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

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<p>1 ALJ HOGAN: All right. Thank you.</p> <p>2 Mr. Leibel.</p> <p>3 MR. LEIBEL: Yes, one thing, Judge. I just</p> <p>4 wanted to advise the Court we either have filed or will</p> <p>5 file this morning a motion for Brian so he can appear --</p> <p>6 or Mr. Jorde can appear tomorrow without local counsel</p> <p>7 making the drive to Linton.</p> <p>8 ALJ HOGAN: It's been filed. I saw it this</p> <p>9 morning and I will grant it and, hopefully, a paper</p> <p>10 order will go out today, but, if not, I'm on the record</p> <p>11 saying it will be granted so...</p> <p>12 MR. LEIBEL: Thank you, Judge. I just wanted to</p> <p>13 let you know.</p> <p>14 ALJ HOGAN: All right. Anything else?</p> <p>15 All right. Mr. Phillips, I think you have the</p> <p>16 first witness this morning.</p> <p>17 MR. PHILLIPS: Yes. Good morning, Your Honor.</p> <p>18 And just to introduce myself, I am David Phillips</p> <p>19 representing Burleigh County, filling in for Randy Bakke</p> <p>20 today.</p> <p>21 We call Bailey Elkins.</p> <p>22 ALJ HOGAN: Ms. Elkins, can you hear me okay?</p> <p>23 BAILEY ELKINS: Yes, I can.</p> <p>24 ALJ HOGAN: All right. Now I can hear you.</p> <p>25 Great. Before you -- well, I'll have you start by</p> <p>PAGE 5</p>	<p>1 and clarify some issues that came up in her previous</p> <p>2 testimony.</p> <p>3 <b><u>BAILEY ELKINS.</u></b></p> <p>4 being first duly sworn, was examined and testified as</p> <p>5 follows:</p> <p>6 DIRECT EXAMINATION</p> <p>7 BY MR. PHILLIPS:</p> <p>8 Q. Ms. Elkins, can you state your name for the</p> <p>9 record?</p> <p>10 A. <b>Bailey Elkins.</b></p> <p>11 Q. What is your occupation?</p> <p>12 A. <b>I currently work as a project manager with</b></p> <p>13 <b>training as a geologist.</b></p> <p>14 Q. Can you tell the commissioners about your</p> <p>15 educational background specifically relating to drinking</p> <p>16 water, source water, and surface water?</p> <p>17 A. <b>Certainly. I have a bachelor's of science in</b></p> <p>18 <b>geoscience with coursework emphasis on geochemistry,</b></p> <p>19 <b>hydrogeology, and geophysics.</b></p> <p>20 Q. And can you tell the commissioners your work</p> <p>21 history, again with a particular emphasis on those water</p> <p>22 and slope issues?</p> <p>23 A. <b>I have worked as an environmental geologist in</b></p> <p>24 <b>pipeline remediation and environmental day permitting,</b></p> <p>25 <b>as well as source water protection specialist for North</b></p> <p>PAGE 7</p>
<p>1 stating your full name for the record and spelling your</p> <p>2 last name.</p> <p>3 BAILEY ELKINS: Bailey Elkins, E-L-K-I-N-S.</p> <p>4 ALJ HOGAN: And, Ms. Elkins, before you testify</p> <p>5 this morning, I'm required by law to advise you on the</p> <p>6 penalties for perjury in the state of North Dakota.</p> <p>7 Perjury is a Class C felony, punishable by a</p> <p>8 maximum fine of \$10,000, a maximum five years'</p> <p>9 imprisonment, or both.</p> <p>10 Do you understand what perjury is?</p> <p>11 BAILEY ELKINS: Yes.</p> <p>12 ALJ HOGAN: And being advised of the potential</p> <p>13 penalties for perjury, do you promise to tell the truth</p> <p>14 in this case today?</p> <p>15 BAILEY ELKINS: I do.</p> <p>16 ALJ HOGAN: All right. Thank you.</p> <p>17 Go ahead, Mr. Phillips.</p> <p>18 MR. PHILLIPS: Thank you, Your Honor.</p> <p>19 And just very briefly before I question, just to</p> <p>20 let the commissioners know Ms. Elkins did previously</p> <p>21 testify in this matter as a member of the public on</p> <p>22 October 22nd, 2024, just about her concerns in relation</p> <p>23 to the pipeline near her home. She's going to testify</p> <p>24 today about additional issues relating to drinking</p> <p>25 water, source water, surface water, and slope issues,</p> <p>PAGE 6</p>	<p>1 <b>Dakota -- North Dakota Rural Water Systems Association</b></p> <p>2 <b>for over five years as a source water protection</b></p> <p>3 <b>specialist working with communities to understand their</b></p> <p>4 <b>drinking water sources and providing -- or helping them</b></p> <p>5 <b>develop pragmatic solutions to protect their drinking</b></p> <p>6 <b>water.</b></p> <p>7 Q. And in preparation for your testimony today,</p> <p>8 have you reviewed these documents that were provided by</p> <p>9 my office?</p> <p>10 A. <b>I have.</b></p> <p>11 Q. I'll just briefly read through the list of</p> <p>12 documents and just have you confirm at the end that you</p> <p>13 did receive and review those documents. Phase I</p> <p>14 Geohazards Assessment document dated January 30th, 2024,</p> <p>15 specifically at section 6. And for the record, that's</p> <p>16 Docket 437-7.</p> <p>17 Prefiled testimony of James Powell regarding</p> <p>18 geological instability. Just again at page 6 along with</p> <p>19 Exhibit C. That's Docket 530 and also hearing Exhibit</p> <p>20 SCS R-12.</p> <p>21 A letter from Edward Murphy to Victor Schock</p> <p>22 dated March 3, 2023. That's Docket 64. Letter from SCS</p> <p>23 Carbon Transport to North Dakota Geological Survey,</p> <p>24 dated March 31st, 2023. That's Docket 165. Letter from</p> <p>25 Edward Murphy to Victor Schock dated March 7th, 2024.</p> <p>PAGE 8</p>

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<p>1 That's Docket 457.</p> <p>2 Portions of SCS Carbon Transport's petition for</p> <p>3 reconsideration at Docket 371.</p> <p>4 And the Bismarck route analysis by Summit Carbon</p> <p>5 Solutions filed with the PSC on January 24th, 2024. And</p> <p>6 that's at Docket 432.</p> <p>7 Just confirming that you've received those</p> <p>8 documents and have reviewed them?</p> <p>9 <b>A. I have.</b></p> <p>10 <b>Q.</b> Have you seen anything in what you've reviewed</p> <p>11 to suggest that Summit indicates it will follow best</p> <p>12 practices in relation to geohazard assessment to</p> <p>13 identify high hazard or landslide erosion areas?</p> <p>14 <b>A. I've seen some evidence that they've attempted</b></p> <p>15 <b>to follow some best practices; however, not in their</b></p> <p>16 <b>entirety.</b></p> <p>17 <b>Q.</b> Can you explain that last part, "not in their</p> <p>18 entirety"?</p> <p>19 <b>A. Specifically, that they have attempted to</b></p> <p>20 <b>conduct field assessments but have not engaged in field</b></p> <p>21 <b>assessments of all identified slide areas or high slope</b></p> <p>22 <b>areas.</b></p> <p>23 <b>Q.</b> Have you seen anything to suggest that Summit</p> <p>24 plans to account for crossing ephemeral or seasonal</p> <p>25 water features?</p> <p>PAGE 9</p>	<p>1 <b>Q.</b> Do you believe the PSC should impose</p> <p>2 requirements on Summit in that regard?</p> <p>3 <b>A. I do. I do.</b></p> <p>4 <b>Q.</b> Let's talk a little bit about slope stability</p> <p>5 specifically. At the April 22nd hearing, did Mr. Pelham</p> <p>6 ask you some questions about slope stability in relation</p> <p>7 to the pipeline?</p> <p>8 <b>A. He did. He asked what my recommendation would</b></p> <p>9 <b>be, which I suggested having field geologists review the</b></p> <p>10 <b>route in person.</b></p> <p>11 <b>Q.</b> Actually going out to the site in person; right?</p> <p>12 <b>A. Correct.</b></p> <p>13 <b>Q.</b> Based on your review of the documents in this</p> <p>14 case, do you still have concerns about Summit not having</p> <p>15 sent field geologists out to the field?</p> <p>16 <b>A. I do have concerns only identified slopes -- or</b></p> <p>17 <b>identified landslides have been visited in person, and</b></p> <p>18 <b>even those that have been identified, Summit has said</b></p> <p>19 <b>that they've only visited a subset of those. And while</b></p> <p>20 <b>active landslides would pose a hazard, there's also the</b></p> <p>21 <b>possibility that significant precipitation events just</b></p> <p>22 <b>like we saw east of Jamestown yesterday -- or west of</b></p> <p>23 <b>Jamestown, excuse me, could contribute to new slides.</b></p> <p>24 <b>So that type of slope identification, or lack of, would</b></p> <p>25 <b>be hazardous to the pipe.</b></p> <p>PAGE 11</p>
<p>1 <b>A. I have not.</b></p> <p>2 <b>Q.</b> Is it your experience that large precipitation</p> <p>3 or run-off events can contribute to significant erosion?</p> <p>4 <b>A. It is.</b></p> <p>5 <b>Q.</b> Have you seen anything -- I'm sorry, go ahead.</p> <p>6 <b>A. Go ahead. No, that's okay.</b></p> <p>7 <b>Q.</b> Have you seen anything to suggest that Summit</p> <p>8 plans to identify locations where civil or geotechnical</p> <p>9 mitigation measures are needed to minimize slope</p> <p>10 movement?</p> <p>11 <b>A. I've seen suggestions from Summit's consultant,</b></p> <p>12 <b>but I haven't seen any indications that those</b></p> <p>13 <b>suggestions would be implemented.</b></p> <p>14 <b>Q.</b> Have you seen anything to suggest that Summit</p> <p>15 plans to develop site-specific reclamation and</p> <p>16 re-vegetation strategies?</p> <p>17 <b>A. I have not.</b></p> <p>18 <b>Q.</b> These various issues that you just addressed, do</p> <p>19 they address and are related to environmental concerns</p> <p>20 as well as health and safety concerns related to the</p> <p>21 pipeline?</p> <p>22 <b>A. Environmental concerns, I would be concerned</b></p> <p>23 <b>about significant erosion from inadequate re-vegetation</b></p> <p>24 <b>and the potential for a site rupture if too much soil</b></p> <p>25 <b>were removed or were to expose that pipe.</b></p> <p>PAGE 10</p>	<p>1 <b>Q.</b> Following the April 22nd hearing, did you</p> <p>2 conduct some further research to try to address</p> <p>3 Mr. Pelham's questions?</p> <p>4 <b>A. I did. I heard Mr. Pelham ask a representative</b></p> <p>5 <b>from Summit what -- if that was industry best practices.</b></p> <p>6 <b>So I identified several documents, one from a pipeline</b></p> <p>7 <b>transmission company on their operating practices for</b></p> <p>8 <b>how they handle construction and landslide mitigation,</b></p> <p>9 <b>as well as an additional document put together by</b></p> <p>10 <b>several larger pipeline operators in conjunction with</b></p> <p>11 <b>The Nature Conservancy that identified best practices in</b></p> <p>12 <b>high slope areas.</b></p> <p>13 <b>Q.</b> Thank you.</p> <p>14 And let's turn to those one at a time. I'm</p> <p>15 going to have you look at Exhibit BC131. Ms. Elkins,</p> <p>16 let me know when you have that up.</p> <p>17 <b>A. I do.</b></p> <p>18 <b>Q.</b> And is this one of the reports that you just</p> <p>19 mentioned a moment ago?</p> <p>20 <b>A. It is.</b></p> <p>21 <b>Q.</b> And is this document a collaboration between</p> <p>22 various oil and gas pipeline companies and The Nature</p> <p>23 Conservancy?</p> <p>24 <b>A. It is.</b></p> <p>25 <b>Q.</b> Do you believe this report has some helpful</p> <p>PAGE 12</p>

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<p>1 information that the PSC should consider in relation to</p> <p>2 the Summit pipeline?</p> <p>3 <b>A. I do.</b></p> <p>4 MR. PHILLIPS: Your Honor, I would move to</p> <p>5 introduce Exhibit BC131.</p> <p>6 ALJ HOGAN: Any objection?</p> <p>7 MR. GLUDT: No objection, Your Honor.</p> <p>8 ALJ HOGAN: Mr. Leibel.</p> <p>9 MR. LEIBEL: We have no objection.</p> <p>10 ALJ HOGAN: Mr. Pelham.</p> <p>11 MR. PELHAM: No objection.</p> <p>12 ALJ HOGAN: All right. BC131 is received.</p> <p>13 <b>Q.</b> (BY MR. PHILLIPS) And specifically what aspect</p> <p>14 of this report do you think would be useful for the PSC</p> <p>15 in rendering a decision in this case?</p> <p>16 <b>A. I think the PSC would benefit from the</b></p> <p>17 <b>preconstruction phase information provided in this</b></p> <p>18 <b>report, as well as potential best practices and</b></p> <p>19 <b>operation and maintenance best practices, that it would</b></p> <p>20 <b>be helpful in ensuring that Summit is following the best</b></p> <p>21 <b>practices identified by these oil and gas pipeline</b></p> <p>22 <b>operators considering that a rupture in their pipe could</b></p> <p>23 <b>pose significant hazards to those of us who reside near</b></p> <p>24 <b>the pipeline.</b></p> <p>25 <b>Q.</b> And does this report identify best practices</p> <p>PAGE 13</p>	<p>1 <b>have concerns on how that could impact local water</b></p> <p>2 <b>tables and especially local perched aquifers that serve</b></p> <p>3 <b>as the sole drinking water source for more remote rural</b></p> <p>4 <b>residents.</b></p> <p>5 <b>Q.</b> And do you believe the PSC should require Summit</p> <p>6 to follow best practices and address these concerns?</p> <p>7 <b>A. I do.</b></p> <p>8 <b>Q.</b> Does this report also address the operations and</p> <p>9 maintenance phase for the pipelines?</p> <p>10 <b>A. It does.</b></p> <p>11 <b>Q.</b> And does it describe best practices?</p> <p>12 <b>A. It does describe best practices.</b></p> <p>13 <b>Q.</b> Again, just generally describe for the</p> <p>14 Commission what this report says about those best</p> <p>15 practices.</p> <p>16 <b>A. For the operations and maintenance phase, it</b></p> <p>17 <b>identifies what -- how often things should be reviewed,</b></p> <p>18 <b>how often things should -- and I have seen some</b></p> <p>19 <b>information regarding that in (indiscernible) -- in</b></p> <p>20 <b>Summit's application, but I have not seen everything</b></p> <p>21 <b>identified. And I apologize, it's been a little while</b></p> <p>22 <b>since I've read that. I don't think I can identify or</b></p> <p>23 <b>briefly summarize for you.</b></p> <p>24 <b>Q.</b> In any event, based on your --</p> <p>25 <b>A. I was more concerned on the hazardous mitigation</b></p> <p>PAGE 15</p>
<p>1 specifically to improve steep slope pipeline</p> <p>2 construction?</p> <p>3 <b>A. It does.</b></p> <p>4 <b>Q.</b> And maybe just very briefly tell the Commission</p> <p>5 generally what the report says about that.</p> <p>6 <b>A. So the report outlines best practices during</b></p> <p>7 <b>construction identifying hazard areas, crossing -- water</b></p> <p>8 <b>crossings, locations where additional measures would</b></p> <p>9 <b>need to be taken place, and then site-specific</b></p> <p>10 <b>activities when they are reclaiming that site or</b></p> <p>11 <b>reburying that, as well as additional best practices</b></p> <p>12 <b>during the construction phase of the pipeline and how --</b></p> <p>13 <b>and in siting the pipeline.</b></p> <p>14 <b>Q.</b> Have you seen anything to suggest that Summit</p> <p>15 has best practices in place to ensure optimal placement</p> <p>16 and installation of slope barriers?</p> <p>17 <b>A. I've seen some effort to avoid slope areas and</b></p> <p>18 <b>be guided by the North Dakota Geological Survey, but I</b></p> <p>19 <b>have not seen anything along the route beyond the</b></p> <p>20 <b>guidance provided by the North Dakota Geological Survey,</b></p> <p>21 <b>to my recollection.</b></p> <p>22 <b>Q.</b> Have you seen anything to suggest that Summit</p> <p>23 plans to follow best practices to optimize groundwater</p> <p>24 management during the construction?</p> <p>25 <b>A. I have not beyond horizontal boring, but I do</b></p> <p>PAGE 14</p>	<p>1 <b>during construction and identifying the site.</b></p> <p>2 <b>Q.</b> Based on your review of it, do you believe it</p> <p>3 would be appropriate for the PSC to require Summit to</p> <p>4 follow those best practices?</p> <p>5 <b>A. Absolutely.</b></p> <p>6 <b>Q.</b> I'm going to have you now look at Exhibit BC132.</p> <p>7 <b>A. I have it available.</b></p> <p>8 <b>Q.</b> Is this the other document you referred to</p> <p>9 earlier that you found in your research?</p> <p>10 <b>A. It is.</b></p> <p>11 <b>Q.</b> And is this a slope stability procedure document</p> <p>12 for the construction of an actual pipeline?</p> <p>13 <b>A. It is.</b></p> <p>14 <b>Q.</b> And it appears this was prepared by Dominion</p> <p>15 Transmission, Inc.; is that right?</p> <p>16 <b>A. That is correct.</b></p> <p>17 <b>Q.</b> What type of pipeline is covered by this</p> <p>18 document?</p> <p>19 <b>A. It is a natural gas pipeline.</b></p> <p>20 <b>Q.</b> Is there information in this policy and</p> <p>21 procedure that you believe would be helpful for the PSC</p> <p>22 to consider in this case?</p> <p>23 <b>A. I believe the PSC should consider the field</b></p> <p>24 <b>reconnaissance portion of this pipeline as well as some</b></p> <p>25 <b>of the slope failure training policies that are laid out</b></p> <p>PAGE 16</p>

