19, 302:9</p> <p>full-time [6] - 22:6, 22:7, 27:5, 27:12, 27:14, 227:14</p> <p>fundings [1] - 43:14</p> <p>funds [2] - 264:25, 304:17</p> <p>furthest [1] - 73:12</p> <p>future [24] - 10:24, 12:4, 24:3, 32:16, 80:15, 80:17, 80:18, 80:20, 81:1, 93:22, 196:1, 196:2, 200:11, 223:14, 232:13, 232:17, 234:18, 235:19, 238:6, 247:11, 260:25, 290:18, 302:22, 309:7</p>	<p>Gaylen [1] - 158:22</p> <p>GAYLYNN [22] - 209:4, 209:6, 209:11, 209:14, 209:18, 209:20, 209:22, 213:10, 213:13, 213:18, 213:20, 213:24, 214:1, 214:7, 214:17, 214:21, 215:3, 215:6, 215:11, 215:19, 215:25, 216:5</p> <p>Gaylynn [2] - 209:6, 214:20</p> <p>GDP [1] - 33:17</p> <p>geese [1] - 149:9</p> <p>general [7] - 11:20, 57:11, 57:16, 59:15, 111:9, 137:16, 289:17</p> <p>generally [9] - 26:15, 84:17, 96:16, 103:17, 121:9, 133:2, 133:11, 135:8, 282:13</p> <p>generating [2] - 60:24, 260:15</p> <p>generation [4] - 24:7, 25:19, 33:19, 275:25</p> <p>generations [3] - 161:25, 181:17, 303:6</p> <p>generic [1] - 137:14</p> <p>gentleman [3] - 269:1, 270:2, 270:10</p> <p>geohazard [1] - 91:20</p> <p>geologic [5] - 290:8, 290:11, 290:24, 291:2, 291:19</p> <p>Geologic [3] - 291:11, 291:15, 291:24</p> <p>Geological [5] - 91:4, 91:10, 227:20, 290:13, 292:2</p> <p>geological [1] - 91:9</p> <p>geologically [1] - 283:9</p> <p>geologist [7] - 91:21, 219:7, 227:18, 227:22, 228:3, 229:3, 292:10</p> <p>geologists [1] - 228:17</p> <p>geology [4] - 217:9, 227:16, 273:17, 292:15</p> <p>geophysics [1] - 217:10</p> <p>geoscientists [1] - 219:18</p> <p>Geosyntec [2] - 103:21, 103:22</p>	<p>Gerhardt [1] - 139:15</p> <p>germane [1] - 176:17</p> <p>Gibbs [1] - 276:1</p> <p>GIS [2] - 78:24, 294:14</p> <p>given [17] - 20:9, 22:1, 29:24, 57:10, 98:18, 100:21, 148:20, 160:16, 188:12, 192:21, 203:17, 210:14, 221:11, 227:6, 239:23, 288:13</p> <p>glad [1] - 70:23</p> <p>gladly [1] - 208:7</p> <p>glean [1] - 220:12</p> <p>Glenview [2] - 148:7, 152:11</p> <p>global [4] - 41:10, 41:16, 211:2</p> <p>Gludt [1] - 8:18</p> <p>go-around [1] - 285:14</p> <p>goal [2] - 263:2, 264:19</p> <p>God [2] - 200:18, 212:21</p> <p>Golf [2] - 271:11, 271:12</p> <p>golf [4] - 160:24, 166:5, 167:13, 182:12</p> <p>goodness [1] - 148:8</p> <p>government [5] - 12:3, 12:8, 222:7, 226:15, 227:25</p> <p>Government [4] - 135:23, 205:6, 294:21, 295:8</p> <p>governor [6] - 200:3, 204:9, 204:10, 204:11, 204:25, 212:9</p> <p>governor's [3] - 184:14, 184:20, 200:25</p> <p>GPS [3] - 294:11, 294:12, 295:5</p> <p>grab [1] - 200:24</p> <p>graduate [2] - 214:23, 217:10</p> <p>grain [4] - 181:24, 182:11, 235:5, 235:6</p> <p>Grand [1] - 58:22</p> <p>grandchildren [1] - 269:20</p> <p>granddaughters [1] - 246:25</p> <p>grandfathered [2] - 176:24, 177:5</p> <p>grandsons [1] - 246:24</p> <p>grant [2] - 128:20, 128:25</p>	<p>granted [3] - 98:18, 136:11, 285:17</p> <p>Gibbs [1] - 276:1</p> <p>granting [3] - 7:7, 14:2, 51:25</p> <p>grapevine [1] - 198:21</p> <p>gravity [1] - 210:25</p> <p>great [4] - 41:2, 138:13, 153:19, 217:7</p> <p>greater [2] - 114:22, 187:14</p> <p>green [3] - 141:11, 163:9, 209:4</p> <p>Green [3] - 163:11, 163:15, 247:7</p> <p>Greg [1] - 261:7</p> <p>grid [2] - 154:14, 154:25</p> <p>Groton [1] - 234:5</p> <p>ground [26] - 5:13, 31:8, 34:18, 182:19, 186:13, 192:11, 202:10, 205:22, 207:1, 211:4, 218:6, 218:13, 244:23, 248:6, 274:10, 292:24, 293:7, 293:8, 293:11, 293:14, 293:16, 293:20, 293:25, 295:23, 304:16</p> <p>grounds [6] - 35:15, 143:13, 163:1, 163:2, 163:9, 273:5</p> <p>group [3] - 140:7, 256:18, 305:10</p> <p>Group [1] - 62:16</p> <p>groups [3] - 62:3, 246:5, 246:10</p> <p>grove [2] - 202:10, 207:10</p> <p>grow [1] - 232:11</p> <p>grower [1] - 245:18</p> <p>growers [2] - 240:7, 246:8</p> <p>Growers [2] - 245:8, 245:11</p> <p>growing [3] - 224:25, 237:24, 262:1</p> <p>grown [1] - 160:21</p> <p>growth [10] - 80:8, 80:10, 80:13, 80:25, 81:1, 132:10, 142:19, 211:4, 211:6, 263:4</p> <p>guarantee [1] - 234:23</p> <p>guaranteed [4] - 67:17, 67:18, 68:13, 269:22</p> <p>guaranteeing [1] - 123:25</p> <p>guess [28] - 28:12, 37:19, 43:12, 63:18,</p>
G				
<p>gain [1] - 226:9</p> <p>gaining [1] - 115:13</p> <p>gains [1] - 85:1</p> <p>gallons [3] - 233:20, 235:17, 236:1</p> <p>Game [1] - 285:22</p> <p>game [5] - 265:19, 283:14, 283:18, 288:18, 288:20</p> <p>Gandruds [1] - 199:15</p> <p>garage [1] - 117:25</p> <p>garbage [1] - 211:10</p> <p>gas [9] - 100:18, 142:20, 144:23, 180:19, 186:16, 191:15, 217:13, 219:18, 306:13</p> <p>gases [1] - 82:8</p> <p>gasoline [2] - 236:4, 237:16</p> <p>gather [1] - 135:12</p> <p>gathered [2] - 19:24, 296:15</p> <p>GAYLEN [19] - 158:20, 159:2, 159:5, 159:9, 159:11, 159:12, 159:14, 166:8, 166:21, 167:6, 167:24, 168:24, 169:8, 169:17, 170:2, 170:11, 170:14, 170:17, 171:6</p>				

<p>67:13, 76:7, 78:6, 80:15, 107:1, 107:2, 127:15, 138:23, 155:9, 191:18, 199:25, 201:10, 215:15, 229:20, 242:8, 249:6, 249:9, 253:22, 255:8, 261:13, 265:24, 277:23, 279:8, 286:13</p> <p>guessed [1] - 106:25 guessing [1] - 170:19 guidance [2] - 204:23, 219:10 guide [1] - 212:21 guidelines [3] - 176:9, 176:22, 176:23 Guy [1] - 58:4 guys [7] - 12:18, 34:11, 121:7, 199:21, 249:15, 253:3, 255:12 Gwinner [3] - 12:6, 252:15, 253:12</p> <p style="text-align: center;">H</p> <p>habitat [9] - 135:21, 283:3, 283:6, 295:21, 296:1, 296:2, 296:8, 296:9, 296:25 half [19] - 60:5, 72:11, 73:23, 74:2, 101:24, 143:1, 147:18, 154:18, 155:24, 169:13, 169:16, 173:10, 173:23, 180:9, 203:15, 220:2, 234:5, 236:19, 268:5 halo [1] - 34:3 hand [5] - 6:17, 143:23, 172:23, 240:23, 241:5 hand-planted [1] - 143:23 handed [2] - 72:19, 90:9 handful [3] - 96:16, 97:3, 127:19 handle [4] - 175:5, 175:8, 195:2, 292:10 handled [3] - 142:14, 144:21, 290:19 handouts [2] - 241:11, 254:6 hands [1] - 208:18 handy [1] - 110:16 hang [3] - 206:12, 208:13</p>	<p>Hankinson [2] - 234:2, 237:7 happy [9] - 21:5, 79:10, 127:1, 153:17, 239:1, 249:20, 254:14, 255:14, 302:8 hard [10] - 32:15, 33:1, 33:2, 42:19, 54:23, 145:7, 191:9, 228:24, 234:15, 262:15 hardly [1] - 270:7 Harju [1] - 245:16 hate [1] - 245:3 hating [1] - 183:14 Haugen [28] - 12:15, 40:15, 74:9, 118:22, 128:8, 137:22, 148:23, 157:23, 170:24, 177:20, 194:18, 208:10, 214:18, 230:8, 247:17, 248:3, 249:5, 252:14, 253:2, 254:12, 260:20, 266:9, 271:7, 274:23, 277:18, 298:21, 307:25, 309:22 HAUGEN [103] - 12:16, 40:16, 40:25, 42:3, 42:11, 43:2, 43:15, 43:21, 74:10, 75:1, 75:5, 75:10, 75:18, 75:25, 76:10, 77:17, 77:24, 78:11, 78:15, 78:18, 79:8, 79:12, 79:15, 79:18, 79:22, 80:4, 80:7, 80:23, 81:4, 118:23, 119:25, 120:8, 120:20, 121:18, 121:22, 122:2, 122:25, 123:5, 123:9, 123:12, 124:10, 124:16, 124:22, 125:2, 125:19, 125:22, 127:8, 137:23, 148:24, 149:2, 149:5, 149:12, 149:16, 149:25, 157:24, 170:25, 177:21, 194:19, 194:24, 195:5, 195:13, 195:19, 195:24, 196:1, 196:9, 208:11, 214:19, 215:1, 215:4, 215:7, 215:12, 215:21, 230:9, 230:18, 247:18, 247:22,</p>	<p>247:18, 247:22, 248:21, 248:24, 250:9, 250:22, 251:2, 251:5, 251:9, 251:20, 251:24, 252:7, 252:24, 253:19, 253:25, 255:6, 266:10, 271:8, 271:15, 274:24, 277:19, 278:7, 278:15, 278:19, 278:22, 278:25, 298:22, 308:1, 309:24 Haugen-Hoffart [28] - 12:15, 40:15, 74:9, 118:22, 128:8, 137:22, 148:23, 157:23, 170:24, 177:20, 194:18, 208:10, 214:18, 230:8, 247:17, 248:3, 249:5, 252:14, 253:2, 254:12, 260:20, 266:9, 271:7, 274:23, 277:18, 298:21, 307:25, 309:22 HAUGEN-HOFFART [103] - 12:16, 40:16, 40:25, 42:3, 42:11, 43:2, 43:15, 43:21, 74:10, 75:1, 75:5, 75:10, 75:18, 75:25, 76:10, 77:17, 77:24, 78:11, 78:15, 78:18, 79:8, 79:12, 79:15, 79:18, 79:22, 80:4, 80:7, 80:23, 81:4, 118:23, 119:25, 120:8, 120:20, 121:18, 121:22, 122:2, 122:25, 123:5, 123:9, 123:12, 124:10, 124:16, 124:22, 125:2, 125:19, 125:22, 127:8, 137:23, 148:24, 149:2, 149:5, 149:12, 149:16, 149:25, 157:24, 170:25, 177:21, 194:19, 194:24, 195:5, 195:13, 195:19, 195:24, 196:1, 196:9, 208:11, 214:19, 215:1, 215:4, 215:7, 215:12, 215:21, 230:9, 230:18, 247:18, 247:22,</p>	<p>248:21, 248:24, 250:9, 250:22, 251:2, 251:5, 251:9, 251:20, 251:24, 252:7, 252:24, 253:19, 253:25, 255:6, 266:10, 271:8, 271:15, 274:24, 277:19, 278:7, 278:15, 278:19, 278:22, 278:25, 298:22, 308:1, 309:24 Hawktree [2] - 271:11, 271:12 hazard [1] - 223:20 hazardous [4] - 175:24, 220:15, 225:25, 273:5 HDD [5] - 65:12, 103:13, 282:22, 284:1, 289:1 head [3] - 105:19, 105:21, 224:7 headed [2] - 163:10, 305:13 headline [1] - 204:5 heads [2] - 201:7, 205:6 health [8] - 146:6, 221:14, 221:16, 221:17, 223:18, 226:16, 301:18 Health [1] - 93:12 hear [15] - 11:2, 11:18, 12:7, 12:19, 12:20, 45:4, 59:11, 138:6, 140:1, 155:22, 179:16, 250:23, 272:22, 299:21, 306:12 heard [33] - 4:2, 10:25, 11:1, 11:14, 16:14, 39:12, 89:24, 89:25, 90:18, 116:12, 116:13, 152:12, 164:7, 164:15, 164:17, 172:10, 173:24, 198:20, 199:7, 204:5, 233:23, 239:5, 239:9, 241:18, 242:12, 244:8, 255:7, 256:2, 265:16, 279:24, 290:7, 295:1, 304:20 hearing [58] - 4:2, 4:6, 4:16, 4:17, 4:21, 4:22, 5:2, 5:5, 5:8, 5:9, 5:11, 5:17, 6:1, 6:11, 6:20, 7:9, 7:13, 8:9, 8:22, 9:24, 10:4, 11:23, 13:8, 13:14,</p>	<p>16:12, 19:11, 46:13, 67:21, 67:23, 77:25, 80:8, 87:24, 95:6, 121:19, 138:23, 139:10, 140:13, 141:3, 199:11, 205:5, 217:25, 221:24, 222:3, 232:24, 232:25, 257:12, 257:19, 257:23, 259:18, 269:25, 281:6, 282:3, 308:18, 309:7, 309:8, 309:11, 309:20, 309:21 Hearing [2] - 4:20, 7:12 hearings [28] - 8:25, 11:14, 12:4, 13:19, 13:22, 14:21, 20:20, 39:10, 54:21, 59:6, 71:20, 80:14, 89:25, 90:19, 94:10, 117:14, 120:14, 140:25, 141:1, 204:2, 206:1, 206:21, 226:11, 241:11, 244:9, 281:3, 298:19 hearsay [1] - 270:10 heart [2] - 268:18, 268:19 heat [1] - 163:19 heated [1] - 164:13 heaves [1] - 218:14 heavier [2] - 221:14, 244:23 heavy [1] - 182:25 heed [1] - 104:4 held [7] - 4:22, 78:6, 93:11, 152:21, 154:3, 203:24, 285:21 hello [1] - 275:8 help [16] - 34:7, 52:2, 84:8, 84:11, 120:20, 127:21, 144:25, 210:16, 217:16, 221:24, 222:4, 222:7, 239:4, 261:24, 272:20, 305:15 helped [3] - 67:15, 210:7, 257:7 helpful [8] - 17:6, 21:6, 55:10, 140:9, 140:11, 254:11, 255:5, 257:6 helping [1] - 303:9 herds [1] - 163:25 heritage [1] - 247:1 Heritage [2] - 256:19,</p>
---	---	---	---	--

<p>256:20 high ^[16] - 42:10, 43:8, 58:17, 79:7, 95:21, 142:16, 143:14, 145:20, 175:1, 211:1, 222:25, 223:3, 270:6, 271:13, 273:21, 296:9 high-end ^[1] - 271:13 high-level ^[1] - 58:17 high-pressure ^[1] - 142:16 higher ^[7] - 41:24, 47:7, 167:12, 214:21, 217:12, 244:24 highlight ^[2] - 88:19, 113:14 highlighted ^[1] - 218:18 highlights ^[1] - 219:10 highly ^[4] - 142:15, 144:17, 220:10, 220:14 Highway ^[12] - 49:20, 55:25, 56:2, 71:12, 72:1, 72:5, 148:9, 148:11, 193:23, 193:24, 261:17, 261:19 hills ^[1] - 153:10 hillsides ^[1] - 222:18 himself ^[1] - 92:10 hire ^[1] - 296:3 hired ^[5] - 238:16, 280:25, 290:14, 291:25, 292:11 Historical ^[1] - 135:16 historically ^[1] - 133:6 history ^[4] - 10:18, 57:10, 221:11, 232:10 hit ^[1] - 117:4 hitting ^[1] - 193:2 hobby ^[1] - 198:5 Hoffart ^[28] - 12:15, 40:15, 74:9, 118:22, 128:8, 137:22, 148:23, 157:23, 170:24, 177:20, 194:18, 208:10, 214:18, 230:8, 247:17, 248:3, 249:5, 252:14, 253:2, 254:12, 260:20, 266:9, 271:7, 274:23, 277:18, 298:21, 307:25, 309:22 HOFFART ^[103] - 12:16, 40:16, 40:25, 42:3, 42:11, 43:2,</p>	<p>43:15, 43:21, 74:10, 75:1, 75:5, 75:10, 75:18, 75:25, 76:10, 77:17, 77:24, 78:11, 78:15, 78:18, 79:8, 79:12, 79:15, 79:18, 79:22, 80:4, 80:7, 80:23, 81:4, 118:23, 119:25, 120:8, 120:20, 121:18, 121:22, 122:2, 122:25, 123:5, 123:9, 123:12, 124:10, 124:16, 124:22, 125:2, 125:19, 125:22, 127:8, 137:23, 148:24, 149:2, 149:5, 149:12, 149:16, 149:25, 157:24, 170:25, 177:21, 194:19, 194:24, 195:5, 195:13, 195:19, 195:24, 196:1, 196:9, 208:11, 214:19, 215:1, 215:4, 215:7, 215:12, 215:21, 230:9, 230:18, 247:18, 247:22, 248:21, 248:24, 250:9, 250:22, 251:2, 251:5, 251:9, 251:20, 251:24, 252:7, 252:24, 253:19, 253:25, 255:6, 266:10, 271:8, 271:15, 274:24, 277:19, 278:7, 278:15, 278:19, 278:22, 278:25, 298:22, 308:1, 309:24 Hogue ^[1] - 199:13 hold ^[4] - 74:7, 273:17, 289:9, 295:14 holding ^[2] - 249:25, 250:3 holes ^[1] - 219:19 home ^[10] - 144:5, 162:5, 190:5, 190:8, 190:9, 225:6, 225:21, 243:20, 246:20, 246:23 homepage ^[1] - 200:16 homes ^[17] - 53:3, 143:2, 143:7, 143:11, 160:25, 161:2, 162:5, 167:12, 170:6,</p>	<p>170:8, 180:11, 199:4, 269:3, 271:10, 271:13, 271:14 Homes ^[1] - 256:19 homework ^[1] - 270:11 honest ^[3] - 154:22, 178:7, 188:13 honestly ^[2] - 204:19, 204:21 honey ^[1] - 277:25 Honor ^[88] - 8:10, 8:12, 8:21, 10:15, 13:12, 14:1, 14:25, 16:3, 16:23, 17:11, 17:13, 18:16, 26:4, 29:2, 35:11, 36:8, 44:7, 44:12, 44:14, 44:16, 50:13, 50:18, 51:2, 51:12, 66:21, 67:20, 70:18, 74:3, 81:9, 81:24, 84:1, 84:3, 85:14, 86:3, 86:16, 87:11, 107:19, 118:21, 127:11, 129:12, 132:14, 134:6, 137:2, 138:1, 138:19, 139:20, 146:16, 147:13, 147:15, 150:4, 157:17, 157:19, 169:2, 169:4, 177:13, 177:15, 178:22, 194:12, 194:14, 206:16, 206:18, 214:11, 214:13, 230:3, 230:5, 242:2, 247:16, 254:9, 255:14, 266:2, 266:4, 271:2, 271:4, 274:17, 274:19, 275:3, 277:7, 277:9, 286:5, 292:21, 297:5, 299:7, 299:9, 299:23, 307:17, 308:11, 308:13, 308:24 hooked ^[1] - 173:9 hope ^[12] - 10:23, 12:23, 98:13, 101:24, 117:5, 153:3, 178:3, 211:8, 247:13, 255:5, 265:18, 269:13 Hope ^[2] - 4:14, 12:17 hoped ^[1] - 181:17 hopefully ^[2] - 11:20, 178:16 hoping ^[1] - 178:9 horrible ^[4] - 187:18,</p>	<p>187:21, 187:24, 198:13 horse ^[1] - 199:16 horses ^[3] - 161:15, 163:20 hospital ^[1] - 171:13 hospitals ^[3] - 165:2, 165:6, 175:6 hotel ^[1] - 4:5 hour ^[2] - 174:3, 268:21 hours ^[2] - 11:8, 223:24 house ^[15] - 62:24, 143:18, 150:13, 180:9, 180:17, 180:20, 181:4, 181:7, 181:14, 181:16, 181:21, 181:23, 183:22, 193:8 House ^[1] - 231:23 houses ^[8] - 73:8, 142:23, 181:10, 182:10, 183:7, 184:3, 196:8 housing ^[5] - 41:7, 56:12, 72:22, 263:21, 264:16 Houston ^[1] - 19:6 HUBER ^[11] - 266:23, 267:2, 267:4, 267:9, 267:12, 267:17, 267:19, 267:20, 267:22, 271:11, 271:17 Huber ^[2] - 267:5, 267:7 hug ^[1] - 121:10 human ^[5] - 8:1, 211:7, 221:14, 221:17, 223:18 hundred ^[11] - 99:25, 111:15, 111:17, 112:21, 121:6, 123:20, 133:12, 164:23, 164:24, 212:3, 301:17 hundreds ^[4] - 143:24, 270:15, 287:21, 288:1 hunt ^[1] - 203:21 hunting ^[1] - 273:11 hurry ^[1] - 147:25 hurt ^[1] - 248:13 hurting ^[1] - 147:7 husband ^[5] - 152:5, 156:14, 158:12, 217:5, 221:20 husband's ^[1] - 224:21 hydrodirectional ^[1] - 104:2</p>	<p>hydrology ^[1] - 294:10 hydretechnical ^[1] - 103:13</p> <p style="text-align: center;">I</p> <p>I-94 ^[1] - 73:13 i.e ^[1] - 35:7 ice ^[1] - 220:3 idea ^[9] - 32:10, 48:7, 109:10, 163:2, 174:25, 186:19, 186:21, 208:19, 270:4 ideas ^[1] - 15:5 identified ^[9] - 49:13, 56:19, 58:19, 96:17, 135:2, 288:21, 289:13, 290:14, 291:25 identify ^[6] - 8:8, 33:21, 49:9, 52:20, 140:8, 294:10 ignore ^[1] - 168:2 ignored ^[1] - 160:10 IH ^[1] - 174:19 II ^[1] - 91:12 III ^[2] - 284:3, 286:25 Illinois ^[1] - 304:4 image ^[7] - 187:12, 187:14, 187:18, 187:21, 187:24, 229:21 imagery ^[2] - 118:1, 118:13 imagine ^[4] - 40:8, 199:6, 224:24, 292:12 immediate ^[4] - 22:24, 221:14, 259:10, 264:11 immediately ^[1] - 98:9 impact ^[28] - 8:1, 21:12, 21:25, 22:11, 36:13, 38:6, 40:19, 40:22, 41:24, 42:4, 42:13, 47:5, 76:13, 81:1, 124:7, 134:1, 172:18, 173:20, 219:11, 225:21, 233:14, 244:9, 248:1, 260:25, 263:3, 301:15, 301:17, 302:21 impacted ^[13] - 63:13, 63:15, 96:25, 97:1, 108:9, 121:3, 138:7, 140:1, 141:4, 220:1, 303:19 impacting ^[4] - 113:24, 122:16, 129:6, 225:14</p>
--	---	--	--	--