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<p>1 and slope failure mitigation practices and also consider</p> <p>2 what inspections have been required as carbon dioxide</p> <p>3 leaks are more hazardous than natural gas.</p> <p>4 MR. PHILLIPS: Your Honor, I'd move to introduce</p> <p>5 Exhibit BC132.</p> <p>6 ALJ HOGAN: Any objection, Mr. Gludt?</p> <p>7 MR. GLUDT: No objection, Your Honor.</p> <p>8 ALJ HOGAN: Mr. Pelham.</p> <p>9 MR. PELHAM: No objection.</p> <p>10 ALJ HOGAN: All right. BC132 is received.</p> <p>11 Q. (BY MR. PHILLIPS) Have you seen anything to</p> <p>12 suggest that Summit has prepared a similar policy and</p> <p>13 procedure in writing for the pipeline design,</p> <p>14 construction, and maintenance in this case?</p> <p>15 A. I have seen some information regarding</p> <p>16 maintenance, but I've not seen anything for the</p> <p>17 construction phase of the project.</p> <p>18 Q. Do you believe it would be advisable for Summit</p> <p>19 to go ahead and prepare that for that additional issue?</p> <p>20 A. I do.</p> <p>21 Q. In your opinion, is the slope stability policy</p> <p>22 and procedure important?</p> <p>23 A. I think the slope stability policies and</p> <p>24 construction procedures are very important. Potential</p> <p>25 slides could have significant impact on that. In fact,</p> <p>PAGE 17</p>	<p>1 Q. How would you define "source water"?</p> <p>2 A. In the drinking water industry, source water is</p> <p>3 identified as a source of drinking water so where water</p> <p>4 is supplied from.</p> <p>5 Q. And what is a source water protection area?</p> <p>6 A. Source water protection areas are defined as an</p> <p>7 area that could -- well, back up. For groundwater,</p> <p>8 source water protection areas are defined as an area</p> <p>9 that could potentially have impact on a drinking water</p> <p>10 supply within about a five-year period. It's generally</p> <p>11 modeled to identify the contribution area from the</p> <p>12 aquifer to the well.</p> <p>13 For communities and areas that provide -- or</p> <p>14 that are utilizing what we traditionally think of as</p> <p>15 water bodies -- lakes, rivers, streams -- as their</p> <p>16 drinking water supply, source water protection areas are</p> <p>17 generally indicated to be an entire watershed. However,</p> <p>18 for the state of North Dakota, that would make our</p> <p>19 entire state a source water protection area so it has</p> <p>20 been limited in scope where it extends a certain amount</p> <p>21 of river miles upstream and a thousand feet beyond the</p> <p>22 high-water mark of that water body.</p> <p>23 Q. Do you have any concerns about the potential</p> <p>24 impacts of the Summit pipeline on source water?</p> <p>25 A. I do have some concerns if there were, in fact,</p> <p>PAGE 19</p>
<p>1 the pipeline regulatory agency -- oh, gosh, I'm going to</p> <p>2 say the acronym wrong and I apologize -- of PHMSA,</p> <p>3 pipeline hazardous materials association -- I'm sorry --</p> <p>4 but they've released a document several years back that</p> <p>5 I referred to in my previous testimony to indicate how</p> <p>6 slope stability issues have had significant impacts on</p> <p>7 pipelines and the hazards that they prevent.</p> <p>8 The more stringent we can be in requiring these</p> <p>9 things, the more likely -- or the more assured we, the</p> <p>10 public, can be that these practices will be followed and</p> <p>11 that the construction companies are following what has</p> <p>12 been proposed in the application.</p> <p>13 Q. What types of hazards do policies and procedures</p> <p>14 like this help prevent?</p> <p>15 A. In my experience, even in water transmission</p> <p>16 lines, operators essentially shake their fist at the</p> <p>17 as-builts, that things aren't necessarily done right.</p> <p>18 So providing -- or insisting on training and policies</p> <p>19 for how to handle certain areas like this would prevent</p> <p>20 any kind of passing of liability to the construction</p> <p>21 company, saying, "Well, we just didn't know better," and</p> <p>22 ensuring that everyone working on this pipeline is on</p> <p>23 the same page while they're building things and also</p> <p>24 avoiding hazardous areas even as they're identified in</p> <p>25 the field.</p> <p>PAGE 18</p>	<p>1 any ruptures. CO2 has been considered a pollutant and</p> <p>2 it's also heavier than air. I can foresee it impacting</p> <p>3 those water bodies and also potentially, in the event</p> <p>4 of, like, a Missouri River crossing, water treatment</p> <p>5 plants at the Missouri River Valley.</p> <p>6 Q. Are there any statutes in North Dakota that</p> <p>7 contain regulations or rules relating to the operation</p> <p>8 of water resource districts?</p> <p>9 A. There are.</p> <p>10 Q. Have you looked at those before your testimony</p> <p>11 today?</p> <p>12 A. I have reviewed them.</p> <p>13 Q. Does Burleigh County, to your understanding,</p> <p>14 have a water resource district?</p> <p>15 A. They do.</p> <p>16 Q. And is it your understanding Burleigh County is</p> <p>17 bound by State statutes in relation to the operation of</p> <p>18 the Burleigh County Water Resource District?</p> <p>19 A. Yes.</p> <p>20 Q. And just to be clear, those statutes are found</p> <p>21 in Chapter 61-16.1 of the North Dakota Century Code?</p> <p>22 A. Correct.</p> <p>23 Q. Based on your understanding of the law, is it --</p> <p>24 does the water resource board have the power and</p> <p>25 authority to make rules and regulations concerning the</p> <p>PAGE 20</p>

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<p>1 management, control, regulation, and conservation of</p> <p>2 waters and prevent the pollution, contamination, and</p> <p>3 other misuse of water resources, streams, or bodies of</p> <p>4 water included within the district?</p> <p>5 <b>A. I believe that is the language, so yeah.</b></p> <p>6 <b>Q.</b> Is it your understanding that supercritical CO2</p> <p>7 in large concentrations is a pollutant?</p> <p>8 <b>A. Yes.</b></p> <p>9 <b>Q.</b> Is it your understanding that the Burleigh</p> <p>10 County Water Resource District has the power and</p> <p>11 authority to make rules and regulations concerning the</p> <p>12 management, control, regulation, and conservation of</p> <p>13 waters to prevent pollution contamination or other</p> <p>14 misuses of water?</p> <p>15 <b>A. It is.</b></p> <p>16 <b>Q.</b> From your work with the North Dakota Rural Water</p> <p>17 Systems Association and otherwise, are you familiar with</p> <p>18 the city of Bismarck and where they get the water</p> <p>19 sources from?</p> <p>20 <b>A. Missouri River is the water supply for the city</b></p> <p>21 <b>of Bismarck.</b></p> <p>22 <b>Q.</b> On the area where the Summit pipeline reroute is</p> <p>23 proposed, the areas, are there nearby pipelines that</p> <p>24 provide water to the city of Bismarck or other</p> <p>25 municipalities in Burleigh County?</p> <p>PAGE 21</p>	<p>1 I'd worked with previously in my position as the source</p> <p>2 water protection specialist for North Dakota Rural Water</p> <p>3 Systems Association, asking if they'd potentially be</p> <p>4 willing to share that map with me. And initially I was</p> <p>5 told that they would. However, upon further follow-up,</p> <p>6 I was told that that information would not be provided</p> <p>7 to me, that there were concerns about potential</p> <p>8 political ramifications of allowing that to be shared</p> <p>9 with the Public Service Commission for this hearing.</p> <p>10 <b>Q.</b> What are the potential adverse consequences of a</p> <p>11 CO2 leak into the water supply or the drinking water in</p> <p>12 Burleigh County?</p> <p>13 <b>A. The initial concern that I would have for a</b></p> <p>14 <b>water -- or a CO2 leak would be incapacitating people</b></p> <p>15 <b>near -- or at the water treatment plant, that operate</b></p> <p>16 <b>that, followed by CO2 dissolves in the water, displacing</b></p> <p>17 <b>dissolved oxygen which makes that water not --</b></p> <p>18 <b>potentially unfit for aquatic life, as well as altering</b></p> <p>19 <b>the pH which could impact how the water is treated by</b></p> <p>20 <b>that plant, assuming that there were no catastrophic</b></p> <p>21 <b>issues for those operating it.</b></p> <p>22 <b>Q.</b> How deep is the South Central Regional Water</p> <p>23 District pipeline buried below the ground?</p> <p>24 <b>A. Best practices in the state of North Dakota are</b></p> <p>25 <b>to bury the pipelines around eight feet deep to avoid</b></p> <p>PAGE 23</p>
<p>1 <b>A. I believe the South Central water treatment</b></p> <p>2 <b>plant is a little over two and a half miles south of the</b></p> <p>3 <b>proposed pipeline crossing, which provides water to the</b></p> <p>4 <b>city of Wilton, numerous develop -- rural developments</b></p> <p>5 <b>and homeowners associations, portions of north Bismarck,</b></p> <p>6 <b>and I believe also extending out towards municipalities</b></p> <p>7 <b>near the city of Wing -- or not municipalities but</b></p> <p>8 <b>homes.</b></p> <p>9 <b>Q.</b> Ms. Elkins, I'm going to have you look at BC107</p> <p>10 which was previously admitted into evidence in this</p> <p>11 case.</p> <p>12 <b>A. Okay.</b></p> <p>13 <b>Q.</b> And what does this image depict?</p> <p>14 <b>A. This image depicts the pipeline's proposed route</b></p> <p>15 <b>in crossing the Missouri River. There's also culled out</b></p> <p>16 <b>the South Central Regional Water District's water</b></p> <p>17 <b>treatment plant and water intake.</b></p> <p>18 <b>Q.</b> Do you know where the pipelines go from the</p> <p>19 South Central Regional Water District?</p> <p>20 <b>A. I have a general understanding of where the</b></p> <p>21 <b>pipelines go; however, I have not seen a distribution</b></p> <p>22 <b>map beyond visiting their office and seeing things on</b></p> <p>23 <b>the walls in the past.</b></p> <p>24 <b>Q.</b> Have you tried --</p> <p>25 <b>A. I reached out to -- I reached out to people that</b></p> <p>PAGE 22</p>	<p>1 freeze-up. The South Central Regional Water District</p> <p>2 pipes are generally buried from about seven and a half</p> <p>3 to eight feet.</p> <p>4 <b>Q.</b> Is it your understanding the Summit pipeline is</p> <p>5 proposed to be a maximum of about four feet deep in this</p> <p>6 case?</p> <p>7 <b>A. It is.</b></p> <p>8 <b>Q.</b> Do you have any concerns about that?</p> <p>9 <b>A. I have some major concerns that they will be</b></p> <p>10 <b>crossing a number of water mains as well -- as well as</b></p> <p>11 <b>service lines that are providing water to different</b></p> <p>12 <b>residences. In the event of a break, which my</b></p> <p>13 <b>experience in the water industry has indicated are</b></p> <p>14 <b>frequent due to frost heaving and other ground movement</b></p> <p>15 <b>issues, if that break were to occur near Summit's pipe,</b></p> <p>16 <b>I think that it would cause significant additional</b></p> <p>17 <b>burden to those operating that water supply to have to</b></p> <p>18 <b>work around the pipeline or whatever best procedures are</b></p> <p>19 <b>going -- or best practices are going to be.</b></p> <p>20 <b>I did not research what the best practices are</b></p> <p>21 <b>for excavating near a CO2 pipeline, but I imagine it</b></p> <p>22 <b>would involve something like a hydrovacuum and</b></p> <p>23 <b>potentially shutting down of the pipeline. And as a</b></p> <p>24 <b>ratepayer for the water systems, I can only imagine how</b></p> <p>25 <b>that's going to increase the cost beyond just bringing</b></p> <p>PAGE 24</p>

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<p>1 out a backhoe and digging up a leak. There would be</p> <p>2 significantly more coordination. Those of us that would</p> <p>3 be impacted would be without water for much longer. And</p> <p>4 as said, it would drive up cost for those of us who are</p> <p>5 members of the water system for having to pay for these</p> <p>6 procedures to work around the pipeline that wasn't there</p> <p>7 when the rural water lines were put in.</p> <p>8 Q. Have you reviewed maps of the location of the</p> <p>9 proposed pipeline?</p> <p>10 A. I have.</p> <p>11 Q. And are you generally aware of where the</p> <p>12 proposed pipeline on the north side is installed or</p> <p>13 proposed to be installed in relation to Baldwin?</p> <p>14 A. I am. Didn't really -- okay.</p> <p>15 Q. Do you have any concerns about that?</p> <p>16 A. In relation to Baldwin, I think that it is</p> <p>17 remarkably close to the community, less than one mile</p> <p>18 away from the community, and that it will be crossing</p> <p>19 the South Central lines many times.</p> <p>20 Q. Do you have any concerns if the route was moved</p> <p>21 further south, you get further from Baldwin?</p> <p>22 A. If it was moved further south from Baldwin, I</p> <p>23 believe it would be impacting some of the other</p> <p>24 neighbors, many more densely populated areas such as The</p> <p>25 Ranch, and I believe it's already been rerouted further</p> <p>PAGE 25</p>	<p>1 ALJ HOGAN: Mr. Gludt, any questions?</p> <p>2 MR. GLUDT: Yes, Your Honor, just briefly.</p> <p>3 CROSS EXAMINATION</p> <p>4 BY MR. GLUDT:</p> <p>5 Q. Good morning, Ms. Elkins.</p> <p>6 A. Good morning.</p> <p>7 Q. I may have missed it. Did you say you reviewed</p> <p>8 Summit's environmental construction plan which was filed</p> <p>9 at Docket 1 in anticipation of your testimony?</p> <p>10 A. Briefly, but that was some time ago, not in</p> <p>11 preparation for my testimony.</p> <p>12 Q. When you did look at it, did you review Summit's</p> <p>13 plans for -- within that plan, Summit has set forth</p> <p>14 plans for stabilization, reclamation and vegetation,</p> <p>15 water management, and various crossing methods. Did you</p> <p>16 look at those?</p> <p>17 A. I do not recall. As I said, it was some time</p> <p>18 ago. Months.</p> <p>19 Q. Have you reviewed Summit's proposed pipeline in</p> <p>20 comparison or with respect to the Commission's avoidance</p> <p>21 and exclusion areas?</p> <p>22 A. Could you reference the document name, please?</p> <p>23 Q. Maybe I'll rephrase that. Do you know what the</p> <p>24 Commission's avoidance and exclusion areas are?</p> <p>25 A. I understand some of the avoidance areas. I</p> <p>PAGE 27</p>
<p>1 north due to concerns about proximity to the city of</p> <p>2 Bismarck.</p> <p>3 Q. And just to wrap things up here, are you</p> <p>4 familiar with the Federal Safe Drinking Water Act?</p> <p>5 A. I am.</p> <p>6 Q. Based on your education, experience, and</p> <p>7 understanding, what effect does the Federal Safe</p> <p>8 Drinking Water Act have on the Summit pipeline proposal?</p> <p>9 A. The Safe Drinking Water Act controls injection</p> <p>10 wells. I believe that it would definitely impact how</p> <p>11 they would be handling those things but also</p> <p>12 (indiscernible) as a potential pollutant that's going to</p> <p>13 have to be addressed and concerns mitigated to protect</p> <p>14 the city's water supply as part of it. It will require</p> <p>15 additional work by the person who's taken over my</p> <p>16 position as the source water protection specialist for</p> <p>17 North Dakota Rural Water Systems Association as well as</p> <p>18 additional revisions to those source water protection</p> <p>19 plans for the city of Mandan, South Central Regional</p> <p>20 Water District, and others, and that will be additional</p> <p>21 burden on state employees to assist in the drafting of</p> <p>22 that.</p> <p>23 Q. Thank you, Ms. Elkins.</p> <p>24 MR. PHILLIPS: Your Honor, I have no further</p> <p>25 questions at this time.</p> <p>PAGE 26</p>	<p>1 don't think I could recite them to you.</p> <p>2 Q. Okay. One more question, Ms. Elkins. Are you</p> <p>3 aware that Summit's going to bore the pipeline 49 feet</p> <p>4 below the Missouri River bed?</p> <p>5 A. I am aware that the Missouri River bed will be</p> <p>6 bored 49 feet below, and I also have concerns about</p> <p>7 scouring and reworking of that sand in the event of</p> <p>8 flooding.</p> <p>9 Q. Thank you, Ms. Elkins. I have no further</p> <p>10 questions.</p> <p>11 ALJ HOGAN: Mr. Pelham, do you have any</p> <p>12 questions?</p> <p>13 MR. PELHAM: I have a few.</p> <p>14 CROSS EXAMINATION</p> <p>15 BY MR. PELHAM:</p> <p>16 Q. Good morning, Ms. Elkins. Sorry you're not able</p> <p>17 to be here in person. Hope your recovery is going okay.</p> <p>18 You mentioned a couple times in your testimony</p> <p>19 this morning the North Dakota Rural Water Association.</p> <p>20 Are you employed by them?</p> <p>21 A. I was previously employed by them. I was the</p> <p>22 source water protection specialist.</p> <p>23 Q. Okay. And just to be clear, you're testifying</p> <p>24 in your individual capacity, not for any employer;</p> <p>25 correct?</p> <p>PAGE 28</p>

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<p>1     <b>A. Correct.</b></p> <p>2     <b>Q.</b> Okay.</p> <p>3     <b>A. I am no longer employed with them. I am</b></p> <p>4     <b>testifying as an individual.</b></p> <p>5     <b>Q.</b> Understood. And that's what I thought. I just</p> <p>6     wanted to confirm that.</p> <p>7             Mr. Phillips asked you a little bit about the</p> <p>8     location of the proposed route in and around Baldwin and</p> <p>9     he asked if you had concerns if the route was moved</p> <p>10    south and you answered that question. Do you have</p> <p>11    concerns if the route -- proposed route was moved north?</p> <p>12    <b>A. I believe that the route would have to be</b></p> <p>13    <b>significantly further north as moving several miles</b></p> <p>14    <b>north of Baldwin would place the route within the wind</b></p> <p>15    <b>farm that is north of Bismarck with significant</b></p> <p>16    <b>transmission lines and I'm assuming underground lines,</b></p> <p>17    <b>but I'm not as familiar with electricity gathering.</b></p> <p>18    <b>Q.</b> Fair enough.</p> <p>19             Early on in your testimony this morning, ma'am,</p> <p>20    you were asked about whether or not Summit had done</p> <p>21    field assessments as to the potential for sliding</p> <p>22    subsidence, geological issues with where the route is</p> <p>23    currently proposed to be. Do you have any specific</p> <p>24    areas along the proposed route that you believe that</p> <p>25    these additional field assessments should be done?</p> <p>PAGE 29</p>	<p>1     part and parcel of what's known as Phase II assessments</p> <p>2     or Phase II surveys? Are you familiar with the</p> <p>3     difference between a Phase I and a Phase II survey?</p> <p>4     <b>A. Are you talking about like environmental Phase I</b></p> <p>5     <b>and Phase II assessments? (Indiscernible).</b></p> <p>6     <b>Q.</b> Yeah, in terms of, you know, like Phase I, for</p> <p>7     instance, like a desktop identifying literature, you</p> <p>8     know, something you can do in the comfort of your office</p> <p>9     or home, and then Phase II, actually getting out there</p> <p>10    in the field with an in-person geologist. Is that</p> <p>11    something that kind of rings a bell to you?</p> <p>12    <b>A. Yes.</b></p> <p>13    <b>Q.</b> All right. And it was your recommendation that</p> <p>14    the in-person field geologist type of -- the next step</p> <p>15    analysis should take place?</p> <p>16    <b>A. Correct.</b></p> <p>17    <b>Q.</b> Are you aware that it's hypothesized that the</p> <p>18    Satartia, Mississippi, incident was at least caused in</p> <p>19    part by significant precipitation events that affected</p> <p>20    and made the soil unstable?</p> <p>21    <b>A. I am aware.</b></p> <p>22    <b>Q.</b> And those are the kind of concerns you have for</p> <p>23    the sensitive areas that have not yet had field</p> <p>24    geologist assessments in North Dakota; is that right?</p> <p>25    <b>A. That is correct.</b></p> <p>PAGE 31</p>
<p>1     <b>A. I believe that slope -- higher slope areas</b></p> <p>2     <b>should be receiving this field reconnaissance, not only</b></p> <p>3     <b>to identify existing slides but potential future slides.</b></p> <p>4     <b>Q.</b> Understood. And in your review of the materials</p> <p>5     that you cited you reviewed, where are these higher</p> <p>6     slope areas specifically?</p> <p>7     <b>A. There's -- I've reviewed the portions of the</b></p> <p>8     <b>reroute as that is what's going to most likely impact</b></p> <p>9     <b>me. As I've said in my previous testimony, it is</b></p> <p>10    <b>difficult to place Summit's pipe with the way that their</b></p> <p>11    <b>map book is set up and no shapefiles have been provided,</b></p> <p>12    <b>but specifically west at Highway 83 between the Missouri</b></p> <p>13    <b>River and there, and I know that there's significant</b></p> <p>14    <b>topography within Emmons County as well as the north</b></p> <p>15    <b>Bismarck area.</b></p> <p>16    <b>Q.</b> Thank you. Thank you, Ms. Elkins. I don't have</p> <p>17    any other questions for you this morning.</p> <p>18             ALJ HOGAN: Mr. Leibel or Mr. Jorde, any</p> <p>19    questions?</p> <p>20             MR. JORDE: Yes, Your Honor, thank you. I do</p> <p>21    have some questions of Ms. Elkins.</p> <p>22             CROSS EXAMINATION</p> <p>23    BY MR. JORDE:</p> <p>24    <b>Q.</b> You had discussed relative to the geohazard</p> <p>25    questions field assessments. Are field assessments also</p> <p>PAGE 30</p>	<p>1     <b>Q.</b> You mentioned shapefiles. How does a shapefile</p> <p>2     -- what type of data is embedded within a shapefile that</p> <p>3     would assist in analysis and could help further your</p> <p>4     opinions along?</p> <p>5     <b>A. A shapefile is meant to be incorporated into</b></p> <p>6     <b>what we call GIS. So it's a map for a map-based system</b></p> <p>7     <b>that allows people to place that particular shape into</b></p> <p>8     <b>-- or onto other maps. Being able to have the specific</b></p> <p>9     <b>coordinates and locations of the pipeline would allow</b></p> <p>10    <b>people to more easily conduct analysis to identify</b></p> <p>11    <b>proximity from different features as well as overlaying</b></p> <p>12    <b>it on different types of soils that it's crossing and</b></p> <p>13    <b>reviewing topography, something as simple as putting it</b></p> <p>14    <b>on top of a topographic map.</b></p> <p>15    <b>Q.</b> And having those shapefiles would be helpful and</p> <p>16    greatly aid that type of analysis; correct?</p> <p>17    <b>A. Correct.</b></p> <p>18    <b>Q.</b> As a geologist, have you become aware of</p> <p>19    testimony in Iowa relative to the Summit proposed</p> <p>20    pipeline that there's geology in Iowa sufficient to</p> <p>21    store the CO2 that Summit seeks to store in western</p> <p>22    North Dakota?</p> <p>23    <b>A. I've heard of --</b></p> <p>24             MR. GLUDT: Objection, Your Honor. Relevance.</p> <p>25             ALJ HOGAN: Hang on, hang on.</p> <p>PAGE 32</p>