<p>impacts [13] - 23:16, 41:7, 161:23, 221:14, 221:16, 221:17, 222:11, 223:18, 242:17, 294:17, 300:18, 302:3</p> <p>implications [1] - 28:16</p> <p>implicitly [1] - 263:10</p> <p>implore [1] - 221:8</p> <p>importance [2] - 209:24, 305:14</p> <p>important [18] - 10:25, 11:17, 12:19, 12:25, 13:2, 154:2, 154:5, 162:22, 180:15, 190:21, 234:15, 237:1, 246:15, 247:2, 260:11, 302:24, 303:20, 304:13</p> <p>imprecise [1] - 307:5</p> <p>imprisonment [1] - 18:7</p> <p>improve [2] - 208:6, 302:20</p> <p>improvements [1] - 154:20</p> <p>in-depth [1] - 230:10</p> <p>inaccurate [2] - 109:6, 260:16</p> <p>inadvertently [1] - 84:4</p> <p>incentive [4] - 84:20, 127:24, 127:25, 128:3</p> <p>inch [1] - 160:9</p> <p>inches [2] - 220:2, 270:5</p> <p>incidence [1] - 116:15</p> <p>include [6] - 24:13, 33:7, 62:14, 93:3, 160:24, 301:8</p> <p>included [6] - 20:4, 21:4, 47:8, 60:13, 98:25, 282:19</p> <p>includes [3] - 49:7, 59:21, 91:2</p> <p>including [12] - 7:15, 84:21, 90:23, 91:8, 121:8, 212:16, 219:12, 300:14, 301:7, 301:18, 301:25, 302:14</p> <p>Income [1] - 154:19</p> <p>income [1] - 149:10</p> <p>incomprehensible [1] - 188:14</p> <p>incorporated [1] - 286:16</p> <p>incorrect [4] - 47:20, 47:21, 109:9, 291:17</p>	<p>increase [10] - 20:9, 22:1, 106:1, 106:2, 107:12, 145:23, 145:24, 155:17, 162:16, 164:8</p> <p>increased [7] - 42:1, 47:7, 82:12, 164:5, 234:12, 234:21, 302:20</p> <p>increasing [2] - 60:18, 107:13</p> <p>incredibly [1] - 229:10</p> <p>incremental [8] - 20:24, 28:18, 33:16, 33:18, 36:21, 37:11</p> <p>indemnifying [1] - 117:1</p> <p>index [1] - 135:22</p> <p>indicate [3] - 6:13, 62:2, 286:11</p> <p>indicated [15] - 18:17, 22:7, 25:10, 63:2, 69:23, 221:9, 223:19, 223:25, 224:14, 226:3, 228:11, 251:9, 251:10, 286:3, 301:16</p> <p>indicates [2] - 108:15, 225:2</p> <p>indicating [1] - 228:4</p> <p>indication [2] - 22:6, 288:13</p> <p>indicator [2] - 98:21, 128:24</p> <p>individual [7] - 71:22, 116:13, 127:1, 129:4, 154:3, 154:5, 225:7</p> <p>individuals [5] - 53:11, 62:9, 113:18, 175:12, 279:7</p> <p>inducing [1] - 225:18</p> <p>Industrial [3] - 67:24, 213:7, 214:2</p> <p>industrial [2] - 221:22, 224:21</p> <p>industries [5] - 24:19, 31:1, 31:4, 32:18, 33:9</p> <p>industry [22] - 31:2, 32:20, 34:5, 60:25, 68:5, 69:10, 69:13, 69:17, 75:12, 104:7, 142:20, 201:7, 203:18, 217:15, 233:7, 240:7, 242:4, 304:13, 305:5, 305:13, 305:15</p> <p>industry's [1] - 233:14</p> <p>infer [1] - 162:24</p> <p>inferred [1] - 101:8</p> <p>infinitesimally [1] -</p>	<p>133:5</p> <p>inflation [4] - 38:6, 38:11, 38:12, 302:3</p> <p>inflationary [2] - 22:2, 41:25</p> <p>information [59] - 5:18, 13:1, 17:2, 26:14, 28:13, 50:21, 51:15, 58:15, 59:9, 78:24, 81:19, 91:15, 92:16, 102:22, 105:20, 121:7, 127:22, 135:12, 135:15, 137:20, 140:15, 166:4, 167:7, 168:9, 178:1, 178:4, 178:10, 178:13, 178:15, 178:16, 188:3, 188:12, 190:3, 213:4, 217:22, 218:4, 218:8, 220:11, 221:1, 222:22, 222:24, 223:1, 223:16, 228:10, 240:8, 240:9, 245:21, 252:1, 253:16, 255:3, 282:1, 294:13, 294:18, 295:10, 295:17, 296:14, 296:21, 308:18, 310:4</p> <p>informational [1] - 251:19</p> <p>informed [1] - 259:14</p> <p>infrastructure [6] - 24:20, 25:15, 43:9, 84:21, 96:2, 154:21</p> <p>infrastructures [1] - 145:22</p> <p>inhabited [2] - 298:10, 298:14</p> <p>initial [20] - 53:6, 53:8, 55:11, 56:6, 76:19, 103:11, 106:10, 160:23, 166:10, 167:14, 258:1, 263:19, 263:20, 264:2, 282:3, 283:22, 284:7, 289:7, 291:14, 291:24</p> <p>inject [2] - 34:17, 43:1</p> <p>injected [4] - 23:2, 28:10, 61:15, 210:15</p> <p>injecting [1] - 74:21</p> <p>injection [8] - 24:6, 27:25, 29:10, 32:11, 61:5, 213:8, 213:14, 274:9</p> <p>injuries [1] - 12:24</p> <p>Inn [1] - 4:23</p>	<p>inner [1] - 172:19</p> <p>input [8] - 44:3, 52:18, 53:20, 77:16, 89:25, 130:6, 265:7, 265:8</p> <p>inputs [1] - 137:13</p> <p>inside [1] - 221:19</p> <p>insofar [1] - 35:13</p> <p>inspect [1] - 273:13</p> <p>inspection [1] - 220:24</p> <p>instability [4] - 290:8, 290:11, 290:24, 291:19</p> <p>instance [4] - 20:6, 93:10, 104:13, 203:2</p> <p>instances [5] - 114:23, 201:18, 202:18, 219:12, 220:7</p> <p>instead [3] - 166:19, 187:22, 211:3</p> <p>institute [1] - 63:25</p> <p>instructions [2] - 130:9, 138:9</p> <p>insurance [8] - 116:1, 116:7, 116:9, 116:10, 116:15, 116:19, 116:20, 144:9</p> <p>integrated [1] - 26:23</p> <p>integrity [2] - 8:2, 221:11</p> <p>intend [5] - 8:9, 9:24, 10:4, 101:9, 276:14</p> <p>intended [5] - 8:21, 115:11, 115:14, 221:2, 221:3</p> <p>intensity [7] - 235:9, 235:14, 235:23, 237:20, 237:24, 238:1, 247:4</p> <p>intent [3] - 31:15, 178:11</p> <p>intention [2] - 102:24, 260:1</p> <p>intentionally [1] - 117:3</p> <p>interactions [2] - 78:4, 80:21</p> <p>interactive [1] - 53:4</p> <p>interest [5] - 41:2, 43:23, 221:25, 263:8, 303:15</p> <p>interested [3] - 43:10, 93:22, 128:23</p> <p>interests [2] - 222:4, 263:8</p> <p>interject [1] - 204:22</p> <p>international [1] - 235:8</p> <p>interned [1] - 227:19</p> <p>internet [3] - 256:1, 256:25, 279:23</p>	<p>interpretation [1] - 111:4</p> <p>interrupt [1] - 79:9</p> <p>interrupting [1] - 41:13</p> <p>interruptions [1] - 5:2</p> <p>intersection [1] - 150:11</p> <p>interstate [3] - 72:19, 176:14, 215:20</p> <p>Interstate [1] - 73:1</p> <p>intervenor [6] - 256:17, 263:1, 263:2, 263:9, 264:6, 264:23</p> <p>intervenor's [22] - 52:6, 52:11, 52:16, 56:7, 56:9, 76:17, 77:3, 78:9, 80:21, 161:8, 256:18, 259:6, 260:21, 261:21, 262:6, 262:11, 262:24, 263:6, 264:10, 264:22, 309:9, 309:12</p> <p>intimidation [1] - 185:17</p> <p>introduce [4] - 8:8, 9:10, 10:3, 52:25</p> <p>introduced [2] - 92:10</p> <p>introduction [1] - 18:17</p> <p>invest [1] - 304:17</p> <p>investigated [1] - 290:15</p> <p>investigation [1] - 90:24</p> <p>investing [1] - 43:9</p> <p>investment [3] - 19:10, 302:3, 304:21</p> <p>investments [2] - 37:4, 37:8</p> <p>investors [3] - 37:7, 42:16, 300:14</p> <p>invitation [5] - 93:15, 93:18, 93:19, 93:21, 100:20</p> <p>invitations [2] - 92:22, 101:19</p> <p>invite [1] - 93:7</p> <p>invited [3] - 78:8, 149:23, 204:1</p> <p>invoked [1] - 114:24</p> <p>invoking [1] - 115:9</p> <p>involve [1] - 122:13</p> <p>involved [20] - 12:22, 41:18, 43:10, 48:20, 50:3, 51:19, 69:18, 82:10, 119:21, 126:15, 126:16, 168:4, 202:19, 234:14, 247:1,</p>
--	---	---	---	--

<p>263:6, 264:20, 264:21, 284:5, 297:24</p> <p>involvement [2] - 51:17, 52:2</p> <p>involves [1] - 122:13</p> <p>involving [1] - 116:11</p> <p>Iowa [5] - 87:18, 107:3, 123:22, 173:6, 173:15</p> <p>ironed [1] - 38:14</p> <p>irregardless [1] - 213:22</p> <p>Island [1] - 199:13</p> <p>issuance [1] - 51:24</p> <p>issue [9] - 13:25, 48:1, 57:4, 129:18, 136:4, 188:25, 283:18, 284:23, 289:25</p> <p>issued [8] - 4:20, 7:3, 7:6, 66:5, 92:11, 283:13, 285:2, 289:19</p> <p>issues [24] - 7:12, 41:6, 62:6, 62:18, 76:3, 89:2, 89:11, 97:3, 109:10, 127:6, 140:18, 145:9, 145:25, 156:15, 157:8, 157:9, 162:15, 185:1, 197:17, 205:17, 219:4, 284:9, 287:1</p> <p>items [1] - 56:18</p> <p>iterative [1] - 92:17</p> <p>itself [3] - 22:7, 91:20, 284:10</p>	<p>82:13, 83:19, 83:24, 85:24, 290:12</p> <p>job [11] - 22:4, 22:12, 22:19, 22:21, 160:14, 161:21, 168:1, 202:2, 224:4, 227:14, 302:18</p> <p>jobs [21] - 21:11, 21:13, 21:17, 21:18, 21:22, 22:7, 22:8, 22:10, 24:18, 27:5, 27:12, 27:14, 27:18, 27:19, 27:22, 28:2, 30:14, 32:21, 183:3, 183:4, 300:18</p> <p>John [4] - 52:13, 245:15, 257:16, 258:6</p> <p>join [2] - 74:25, 163:12</p> <p>joins [1] - 143:19</p> <p>joint [4] - 57:14, 67:14, 68:6, 75:16</p> <p>jointly [2] - 67:1, 67:6</p> <p>JON [6] - 279:19, 279:23, 279:25, 280:3, 280:7, 280:10</p> <p>Jon [6] - 9:6, 279:15, 279:19, 280:15, 281:15, 284:22</p> <p>Jorde [1] - 195:2</p> <p>Judge [3] - 10:5, 15:20, 240:15</p> <p>judge [1] - 4:15</p> <p>Julie [1] - 13:13</p> <p>July [2] - 119:4, 235:13</p> <p>jump [2] - 113:1, 246:11</p> <p>June [6] - 57:17, 59:6, 67:25, 119:4, 252:4, 309:21</p> <p>jurisdiction [8] - 140:19, 157:9, 157:10, 176:11, 176:13, 177:23, 204:11, 204:16</p> <p>jurisdictions [1] - 225:10</p> <p>justified [1] - 30:24</p>	<p>163:23, 196:4, 212:17, 224:4, 224:6, 237:5, 243:14, 246:1, 273:9, 278:12, 287:21, 300:9</p> <p>keeping [1] - 225:1</p> <p>keeps [2] - 153:18, 165:8</p> <p>Keith [1] - 139:9</p> <p>KEN [11] - 266:23, 267:2, 267:4, 267:9, 267:12, 267:17, 267:19, 267:20, 267:22, 271:11, 271:17</p> <p>Ken [2] - 267:5, 271:8</p> <p>kept [2] - 39:8, 278:12</p> <p>KEVIN [1] - 300:7</p> <p>Kevin [3] - 10:5, 125:8, 299:20</p> <p>key [9] - 42:22, 42:24, 219:8, 220:6, 221:4, 223:13, 223:17, 224:6</p> <p>kill [5] - 180:12, 183:4, 184:8, 211:19</p> <p>killed [1] - 174:1</p> <p>kind [39] - 10:24, 22:2, 23:24, 24:20, 31:13, 38:9, 53:18, 57:18, 57:21, 58:8, 58:17, 71:11, 71:16, 72:19, 74:11, 105:16, 114:20, 133:11, 137:14, 144:12, 152:16, 155:15, 170:19, 184:25, 197:16, 197:17, 198:15, 198:18, 199:2, 199:21, 214:22, 242:6, 247:25, 257:8, 258:20, 259:11, 261:5, 262:23</p> <p>kindly [1] - 278:18</p> <p>kinds [2] - 30:16, 80:3</p> <p>kitty [1] - 55:25</p> <p>kitty-corners [1] - 55:25</p> <p>knocking [1] - 43:23</p> <p>knowledge [6] - 36:2, 56:15, 56:17, 217:16, 245:21, 278:14</p> <p>known [2] - 153:24, 197:25</p> <p>knows [6] - 96:3, 186:11, 189:12, 198:23, 248:15, 301:4</p> <p>Knutson [1] - 271:13</p> <p>Knutsons [1] - 199:15</p>	<p style="text-align: center;">L</p> <p>L-shaped [1] - 229:19</p> <p>labeled [1] - 16:8</p> <p>labeling [1] - 241:12</p> <p>laborers [1] - 10:7</p> <p>lack [3] - 41:6, 164:4, 292:6</p> <p>lagniappe [1] - 112:1</p> <p>laid [3] - 80:16, 96:10, 266:13</p> <p>land [71] - 35:2, 105:10, 120:16, 121:23, 124:4, 124:13, 126:16, 134:16, 140:10, 142:25, 149:22, 153:25, 154:2, 154:3, 161:11, 161:16, 179:24, 180:1, 180:2, 182:1, 182:2, 182:3, 182:4, 182:16, 182:20, 182:21, 183:11, 183:19, 183:21, 184:17, 186:9, 189:6, 193:5, 193:9, 194:20, 195:17, 195:20, 196:2, 196:3, 197:13, 197:14, 197:15, 197:19, 199:15, 202:5, 202:8, 202:13, 208:2, 219:14, 243:7, 244:17, 244:18, 248:19, 249:20, 249:22, 249:23, 268:4, 269:7, 276:5, 276:6, 276:14, 276:19, 276:20, 278:9, 278:12, 278:18, 278:20, 278:23, 303:18</p> <p>landmen [3] - 238:14, 238:16, 250:13</p> <p>landowner [37] - 35:5, 35:8, 62:3, 77:9, 77:25, 81:14, 97:24, 102:22, 109:18, 116:1, 117:1, 118:4, 118:17, 120:11, 120:23, 120:25, 121:2, 121:5, 121:10, 122:13, 122:18, 123:13, 123:25, 125:13, 126:2, 126:20, 127:2, 128:4, 128:6, 129:7, 138:8, 140:10, 184:3, 199:23, 243:22,</p>	<p>290:7</p> <p>landowner's [4] - 135:13, 135:20, 136:7, 136:12</p> <p>landowners [88] - 23:5, 35:21, 42:14, 52:19, 52:23, 52:24, 53:20, 54:2, 54:16, 55:6, 57:24, 62:21, 64:1, 66:3, 70:6, 70:9, 76:23, 77:13, 77:14, 78:2, 78:4, 89:25, 90:2, 90:5, 94:19, 96:17, 96:19, 96:20, 96:22, 96:23, 96:24, 97:14, 97:24, 98:1, 98:7, 98:12, 98:19, 98:22, 107:9, 107:24, 108:6, 108:9, 109:10, 109:15, 110:9, 111:23, 114:3, 114:7, 116:14, 119:11, 120:9, 120:18, 121:15, 122:9, 122:12, 122:14, 122:16, 124:4, 124:6, 124:12, 124:19, 124:21, 125:5, 125:9, 125:25, 126:5, 126:25, 127:3, 127:13, 130:6, 136:1, 138:7, 140:1, 141:5, 149:20, 152:5, 152:13, 161:11, 165:12, 178:24, 238:18, 238:19, 238:21, 250:24, 260:23, 297:25, 298:17, 301:6</p> <p>landowners' [4] - 54:8, 97:18, 119:9, 134:14</p> <p>lands [3] - 61:6, 142:24</p> <p>landslide [3] - 228:5, 228:7, 290:10</p> <p>landslides [3] - 218:19, 229:8, 290:9</p> <p>language [1] - 130:19</p> <p>large [8] - 10:22, 22:14, 69:23, 154:1, 220:22, 270:6, 301:11, 304:11</p> <p>largely [3] - 126:6, 135:14, 153:1</p> <p>larger [3] - 60:20, 131:25, 221:22</p> <p>largest [4] - 218:6, 233:9, 237:22, 302:12</p>
<p style="text-align: center;">J</p> <p>J-O-N [1] - 279:19</p> <p>jag [1] - 208:5</p> <p>James [5] - 9:5, 86:17, 86:21, 103:15, 290:2</p> <p>JAMES [5] - 86:21, 87:1, 87:4, 87:8, 87:12</p> <p>Jamestown [1] - 231:25</p> <p>jams [1] - 220:3</p> <p>January [2] - 285:16, 285:20</p> <p>Jeff [1] - 9:7</p> <p>jeopardize [2] - 226:8, 269:12</p> <p>Jerry [1] - 172:22</p> <p>jet [1] - 200:11</p> <p>Jim [2] - 257:15, 257:24</p> <p>Jimmy [12] - 65:7, 66:12, 66:19, 78:16, 79:5, 79:14, 81:19,</p>	<p style="text-align: center;">K</p> <p>KARL [13] - 171:10, 171:18, 171:21, 171:25, 172:2, 172:4, 175:22, 176:1, 176:15, 176:20, 177:8, 177:19, 178:18</p> <p>Karl [1] - 171:10</p> <p>keep [15] - 25:9, 146:1, 155:3,</p>			

<p>last [70] - 12:6, 17:23, 17:25, 19:3, 21:21, 42:1, 44:23, 44:25, 46:1, 46:5, 63:15, 69:19, 78:6, 78:7, 80:8, 86:19, 93:11, 94:2, 94:9, 94:24, 101:19, 108:25, 109:2, 115:25, 141:1, 141:13, 151:8, 158:19, 158:22, 171:9, 171:10, 175:4, 176:25, 179:2, 184:11, 196:18, 208:23, 209:25, 210:8, 210:10, 212:18, 212:20, 216:7, 231:2, 235:12, 238:23, 245:17, 246:17, 246:18, 254:20, 255:18, 257:12, 257:22, 258:19, 259:18, 260:3, 267:3, 269:4, 270:3, 271:25, 275:10, 279:18, 279:19, 288:2, 288:10, 299:19, 304:24, 305:8, 305:25</p> <p>lasting [1] - 176:7</p> <p>late [8] - 10:21, 92:6, 94:9, 109:2, 209:25, 289:6, 308:14, 308:15</p> <p>late-filed [2] - 308:14, 308:15</p> <p>lately [3] - 191:8, 195:1, 293:12</p> <p>lateral [3] - 104:9, 290:16, 290:18</p> <p>laterals [1] - 123:20</p> <p>latest [1] - 92:16</p> <p>latitude [1] - 130:25</p> <p>Laughter [1] - 117:17</p> <p>launch [1] - 105:14</p> <p>Law [3] - 8:15, 9:21, 62:16</p> <p>law [12] - 4:15, 7:4, 18:3, 62:18, 63:6, 84:22, 114:24, 115:9, 206:24, 238:24, 246:25</p> <p>Lawrence [1] - 8:13</p> <p>laws [2] - 10:20, 133:24</p> <p>lawsuit [1] - 136:6</p> <p>lawyer [2] - 35:14, 35:25</p> <p>lay [1] - 11:18</p> <p>layers [1] - 222:7</p> <p>laying [1] - 207:9</p>	<p>lays [1] - 94:5</p> <p>leaching [1] - 273:20</p> <p>leader [1] - 67:15</p> <p>leadership [3] - 37:6, 79:5, 215:5</p> <p>leading [1] - 98:21</p> <p>leads [1] - 78:16</p> <p>leak [4] - 165:2, 212:3, 212:5, 223:15</p> <p>leaked [1] - 223:21</p> <p>leaks [3] - 143:16, 186:16, 210:15</p> <p>Leaks [1] - 210:11</p> <p>learned [2] - 52:17, 252:18</p> <p>learning [2] - 214:21, 250:10</p> <p>lease [5] - 34:20, 61:8, 70:13, 70:14, 184:12</p> <p>leaseholders [3] - 23:3, 34:14, 34:16</p> <p>leases [3] - 23:4, 33:8, 34:15</p> <p>leasing [1] - 70:10</p> <p>least [25] - 11:19, 11:21, 25:6, 49:23, 56:9, 89:15, 96:25, 98:3, 113:20, 116:25, 118:1, 118:3, 123:18, 123:21, 124:5, 126:15, 129:6, 137:10, 143:7, 167:9, 176:8, 259:16, 261:14, 262:16, 265:15</p> <p>leave [3] - 6:1, 243:18, 278:23</p> <p>leaving [2] - 304:23, 304:24</p> <p>led [3] - 51:21, 58:25, 78:13</p> <p>Lee [2] - 257:14, 257:23</p> <p>left [8] - 9:14, 83:8, 92:21, 183:24, 184:6, 185:14, 205:20, 259:1</p> <p>legal [10] - 34:24, 35:13, 35:17, 35:20, 35:25, 136:21, 136:24, 152:10, 187:20, 195:2</p> <p>legislation [1] - 221:6</p> <p>legislative [2] - 221:5, 244:2</p> <p>legislator [2] - 157:1, 243:9</p> <p>legislators [2] - 139:2, 212:9</p> <p>length [2] - 121:11, 292:16</p> <p>lengths [1] - 290:17</p>	<p>lengthy [1] - 201:20</p> <p>less [16] - 69:25, 113:8, 168:17, 169:13, 170:18, 170:19, 172:5, 180:8, 180:10, 201:5, 203:8, 211:6, 229:4, 236:3, 236:4</p> <p>letter [4] - 125:25, 227:22, 227:24, 287:19</p> <p>letters [5] - 58:7, 62:15, 62:17, 63:5, 285:20</p> <p>level [3] - 58:17, 79:7, 95:21</p> <p>levels [1] - 210:18</p> <p>liability [5] - 84:23, 116:10, 116:19, 144:9</p> <p>LIDAR [2] - 291:2, 291:22</p> <p>lie [1] - 260:10</p> <p>lied [3] - 184:10, 185:16, 191:8</p> <p>life [8] - 124:1, 199:10, 201:3, 201:4, 247:10, 262:21, 269:17, 269:18</p> <p>lifestyle [1] - 222:14</p> <p>lifetime [2] - 269:22, 269:23</p> <p>lifting [1] - 63:14</p> <p>light [2] - 141:11, 209:4</p> <p>likely [8] - 14:17, 23:23, 30:18, 36:16, 182:23, 183:1, 225:22, 226:4</p> <p>likewise [2] - 5:11, 140:9</p> <p>limit [2] - 73:5, 140:16</p> <p>limited [5] - 78:1, 114:23, 229:1, 229:10, 259:9</p> <p>limits [7] - 71:3, 71:20, 71:23, 72:24, 73:16, 166:23</p> <p>Lincoln [12] - 160:16, 160:19, 160:20, 160:24, 161:5, 166:22, 167:4, 167:15, 169:25, 170:16, 170:18, 170:20</p> <p>Lincoln's [1] - 170:21</p> <p>Line [1] - 302:15</p> <p>line [46] - 22:4, 22:13, 39:11, 48:18, 49:17, 51:5, 54:23, 55:19, 57:7, 57:8, 57:15, 64:14, 77:15, 92:11, 97:17, 99:2, 99:14,</p>	<p>106:1, 107:12, 114:6, 121:10, 130:17, 133:5, 146:19, 146:24, 160:10, 170:4, 179:25, 191:11, 202:1, 203:6, 203:13, 207:24, 213:12, 213:13, 221:10, 226:24, 226:25, 254:15, 276:8, 302:7, 306:9, 306:21</p> <p>lines [3] - 10:22, 162:12, 228:18</p> <p>LinkedIn [2] - 217:24, 223:2</p> <p>Linton [3] - 12:5, 309:9, 309:20</p> <p>liquids [1] - 82:8</p> <p>list [12] - 16:7, 16:10, 78:20, 99:23, 100:17, 103:2, 113:4, 178:14, 285:13, 285:19, 286:1, 307:1</p> <p>listed [4] - 14:5, 89:16, 106:6, 240:9</p> <p>listen [4] - 146:9, 147:3, 186:5</p> <p>listening [3] - 187:22, 260:17</p> <p>LIUNA [2] - 10:6, 300:21</p> <p>live [50] - 133:18, 142:7, 144:3, 145:1, 152:8, 158:3, 158:4, 159:14, 169:7, 169:8, 169:11, 171:11, 173:2, 179:22, 180:8, 180:9, 180:20, 180:21, 181:3, 181:4, 181:18, 181:20, 183:18, 184:2, 184:4, 187:1, 193:7, 194:4, 195:16, 197:18, 198:15, 198:16, 198:24, 198:25, 199:10, 217:5, 249:13, 250:5, 267:5, 268:7, 269:3, 269:19, 269:20, 276:1, 303:7, 303:13</p> <p>lived [2] - 143:17, 268:23</p> <p>livelihood [1] - 184:2</p> <p>lives [6] - 142:22, 152:18, 180:14, 181:13, 188:9</p> <p>livestock [7] - 149:5, 149:7, 195:24,</p>	<p>202:11, 267:25, 277:22, 278:3</p> <p>living [12] - 118:5, 142:25, 143:22, 145:4, 153:13, 180:12, 198:4, 198:23, 199:13, 221:2, 278:3, 303:14</p> <p>LLC [3] - 6:21, 8:15, 8:17</p> <p>LLC's [1] - 298:13</p> <p>load [2] - 60:18, 60:24</p> <p>local [7] - 60:16, 61:1, 221:8, 301:2, 301:20, 302:17, 302:18</p> <p>locally [1] - 235:6</p> <p>locate [4] - 30:18, 60:15, 96:1, 133:2</p> <p>located [6] - 6:8, 140:11, 152:6, 153:23, 155:8, 210:21</p> <p>location [11] - 7:18, 7:25, 56:4, 100:3, 102:19, 106:17, 162:3, 257:25, 264:2, 296:22, 296:24</p> <p>locations [2] - 91:9, 197:15</p> <p>Logan [5] - 6:25, 102:13, 102:14, 113:8</p> <p>logic [2] - 129:7, 213:15</p> <p>long-term [1] - 300:17</p> <p>long-time [1] - 159:20</p> <p>look [36] - 5:22, 13:7, 16:9, 16:11, 24:4, 40:25, 72:4, 73:12, 76:8, 76:14, 96:1, 104:8, 118:16, 128:16, 128:19, 129:8, 130:1, 134:16, 152:9, 164:4, 175:7, 178:13, 182:17, 182:19, 191:23, 197:11, 204:7, 205:7, 215:17, 254:15, 268:11, 268:17, 269:10, 298:19, 304:21</p> <p>looked [9] - 52:4, 57:18, 80:14, 80:19, 95:24, 96:5, 259:16, 292:16, 292:1</p> <p>looking [32] - 35:17, 35:19, 35:20, 41:5, 41:6, 72:18, 76:2, 80:24, 132:9, 134:11, 134:13,</p>
--	---	--	---	---

<p>134:25, 135:2, 155:16, 161:21, 167:15, 188:15, 201:4, 228:17, 233:25, 235:19, 244:7, 252:8, 269:7, 294:6, 294:9, 295:20, 296:1, 305:10, 306:25, 307:1</p> <p>looks [7] - 33:3, 72:20, 73:8, 191:24, 258:3, 288:2</p> <p>looming [1] - 37:19</p> <p>Loop [1] - 87:18</p> <p>lose [3] - 154:13, 232:20, 235:17</p> <p>losing [3] - 236:16, 237:2</p> <p>loss [2] - 84:25, 233:11</p> <p>losses [1] - 201:19</p> <p>lost [4] - 220:20, 236:9, 236:11, 276:14</p> <p>Louisiana [1] - 223:22</p> <p>love [4] - 145:25, 165:18, 222:15, 222:16</p> <p>loved [2] - 144:3, 145:12</p> <p>low [7] - 36:21, 43:10, 145:17, 153:13, 224:2, 235:20, 296:10</p> <p>low-carbon [2] - 43:10, 235:20</p> <p>low-lying [2] - 153:13, 224:2</p> <p>lower [4] - 104:14, 235:22, 237:19, 305:11</p> <p>lower-carbon [1] - 305:11</p> <p>lowered [1] - 235:9</p> <p>lowest [1] - 153:11</p> <p>lowlands [1] - 193:2</p> <p>Lucas [1] - 300:17</p> <p>luck [1] - 144:13</p> <p>lumped [1] - 113:9</p> <p>lunch [3] - 86:8, 139:10, 139:17</p> <p>lying [3] - 153:13, 185:17, 224:2</p> <p>LYNETTE [25] - 141:14, 141:19, 141:22, 142:1, 142:4, 142:6, 146:21, 146:24, 147:3, 147:19, 147:22, 148:7, 148:15, 148:18, 149:1, 149:4, 149:8,</p>	<p>149:15, 149:18, 150:9, 150:13, 150:17, 150:20, 150:24, 151:3</p> <p>Lynette [5] - 141:14, 142:7, 148:22, 148:25, 151:4</p>	<p>79:24, 80:5, 92:8, 92:15, 92:18, 99:1, 99:9, 99:24, 101:11, 101:12, 101:21, 113:18, 119:10, 119:17, 137:7, 137:10, 178:2</p> <p>Mandan [4] - 4:4, 4:23, 139:16, 211:20</p> <p>manmade [1] - 200:11</p> <p>manner [2] - 5:11, 16:17</p> <p>manners [1] - 219:16</p> <p>map [24] - 14:20, 14:21, 14:22, 49:8, 49:10, 49:12, 50:14, 55:13, 55:15, 57:6, 72:4, 72:18, 73:12, 82:19, 91:14, 111:20, 117:9, 169:7, 169:22, 174:5, 192:22, 228:25, 289:3</p> <p>mapping [1] - 291:4</p> <p>maps [14] - 14:10, 14:11, 48:21, 48:24, 55:13, 90:11, 90:13, 147:25, 169:20, 192:15, 203:16, 227:7, 228:7, 228:11</p> <p>March [3] - 4:21, 119:4, 252:3</p> <p>mark [1] - 295:2</p> <p>marked [1] - 104:19</p> <p>market [16] - 22:4, 22:19, 22:21, 232:11, 235:16, 235:18, 235:20, 236:5, 236:10, 237:11, 237:12, 237:14, 237:15, 237:16, 277:25</p> <p>marketing [1] - 236:21</p> <p>markets [4] - 60:1, 60:2, 236:16, 237:2</p> <p>Mary [1] - 219:2</p> <p>mask [1] - 225:1</p> <p>Mason's [1] - 265:19</p> <p>mass [1] - 106:23</p> <p>massive [3] - 145:14, 156:1, 291:8</p> <p>match [1] - 295:7</p> <p>matching [1] - 114:10</p> <p>material [7] - 14:5, 59:20, 60:1, 60:9, 227:11, 239:24, 240:2</p> <p>materialized [1] - 107:5</p> <p>materials [2] - 14:5, 225:25</p> <p>matter [12] - 5:6, 8:14, 87:25, 101:20,</p>	<p>143:11, 144:20, 154:6, 201:24, 224:5, 248:16, 269:18, 280:23</p> <p>matters [3] - 16:19, 17:7, 195:2</p> <p>mature [3] - 90:23, 122:7, 129:3</p> <p>maxed [1] - 155:4</p> <p>maximize [1] - 301:13</p> <p>maximum [4] - 18:6, 106:7, 107:13</p> <p>McIntosh [13] - 6:25, 102:13, 113:8, 113:10, 113:13, 113:14, 119:1, 119:12, 120:2, 129:17, 129:20, 244:21, 288:24</p> <p>mean [40] - 24:1, 34:2, 64:10, 79:8, 91:17, 98:17, 105:10, 106:20, 121:6, 121:14, 123:22, 124:18, 125:7, 126:9, 130:20, 143:13, 144:15, 145:12, 145:17, 155:14, 158:5, 182:25, 191:25, 201:22, 208:1, 214:4, 237:13, 247:5, 255:1, 263:18, 270:6, 270:15, 273:4, 273:8, 277:21, 286:13, 287:1, 288:14, 296:19, 298:15</p> <p>meaning [2] - 160:11, 302:20</p> <p>meaningful [3] - 11:16, 34:2, 154:16</p> <p>means [10] - 34:25, 155:11, 162:19, 225:18, 232:19, 233:9, 235:9, 238:22, 255:2, 304:7</p> <p>measure [1] - 227:8</p> <p>measures [1] - 223:5</p> <p>media [2] - 142:20, 262:24</p> <p>medium [3] - 253:23, 271:14, 296:9</p> <p>mediums [1] - 142:20</p> <p>meet [13] - 51:3, 77:9, 98:6, 120:7, 181:6, 232:11, 236:5, 239:13, 250:17, 259:4, 260:22, 289:11, 305:16</p> <p>meeting [37] - 11:7, 99:6, 99:7, 99:10,</p>	<p>99:21, 119:19, 120:4, 129:16, 164:16, 167:2, 188:24, 190:4, 245:20, 251:11, 251:12, 251:17, 251:19, 252:20, 253:8, 253:15, 254:25, 257:13, 257:14, 257:18, 257:21, 258:9, 258:17, 259:2, 259:11, 259:13, 259:20, 259:23, 259:24, 260:22, 265:8, 265:11</p> <p>meetings [36] - 10:19, 52:15, 52:24, 77:5, 78:6, 78:9, 78:19, 79:20, 92:14, 99:1, 99:4, 100:8, 100:10, 113:1, 113:7, 113:23, 116:13, 119:10, 137:5, 137:6, 137:16, 149:13, 149:14, 149:17, 149:23, 152:21, 203:24, 203:25, 236:21, 245:12, 246:12, 255:9, 261:6, 262:10, 285:21, 286:3</p> <p>meets [1] - 237:23</p> <p>member [1] - 135:6</p> <p>members [10] - 231:20, 251:16, 266:23, 303:5, 303:7, 303:10, 303:21, 304:16, 305:1</p> <p>membership [1] - 303:4</p> <p>memos [1] - 103:14</p> <p>mental [1] - 201:2</p> <p>mention [7] - 33:7, 95:14, 110:22, 115:25, 164:8, 203:24, 290:9</p> <p>mentioned [39] - 6:7, 23:6, 23:17, 31:1, 32:24, 33:11, 38:4, 41:21, 52:15, 55:21, 62:20, 63:12, 70:4, 71:2, 75:15, 76:17, 85:17, 94:16, 95:16, 96:14, 97:21, 102:3, 104:3, 105:12, 109:1, 111:16, 113:7, 116:24, 128:23, 129:3, 139:22, 139:25, 165:13, 175:4,</p>
M				
	<p>M-O-L-D-E-N-H-A-U-E-R [1] - 255:21</p> <p>ma'am [3] - 43:20, 188:22, 196:24</p> <p>mad [2] - 250:15, 250:22</p> <p>Madam [1] - 239:16</p> <p>magnitude [2] - 23:21, 203:21</p> <p>main [7] - 121:22, 203:13, 221:10, 276:15, 276:24, 302:7, 306:9</p> <p>maintain [8] - 5:10, 10:24, 93:23, 104:7, 153:1, 166:15, 232:24</p> <p>maintained [1] - 92:11</p> <p>maintaining [1] - 221:25</p> <p>maintains [1] - 100:16</p> <p>maintenance [7] - 7:18, 7:25, 27:25, 154:20, 217:14, 272:18, 272:20</p> <p>majority [8] - 89:11, 97:24, 98:19, 109:22, 114:21, 125:13, 143:4, 163:10</p> <p>makeup [1] - 215:18</p> <p>manage [3] - 152:25, 290:20, 304:16</p> <p>management [20] - 37:1, 37:6, 77:18, 78:19, 92:23, 118:25, 129:16, 253:14, 254:18, 254:22, 254:23, 281:1, 282:21, 283:15, 283:18, 283:22, 288:18, 288:20, 300:15, 305:14</p> <p>manager [13] - 57:11, 57:16, 57:17, 93:17, 100:12, 100:22, 101:12, 119:19, 120:2, 129:20, 137:17, 159:22, 178:15</p> <p>managers [18] - 77:5,</p>			

<p>175:20, 193:11, 198:19, 245:7, 290:13</p> <p>mentioning [1] - 123:8</p> <p>mentions [5] - 71:15, 160:19, 161:6, 223:5</p> <p>Mercer [4] - 58:20, 59:8, 79:21, 113:4</p> <p>merely [1] - 226:11</p> <p>merit [2] - 223:4, 292:9</p> <p>message [2] - 154:3, 259:3</p> <p>messaged [1] - 259:19</p> <p>met [25] - 8:3, 52:4, 52:6, 52:7, 52:24, 53:16, 57:16, 62:12, 76:16, 76:20, 76:25, 77:3, 77:4, 78:21, 78:22, 92:8, 93:16, 165:8, 165:12, 239:7, 239:11, 251:10, 251:13, 252:12, 260:21</p> <p>metal [1] - 31:2</p> <p>methodology [3] - 113:2, 137:9, 137:13</p> <p>mic [1] - 8:11</p> <p>Miccousukee [1] - 280:16</p> <p>microphone [3] - 17:19, 141:10, 209:3</p> <p>mid [1] - 105:9</p> <p>middle [4] - 111:14, 114:6, 114:20, 131:14</p> <p>midnight [1] - 246:21</p> <p>midway [1] - 52:22</p> <p>Midwest [1] - 302:14</p> <p>might [23] - 10:10, 11:15, 37:8, 42:18, 50:22, 55:14, 58:13, 74:5, 74:6, 76:14, 95:13, 100:2, 111:1, 161:18, 173:3, 212:23, 237:13, 251:7, 261:3, 295:9, 299:16</p> <p>migration [3] - 104:9, 290:16, 290:19</p> <p>MIKE [38] - 231:3, 231:8, 231:11, 231:15, 231:17, 231:19, 233:1, 240:3, 240:5, 240:20, 240:23, 241:1, 241:4, 241:21, 241:24, 242:8, 242:12, 242:19, 242:21, 243:4, 244:4, 244:13, 245:10, 246:6, 247:20,</p>	<p>248:3, 248:23, 249:5, 250:12, 251:1, 251:4, 251:7, 251:13, 251:22, 252:6, 252:14, 253:1, 253:24</p> <p>Mike [3] - 139:6, 231:3, 231:21</p> <p>mild [1] - 63:15</p> <p>mile [20] - 55:24, 106:21, 107:8, 143:1, 150:7, 150:14, 152:7, 158:12, 162:9, 162:11, 169:13, 173:9, 180:9, 203:8, 203:10, 207:14, 207:15, 223:18, 268:5, 276:18</p> <p>mileage [4] - 94:24, 95:1, 109:3, 302:1</p> <p>miles [49] - 6:23, 49:19, 49:21, 55:22, 71:2, 71:15, 72:5, 72:6, 72:12, 72:22, 73:4, 73:5, 73:23, 94:12, 94:17, 94:18, 94:19, 105:11, 113:9, 121:8, 150:12, 159:15, 161:5, 162:12, 170:19, 170:20, 170:21, 173:24, 174:3, 174:8, 174:9, 174:10, 179:23, 180:10, 193:21, 238:10, 243:5, 244:1, 244:6, 256:21, 261:16, 262:8, 262:13, 268:7, 268:18, 268:21, 269:8, 287:21</p> <p>million [21] - 20:8, 20:9, 22:11, 23:8, 23:9, 24:5, 37:21, 38:2, 38:8, 38:19, 59:25, 60:5, 60:7, 154:19, 155:23, 233:17, 233:19, 233:20, 235:17, 301:17, 301:22</p> <p>millions [1] - 273:21</p> <p>Mina [1] - 234:4</p> <p>mind [12] - 13:23, 16:12, 16:18, 120:13, 123:25, 141:4, 181:16, 212:17, 218:1, 222:21, 283:17, 287:21</p> <p>mindset [1] - 144:18</p> <p>mine [8] - 10:21,</p>	<p>57:19, 57:20, 172:4, 194:17, 215:7, 253:24, 272:17</p> <p>Miner [1] - 70:24</p> <p>mines [2] - 219:6, 273:1</p> <p>minimal [1] - 7:19</p> <p>minimize [2] - 8:1, 301:13</p> <p>minimized [1] - 153:22</p> <p>minimum [1] - 103:25</p> <p>minimums [1] - 20:5</p> <p>mining [4] - 57:12, 57:13, 58:5, 155:17</p> <p>Minnesota [4] - 10:6, 303:21, 303:23, 305:10</p> <p>Minnkota [15] - 57:14, 57:15, 66:25, 67:9, 67:10, 68:6, 68:14, 68:23, 69:10, 69:11, 69:24, 75:6, 75:8, 75:13, 75:16</p> <p>Minnkota's [3] - 67:4, 67:19, 68:17</p> <p>minute [1] - 208:22</p> <p>minutes [6] - 143:9, 143:12, 172:4, 220:2, 225:8, 225:15</p> <p>miraculously [1] - 145:8</p> <p>mirroring [1] - 205:4</p> <p>mispronouncing [1] - 45:25</p> <p>misquote [1] - 165:17</p> <p>miss [1] - 137:4</p> <p>missed [1] - 72:17</p> <p>missing [1] - 139:11</p> <p>Mississippi [2] - 172:23, 211:18</p> <p>Missouri [17] - 56:3, 103:15, 104:13, 104:16, 145:17, 186:17, 198:17, 219:1, 220:4, 223:18, 268:9, 268:11, 268:15, 269:15, 283:1, 290:2</p> <p>misspoke [2] - 131:2, 131:11</p> <p>mist [2] - 223:16, 223:25</p> <p>mistake [1] - 131:5</p> <p>Misty [1] - 199:14</p> <p>misunderstanding [1] - 39:10</p> <p>mitigable [1] - 193:5</p> <p>mitigate [2] - 224:18, 235:18</p> <p>mitigated [1] - 91:18</p> <p>mixed [1] - 241:4</p> <p>mixes [1] - 186:20</p>	<p>mixing [1] - 211:14</p> <p>model [3] - 41:22, 59:2, 143:12</p> <p>modeler [1] - 41:22</p> <p>modeling [8] - 41:3, 41:7, 41:9, 41:19, 92:13, 113:2, 137:8</p> <p>models [5] - 78:24, 222:25, 223:6, 223:7</p> <p>modifications [1] - 90:16</p> <p>modified [1] - 262:18</p> <p>modify [2] - 50:23, 265:9</p> <p>modifying [1] - 192:24</p> <p>Moldenhauer [7] - 52:12, 255:20, 255:21, 255:22, 256:16, 263:16, 265:5</p> <p>MOLDENHAUER [20] - 255:20, 255:25, 256:3, 256:6, 256:10, 256:12, 256:13, 256:15, 263:22, 264:4, 264:7, 264:14, 264:18, 265:13, 265:17, 265:20, 265:23, 266:8, 266:14, 266:19</p> <p>moment [2] - 111:1, 230:14</p> <p>moments [1] - 21:7</p> <p>monetize [2] - 70:6, 70:9</p> <p>money [26] - 35:22, 43:7, 43:9, 43:12, 84:10, 156:1, 165:16, 165:18, 184:7, 184:8, 184:9, 187:6, 188:5, 200:4, 200:24, 200:25, 210:23, 212:13, 249:15, 249:19, 250:1, 250:19, 250:25, 252:19, 273:6</p> <p>monitor [1] - 27:24</p> <p>monitors [1] - 100:18</p> <p>Montana [1] - 219:23</p> <p>month [1] - 93:7</p> <p>months [12] - 101:19, 102:25, 108:25, 113:21, 126:4, 126:7, 126:13, 256:18, 270:3, 289:25, 295:12, 305:9</p> <p>morals [1] - 273:9</p> <p>morning [23] - 4:1, 4:7, 4:8, 4:12, 12:13, 17:17, 17:18, 18:2,</p>	<p>26:10, 37:22, 44:22, 44:24, 86:24, 139:1, 139:6, 139:9, 158:25, 161:8, 162:21, 173:7, 174:16, 189:10, 279:12</p> <p>Morton [8] - 7:1, 7:11, 79:19, 95:7, 95:8, 218:24, 302:7, 303:8</p> <p>most [15] - 34:2, 97:21, 98:4, 99:24, 113:14, 154:12, 187:1, 201:1, 218:21, 230:16, 246:9, 268:21, 302:6, 302:10, 302:11</p> <p>mother [2] - 224:3, 227:13</p> <p>motor [1] - 47:13</p> <p>move [19] - 5:14, 16:20, 36:20, 89:4, 102:19, 104:11, 112:11, 129:6, 131:17, 139:20, 160:11, 160:12, 160:13, 180:13, 186:23, 195:17, 264:1, 293:16, 293:19</p> <p>moved [22] - 76:20, 77:12, 91:19, 96:18, 107:7, 153:16, 154:4, 160:6, 160:8, 166:14, 174:7, 191:10, 193:8, 194:23, 195:12, 198:11, 198:14, 198:20, 261:15, 263:25, 268:8, 269:4</p> <p>movement [4] - 218:7, 219:11, 219:14, 258:5</p> <p>movements [1] - 104:1</p> <p>mover [2] - 23:24, 34:4</p> <p>movers [1] - 34:4</p> <p>moves [2] - 218:13, 219:16</p> <p>moving [7] - 69:20, 103:25, 126:9, 198:16, 218:16, 237:25</p> <p>mudline [2] - 104:12, 104:16</p> <p>multi [1] - 309:7</p> <p>multi-day [1] - 309:7</p> <p>multigenerational [1] - 232:6</p> <p>multiple [5] - 11:23, 39:11, 151:2,</p>
--	---	--	--	--

<p>219:11, 225:10 Multiple [1] - 232:21 municipality [1] - 220:22 must [3] - 120:18, 169:15, 262:25</p>	<p>169:21, 184:4, 187:25, 199:16, 210:17, 211:15, 232:17, 268:13, 303:13, 303:14 nearly [3] - 155:25, 156:4, 301:17 Nebraska [2] - 107:3, 296:6 nebulous [1] - 214:22 necessary [4] - 64:13, 118:18, 175:3, 298:9 necessity [1] - 180:2 need [40] - 16:19, 26:24, 50:21, 50:23, 68:10, 88:5, 99:16, 99:18, 106:1, 110:5, 116:1, 116:8, 116:10, 116:19, 130:21, 135:9, 136:6, 141:2, 142:21, 143:12, 147:6, 147:8, 155:11, 166:9, 181:6, 181:12, 200:5, 200:23, 232:10, 232:24, 243:5, 252:20, 254:13, 270:8, 288:8, 292:13, 292:24, 297:10, 309:10 needed [8] - 99:20, 100:14, 109:23, 110:9, 145:20, 152:24, 164:20, 292:13 needs [9] - 8:3, 11:11, 47:14, 51:6, 51:15, 76:13, 145:12, 305:5, 305:16 negative [7] - 42:4, 202:7, 202:15, 202:16, 202:17, 203:1, 208:6 negotiate [2] - 258:16, 298:17 negotiating [2] - 124:23, 297:24 negotiation [1] - 202:24 negotiations [3] - 75:2, 184:10, 278:16 negotiators [1] - 184:17 neighbor [7] - 183:14, 183:19, 223:8, 249:25, 250:2, 276:11 neighbor's [1] - 191:10 neighborhood [4] - 155:20, 218:12,</p>	<p>225:23, 226:2 neighborhoods [2] - 225:23, 225:24 neighbors [7] - 62:24, 97:20, 115:6, 222:4, 226:9, 303:3, 303:14 neighbors' [1] - 143:20 nervous [2] - 43:13, 142:9 Neset [1] - 58:21 net [2] - 94:18, 301:16 neurological [2] - 145:6, 145:9 never [19] - 31:13, 31:22, 39:9, 128:2, 156:23, 156:25, 186:12, 187:3, 192:20, 192:21, 201:24, 203:20, 215:19, 255:1, 260:12, 260:13, 268:8, 278:15, 287:19 new [30] - 14:22, 37:8, 55:12, 56:16, 72:18, 80:10, 94:17, 94:18, 94:19, 94:23, 95:1, 120:18, 120:23, 122:13, 152:7, 163:9, 176:9, 176:22, 199:14, 259:15, 260:7, 260:15, 261:9, 261:23, 262:25, 282:20, 287:7, 297:12 New [3] - 163:11, 163:15, 247:7 news [2] - 155:22, 184:22 next [26] - 38:14, 44:19, 86:15, 101:24, 102:25, 113:21, 114:1, 114:20, 148:11, 151:6, 158:3, 158:17, 164:3, 164:8, 171:7, 180:20, 183:11, 183:16, 183:21, 185:14, 198:16, 199:5, 216:6, 308:18, 309:8 Nicholas [1] - 210:10 night [4] - 209:25, 210:10, 246:17, 246:18 nine [3] - 22:9, 49:20, 71:2 nobody [10] - 11:1, 144:8, 149:22, 160:19, 161:6,</p>	<p>248:15, 248:16, 269:16, 273:14 nobody's [2] - 262:21 non [3] - 126:6, 228:14, 292:7 non-desktop [1] - 228:14 non-responsive [1] - 126:6 non-scientific [1] - 292:7 none [7] - 31:19, 101:15, 154:24, 206:5, 212:14, 274:21, 274:24 nonsense [1] - 200:14 normal [2] - 149:9, 307:20 north [50] - 49:19, 49:21, 52:20, 55:22, 71:2, 71:15, 72:2, 72:5, 72:6, 73:13, 76:17, 76:22, 76:25, 78:13, 80:8, 83:13, 94:20, 96:9, 96:13, 118:7, 121:8, 121:9, 143:5, 143:8, 150:16, 150:23, 150:24, 153:9, 160:7, 160:12, 160:18, 170:1, 173:18, 173:21, 174:7, 174:9, 194:4, 199:2, 217:5, 222:10, 222:11, 227:3, 243:17, 257:24, 258:5, 258:6, 261:16, 264:2, 271:11 North [168] - 4:20, 4:23, 7:1, 7:20, 8:14, 10:6, 10:22, 18:4, 20:18, 20:21, 20:22, 21:3, 22:22, 23:7, 24:10, 25:8, 25:16, 25:23, 27:8, 29:25, 30:18, 31:5, 32:9, 32:22, 32:23, 33:15, 33:21, 35:4, 37:5, 37:21, 38:3, 38:19, 40:2, 49:11, 49:20, 54:16, 58:3, 59:18, 60:4, 60:9, 60:15, 60:21, 65:13, 66:10, 66:13, 68:5, 69:9, 69:13, 69:19, 70:8, 74:17, 74:19, 75:12, 82:11, 84:22, 87:18, 91:4, 91:10, 92:15, 93:15, 96:8, 99:5, 100:9, 101:14, 102:11, 103:3, 105:6, 106:6, 107:4,</p>	<p>107:6, 108:1, 108:22, 114:3, 114:7, 114:22, 115:6, 142:12, 143:15, 144:18, 145:19, 145:24, 146:3, 146:6, 147:23, 154:8, 155:5, 155:12, 155:16, 159:25, 163:1, 163:2, 163:8, 163:11, 163:12, 163:20, 163:22, 164:10, 164:11, 165:20, 168:6, 179:22, 180:6, 180:15, 181:5, 181:6, 181:11, 181:13, 182:15, 183:3, 183:9, 186:6, 186:15, 186:24, 187:1, 187:13, 187:14, 187:15, 187:18, 187:21, 187:24, 188:16, 188:18, 194:9, 200:6, 200:12, 206:24, 211:9, 212:18, 213:6, 217:12, 217:17, 219:14, 220:22, 223:7, 224:1, 225:9, 226:8, 226:14, 227:19, 231:21, 231:22, 232:13, 233:12, 233:15, 233:17, 233:19, 233:21, 234:6, 234:12, 234:21, 235:22, 237:19, 238:5, 268:2, 273:4, 289:5, 289:10, 290:13, 301:2, 301:12, 303:1, 303:4, 303:24, 306:23, 307:4 Northeast [2] - 142:8, 147:23 northeast [6] - 125:17, 194:5, 221:19, 222:10, 222:11, 261:15 Northern [1] - 248:11 northern [5] - 90:7, 193:7, 195:16, 234:9, 259:16 northwest [6] - 72:11, 169:17, 267:6, 268:20, 268:22, 271:12 northwestern [1] - 155:16 notation [1] - 83:9</p>
---	---	---	--	---

<p>note [8] - 5:3, 8:5, 12:21, 68:8, 83:11, 296:11, 309:5, 309:19</p> <p>noted [5] - 7:14, 76:5, 154:17, 273:10, 286:17</p> <p>notes [3] - 125:20, 260:19, 261:2</p> <p>noteworthy [1] - 285:25</p> <p>nothing [10] - 38:9, 84:1, 113:13, 132:14, 142:15, 145:19, 184:19, 190:17, 245:5, 308:24</p> <p>Notice [4] - 4:19, 7:11, 7:12</p> <p>notice [5] - 5:16, 161:18, 161:20, 259:8, 285:19</p> <p>noticed [2] - 38:20, 268:9</p> <p>notification [2] - 259:10, 289:8</p> <p>notifications [1] - 286:1</p> <p>notified [1] - 96:24</p> <p>notify [4] - 198:22, 285:13, 286:18, 286:24</p> <p>notifying [2] - 112:12, 285:12</p> <p>November [4] - 63:19, 119:5, 210:13</p> <p>nowadays [1] - 202:3</p> <p>nuances [1] - 40:2</p> <p>number [51] - 7:17, 7:21, 7:24, 20:2, 20:8, 20:10, 21:18, 27:11, 27:12, 27:14, 27:17, 28:15, 31:3, 37:24, 38:2, 38:5, 38:8, 38:25, 41:12, 47:6, 48:2, 55:16, 55:17, 66:9, 83:5, 94:13, 96:7, 103:6, 103:7, 106:2, 114:14, 114:23, 127:18, 152:13, 160:21, 185:5, 185:7, 185:10, 185:12, 190:2, 190:14, 190:17, 234:23, 238:24, 242:3, 245:12, 248:10, 277:13, 285:13, 301:5</p> <p>numbers [12] - 20:3, 20:11, 27:1, 36:12, 36:16, 41:12, 47:9, 47:16, 55:13,</p>	<p>155:21, 240:11, 277:12</p> <p>numerous [6] - 14:4, 52:15, 52:24, 53:17, 77:5, 78:21</p> <p>nursing [1] - 180:11</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>O-L-S-O-N [3] - 151:9, 151:12, 272:2</p> <p>object [4] - 35:11, 35:14, 67:20, 298:12</p> <p>objection [18] - 14:8, 15:9, 15:12, 15:15, 15:23, 16:1, 16:3, 35:23, 50:10, 50:11, 50:14, 50:17, 51:10, 68:8, 76:19, 136:21, 168:12</p> <p>objective [1] - 126:17</p> <p>observed [1] - 192:5</p> <p>obstacle [1] - 112:11</p> <p>obtain [3] - 62:7, 85:21, 152:23</p> <p>obtained [5] - 64:16, 83:9, 85:17, 98:16, 297:15</p> <p>obtaining [2] - 31:7, 64:12</p> <p>obvious [1] - 23:16</p> <p>obviously [5] - 42:20, 57:10, 90:7, 207:8, 302:1</p> <p>occasionally [2] - 121:13, 121:20</p> <p>occupied [3] - 162:6, 206:23</p> <p>occupy [2] - 226:24, 226:25</p> <p>occur [1] - 92:20</p> <p>occurred [5] - 36:19, 218:10, 218:19, 260:22</p> <p>occurrences [1] - 220:7</p> <p>occurs [2] - 33:17, 135:9</p> <p>October [2] - 90:6, 94:24</p> <p>odd [1] - 227:6</p> <p>Oelschlager [1] - 10:10</p> <p>offer [7] - 6:12, 13:24, 15:13, 50:9, 178:25, 257:3, 261:9</p> <p>offered [5] - 15:9, 48:22, 123:6, 137:10, 281:3</p> <p>offering [5] - 14:14, 15:11, 123:15, 239:25, 256:23</p>	<p>offhand [2] - 73:18, 189:23</p> <p>office [11] - 53:2, 57:17, 118:5, 126:24, 184:14, 184:20, 195:3, 256:24, 257:13, 260:17, 282:11</p> <p>officer [4] - 4:16, 19:10, 87:22, 135:16</p> <p>officers [2] - 173:8, 222:5</p> <p>official [1] - 245:8</p> <p>officials [4] - 144:19, 146:5, 212:10, 262:10</p> <p>often [3] - 11:5, 52:24, 180:24</p> <p>oil [18] - 28:3, 28:7, 30:2, 142:19, 208:4, 211:12, 217:13, 219:18, 221:15, 235:4, 237:15, 245:15, 246:2, 272:23, 273:2, 273:15, 306:13</p> <p>old [7] - 49:13, 55:19, 57:8, 77:10, 217:6, 222:15, 228:9</p> <p>older [1] - 162:8</p> <p>oldest [1] - 169:10</p> <p>Oliver [12] - 7:1, 7:10, 57:6, 58:20, 59:8, 64:10, 79:20, 95:9, 95:10, 113:5, 285:7, 303:8</p> <p>Olson [15] - 9:7, 139:5, 151:9, 151:12, 151:13, 152:3, 156:12, 157:22, 158:3, 262:17, 271:24, 272:3, 274:4, 274:25</p> <p>OLSON [27] - 151:9, 151:12, 151:15, 151:18, 151:22, 151:24, 152:1, 152:3, 156:16, 156:19, 156:25, 157:4, 157:12, 158:4, 158:9, 158:12, 271:24, 272:2, 272:5, 272:8, 272:12, 272:14, 272:16, 274:8, 274:11, 274:13, 275:5</p> <p>omissions [2] - 218:3, 223:12</p> <p>on-the-ground [3] - 292:24, 293:11, 293:25</p> <p>once [12] - 11:3,</p>	<p>14:23, 16:14, 39:11, 60:10, 106:12, 211:10, 212:18, 262:21, 264:21, 289:23, 289:24</p> <p>one [142] - 7:17, 8:22, 11:2, 12:5, 14:10, 14:15, 14:25, 16:22, 20:5, 21:12, 21:25, 23:1, 24:3, 24:11, 24:22, 25:13, 27:2, 33:5, 34:2, 37:19, 38:14, 39:8, 40:18, 41:22, 49:3, 49:10, 50:13, 54:3, 56:18, 57:18, 62:12, 62:20, 63:8, 66:12, 68:22, 68:23, 69:19, 72:16, 74:4, 78:12, 79:19, 79:23, 81:12, 83:13, 83:24, 84:3, 89:9, 90:15, 92:20, 93:1, 93:10, 93:13, 93:24, 99:5, 101:17, 106:15, 112:13, 113:6, 115:7, 117:12, 117:14, 118:6, 120:2, 121:1, 121:2, 123:18, 123:19, 127:21, 129:7, 134:16, 134:19, 137:4, 141:1, 148:9, 150:5, 150:11, 152:19, 158:2, 160:5, 160:9, 161:8, 161:9, 161:13, 161:19, 162:5, 162:6, 162:7, 163:8, 165:21, 173:8, 176:2, 176:6, 176:25, 177:1, 177:3, 178:9, 180:14, 181:1, 181:15, 186:11, 189:6, 191:14, 195:6, 199:20, 200:16, 203:19, 206:20, 208:7, 218:6, 219:5, 220:8, 234:10, 234:13, 241:13, 245:14, 248:18, 251:6, 251:8, 253:22, 259:17, 260:19, 263:23, 267:22, 269:25, 276:12, 276:18, 278:7, 278:10, 279:9, 282:12, 285:11, 287:18, 290:15, 294:24, 297:11, 298:3, 298:12, 304:8, 306:1, 309:8</p>	<p>one's [1] - 242:14</p> <p>one-and-done [1] - 287:18</p> <p>one-mile [1] - 276:18</p> <p>one-off [1] - 220:8</p> <p>one-time [1] - 208:7</p> <p>ones [8] - 22:24, 113:6, 145:12, 149:23, 176:25, 222:6, 235:5, 237:8</p> <p>ongoing [5] - 22:5, 22:6, 22:14, 27:25, 259:11</p> <p>online [6] - 16:9, 102:19, 103:8, 103:11, 103:12, 132:7</p> <p>ons [1] - 26:2</p> <p>onus [1] - 44:2</p> <p>open [9] - 93:21, 149:13, 168:14, 168:20, 188:13, 218:1, 225:22, 237:6, 263:3</p> <p>opened [1] - 13:20</p> <p>opening [1] - 10:12</p> <p>operate [3] - 61:1, 68:18, 164:21</p> <p>operated [1] - 268:1</p> <p>operating [3] - 22:15, 87:22, 211:12</p> <p>operation [13] - 7:17, 7:24, 31:14, 67:23, 92:20, 93:24, 101:25, 116:17, 116:20, 116:22, 124:7, 149:7, 196:6</p> <p>operations [5] - 22:5, 22:21, 30:3, 57:12, 223:13</p> <p>operator [2] - 116:2, 223:22</p> <p>operators [2] - 27:24, 37:7</p> <p>opinion [14] - 21:1, 59:17, 60:9, 112:17, 115:7, 144:19, 176:20, 202:25, 215:16, 228:3, 273:17, 273:23, 290:24, 292:9</p> <p>opportunities [12] - 21:13, 24:2, 25:17, 28:19, 33:4, 36:25, 70:12, 273:11, 300:18, 302:17, 304:25</p> <p>opportunity [18] - 8:24, 14:6, 21:15, 23:18, 24:8, 30:16, 70:6, 88:18, 93:8, 101:1, 117:11, 140:13, 140:14,</p>
--	--	---	--	--