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<p>1 MR. GLUDT: Objection, relevance.</p> <p>2 ALJ HOGAN: I think we've had others testify</p> <p>3 about this. I'll allow you to ask limited questions,</p> <p>4 but I don't want to get too deep into anything pertinent</p> <p>5 to Iowa, Mr. Jorde.</p> <p>6 MR. JORDE: Well, no. I appreciate that. This</p> <p>7 is all pertinent to North Dakota since there's -- this</p> <p>8 doesn't have to happen in North Dakota since it's</p> <p>9 available in Iowa. That's all I'm establishing.</p> <p>10 Q. (BY MR. JORDE) So you're aware of that</p> <p>11 testimony?</p> <p>12 A. I've heard of potential sequestration sites</p> <p>13 closer to the bulk of the Iowa -- or the bulk of the</p> <p>14 Iowa area plants.</p> <p>15 Q. And as a geologist, based on your training,</p> <p>16 education, experience, and background and based on your</p> <p>17 concerns for the geohazards and other drinking</p> <p>18 water-related hazards in North Dakota, would it be your</p> <p>19 opinion that if there's sufficient geology in Iowa to</p> <p>20 store the proposed carbon dioxide Summit intends to</p> <p>21 transport, that it would be prudent to investigate that</p> <p>22 more prior to routing 350 miles across North Dakota to</p> <p>23 store it?</p> <p>24 A. I believe it would be prudent to sequester the</p> <p>25 carbon dioxide as close to the source as possible to</p> <p>PAGE 33</p>	<p>1 lot of the things that you're talking about, but if you</p> <p>2 haven't reviewed one recently, I'll -- I guess no point</p> <p>3 in asking that.</p> <p>4 I just also want to touch on one thing that your</p> <p>5 attorney said. Hopefully, it was just a slip of the</p> <p>6 tongue. But do you recall when Mr. Phillips mentioned</p> <p>7 this being buried at a maximum four-foot depth?</p> <p>8 THE WITNESS: I've heard on average or</p> <p>9 approximately four feet but as I --</p> <p>10 COMMISSIONER CHRISTMANN: I just wanted to</p> <p>11 clarify because a maximum of four feet implies that in</p> <p>12 most cases it would be less than four feet, and the four</p> <p>13 feet is a minimum, not a maximum. Is that your</p> <p>14 understanding as well?</p> <p>15 THE WITNESS: That had been my understanding as</p> <p>16 well, that it would be deeper for borings.</p> <p>17 COMMISSIONER CHRISTMANN: Okay. Thank you. No</p> <p>18 other questions. Thanks for being here.</p> <p>19 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>20 COMMISSIONER HAUGEN-HOFFART: Good morning.</p> <p>21 Just a clarification. I didn't write down all the</p> <p>22 documents that you reviewed, but have you reviewed</p> <p>23 agency documents as far as in reference to landslides?</p> <p>24 THE WITNESS: By "agency," are you referring to</p> <p>25 the Public Service Commission?</p> <p>PAGE 35</p>
<p>1 minimize any risks in transmission.</p> <p>2 Q. All right. And you understand there's exactly</p> <p>3 one source point of CO2 proposed in North Dakota that</p> <p>4 would be part of this proposed Summit hazardous</p> <p>5 pipeline; correct?</p> <p>6 A. I do.</p> <p>7 Q. All right. Thank you. I don't have anything</p> <p>8 further.</p> <p>9 ALJ HOGAN: Commissioner Christmann.</p> <p>10 COMMISSIONER CHRISTMANN: Have you read any</p> <p>11 siting certificate approval orders from the PSC for</p> <p>12 other pipelines like Dakota Access or any of the other</p> <p>13 major pipelines in North Dakota from somewhat recent</p> <p>14 years? I'm not talking about in the '70s.</p> <p>15 THE WITNESS: I believe I've read the Dakota</p> <p>16 Access when there was significant political upheaval in</p> <p>17 the area regarding that. However, that was quite a long</p> <p>18 time ago and this is a very different product.</p> <p>19 COMMISSIONER CHRISTMANN: And so there was that</p> <p>20 order and then there was also the certification attached</p> <p>21 to it. Do you recall that?</p> <p>22 THE WITNESS: I do not.</p> <p>23 COMMISSIONER CHRISTMANN: Okay. I guess my next</p> <p>24 question was whether you feel that between our orders</p> <p>25 and the attached certifications, whether they cover a</p> <p>PAGE 34</p>	<p>1 COMMISSIONER HAUGEN-HOFFART: Or like SHPO and</p> <p>2 any of those -- any agency responses.</p> <p>3 THE WITNESS: I have not done -- no.</p> <p>4 COMMISSIONER HAUGEN-HOFFART: Okay. Thank you.</p> <p>5 No further questions.</p> <p>6 ALJ HOGAN: Mr. Dawson, any questions?</p> <p>7 SUBSTITUTE DECISIONMAKER DAWSON: No questions.</p> <p>8 Thank you for appearing today.</p> <p>9 ALJ HOGAN: Any redirect, Mr. Phillips?</p> <p>10 MR. PHILLIPS: Very briefly, Your Honor. And I</p> <p>11 will clarify that was my mistake and my slip of the</p> <p>12 tongue, Commissioner.</p> <p>13 REDIRECT EXAMINATION</p> <p>14 BY MR. PHILLIPS:</p> <p>15 Q. Just very briefly, Ms. Elkins. When Mr. Gludt</p> <p>16 was questioning you about boring under the river, you'd</p> <p>17 mentioned you do have some concerns about scouring and</p> <p>18 reworking of sand, if I heard your testimony correctly.</p> <p>19 Could you just briefly tell the Commission what those</p> <p>20 concerns are?</p> <p>21 A. My concern is that in higher precipitation</p> <p>22 events or another potential event akin to when the</p> <p>23 floodgates were opened for Garrison Dam or even releases</p> <p>24 of ice dams, that water has tremendous power that is</p> <p>25 able to move the river channel, that scouring would</p> <p>PAGE 36</p>

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<p>1 <b>potentially lower -- lower the depth of burial, if you</b></p> <p>2 <b>would, so that it's more likely to be impacted by debris</b></p> <p>3 <b>flow or other issues to the pipe. I also have concerns</b></p> <p>4 <b>regarding slides on the riverbanks in such an event that</b></p> <p>5 <b>the river could cause additional erosion that may impact</b></p> <p>6 <b>that horizontal drilling.</b></p> <p>7 <b>Q.</b> Thank you.</p> <p>8 MR. PHILLIPS: No further questions, Your Honor.</p> <p>9 ALJ HOGAN: Mr. Gludt, any other questions?</p> <p>10 MR. GLUDT: No, Your Honor.</p> <p>11 ALJ HOGAN: Mr. Pelham.</p> <p>12 MR. PELHAM: No, Your Honor.</p> <p>13 ALJ HOGAN: Mr. Jorde.</p> <p>14 MR. JORDE: No, Your Honor. Thank you.</p> <p>15 ALJ HOGAN: Any other commissioner questions?</p> <p>16 Mr. Dawson?</p> <p>17 All right. Thank you, Ms. Elkins.</p> <p>18 THE WITNESS: Thank you for having me.</p> <p>19 ALJ HOGAN: All right. I think the next witness</p> <p>20 is yours, Mr. Jorde.</p> <p>21 MR. JORDE: I sure hope so. If Jon Hagerott is</p> <p>22 available to take the stand, I call Jon.</p> <p>23 ALJ HOGAN: Did you hear that, Mr. Jorde?</p> <p>24 MR. JORDE: I did not.</p> <p>25 ALJ HOGAN: Mr. Hagerott is saying that his</p> <p>PAGE 37</p>	<p>1 JANEL OLSON: I do.</p> <p>2 ALJ HOGAN: All right. Thank you.</p> <p>3 Go ahead, Mr. Jorde.</p> <p>4 MR. JORDE: Thank you.</p> <p>5 <b><u>JANEL OLSON.</u></b></p> <p>6 being first duly sworn, was examined and testified as</p> <p>7 follows:</p> <p>8 DIRECT EXAMINATION</p> <p>9 BY MR. JORDE:</p> <p>10 <b>Q.</b> Good morning, Ms. Olson. I noticed that you</p> <p>11 have some papers in front of you. My first question is</p> <p>12 have you testified either live or prefiled testimony</p> <p>13 prior to today?</p> <p>14 <b>A. I have not.</b></p> <p>15 <b>Q.</b> All right. And did you prepare some thoughts so</p> <p>16 that we could get through this quicker and you could be</p> <p>17 more organized with what important information you'd</p> <p>18 like to share with the Commission?</p> <p>19 <b>A. Yes. I've just prepared a statement.</b></p> <p>20 <b>Q.</b> All right. Would you like to make that</p> <p>21 statement now?</p> <p>22 <b>A. I would.</b></p> <p>23 <b>Q.</b> Okay. Go ahead.</p> <p>24 <b>A. Good morning. My name is Janel Hagerott Olson.</b></p> <p>25 <b>I'm a fourth generation farmer and rancher. And the</b></p> <p>PAGE 39</p>
<p>1 sister, is it Janel --</p> <p>2 MR. JORDE: Janel? Janel Olson.</p> <p>3 ALJ HOGAN: -- would like to testify.</p> <p>4 MR. JORDE: Oh, perfect. Yep, Janel would be</p> <p>5 great.</p> <p>6 ALJ HOGAN: Good morning. First I'm going to</p> <p>7 ask you to turn that microphone on, the gray button,</p> <p>8 yep.</p> <p>9 JANEL OLSON: There?</p> <p>10 ALJ HOGAN: Yes.</p> <p>11 JANEL OLSON: Is that on?</p> <p>12 ALJ HOGAN: Yes. I'll have you state your full</p> <p>13 name for the record and if you want to spell your last</p> <p>14 name.</p> <p>15 JANEL OLSON: Janel Olson, O-L-S-O-N.</p> <p>16 ALJ HOGAN: And, Ms. Olson, were you in the room</p> <p>17 this morning when I went through the penalties for</p> <p>18 perjury?</p> <p>19 JANEL OLSON: I was.</p> <p>20 ALJ HOGAN: And do you understand what perjury</p> <p>21 is?</p> <p>22 JANEL OLSON: I do.</p> <p>23 ALJ HOGAN: And being advised of the potential</p> <p>24 penalties for perjury, do you promise to tell the truth</p> <p>25 in this case today?</p> <p>PAGE 38</p>	<p>1 <b>proposed Summit pipeline crosses our land.</b></p> <p>2 <b>One of Plato's most famous quotes is that</b></p> <p>3 <b>silence gives consent. This quote reflects his belief</b></p> <p>4 <b>that failing to speak out against injustice is</b></p> <p>5 <b>tantamount to condoning it. And I cannot be silent.</b></p> <p>6 <b>I'm here today because I'm deeply concerned about the</b></p> <p>7 <b>safety of this pipeline and the integrity of Summit</b></p> <p>8 <b>Carbon Solutions.</b></p> <p>9 <b>I'd like to start by showing you two pictures.</b></p> <p>10 <b>This picture is my three beautiful girls, Breanna,</b></p> <p>11 <b>Courtney, and Alyssa Olson. And this second picture is</b></p> <p>12 <b>my daughter Breanna and my granddaughter, Hadley. My</b></p> <p>13 <b>daughter Breanna is expecting and is due with her second</b></p> <p>14 <b>baby this month.</b></p> <p>15 <b>As a mother and a grandmother, I've had many</b></p> <p>16 <b>worries over the years, but by far my greatest concern</b></p> <p>17 <b>has always been their health and safety. The proposed</b></p> <p>18 <b>pipeline is about three-quarters of a mile from the home</b></p> <p>19 <b>that I grew up in, where my husband and I built our home</b></p> <p>20 <b>and have farmed and ranched for 32 years, and where some</b></p> <p>21 <b>day my hope is that my daughters will build their homes.</b></p> <p>22 <b>I show you these pictures today again because I want you</b></p> <p>23 <b>to not only see my precious girls' faces, I want you to</b></p> <p>24 <b>remember them.</b></p> <p>25 <b>Sadly, in the United States we've had many</b></p> <p>PAGE 40</p>

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<p>1 tragedies: 9/11, the Boston Marathon bombing, Sandy 2 Hook, and so many others. Oh, and let's not forget 3 about the rupture of the carbon pipeline in Satartia, 4 Mississippi, in 2020 where toxic carbon dioxide spewed 5 into the air for about four hours and sent people to the 6 hospital and hundreds to be evacuated.</p> <p>7 The sad thing is when tragedies like these 8 happen, maybe, just maybe, the names or the pictures of 9 the victims will flash across a newsreel or a memorial 10 wall will be set up, but days and weeks go by and 11 everyone forgets. That's everyone who's not directly 12 affected. For those who lost loved ones, have 13 long-standing health effects, witnessed the horror or 14 tried to provide life-saving treatment, their lives will 15 never be the same.</p> <p>16 I show you those pictures because I want you to 17 remember their faces when there's a problem with this 18 proposed pipeline. I can only pray that it doesn't kill 19 them or cause long-standing health problems. I say 20 "when" because it is not a question if there's a leak or 21 an explosion. It's when. Just last month there was 22 another CO2 leak at the Lake Charles pump station in 23 Sulphur, Louisiana.</p> <p>24 It's a fact, pipelines break and leak, whether 25 this is an oil, water, or CO2 pipeline. These pipelines</p> <p>PAGE 41</p>	<p>1 could be in jeopardy because of the proximity of this 2 pipeline to our home. Furthermore, how can I encourage 3 them to some day build a home and continue the legacy of 4 our family farm knowing that they face such significant 5 risk?</p> <p>6 In addition to farming and ranching with my 7 father, my brother, and my husband, I have worked in 8 healthcare for 30 years, first as a CNA, then as a 9 registered nurse, and finally as a nurse practitioner. 10 I have devoted a large part of my life to the health and 11 well-being of the patients I serve. I worry about the 12 health and safety of my patients and all those who live 13 here in North Dakota.</p> <p>14 Exposure to carbon dioxide has many health 15 effects. Depending on the concentration and the length 16 of exposure, CO2 can cause convulsions, coma, and death.</p> <p>17 Thankfully in our area we have never experienced 18 a major CO2 event. However, I've seen many patients 19 whose level of CO2 in their body has risen to dangerous 20 levels. This is treated by shoving a tube down their 21 throat to provide mechanical ventilation when they can't 22 breathe on their own. Obviously, this is not a natural 23 process. Patients will try to fight this. They'll try 24 to rip out the tube. They'll have to be restrained and 25 sedated. For those who have had to witness this in</p> <p>PAGE 43</p>
<p>1 are subject to degradation due to many factors including 2 thermal expansion, contraction, and mechanical forces. 3 Although it's a known fact that pipelines leak and 4 break, there are way too many unknowns and no possible 5 way to predict the consequences with this proposed 6 pipeline.</p> <p>7 How will the extreme temperature changes in 8 North Dakota affect the integrity of the pipeline and 9 its components? Where will this leak or break occur? 10 How far and what direction will the gas travel, 11 especially in the setting of the extreme wind we have 12 here in North Dakota? How many people will die? How 13 many will suffer long-standing physical and mental 14 health problems as a direct result?</p> <p>15 How dare you, Summit Carbon Solutions, put the 16 lives of my girls, my grandchildren, and the people of 17 North Dakota at risk? Furthermore, how dare you 18 businessmen, the politicians with their own agendas who 19 support this project in the name of greed, put the lives 20 of North Dakotans at risk? How dare you?</p> <p>21 I am beyond blessed to have my children live 22 close by and nearly every weekend we spend a day 23 together. If this proposed pipeline is allowed to be 24 constructed, I'll need to live in constant fear that if 25 my children and grandchildren come to visit, their lives</p> <p>PAGE 42</p>	<p>1 patients they care for or in people they love, it 2 creates emotions and memories that will never be 3 forgotten. I will never, ever forget seeing my mom on a 4 ventilator. My mom who was adamantly opposed to this 5 pipeline, who died on my birthday on July 6, 2022.</p> <p>6 I ask you, Summit Carbon Solutions, and you the 7 commissioners, are you prepared to see North Dakotans or 8 those that you love on a ventilator due to toxic CO2 9 exposure if the Summit pipeline were to leak or to 10 explode? That will only occur if your loved one is 11 fortunate enough to survive the explosion and the 12 emergency personnel are able to get to them.</p> <p>13 Are our firefighters, paramedics, and other EMS 14 personnel trained and able to respond to a potential 15 mass casualty event? Are our hospitals equipped to 16 manage and treat this type of emergency? You know, 17 there's only so many ventilators available.</p> <p>18 The pipeline runs near Bismarck, one of North 19 Dakota's most populous cities. The hospitals in North 20 Dakota are running at capacity or near capacity every 21 single day. Patients wait hours to be seen and treated 22 in the emergency room. Many patients are held in 23 hallways on temporary gurneys waiting for a room in the 24 hospital. Sometimes this is hours. Sometimes it's 25 days. Frequently, our hospitals are on diversion. That</p> <p>PAGE 44</p>