<p>235:20, 235:21, 300:10, 305:3, 309:13</p> <p>opportunity-driven [2] - 23:18, 30:16</p> <p>oppose [2] - 62:25, 163:11</p> <p>opposed [8] - 20:5, 77:25, 112:6, 115:9, 128:1, 193:12, 263:20, 263:22</p> <p>opposing [1] - 163:13</p> <p>opposite [1] - 129:1</p> <p>opposition [2] - 78:2, 221:9</p> <p>ops [2] - 33:20, 154:20</p> <p>optimization [1] - 82:9</p> <p>option [3] - 61:8, 122:19, 224:11</p> <p>optionality [2] - 25:22, 25:25</p> <p>options [4] - 127:7, 128:19, 129:8, 304:14</p> <p>oral [1] - 281:4</p> <p>orally [1] - 59:16</p> <p>order [22] - 7:4, 7:7, 7:15, 9:2, 18:18, 18:19, 50:20, 50:23, 51:1, 51:5, 57:1, 57:2, 88:25, 89:2, 96:17, 96:21, 110:5, 136:6, 220:3, 283:13, 284:23, 292:25</p> <p>orderly [3] - 5:11, 8:4, 10:18</p> <p>ordinances [7] - 153:7, 168:14, 198:1, 199:24, 200:24, 221:23, 222:2</p> <p>ordinary [1] - 144:7</p> <p>organization [5] - 98:6, 102:4, 159:24, 301:7, 306:1</p> <p>original [20] - 14:21, 56:1, 56:2, 58:24, 81:17, 90:5, 90:6, 90:21, 90:22, 105:8, 106:5, 106:7, 106:14, 121:3, 127:16, 132:5, 132:6, 169:9, 283:1, 297:11</p> <p>originally [3] - 97:5, 106:18, 132:21</p> <p>otherwise [1] - 272:20</p> <p>ourselves [1] - 149:24</p> <p>ourselves [1] - 223:10</p> <p>out-of-state [1] - 187:23</p> <p>out-of-the-ordinary</p>	<p>[1] - 144:7</p> <p>outdoors [1] - 222:19</p> <p>outlined [2] - 156:15, 221:24</p> <p>outlining [1] - 177:22</p> <p>output [2] - 137:14, 145:23</p> <p>outputs [1] - 137:14</p> <p>outreach [1] - 92:1</p> <p>outside [18] - 6:8, 37:7, 73:9, 78:5, 78:17, 82:19, 83:17, 97:18, 102:7, 111:22, 112:15, 116:20, 121:16, 146:9, 161:6, 187:14, 307:20</p> <p>outtake [1] - 234:1</p> <p>outward [1] - 211:4</p> <p>overall [7] - 27:6, 38:6, 42:6, 78:22, 94:11, 95:2, 238:6</p> <p>overcapacity [1] - 165:4</p> <p>overlain [1] - 294:15</p> <p>oversight [1] - 27:8</p> <p>overview [2] - 58:18, 79:2</p> <p>own [24] - 68:16, 68:24, 70:6, 139:3, 144:4, 144:5, 153:7, 169:12, 169:15, 169:17, 182:1, 182:4, 187:15, 195:11, 197:15, 222:23, 225:21, 226:25, 260:13, 264:24, 264:25, 276:2, 291:7</p> <p>owned [3] - 67:10, 154:2, 268:2</p> <p>owner [7] - 39:19, 144:12, 153:25, 256:19, 265:24, 298:10</p> <p>owners [6] - 55:2, 61:3, 61:4, 154:3, 154:5, 156:2</p> <p>ownership [1] - 212:10</p> <p>owns [1] - 35:5</p> <p>oxygen [4] - 164:22, 173:9, 221:15, 225:16</p>	<p>299:20</p> <p>package [2] - 236:15, 289:8</p> <p>packet [4] - 49:6, 49:7, 49:16, 241:13</p> <p>page [39] - 37:20, 38:18, 49:7, 49:15, 55:12, 55:16, 55:17, 57:5, 61:25, 71:9, 71:15, 72:16, 74:11, 74:14, 75:12, 75:19, 83:3, 83:5, 83:8, 110:18, 113:1, 113:3, 114:1, 114:4, 114:6, 114:9, 114:14, 115:25, 117:21, 117:23, 130:1, 130:2, 130:16, 134:10, 169:7, 205:9, 223:2, 297:8</p> <p>paged [1] - 225:12</p> <p>pages [6] - 14:4, 39:8, 88:12, 88:17, 90:12, 134:10</p> <p>paid [5] - 23:3, 35:1, 152:6, 232:18, 252:22</p> <p>panel [1] - 245:15</p> <p>paper [1] - 173:7</p> <p>papers [1] - 241:2</p> <p>paperwork [1] - 253:18</p> <p>paragraph [3] - 114:5, 114:20, 115:25</p> <p>paralegal [1] - 9:22</p> <p>parcel [10] - 120:22, 121:23, 124:24, 129:6, 153:25, 202:7, 229:16, 229:22, 292:25, 293:20</p> <p>parcels [9] - 94:13, 113:14, 198:2, 198:14, 202:6, 202:14, 268:4, 268:6, 296:25</p> <p>pardon [1] - 46:3</p> <p>part [36] - 13:22, 16:8, 20:24, 60:3, 76:6, 92:17, 93:3, 94:10, 97:21, 126:24, 129:18, 135:15, 137:19, 140:25, 149:21, 162:4, 166:24, 197:10, 200:12, 206:1, 221:20, 228:18, 234:9, 241:7, 241:10, 247:10, 247:12, 250:5, 250:16, 273:19, 282:1, 283:20,</p>	<p>292:14, 294:17, 297:25</p> <p>participate [1] - 135:6</p> <p>participated [1] - 260:8</p> <p>participating [1] - 309:25</p> <p>participation [4] - 257:1, 257:5, 257:20, 261:23</p> <p>particular [16] - 19:23, 24:24, 31:18, 95:6, 166:10, 206:6, 224:8, 228:3, 228:13, 228:18, 228:20, 254:24, 254:25, 280:23, 296:4, 303:3</p> <p>particularly [3] - 37:7, 302:6, 303:8</p> <p>parties [5] - 8:5, 140:2, 140:5, 140:14, 308:8</p> <p>Partners [1] - 19:8</p> <p>parts [2] - 21:9, 21:11</p> <p>party [2] - 99:14, 140:23</p> <p>pass [7] - 240:16, 240:18, 240:19, 254:6, 259:23, 291:14, 291:24</p> <p>passed [6] - 56:20, 153:7, 168:4, 168:13, 168:17, 221:6</p> <p>passing [1] - 200:23</p> <p>passionate [1] - 199:11</p> <p>past [20] - 11:14, 93:4, 115:4, 126:6, 159:20, 219:8, 219:9, 220:6, 221:4, 221:11, 223:12, 223:17, 223:21, 224:5, 224:20, 225:2, 248:9, 248:17, 305:9</p> <p>pastoral [1] - 222:1</p> <p>patch [1] - 30:2</p> <p>patience [6] - 4:10, 4:13, 11:25, 12:9, 307:21, 307:23</p> <p>PAUL [15] - 275:8, 275:11, 275:14, 275:17, 275:21, 275:23, 275:25, 277:15, 277:17, 277:23, 278:10, 278:17, 278:21, 278:24, 279:6</p> <p>Paul [2] - 275:11, 277:20</p> <p>Pause [3] - 83:6,</p>	<p>114:12, 130:10</p> <p>paved [1] - 199:3</p> <p>pay [16] - 35:8, 61:4, 61:7, 67:15, 144:10, 145:9, 152:24, 164:19, 164:23, 182:2, 208:7, 234:12, 234:21, 248:7, 265:23</p> <p>paying [5] - 35:21, 204:3, 249:15, 249:18, 249:21</p> <p>payment [5] - 34:16, 34:21, 152:16, 208:7, 244:17</p> <p>payments [3] - 61:9, 61:10, 244:15</p> <p>pays [1] - 84:23</p> <p>peace [1] - 222:21</p> <p>pedestal [1] - 202:1</p> <p>Pelham [36] - 9:9, 9:12, 15:9, 17:7, 26:5, 44:10, 50:10, 61:20, 85:4, 97:10, 97:22, 102:16, 132:15, 146:17, 156:10, 166:2, 175:17, 177:22, 189:3, 194:16, 201:15, 213:2, 226:21, 239:22, 240:4, 240:5, 265:4, 270:23, 274:2, 277:3, 286:7, 299:3, 305:22, 306:3, 308:12</p> <p>PELHAM [118] - 9:12, 15:17, 15:23, 17:9, 26:7, 26:9, 44:12, 50:11, 61:21, 61:23, 85:5, 85:7, 97:12, 104:18, 132:16, 146:18, 146:23, 146:25, 147:9, 156:11, 156:17, 156:24, 157:1, 157:8, 157:13, 166:3, 166:20, 167:5, 167:17, 168:22, 175:18, 175:23, 176:11, 176:19, 177:6, 177:9, 189:4, 189:8, 189:14, 189:19, 189:22, 189:24, 190:4, 190:7, 190:9, 190:15, 190:19, 190:22, 191:1, 191:14, 191:21, 191:25, 192:2, 192:14, 192:23, 193:10, 193:15, 201:16, 202:18,</p>
	P			
	<p>P-I-C-K-E-R-I-N-G [2] - 18:1, 19:4</p> <p>P-O-W-E-L-L [1] - 86:22</p> <p>P-R-A-N-I-S [1] -</p>			

<p>203:2, 203:11, 203:23, 204:7, 204:14, 204:18, 204:20, 205:2, 205:7, 205:10, 205:25, 206:4, 206:9, 213:3, 213:11, 213:15, 213:19, 213:21, 213:25, 214:3, 214:8, 226:22, 227:4, 227:9, 227:16, 227:18, 227:21, 228:2, 228:13, 228:20, 229:2, 229:11, 239:23, 240:4, 240:12, 240:18, 240:22, 240:25, 241:3, 241:6, 241:9, 241:14, 241:16, 241:22, 265:5, 265:14, 265:18, 265:22, 270:24, 274:3, 274:9, 274:12, 274:14, 277:4, 286:8, 286:10, 299:4, 305:24, 308:13</p> <p>Peller [1] - 240:3</p> <p>penalties [36] - 18:3, 18:11, 45:4, 45:11, 86:24, 87:6, 141:17, 141:24, 151:14, 151:20, 158:25, 159:7, 171:17, 171:23, 179:6, 179:12, 196:22, 197:4, 209:9, 209:16, 216:11, 216:18, 231:6, 231:13, 255:23, 256:8, 267:8, 267:14, 272:4, 272:10, 275:13, 275:19, 279:22, 280:5, 299:22, 300:3</p> <p>pension [1] - 304:17</p> <p>people [120] - 4:6, 5:4, 6:3, 6:18, 11:8, 12:7, 41:2, 43:23, 54:6, 70:21, 70:22, 71:21, 93:9, 111:1, 116:6, 119:24, 129:5, 138:16, 142:18, 142:24, 144:25, 145:7, 145:16, 147:4, 147:7, 149:19, 153:13, 154:5, 155:11, 160:22, 161:17, 165:3, 165:4, 165:12, 165:15,</p>	<p>166:13, 166:15, 167:11, 173:1, 173:2, 173:25, 174:2, 180:6, 180:8, 180:12, 180:16, 181:3, 181:13, 182:9, 183:11, 183:17, 184:1, 184:6, 185:17, 185:18, 185:22, 185:25, 186:2, 186:6, 186:14, 186:18, 186:25, 187:14, 187:15, 198:4, 198:22, 198:24, 199:9, 199:12, 201:6, 202:16, 203:21, 206:13, 208:19, 208:23, 208:25, 211:19, 223:16, 238:17, 238:19, 239:9, 239:12, 243:16, 243:20, 244:10, 244:14, 244:15, 245:1, 245:3, 245:5, 245:22, 246:25, 247:5, 247:6, 247:23, 248:6, 248:25, 249:10, 249:24, 250:14, 250:17, 251:13, 251:14, 252:16, 252:18, 253:3, 253:12, 253:14, 269:10, 269:11, 270:15, 273:6, 276:17, 296:3, 303:12, 307:22</p> <p>people's [4] - 101:20, 142:22, 181:9, 278:1</p> <p>per [6] - 22:12, 40:22, 133:23, 154:19, 167:10</p> <p>perceive [1] - 265:15</p> <p>percent [47] - 24:6, 54:2, 54:10, 59:19, 59:23, 60:7, 60:22, 63:18, 66:10, 66:13, 66:15, 66:16, 66:17, 94:11, 94:12, 94:13, 94:21, 94:22, 94:23, 95:4, 95:7, 95:8, 95:10, 95:11, 97:22, 98:19, 99:25, 105:9, 105:11, 109:4, 109:5, 109:7, 111:17, 112:21, 114:22, 122:8, 127:17, 127:18, 164:9, 164:23, 164:24, 235:3,</p>	<p>236:11, 238:21, 244:5, 301:20</p> <p>percentage [7] - 94:11, 94:12, 95:2, 105:5, 105:17, 105:23, 127:13</p> <p>perception [1] - 34:6</p> <p>perfect [3] - 141:11, 209:5, 261:4</p> <p>perhaps [9] - 16:22, 21:8, 51:3, 51:4, 59:13, 111:3, 173:13, 210:7, 279:10</p> <p>period [1] - 29:10</p> <p>periods [1] - 165:5</p> <p>perjury [55] - 18:4, 18:5, 18:8, 18:11, 45:5, 45:7, 45:11, 86:25, 87:2, 87:6, 141:18, 141:20, 141:24, 151:14, 151:16, 151:20, 159:1, 159:3, 159:7, 171:17, 171:19, 171:23, 179:6, 179:8, 179:12, 196:23, 196:25, 197:4, 209:10, 209:12, 209:16, 216:12, 216:14, 216:18, 231:7, 231:9, 231:13, 255:24, 256:5, 256:8, 267:8, 267:10, 267:14, 272:4, 272:6, 272:10, 275:13, 275:15, 275:19, 279:22, 280:2, 280:5, 299:22, 299:24, 300:3</p> <p>permanent [3] - 31:15, 31:23, 294:16</p> <p>permanently [1] - 31:19</p> <p>permission [12] - 57:23, 62:11, 64:2, 66:17, 105:18, 114:21, 115:12, 115:13, 115:21, 128:25, 136:12, 278:20</p> <p>permissions [1] - 62:2</p> <p>permit [40] - 6:22, 98:19, 99:25, 105:9, 105:11, 109:4, 109:5, 109:7, 111:17, 112:21, 114:22, 122:8, 127:17, 127:18, 164:9, 164:23, 164:24, 235:3,</p>	<p>221:8, 225:20, 225:22, 226:4, 226:10, 226:14, 226:17, 258:23, 269:6, 274:9, 285:1, 289:7, 289:16, 289:17, 289:18, 289:25, 293:2, 294:1</p> <p>Permit [3] - 289:17, 293:22, 294:17</p> <p>permits [19] - 64:6, 64:8, 64:13, 64:17, 64:20, 65:1, 65:2, 65:3, 65:4, 65:9, 69:1, 102:7, 102:9, 102:15, 102:25, 213:7, 226:4, 274:6, 285:9</p> <p>permitted [5] - 42:21, 57:19, 57:20, 133:9, 213:14</p> <p>permitting [10] - 105:13, 142:9, 142:10, 213:4, 213:12, 213:22, 217:14, 218:15, 281:1</p> <p>person [7] - 22:12, 127:24, 161:12, 188:4, 189:5, 212:8, 249:12</p> <p>personal [2] - 176:20, 276:10</p> <p>personally [1] - 172:16</p> <p>personnel [7] - 100:11, 129:19, 137:18, 144:24, 251:21, 251:22, 252:13</p> <p>perspective [1] - 16:25</p> <p>pertinent [1] - 188:3</p> <p>petition [7] - 7:7, 14:3, 51:25, 91:15, 92:12, 111:20, 259:22</p> <p>Ph.D [1] - 214:20</p> <p>Phase [2] - 91:12</p> <p>phases [1] - 134:15</p> <p>philosophy [1] - 123:13</p> <p>PHMSA [6] - 173:22, 175:20, 176:2, 176:12, 177:24</p> <p>PHMSA's [1] - 219:9</p> <p>phone [8] - 5:1, 185:9, 190:2, 190:10, 190:13, 202:1, 289:12</p> <p>phones [1] - 4:25</p> <p>phonetic [1] - 240:3</p> <p>phrases [1] - 250:10</p> <p>physically [1] - 118:15</p>	<p>pick [2] - 40:17, 284:12</p> <p>picked [1] - 225:20</p> <p>PICKERING [6] - 17:18, 17:21, 17:25, 18:9, 18:13, 18:20</p> <p>Pickering [24] - 9:4, 17:16, 17:25, 18:18, 18:25, 19:2, 19:8, 20:13, 25:9, 26:10, 29:5, 35:14, 36:11, 36:24, 44:18, 46:23, 47:2, 47:18, 59:9, 60:11, 60:14, 69:15, 69:23, 84:5</p> <p>Pickering's [2] - 47:22, 47:25</p> <p>picking [6] - 171:13, 249:17, 250:11, 250:12, 251:3, 251:4</p> <p>pickup [1] - 250:7</p> <p>pickups [1] - 161:17</p> <p>picture [1] - 148:21</p> <p>pictures [1] - 191:23</p> <p>piece [3] - 134:19, 174:22, 257:8</p> <p>pigs [4] - 149:8, 220:11, 220:13, 277:24</p> <p>pipe [9] - 42:13, 104:15, 106:2, 111:14, 112:20, 131:25, 176:4, 176:16, 176:17</p> <p>Pipeline [7] - 82:9, 96:3, 300:23, 302:14, 306:5, 306:7, 306:20</p> <p>pipeline [250] - 6:23, 21:19, 21:23, 26:11, 26:21, 26:24, 27:5, 27:12, 27:15, 28:7, 29:6, 30:1, 30:15, 31:17, 31:21, 32:9, 32:13, 32:22, 33:22, 34:17, 36:15, 37:2, 39:12, 40:20, 43:14, 43:17, 49:8, 55:11, 55:12, 58:12, 67:21, 68:7, 68:18, 69:2, 69:4, 79:5, 82:5, 82:12, 82:15, 84:9, 90:3, 91:20, 92:19, 93:4, 94:17, 96:2, 96:12, 101:25, 102:17, 109:11, 111:9, 111:19, 113:5, 114:22, 115:21, 115:23, 116:11, 116:16, 116:21, 117:3, 119:12, 121:12, 122:21, 125:6,</p>
--	---	--	---	---

<p>128:2, 128:3, 128:5, 128:12, 132:9, 133:2, 140:17, 142:11, 142:14, 143:3, 143:5, 143:16, 143:19, 144:6, 144:10, 144:12, 144:25, 145:11, 145:13, 145:21, 146:12, 148:10, 149:21, 150:7, 150:22, 150:24, 152:15, 152:17, 153:19, 154:11, 155:7, 155:10, 156:2, 156:4, 157:7, 160:6, 160:9, 161:3, 161:5, 162:10, 162:15, 163:24, 164:11, 165:2, 167:23, 168:4, 168:9, 168:12, 168:15, 168:18, 169:14, 169:21, 170:7, 170:18, 173:23, 176:14, 177:23, 180:3, 180:5, 180:7, 180:13, 180:22, 181:1, 181:2, 181:8, 181:9, 181:10, 181:17, 181:20, 181:22, 182:6, 182:8, 182:9, 182:14, 182:17, 182:18, 183:1, 183:5, 183:15, 183:21, 184:19, 185:18, 187:2, 187:25, 194:21, 197:14, 198:9, 198:24, 199:5, 201:25, 202:4, 202:21, 203:12, 203:20, 205:13, 205:14, 205:16, 206:21, 207:1, 207:8, 207:9, 207:11, 207:19, 208:4, 210:3, 210:8, 211:16, 211:18, 211:22, 212:12, 212:19, 213:22, 217:13, 217:22, 218:1, 218:2, 218:11, 218:16, 221:11, 221:13, 221:15, 223:22, 224:8, 224:20, 225:17, 225:24, 232:17, 234:7, 235:10, 235:24, 238:4, 238:10,</p>	<p>238:11, 238:12, 239:15, 243:5, 243:7, 243:15, 243:18, 245:1, 246:9, 247:24, 248:1, 248:11, 248:14, 249:19, 249:22, 256:22, 258:24, 260:15, 263:3, 264:1, 264:16, 268:3, 268:5, 268:8, 268:12, 268:20, 270:1, 270:3, 270:4, 270:16, 274:7, 276:7, 276:22, 285:3, 293:1, 293:4, 300:21, 300:23, 301:3, 301:11, 302:1, 302:13, 302:15, 302:22, 303:22, 304:1, 304:10, 304:11, 306:16</p> <p>pipeline's [3] - 116:2, 203:16, 248:6</p> <p>pipelines [17] - 84:22, 142:14, 175:24, 200:17, 201:19, 219:11, 219:22, 225:25, 226:5, 248:5, 248:9, 248:18, 248:19, 298:13, 303:7, 305:1, 306:13</p> <p>pipes [1] - 217:21</p> <p>piping [1] - 283:3</p> <p>pit [1] - 219:5</p> <p>place [16] - 4:19, 67:24, 133:1, 133:2, 143:15, 143:23, 153:3, 197:21, 213:22, 234:18, 237:3, 257:13, 260:9, 264:22, 265:8, 278:6</p> <p>placement [1] - 298:12</p> <p>places [5] - 12:3, 72:1, 210:19, 219:3, 224:17</p> <p>plain [1] - 96:6</p> <p>plan [21] - 8:20, 9:6, 16:25, 29:5, 29:8, 30:1, 80:13, 80:15, 80:25, 106:10, 106:15, 153:4, 165:11, 168:1, 172:19, 220:12, 220:17, 282:21, 282:22, 306:4, 306:22</p> <p>planet [1] - 211:1</p>	<p>planned [5] - 68:18, 121:1, 132:9, 153:24, 304:5</p> <p>planners [1] - 202:2</p> <p>planning [6] - 6:15, 77:22, 80:3, 220:19, 256:23, 260:18</p> <p>plans [23] - 28:6, 30:5, 32:1, 57:13, 63:25, 68:21, 68:25, 69:3, 69:5, 79:1, 80:8, 80:10, 80:20, 217:17, 217:19, 220:16, 220:19, 220:23, 220:25, 221:1, 301:9, 303:21, 303:23</p> <p>plant [16] - 20:22, 21:2, 22:18, 60:3, 60:6, 74:23, 201:4, 202:10, 207:10, 211:4, 211:6, 234:10, 272:17, 272:18, 295:24</p> <p>planted [1] - 143:23</p> <p>plants [49] - 10:21, 24:25, 25:3, 29:9, 29:15, 29:20, 29:22, 47:6, 48:2, 59:21, 59:22, 60:6, 74:15, 74:16, 74:19, 74:24, 82:2, 102:17, 103:10, 105:25, 131:24, 162:17, 163:5, 200:9, 200:10, 211:3, 212:11, 232:14, 233:11, 233:18, 233:23, 234:3, 234:4, 234:7, 234:8, 234:17, 235:1, 235:11, 235:14, 235:22, 236:6, 237:6, 237:19, 238:5, 242:7, 242:16, 272:25, 303:6, 303:22</p> <p>play [1] - 111:10</p> <p>playing [2] - 200:18, 222:15</p> <p>pledge [1] - 164:19</p> <p>pledged [1] - 164:18</p> <p>plot [1] - 148:12</p> <p>plover [1] - 283:3</p> <p>plug [1] - 250:8</p> <p>plugged [1] - 211:12</p> <p>plume [12] - 143:10, 143:12, 164:22, 172:7, 172:17, 173:24, 174:4, 174:10, 175:10, 191:18, 191:19</p> <p>plus [2] - 22:11,</p>	<p>184:18</p> <p>PO [1] - 8:13</p> <p>point [34] - 14:15, 16:22, 33:10, 42:9, 54:19, 66:11, 69:7, 71:10, 90:22, 90:25, 93:18, 113:22, 120:24, 128:19, 132:20, 140:23, 167:7, 167:13, 191:15, 194:23, 199:9, 210:24, 241:6, 241:17, 243:13, 243:21, 254:10, 256:21, 258:15, 273:3, 276:12, 276:16, 276:24, 303:3</p> <p>pointed [1] - 46:23</p> <p>points [4] - 25:13, 72:25, 104:11, 153:11</p> <p>policy [2] - 78:25, 204:8</p> <p>political [4] - 39:16, 40:6, 40:19, 304:6</p> <p>Ponderosa [1] - 199:13</p> <p>ponies [1] - 222:16</p> <p>Poplar [1] - 219:22</p> <p>populated [2] - 174:12, 197:24</p> <p>population [1] - 175:1</p> <p>pore [18] - 23:2, 23:4, 26:20, 29:23, 29:24, 33:8, 34:14, 34:18, 35:5, 35:6, 61:2, 61:4, 61:11, 61:15, 70:6, 70:10, 70:14</p> <p>portion [5] - 81:13, 90:7, 203:18, 302:6, 302:7</p> <p>portions [3] - 7:10, 193:11, 300:24</p> <p>posed [1] - 84:5</p> <p>position [3] - 27:11, 217:15, 245:9</p> <p>positions [1] - 246:5</p> <p>positive [2] - 26:3, 34:8</p> <p>positively [1] - 34:10</p> <p>possessions [1] - 143:22</p> <p>possibility [1] - 25:19</p> <p>possible [8] - 21:9, 28:16, 50:25, 74:25, 115:22, 161:13, 166:13, 267:14</p> <p>possibly [4] - 164:2, 164:8, 166:22, 302:11</p> <p>post [1] - 30:6</p> <p>posted [1] - 259:15</p>	<p>posts [1] - 143:24</p> <p>potato [1] - 123:18</p> <p>potential [47] - 10:8, 18:10, 21:15, 22:1, 23:16, 23:18, 24:1, 24:9, 24:14, 24:15, 24:18, 25:6, 26:2, 30:16, 31:4, 33:4, 33:8, 37:4, 45:10, 56:19, 80:8, 87:5, 96:7, 99:23, 141:23, 151:19, 152:17, 159:6, 171:22, 179:11, 197:3, 209:15, 212:6, 216:17, 221:16, 222:11, 225:12, 229:8, 231:12, 256:7, 272:9, 275:18, 280:4, 296:24, 300:2, 301:1, 304:8</p> <p>potentially [11] - 23:23, 24:22, 25:16, 30:24, 108:9, 123:24, 202:14, 211:9, 211:17, 211:19, 309:6</p> <p>pothole [1] - 283:24</p> <p>pounded [1] - 143:24</p> <p>POWELL [5] - 86:21, 87:1, 87:4, 87:8, 87:12</p> <p>Powell [27] - 9:5, 65:7, 65:14, 65:15, 65:18, 78:16, 80:5, 86:17, 86:18, 86:22, 86:23, 87:17, 97:13, 97:25, 104:23, 107:22, 129:15, 138:3, 152:21, 252:2, 253:20, 254:13, 254:16, 257:15, 257:24, 290:13, 307:9</p> <p>Powell's [1] - 79:5</p> <p>Power [1] - 159:21</p> <p>power [21] - 10:21, 10:22, 20:7, 23:6, 23:7, 33:9, 33:14, 33:19, 33:20, 38:19, 75:20, 154:16, 154:23, 155:3, 155:9, 163:17, 200:9, 200:10, 272:17, 272:18, 303:6</p> <p>powered [1] - 144:23</p> <p>practical [3] - 106:22, 121:17, 290:22</p> <p>practicality [1] - 290:22</p> <p>practice [1] - 117:5</p>
--	---	---	--	---