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<p>1 means they have absolutely no room to take another</p> <p>2 patient. If our community is faced with a CO2 leak or</p> <p>3 explosion, what happens to your loved ones then? Are</p> <p>4 they just left to die?</p> <p>5 Summit has met with some emergency responders</p> <p>6 and say they have plans do more training in the future.</p> <p>7 Does Summit have a plan for the fact that our hospitals</p> <p>8 are at capacity and do not have the room or the staff to</p> <p>9 care for an emergency like this? Perhaps they do: get</p> <p>10 more body bags.</p> <p>11 As I mentioned, I'm the fourth generation on our</p> <p>12 family farm. My great grandfather, Edward Hagerott,</p> <p>13 homesteaded here in 1883. For 141 years our family has</p> <p>14 worked tirelessly to preserve and maintain the integrity</p> <p>15 of our land. We have planted hundreds, if not</p> <p>16 thousands, of trees and modified farming practices to</p> <p>17 include no-till farming all in the name of preserving</p> <p>18 the land that's sacred to us. This is with the hope</p> <p>19 that some day our children can carry on our legacy.</p> <p>20 Never in my mind, or I'm sure the mind of my</p> <p>21 ancestors, would we intentionally do something that has</p> <p>22 the potential to cause harm to our animals, our</p> <p>23 property, and our neighbors, but that's exactly what</p> <p>24 Summit Carbon Solutions is planning. They're taking the</p> <p>25 garbage, the waste, from ethanol plants and piping it</p> <p>PAGE 45</p>	<p>1 have absolutely no recollection of one single in-person</p> <p>2 visit, phone call, text, email, or letter from Summit to</p> <p>3 myself. The only contact I've had with Summit has been</p> <p>4 indirect.</p> <p>5 When we initially found people walking on our</p> <p>6 land without permission, we asked who they were and why</p> <p>7 they were there. We were told they were surveyors from</p> <p>8 Summit. We asked them to leave.</p> <p>9 Fast-forward quite some time and I got a phone</p> <p>10 call; mind you, while I was at work trying to care for</p> <p>11 patients. This phone call came from my husband and my</p> <p>12 brother. They informed me that the Summit entourage had</p> <p>13 shown up at our farm with several vehicles and multiple</p> <p>14 people. When my brother stopped them, they told him</p> <p>15 that they had permission based on a court ruling.</p> <p>16 However, due to Summit's extreme inattention to detail,</p> <p>17 these surveyors were oblivious to the fact that our</p> <p>18 property was not, in fact, included in this court</p> <p>19 ruling.</p> <p>20 The next contact I had with Summit, again</p> <p>21 indirectly, was when I was served papers to appear in</p> <p>22 court to grant Summit's request to survey our property.</p> <p>23 An acquaintance of my husband and mine is a</p> <p>24 landman and he works obtaining easements for multiple</p> <p>25 companies. For a while he worked for Summit. This</p> <p>PAGE 47</p>
<p>1 across several states, disrupting often untouched land,</p> <p>2 and dumping it in our sacred ground, putting all of us</p> <p>3 in danger in the process.</p> <p>4 Why in the world would anyone think that this is</p> <p>5 acceptable? I think we all know why. It's money, it's</p> <p>6 greed, and it's politics.</p> <p>7 I'd like to give you an analogy. On our ranch</p> <p>8 we have a feedlot. This needs to be cleaned of hay,</p> <p>9 straw, and manure. This is our waste product. Let's</p> <p>10 say I was to arrange to have our waste hauled, load</p> <p>11 after load, hour after hour, day after day, and year</p> <p>12 after year to you -- to the yards of you, the public</p> <p>13 commissioners, or to the Summit executives or the</p> <p>14 politicians who think this carbon pipeline is a good</p> <p>15 idea. You, and I'm sure your neighbors, certainly</p> <p>16 wouldn't enjoy the sight or the smell of the manure, our</p> <p>17 waste piling up in your yard.</p> <p>18 This analogy is like allowing Summit to pipe</p> <p>19 their waste through and into our land. There's one key</p> <p>20 difference, though. Our waste might look and smell bad,</p> <p>21 but it won't kill you.</p> <p>22 Finally, I'd like to speak to my concerns about</p> <p>23 the integrity of Summit Carbon Solutions. Summit</p> <p>24 claims, and I quote, "we remain committed to pursuing</p> <p>25 good faith negotiation with landowners." As of today, I</p> <p>PAGE 46</p>	<p>1 acquaintance told us he'd be able to secure a crazy high</p> <p>2 dollar offer for an easement on our property. When I</p> <p>3 said we weren't interested, I was told by him that this</p> <p>4 project is too big, too powerful, and it will go</p> <p>5 through, and when that happens you'll get nothing</p> <p>6 because eminent domain will be used. Summit's</p> <p>7 commitment to good faith negotiations is to bully</p> <p>8 landowners into signing easements?</p> <p>9 These examples exemplify Summit's complete lack</p> <p>10 of vigilance for attention to detail. A company that's</p> <p>11 putting the health and safety of North Dakotans at risk</p> <p>12 should be meticulous, and that certainly has not been</p> <p>13 demonstrated by Summit.</p> <p>14 It is known that Summit had private meetings</p> <p>15 which included Chad Wachter, a developer. So Summit can</p> <p>16 meet with a developer but can't meet with me, a</p> <p>17 landowner? At this meeting, dispersion model details</p> <p>18 were discussed, but this information has not been</p> <p>19 released to the public. Why? Summit says this is</p> <p>20 because of security reasons. But we all know the real</p> <p>21 reason. They don't want the public to know the real</p> <p>22 danger we're facing. Summit has repeatedly put dollar</p> <p>23 signs in front of safety and landowner rights.</p> <p>24 In conclusion, I'm asking -- no, I'm begging</p> <p>25 you, the Public Service Commission, to deny Summit</p> <p>PAGE 48</p>

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<p>1 <b>Carbon Solutions' request. Remember these beautiful</b></p> <p>2 <b>faces and all of the residents of North Dakota. Don't</b></p> <p>3 <b>let money and political agendas take precedence over</b></p> <p>4 <b>their safety. Don't let them be the next tragedy that's</b></p> <p>5 <b>too quickly forgotten.</b></p> <p>6 <b>Q.</b> Ms. Olson, thank you for that. And would you</p> <p>7 like to have those photographs made a part of the</p> <p>8 official record?</p> <p>9 <b>A. Yes.</b></p> <p>10 <b>Q.</b> Okay. We can -- we can get working on that.</p> <p>11 In the meantime I have a few follow-up questions</p> <p>12 for you. You had mentioned your intention and that of</p> <p>13 your family to continue to be able to develop the land</p> <p>14 into the future and including future residences. Would</p> <p>15 you, instead, decide not to do that type of development</p> <p>16 if this hazardous pipeline is located on your land?</p> <p>17 <b>A. My -- my middle daughter, Courtney, has the same</b></p> <p>18 <b>dream I had growing up, and that was to continue our</b></p> <p>19 <b>family farm. She and I talked about this yesterday, and</b></p> <p>20 <b>I told her, I said, "Courtney, I don't know, I don't</b></p> <p>21 <b>know what I want you to do, because I don't know if it's</b></p> <p>22 <b>safe for you to build here."</b></p> <p>23 <b>And that's not fair. It's not fair for Summit</b></p> <p>24 <b>to take that away from us.</b></p> <p>25 <b>Q.</b> And if the pipeline was located and affected</p> <p>PAGE 49</p>	<p>1 <b>anyone from Summit. If they were concerned about me as</b></p> <p>2 <b>a landowner and the concerns that I have, they certainly</b></p> <p>3 <b>could have reached out to me, and they have failed to do</b></p> <p>4 <b>so.</b></p> <p>5 <b>Q.</b> Ma'am, because we weren't hearing anything from</p> <p>6 them, do you recollect that on behalf of APH Farms,</p> <p>7 myself, Mr. Leibel, along with you and your brother,</p> <p>8 prepared a letter and kind of some potential least-worst</p> <p>9 options if this was to be approved? Do you recall that</p> <p>10 in the April time frame?</p> <p>11 <b>A. I do not. I was not directly involved in that.</b></p> <p>12 <b>Q.</b> Okay. So questions to that would be -- that was</p> <p>13 the portion of the testimony that your brother, Jon, can</p> <p>14 handle. Is that your understanding?</p> <p>15 <b>A. Yes.</b></p> <p>16 <b>Q.</b> Okay. Thank you. All right. Well, I think</p> <p>17 I'll ask him about the maps and that communication.</p> <p>18 Is there anything else that you'd like the</p> <p>19 Commission to know to consider their decision on whether</p> <p>20 to approve or deny these applications before I turn you</p> <p>21 over for cross-examination?</p> <p>22 <b>A. No. I think I've said what I wanted to say.</b></p> <p>23 <b>Q.</b> All right. Thank you so much, ma'am. Some</p> <p>24 others may have questions for you.</p> <p>25 ALJ HOGAN: Mr. Gludt, any questions?</p> <p>PAGE 51</p>
<p>1 your future development such that you didn't do that,</p> <p>2 would you agree that would have a negative economic</p> <p>3 impact and wouldn't be in your best general welfare?</p> <p>4 <b>A. Absolutely.</b></p> <p>5 <b>Q.</b> Now you had mentioned about being threatened by</p> <p>6 a Summit agent with eminent domain and feeling bullied</p> <p>7 and told that you might as well get on board or you'll</p> <p>8 get nothing. Do you have any idea how many other people</p> <p>9 went through that same process and ended up signing,</p> <p>10 quote/unquote, alleged "voluntary easements" based on</p> <p>11 bullying and threatening tactics?</p> <p>12 <b>A. I'm not aware of how many specifically felt -- I</b></p> <p>13 <b>can't speak to the feelings that they had, but I know</b></p> <p>14 <b>that this tactic has been used even when they came to</b></p> <p>15 <b>survey. My neighbors had a very -- I don't know the</b></p> <p>16 <b>word -- very unpleasant contact with the surveyors at</b></p> <p>17 <b>that time.</b></p> <p>18 <b>Q.</b> Do you understand that, in preparation for these</p> <p>19 proceedings in May, approximately on May 21st and then</p> <p>20 again yesterday in some testimony by Mr. Boeshans for</p> <p>21 Summit, they expressed to the PSC how willing they are</p> <p>22 to work with you and how willing they are to have</p> <p>23 conversations? How does that feel after two years of</p> <p>24 being through all this?</p> <p>25 <b>A. Like I said, I've had no direct contact with</b></p> <p>PAGE 50</p>	<p>1 MR. GLUDT: No, Your Honor.</p> <p>2 ALJ HOGAN: Mr. Pelham.</p> <p>3 MR. PELHAM: Thank you.</p> <p>4 CROSS EXAMINATION</p> <p>5 BY MR. PELHAM:</p> <p>6 <b>Q.</b> Good morning, Ms. Olson. I'm just wondering,</p> <p>7 and if your brother is better to testify, just tell me,</p> <p>8 but can you give the legal description of the property</p> <p>9 we're talking about?</p> <p>10 <b>A. I cannot give that legal description.</b></p> <p>11 <b>Q.</b> And it's -- your testimony, I believe it's your</p> <p>12 testimony, that the proposed line does cross property</p> <p>13 owned by this APH Farms; is that right?</p> <p>14 <b>A. Correct.</b></p> <p>15 <b>Q.</b> And is that an LLC or a family partnership?</p> <p>16 <b>A. So I am part of a life estate on that property.</b></p> <p>17 <b>It is owned by my father, Arden Hagerott, and my</b></p> <p>18 <b>brother, Jonathan, and I are included in that life</b></p> <p>19 <b>estate so...</b></p> <p>20 <b>Q.</b> Understood. Fair enough.</p> <p>21 And you testified, ma'am, that you spoke with a</p> <p>22 landman from Summit; is that right?</p> <p>23 <b>A. So -- yes. So he works for various companies.</b></p> <p>24 <b>He did a lot of work with oil lines and stuff like that</b></p> <p>25 <b>in the oil field, but this past year he did some work</b></p> <p>PAGE 52</p>

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<p>1 <b>for Summit and, you know, he contact -- or spoke to me</b></p> <p>2 <b>directly over the phone about a potential offer, but</b></p> <p>3 <b>that was not anything directly -- I believe directed by</b></p> <p>4 <b>Summit.</b></p> <p>5 <b>Q.</b> So this landman, he's an acquaintance of yours?</p> <p>6 <b>A. Yes.</b></p> <p>7 <b>Q.</b> Okay. Did he say that he worked for Summit?</p> <p>8 <b>A. Yes.</b></p> <p>9 <b>Q.</b> So he was working for Summit and he's contacting</p> <p>10 you directly related to this property that you have a</p> <p>11 life estate interest in and proposing something to you?</p> <p>12 <b>A. He said he would be able to work with Summit to</b></p> <p>13 <b>arrange something, yes.</b></p> <p>14 <b>Q.</b> And when was this?</p> <p>15 <b>A. I don't recall exactly, but it would have been</b></p> <p>16 <b>late last summer, early fall.</b></p> <p>17 <b>Q.</b> And how many conversations did you have with</p> <p>18 this individual?</p> <p>19 <b>A. One around a campfire and one by phone.</b></p> <p>20 <b>Q.</b> Fair enough. And where was the conversation</p> <p>21 left?</p> <p>22 <b>A. That I was not interested.</b></p> <p>23 <b>Q.</b> No other follow-up from any agents,</p> <p>24 representatives, from Summit after that?</p> <p>25 <b>A. None.</b></p> <p>PAGE 53</p>	<p>1 my 84-year-old father who doesn't see or hear well and</p> <p>2 has his own health problems. So probably not the best</p> <p>3 person to speak to in that regard.</p> <p>4 COMMISSIONER CHRISTMANN: But they did talk to</p> <p>5 your brother --</p> <p>6 THE WITNESS: They have.</p> <p>7 COMMISSIONER CHRISTMANN: -- but not you? Okay.</p> <p>8 THE WITNESS: I don't know if they've talked to</p> <p>9 him personally. I know he's received communications.</p> <p>10 COMMISSIONER CHRISTMANN: Okay. Thank you for</p> <p>11 being here.</p> <p>12 THE WITNESS: Yes.</p> <p>13 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>14 COMMISSIONER HAUGEN-HOFFART: Thank you.</p> <p>15 Janel, I just need clarification on something.</p> <p>16 You earlier testified that you've had no direct contact</p> <p>17 from Summit.</p> <p>18 THE WITNESS: Uh-huh.</p> <p>19 COMMISSIONER HAUGEN-HOFFART: And then you go</p> <p>20 through and you describe this landman from Summit as an</p> <p>21 acquaintance and that worked with Summit to arrange</p> <p>22 something. So that to me seems like there was direct</p> <p>23 contact.</p> <p>24 THE WITNESS: So --</p> <p>25 COMMISSIONER HAUGEN-HOFFART: Can you just</p> <p>PAGE 55</p>
<p>1 <b>Q.</b> That you had, but you heard Mr. Jorde ask you</p> <p>2 about a letter that was sent. There was, presumably,</p> <p>3 further --</p> <p>4 <b>A. No. I've had --</b></p> <p>5 <b>Q.</b> You don't know anything about that?</p> <p>6 <b>A. I've had no contact, no.</b></p> <p>7 <b>Q.</b> Okay. Thank you, Ms. Olson. I don't have any</p> <p>8 other questions.</p> <p>9 ALJ HOGAN: Mr. Phillips, any questions?</p> <p>10 MR. PHILLIPS: No questions, Your Honor.</p> <p>11 ALJ HOGAN: Commissioner Christmann.</p> <p>12 COMMISSIONER CHRISTMANN: My only one is, so as</p> <p>13 I understand, the life estate between you, your brother,</p> <p>14 and your father, when you say -- other than the landman</p> <p>15 conversations with you, my understanding is you said no</p> <p>16 one has contacted you. Are you speaking on behalf of</p> <p>17 your brother and father as well?</p> <p>18 THE WITNESS: I'm speaking on behalf of myself.</p> <p>19 COMMISSIONER CHRISTMANN: Do you know whether</p> <p>20 there was contact or efforts to acquire easements</p> <p>21 with --</p> <p>22 THE WITNESS: Yes, they have --</p> <p>23 COMMISSIONER CHRISTMANN: -- either your brother</p> <p>24 or --</p> <p>25 THE WITNESS: -- had contact with my brother and</p> <p>PAGE 54</p>	<p>1 clarify that for me?</p> <p>2 THE WITNESS: Yeah. So this was a guy that we</p> <p>3 -- where we camp and he comes down around the fire and</p> <p>4 we might sit around and have some drinks or visit or do</p> <p>5 things like that. And in that process is where this</p> <p>6 came up and that he -- he worked, I think, just briefly</p> <p>7 for Summit during that short time and there was one</p> <p>8 phone call to me. We had talked about it down around</p> <p>9 the fire. And in that capacity he had said that he</p> <p>10 could potentially work with Summit to try to get us this</p> <p>11 easement amount.</p> <p>12 COMMISSIONER HAUGEN-HOFFART: So would you say</p> <p>13 that was a direct contact?</p> <p>14 THE WITNESS: No.</p> <p>15 COMMISSIONER HAUGEN-HOFFART: Okay.</p> <p>16 THE WITNESS: In my mind it's not, it is not</p> <p>17 direct, because at that time I don't even know how</p> <p>18 official his capacity was with working with them at that</p> <p>19 point.</p> <p>20 COMMISSIONER HAUGEN-HOFFART: Okay.</p> <p>21 THE WITNESS: I don't know.</p> <p>22 COMMISSIONER HAUGEN-HOFFART: Okay. Thanks for</p> <p>23 the clarification. I have no further questions.</p> <p>24 ALJ HOGAN: Mr. Dawson, any questions.</p> <p>25 SUBSTITUTE DECISIONMAKER DAWSON: No questions.</p> <p>PAGE 56</p>

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1 Thank you.  
2 ALJ HOGAN: Mr. Jorde, any redirect?  
3 REDIRECT EXAMINATION  
4 BY MR. JORDE:  
5 Q. Well, I guess I am also a little puzzled, ma'am,  
6 and I appreciate you trying to be very precise with this  
7 contact. Obviously this gentleman didn't show you any  
8 employment contract, but from the way he was talking and  
9 speaking, was it your impression that he was in  
10 communication with or somehow working with Summit at the  
11 time he made those overtures to you?  
12 A. Yes.  
13 Q. Okay. I don't have anything further. Thank  
14 you.  
15 ALJ HOGAN: Mr. Gludt, any other questions?  
16 MR. GLUDT: Nothing further, Your Honor.  
17 ALJ HOGAN: Mr. Pelham.  
18 MR. PELHAM: Nothing. Thank you.  
19 ALJ HOGAN: Mr. Phillips.  
20 MR. PHILLIPS: Nothing, Your Honor.  
21 ALJ HOGAN: Any other commissioner questions?  
22 Commissioner Haugen-Hoffart.  
23 COMMISSIONER HAUGEN-HOFFART: Sorry, I did have  
24 one more.  
25 You indicated, and I wrote down, "bullied and

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1 threatened."  
2 THE WITNESS: Uh-huh.  
3 COMMISSIONER HAUGEN-HOFFART: Can you describe  
4 what you mean by "threatened"?  
5 THE WITNESS: Threatened by if you're not going  
6 to consent to the easement, then you're going to get  
7 nothing if this -- nothing for compensation if this were  
8 to go through on eminent domain.  
9 COMMISSIONER HAUGEN-HOFFART: Okay. Thanks for  
10 the clarification. No further questions.  
11 ALJ HOGAN: All right. Thank you, Ms. Olson,  
12 for your testimony.  
13 Mr. Jorde, your next witness.  
14 MR. JORDE: Yep. And just for the record, once  
15 we have copies of those photographs, we'll mark those  
16 and I'll offer them, but we'll keep moving.  
17 I call Jon Hagerott, please.  
18 UNIDENTIFIED SPEAKER: And also to answer  
19 Mr. Pelham's question about the legal description, it is  
20 in Morton County, township 140 north, range 83 west,  
21 section 10, the east half, section 11, the west half.  
22 ALJ HOGAN: All right. Mr. Hagerott, I'll have  
23 you start by stating your full name for the record.  
24 JONATHAN HAGEROTT: Yes. My name is Jonathan  
25 Hagerott. That's -- last name is spelled

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1 H-A-G-E-R-O-T-T.  
2 ALJ HOGAN: And is your first name --  
3 JONATHAN HAGEROTT: Jonathan.  
4 ALJ HOGAN: -- J-O-N.  
5 JONATHAN HAGEROTT: J-O-N-A-T-H-A-N.  
6 ALJ HOGAN: All right. Thank you.  
7 JONATHAN HAGEROTT: I generally go by "Jon,"  
8 J-O-N, just to be less formal.  
9 ALJ HOGAN: All right. Mr. Hagerott, were you  
10 in the room this morning when I went through the  
11 penalties for perjury?  
12 JONATHAN HAGEROTT: I was.  
13 ALJ HOGAN: And do you understand what perjury  
14 is?  
15 JONATHAN HAGEROTT: I do.  
16 ALJ HOGAN: And being advised of the potential  
17 penalties for perjury, do you promise to tell the truth  
18 in this case today?  
19 JONATHAN HAGEROTT: I do.  
20 ALJ HOGAN: All right. Thank you.  
21 Go ahead, Mr. Jorde.  
22  
23  
24  
25

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1 **JONATHAN HAGEROTT,**  
2 being first duly sworn, was examined and testified as  
3 follows:  
4 DIRECT EXAMINATION  
5 BY MR. JORDE:  
6 Q. Yes, Jon, good morning. Thank you for being  
7 here. My question, I notice you have various items and  
8 documents in front of you. First I would just like you  
9 to identify each one kind of as a roadmap for what we're  
10 going to discuss and then we can get into them.  
11 A. Okay. I have a package of pictures of things I  
12 would like to show. I have my personal notes for my  
13 presentation here and my testimony here. I have a stack  
14 of letters that I received from Summit. And I have a  
15 similar package of letters that my father and mother  
16 received from Summit regarding our land in Morton  
17 County.  
18 Q. Very good.  
19 Now, with the blue folder, the photos, maybe we  
20 -- does it make sense for you to kind of talk through  
21 those? And, Jon, do you have enough that Mr. Leibel can  
22 help you pass those around and get that marked as an  
23 exhibit?  
24 A. I made four copies, one for our attorney and one  
25 for each of the commissioners, is what I intended. I

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<p>1 didn't realize there would be a room with this many</p> <p>2 so... If you would like to have those.</p> <p>3 Q. And we can get copies made for you. And, Jon, I</p> <p>4 think you're going to want to keep one of those folders</p> <p>5 -- oh, you got it, right.</p> <p>6 A. I do have my copy.</p> <p>7 Q. So while those are being passed around, and I'm</p> <p>8 sure Mr. Leibel, on a break here, can get copies made,</p> <p>9 can you generally explain why those photographs are</p> <p>10 important, what you think the Commission needs to</p> <p>11 understand relative to those photos?</p> <p>12 A. These are photos of our property and other</p> <p>13 documents within there that -- well, I'll explain later</p> <p>14 -- that relate to things we have experienced with Summit</p> <p>15 and also things that my mother experienced with Summit</p> <p>16 in this process are in that package.</p> <p>17 ALJ HOGAN: Mr. Hagerott, will you pull the mic</p> <p>18 a little bit closer?</p> <p>19 THE WITNESS: I'm sorry.</p> <p>20 ALJ HOGAN: No, you're fine.</p> <p>21 THE WITNESS: I am --</p> <p>22 ALJ HOGAN: You're just quiet.</p> <p>23 THE WITNESS: Well, I will state that I am not a</p> <p>24 public speaker. I get very nervous and apprehensive</p> <p>25 about public speaking. This process has made me</p> <p>PAGE 61</p>	<p>1 an emphasis in structural design. I have worked for</p> <p>2 years as a structural engineer and a civil engineer.</p> <p>3 I'm licensed in -- I've got 14 state -- well, I'm</p> <p>4 licensed -- I have 14 state licenses in 13 individual</p> <p>5 states. Encompassed the entire West Coast for high</p> <p>6 seismic; California, Oregon, and Washington.</p> <p>7 I farm with my dad and my sister and my</p> <p>8 brother-in-law. It's farm and cattle. During the prior</p> <p>9 hearings, I could not attend those earlier hearings.</p> <p>10 With cattle calving going on, I wake up at 1 in the</p> <p>11 morning and I'm out with the cows pretty much all night</p> <p>12 working 14, 15, 16, 18-hour days. Right now I've been</p> <p>13 planting our crops, frantically trying to get that done.</p> <p>14 Again, long days.</p> <p>15 So trying to prepare a written statement, I just</p> <p>16 do not have time for that. So I've got just general</p> <p>17 note talking points here. And I'm going to launch into</p> <p>18 the first -- my bullet point which is my personal</p> <p>19 experience with our land and utilities that run over</p> <p>20 that land.</p> <p>21 When I was about seven years old, my parents</p> <p>22 bought me a mini 50 motorcycle which gave me a lot of</p> <p>23 freedom. And we have quite a sizeable landholding. I</p> <p>24 would disappear for hours on end as a little seven-year</p> <p>25 old, eight-year old, nine-year old, ten-year old on up,</p> <p>PAGE 63</p>
<p>1 extremely nervous. I was unable to sleep last night so</p> <p>2 if my eyes are a little blurry and I'm a little</p> <p>3 incoherent, I apologize. I will do my best to get</p> <p>4 through this but --</p> <p>5 Now I've lost my track. Where did we leave off?</p> <p>6 Q. (BY MR. JORDE) You're just fine, you're just</p> <p>7 fine.</p> <p>8 And so -- okay. So we talk about the blue</p> <p>9 folder. And, sir, I don't want to throw you off if you</p> <p>10 have a logical sequence that you think makes the most</p> <p>11 sense, which item of information would you like to go</p> <p>12 through first?</p> <p>13 A. Well, I do have sort of an order on my -- on my</p> <p>14 notes. I have a few pages of notes that are just the</p> <p>15 particulars to help me remember what I want to talk</p> <p>16 about. I did not prepare a written statement. I do not</p> <p>17 have time for that in my life, to work that up.</p> <p>18 Like my sister said, I am the fourth generation</p> <p>19 farming and ranching. My great grandfather homesteaded</p> <p>20 1883. I'm not going to rehash all that history, but we</p> <p>21 continue to farm that same ground. We do rent where my</p> <p>22 great grandfather actually homesteaded.</p> <p>23 And a little background on -- and a little</p> <p>24 background on myself personally. Yeah, I grew up there.</p> <p>25 I've got a bachelor's degree in civil engineering with</p> <p>PAGE 62</p>	<p>1 riding that little motorcycle through our property. And</p> <p>2 so I know that property quite well from the beginning of</p> <p>3 my earliest days.</p> <p>4 And we have numerous -- well, we have three</p> <p>5 power lines that cross our land, high voltage power</p> <p>6 lines. We have an oil pipeline that runs across our</p> <p>7 land. We have a rural water pipeline that runs across</p> <p>8 our land. And they all present problems for us.</p> <p>9 I'm going to start with the oil pipeline.</p> <p>10 That's the photo from page 1. And you can see that this</p> <p>11 pipeline -- I don't know if you can see that. That's</p> <p>12 the condition the pipeline maintains their markings.</p> <p>13 This is on the road -- adjacent to the road about -- I</p> <p>14 don't know if it's even a half a mile north of our</p> <p>15 farmyard. It's in total disrepair.</p> <p>16 If you go to photo 2 or page 2, I want to talk</p> <p>17 about the utility markings that they do. Every so often</p> <p>18 they walk our property as some sort of inspection</p> <p>19 process and they will put down those little flags. This</p> <p>20 one happens to be orange. I just took a picture of it</p> <p>21 just to highlight it. I think theirs are yellow in</p> <p>22 color. And that crisscrosses several of our fields.</p> <p>23 While I was out planting the first year after they did</p> <p>24 this, I had to stop our four-wheel drive tractor and the</p> <p>25 big air seeder behind it, hop out and pick these up.</p> <p>PAGE 64</p>



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<p>1 And every so often I would see one as I was driving. I 2 didn't know they were there beforehand. I haven't found 3 all of them yet because I still find them. And they're 4 a real hazard for us because that ground that year I 5 planted oats hay. We cut that hay, we rake it up, it 6 gets into bales, and some of those bales we actually 7 grind up in a processor that we feed to our cattle. And 8 these bits of metal get in there and the cows eat that. 9 They can -- they can die from that. So I'm real 10 cognizant to find these. And I'm still finding them. 11 Another -- another item I want to talk -- and I 12 don't have pictures of it, on the property which we 13 rent, which was my great grandfather's original 14 homesteading land, in about 2016 or 2017 we planted a 15 new field of alfalfa. The following year when that 16 alfalfa was just coming up, when I happened to drive 17 down past that field, here they had -- the oil pipeline, 18 without any announcement, had shown up and dug a massive 19 hole in that field in what appeared to have no 20 protections for the topsoil, to scrape that off first; 21 it was just a big hole with a big pile of dirt. And 22 they exposed probably about a 30-foot-long piece of the 23 pipe that they did a repair on. And later they pushed 24 that soil back in and covered it up. And they didn't do 25 anything that I'm aware of to reseed it or anything.</p> <p>PAGE 65</p>	<p>1 major hassle. 2 That same time the State of North Dakota Water 3 Commission had a program for cost share on extending 4 waterlines for this emergency purpose. I filled out the 5 paperwork, got approved. I contacted a local plumbing 6 contractor. He gave me a quote of \$6,000. And the cost 7 share would have covered half of that. My mom who 8 controlled all the finances says, "Okay, we'll go ahead 9 and do that." She didn't want to. She thought it was 10 fine that we haul the water, but we did the work, not 11 her. So we had everything good to go. 12 One-call utilities called. And there was a 13 windmill farm, electrical line, there was a telephone 14 line, and then the Tesoro pipeline came and marked their 15 pipeline. And when they came and marked it, their 16 gentleman called me and met me in person at the pipeline 17 because he had specific requirements. And so he marks 18 the line and then we start talking about what we want to 19 do. And he says, well, if you want to put that pipeline 20 -- that waterline here, you have to be at least three or 21 four feet -- and don't quote me on the numbers, it's 22 been a while -- but he said you've got to be well below 23 the pipe and everything that you dig has to be hand dug 24 like 8 to 10 or 12 feet on each side of that pipe. 25 Because they were worried that, you know, you get a</p> <p>PAGE 67</p>
<p>1 And then to gain access to that area, they drove in from 2 the approach quite a distance away from the pipe and 3 tracked that fresh, new, brand-new alfalfa flat and did 4 quite a bit of damage. My father did receive a small 5 payment from them, but it did not cover the loss of 6 production for all the years since in that area. 7 Another thing that came up with that oil 8 pipeline that I'm worried about with this future 9 pipeline is what impact it will have on us in the future 10 with our use of that land or whoever would own it after 11 us. 12 And this example I want to say was about, again, 13 three, four years ago. We had a very dry spring. And 14 we have a small pasture about three-quarters of a mile 15 north of our house. And that pasture we use after our 16 cattle calve for a period of time until the calves get 17 larger and we can move them to the next pasture. Well, 18 that year with the dry weather conditions, the stock 19 pond had almost no water in it and it was actually a 20 foul-looking green color. So we fenced that off and we 21 drug a watertank up to that pasture and we would truck 22 water up there every day. Two times a day we would fill 23 it and go up and let water run into that tank. There 24 was freezing weather so we were having all kinds of 25 trouble with the valves on the tank freezing. It was a</p> <p>PAGE 66</p>	<p>1 contractor and he hits the pipe and it causes a problem. 2 So I relay that to our contractor, and he said that 3 \$6,000 price is now going to be about \$20,000 because of 4 that up -- hand digging, at which point my mom said no, 5 we can't afford that. So that was just -- you know, 6 something that my grandfather who allowed that pipeline 7 to be put in in the '50s for \$1 a foot never foresaw 8 that we would be encumbered by that in the future. 9 Q. So let me jump in there. And these are 10 analogies of your personal experience and basically -- 11 A. Yeah. 12 Q. -- explaining that, regardless of how wonderful 13 things might seem in Summit's presentation now, you have 14 living proof where, once projects are approved and 15 constructed, those promises kind of fall by the wayside? 16 A. Correct. And I'd like to continue on. I have 17 more experiences. 18 If you go to photo 3 or page 3, I don't know, 19 it's maybe been 20 years. I don't know, it's been a 20 long time. Our neighbor asked that when the rural water 21 system would be put in, he wanted a pasture tap. And my 22 father agreed to allow that to happen, for them to cross 23 our property. And if you look at number 3, you can see 24 the pile of rocks that they brought up when they put it 25 in and they just left it on our property.</p> <p>PAGE 68</p>

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<p>1 If you go to the next page, page 4, if you look</p> <p>2 real closely down the middle of the picture, you can see</p> <p>3 the line where the pipeline was dug in. And the grass</p> <p>4 there is -- has never been the same. Whatever they</p> <p>5 seeded, re-seeded it with, is a different texture and</p> <p>6 quality than the original native prairie. And it's just</p> <p>7 been permanently altered. And if you go to photo 5, you</p> <p>8 can see where the grass that they re-seeded didn't take</p> <p>9 hold and now it's just exposed earth, which it wasn't</p> <p>10 like that before they dug the line in.</p> <p>11 And the last one I want to talk about as far as</p> <p>12 existing utilities on our property is the power lines,</p> <p>13 one of the power lines. I believe in 2017 they sent a</p> <p>14 heavy construction crew in to raise the line. So they</p> <p>15 cut the wooden pole off and they raised it up and then</p> <p>16 they use these metal-clamp devices to permanently hold</p> <p>17 it in that upper position. And if you look at that</p> <p>18 picture, I always -- I have substantial concern that</p> <p>19 that has a lot of lean to it and I really wonder if some</p> <p>20 day that will cascade over. And the next page, 7, is a</p> <p>21 little closer view of it to try to highlight how it is</p> <p>22 leaning. And you can see that metal bracket.</p> <p>23 If you go to page 8, this is my prime concern</p> <p>24 with that power line and that activity. When they</p> <p>25 constructed or reconstructed those poles, they came in</p> <p>PAGE 69</p>	<p>1 they're driving a UTV through to inspect it, which may</p> <p>2 or may not, you know, cause distress to our cattle.</p> <p>3 They're coming through and doing tree trimming on a</p> <p>4 regular basis. And, again, they use that same path and</p> <p>5 it's extra wear and tear on that soil. It's</p> <p>6 unprotected. And I find garbage left behind up there</p> <p>7 that -- when I go up and I ride around to enjoy the</p> <p>8 beauty and to look at our cattle, there's garbage.</p> <p>9 There's been gloves and food wrappers and cases of hose</p> <p>10 or things that broke off of their equipment just laying</p> <p>11 there.</p> <p>12 And I'm going to conclude that area with just --</p> <p>13 from what I've observed or heard or witnessed with</p> <p>14 Summit's behavior, their lack of communication with us</p> <p>15 and others, their tactics to basically hide behind</p> <p>16 attorneys, a team of attorneys, to force this through,</p> <p>17 other things that I've heard in the news about them,</p> <p>18 that I really expect that they're not going to treat our</p> <p>19 land any better than these other companies. I actually</p> <p>20 expect it will probably be worse.</p> <p>21 Q. Okay, Jon, I appreciate that and we will get</p> <p>22 that -- those photos as an exhibit. Did you make it</p> <p>23 through -- or where would you like to transition to</p> <p>24 next?</p> <p>25 A. The next one I would like to transition to is</p> <p>PAGE 71</p>
<p>1 with a bulldozer and they pushed a path nowhere near the</p> <p>2 power line, but to gain the various locations of the</p> <p>3 power line they used this bulldozer to push a path</p> <p>4 through that their other heavy equipment, the cranes and</p> <p>5 whatever they use, to proceed. And this was what we</p> <p>6 were left with and it continues to erode. You can see</p> <p>7 how the earth was just left raw, open, cut like that.</p> <p>8 If you go to section -- or page 9, here's another one</p> <p>9 that goes down a rather steep hill. This is what we</p> <p>10 were left with. Go to photo 10, here you can see at</p> <p>11 least they were somewhat under the power line but,</p> <p>12 again, pretty substantial erosion and ruts there from</p> <p>13 that. 11 is another view of it.</p> <p>14 12, you can see the delta that's formed at the</p> <p>15 base of the hill where the earth has eroded down. And</p> <p>16 you can just barely make out at the bottom of that</p> <p>17 picture a wooden structure that they use to cross the</p> <p>18 water, the low valley water area there. The next</p> <p>19 picture, 13, you can see it again, that structure that</p> <p>20 was left behind. It's a wooden structure that evidently</p> <p>21 they could drive their machinery over that somewhat</p> <p>22 floated. And you can see that it's decaying. And so</p> <p>23 then I took a closer shot on number 14 of what's been</p> <p>24 left behind.</p> <p>25 In addition to that power line, every so often</p> <p>PAGE 70</p>	<p>1 the lack of actual communication they've had with us.</p> <p>2 And that's why I brought this stack of letters. I</p> <p>3 received these letters from Summit over time and that's</p> <p>4 it. No calls, no in-person visits. And when I receive</p> <p>5 these, I feel no obligation to respond to this. This is</p> <p>6 just as if it's junk mail. I don't respond to every</p> <p>7 piece of junk mail that I receive. By contrast -- and</p> <p>8 these letters, they all say they had -- they all had my</p> <p>9 name on it, my wife's name -- or I believe my wife's</p> <p>10 name, my father and my mother's name with another</p> <p>11 address, and my sister and her husband with another</p> <p>12 address, and yet they didn't receive the bulk of these.</p> <p>13 And I -- I brought what my dad received from them. And</p> <p>14 as far as I know, he got two.</p> <p>15 I suspect, being I have an out-of-state address,</p> <p>16 they approached me with the letters. You know, out of</p> <p>17 state, you're not close to the land, you're not probably</p> <p>18 going to be worried about the pipeline and its dangers,</p> <p>19 is all I can surmise. Pure conjecture on my part.</p> <p>20 And again, no other communication from them.</p> <p>21 Nothing in person. Like my sister said, the only</p> <p>22 communication I received in person was when a summons</p> <p>23 server finally caught -- tracked us down. And that was</p> <p>24 where I happened to be standing with my dad and the</p> <p>25 summons was delivered to my dad, and even though I was</p> <p>PAGE 72</p>