<p>practices [1] - 306:14</p> <p>pragmatic [2] - 217:17, 225:18</p> <p>prairie [1] - 283:23</p> <p>Pranis [33] - 10:2, 10:6, 16:2, 17:12, 36:7, 44:15, 51:10, 70:17, 86:2, 110:13, 137:1, 147:14, 157:18, 169:3, 177:14, 194:13, 206:17, 214:12, 230:4, 242:22, 266:3, 271:3, 274:18, 277:8, 279:10, 297:4, 299:8, 299:11, 299:20, 299:21, 305:20, 305:25, 308:5</p> <p>PRANIS [35] - 10:5, 16:3, 17:13, 36:8, 36:10, 37:14, 44:16, 51:12, 70:18, 86:3, 137:2, 147:15, 157:19, 169:4, 177:15, 194:14, 206:18, 214:13, 230:5, 242:23, 266:4, 271:4, 274:19, 277:9, 297:5, 299:9, 299:13, 299:15, 299:20, 299:23, 300:1, 300:5, 300:7, 300:9, 307:24</p> <p>prayers [1] - 12:23</p> <p>pre [1] - 289:8</p> <p>pre-construction [1] - 289:8</p> <p>precedence [1] - 187:20</p> <p>precious [1] - 269:17</p> <p>Precision [6] - 300:23, 306:5, 306:7, 306:19, 307:2, 307:3</p> <p>Precision's [1] - 306:14</p> <p>predicted [1] - 237:12</p> <p>prefer [1] - 226:1</p> <p>preferable [2] - 119:22, 122:15</p> <p>preference [2] - 122:17, 125:12</p> <p>preferences [1] - 125:14</p> <p>prefiled [7] - 62:14, 87:24, 88:9, 91:23, 98:25, 110:16, 288:10</p> <p>preliminary [5] - 16:19, 17:2, 17:7, 75:20, 161:1</p>	<p>premier [1] - 93:2</p> <p>preparation [2] - 19:11, 46:13</p> <p>prepare [1] - 87:23</p> <p>prepared [16] - 14:21, 19:12, 19:16, 40:1, 46:14, 46:17, 48:21, 88:2, 92:19, 140:7, 256:24, 269:16, 281:6, 281:10, 282:5, 284:7</p> <p>preparing [4] - 19:22, 48:20, 54:21, 209:25</p> <p>presence [2] - 116:2, 296:11</p> <p>present [12] - 17:1, 91:9, 142:7, 219:7, 219:9, 220:6, 221:4, 223:13, 223:17, 224:6, 279:10, 309:14</p> <p>presentation [1] - 10:8</p> <p>presented [9] - 14:11, 41:8, 89:19, 100:11, 254:21, 255:1, 258:13, 259:22, 264:9</p> <p>presenters [1] - 163:16</p> <p>presenting [3] - 48:7, 232:5, 232:12</p> <p>preservation [1] - 7:22</p> <p>Preservation [1] - 135:16</p> <p>preserved [1] - 206:5</p> <p>president [3] - 46:12, 57:11, 280:21</p> <p>pressure [8] - 54:18, 54:23, 107:14, 142:16, 183:1, 270:6, 273:15, 273:21</p> <p>pressured [1] - 54:25</p> <p>pressures [1] - 41:25</p> <p>pressurized [1] - 164:12</p> <p>presumably [2] - 63:8, 297:22</p> <p>presume [1] - 110:16</p> <p>pretend [1] - 133:6</p> <p>pretty [7] - 37:18, 148:20, 158:14, 246:15, 249:15, 287:12, 289:12</p> <p>prevailing [3] - 143:6, 222:10, 224:8</p> <p>prevent [1] - 207:2</p> <p>previous [24] - 20:20, 39:10, 48:5, 49:13, 49:22, 52:3, 55:23, 57:9, 57:10, 58:10, 71:20, 80:14, 89:24,</p>	<p>90:19, 94:10, 117:14, 163:16, 176:6, 199:19, 244:9, 269:25, 281:3, 287:23</p> <p>previously [10] - 14:22, 23:17, 140:22, 141:1, 172:20, 218:17, 276:4, 300:11, 300:24, 309:10</p> <p>price [13] - 25:6, 224:14, 224:15, 232:19, 235:2, 236:18, 236:19, 236:20, 248:7, 249:20, 267:24, 268:1, 270:13</p> <p>prices [4] - 232:18, 244:18, 244:25, 265:23</p> <p>Prichard [1] - 139:7</p> <p>primarily [9] - 7:10, 49:23, 77:14, 77:21, 102:16, 175:23, 176:13, 296:8, 306:9</p> <p>primary [1] - 52:17</p> <p>private [3] - 110:9, 159:19, 186:8</p> <p>privilege [1] - 215:13</p> <p>privileged [1] - 296:21</p> <p>probes [1] - 294:8</p> <p>problem [9] - 35:12, 43:11, 56:19, 75:24, 155:4, 248:20, 261:11, 304:6</p> <p>problems [4] - 238:13, 258:13, 260:12, 294:24</p> <p>procedure [6] - 16:13, 115:17, 128:17, 213:21, 284:24, 287:14</p> <p>procedures [1] - 130:17</p> <p>proceed [4] - 5:10, 16:17, 146:3, 279:11</p> <p>proceeded [1] - 57:23</p> <p>proceeding [3] - 68:2, 88:23, 206:6</p> <p>proceedings [2] - 63:3, 256:25</p> <p>process [18] - 21:23, 42:20, 53:4, 53:7, 53:10, 53:17, 53:24, 54:4, 58:5, 92:17, 122:8, 129:3, 166:22, 205:24, 210:5, 212:22, 213:4, 264:11</p> <p>processes [3] - 221:24, 222:3, 226:16</p>	<p>produce [9] - 7:19, 60:4, 182:16, 182:20, 219:20, 232:14, 233:19, 235:22, 236:1</p> <p>produced [5] - 59:25, 60:23, 233:7, 233:21, 235:4</p> <p>producer [3] - 232:1, 237:22, 245:16</p> <p>producers [5] - 232:14, 245:12, 246:8, 267:25, 304:14</p> <p>producing [2] - 233:8, 233:12</p> <p>product [3] - 163:3, 234:19, 234:20</p> <p>product's [1] - 237:20</p> <p>Production [6] - 288:22, 288:23, 288:24, 288:25, 289:1</p> <p>production [6] - 59:24, 122:23, 234:11, 234:16, 234:21, 283:8</p> <p>productive [1] - 258:17</p> <p>products [2] - 236:13, 236:15</p> <p>professional [1] - 92:7</p> <p>proffer [1] - 262:4</p> <p>profile [1] - 43:8</p> <p>profit [1] - 186:8</p> <p>profiting [1] - 199:6</p> <p>program [6] - 31:13, 101:17, 201:1, 205:3, 205:5, 205:8</p> <p>programs [1] - 93:2</p> <p>progress [5] - 62:1, 108:15, 108:21, 108:24, 110:2</p> <p>progressing [1] - 278:13</p> <p>prohibit [2] - 42:12, 207:20</p> <p>Project [1] - 67:5</p> <p>project [132] - 7:10, 19:23, 20:1, 20:7, 20:17, 21:11, 21:15, 21:16, 21:21, 22:20, 22:25, 23:7, 23:21, 23:23, 24:4, 24:5, 24:24, 26:1, 26:24, 27:6, 27:8, 28:17, 28:18, 29:13, 30:6, 31:18, 31:22, 32:18, 34:17, 36:13, 36:19, 37:3, 37:12, 39:12, 39:24, 40:9, 42:2, 42:4, 42:7, 42:9, 42:12, 42:18, 42:19,</p>	<p>42:20, 43:4, 43:7, 47:5, 47:15, 52:25, 53:1, 58:13, 58:16, 59:10, 59:21, 60:4, 60:8, 60:12, 60:14, 63:1, 64:12, 67:8, 67:12, 68:5, 69:9, 69:12, 74:22, 74:25, 75:6, 75:11, 77:8, 77:23, 82:1, 85:2, 92:9, 92:10, 96:25, 97:1, 98:5, 109:23, 110:6, 124:1, 128:1, 128:23, 153:22, 161:23, 162:20, 162:22, 163:6, 163:13, 163:18, 165:21, 166:10, 172:6, 199:23, 203:21, 211:9, 223:8, 226:6, 242:5, 242:11, 244:3, 244:5, 252:20, 258:24, 263:11, 280:25, 287:25, 291:8, 294:15, 297:21, 300:12, 300:19, 300:24, 301:5, 301:14, 301:25, 302:19, 302:21, 303:1, 303:9, 303:12, 303:13, 303:14, 303:20, 303:24, 304:1, 304:2, 304:3, 304:7, 304:9, 306:17</p> <p>projects [23] - 22:14, 24:4, 24:9, 30:17, 37:9, 37:11, 43:5, 43:11, 70:2, 70:5, 154:16, 200:21, 212:11, 242:13, 287:10, 291:1, 292:15, 301:11, 302:13, 302:23, 304:11, 304:17, 304:21</p> <p>promise [18] - 18:11, 45:11, 87:6, 141:24, 151:20, 159:7, 171:23, 179:12, 197:4, 209:16, 216:18, 231:13, 256:8, 267:15, 272:10, 275:19, 280:5, 300:3</p> <p>promote [1] - 222:2</p> <p>prone [2] - 290:10, 291:19</p> <p>propaganda [1] - 5:17</p> <p>propane [1] - 248:15</p> <p>proper [3] - 187:4, 259:4, 303:18</p>
---	--	---	---	--

<p>properly [2] - 152:20, 290:18</p> <p>properties [4] - 77:12, 148:4, 174:21, 293:4</p> <p>property [99] - 34:23, 35:10, 35:22, 39:12, 39:15, 39:17, 39:19, 53:13, 54:9, 64:2, 66:6, 84:12, 90:3, 97:18, 102:23, 109:12, 115:20, 115:21, 115:23, 116:19, 121:10, 122:6, 122:9, 122:11, 125:7, 125:8, 125:17, 128:9, 129:6, 134:14, 134:16, 135:8, 135:13, 135:21, 136:7, 136:11, 136:14, 136:15, 136:18, 136:20, 143:17, 143:19, 144:4, 144:7, 146:20, 146:21, 146:24, 148:11, 152:18, 153:15, 154:9, 161:20, 162:12, 166:18, 166:23, 169:12, 174:6, 174:22, 181:15, 187:19, 191:2, 191:3, 191:11, 192:17, 193:20, 198:8, 201:18, 202:20, 203:1, 203:3, 203:5, 203:6, 207:24, 208:6, 221:18, 221:20, 222:15, 224:17, 226:25, 227:3, 227:14, 229:16, 230:17, 243:3, 244:10, 247:23, 247:24, 248:13, 260:13, 260:14, 262:21, 276:10, 292:25, 293:1, 294:2, 294:5, 295:9, 297:1, 298:11</p> <p>proportion [1] - 184:1</p> <p>proposal [3] - 150:7, 264:16, 302:9</p> <p>propose [3] - 195:7, 195:12, 228:15</p> <p>proposed [41] - 7:13, 7:18, 7:21, 7:25, 32:23, 33:22, 55:12, 56:15, 56:16, 76:24, 77:16, 81:2, 96:19, 97:17, 99:2, 106:19, 134:17, 146:19,</p>	<p>152:7, 152:14, 153:16, 167:23, 191:2, 191:4, 192:16, 192:25, 203:4, 203:14, 213:12, 217:4, 220:10, 220:16, 221:13, 221:19, 222:9, 226:24, 264:1, 269:3, 292:8, 306:20</p> <p>proposing [3] - 74:22, 77:15, 80:11</p> <p>prospect [1] - 225:17</p> <p>prospective [1] - 108:6</p> <p>protect [6] - 146:5, 217:18, 221:25, 222:8, 226:14, 296:22</p> <p>protected [1] - 295:15</p> <p>protecting [2] - 142:22, 226:16</p> <p>protection [1] - 283:24</p> <p>protective [4] - 50:20, 50:23, 51:1, 51:5</p> <p>protocol [1] - 284:8</p> <p>proud [1] - 165:21</p> <p>proved [1] - 188:2</p> <p>proven [2] - 143:16, 226:6</p> <p>proverbial [1] - 39:20</p> <p>provide [34] - 6:16, 27:10, 40:22, 48:15, 50:16, 50:22, 93:8, 93:25, 99:19, 127:24, 138:8, 140:15, 166:7, 166:8, 213:21, 220:23, 222:12, 240:7, 254:7, 255:12, 255:16, 266:21, 271:21, 275:6, 280:25, 281:19, 281:25, 285:18, 285:24, 288:7, 295:14, 295:16, 296:21, 299:12</p> <p>provided [26] - 26:18, 50:15, 59:9, 62:23, 84:19, 154:15, 192:15, 213:4, 217:23, 217:25, 218:4, 222:22, 223:1, 227:7, 228:10, 239:24, 252:1, 253:6, 255:3, 282:4, 285:15, 288:11, 288:19, 296:16, 300:11, 300:14</p>	<p>provides [2] - 75:7, 75:11</p> <p>providing [6] - 42:17, 70:5, 94:3, 140:12, 274:3, 304:12</p> <p>proximity [3] - 96:6, 152:17, 263:23</p> <p>PSC [10] - 16:7, 57:3, 58:3, 154:25, 162:14, 184:11, 185:15, 200:17, 258:23, 282:1</p> <p>PSC's [2] - 227:11, 257:18</p> <p>PSI [2] - 173:23, 180:22</p> <p>PU-22-391 [1] - 4:22</p> <p>public [53] - 5:16, 6:12, 6:16, 11:12, 11:19, 11:21, 12:1, 12:20, 15:5, 15:6, 16:16, 34:6, 48:9, 59:15, 78:7, 115:4, 138:5, 138:8, 138:25, 139:1, 139:23, 139:24, 144:1, 149:13, 179:24, 180:2, 180:11, 180:16, 184:23, 186:4, 188:3, 188:11, 200:17, 204:2, 218:5, 222:23, 226:7, 232:23, 241:12, 254:8, 255:16, 257:12, 257:19, 257:23, 259:18, 263:3, 266:21, 271:21, 275:6, 307:21, 309:18</p> <p>Public [19] - 4:15, 4:20, 9:13, 9:15, 56:21, 98:8, 159:25, 160:2, 163:12, 165:19, 181:11, 199:19, 200:15, 209:22, 211:24, 221:6, 222:22, 231:20, 274:6</p> <p>publicly [1] - 295:11</p> <p>published [2] - 228:7, 259:25</p> <p>publishing [1] - 228:8</p> <p>PUD [1] - 166:13</p> <p>PUDs [1] - 166:18</p> <p>pull [6] - 23:6, 23:7, 200:21, 204:25, 250:8</p> <p>pullback [1] - 111:23</p> <p>pump [21] - 47:12, 47:13, 60:15, 65:10, 82:10, 82:11,</p>	<p>102:11, 102:19, 103:2, 103:3, 103:12, 106:2, 106:6, 106:11, 106:17, 107:7, 107:13, 107:23, 108:3, 132:3, 155:10</p> <p>pumping [2] - 47:12, 273:20</p> <p>pumps [1] - 163:24</p> <p>punishable [1] - 18:5</p> <p>purchase [2] - 60:16, 202:20</p> <p>purchased [2] - 221:20, 233:8</p> <p>purely [1] - 226:9</p> <p>purpose [7] - 20:14, 43:18, 48:13, 48:15, 88:23, 259:24, 281:23</p> <p>purposes [4] - 6:15, 31:8, 104:18, 107:11</p> <p>push [2] - 244:24, 260:12</p> <p>pushing [1] - 258:11</p> <p>put [44] - 5:12, 5:24, 5:25, 6:2, 35:7, 119:8, 122:21, 125:10, 128:7, 128:11, 131:13, 132:20, 145:7, 149:23, 152:17, 168:13, 170:20, 178:16, 179:25, 182:1, 182:11, 182:12, 182:18, 182:22, 183:15, 183:21, 186:14, 192:8, 192:9, 193:4, 193:8, 196:7, 198:9, 200:22, 211:25, 253:6, 254:13, 258:2, 273:14, 289:9, 294:1, 297:25, 305:2, 308:8</p> <p>puts [3] - 162:12, 164:10, 247:9</p> <p>putting [6] - 32:8, 109:11, 188:10, 246:19, 246:21, 246:23</p>	<p>quantifying [1] - 232:3</p> <p>quantity [1] - 233:10</p> <p>quarrel [1] - 263:17</p> <p>quarter [16] - 74:1, 158:12, 162:11, 169:13, 169:17, 181:19, 181:24, 193:2, 193:24, 194:5, 195:14, 207:14, 207:15, 229:17, 229:18, 268:7</p> <p>quarters [5] - 118:5, 152:7, 162:9, 195:11, 208:3</p> <p>questioning [1] - 229:2</p> <p>questions [194] - 7:16, 9:16, 13:6, 14:19, 17:3, 26:4, 26:6, 28:23, 28:25, 29:1, 35:12, 36:6, 36:7, 37:14, 37:17, 40:13, 44:4, 44:7, 44:11, 53:1, 53:15, 53:16, 54:7, 58:11, 61:18, 61:20, 61:24, 65:12, 65:21, 65:22, 66:18, 66:20, 68:3, 70:16, 70:17, 74:13, 79:6, 81:5, 81:7, 81:21, 84:5, 85:3, 85:4, 85:12, 86:1, 86:2, 86:4, 88:8, 97:4, 97:10, 99:11, 104:23, 105:1, 107:18, 110:12, 110:13, 114:1, 118:20, 127:9, 129:10, 129:15, 131:23, 132:15, 132:16, 134:5, 136:25, 137:1, 137:21, 138:3, 140:6, 140:13, 146:15, 146:16, 147:10, 147:11, 150:1, 150:2, 150:3, 152:23, 156:8, 156:9, 157:14, 157:15, 158:15, 165:23, 165:25, 166:1, 166:2, 168:23, 168:25, 169:1, 170:23, 171:1, 171:3, 175:15, 175:16, 175:19, 177:10, 177:11, 178:20, 178:21, 188:21, 189:3, 193:16, 193:18, 194:10, 194:11, 196:12,</p>
Q				
<p>qualifying [2] - 296:2, 296:8</p> <p>qualitative [1] - 34:10</p> <p>quality [5] - 223:9, 303:2, 303:16, 306:15, 307:2</p> <p>quantify [2] - 40:11, 233:22</p>				

<p>196:13, 201:13, 201:14, 206:13, 206:14, 208:12, 208:14, 208:16, 210:1, 210:6, 210:7, 212:23, 212:25, 213:1, 214:6, 214:9, 215:22, 216:1, 216:2, 222:24, 226:19, 226:20, 229:12, 229:14, 230:1, 230:2, 230:20, 230:22, 239:6, 239:17, 239:19, 239:21, 241:23, 241:25, 242:20, 242:22, 243:2, 247:16, 247:19, 253:20, 253:25, 254:1, 254:3, 254:17, 263:14, 263:16, 265:3, 265:4, 265:25, 266:12, 266:18, 270:21, 270:22, 270:24, 271:16, 271:19, 273:25, 274:1, 274:15, 277:1, 277:2, 277:4, 279:1, 279:2, 279:4, 286:6, 286:7, 288:19, 292:18, 292:19, 292:20, 297:3, 297:4, 298:20, 298:24, 298:25, 299:3, 302:5, 305:17, 305:19, 305:21, 305:22, 307:14, 307:15, 308:1, 308:3</p> <p>quick [1] - 257:7</p> <p>quickly [3] - 126:18, 155:2, 232:16</p> <p>quite [5] - 14:18, 43:15, 69:6, 172:12, 258:19</p> <p>quote [3] - 38:5, 154:19, 288:15</p> <p>quote/unquote [1] - 34:11</p>	<p>radius [1] - 173:2</p> <p>rainfall [1] - 219:21</p> <p>rainstorm [1] - 220:1</p> <p>raise [10] - 6:17, 109:10, 142:23, 149:3, 149:8, 149:9, 195:22, 277:21, 277:24</p> <p>raised [8] - 89:2, 89:12, 142:12, 143:23, 179:21, 301:6, 302:5, 306:11</p> <p>raising [1] - 43:12</p> <p>RAKOW [13] - 171:10, 171:18, 171:21, 171:25, 172:2, 172:4, 175:22, 176:1, 176:15, 176:20, 177:8, 177:19, 178:18</p> <p>Rakow [4] - 171:10, 171:16, 175:19, 178:23</p> <p>ramifications [7] - 239:2, 249:1, 249:2, 249:4, 249:7, 249:13, 250:4</p> <p>ran [1] - 139:9</p> <p>Ranch [2] - 73:13, 278:11</p> <p>ranch [3] - 11:5, 162:1, 199:16</p> <p>ranch's [1] - 162:3</p> <p>rancher [3] - 161:14, 163:7, 276:1</p> <p>ranchers [2] - 61:10, 161:24</p> <p>Randy [3] - 10:10, 271:24, 274:22</p> <p>RANDY [11] - 271:24, 272:2, 272:5, 272:8, 272:12, 272:14, 272:16, 274:8, 274:11, 274:13, 275:5</p> <p>range [6] - 21:25, 100:6, 148:6, 194:1, 243:6, 277:14</p> <p>Range [1] - 152:11</p> <p>ranges [2] - 100:18, 277:12</p> <p>ranging [2] - 6:23, 161:16</p> <p>rare [1] - 253:23</p> <p>rarely [1] - 121:20</p> <p>rates [4] - 155:17, 164:5, 164:6, 164:9</p> <p>rather [11] - 79:13, 80:20, 86:8, 124:7, 140:21, 166:24, 167:15, 217:12, 273:22, 279:12, 290:23</p>	<p>rational [1] - 172:12</p> <p>Ray [2] - 17:25, 19:2</p> <p>rayed [1] - 273:16</p> <p>re [1] - 13:20</p> <p>re-opened [1] - 13:20</p> <p>reach [8] - 98:21, 108:10, 120:25, 124:5, 143:10, 144:23, 171:14, 225:14</p> <p>reached [6] - 52:5, 77:3, 113:17, 120:1, 156:17, 156:18</p> <p>reaches [2] - 126:20, 126:25</p> <p>reaching [2] - 52:19, 121:1</p> <p>reaction [1] - 154:23</p> <p>reacts [2] - 99:12, 99:14</p> <p>read [15] - 41:2, 78:12, 88:18, 125:25, 130:2, 130:3, 130:7, 130:8, 130:16, 130:20, 204:5, 209:25, 210:10, 217:22, 298:9</p> <p>readily [1] - 31:5</p> <p>reading [4] - 39:8, 40:17, 231:24, 297:9</p> <p>ready [3] - 105:14, 139:20, 237:20</p> <p>real [3] - 198:8, 201:17, 240:11</p> <p>reality [2] - 248:9, 250:21</p> <p>realize [3] - 164:11, 239:2, 239:3</p> <p>really [40] - 12:23, 13:1, 13:5, 20:16, 39:22, 49:9, 52:17, 76:7, 76:12, 115:17, 134:15, 138:24, 154:4, 158:9, 172:11, 178:9, 188:4, 195:17, 211:23, 215:14, 237:11, 239:10, 240:12, 245:25, 251:18, 252:17, 253:16, 257:7, 258:12, 258:13, 258:15, 262:5, 262:14, 264:19, 270:13, 276:16, 290:25, 291:3, 292:11</p> <p>Really [1] - 184:13</p> <p>realm [1] - 76:3</p> <p>realtor [1] - 269:1</p> <p>rearranging [1] - 9:2</p> <p>reason [15] - 11:10, 15:2, 15:7, 39:21,</p>	<p>50:2, 63:5, 75:25, 100:21, 111:5, 121:22, 161:13, 161:19, 172:16, 246:23, 252:8</p> <p>reasonably [1] - 301:21</p> <p>reasoning [1] - 110:24</p> <p>reasons [8] - 41:23, 98:9, 113:12, 160:4, 160:5, 162:19, 234:13, 263:23</p> <p>receive [4] - 34:16, 84:15, 130:5, 195:8</p> <p>received [10] - 22:22, 56:22, 62:24, 108:5, 118:7, 126:1, 154:3, 218:18, 244:15, 286:14</p> <p>receiver [2] - 294:12, 295:5</p> <p>receiving [2] - 62:24, 152:16</p> <p>recent [3] - 112:9, 218:21, 291:2</p> <p>recently [3] - 59:4, 221:5, 270:2</p> <p>receptive [3] - 53:13, 53:15, 124:6</p> <p>receptiveness [1] - 53:22</p> <p>Recess [4] - 4:11, 86:10, 138:15, 208:24</p> <p>recess [1] - 310:7</p> <p>Reclamation [3] - 58:4, 58:6, 58:8</p> <p>recognize [2] - 148:21, 218:7</p> <p>recognized [1] - 41:17</p> <p>recommendation [7] - 104:10, 104:13, 120:12, 120:15, 123:14, 287:15, 287:16</p> <p>recommendations [5] - 103:19, 104:1, 104:5, 124:13, 124:23</p> <p>recommended [3] - 120:21, 291:11, 291:12</p> <p>recommends [1] - 103:25</p> <p>reconsideration [9] - 7:8, 14:3, 52:1, 91:15, 92:12, 212:19, 259:23, 282:5, 285:18</p> <p>reconvene [2] - 86:9, 138:14</p> <p>record [37] - 4:17, 6:11, 8:6, 9:10, 9:19,</p>	<p>10:3, 13:20, 13:22, 14:9, 14:16, 15:19, 16:5, 17:24, 19:1, 19:20, 44:23, 45:23, 86:20, 104:19, 140:25, 141:13, 151:8, 158:19, 179:2, 196:18, 206:2, 231:2, 241:7, 241:10, 255:18, 257:4, 279:18, 299:19, 300:11, 300:16, 306:6, 308:9</p> <p>recorded [1] - 206:1</p> <p>records [1] - 287:24</p> <p>recovery [3] - 25:18, 28:4, 28:8</p> <p>recreate [1] - 88:17</p> <p>RECROSS [4] - 85:6, 85:15, 132:17, 134:7</p> <p>recruit [1] - 301:1</p> <p>Red [2] - 74:21, 215:10</p> <p>red [6] - 49:14, 49:17, 55:18, 57:8, 160:11, 237:4</p> <p>REDIRECT [2] - 84:6, 129:13</p> <p>redirect [6] - 44:8, 44:9, 84:2, 129:11, 299:1, 299:2</p> <p>reduce [4] - 34:7, 90:20, 91:1, 235:14</p> <p>reduced [1] - 282:17</p> <p>reducing [3] - 110:20, 110:21, 235:9</p> <p>reduction [2] - 90:16, 282:19</p> <p>reeducate [1] - 200:4</p> <p>reeducated [1] - 200:5</p> <p>refer [3] - 14:20, 57:5, 115:14</p> <p>reference [5] - 115:12, 116:6, 118:24, 134:11, 152:8</p> <p>referenced [1] - 47:3</p> <p>references [1] - 204:9</p> <p>referencing [2] - 72:1, 97:15</p> <p>referred [2] - 32:7, 162:21</p> <p>referring [5] - 37:1, 55:16, 104:19, 108:13, 207:6</p> <p>refile [1] - 289:23</p> <p>refined [1] - 107:5</p> <p>reflect [2] - 4:17, 47:16</p> <p>reflected [3] - 90:12, 91:13, 254:19</p> <p>reflects [5] - 57:7, 57:8, 94:7, 94:14</p> <p>reformat [1] - 284:16</p>
R				
<p>R-14 [5] - 14:10, 48:22, 50:9, 51:13, 55:10</p> <p>R-5 [2] - 14:17, 14:23</p> <p>R-6 [1] - 104:20</p> <p>R-A-K-O-W [1] - 171:11</p> <p>radio [1] - 204:6</p>				