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<p>1 standing right next to him and the summons server said</p> <p>2 -- or my dad said, "Well, this is my son and he's part</p> <p>3 of this," they couldn't find me because they were</p> <p>4 looking for me down in Minnesota and it took them quite</p> <p>5 a while to get ahold of us down there.</p> <p>6 Q. Jon, before you move on, I just wanted to make</p> <p>7 sure. On your photo -- of your photos on page 14, it</p> <p>8 looks like -- you know, kind of like almost a makeshift</p> <p>9 bridge with some ties there, some timber. What was the</p> <p>10 purpose of that and why is it in disrepair? What's the</p> <p>11 reason you want the Commission to understand that photo?</p> <p>12 A. Well, to explain that structure, it was a</p> <p>13 floating raft mat for heavy equipment. Our land has</p> <p>14 lots of water areas that are just low -- at the bottom</p> <p>15 of the hills and the valleys, there's just water that</p> <p>16 oozes out of the ground all the time and it's just</p> <p>17 constantly wet and very soft. There's no way you could</p> <p>18 drive a vehicle across. So they drug these in to</p> <p>19 provide that floating mat-type structure to drive over.</p> <p>20 And there's a handful of these that have been left up</p> <p>21 there. I can't tell you the exact number off the top of</p> <p>22 my head right now, but there are others. And, yeah,</p> <p>23 they were heavy timbers tied together with steel rods</p> <p>24 and laid on the -- laid on the wet ground.</p> <p>25 Q. And to tie this back to Summit, Jon, and</p> <p>PAGE 73</p>	<p>1 it does present us with substantial concern of the</p> <p>2 liability associated with this pipeline, because if you</p> <p>3 read in there, they say that they're excluding this</p> <p>4 pollutant from our policy. It presents a substantial</p> <p>5 exposure to you from a liability perspective and at a</p> <p>6 substantial elevated risk of uninsured exposure. If</p> <p>7 something happens, it's my understanding we'll be wiped</p> <p>8 clean, you know, we'll lose everything, I have no doubt</p> <p>9 about that, in the fight with attorneys and whatever</p> <p>10 proceedings happen. I have no doubt about that based</p> <p>11 off that letter.</p> <p>12 Q. Okay. Now I'm sorry if I took you off your flow</p> <p>13 if you want to continue with the communication piece.</p> <p>14 A. Well, yeah, I would like to go back to the</p> <p>15 communication aspect just a little bit more here,</p> <p>16 because while these survey people were crawling around</p> <p>17 our neighborhoods -- or our neighborhood, another</p> <p>18 neighbor straight to the north of us basically, or</p> <p>19 property straight to the north and slightly to the east</p> <p>20 from our homestead, had allowed access.</p> <p>21 And I saw this entourage, it's several vehicles,</p> <p>22 lots of people, and they get out and they start to</p> <p>23 proceed eastward, which is in the direction towards our</p> <p>24 piece of property that they want to run the pipeline</p> <p>25 over. So I buzzed up there and I told the gentleman</p> <p>PAGE 75</p>
<p>1 potentially affecting the four quarters or more of your</p> <p>2 land, are you expressing to the Commission the</p> <p>3 challenges of the geography and the physical makeup, the</p> <p>4 hydrology of your land that makes it more difficult and</p> <p>5 you believe you will be more significantly impacted</p> <p>6 should this project be approved?</p> <p>7 A. Yes. And I'm just -- I put these in here</p> <p>8 specifically to highlight our personal experiences with</p> <p>9 utilities and how they treat our land and treat us. But</p> <p>10 I will get into -- I will get into greater detail on the</p> <p>11 specific property that they want to put their pipeline</p> <p>12 through to address more of those kind of issues.</p> <p>13 Q. Okay. And just to help you along, Jon, I don't</p> <p>14 know if you were going to continue to page 15, that</p> <p>15 Farmers Union Insurance, that is an -- that document has</p> <p>16 already made it into evidence. Did you have any just</p> <p>17 brief comments related to your particular property or</p> <p>18 concerns about that?</p> <p>19 A. Yeah. Yes. I don't want to jump off of my</p> <p>20 communication concept with Summit yet --</p> <p>21 Q. Okay.</p> <p>22 A. -- but the Farmers Union Insurance letter is</p> <p>23 next on the list and, yeah, I can -- I can express that.</p> <p>24 I surmise that that would have already been submitted</p> <p>25 from others, but I included it here just in case. But</p> <p>PAGE 74</p>	<p>1 that was supposedly in charge, I said we haven't granted</p> <p>2 access for them to -- onto our property. And the person</p> <p>3 said, "Oh, okay. I guess we won't go there." Well,</p> <p>4 then I -- and I said, "Well, I'm going to keep an eye on</p> <p>5 you just so you don't go over there," but I didn't -- I</p> <p>6 just drove down to our farmyard and I was busy doing</p> <p>7 repairs on a piece of machinery. Later, when they</p> <p>8 finished up, they drove by where I was working and I saw</p> <p>9 a window roll down as he slowly went by and one of the</p> <p>10 people, I couldn't identify who it was, but held up one</p> <p>11 finger out of the window at me as he drove by. So he</p> <p>12 gave me a very derogatory gesture that obviously</p> <p>13 expressed his disapproval with my stance.</p> <p>14 And then my sister already brought it up that</p> <p>15 after lawsuit proceedings had happened I was working on</p> <p>16 cutting an alfalfa field and I saw this whole entourage</p> <p>17 of cars proceed past and turn up to the road where I</p> <p>18 thought, "Uh-oh, they're here to gain access to our</p> <p>19 property, they're going to do their -- try to get on</p> <p>20 there." So I got out of the tractor, hopped in the</p> <p>21 vehicle I had nearby, drove up there.</p> <p>22 And they were all just hopping out, ready to go</p> <p>23 over the fence and into our property. And I said, "Hey,</p> <p>24 wait a minute, guys, you can't go in there, we have not</p> <p>25 granted access." And the archaeologist that said he was</p> <p>PAGE 76</p>

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<p>1 in charge said, "Oh, no, we've got the paperwork, says 2 we can." And he rifles through this little folder and 3 he pulls out a document. I'm, like, "Well, that's 4 something for Emmons County or somewhere else." I'm, 5 like, "Unless you have a court order that says you can 6 gain access to our property, you're not allowed to go 7 on." 8 And so it was very peaceful, very amicable. I 9 backed away. I called my father. He came down and 10 joined me. And if you -- it's a photo of mine here. 11 You go to photo 19, you can see my dad's sitting in the 12 pickup with me as we just sat there and watched these 13 guys. It took, I don't know, two, three hours that 14 morning. And I was actually in personal conversation 15 with Steven here, back and forth. And he had relayed to 16 me that -- 17 Oh, and just after I told these -- this 18 archaeologist that "You're not allowed to go on there," 19 and I'm sitting with my dad, not very long a sheriff's 20 deputy car drives by that Summit had called. And after 21 the sheriff deputy talks to those folks for a while, the 22 two deputies, the deputy and his assistant, come over 23 and talk to my dad and I, and he says, "Well, they've 24 got paperwork that says they can access your land." And 25 I'm like, "No, they're showing you a piece of paperwork</p> <p>PAGE 77</p>	<p>1 tried to make arrangements for a public service hearing 2 in Morton County earlier and there was some form that 3 someone sent around and said if you could get five 4 signatures you could get a public hearing added to the 5 schedule. And so I reached out to every neighbor that I 6 could find in Morton County that was along the route, 7 and I got like three of them to agree to sign that 8 paper, my dad being one of them. 9 So I want to back up just a second here. Right 10 now we are in negotiations with the High Plains 11 Connector power line. I don't know if you've heard of 12 that one, it's been brought up at all yet. The 13 gentleman or that company has hired landmen. Those 14 landmen have just been working the landowners up and 15 down their proposed route. And they have been making 16 accommodation after accommodation after accommodation on 17 where to locate the power line. People that don't want 18 it, they've been around them. People that want it, 19 they're accepting it. And so when you see their final 20 work product -- I haven't seen it personally, but my dad 21 explained it to me from a meeting he went to. Their 22 line zigs and zags and jogs. It is not a straight line. 23 So I have no doubt if Summit weren't such 24 introverts and would actually get out and talk to 25 people, they could find willing participants all the way</p> <p>PAGE 79</p>
<p>1 that's not relevant to us." And so he went back there 2 and they talked for a while and he came back and he 3 said, "Yeah, you're correct, they don't have paperwork 4 for you." 5 And this was in a time where Summit had already 6 served these eminent domain proceeding papers, 7 Judge Narum out of a district court somewhere else 8 granted that, but they had inadvertently left us out of 9 that filing so we weren't included. And so, I don't 10 know, it took a few hours, state's attorneys, whatever 11 were involved in the background, but finally they 12 wandered off and didn't do their survey. And to my 13 knowledge they haven't been back, but I can't watch it 14 24/7 to make sure. 15 Oh, somebody asked about APH Farms earlier. I 16 was just going to explain that. APH Farms is a name 17 that I've dreamt up for my mom and dad when I was in 18 high school because my mom was just starting to do some 19 computerized bookworking, and at the very top of the 20 page you were supposed to have some kind of header. So 21 I came up with "APH Farms," Arden and Patricia Hagerott 22 Farms, all that is. There's nothing informal -- nothing 23 formal about it. It's just what we've nicknamed it. 24 And the last thing I would say about this 25 communication and Summit's behavior here is that I've</p> <p>PAGE 78</p>	<p>1 through Morton County without any difficulty. But 2 instead they've decided, using maps in an office in 3 Texas, or wherever they're from, "This is where we're 4 going, come hell or high water, we're going there." And 5 in our case they're using eminent domain. They've 6 started to gain survey access. And I have no doubt that 7 is the next logical step once they decide that they're 8 going to proceed further. 9 Q. Jon, can I stop you there for a second? Are you 10 about to get kind of to your land and maybe the aerials? 11 And I have an exhibit which is the letter I sent. I'd 12 like to ask you about it. Are we getting close to that? 13 Okay. 14 A. Yeah. 15 Q. You might have additional copies, Jon, that you 16 brought, but there's a binder with tabs in front of you. 17 And tab 37 -- should be a 37, and Steve can help you if 18 not -- and we can come back to your papers, but tab 37, 19 I'll represent, Jon, that that is a true and accurate 20 copy of the letter we submitted to Summit when we hadn't 21 been hearing from them. And I just want you to identify 22 that and confirm if that's correct. It should be three 23 pages. 24 A. Yes. Could you restate your question for me? I 25 was looking at this.</p> <p>PAGE 80</p>

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<p>1 Q. Sure, you bet. And what we're doing now, we're</p> <p>2 just laying foundation, which means we're just</p> <p>3 establishing what this document is, and then I'm going</p> <p>4 to ask that it be received into evidence. So is this</p> <p>5 the letter that -- in April, April 23rd, 2024, it's</p> <p>6 dated, was sent to Summit's counsel, and you had</p> <p>7 prepared pages 2 and 3, which are kind of least-worst</p> <p>8 options, so to speak.</p> <p>9 A. It -- yes. At your advice I did prepare it. It</p> <p>10 goes against my better judgment. I do not want this on</p> <p>11 our property.</p> <p>12 Q. Right.</p> <p>13 A. But yes --</p> <p>14 Q. And I want you to explain that, Jon. I just</p> <p>15 have to jump in there. So this shouldn't be taken like</p> <p>16 this is some compromise that you want to exist, but</p> <p>17 given the fact that we hadn't heard from them at all,</p> <p>18 despite knowing that you've been opposed to this for --</p> <p>19 going on two years now, did you prepare this at my</p> <p>20 suggestion to at least maybe put something out there if</p> <p>21 the Commission makes the unfortunate decision to approve</p> <p>22 this?</p> <p>23 A. I'd agree with that.</p> <p>24 Q. All right. Now, again, I don't want to throw</p> <p>25 you off your flow, but I think for the Commission it's</p> <p>PAGE 81</p>	<p>1 know how long. So, yeah, if push comes to shove and</p> <p>2 they're going to bulldoze us under, I said, well, maybe</p> <p>3 we can go around that field and avoid some of the other</p> <p>4 issues that that property has. And I'll kind of try to</p> <p>5 go through that a little bit.</p> <p>6 That property my father acquired many years ago.</p> <p>7 He bought it. I asked him when he bought it. He can't</p> <p>8 remember. It's been a long time. It's got an old</p> <p>9 farmhouse on it that was adobe constructed, little odd</p> <p>10 soil bricks and then at some point they added wood</p> <p>11 siding around it. It's got scattered debris all over</p> <p>12 that land. There's numerous garbage pits out there that</p> <p>13 are -- some may be buried, some are just open that was</p> <p>14 put there before us and we've added to over the years.</p> <p>15 There's abandoned wells where they dug wells to get</p> <p>16 drinking water that have been abandoned on that</p> <p>17 property. There's old barns and chicken coops and other</p> <p>18 buildings that are sitting there decaying. There's</p> <p>19 scattered farm equipment and other cars and -- around</p> <p>20 there. It's actually the site of an abandoned coal</p> <p>21 mine.</p> <p>22 There's all kinds of wetlands or wet areas. And</p> <p>23 where the original route goes through that field, it's</p> <p>24 right at the base of a hill. And at the base of that</p> <p>25 hill there is a section of land in there that in any</p> <p>PAGE 83</p>
<p>1 probably helpful for you as the expert of your land to</p> <p>2 maybe continue with challenges, challenges generally and</p> <p>3 then challenges based on Summit's proposed route, and</p> <p>4 then maybe if you can get into, with the understanding</p> <p>5 that you don't want this at all, of what led to your</p> <p>6 proposed reroute, why would that make more sense in</p> <p>7 relation to your land features and your operation?</p> <p>8 A. There's a lot of things to unpack in there.</p> <p>9 That reroute -- I personally have major concerns with</p> <p>10 that pipeline running under our farm field or any farm</p> <p>11 fields that we farm. We rent several. When we drive a</p> <p>12 semi truck loaded with grain over top of that -- when</p> <p>13 they constructed windmills around us where this oil</p> <p>14 pipeline ran, which is three or four feet below the</p> <p>15 ground, they made them berm up and over that pipe to get</p> <p>16 an additional three, four, five feet over it to protect</p> <p>17 it from that truck traffic. And here I've got farm</p> <p>18 fields that we're driving those heavy semis with grain</p> <p>19 in them or bales on them, the combines, the four-wheel</p> <p>20 drive tractors, the heavy machinery, the farm equipment.</p> <p>21 It just concerns me.</p> <p>22 Having that soil disturbed by the pipeline</p> <p>23 construction and compacted by the traffic on either side</p> <p>24 of it for their installation, I think it's going to</p> <p>25 destroy the productivity of that farmland for I don't</p> <p>PAGE 82</p>	<p>1 years that are not extremely dry we can't farm it</p> <p>2 because the moisture; the water just oozes out of the</p> <p>3 ground.</p> <p>4 And I have concerns that that hill could slide</p> <p>5 some day. The hill at the far -- the west end of that</p> <p>6 field is very steep. That hill could slide some day. I</p> <p>7 could take you around our property and show you numerous</p> <p>8 hills that have slid over the years. My dad when he was</p> <p>9 young, there was one hill that slid. That hill slid</p> <p>10 again when I was in high school. That hill continues to</p> <p>11 slide that's a little north of this. We've got all</p> <p>12 kinds of other places in our pastureland that have slid</p> <p>13 over the years. When it gets a little wet, it will</p> <p>14 fall.</p> <p>15 Q. And, Jon, are you referencing that in concern to</p> <p>16 where this pipeline is proposed to potentially --</p> <p>17 A. Their proposed route, yes. It goes right near</p> <p>18 that wet spot and where the hill is steep on one side of</p> <p>19 it and steep that they've got to climb right over. I'm</p> <p>20 not guaranteeing that this reroute doesn't go through</p> <p>21 wet spots either because there's others there where the</p> <p>22 ground is just oozing with water.</p> <p>23 One thing that's really interesting out in the</p> <p>24 western edge of that pasture area, if you go to the west</p> <p>25 end of that field there's that tall hill, and that tall</p> <p>PAGE 84</p>

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<p>1 hill, it extends to the south for two miles maybe. And</p> <p>2 when I was a little boy and we were moving our cattle</p> <p>3 into that pasture after they had calved in the spring</p> <p>4 and we had worked them, I was in a pickup truck with my</p> <p>5 dad's uncle, my grand uncle, who grew up in the original</p> <p>6 farmhouse and lived in the original farmhouse that my</p> <p>7 great grandfather built. And he told me about how years</p> <p>8 ago when he was young the old wagons and cars in the</p> <p>9 earliest days, to get around that really tall hill, they</p> <p>10 had various places they would drive to make it through</p> <p>11 there as they would go from Mandan or wherever and head</p> <p>12 toward Center or beyond. And the other thing he told me</p> <p>13 back then is the Native Americans, Native Americans used</p> <p>14 to camp out up on that hill and how they would travel</p> <p>15 right down past their farmyard, and sometimes they'd</p> <p>16 wake up in the morning and find them in their house. So</p> <p>17 I have concerns that there would be native artifacts</p> <p>18 there to be found.</p> <p>19 So, yeah, I have just numerous concerns with</p> <p>20 that pipeline proceeding through this area from the</p> <p>21 environmental standpoint and from our personal safety</p> <p>22 standpoint.</p> <p>23 Q. So, Jon, I'm going to offer now Exhibit 37 and</p> <p>24 then I'm going to have some more questions about that.</p> <p>25 Okay?</p> <p>PAGE 85</p>	<p>1 Mr. Gludt might even have a color copy of that.</p> <p>2 But, again, I want to kind of focus this on the</p> <p>3 particular land issues and features and struggles. And</p> <p>4 I think you've done a good job. But was there anything</p> <p>5 else in particular that you haven't talked to in</p> <p>6 reference to page 2 of Exhibit 37? And if you reference</p> <p>7 any, can you reference the field and kind of north,</p> <p>8 south, east, west so we -- you know, we're making a</p> <p>9 record and we know what we're talking about here?</p> <p>10 A. Well, yeah. Our property is section 10 and 11.</p> <p>11 And I thought that the eminent domain was the north half</p> <p>12 of that. I could be -- I'm not a hundred percent</p> <p>13 certain because there were so many papers that went back</p> <p>14 and forth regarding that. North is up on the page.</p> <p>15 The field that I have concern with has an MP 176</p> <p>16 right on it. If you notice just south of MP 176, you</p> <p>17 can see the windmill tower. That windmill tower, they</p> <p>18 actually excavated down between two hills to set it in</p> <p>19 there. The hill that would be just to the northeast of</p> <p>20 that is the one that I would have a concern about</p> <p>21 sliding where they position their pipe in that original.</p> <p>22 And if you go just to underneath 176, that's the wet</p> <p>23 spot that I'm describing that oozes on any wet year, any</p> <p>24 year that's got any moisture. If you proceed to the</p> <p>25 west end of that field, that's a very steep hill that</p> <p>PAGE 87</p>
<p>1 A. Okay.</p> <p>2 ALJ HOGAN: Mr. Gludt, any objection?</p> <p>3 MR. GLUDT: No objection, Your Honor.</p> <p>4 ALJ HOGAN: Mr. Pelham?</p> <p>5 MR. PELHAM: No objection.</p> <p>6 ALJ HOGAN: All right. 37 is received.</p> <p>7 Q. (BY MR. JORDE) And then, Jon, you're a very</p> <p>8 good historian and have lots of facts. I just want to</p> <p>9 be real specific. If you can look at page 2 of 37. And</p> <p>10 you might have it in front of you and it's an aerial</p> <p>11 map. So there this is showing the proposed line of</p> <p>12 Summit, and then in the red is, again, your -- you know,</p> <p>13 kind of my arm-twisting, you put that together as a</p> <p>14 potential. And then I think to make this more confusing</p> <p>15 for you, yesterday Summit provided yet a different</p> <p>16 route. And have you had a chance to look at their</p> <p>17 latest potential route?</p> <p>18 A. I saw that briefly. I can't recall the specific</p> <p>19 details of it at this point. If somebody could put it</p> <p>20 up, I could certainly talk to it.</p> <p>21 Q. But I --</p> <p>22 A. I had just finished with a very long day of</p> <p>23 trying to plant soybeans and get a tractor moved and --</p> <p>24 Q. That's fine. And we can get to that or perhaps</p> <p>25 Mr. Leibel could pull it up on his screen or maybe even</p> <p>PAGE 86</p>	<p>1 runs up that they're going to have to go right up and</p> <p>2 over. And I have concern that after they rip the soil</p> <p>3 up and put it back down and try to re-seed it, that hill</p> <p>4 will probably erode for perpetuity.</p> <p>5 Q. Got it.</p> <p>6 And then on page 3 of Exhibit 37, was that a</p> <p>7 second potential least-worst option? Does that -- would</p> <p>8 that supplant or replace page 2 if possible?</p> <p>9 A. Well, the distinction between page 2 and page 3</p> <p>10 is page 2, if you jump on -- we have the west half of</p> <p>11 section 11. The east half of section 11 is owned by --</p> <p>12 owned by -- was owned by my dad's cousin who is now</p> <p>13 passed away and has been inherited by her husband. And</p> <p>14 we rent that land. And, again, my fear of having to</p> <p>15 drive over these fields with that pipe under it, I</p> <p>16 marked that up such that the pipe would go around the</p> <p>17 north end of the field on the land that we rent, my</p> <p>18 dad's cousin's land, my great grandfather's original</p> <p>19 homesteaded land. So if you go to page 3, it's -- it's</p> <p>20 almost the same layout on our property other than I</p> <p>21 brought it back down on the right-hand corner where they</p> <p>22 originally proposed.</p> <p>23 Q. And, Jon, to understand page 3, there are you</p> <p>24 suggesting that your reroute on page 2 as found in</p> <p>25 section 12 and the western portion of section 11, that</p> <p>PAGE 88</p>

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<p>1 there would be no route -- no route on those parcels, 2 those eastern parcels there? 3 <b>A. No reroute.</b> 4 <b>Q.</b> Okay. Got it. All right. 5 Now I'm going -- to make this more confusing 6 with all these maps, I'm going to ask Mr. Leibel to show 7 you the Summit map from yesterday afternoon, and I'm 8 sorry to put you on the spot, but we just got this. And 9 I believe this will become an exhibit later in the day 10 or maybe it's being filed, I don't know. But take a 11 moment to kind of soak that in and then talk through if 12 -- if you think that alleviates the soil, the hydrology, 13 the slope, the terrain, the other type of easements and 14 utilities. Does that resolve those concerns on a 15 least-worst option or are they still present? 16 <b>A. They are still present, just different locations</b> 17 <b>but similar. This reroute -- or this image here is very</b> 18 <b>similar to on page 3 --</b> 19 MR. PELHAM: Excuse me. We need to know which 20 document we're talking about specifically. 21 MR. JORDE: Yeah, I -- yep. So it's attached to 22 the email that I think it was Mr. Gludt sent yesterday. 23 It's page 14 of the Boeshans' new rebuttal testimony. 24 So I'm certainly not going to offer his rebuttal 25 testimony, but if you want to reference page 14 and then</p> <p>PAGE 89</p>	<p>1 etcetera; is that right? 2 <b>A. That's correct. I would reiterate if Summit</b> 3 <b>would have actually used landmen to navigate this path,</b> 4 <b>I think they would have found a hundred percent success</b> 5 <b>in Morton County.</b> 6 <b>Q.</b> And do you believe that there are infinite 7 numbers of other potential paths and zigs and zags that 8 Summit could do right now today to move this off of the 9 Hagerott land? 10 <b>A. Yes. The obvious choice here would be to move</b> 11 <b>farther north of Bismarck in that whole area and run</b> 12 <b>straight west toward Center. It would avoid all of this</b> 13 <b>that they're fighting right now with their attorneys.</b> 14 <b>Q.</b> All right. I don't want to cut you short, but 15 anything else that you think is important relative to 16 the land itself, challenges, negative economic impacts, 17 the prohibition against development, just the headache, 18 those kinds of things that you haven't shared? 19 <b>A. All the above. Yes. The taking of our property</b> 20 <b>is another massive concern of ours. I see no benefit to</b> 21 <b>our family or our heirs in any of this. And it's</b> 22 <b>exposing us and our heirs or whoever owns this in the</b> 23 <b>future for a 99-year lease -- or easement for what --</b> 24 <b>what in their letter was a very small monetary offer.</b> 25 <b>They gave us -- I believe this was the first offer they</b></p> <p>PAGE 91</p>
<p>1 we can have this marked as a separate exhibit, just this 2 page, and get that recirculated. 3 MR. PELHAM: Thank you. 4 MR. JORDE: Yep. So page 14 of the rebuttal of 5 Mr. Boeshans. 6 <b>Q.</b> (BY MR. JORDE) So, Mr. Hagerott, just 7 continue. So the same concerns that you've discussed 8 are still present then? 9 <b>A. Yes. And there are still water areas, potential</b> 10 <b>water areas, that they have to cross in this and they're</b> 11 <b>now closer to all the debris that's scattered on that</b> 12 <b>property. They're adjacent to a hill that's very steep</b> 13 <b>on that reroute. And I believe they may be crossing the</b> 14 <b>same areas that had these historic wagon trails,</b> 15 <b>roadways, and the Native American campground areas.</b> 16 <b>And then, you know, there's -- there is some</b> 17 <b>disagreement within our own family members whether it's</b> 18 <b>better to destroy the ground under a farmland or where</b> 19 <b>the grass is for the cattle. So it's a no-win situation</b> 20 <b>for us no matter where you put it.</b> 21 <b>Q.</b> Now, I, again, kind of begged you to come up 22 with a potential reroute, and we're looking at a 23 variation of that here, but I mean what you're looking 24 for is this to avoid your property based on all the 25 concerns and the historic and cultural resource,</p> <p>PAGE 90</p>	<p>1 <b>sent in a letter to me, was they were going to pay us</b> 2 <b>\$2.62 a foot --</b> 3 MR. GLUDT: I'm going to object, Your Honor. 4 We're talking about easement offers and private easement 5 negotiations. This isn't relevant to the Commission's 6 decision. 7 ALJ HOGAN: Yeah, I'm going to sustain the 8 objection. 9 Mr. Hagerott, the Public Service Commission 10 doesn't have any jurisdiction over contract negotiations 11 or the eminent domain aspect of this project. 12 <b>Q.</b> (BY MR. JORDE) So let me ask it to you this 13 way without getting into the exact dollar figures. 14 Based on the route that's being analyzed by the PSC and 15 proposed, you do not have any confidence that, for all 16 the challenges to your land, that you will be 17 economically compensated such to justify this route on 18 your property; is that correct? 19 <b>A. That is correct.</b> 20 <b>Q.</b> And -- 21 <b>A. I wanted to just -- I just wanted to highlight</b> 22 <b>in 1950-ish my grandfather was given a dollar a foot.</b> 23 <b>So this number that they put on this form, I won't say</b> 24 <b>the number, was ludicrously low. When I run the math,</b> 25 <b>and from what I've heard in news and publications that</b></p> <p>PAGE 92</p>

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<p>1 they're going to push 18 million tons of this CO2</p> <p>2 through this 24-inch pipe on our land a year, and if you</p> <p>3 take that \$85 tax credit per ton and you divide that by</p> <p>4 the number of miles in their pipe -- or their pipeline</p> <p>5 systems, I came up with a number of 700,000 something.</p> <p>6 Maybe I'm off by some rounding there. Could be 500 to</p> <p>7 800,000. I didn't do any specific, close, detailed</p> <p>8 calculation. But for them to give us this substantially</p> <p>9 low offer when they're going to generate that kind of</p> <p>10 money on an annual basis from tax payments, it's</p> <p>11 laughable.</p> <p>12 Q. So before we get off of Exhibit 37, you, I</p> <p>13 think, talked about some homes and your sister did as</p> <p>14 well, and I failed to kind of pinpoint or get an</p> <p>15 approximate distance from any of the inhabited</p> <p>16 structures or structures that could be inhabited or</p> <p>17 places where you're often working. Can you help us out</p> <p>18 with some estimations of distances there?</p> <p>19 A. Sure. On that map, from the closest point to</p> <p>20 our farmstead which is just off the edge of -- the left</p> <p>21 edge of that photo or that map, is where our original</p> <p>22 farmstead is. And I would approximate that is a little</p> <p>23 over a half a mile, somewhere between a half a mile,</p> <p>24 five-eighths of a mile. We have --</p> <p>25 Q. Let me just stop you there. Which section are</p> <p>PAGE 93</p>	<p>1 downward and forms almost a bowl in that area. And so</p> <p>2 if this CO2 ruptures anywhere in proximity to that, I</p> <p>3 think -- just my understanding of how CO2 is heavier</p> <p>4 than air, it could flow that way and impact them</p> <p>5 seriously.</p> <p>6 And on that same vein, if you go approximately</p> <p>7 four miles east of where our farmyard is, it was my page</p> <p>8 16, this is approximately -- approximately four miles</p> <p>9 east of us, if I recall correctly, there's a real young</p> <p>10 family that lives there.</p> <p>11 MR. GLUDT: Your Honor, I'm going to object.</p> <p>12 He's now talked about the Kopps' property and now we're</p> <p>13 moving further east and he's testifying to others'</p> <p>14 property. If we can keep this focused on Mr. Hagerott's</p> <p>15 property, I think we can move things along.</p> <p>16 MR. JORDE: Well --</p> <p>17 ALJ HOGAN: I think it's appropriate, Mr. Jorde.</p> <p>18 Can you have Mr. Hagerott focus on the property he owns?</p> <p>19 MR. JORDE: Well, I can.</p> <p>20 Q. (BY MR. JORDE) I guess I would like to clarify</p> <p>21 that and leave it here, but bottom line, you're</p> <p>22 concerned about essentially the voiceless that aren't on</p> <p>23 the path but are near to the path that aren't confronted</p> <p>24 with an easement and may not have those type of</p> <p>25 contractual language; is that right?</p> <p>PAGE 95</p>
<p>1 we in?</p> <p>2 A. That's section 10.</p> <p>3 Q. Section 10?</p> <p>4 A. Yeah. And our farmyard is on the east edge of</p> <p>5 section 9 just immediately to the west of this.</p> <p>6 Q. Okay.</p> <p>7 A. It's immediately west and slightly south, is</p> <p>8 where our farmyard -- and my sister lives adjacent to</p> <p>9 the original farmyard -- farmhouse that my grandfather,</p> <p>10 my dad's father, developed.</p> <p>11 Q. And the estimation of distances again to those</p> <p>12 residences?</p> <p>13 A. Yeah. I'm -- I don't have a scale here, but I</p> <p>14 would say it's roughly a little over a half a mile.</p> <p>15 Half a mile, three-quarters of a mile, somewhere in</p> <p>16 there.</p> <p>17 Q. Okay.</p> <p>18 A. And if you go over into section 2, you can see a</p> <p>19 farmyard there or a residence. That is one of our</p> <p>20 neighbors, the Kopps (phonetic). They are, I don't</p> <p>21 know, just a smidge over a half a mile away. And their</p> <p>22 son lives a half a mile north of them. And I have a</p> <p>23 real concern for that family that lives just some slight</p> <p>24 distance to the north. The way that land forms, it</p> <p>25 slopes -- from where this pipe is, it sort of slopes</p> <p>PAGE 94</p>	<p>1 A. Well, if I understand correctly, the PSC's</p> <p>2 trying to ascertain the welfare of North Dakotans with</p> <p>3 this proceeding. And here's a property where this</p> <p>4 homeowner has a small, little subdivision lot that's</p> <p>5 completely surrounded by a landowner that lives in Grand</p> <p>6 Forks, North Dakota, that agreed to this. He's --</p> <p>7 allegedly. And I just have a fear for their safety if</p> <p>8 something happened.</p> <p>9 Q. Understood. All right.</p> <p>10 And then if we continue to move on then,</p> <p>11 anything particularly else about the land in question</p> <p>12 that you want to share?</p> <p>13 A. Yeah. I'll reiterate that there is just no</p> <p>14 guarantee that this pipe will not burst on our property.</p> <p>15 And if it does, it would present substantial risk to our</p> <p>16 health and our neighbors and our cattle and our</p> <p>17 neighbors' cattle.</p> <p>18 And along with that, I mean in the bigger</p> <p>19 picture of this, I have a real concern with terrorism</p> <p>20 associated with this. It's obvious Summit knows that</p> <p>21 this line is dangerous being they don't want to release</p> <p>22 their plume study under the guise of terrorism. And I</p> <p>23 picture this as a greenwashing project if there's ever</p> <p>24 been one, making these companies in Iowa and somehow or</p> <p>25 another, throwing tax dollars at them to make their</p> <p>PAGE 96</p>



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<p>1 <b>issue go away, I see domestic terrorism being a</b></p> <p>2 <b>substantial risk with all the people that are</b></p> <p>3 <b>anti-taxation, anti-liberal, anti-climate change. I</b></p> <p>4 <b>mean, I can easily envision somebody getting -- you</b></p> <p>5 <b>know, the route will be well marked; it will have to</b></p> <p>6 <b>be -- grabbing a shovel and digging a hole, dropping a</b></p> <p>7 <b>bag of charcoal briquets in there and a little lighter</b></p> <p>8 <b>fluid and heating that up. Steel gets a little warm,</b></p> <p>9 <b>you get 300, 600 degrees steel and it just turns into</b></p> <p>10 <b>goo.</b></p> <p>11 <b>Q.</b> So let me stop you there for a second. So you</p> <p>12 understand that Summit has prevented us for a couple</p> <p>13 years now from obtaining any dispersion modeling,</p> <p>14 dispersion analysis in North Dakota under the guise of</p> <p>15 terrorism, but your concern is, if it's that dangerous,</p> <p>16 why are they even considering it?</p> <p>17 <b>A. Exactly.</b></p> <p>18 <b>Q.</b> Okay.</p> <p>19 <b>A. Exactly. I mean, I can envision pure chaos</b></p> <p>20 <b>occurring in the denser residential areas, prime</b></p> <p>21 <b>opportunity for chaos to be created if you can make this</b></p> <p>22 <b>thing rupture.</b></p> <p>23 <b>Q.</b> Now, Jon, I'm going to see if -- I don't know if</p> <p>24 Mr. Leibel's been able to get your photos marked, but</p> <p>25 our next exhibit would be 55. And I would like to offer</p> <p>PAGE 97</p>	<p>1 that is in there, which are everything in that blue</p> <p>2 folder is Exhibit 55.</p> <p>3 MR. PELHAM: I don't have any objection. Thank</p> <p>4 you.</p> <p>5 ALJ HOGAN: All right. Exhibit 55 will be</p> <p>6 admitted. I don't have a copy of it. I'm going to need</p> <p>7 a copy of 55 for the official record.</p> <p>8 MR. JORDE: Yep. My crack team there is working</p> <p>9 on that.</p> <p>10 ALJ HOGAN: And I'll just ask, Mr. Jorde, do you</p> <p>11 have a lot more questions for Mr. Hagerott, because I'm</p> <p>12 thinking we should take our morning break. It's getting</p> <p>13 close to 11:00.</p> <p>14 MR. JORDE: Why don't we break and then we can</p> <p>15 kind of tighten this up and put a bow on his testimony</p> <p>16 here when we get back?</p> <p>17 ALJ HOGAN: All right. Let's take our morning</p> <p>18 break. Let's reconvene at 11:05.</p> <p>19 (Recess)</p> <p>20 ALJ HOGAN: All right. My watch shows 11:05 and</p> <p>21 it looks like we have everybody back. So you can</p> <p>22 continue, Mr. Jorde.</p> <p>23 MR. JORDE: Thank you.</p> <p>24 And just a little cleanup here, we've gotten</p> <p>25 that -- the blue folder, Exhibit 55, into evidence and I</p> <p>PAGE 99</p>
<p>1 those 22 pages of your photos from the blue folder as</p> <p>2 Exhibit 55.</p> <p>3 ALJ HOGAN: Any objection, Mr. Gludt?</p> <p>4 MR. GLUDT: No objection, Your Honor.</p> <p>5 ALJ HOGAN: Mr. Pelham.</p> <p>6 MR. PELHAM: Just to be clear, these are all of</p> <p>7 the -- all pages in the blue folder or just the first 22</p> <p>8 pages?</p> <p>9 THE WITNESS: I have yet to talk about the</p> <p>10 remaining pictures.</p> <p>11 MR. PELHAM: That's why I'm asking, Mr. Jorde.</p> <p>12 I'm not sure what's being admitted --</p> <p>13 MR. JORDE: Well, that's a great question. I've</p> <p>14 got 22 pages of documents that is our Exhibit 55 that I</p> <p>15 understood were the -- was the contents of the blue</p> <p>16 folder and so I'm offering all of those contents, all 22</p> <p>17 pages.</p> <p>18 MR. PELHAM: The bulk of it is the photos, but</p> <p>19 there's some letters. There's an obituary, it</p> <p>20 appears --</p> <p>21 THE WITNESS: The last pages are all tied</p> <p>22 together in my final piece of testimony.</p> <p>23 MR. PELHAM: I just want to be clear what it is</p> <p>24 we're actually admitting here.</p> <p>25 MR. JORDE: Yeah. It's Exhibit 55, everything</p> <p>PAGE 98</p>	<p>1 just want to also offer what will be Exhibit 56, and</p> <p>2 that is page 14 of the Wade Boeshans rebuttal testimony.</p> <p>3 It's simply the map of the Hagerott property. And we'll</p> <p>4 have that emailed around, but I need to formally offer</p> <p>5 that one page.</p> <p>6 ALJ HOGAN: Any objection?</p> <p>7 MR. GLUDT: No objection, Your Honor.</p> <p>8 ALJ HOGAN: Mr. Pelham.</p> <p>9 MR. PELHAM: No objection.</p> <p>10 ALJ HOGAN: All right. I'll need a hard copy of</p> <p>11 that as well, Mr. Jorde, but Landowner 56 is received.</p> <p>12 MR. JORDE: Thank you.</p> <p>13 And then, similarly, Ms. Olson held up the</p> <p>14 family photos and we're in the process of getting copies</p> <p>15 made, but before I leave I want to offer Exhibit 57</p> <p>16 which would be the photos that she held up there during</p> <p>17 her testimony.</p> <p>18 ALJ HOGAN: Any objection, Mr. Gludt?</p> <p>19 MR. GLUDT: No objection.</p> <p>20 ALJ HOGAN: Mr. Pelham.</p> <p>21 MR. PELHAM: No objection.</p> <p>22 ALJ HOGAN: 57 is received.</p> <p>23 MR. JORDE: All right. Thank you very much.</p> <p>24 And we will get a hard copy of that also to you.</p> <p>25 <b>Q.</b> (BY MR. JORDE) Okay, sir, we had a little</p> <p>PAGE 100</p>