<p>refrain [2] - 5:7, 140:17</p> <p>refused [1] - 185:7</p> <p>regard [2] - 11:4, 11:25</p> <p>regarding [11] - 5:5, 76:22, 92:1, 130:18, 139:24, 195:9, 206:22, 210:2, 217:21, 221:12, 295:17</p> <p>regardless [2] - 163:14, 283:25</p> <p>region [3] - 37:8, 76:5, 301:12</p> <p>regular [4] - 116:9, 126:16, 220:11, 221:1</p> <p>regularly [1] - 220:19</p> <p>regulated [1] - 176:14</p> <p>regulation [1] - 76:3</p> <p>regulator [1] - 58:6</p> <p>regulators [1] - 220:23</p> <p>regulatory [2] - 280:21, 304:4</p> <p>rehearing [3] - 177:25, 259:9, 285:18</p> <p>reject [3] - 165:21, 210:8, 226:17</p> <p>rejected [1] - 160:3</p> <p>rejection [1] - 160:4</p> <p>related [6] - 24:2, 43:24, 79:4, 80:20, 98:25, 126:5</p> <p>relates [1] - 77:13</p> <p>relationship [1] - 80:10</p> <p>relationships [2] - 183:9, 183:22</p> <p>release [6] - 99:17, 100:15, 188:2, 188:5, 222:20, 287:5</p> <p>released [4] - 219:9, 227:8, 284:11, 287:2</p> <p>releases [1] - 93:4</p> <p>relevance [2] - 68:1, 76:11</p> <p>reliability [1] - 8:2</p> <p>relief [1] - 229:10</p> <p>rely [2] - 186:18, 306:5</p> <p>remain [4] - 152:23, 162:16, 166:19, 226:16</p> <p>remainder [1] - 94:21</p> <p>remaining [4] - 64:1, 66:18, 74:24, 109:22</p> <p>remarks [3] - 309:1, 309:23, 310:2</p> <p>remediation [1] - 217:13</p> <p>remember [8] - 38:21, 39:13, 94:8, 117:13, 118:11, 139:16,</p>	<p>177:6, 282:23</p> <p>reminder [1] - 198:12</p> <p>remotely [1] - 293:8</p> <p>removed [1] - 31:20</p> <p>renewable [2] - 30:21, 33:5</p> <p>rent [1] - 248:19</p> <p>renters [1] - 174:21</p> <p>rents [1] - 174:22</p> <p>repair [1] - 27:25</p> <p>repairs [1] - 223:24</p> <p>repeat [4] - 68:11, 141:2, 176:2, 185:11</p> <p>repeated [1] - 68:10</p> <p>repeatedly [1] - 185:6</p> <p>rephrase [2] - 35:16, 38:15</p> <p>reply [1] - 160:8</p> <p>report [17] - 41:11, 41:18, 47:3, 47:4, 76:15, 135:22, 153:20, 282:16, 282:18, 284:4, 284:7, 284:10, 284:12, 287:18, 292:2, 294:3, 302:8</p> <p>reported [1] - 294:20</p> <p>reporting [2] - 159:22, 296:23</p> <p>reports [5] - 282:6, 282:9, 282:10, 282:14, 294:24</p> <p>represent [3] - 59:23, 140:7, 263:7</p> <p>Representative [8] - 139:5, 139:6, 139:7, 156:12, 157:22, 158:3, 239:21, 262:17</p> <p>representative [3] - 188:23, 188:25, 254:2</p> <p>Representatives [1] - 231:23</p> <p>representatives [1] - 211:22</p> <p>represented [1] - 300:21</p> <p>representing [5] - 8:16, 10:7, 140:9, 159:18, 304:16</p> <p>represents [6] - 55:19, 59:19, 59:24, 119:2, 255:4</p> <p>reptiles [1] - 296:3</p> <p>reputation [4] - 34:13, 260:11, 262:15, 262:16</p> <p>request [17] - 4:15, 8:24, 43:18, 110:20, 110:24, 111:5, 133:22, 160:3, 210:3, 210:9,</p>	<p>212:19, 238:3, 259:9, 282:4, 285:17, 295:10, 295:11</p> <p>requested [3] - 90:17, 308:16, 309:13</p> <p>requests [6] - 79:24, 79:25, 80:1, 99:19, 100:7, 100:13</p> <p>require [9] - 89:3, 132:3, 133:20, 154:16, 167:9, 233:11, 293:10, 293:21, 302:2</p> <p>required [8] - 13:4, 18:3, 152:23, 198:22, 289:16, 293:6, 293:13, 309:14</p> <p>requirement [3] - 125:6, 157:2, 290:4</p> <p>requirements [3] - 58:5, 176:16, 285:11</p> <p>requires [6] - 102:14, 131:25, 235:13, 293:7, 293:9, 293:22</p> <p>requiring [1] - 224:23</p> <p>reread [1] - 210:4</p> <p>reroute [52] - 48:16, 49:9, 49:16, 49:25, 50:3, 51:17, 51:19, 55:9, 55:21, 62:1, 62:19, 63:16, 64:1, 66:16, 71:2, 72:3, 77:16, 78:5, 78:13, 81:13, 83:18, 83:23, 89:10, 89:17, 90:8, 94:20, 94:23, 97:23, 120:11, 120:15, 120:22, 121:8, 121:23, 122:1, 123:2, 123:15, 128:16, 195:7, 195:9, 217:4, 218:17, 221:19, 222:9, 225:10, 257:2, 263:11, 276:4, 278:8, 278:11, 297:12, 297:21</p> <p>rerouted [5] - 81:11, 81:16, 97:18, 120:17, 121:6</p> <p>reroutes [13] - 50:5, 89:18, 90:2, 90:23, 91:8, 94:15, 94:16, 94:22, 96:15, 105:10, 124:13, 127:17, 276:4</p> <p>rerouting [2] - 49:24, 51:22</p> <p>Research [1] - 58:22</p> <p>research [4] - 117:11,</p>	<p>146:7, 214:24, 270:5</p> <p>reserve [1] - 193:4</p> <p>Reserve [1] - 256:21</p> <p>reserves [1] - 57:12</p> <p>reside [2] - 197:10, 216:25</p> <p>residence [8] - 142:17, 152:6, 153:5, 206:23, 221:25, 243:3, 298:11, 298:14</p> <p>residences [6] - 151:2, 153:18, 154:12, 198:4, 223:3, 283:8</p> <p>resident [2] - 217:7, 265:24</p> <p>residents [6] - 153:2, 155:6, 188:16, 218:12, 268:19, 270:14</p> <p>resolution [3] - 168:13, 168:18, 262:8</p> <p>resolve [2] - 57:3, 126:11</p> <p>resource [5] - 70:7, 70:9, 125:16, 284:6, 293:7</p> <p>resourced [1] - 100:5</p> <p>resources [2] - 7:23, 284:4</p> <p>Resources [1] - 285:22</p> <p>respect [9] - 14:15, 18:19, 22:4, 22:17, 49:24, 50:5, 58:15, 59:10, 69:2</p> <p>respectful [1] - 6:5</p> <p>respectfully [1] - 238:3</p> <p>respecting [1] - 54:8</p> <p>respond [2] - 126:1, 126:12</p> <p>responded [3] - 120:3, 120:6, 286:2</p> <p>responder [2] - 137:18, 164:21</p> <p>responders [28] - 77:6, 77:19, 92:9, 92:18, 93:18, 99:3, 99:10, 99:16, 100:12, 101:13, 119:11, 137:8, 137:11, 164:15, 164:17, 164:19, 164:25, 165:9, 165:10, 178:3, 187:2, 188:7, 188:8, 225:4, 225:8, 225:14, 251:11, 252:12</p> <p>response [20] - 27:20,</p>	<p>77:22, 78:25, 79:1, 79:4, 80:2, 92:1, 92:7, 99:16, 99:22, 100:15, 104:21, 112:17, 119:22, 137:19, 172:19, 195:8, 217:19, 220:25, 221:3</p> <p>responses [3] - 66:19, 232:21, 285:25</p> <p>responsibilities [1] - 200:16</p> <p>responsibility [3] - 65:8, 116:23, 117:7</p> <p>responsible [5] - 82:14, 116:2, 181:12, 182:3, 212:2</p> <p>responsive [2] - 126:6, 126:21</p> <p>rest [5] - 10:22, 50:17, 65:8, 178:8, 178:16</p> <p>restate [1] - 151:11</p> <p>restating [1] - 140:21</p> <p>restoration [1] - 303:18</p> <p>restriction [1] - 122:20</p> <p>resubmit [1] - 290:4</p> <p>result [10] - 14:2, 21:19, 32:19, 37:12, 47:20, 84:4, 233:11, 265:10, 302:2, 305:18</p> <p>resulted [1] - 41:10</p> <p>resulting [1] - 21:12</p> <p>results [1] - 223:7</p> <p>retained [2] - 103:23, 280:24</p> <p>retired [1] - 272:16</p> <p>retirement [1] - 301:19</p> <p>return [1] - 217:11</p> <p>returned [1] - 62:13</p> <p>revenue [6] - 21:13, 25:19, 25:24, 40:6, 84:25, 85:2</p> <p>review [17] - 92:16, 218:9, 227:15, 228:24, 230:13, 230:15, 230:16, 285:10, 287:15, 287:23, 288:6, 288:14, 289:19, 291:6, 292:3, 293:2, 293:22</p> <p>reviewed [11] - 80:9, 80:12, 218:21, 220:16, 227:10, 228:5, 228:6, 288:1, 289:12, 289:24, 291:15</p> <p>reviewer [2] - 295:18, 295:19</p> <p>reviewing [2] - 284:19, 287:10</p>
--	---	---	---	---

<p>revised [1] - 284:13 rich [1] - 232:9 Richland [4] - 7:1, 95:12, 102:12, 288:21 riding [1] - 222:16 rights [2] - 136:14, 187:19 rising [1] - 145:19 risk [11] - 91:10, 91:17, 96:6, 96:11, 112:22, 152:18, 186:15, 186:24, 188:9, 224:18, 225:19 risks [1] - 301:13 risky [2] - 69:25, 123:24 River [15] - 56:3, 103:15, 103:16, 104:13, 186:17, 198:17, 219:1, 220:4, 268:9, 268:15, 283:2, 290:2 river [11] - 186:18, 203:7, 219:2, 257:25, 258:8, 261:18, 268:10, 269:8, 289:5, 289:14, 289:15 riverbeds [2] - 104:2, 104:3 ivers [2] - 65:12, 286:15 Road [2] - 267:6, 280:16 road [16] - 52:22, 54:7, 64:16, 65:3, 65:4, 143:1, 143:8, 143:20, 146:22, 150:16, 152:15, 168:14, 168:18, 183:19, 199:4, 219:2 roadbeds [1] - 218:14 roads [1] - 225:8 roadway [1] - 111:24 rocks [1] - 222:17 Rod [1] - 99:22 role [1] - 67:11 rolling [1] - 222:18 Ron [1] - 271:13 room [24] - 6:1, 6:9, 14:12, 45:4, 86:24, 111:2, 141:17, 151:13, 158:25, 171:16, 179:5, 196:22, 209:9, 216:11, 231:6, 255:23, 255:25, 267:7, 269:14, 272:3, 275:12, 279:21, 308:7 rooms [3] - 165:1,</p>	<p>165:3, 165:6 root [2] - 165:16, 165:18 roughly [7] - 19:23, 20:8, 22:12, 23:8, 24:6, 60:5, 88:12 round [2] - 191:24, 286:1 route [165] - 6:22, 7:13, 49:8, 49:12, 49:13, 49:14, 49:22, 52:4, 52:20, 53:19, 53:21, 54:2, 54:3, 54:12, 54:13, 54:14, 55:11, 55:12, 55:18, 55:19, 55:20, 55:23, 56:1, 56:2, 56:6, 56:16, 56:20, 57:7, 57:8, 57:9, 57:15, 57:22, 57:24, 57:25, 58:1, 58:2, 73:2, 73:3, 76:19, 76:21, 76:22, 76:25, 77:10, 77:15, 77:19, 77:20, 78:10, 80:11, 81:1, 81:11, 81:17, 89:19, 90:5, 90:11, 90:22, 92:13, 92:23, 94:18, 95:17, 95:19, 95:22, 96:10, 96:18, 96:19, 105:5, 105:8, 111:3, 111:4, 111:6, 112:6, 112:10, 113:5, 114:22, 115:22, 121:3, 122:10, 124:8, 124:19, 127:17, 128:12, 130:18, 130:22, 131:1, 131:13, 131:18, 132:19, 133:5, 133:8, 133:17, 134:2, 134:17, 152:8, 152:14, 153:12, 153:16, 153:23, 154:4, 154:7, 154:8, 154:9, 160:6, 169:21, 170:6, 191:3, 191:4, 192:16, 192:25, 194:21, 195:7, 195:17, 203:4, 224:20, 229:9, 256:22, 258:2, 258:4, 258:5, 258:7, 258:16, 259:8, 259:15, 259:20, 259:22, 259:25, 260:7, 260:9, 260:15, 261:9, 261:15, 261:18, 261:23, 262:2, 262:6, 262:11,</p>	<p>262:18, 262:25, 263:20, 263:22, 264:9, 265:9, 282:2, 282:8, 282:16, 282:20, 282:24, 283:1, 284:2, 287:22, 287:23, 289:9, 289:23, 290:1, 290:24, 292:8, 295:14, 297:11, 301:8, 302:6 routed [6] - 49:18, 90:4, 96:22, 96:23, 125:8, 169:14 routes [1] - 57:18 routing [4] - 48:17, 48:18, 77:22, 95:24 royalties [1] - 61:5 rule [2] - 85:9, 252:22 rules [3] - 133:24, 200:2, 285:12 ruling [1] - 199:19 rulings [1] - 204:23 run [8] - 122:5, 220:10, 220:12, 224:6, 225:2, 258:20, 272:19, 278:6 running [2] - 10:18, 174:6 runs [2] - 162:11, 170:4 rupture [8] - 219:22, 221:13, 222:12, 223:19, 224:9, 225:19, 268:12, 278:5 ruptures [2] - 221:15, 270:17 rural [11] - 152:25, 166:15, 166:19, 180:15, 187:1, 198:4, 200:6, 222:14, 223:3, 227:13, 283:11 Ryan [2] - 245:16, 245:17</p>	<p>safety [59] - 78:6, 79:4, 104:7, 119:9, 143:21, 146:6, 149:14, 149:17, 152:19, 152:21, 153:4, 153:19, 162:14, 162:15, 162:18, 165:13, 172:6, 172:10, 172:20, 174:15, 175:9, 175:24, 176:4, 176:12, 176:13, 176:16, 177:23, 178:17, 185:23, 186:1, 186:6, 186:7, 187:16, 188:1, 191:12, 200:17, 212:17, 217:22, 218:19, 220:16, 221:12, 221:15, 223:5, 223:14, 224:21, 226:8, 226:14, 226:17, 239:6, 267:24, 268:16, 269:10, 269:12, 270:13, 270:14, 303:17, 306:11 Safety [1] - 93:12 sake [1] - 273:6 salary [2] - 11:8, 217:12 sales [2] - 60:20, 233:6 sand [1] - 201:8 sandbar [1] - 197:12 Sargent [10] - 7:1, 64:11, 125:23, 239:8, 244:22, 251:10, 252:3, 252:11, 253:13, 288:22 Satartia [9] - 172:22, 172:25, 173:22, 174:4, 174:10, 176:3, 211:18, 223:17, 225:2 satisfactorily [1] - 91:17 satisfied [2] - 178:6, 178:8 saturated [1] - 198:1 Saturday [2] - 93:11, 174:16 save [7] - 15:3, 48:8, 79:10, 188:9, 200:8, 200:9, 201:7 saw [2] - 139:7, 223:18 SC [3] - 14:10, 14:17, 50:9 scale [1] - 69:23</p>	<p>scales [1] - 227:6 scenarios [1] - 224:7 scene [1] - 223:23 scenery [1] - 273:10 schedule [6] - 10:10, 101:5, 101:6, 113:19, 113:23, 120:3 scheduled [14] - 7:9, 9:1, 11:23, 12:5, 92:14, 119:6, 119:13, 167:3, 252:5, 254:24, 255:11, 308:6, 308:18, 309:7 schedules [1] - 101:1 scheduling [4] - 101:9, 113:17, 129:16, 129:18 SCHMIDT [6] - 279:19, 279:23, 279:25, 280:3, 280:7, 280:10 Schmidt [13] - 9:6, 65:13, 65:14, 65:15, 65:18, 134:24, 135:24, 279:16, 279:19, 279:20, 279:21, 286:11, 299:10 SCHOCK [14] - 65:23, 66:2, 105:2, 105:4, 132:18, 134:3, 193:19, 193:25, 194:3, 194:6, 194:10, 229:15, 229:20, 229:25 Schock [26] - 9:14, 28:25, 44:10, 65:22, 85:12, 105:1, 105:8, 105:19, 106:14, 132:16, 147:11, 157:15, 168:25, 177:11, 193:18, 206:14, 214:9, 229:14, 241:25, 265:25, 271:1, 274:15, 277:5, 292:19, 299:5, 302:15 School [3] - 162:10, 162:13, 210:11 school [1] - 214:23 schools [1] - 180:11 science [5] - 163:5, 217:9, 219:17, 223:9, 287:13 scientific [1] - 292:7 scientist [2] - 163:6, 163:8 scientists [1] - 210:20 scope [2] - 290:12, 292:10 score [5] - 234:19,</p>
S				
<p>S-C-H-M-I-D-T [1] - 279:20 sadly [2] - 117:9, 189:10 safe [14] - 153:6, 163:4, 176:10, 185:22, 185:24, 186:2, 211:22, 218:3, 223:8, 224:4, 224:6, 225:21, 226:6, 305:1 safest [1] - 302:10</p>				

<p>236:6, 236:7, 236:8, 247:4</p> <p>scour [2] - 104:8, 220:4</p> <p>scouring [2] - 219:23, 220:2</p> <p>scratch [2] - 205:23, 206:8</p> <p>scribble [1] - 261:2</p> <p>SCS [15] - 6:20, 7:7, 8:14, 8:16, 14:23, 48:22, 51:13, 55:10, 86:16, 89:12, 92:22, 104:20, 114:2, 114:6, 132:8</p> <p>searched [1] - 222:21</p> <p>searching [1] - 222:17</p> <p>season [2] - 63:12, 63:13</p> <p>seat [1] - 140:4</p> <p>seats [3] - 86:12, 138:17, 209:1</p> <p>second [11] - 9:4, 95:23, 148:9, 210:24, 237:22, 237:23, 278:11, 284:17, 285:25, 302:4, 304:7</p> <p>secondary [2] - 221:17, 283:25</p> <p>seconds [2] - 155:23, 155:24</p> <p>secret [3] - 172:15, 188:13, 203:16</p> <p>Section [2] - 152:11, 293:22</p> <p>section [21] - 148:5, 148:8, 148:14, 169:7, 169:9, 169:10, 169:11, 169:12, 169:18, 169:21, 169:24, 171:11, 194:1, 194:5, 216:25, 217:3, 229:17, 276:2, 276:8, 277:13</p> <p>sections [2] - 162:3, 162:4</p> <p>sector [1] - 25:20</p> <p>secure [4] - 54:1, 109:25, 110:1, 116:1</p> <p>Security [1] - 93:12</p> <p>see [44] - 6:3, 24:9, 30:23, 32:22, 49:12, 49:15, 49:17, 55:6, 72:17, 73:7, 83:11, 113:7, 113:12, 114:6, 115:22, 123:22, 127:4, 127:7, 139:5, 145:19, 148:1, 151:1, 166:19, 167:11, 168:16,</p>	<p>169:21, 188:11, 190:13, 190:15, 190:21, 191:25, 193:23, 210:23, 223:16, 228:16, 228:25, 234:5, 240:22, 265:19, 273:21, 273:22, 299:17, 308:7</p> <p>See [1] - 250:17</p> <p>seed [1] - 250:16</p> <p>seeing [8] - 44:2, 83:5, 133:16, 139:8, 219:24, 244:25, 272:23, 273:8</p> <p>seek [1] - 253:21</p> <p>seeking [3] - 120:10, 215:14, 252:25</p> <p>seem [5] - 53:12, 128:17, 143:14, 220:13, 258:12</p> <p>selected [2] - 291:10, 300:23</p> <p>selection [1] - 301:10</p> <p>sell [7] - 233:17, 234:18, 234:20, 236:9, 237:3, 273:7, 276:14</p> <p>Senate [1] - 138:24</p> <p>Senator [8] - 139:9, 139:15, 231:25, 232:1, 232:11, 234:13, 238:3, 239:23</p> <p>send [5] - 63:20, 286:19, 286:21, 286:22, 288:7</p> <p>Senger [1] - 93:19</p> <p>sense [5] - 42:10, 107:10, 129:8, 200:7, 250:9</p> <p>sensitive [3] - 134:12, 135:7, 302:6</p> <p>sensory [1] - 225:1</p> <p>sent [4] - 259:2, 285:20, 288:3, 304:19</p> <p>sentence [3] - 114:21, 175:5, 298:9</p> <p>separate [4] - 59:7, 67:4, 268:4, 291:6</p> <p>September [5] - 7:6, 252:5, 259:13, 260:5, 264:9</p> <p>sequester [2] - 30:25, 33:6</p> <p>sequestered [6] - 26:25, 28:11, 31:12, 31:19, 273:3, 273:13</p> <p>sequestering [1] - 162:24</p> <p>sequestration [2] - 25:2, 28:18, 29:6,</p>	<p>30:4, 30:22, 31:6, 31:16, 31:23, 43:19, 48:17, 58:13, 58:16, 68:17, 68:21, 69:3, 186:12, 213:9, 215:9, 242:6, 304:5</p> <p>series [1] - 90:11</p> <p>serious [2] - 217:21, 221:12</p> <p>serve [3] - 4:16, 60:17, 231:22</p> <p>served [2] - 98:17, 305:9</p> <p>Service [23] - 4:16, 4:20, 9:13, 56:21, 98:8, 160:1, 160:2, 163:12, 165:19, 181:11, 199:19, 200:15, 209:22, 211:24, 221:7, 222:23, 231:20, 274:6, 295:12, 295:13, 296:16, 296:20, 296:24</p> <p>service [4] - 186:4, 239:9, 251:18, 283:11</p> <p>services [3] - 144:22, 253:9, 280:22</p> <p>Services [1] - 280:19</p> <p>session [2] - 101:18, 139:3</p> <p>sessions [1] - 93:6</p> <p>set [12] - 4:19, 17:2, 24:8, 54:11, 99:11, 164:10, 257:3, 258:2, 262:15, 287:14, 291:7, 309:15</p> <p>setback [12] - 81:10, 81:12, 81:17, 85:17, 85:20, 96:8, 110:10, 153:5, 154:11, 157:2, 185:20, 276:9</p> <p>setbacks [5] - 111:11, 185:19, 185:23, 186:2, 206:22</p> <p>sets [1] - 206:24</p> <p>setting [3] - 166:15, 175:24, 187:20</p> <p>settled [1] - 238:25</p> <p>seven [6] - 55:22, 71:15, 137:6, 137:7, 174:20, 233:3</p> <p>seven-foot [1] - 174:20</p> <p>several [18] - 4:5, 21:21, 32:24, 41:20, 52:7, 52:24, 89:2, 121:6, 125:5, 159:22, 160:4, 193:2, 225:6, 268:19, 283:7,</p>	<p>289:24, 305:9</p> <p>shape [1] - 229:20</p> <p>shaped [1] - 229:19</p> <p>shapefile [2] - 50:16, 295:2</p> <p>shapefiles [4] - 50:15, 50:18, 50:25, 227:7</p> <p>share [4] - 75:21, 75:22, 190:23, 194:6</p> <p>shared [6] - 135:15, 135:18, 137:9, 137:10, 217:23, 257:22</p> <p>sheep [1] - 277:24</p> <p>sheet [2] - 6:14, 173:7</p> <p>sheets [5] - 6:8, 141:6, 294:7, 294:12, 295:25</p> <p>shelter [3] - 143:15, 153:3, 222:19</p> <p>sheriffs [1] - 119:21</p> <p>Sheyenne [2] - 103:15, 290:2</p> <p>shit [1] - 203:15</p> <p>shop [1] - 181:25</p> <p>shops [2] - 53:3, 183:7</p> <p>short [8] - 143:2, 143:7, 146:1, 160:20, 161:3, 205:24, 208:21, 300:17</p> <p>short-cutting [1] - 205:24</p> <p>shortest [1] - 104:15</p> <p>shortly [6] - 62:22, 110:19, 217:15, 259:14, 264:5, 264:8</p> <p>shot [1] - 201:4</p> <p>shouting [1] - 11:1</p> <p>shovel [1] - 293:9</p> <p>show [5] - 126:10, 160:10, 161:15, 208:18, 226:15</p> <p>showed [1] - 172:24</p> <p>showers [1] - 222:17</p> <p>shown [1] - 289:3</p> <p>shows [2] - 169:22, 170:8</p> <p>SHPO [11] - 284:4, 284:7, 284:9, 284:13, 284:23, 285:2, 285:4, 287:6, 287:7, 287:12, 288:11</p> <p>SHPO's [4] - 282:10, 284:18, 287:25, 288:3</p> <p>shut [1] - 164:1</p> <p>sic [1] - 223:18</p> <p>sick [1] - 165:3</p> <p>side [33] - 12:21, 49:18, 57:19, 57:20,</p>	<p>57:22, 71:16, 72:2, 72:11, 72:18, 72:23, 73:13, 73:19, 96:12, 96:13, 111:15, 121:9, 122:6, 122:12, 125:10, 128:9, 128:13, 143:5, 150:16, 150:19, 150:21, 150:25, 160:7, 161:4, 161:7, 198:25, 199:2</p> <p>sides [1] - 126:11</p> <p>sign [24] - 5:12, 5:15, 5:25, 6:10, 62:22, 70:13, 124:17, 126:18, 128:24, 141:6, 183:11, 183:24, 184:5, 184:12, 185:3, 185:14, 185:17, 249:2, 249:22, 250:15</p> <p>sign-in [1] - 141:6</p> <p>signal [1] - 304:18</p> <p>signature [1] - 184:6</p> <p>signed [23] - 29:24, 75:7, 75:14, 75:16, 81:13, 122:11, 124:20, 126:9, 129:5, 133:25, 170:10, 170:12, 183:18, 195:1, 238:21, 238:24, 243:12, 250:3, 250:14, 250:18, 250:23, 250:24, 276:11</p> <p>significant [6] - 33:5, 36:18, 107:8, 219:19, 220:1, 223:11</p> <p>significantly [5] - 50:3, 51:19, 103:12, 107:12, 225:13</p> <p>signing [3] - 98:9, 248:25, 298:9</p> <p>signs [1] - 135:2</p> <p>silenced [1] - 5:1</p> <p>Silver [2] - 73:13, 278:11</p> <p>similar [8] - 14:11, 24:1, 49:10, 162:23, 197:17, 301:11, 306:12, 307:2</p> <p>similarly [1] - 140:24</p> <p>simple [2] - 105:22, 200:5</p> <p>simply [4] - 111:18, 154:6, 157:10, 176:23</p> <p>Simultaneous [2] - 123:11, 125:3</p>
--	---	---	---	---

<p>single [5] - 117:25, 154:12, 225:5, 235:16, 235:19</p> <p>single-vehicle [1] - 225:5</p> <p>Sioux [1] - 103:16</p> <p>sit [7] - 19:18, 46:20, 138:12, 165:4, 250:16, 256:24, 281:12</p> <p>site [11] - 57:16, 58:23, 73:22, 111:9, 169:9, 186:12, 186:16, 196:7, 210:22, 215:13, 273:5</p> <p>sited [1] - 69:2</p> <p>sites [12] - 19:24, 20:10, 59:7, 68:22, 68:25, 69:4, 135:8, 184:19, 213:8, 213:14, 285:7, 288:1</p> <p>siting [12] - 10:20, 26:11, 26:21, 133:24, 205:12, 205:13, 205:15, 221:7, 221:8, 226:1, 241:20, 258:23</p> <p>Siting [1] - 130:18</p> <p>sits [1] - 111:19</p> <p>sitting [7] - 159:23, 212:14, 236:19, 244:19, 246:10, 246:17, 246:18</p> <p>situated [1] - 221:18</p> <p>situation [5] - 120:10, 123:1, 124:9, 222:1, 236:25</p> <p>situations [2] - 99:13, 249:14</p> <p>six [10] - 72:5, 72:6, 102:25, 103:11, 108:25, 236:18, 236:19, 297:9, 297:18, 297:23</p> <p>size [5] - 23:21, 102:17, 106:1, 172:17, 176:17</p> <p>sizes [2] - 47:13</p> <p>sketch [1] - 128:11</p> <p>skilled [4] - 301:1, 302:16, 302:21, 302:25</p> <p>skills [3] - 300:20, 303:11, 305:2</p> <p>skirted [1] - 184:25</p> <p>slide [1] - 57:6</p> <p>slides [2] - 218:10, 228:8</p> <p>slightly [4] - 105:17, 106:20, 106:21, 215:11</p> <p>slip [1] - 232:18</p>	<p>slope [2] - 218:17, 219:4</p> <p>slopes [2] - 218:25, 228:18</p> <p>slowed [1] - 54:18</p> <p>slumping [1] - 218:13</p> <p>small [6] - 24:7, 131:1, 131:18, 133:5, 154:5, 160:20</p> <p>smaller [1] - 173:15</p> <p>smart [4] - 146:7, 220:11, 220:13, 238:19</p> <p>snow [2] - 63:22, 143:13</p> <p>snubbed [3] - 159:24, 160:1, 160:8</p> <p>so.. [6] - 125:20, 134:2, 215:5, 239:4, 265:21, 288:17</p> <p>soft [1] - 182:22</p> <p>softening [1] - 244:25</p> <p>soil [1] - 294:8</p> <p>soils [1] - 294:9</p> <p>sold [2] - 235:6, 235:15</p> <p>solely [1] - 306:20</p> <p>solicited [1] - 99:23</p> <p>solid [2] - 234:23, 240:11</p> <p>Solutions [15] - 46:10, 87:20, 142:11, 146:12, 159:25, 210:3, 211:21, 212:1, 212:2, 212:4, 260:6, 260:8, 262:5, 265:7, 298:13</p> <p>solving [1] - 258:13</p> <p>someone [20] - 27:16, 64:24, 77:25, 109:5, 118:15, 120:6, 122:5, 122:10, 126:20, 128:20, 128:24, 137:17, 174:22, 183:22, 187:11, 188:9, 188:12, 193:4, 207:20</p> <p>sometimes [11] - 53:2, 53:16, 112:9, 121:2, 121:15, 129:4, 136:4, 161:15, 234:24, 250:8</p> <p>somewhere [9] - 22:8, 39:10, 52:21, 155:20, 156:21, 236:6, 237:12, 245:4, 249:11</p> <p>son [1] - 181:23</p> <p>sons [6] - 181:1, 181:19, 196:5, 222:15, 224:4, 246:24</p>	<p>soon [4] - 246:15, 250:18, 250:23, 250:24</p> <p>sooner [1] - 132:7</p> <p>sorry [15] - 70:21, 74:4, 114:15, 123:3, 123:7, 130:7, 139:16, 139:17, 142:9, 149:1, 150:20, 162:2, 268:25, 270:11, 271:9</p> <p>sort [5] - 17:2, 22:9, 202:25, 307:1, 307:2</p> <p>soul [1] - 273:7</p> <p>sound [3] - 106:21, 144:7, 306:12</p> <p>sounded [1] - 101:8</p> <p>sounds [6] - 17:19, 101:3, 101:4, 151:10, 209:5, 240:14</p> <p>source [1] - 186:22</p> <p>sourced [2] - 24:24, 38:19</p> <p>sources [3] - 23:7, 107:2, 211:15</p> <p>south [17] - 55:24, 95:22, 96:4, 96:12, 150:8, 150:19, 150:20, 152:7, 162:10, 170:1, 179:23, 193:21, 198:25, 217:4, 243:17, 257:24, 268:2</p> <p>South [8] - 93:9, 93:14, 107:4, 234:3, 234:4, 234:9, 237:8, 289:10</p> <p>southeast [5] - 160:15, 216:25, 229:17, 229:18, 268:8</p> <p>Southeast [1] - 194:9</p> <p>southern [5] - 95:17, 95:19, 96:10, 193:6, 195:15</p> <p>southwest [1] - 56:1</p> <p>soybeans [2] - 195:23, 236:14</p> <p>space [18] - 23:2, 23:4, 26:20, 29:23, 33:8, 34:15, 34:18, 35:5, 35:6, 37:6, 61:2, 61:4, 61:11, 61:15, 70:6, 70:10, 70:14</p> <p>spade [1] - 174:19</p> <p>span [1] - 143:2</p> <p>speakers [1] - 254:10</p> <p>speaking [8] - 69:14, 123:11, 125:3,</p>	<p>133:11, 159:19, 164:15, 232:4, 282:13</p> <p>special [2] - 9:12, 222:3</p> <p>specialize [1] - 296:4</p> <p>specialized [2] - 92:24, 152:24</p> <p>specialty [1] - 296:3</p> <p>species [15] - 135:1, 135:21, 282:18, 293:2, 293:10, 293:24, 295:21, 295:24, 296:1, 296:4, 296:12, 296:22, 296:25</p> <p>specific [21] - 20:5, 29:12, 67:18, 68:13, 78:9, 79:25, 80:1, 90:2, 99:19, 100:13, 102:22, 109:15, 135:25, 137:15, 137:20, 148:4, 210:25, 229:6, 229:7, 296:25, 307:6</p> <p>specifically [25] - 62:5, 62:8, 62:19, 63:4, 63:7, 68:19, 82:14, 94:16, 96:16, 96:20, 97:15, 104:22, 112:3, 113:17, 123:10, 123:17, 134:24, 192:4, 222:2, 255:3, 294:19, 301:10, 301:15, 307:8, 309:12</p> <p>specifics [8] - 20:5, 100:6, 147:2, 166:6, 166:9, 228:2, 261:12, 287:3</p> <p>specifies [1] - 7:12</p> <p>specify [1] - 140:10</p> <p>spell [14] - 19:3, 44:23, 44:25, 46:5, 86:19, 141:12, 151:8, 158:19, 196:18, 216:7, 231:2, 271:25, 275:10, 299:19</p> <p>spelled [3] - 18:1, 158:23, 209:7</p> <p>spelling [7] - 17:23, 86:22, 171:9, 179:2, 255:18, 267:3, 279:18</p> <p>spend [2] - 21:7, 188:24</p> <p>spending [7] - 21:24, 25:4, 33:17, 36:18, 38:3, 162:1, 200:3</p> <p>spends [1] - 11:8</p> <p>spent [2] - 37:21,</p>	<p>203:17</p> <p>spill [3] - 217:13, 219:13, 219:23</p> <p>Spirit [1] - 233:25</p> <p>Spiritwood [2] - 233:25, 237:6</p> <p>spot [2] - 43:8, 188:10</p> <p>spots [1] - 93:8</p> <p>SPP [1] - 76:5</p> <p>spread [2] - 60:19, 193:5</p> <p>spreadsheet [1] - 100:17</p> <p>spring [2] - 11:6, 192:6</p> <p>Spruce [1] - 267:6</p> <p>square [1] - 207:12</p> <p>stability [2] - 218:17, 219:4</p> <p>stable [1] - 218:14</p> <p>staff [14] - 9:10, 14:19, 55:14, 58:14, 92:7, 220:21, 238:8, 254:23, 281:20, 285:25, 287:9, 308:15, 309:16</p> <p>staffers [1] - 295:20</p> <p>staffing [2] - 220:17, 221:1</p> <p>stage [1] - 17:3</p> <p>stages [1] - 166:10</p> <p>stakeholders [2] - 130:6, 301:7</p> <p>stand [8] - 13:14, 25:10, 88:9, 139:14, 140:4, 165:22, 212:12, 310:7</p> <p>standards [5] - 175:24, 233:7, 235:12, 237:24, 305:11</p> <p>standing [1] - 222:6</p> <p>standpoint [1] - 153:19</p> <p>start [37] - 4:2, 4:8, 4:9, 8:7, 10:13, 16:13, 17:22, 46:24, 48:13, 55:17, 67:17, 79:3, 138:5, 139:23, 139:25, 141:7, 141:9, 163:21, 165:3, 171:8, 179:1, 206:7, 231:1, 236:25, 251:7, 255:17, 264:20, 266:25, 267:23, 273:20, 279:17, 281:23, 285:3, 285:5, 285:8, 285:10</p> <p>started [16] - 4:13, 10:20, 52:19, 52:23, 53:19, 53:21, 86:13, 93:4, 101:21,</p>
---	--	---	---	---

<p>138:18, 173:12, 205:22, 205:23, 209:1, 261:6, 289:6 starting [2] - 86:8, 114:20 startup [2] - 22:25, 103:11 stashed [1] - 224:18 state [74] - 9:9, 9:18, 10:2, 10:4, 12:2, 12:8, 18:4, 18:25, 20:18, 20:21, 21:2, 22:22, 22:23, 24:2, 24:14, 24:18, 24:19, 25:8, 25:17, 25:21, 25:25, 28:20, 33:17, 44:22, 45:22, 60:23, 60:24, 69:22, 70:3, 70:7, 74:15, 75:19, 76:6, 84:12, 84:14, 85:9, 86:19, 91:21, 114:24, 115:9, 126:22, 135:18, 138:24, 140:20, 141:12, 142:13, 146:3, 151:7, 157:2, 165:20, 168:6, 172:8, 187:23, 196:17, 204:24, 205:6, 205:15, 212:9, 213:7, 217:8, 227:18, 232:19, 233:14, 233:18, 234:15, 234:16, 237:6, 273:10, 273:19, 276:8, 287:12, 299:18, 305:10, 306:23 State [13] - 35:4, 39:14, 39:16, 39:18, 84:19, 84:23, 135:16, 168:15, 214:2, 231:25, 233:16, 292:12 state's [5] - 142:19, 219:6, 221:21, 228:6, 238:5 state-elected [1] - 212:9 statement [11] - 47:20, 47:21, 50:7, 61:12, 61:13, 61:16, 89:4, 114:2, 140:21, 231:24, 249:3 statements [3] - 47:24, 261:22, 262:23 states [7] - 22:15, 34:8, 68:4, 152:21, 153:21, 186:19, 233:12 States [3] - 175:25, 235:25, 236:2</p>	<p>stating [9] - 17:22, 105:23, 154:15, 171:8, 179:1, 231:1, 255:17, 266:25, 279:17 Station [1] - 48:19 station [3] - 104:1, 304:23, 304:24 stations [21] - 60:15, 65:10, 82:10, 82:11, 102:11, 102:19, 103:2, 103:3, 103:7, 103:12, 106:2, 106:6, 106:11, 106:17, 107:7, 107:13, 107:23, 108:3, 132:4, 155:10, 172:14 statistics [5] - 214:24, 233:13, 239:24, 240:1, 240:6 status [9] - 4:5, 58:15, 64:5, 64:7, 81:10, 102:8, 102:10, 263:1, 264:6 statute [7] - 85:9, 157:2, 157:5, 205:15, 213:17, 276:8, 276:21 statutes [1] - 285:12 Stay [2] - 243:16, 245:4 stay [3] - 111:12, 124:24, 247:4 staying [2] - 120:16, 309:25 steak [3] - 252:15, 252:21, 253:23 step [2] - 53:18, 236:25 stepped [1] - 111:1 stick [2] - 13:1, 199:21 sticking [1] - 13:5 still [30] - 12:11, 13:22, 54:20, 77:25, 78:2, 84:15, 115:1, 116:3, 117:7, 120:16, 124:18, 124:21, 124:24, 140:25, 145:6, 152:20, 164:12, 182:17, 210:5, 238:15, 248:6, 261:24, 261:25, 262:7, 270:18, 287:23, 290:3, 293:9, 296:23 stone [1] - 160:11 stopen [5] - 52:9, 53:5, 54:7, 55:3, 182:8 stopped [1] - 182:14 storage [16] - 26:20, 57:15, 59:3, 59:5,</p>	<p>59:7, 67:1, 67:5, 67:6, 67:19, 68:7, 69:18, 69:21, 74:20, 181:25, 213:8, 235:23 store [2] - 5:13, 250:16 Stored [1] - 210:11 stored [1] - 35:1 stories [1] - 272:22 storing [1] - 211:5 storm [1] - 220:2 straight [2] - 159:15, 257:4 straightforward [4] - 223:14, 307:11, 307:12, 307:13 strange [2] - 161:16, 161:17 stream [1] - 290:16 streams [2] - 25:24, 220:3 Street [4] - 152:8, 152:9, 169:12, 194:8 street [4] - 222:9, 223:4, 227:1, 227:2 strengthen [1] - 301:5 stretch [2] - 197:22, 276:19 strict [1] - 176:23 strike [2] - 65:20, 99:14 strip [2] - 202:8, 202:12 strong [5] - 5:5, 76:18, 143:6, 221:22, 225:13 strongly [5] - 142:8, 142:10, 146:11, 166:17, 304:20 structure [10] - 83:10, 83:15, 84:9, 85:8, 117:24, 118:2, 118:14, 118:16, 118:18, 206:23 structures [1] - 297:9 stuck [3] - 180:24, 182:24, 192:3 studied [1] - 292:2 studies [9] - 218:9, 218:18, 218:21, 282:6, 290:9, 290:10, 290:19, 291:10, 292:9 study [8] - 75:20, 75:21, 172:7, 176:3, 210:19, 228:1, 228:10, 230:11 stuff [6] - 79:1, 167:14, 186:24, 203:16, 246:19, 246:21 SuAnn [6] - 139:5,</p>	<p>151:9, 151:12, 152:3, 157:25, 262:17 SUANN [16] - 151:9, 151:12, 151:15, 151:18, 151:22, 151:24, 152:1, 152:3, 156:16, 156:19, 156:25, 157:4, 157:12, 158:4, 158:9, 158:12 sub [2] - 167:10, 263:21 sub-development [1] - 263:21 sub-developments [1] - 167:10 subdivision [1] - 197:23 subdivisions [5] - 39:17, 40:6, 56:12, 56:16, 197:23 subject [3] - 5:6, 284:23, 285:2 subjective [1] - 247:25 submitted [11] - 14:22, 15:1, 16:23, 19:12, 25:11, 46:14, 50:19, 91:14, 153:20, 218:7, 224:13 submitting [1] - 15:2 subsequent [4] - 51:23, 88:25, 90:12, 298:18 subsequently [2] - 31:19, 49:10 subset [1] - 131:14 substantial [2] - 218:20, 230:15 substantially [2] - 42:8, 302:20 substantiates [1] - 255:9 substantive [1] - 108:8 substitute [1] - 13:12 subsurface [2] - 217:16, 219:10 subterranean [1] - 130:24 success [6] - 23:22, 24:11, 59:20, 109:19, 226:4 successful [3] - 28:17, 30:19, 109:18 successfully [1] - 305:7 sudden [2] - 174:22, 249:25 sue [1] - 144:11 suffer [1] - 154:10 suffices [1] - 200:6</p>	<p>sufficient [1] - 106:12 sufficiently [2] - 91:20, 210:5 suggest [1] - 51:2 suggested [2] - 90:20, 166:12 suggesting [3] - 207:19, 207:21, 207:23 suggestion [1] - 230:10 suggestions [3] - 20:20, 77:19, 230:12 suitable [1] - 52:20 Suite [2] - 19:6, 280:16 Suites [1] - 4:23 suits [2] - 114:3, 114:7 summarize [8] - 21:5, 48:10, 88:19, 89:15, 89:22, 91:7, 94:6, 95:15 summarized [1] - 12:18 summarizing [1] - 21:8 summary [4] - 17:2, 25:10, 92:2, 281:19 summed [2] - 265:6, 265:12 summer [9] - 78:7, 94:9, 109:2, 164:7, 164:8, 184:11, 225:8, 235:12, 269:6 Summit [172] - 5:15, 13:23, 14:3, 15:5, 17:16, 22:6, 24:4, 27:15, 28:6, 30:9, 30:10, 30:11, 30:18, 31:17, 31:22, 34:17, 44:20, 46:10, 52:1, 56:25, 57:1, 62:7, 62:17, 62:18, 63:24, 64:12, 66:25, 67:9, 67:17, 67:18, 68:6, 68:12, 68:16, 68:21, 69:11, 69:24, 70:13, 74:14, 75:6, 75:13, 78:1, 79:24, 87:20, 87:21, 98:2, 98:14, 99:10, 99:19, 100:11, 103:23, 104:4, 109:17, 119:3, 119:8, 130:5, 133:17, 134:10, 135:11, 142:10, 144:19, 146:11, 152:6, 155:19, 156:14, 159:24, 160:3, 160:8, 161:10, 161:21, 162:21, 162:25, 163:14, 164:16,</p>
---	---	--	---	--

<p>164:18, 165:8, 167:23, 167:25, 168:5, 174:25, 176:18, 177:1, 177:4, 178:1, 180:13, 181:10, 184:10, 184:11, 184:17, 185:20, 188:23, 188:25, 189:5, 189:12, 189:15, 195:8, 198:21, 199:25, 203:24, 210:2, 211:21, 211:25, 212:1, 212:3, 212:11, 212:12, 218:7, 220:10, 223:25, 226:2, 232:16, 235:10, 235:24, 238:4, 239:7, 242:5, 242:17, 243:16, 251:12, 251:13, 251:20, 251:22, 252:12, 252:16, 252:18, 253:3, 257:5, 258:23, 258:24, 259:8, 259:21, 260:6, 260:8, 260:15, 261:23, 262:4, 262:19, 263:25, 265:7, 265:9, 265:11, 269:24, 278:16, 279:9, 279:15, 280:24, 281:1, 285:3, 285:15, 285:18, 286:12, 286:17, 286:22, 287:6, 288:4, 289:21, 290:14, 290:20, 291:13, 292:24, 298:1, 298:12, 300:12, 301:4, 301:24, 302:19, 304:8, 304:17, 304:20, 306:19, 309:15</p> <p>Summit's [19] - 16:13, 16:15, 29:5, 30:1, 30:5, 31:25, 32:18, 55:1, 67:11, 104:21, 123:12, 202:12, 217:23, 222:22, 223:2, 223:13, 223:15, 257:13, 283:13</p> <p>Sundown [2] - 198:23, 199:1</p> <p>supercritical [3] - 218:15, 220:15, 221:13</p>	<p>supervision [1] - 48:21</p> <p>supervisor [7] - 185:4, 185:5, 185:7, 185:8, 189:24, 189:25, 190:11</p> <p>supplemental [3] - 7:14, 61:10, 104:21</p> <p>supplied [2] - 224:11, 224:23</p> <p>suppliers [1] - 60:12</p> <p>supply [5] - 41:6, 41:19, 41:25, 42:12, 155:3</p> <p>supplying [1] - 154:19</p> <p>support [10] - 25:6, 99:16, 106:13, 145:16, 145:21, 168:11, 175:2, 281:1, 294:3</p> <p>supporting [2] - 60:25, 61:1</p> <p>suppose [1] - 308:14</p> <p>supposed [4] - 203:17, 276:5, 276:7, 278:10</p> <p>surely [2] - 152:22, 189:1</p> <p>surface [7] - 61:6, 61:14, 91:19, 210:17, 211:1, 211:16, 228:19</p> <p>surprised [1] - 261:22</p> <p>surrounding [3] - 211:20, 230:17, 301:3</p> <p>survey [44] - 53:25, 54:1, 54:4, 57:24, 62:2, 62:11, 63:16, 63:18, 64:2, 66:6, 66:17, 90:24, 98:18, 105:5, 105:9, 105:18, 111:17, 112:22, 114:21, 115:10, 115:12, 115:13, 115:17, 127:12, 127:13, 127:24, 128:10, 128:15, 128:20, 128:25, 134:16, 134:18, 134:19, 135:11, 136:5, 136:16, 228:24, 286:25, 290:23, 291:2, 291:18, 292:13, 292:25, 293:5</p> <p>Survey [8] - 91:4, 91:11, 227:20, 290:13, 291:11, 291:15, 291:25, 292:2</p> <p>surveyed [9] - 54:3,</p>	<p>57:24, 66:11, 66:15, 66:16, 105:7, 127:16, 287:22, 292:15</p> <p>surveying [5] - 53:21, 63:13, 105:15, 115:22, 134:9</p> <p>surveyors [6] - 63:20, 134:13, 161:11, 161:20, 278:18, 296:3</p> <p>surveys [17] - 54:11, 63:23, 134:21, 136:8, 218:22, 281:2, 282:3, 282:9, 282:17, 282:20, 284:6, 284:18, 287:14, 293:6, 293:11, 293:25, 295:25</p> <p>survive [3] - 144:17, 145:5, 145:8</p> <p>suspect [1] - 244:10</p> <p>sustainable [3] - 30:23, 235:20, 237:10</p> <p>sweat [1] - 182:2</p> <p>sweet [1] - 43:8</p> <p>sworn [20] - 16:25, 18:21, 45:18, 87:13, 140:5, 142:5, 152:2, 159:13, 172:3, 179:20, 197:9, 209:21, 216:23, 231:18, 256:14, 267:21, 272:15, 275:24, 280:11, 300:8</p> <p>system [11] - 8:2, 26:25, 27:24, 47:12, 47:17, 65:8, 84:16, 106:23, 132:13, 294:14</p> <p>systems [1] - 217:19</p>	<p>280:17</p> <p>tangible [1] - 22:24</p> <p>tank [3] - 173:14, 273:14, 273:15</p> <p>tanks [2] - 173:9, 173:12</p> <p>tapped [1] - 307:4</p> <p>target [1] - 58:24</p> <p>tasked [1] - 175:23</p> <p>tax [15] - 33:23, 39:12, 39:15, 39:22, 41:17, 84:8, 84:14, 84:15, 84:20, 84:23, 84:25, 85:1, 85:8, 155:20, 200:24</p> <p>taxation [1] - 40:3</p> <p>taxed [1] - 84:10</p> <p>taxes [8] - 39:18, 39:23, 40:1, 40:7, 40:9, 84:12, 84:13, 182:2</p> <p>taxpayer [1] - 200:4</p> <p>teach [1] - 239:14</p> <p>teaching [2] - 214:21, 214:23</p> <p>Team [1] - 54:17</p> <p>team [12] - 51:21, 52:4, 98:5, 98:10, 108:5, 113:17, 119:16, 124:4, 126:16, 126:22, 126:24, 126:25</p> <p>teams [1] - 92:23</p> <p>tearing [1] - 183:14</p> <p>tears [1] - 182:2</p> <p>technical [2] - 8:25, 309:11</p> <p>technicalities [1] - 224:22</p> <p>temporary [3] - 131:8, 131:10, 294:16</p> <p>ten [7] - 84:20, 84:24, 127:20, 133:7, 208:22, 262:12, 268:18</p> <p>ten-minute [1] - 208:22</p> <p>ten-year [1] - 84:20</p> <p>tend [4] - 26:23, 30:21, 136:23</p> <p>tender [1] - 97:7</p> <p>tenfold [1] - 210:18</p> <p>tenuous [1] - 154:25</p> <p>tenure [1] - 29:12</p> <p>term [5] - 80:16, 214:22, 292:6, 292:7, 300:17</p> <p>terms [19] - 22:10, 22:21, 55:2, 57:2, 60:21, 64:12, 66:12, 95:5, 129:19, 254:12, 265:11, 290:22, 301:15,</p>	<p>302:5, 302:10, 302:16, 303:17, 304:25, 306:15</p> <p>terrain [2] - 228:24, 229:7</p> <p>terrible [1] - 158:9</p> <p>terribly [3] - 158:4, 158:6, 163:4</p> <p>terrorism [1] - 172:11</p> <p>terrorized [1] - 144:6</p> <p>Terry [1] - 231:25</p> <p>tested [2] - 273:15, 292:6</p> <p>testified [36] - 18:21, 27:19, 45:18, 56:5, 60:14, 69:15, 77:2, 87:13, 90:3, 98:24, 120:14, 126:23, 140:22, 141:1, 142:5, 152:2, 159:13, 172:3, 179:20, 191:14, 192:3, 197:9, 203:3, 209:21, 216:23, 226:24, 227:10, 231:18, 241:7, 256:14, 267:21, 272:15, 275:24, 280:11, 300:8, 300:25</p> <p>testifiers [1] - 161:10</p> <p>testify [11] - 18:2, 48:9, 64:5, 64:7, 78:3, 138:10, 140:3, 199:11, 208:19, 279:8, 279:11</p> <p>testifying [5] - 11:13, 58:11, 115:8, 152:4, 240:13</p> <p>testimony [173] - 6:6, 6:12, 6:16, 11:12, 11:13, 11:22, 12:1, 13:21, 15:2, 15:3, 16:16, 16:20, 16:23, 16:24, 19:12, 19:15, 19:22, 20:1, 20:4, 20:12, 20:15, 21:5, 23:9, 25:12, 26:14, 26:17, 26:19, 26:22, 28:3, 28:14, 28:16, 32:25, 33:12, 37:4, 37:17, 37:20, 37:22, 38:5, 38:18, 38:20, 40:1, 40:5, 40:18, 41:12, 46:14, 46:17, 46:24, 47:1, 47:21, 47:22, 47:24, 48:7, 48:8, 48:11, 48:14, 48:15, 48:16, 49:23, 51:18, 59:11, 59:14, 60:13, 61:25, 62:15, 62:20, 66:25, 68:4, 69:8, 70:5, 71:1,</p>
		T		
		<p>T141 [1] - 152:11</p> <p>table [14] - 5:18, 6:8, 94:4, 94:7, 118:25, 138:11, 178:6, 252:2, 254:12, 254:16, 254:21, 255:4, 258:1, 285:15</p> <p>Table [1] - 118:25</p> <p>tables [1] - 282:7</p> <p>tactic [1] - 202:24</p> <p>tactics [1] - 185:16</p> <p>talks [6] - 26:14, 28:3, 68:6, 75:2, 200:16, 254:18</p> <p>Tallahassee [1] -</p>		

<p>71:22, 74:12, 87:24, 87:25, 88:2, 88:6, 88:9, 88:12, 88:20, 88:23, 89:6, 89:11, 89:15, 89:16, 91:2, 91:23, 91:25, 92:3, 92:21, 94:3, 94:6, 95:15, 95:16, 95:19, 98:25, 108:12, 110:16, 114:17, 115:1, 115:5, 115:16, 116:3, 116:6, 116:13, 119:8, 129:23, 130:2, 138:5, 138:8, 138:10, 139:23, 139:24, 140:12, 140:16, 140:24, 141:2, 154:15, 174:8, 176:6, 177:25, 178:25, 193:15, 196:10, 208:23, 215:23, 230:10, 230:19, 230:22, 232:3, 232:5, 232:12, 233:4, 239:20, 241:12, 242:24, 252:1, 253:5, 254:8, 256:23, 257:3, 258:19, 264:19, 265:6, 265:15, 266:11, 266:22, 271:22, 274:4, 275:7, 281:4, 281:7, 281:9, 281:18, 281:19, 281:24, 288:9, 288:10, 288:19, 290:7, 297:8, 299:12, 300:11, 300:13, 300:17, 300:19, 301:16, 301:24, 305:21, 306:6, 306:18, 308:6</p> <p>testing [1] - 224:24</p> <p>tests [2] - 224:24, 293:9</p> <p>Texas [5] - 19:6, 92:23, 93:1, 100:20, 101:13</p> <p>thankfully [1] - 276:6</p> <p>Tharaldson [10] - 20:22, 21:2, 22:17, 22:18, 60:3, 60:6, 60:8, 74:23, 237:7, 245:16</p> <p>Tharaldson's [1] - 233:24</p> <p>theirs [1] - 6:2</p> <p>themselves [3] - 145:1, 188:8, 222:17</p> <p>thereafter [3] - 62:22,</p>	<p>264:5, 264:8</p> <p>therefore [3] - 35:6, 40:9, 120:17</p> <p>thereof [1] - 116:17</p> <p>they've [28] - 93:3, 108:8, 133:12, 160:16, 164:2, 165:8, 166:12, 170:12, 188:7, 191:8, 192:21, 199:7, 206:13, 212:6, 217:23, 225:25, 226:6, 227:25, 234:2, 236:5, 244:15, 289:12, 289:24, 293:13, 297:14, 306:8, 307:11, 307:13</p> <p>thickness [2] - 145:11, 176:4</p> <p>thinking [7] - 74:5, 83:22, 150:10, 180:20, 207:13, 308:16</p> <p>thinks [1] - 262:5</p> <p>third [9] - 9:5, 21:14, 99:14, 113:14, 114:5, 149:10, 244:2, 244:5, 275:25</p> <p>third-generation [1] - 275:25</p> <p>third-party [1] - 99:14</p> <p>thoughts [3] - 12:22, 244:11, 244:12</p> <p>thousand [3] - 143:7, 169:23, 170:4</p> <p>thousands [6] - 143:24, 161:14, 211:19, 269:11, 270:15</p> <p>threatened [1] - 134:25</p> <p>three [33] - 7:24, 10:7, 16:15, 21:10, 22:1, 42:1, 59:5, 59:7, 62:5, 62:6, 62:9, 63:25, 66:4, 72:22, 73:4, 73:23, 74:1, 74:2, 127:20, 134:15, 152:7, 162:6, 162:9, 170:21, 180:10, 181:14, 192:10, 208:3, 237:14, 244:22, 246:3, 268:7</p> <p>three-quarters [2] - 152:7, 162:9</p> <p>threw [1] - 113:6</p> <p>throughout [5] - 5:2, 5:8, 54:4, 60:15, 193:5</p> <p>throughput [5] - 47:7,</p>	<p>47:17, 106:7, 106:12, 107:12</p> <p>throw [2] - 143:25, 204:22</p> <p>thrown [1] - 199:21</p> <p>thumbs [1] - 128:11</p> <p>tied [1] - 212:14</p> <p>ties [1] - 56:1</p> <p>tile [5] - 123:20, 123:25, 124:2, 124:8, 244:23</p> <p>tiling [1] - 174:19</p> <p>timeline [4] - 43:16, 257:7, 257:10, 266:12</p> <p>timely [1] - 8:4</p> <p>timing [2] - 128:21, 132:6</p> <p>titled [1] - 210:11</p> <p>today [92] - 4:22, 5:2, 5:8, 5:19, 6:5, 6:12, 8:16, 8:20, 8:23, 9:11, 9:16, 10:9, 11:21, 13:24, 14:18, 18:12, 19:18, 30:23, 40:24, 43:9, 45:12, 46:21, 49:23, 59:16, 59:21, 69:3, 72:19, 74:21, 87:7, 87:25, 88:6, 88:9, 90:10, 94:14, 98:24, 102:4, 109:4, 109:7, 111:20, 140:3, 141:25, 147:9, 151:21, 156:15, 159:8, 159:18, 159:23, 171:24, 179:13, 187:11, 188:2, 196:22, 197:5, 199:21, 208:8, 209:17, 209:25, 212:7, 212:8, 213:6, 216:19, 218:23, 230:22, 231:14, 232:5, 232:23, 233:3, 237:2, 238:2, 244:9, 246:24, 247:10, 247:11, 249:21, 256:9, 256:24, 257:3, 258:4, 261:22, 265:14, 265:16, 267:15, 267:16, 270:17, 272:11, 275:20, 279:4, 280:6, 281:13, 300:4, 308:7, 310:4</p> <p>today's [5] - 4:17, 19:11, 46:13, 95:6, 281:6</p> <p>together [14] - 69:24, 128:12, 152:5,</p>	<p>156:21, 156:25, 245:13, 245:24, 246:13, 246:19, 246:21, 257:8, 259:5, 273:9</p> <p>tons [2] - 24:5, 273:21</p> <p>took [4] - 217:14, 223:24, 257:13, 265:8</p> <p>tool [1] - 305:15</p> <p>tools [3] - 291:1, 291:7, 291:9</p> <p>top [8] - 104:15, 105:19, 105:21, 130:16, 180:25, 207:10, 301:23, 303:16</p> <p>topic [1] - 258:18</p> <p>topics [1] - 10:19</p> <p>topographic [1] - 291:4</p> <p>topography [1] - 153:8</p> <p>total [6] - 22:10, 24:7, 39:5, 66:10, 66:13, 90:4</p> <p>totaled [1] - 38:22</p> <p>totally [3] - 109:1, 116:22, 159:23</p> <p>touch [1] - 102:1</p> <p>touched [2] - 60:11, 276:17</p> <p>touches [1] - 193:24</p> <p>tough [1] - 236:24</p> <p>tour [3] - 119:9, 215:14, 215:18</p> <p>toured [1] - 215:19</p> <p>towards [3] - 49:22, 98:14, 167:15</p> <p>towers [1] - 203:19</p> <p>town [4] - 55:24, 142:17, 173:21, 188:6</p> <p>towns [2] - 12:6, 183:10</p> <p>township [16] - 102:14, 148:5, 159:18, 167:22, 168:8, 168:10, 168:11, 168:14, 168:18, 170:5, 170:7, 194:1, 222:5, 277:12, 277:13</p> <p>Township [16] - 148:8, 152:11, 159:17, 162:4, 166:11, 166:14, 166:16, 167:9, 167:16, 167:21, 168:7, 171:11, 217:3, 217:7, 221:23, 276:2</p> <p>Township's [1] - 166:25</p>	<p>townships [5] - 168:2, 168:3, 168:6, 168:17, 221:9</p> <p>track [1] - 174:18</p> <p>tracking [1] - 255:2</p> <p>tract [5] - 202:9, 207:3, 207:7, 207:14</p> <p>tractor [2] - 174:19, 250:6</p> <p>tracts [6] - 94:13, 123:18, 123:19, 129:4, 197:20, 198:3</p> <p>traffic [1] - 4:5</p> <p>Trail [3] - 74:21, 215:10, 237:4</p> <p>train [2] - 304:23, 304:24</p> <p>trained [2] - 219:7, 219:17</p> <p>training [12] - 80:3, 92:24, 92:25, 93:25, 99:24, 100:21, 101:13, 102:2, 153:1, 253:10, 301:19, 303:11</p> <p>transaction [1] - 202:19</p> <p>translates [1] - 34:12</p> <p>transmission [1] - 202:1</p> <p>transport [1] - 31:22</p> <p>Transport [3] - 6:21, 8:15, 8:17</p> <p>Transport's [1] - 7:7</p> <p>transporters [1] - 42:24</p> <p>transporting [2] - 32:9, 142:15</p> <p>trapping [3] - 296:5, 296:7</p> <p>travel [1] - 211:1</p> <p>traveled [1] - 174:3</p> <p>traverse [1] - 72:10</p> <p>traverses [2] - 55:24, 92:9</p> <p>traversing [1] - 90:3</p> <p>treated [1] - 243:10</p> <p>tree [2] - 202:10, 207:10</p> <p>trees [1] - 143:24</p> <p>trench [1] - 172:13</p> <p>trenching [1] - 193:12</p> <p>tribal [1] - 135:6</p> <p>Tribune [1] - 204:5</p> <p>tributaries [1] - 220:5</p> <p>tricky [1] - 129:2</p> <p>tried [6] - 90:1, 90:2, 156:20, 190:13, 218:1</p> <p>tries [1] - 104:7</p> <p>triple [1] - 265:20</p> <p>troubles [1] - 12:12</p>
--	---	--	---	--

<p>truck [1] - 187:8</p> <p>trucks [3] - 187:9, 234:6</p> <p>true [14] - 19:15, 19:18, 25:10, 46:18, 46:20, 88:3, 88:16, 124:18, 129:1, 176:1, 185:11, 250:20, 281:9, 281:12</p> <p>trust [1] - 210:4</p> <p>truth [20] - 18:11, 45:11, 87:6, 141:24, 147:7, 147:8, 151:20, 159:7, 171:23, 179:12, 197:4, 209:16, 216:18, 231:13, 256:8, 267:15, 272:10, 275:19, 280:5, 300:3</p> <p>truthful [1] - 146:10</p> <p>try [12] - 4:9, 16:15, 86:9, 98:23, 104:6, 109:25, 110:1, 111:13, 122:17, 192:19, 200:21, 263:17</p> <p>trying [34] - 43:25, 62:8, 100:24, 113:19, 115:20, 119:17, 123:6, 126:3, 126:10, 127:18, 147:25, 148:1, 161:22, 161:23, 173:6, 173:16, 176:21, 178:1, 185:19, 185:20, 185:21, 186:2, 192:8, 192:9, 192:14, 193:19, 202:3, 229:4, 239:13, 242:8, 245:22, 248:11, 249:7, 261:2</p> <p>Tundra [1] - 67:5</p> <p>turn [7] - 8:11, 23:17, 155:9, 209:2, 212:19, 232:2, 298:5</p> <p>turned [2] - 5:1, 173:10</p> <p>turning [1] - 163:21</p> <p>turnover [2] - 129:19, 220:21</p> <p>turns [1] - 217:4</p> <p>tweaks [1] - 124:24</p> <p>twice [2] - 119:23, 156:20</p> <p>twin [1] - 217:6</p> <p>twins [1] - 227:13</p> <p>two [54] - 7:21, 21:10, 25:13, 42:1, 56:9, 62:9, 63:2, 66:4,</p>	<p>74:19, 74:24, 76:17, 80:19, 81:25, 93:8, 93:13, 95:5, 95:11, 101:24, 102:12, 106:11, 106:21, 107:8, 109:24, 113:8, 150:12, 162:5, 162:12, 176:5, 179:23, 184:15, 184:20, 188:4, 193:21, 202:12, 223:24, 232:16, 232:20, 233:2, 237:6, 237:14, 238:11, 243:2, 245:23, 254:19, 268:3, 268:5, 269:7, 270:3, 289:11, 290:14, 292:11, 298:20</p> <p>Tyler [1] - 8:18</p> <p>type [11] - 27:22, 99:8, 100:13, 100:14, 157:6, 162:23, 166:15, 229:6, 229:7, 254:24</p> <p>types [5] - 28:2, 80:17, 84:21, 99:15, 294:7</p> <p>typical [1] - 116:19</p> <p>typically [7] - 100:18, 107:6, 112:8, 122:9, 134:24, 135:5, 206:22</p>	<p>270:6, 290:12</p> <p>underground [11] - 23:2, 180:23, 186:23, 200:18, 200:22, 201:25, 210:16, 211:5, 211:11, 211:13, 303:17</p> <p>Underground [1] - 210:12</p> <p>underlying [4] - 42:23, 50:15, 50:16</p> <p>underneath [5] - 34:19, 84:22, 192:21, 193:11, 237:5</p> <p>underscores [1] - 109:20</p> <p>understandings [1] - 307:6</p> <p>understood [3] - 27:3, 32:17, 269:14</p> <p>undertaken [1] - 289:10</p> <p>uneasy [1] - 144:4</p> <p>unexpected [6] - 130:23, 131:18, 219:15, 219:16, 219:21</p> <p>unfamiliar [1] - 111:2</p> <p>unfortunate [1] - 304:6</p> <p>unfortunately [1] - 304:3</p> <p>UNIDENTIFIED [6] - 5:14, 5:22, 6:2, 139:13, 179:16, 179:18</p> <p>United [3] - 175:25, 235:25, 236:2</p> <p>University [4] - 93:1, 210:19, 219:2, 233:16</p> <p>unjust [1] - 154:1</p> <p>unknown [2] - 156:2, 219:20</p> <p>unknowns [2] - 218:4, 223:12</p> <p>unless [5] - 72:17, 112:17, 125:15, 229:10, 245:2</p> <p>unlikely [1] - 144:18</p> <p>unstable [2] - 218:11, 283:10</p> <p>untrue [1] - 257:2</p> <p>unusual [3] - 15:1, 123:21, 124:9</p> <p>up [77] - 20:1, 30:1, 38:22, 39:5, 40:17, 41:19, 42:7, 48:18, 49:9, 51:4, 54:6, 57:15, 59:6, 67:22, 74:7, 76:6, 79:23,</p>	<p>94:14, 95:23, 96:15, 106:24, 110:23, 114:10, 117:3, 127:1, 128:11, 131:24, 134:4, 139:14, 152:9, 155:3, 162:17, 164:6, 164:7, 164:8, 171:13, 172:21, 173:9, 174:8, 174:10, 180:22, 182:12, 190:14, 192:12, 195:1, 197:24, 198:3, 202:4, 202:5, 210:16, 210:18, 225:20, 234:25, 235:6, 236:2, 236:25, 237:8, 238:12, 238:21, 238:24, 241:4, 246:17, 247:24, 252:8, 253:17, 254:13, 258:2, 261:8, 262:17, 265:6, 265:12, 267:24, 268:10, 269:1, 284:12, 295:7, 296:7</p> <p>upcoming [1] - 63:22</p> <p>update [14] - 4:4, 37:23, 48:16, 54:13, 65:5, 91:3, 91:7, 92:24, 94:3, 95:14, 108:11, 281:25, 282:2, 300:10</p> <p>updated [10] - 38:25, 54:13, 92:13, 108:17, 108:19, 118:25, 282:7, 282:16, 282:20, 282:23</p> <p>updates [4] - 92:1, 95:15, 221:1, 285:16</p> <p>upgrade [2] - 172:24, 173:12</p> <p>uplift [2] - 25:1, 25:20</p> <p>Upper [1] - 302:13</p> <p>upriver [1] - 73:24</p> <p>uptown [1] - 11:15</p> <p>upward [1] - 211:11</p> <p>urge [6] - 142:8, 142:10, 146:11, 165:19, 226:7, 226:13</p> <p>useful [2] - 55:14, 58:13</p> <p>user [1] - 31:1</p> <p>users [1] - 32:1</p> <p>uses [5] - 24:25, 25:14, 30:20, 31:3, 32:12</p> <p>USGS [1] - 291:6</p>	<p>Utilities [1] - 9:15</p> <p>utilities [4] - 60:17, 76:2, 179:25, 289:18</p> <p>utility [1] - 154:18</p> <p>utilization [1] - 61:11</p> <p>utilize [5] - 28:7, 31:4, 55:10, 61:14, 306:19</p> <p>utilized [2] - 31:6, 217:16</p> <p>utilizing [1] - 224:23</p> <p>utmost [3] - 175:9, 178:17, 209:23</p>
V				
			<p>Valley [1] - 171:15</p> <p>valleys [1] - 153:10</p> <p>value [13] - 11:12, 12:1, 26:1, 34:13, 154:1, 198:13, 201:18, 203:1, 208:6, 208:7, 260:13, 276:14, 276:19</p> <p>values [8] - 15:5, 152:18, 153:15, 154:9, 244:10, 247:23, 248:1, 248:13</p> <p>valve [5] - 198:9, 202:21, 203:13, 223:21, 268:10</p> <p>valves [1] - 203:12</p> <p>variable [1] - 132:12</p> <p>variance [1] - 110:10</p> <p>varies [1] - 295:24</p> <p>variety [1] - 98:7</p> <p>various [3] - 98:6, 152:22, 153:17</p> <p>vast [3] - 114:21, 125:13, 163:10</p> <p>Vculeks [8] - 97:13, 120:13, 120:14, 123:4, 123:8, 123:18, 124:5, 124:7</p> <p>Vculeks' [2] - 120:21, 123:1</p> <p>vegetation [2] - 294:7, 294:8</p> <p>vegetative [1] - 295:25</p> <p>vehicle [1] - 225:5</p> <p>vehicles [4] - 144:23, 164:21, 224:19, 225:2</p> <p>vendors [1] - 22:8</p> <p>venture [1] - 157:4</p> <p>venturing [1] - 155:8</p> <p>verbal [1] - 5:7</p> <p>verify [1] - 58:1</p> <p>version [1] - 83:2</p> <p>versus [10] - 26:20, 47:1, 47:25, 77:22,</p>	

<p>96:12, 107:4, 111:4, 120:22, 121:1, 121:11</p> <p>via [1] - 115:13</p> <p>vice [2] - 46:12, 280:21</p> <p>vicinity [2] - 153:23, 154:9</p> <p>victims [1] - 223:19</p> <p>Victor [1] - 9:14</p> <p>videos [1] - 191:23</p> <p>view [3] - 26:25, 78:22, 111:13</p> <p>viewed [1] - 34:9</p> <p>viewing [1] - 112:4</p> <p>violate [1] - 252:22</p> <p>virtual [1] - 309:11</p> <p>visible [2] - 198:12, 203:12</p> <p>visit [1] - 270:1</p> <p>visiting [1] - 253:2</p> <p>visits [1] - 62:25</p> <p>voiced [1] - 166:16</p> <p>voicemail [1] - 259:1</p> <p>volume [12] - 29:25, 47:8, 60:20, 67:18, 68:13, 102:18, 103:9, 106:24, 106:25, 107:3, 132:12, 284:17</p> <p>volumes [3] - 107:5, 132:10, 284:19</p> <p>voluntary [3] - 54:1, 98:15, 100:3</p> <p>volunteer [3] - 153:1, 187:2, 225:11</p> <p>volunteers [1] - 187:7</p> <p>vote [4] - 142:8, 142:10, 221:8, 226:13</p> <p>voted [2] - 166:17, 168:11</p> <p>voting [1] - 144:25</p>	<p>98:7, 148:25, 176:8, 240:21</p> <p>waited [2] - 250:19, 250:20</p> <p>waiting [5] - 4:4, 39:8, 40:18, 165:5, 289:21</p> <p>waive [1] - 83:24</p> <p>waiver [6] - 81:12, 81:13, 83:9, 85:18, 118:7, 298:10</p> <p>waivers [7] - 81:10, 81:17, 85:20, 170:10, 170:13, 297:10, 297:18</p> <p>walk [3] - 241:4, 291:9, 295:5</p> <p>walked [1] - 173:9</p> <p>walking [1] - 197:21</p> <p>wandering [1] - 161:17</p> <p>wants [6] - 86:11, 126:21, 254:7, 255:16, 271:21, 279:11</p> <p>Wanzek [6] - 231:25, 232:1, 232:8, 232:12, 234:14, 238:3</p> <p>Warford [4] - 52:13, 224:13, 257:16, 259:6</p> <p>Warford's [1] - 258:6</p> <p>warming [1] - 211:2</p> <p>warning [1] - 222:12</p> <p>waste [2] - 163:3, 273:5</p> <p>wasted [2] - 145:15, 212:15</p> <p>watch [2] - 143:13, 256:24</p> <p>watched [1] - 279:23</p> <p>watching [2] - 174:16, 256:1</p> <p>Water [2] - 210:12, 285:22</p> <p>water [21] - 145:14, 163:19, 163:20, 164:1, 164:14, 186:19, 186:20, 186:22, 210:17, 210:18, 211:13, 211:14, 217:15, 217:18, 217:19, 268:13, 269:6, 283:11, 289:19, 294:11</p> <p>watercoolers [1] - 6:9</p> <p>waterers [3] - 163:19, 164:1, 164:13</p> <p>Waterfowl [6] - 288:21, 288:22, 288:23, 288:24, 288:25</p>	<p>waterfowl [2] - 283:8, 283:24</p> <p>Waters [1] - 199:14</p> <p>waterway [1] - 110:10</p> <p>Waugh [1] - 19:6</p> <p>Wayne [1] - 45:24</p> <p>ways [2] - 217:20, 218:25</p> <p>weather [3] - 105:13, 219:15, 225:13</p> <p>website [5] - 80:18, 210:14, 210:21, 217:23, 227:11</p> <p>weed [2] - 282:20, 282:22</p> <p>weeds [1] - 224:25</p> <p>week [6] - 185:15, 195:3, 223:21, 245:19, 284:20, 288:6</p> <p>weeks [1] - 289:11</p> <p>Welch [1] - 58:4</p> <p>welcome [1] - 214:17</p> <p>welcomed [1] - 5:19</p> <p>welfare [1] - 7:20</p> <p>well-resourced [1] - 100:5</p> <p>wells [2] - 211:12, 213:8</p> <p>West [3] - 67:7, 67:8, 247:6</p> <p>west [19] - 49:19, 55:24, 57:20, 57:22, 67:6, 71:16, 72:2, 73:18, 122:6, 125:10, 128:9, 128:13, 150:12, 169:16, 169:25, 193:23, 217:5, 243:17, 261:19</p> <p>western [2] - 76:6, 273:18</p> <p>wet [6] - 192:6, 192:7, 192:10, 192:12, 192:19, 235:5</p> <p>wetland [5] - 193:11, 282:15, 283:24, 289:20, 294:3</p> <p>wetlands [6] - 193:3, 294:6, 294:18, 294:24, 295:3, 295:17</p> <p>whatnot [1] - 155:10</p> <p>wheat [2] - 236:14, 246:23</p> <p>whereas [1] - 205:16</p> <p>whereby [1] - 309:12</p> <p>white [2] - 223:16, 223:25</p> <p>Whiteford [4] - 10:9, 300:20, 300:25, 306:6</p> <p>whole [14] - 36:14,</p>	<p>43:16, 84:16, 147:8, 174:14, 181:9, 182:8, 182:9, 182:13, 183:5, 188:6, 244:3, 292:15</p> <p>wholly [1] - 67:10</p> <p>wide [2] - 100:5, 132:23</p> <p>width [6] - 90:17, 90:20, 90:21, 91:1, 110:21, 282:17</p> <p>wife [1] - 171:12</p> <p>wildlife [4] - 122:22, 142:24, 193:4, 283:22</p> <p>Wildlife [10] - 283:2, 283:5, 283:23, 293:10, 293:24, 295:8, 295:13, 296:16, 296:20, 296:24</p> <p>Wildlife's [1] - 295:18</p> <p>willful [1] - 117:2</p> <p>willing [5] - 75:21, 194:6, 267:24, 269:12, 273:7</p> <p>willingness [1] - 101:4</p> <p>win [3] - 237:18, 245:25</p> <p>win-win [1] - 237:18</p> <p>wind [1] - 268:21</p> <p>window [1] - 197:12</p> <p>winds [5] - 143:6, 143:10, 143:14, 222:11, 224:9</p> <p>winners [1] - 156:3</p> <p>winter [8] - 54:11, 63:12, 63:14, 63:15, 65:16, 236:22</p> <p>winters [1] - 163:21</p> <p>wish [1] - 63:2</p> <p>wishes [2] - 6:16, 16:9</p> <p>wishing [1] - 4:6</p> <p>withdraw [2] - 264:12, 264:15</p> <p>withdrew [5] - 263:1, 263:9, 264:6, 264:10, 264:19</p> <p>witness [25] - 8:24, 9:3, 9:4, 9:5, 9:6, 16:25, 17:1, 17:15, 30:8, 30:11, 33:13, 40:24, 44:19, 48:5, 58:10, 64:23, 86:9, 86:15, 97:8, 138:11, 140:4, 178:14, 279:10, 283:10</p> <p>WITNESS [114] - 36:4, 38:1, 38:16, 38:24, 39:4, 39:6, 39:20, 40:8, 40:14, 41:9, 41:15, 42:5, 42:15, 43:5, 43:20, 68:11,</p>	<p>70:25, 71:4, 71:8, 71:13, 71:18, 71:24, 72:4, 72:8, 72:10, 72:14, 73:1, 73:11, 73:15, 73:20, 73:23, 74:1, 74:18, 75:3, 75:9, 75:15, 75:22, 76:9, 77:2, 77:20, 78:3, 78:14, 78:16, 79:3, 79:11, 79:14, 79:16, 79:20, 79:25, 80:6, 80:12, 81:3, 81:6, 81:12, 81:18, 82:3, 82:6, 82:13, 82:17, 82:21, 82:24, 83:3, 83:11, 83:16, 83:21, 86:6, 104:25, 110:17, 111:7, 112:7, 112:19, 113:16, 114:8, 114:11, 114:13, 114:18, 115:2, 115:11, 115:19, 116:4, 116:12, 117:12, 117:18, 117:21, 117:23, 118:9, 118:12, 119:15, 120:5, 120:19, 120:24, 121:20, 121:25, 122:4, 123:3, 123:7, 123:10, 123:17, 124:15, 124:18, 125:1, 125:4, 125:21, 126:14, 127:15, 127:25, 128:18, 137:12, 297:13, 297:16, 297:19, 297:24, 298:6, 298:16</p> <p>witnessed [3] - 217:20, 220:19, 220:22</p> <p>witnesses [18] - 8:9, 8:20, 8:22, 8:23, 9:3, 9:24, 10:3, 10:4, 11:20, 16:14, 16:15, 18:18, 140:5, 281:16, 283:9, 299:18, 309:14, 309:15</p> <p>witnesses' [1] - 10:8</p> <p>wonder [3] - 155:1, 177:3, 198:23</p> <p>wondering [14] - 62:16, 97:19, 99:3, 99:8, 100:10, 146:19, 147:1, 166:4, 167:21, 201:17, 215:15, 226:23, 240:13, 290:21</p> <p>wood [1] - 192:10</p>
W				
<p>Wachter [4] - 52:12, 257:15, 259:6, 261:24</p> <p>WADE [6] - 44:24, 45:2, 45:6, 45:9, 45:13, 45:17</p> <p>Wade [14] - 9:4, 44:20, 44:24, 45:22, 45:24, 45:25, 51:16, 52:9, 58:10, 84:8, 156:19, 257:15, 260:20, 262:9</p> <p>Wahpeton [3] - 12:5, 309:8, 309:20</p> <p>wait [9] - 11:9, 55:6, 62:9, 63:3, 66:5,</p>				

<p>word ^[7] - 48:6, 146:25, 191:10, 191:19, 197:22, 248:25, 249:4</p> <p>words ^[1] - 301:21</p> <p>workers ^[1] - 302:18</p> <p>workforce ^[9] - 41:6, 300:21, 301:2, 301:9, 301:20, 302:4, 302:10, 302:17, 302:22</p> <p>works ^[5] - 195:4, 211:11, 237:18, 270:2, 270:10</p> <p>workspace ^[2] - 111:21, 131:8</p> <p>world ^[4] - 144:14, 237:23, 238:2, 247:9</p> <p>worldwide ^[1] - 235:7</p> <p>worried ^[1] - 187:13</p> <p>worse ^[2] - 165:7, 211:10</p> <p>worst ^[2] - 211:16, 250:16</p> <p>worth ^[5] - 161:2, 161:14, 187:7, 262:21, 276:20</p> <p>wow ^[1] - 215:1</p> <p>write ^[2] - 119:7, 287:18</p> <p>writing ^[3] - 96:24, 286:19, 286:21</p> <p>written ^[36] - 15:2, 15:3, 16:23, 16:24, 19:12, 21:4, 23:9, 25:12, 26:14, 26:17, 26:22, 28:14, 37:17, 46:14, 47:1, 48:7, 48:10, 59:14, 60:13, 66:25, 68:4, 69:8, 70:4, 87:23, 87:25, 88:9, 92:21, 108:12, 212:7, 215:24, 255:13, 281:7, 281:18, 281:19, 307:7</p> <p>wrote ^[1] - 20:1</p>	<p>years ^[35] - 21:21, 29:17, 29:20, 32:15, 39:13, 42:1, 43:22, 69:16, 69:17, 69:19, 84:24, 101:24, 109:25, 112:9, 133:7, 143:18, 155:25, 159:22, 160:21, 169:10, 176:5, 176:7, 180:1, 181:14, 182:18, 212:3, 220:13, 225:6, 233:2, 238:11, 245:23, 248:16, 268:2, 273:2, 287:11</p> <p>years' ^[1] - 18:6</p> <p>Yellowstone ^[1] - 219:23</p> <p>Young ^[3] - 41:15, 47:3, 48:19</p> <p>young ^[3] - 199:12, 224:3, 224:25</p> <p>yourself ^[5] - 5:23, 8:8, 130:2, 130:7, 202:22</p>
Z	
	<p>Zach ^[1] - 230:10</p> <p>Zachary ^[1] - 9:12</p> <p>Zaste ^[1] - 9:22</p> <p>Zenker ^[3] - 77:4, 77:18, 261:7</p> <p>zero ^[6] - 36:16, 36:17, 36:21, 200:25, 205:4, 205:22</p> <p>zigzags ^[1] - 208:2</p> <p>zone ^[2] - 180:13, 199:23</p> <p>zoning ^[9] - 80:17, 166:11, 166:24, 168:14, 199:18, 199:24, 221:23, 222:2</p>
X	
X-rayed ^[1] - 273:16	
Y	
<p>year ^[15] - 12:6, 60:5, 60:8, 84:20, 94:24, 141:2, 154:19, 210:1, 212:18, 212:20, 217:6, 222:15, 234:24, 269:4, 285:16</p> <p>year's ^[1] - 210:8</p>	