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<p>1 break. I know we've covered a lot of ground, but do you</p> <p>2 think, if it's possible to do your best to kind of sum</p> <p>3 up and, I guess, address any remaining concerns that we</p> <p>4 haven't touched on?</p> <p>5 <b>A. Yes. I just have two more topics briefly that I</b></p> <p>6 <b>want to touch on and then I'll be concluded.</b></p> <p>7 <b>Q. Okay.</b></p> <p>8 <b>A. The first one here remaining is that this has</b></p> <p>9 <b>taken a tremendous toll on our family. The cost has</b></p> <p>10 <b>been tremendous. The legal bills for something we</b></p> <p>11 <b>didn't ask for have -- have been substantial.</b></p> <p>12 UNIDENTIFIED SPEAKER: Is your microphone on?</p> <p>13 THE WITNESS: It's blue.</p> <p>14 UNIDENTIFIED SPEAKER: Okay.</p> <p>15 ALJ HOGAN: Why don't you pull it a little</p> <p>16 closer? There you go. Thank you.</p> <p>17 THE WITNESS: Okay.</p> <p>18 <b>A. It's taken a tremendous amount of our time and</b></p> <p>19 <b>it's added a tremendous toll on our mental health. The</b></p> <p>20 <b>stress of this is incredible.</b></p> <p>21 <b>And I want to conclude with that, that my mom --</b></p> <p>22 <b>this is going to be hard. My mom owned -- while my mom</b></p> <p>23 <b>was alive, she owned land north of Bismarck. That was</b></p> <p>24 <b>land that her grandfather developed to farm. Her father</b></p> <p>25 <b>farmed it, and my father and she farmed it. I helped</b></p> <p>PAGE 101</p>	<p>1 <b>goes, "I'm just so upset. How can they do this?" And</b></p> <p>2 <b>she goes, "I think I'm going to have a heart attack." I</b></p> <p>3 <b>tried to console her. I would tell her things like, you</b></p> <p>4 <b>know, the City of Bismarck, Burleigh County, State of</b></p> <p>5 <b>North Dakota, there is no possible way they're going to</b></p> <p>6 <b>let this company jam that pipeline right through</b></p> <p>7 <b>Bismarck like that.</b></p> <p>8 <b>Well, the last page of my folder is my mom's</b></p> <p>9 <b>obituary because she died of heart failure on July 6th.</b></p> <p>10 <b>And I fully -- fully believe with my entire being that</b></p> <p>11 <b>the stress that they put on my mom by doing this caused</b></p> <p>12 <b>her to have that heart failure.</b></p> <p>13 <b>So I just want to conclude that Summit's</b></p> <p>14 <b>behavior has had real consequences on the welfare of our</b></p> <p>15 <b>family and, I'm sure, countless others. And I want to</b></p> <p>16 <b>conclude with I pray -- I pray that the PSC finds enough</b></p> <p>17 <b>evidence in their hearings and their review to deny</b></p> <p>18 <b>Summit's permit. You are the last hope we all have of</b></p> <p>19 <b>preserving the welfare of everyone in North Dakota and</b></p> <p>20 <b>the sanctity of the land of all of North Dakota. Thank</b></p> <p>21 <b>you.</b></p> <p>22 <b>Q. Thank you, sir. I don't have anything further.</b></p> <p>23 You may have some questions from others.</p> <p>24 ALJ HOGAN: Mr. Gludt, any questions?</p> <p>25 MR. GLUDT: Yes, Your Honor, just briefly.</p> <p>PAGE 103</p>
<p>1 <b>them as a young boy. One of my summer jobs when I was</b></p> <p>2 <b>young was to work the summer fallow. At that time we</b></p> <p>3 <b>would fallow every other field. I was out there three,</b></p> <p>4 <b>four times in the summer running the chisel plow. And I</b></p> <p>5 <b>have fond memories of being there with my family.</b></p> <p>6 <b>Well, on January 31st my mom received a letter</b></p> <p>7 <b>from Summit saying they wanted to go across her property</b></p> <p>8 <b>with this pipeline. And that's the page 20. She</b></p> <p>9 <b>received another one in I believe it was March. I</b></p> <p>10 <b>didn't include it. And she received another one in</b></p> <p>11 <b>April. That's page 21. I included the maps that they</b></p> <p>12 <b>have here for where they wanted to go across her</b></p> <p>13 <b>property. And this is extremely valuable farmland.</b></p> <p>14 <b>Extremely valuable development land for somebody in the</b></p> <p>15 <b>future. It will never be developed under my purview.</b></p> <p>16 <b>My mom had conversations with other neighbors</b></p> <p>17 <b>out there in that area. She never spoke directly with</b></p> <p>18 <b>Summit. All they did was send those three packets of</b></p> <p>19 <b>letters. But her conversations with the folks around</b></p> <p>20 <b>her out there said, "It's not negotiable. They're</b></p> <p>21 <b>telling us they're just going to come through, accept</b></p> <p>22 <b>the money because they're going to build it."</b></p> <p>23 <b>My mom was unable to sleep. She was incredibly</b></p> <p>24 <b>stressed by this. She would come out and tell my dad or</b></p> <p>25 <b>-- and me at various times during this time frame, she</b></p> <p>PAGE 102</p>	<p>1 CROSS EXAMINATION</p> <p>2 BY MR. GLUDT:</p> <p>3 <b>Q. Good morning, Mr. Hagerott. Are you aware that</b></p> <p>4 <b>Summit has secured voluntary easements for approximately</b></p> <p>5 <b>91 percent of the current route in Morton County?</b></p> <p>6 <b>A. I'm aware that the easement -- yeah, the</b></p> <p>7 <b>easements in North Dakota are substantial.</b></p> <p>8 <b>Q. Are you aware that the approximately 9 percent</b></p> <p>9 <b>remaining easement acquisition in Morton County consists</b></p> <p>10 <b>of two landowners, yourself and Mr. Malloy?</b></p> <p>11 <b>A. I can't speak to Malloy, but I know that we are.</b></p> <p>12 <b>Q. And are you aware that Mr. Malloy's also</b></p> <p>13 <b>represented by Mr. Jorde?</b></p> <p>14 <b>A. I believe he is.</b></p> <p>15 MR. GLUDT: I have no further questions.</p> <p>16 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>17 MR. PELHAM: I don't. Thank you.</p> <p>18 ALJ HOGAN: Mr. Phillips, any questions?</p> <p>19 MR. PHILLIPS: No, Your Honor.</p> <p>20 ALJ HOGAN: Commissioner Christmann.</p> <p>21 COMMISSIONER CHRISTMANN: What Mr. Jorde</p> <p>22 submitted into evidence, that is a page out of a Summit</p> <p>23 filing that's come in this afternoon apparently, you saw</p> <p>24 that, didn't you?</p> <p>25 THE WITNESS: Uh-huh.</p> <p>PAGE 104</p>

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<p>1 COMMISSIONER CHRISTMANN: Okay. Is that the 2 same as one of the two, I think Mr. Jorde referred to 3 them as "least-best recommendations" that you sent? 4 THE WITNESS: It's very close proximity, yes. 5 COMMISSIONER CHRISTMANN: The one that contains 6 it to your property as opposed to the one to the east of 7 you. That was the only clarification that I had. 8 Thank you for being here. 9 ALJ HOGAN: Commissioner Haugen-Hoffart. 10 COMMISSIONER HAUGEN-HOFFART: Jonathan, thank 11 you for your detailed information. I have no questions 12 for you. 13 ALJ HOGAN: Mr. Dawson. 14 SUBSTITUTE DECISIONMAKER DAWSON: No questions. 15 Thank you for your time. 16 ALJ HOGAN: Any redirect, Mr. Jorde? 17 MR. JORDE: Yes. 18 REDIRECT EXAMINATION 19 BY MR. JORDE: 20 Q. Mr. Gludt made an excellent point. He stated 21 that in Morton County 91 percent of -- well, quote, 22 "voluntary easements" have been obtained. And isn't 23 that the exact point you were making, that you're sure 24 if they just talked to other folks, they could get to a 25 hundred percent in Morton County? Correct?</p> <p>PAGE 105</p>	<p>1 THE WITNESS: It's not, no. They moved it 2 farther north from here. 3 COMMISSIONER CHRISTMANN: Okay. Thank you. 4 THE WITNESS: After my mother passed away, that 5 latest reroute. 6 ALJ HOGAN: All right. That's all the questions 7 for you, Mr. Hagerott. 8 And I think I was told I can have your copy of 9 that blue folder. Thank you, Mr. Leibel. 10 All right. Mr. Jorde, any other witnesses? 11 MR. JORDE: Well, I don't think he's there, but 12 since I can't see, I would just ask if Leon Mallberg 13 (phonetic) came today. I don't think so, but I want to 14 make sure he didn't sneak in. 15 ALJ HOGAN: I don't see anybody standing up 16 so -- 17 MR. JORDE: Okay. No volunteers. All right. 18 Then that is my -- that is my last witness. 19 As I stated last week, I do have one clean-up 20 thing that I communicated with Mr. Dublinske, and that 21 is rather than calling Mr. Rockstad, his sister had 22 testified, rather than calling him, I would just offer 23 Exhibit 2 which is the letter that we already have in 24 evidence from Mr. Boeshans responding to, and that was 25 the one remaining landowner letter of folks who have</p> <p>PAGE 107</p>
<p>1 A. Absolutely. 2 Q. And for some reason they persist with apparently 3 the two persons that feel strongly enough about this to 4 come here and speak out and invest some time and 5 resources to be against it; correct? 6 A. Correct. 7 Q. Thank you. I don't have anything further, sir. 8 Appreciate your testimony. 9 ALJ HOGAN: Mr. Gludt, any other questions? 10 MR. GLUDT: No, Your Honor. 11 ALJ HOGAN: Mr. Pelham. 12 MR. PELHAM: No. 13 ALJ HOGAN: Mr. Phillips. 14 MR. PHILLIPS: No. 15 ALJ HOGAN: Commissioner Christmann. 16 COMMISSIONER CHRISTMANN: Yes. This map that 17 was toward the back of this blue handout of your 18 mother's property, is that the original route that was 19 proposed or is that the current route that's proposed? 20 THE WITNESS: It's not the current route. I 21 don't know what version, iteration of their routes it 22 would have been, but it's not the current route. 23 COMMISSIONER CHRISTMANN: The route that was -- 24 this newest route that came out, I think, in January, 25 it's not on that --</p> <p>PAGE 106</p>	<p>1 testified previously that didn't get in. So I offer 2 Landowner Exhibit 2. 3 ALJ HOGAN: Any objection? 4 MR. DUBLINSKE: No objection, Your Honor. 5 ALJ HOGAN: Mr. Pelham. 6 MR. PELHAM: No objection. 7 ALJ HOGAN: All right. Landowner Exhibit 2 is 8 received. 9 MR. JORDE: And, with that, no more witnesses 10 for today that we're going to call in our case, Your 11 Honor. 12 ALJ HOGAN: All right. Then I will turn back to 13 Summit. It's my understanding you have some rebuttal 14 witnesses you want to call. 15 MR. DUBLINSKE: We do, Your Honor. Summit would 16 call its first rebuttal witness, Alex Lange. 17 ALJ HOGAN: Good morning, Mr. Lange. I'll have 18 you start by stating your full name for the record and 19 spelling your last name. 20 ALEX LANGE: Alexander Daniel Lange, L-A-N-G-E. 21 ALJ HOGAN: Mr. Lange, were you in the room this 22 morning when I went through the penalties for perjury? 23 ALEX LANGE: I was. 24 ALJ HOGAN: And do you understand what perjury 25 is?</p> <p>PAGE 108</p>

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<p>1 ALEX LANGE: I do.</p> <p>2 ALJ HOGAN: And being advised of the potential</p> <p>3 penalties for perjury, do you promise to tell the truth</p> <p>4 in this case today?</p> <p>5 ALEX LANGE: I do.</p> <p>6 ALJ HOGAN: All right. Thank you.</p> <p>7 Go ahead, Mr. Dublinske.</p> <p>8 MR. DUBLINSKE: Thank you, Your Honor.</p> <p>9 <b><u>ALEX LANGE,</u></b></p> <p>10 being first duly sworn, was examined and testified as</p> <p>11 follows:</p> <p>12 DIRECT EXAMINATION</p> <p>13 BY MR. DUBLINSKE:</p> <p>14 Q. Mr. Lange, you have not previously testified in</p> <p>15 this matter; correct?</p> <p>16 A. That is correct.</p> <p>17 Q. Over the weekend, did you cause to be prefiled</p> <p>18 some written rebuttal testimony?</p> <p>19 A. I did.</p> <p>20 Q. And that testimony is intended to speed up your</p> <p>21 rebuttal to information that had come in prior to this</p> <p>22 weekend. Is that fair?</p> <p>23 A. That is correct.</p> <p>24 Q. And if I asked you the questions in that</p> <p>25 prefiled testimony on the stand today, would your</p> <p>PAGE 109</p>	<p>1 A. That's correct.</p> <p>2 Q. But it does not provide in your written</p> <p>3 testimony what has been considered confidential</p> <p>4 information, the specific inputs or outputs of any</p> <p>5 dispersion modeling; correct?</p> <p>6 A. Correct.</p> <p>7 Q. And you have an attachment that lists all of the</p> <p>8 persons that attended those meetings; is that correct?</p> <p>9 A. That is correct.</p> <p>10 Q. Now if we go to page 3 of your rebuttal</p> <p>11 testimony, I believe there's a table there that lists</p> <p>12 the meetings that have been held and the dates; is that</p> <p>13 correct?</p> <p>14 A. That is correct.</p> <p>15 Q. And if I count those, I count 11. In the</p> <p>16 paragraph that introduces that, I believe you say you</p> <p>17 made 10 presentations. Have you, in fact, been involved</p> <p>18 in all of the 11 listed presentations?</p> <p>19 A. I was the presenter at those presentations.</p> <p>20 There is another clarification. There are</p> <p>21 really 12 presentations in total. Although the McIntosh</p> <p>22 and Logan County meeting on May 15th was extended to</p> <p>23 Logan County individuals, the emergency manager, for</p> <p>24 reasons I'm not aware of, was unable to make that at the</p> <p>25 last minute and so we did set up a one-on-one meeting in</p> <p>PAGE 111</p>
<p>1 answers be substantially similar?</p> <p>2 A. That's correct.</p> <p>3 Q. Given the timing on this, I just want to briefly</p> <p>4 sort of summarize without getting too repetitive of what</p> <p>5 you prefiled, is it -- were you aware that at the</p> <p>6 April 20 -- sorry -- yeah, April 22nd hearing in</p> <p>7 Bismarck, that information was provided about meetings</p> <p>8 with emergency responders and that information made</p> <p>9 reference to dispersion presentations?</p> <p>10 A. That is correct.</p> <p>11 Q. And you're aware that at that meeting</p> <p>12 commissioners asked for additional information about</p> <p>13 what exactly that was referring to?</p> <p>14 A. That is correct.</p> <p>15 Q. And that there were requests for additional</p> <p>16 information on the nature of meetings, what meetings had</p> <p>17 taken place, with whom they had taken place, when they</p> <p>18 had taken place, that sort of thing?</p> <p>19 A. That's my understanding.</p> <p>20 Q. Is it generally the purpose of your prefiled</p> <p>21 testimony to address and provide additional information</p> <p>22 in response to that line of questions?</p> <p>23 A. That is correct.</p> <p>24 Q. And that testimony talks about the nature of</p> <p>25 those meetings; correct?</p> <p>PAGE 110</p>	<p>1 our Bismarck office on May 16th with the Logan County</p> <p>2 emergency manager. And so if you split that, in total</p> <p>3 there would be 12 meetings.</p> <p>4 Q. So the reference to 10 in line 8 is just a typo?</p> <p>5 A. That's correct.</p> <p>6 Q. Are there any other corrections to your</p> <p>7 testimony that we need to make before we go any further</p> <p>8 this morning?</p> <p>9 A. No.</p> <p>10 MR. DUBLINSKE: Your Honor, I would move</p> <p>11 admission of the rebuttal testimony and then I will also</p> <p>12 have some additional questions for the witness, but I</p> <p>13 want to stop there because it's going to change</p> <p>14 subjects.</p> <p>15 ALJ HOGAN: Do you want to mark that as an</p> <p>16 exhibit? I think the other testimony was marked with</p> <p>17 exhibit numbers.</p> <p>18 MR. DUBLINSKE: I believe that's correct. Let</p> <p>19 me see what number we're up to here. It would be R --</p> <p>20 ALJ HOGAN: I have 17 as the last one.</p> <p>21 MR. DUBLINSKE: That's what we show too so --</p> <p>22 ALJ HOGAN: Okay. So this would be 18.</p> <p>23 MR. DUBLINSKE: R-18.</p> <p>24 ALJ HOGAN: All right. Any objection,</p> <p>25 Mr. Pelham?</p> <p>PAGE 112</p>

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<p>1 MR. PELHAM: No objection.</p> <p>2 ALJ HOGAN: Mr. Phillips.</p> <p>3 MR. PHILLIPS: No objection.</p> <p>4 ALJ HOGAN: And Mr. Jorde.</p> <p>5 MR. JORDE: Yes, objection. It's inappropriate</p> <p>6 rebuttal. It's not responding to something that</p> <p>7 couldn't have reasonably been anticipated. And then</p> <p>8 further objection as to -- well, relevance and</p> <p>9 foundation and basically they're now being able to</p> <p>10 bolster and defend the secret information that we don't</p> <p>11 have while at the same time maintaining its alleged</p> <p>12 confidentiality and we think that's patently unfair as</p> <p>13 we can't respond to this. So those would be my</p> <p>14 objections.</p> <p>15 ALJ HOGAN: All right. The objections are</p> <p>16 noted, but I am going to admit SCS 18.</p> <p>17 MR. DUBLINSKE: Thank you, Your Honor.</p> <p>18 Q. (BY MR. DUBLINSKE) Mr. Lange, you had</p> <p>19 mentioned that the prefiled testimony addresses</p> <p>20 information that was known prior to when it was filed</p> <p>21 this weekend. Were you also in the room this morning</p> <p>22 when Ms. Elkins testified?</p> <p>23 A. I was.</p> <p>24 Q. And part of her testimony involved geological</p> <p>25 concerns. Were you involved with the interaction that</p> <p>PAGE 113</p>	<p>1 River. And then as was talked about in the --</p> <p>2 Ms. Elkins' testimony, based on those results from those</p> <p>3 reports, we did design the pipeline such that the drill</p> <p>4 would be 49 feet underneath the bottom of that -- the</p> <p>5 lowest part of the Missouri River. So that's one aspect</p> <p>6 of it.</p> <p>7 Another is that in the testimony this morning,</p> <p>8 from my memory, there was a comment that our geohazards</p> <p>9 really only identified those identified through the</p> <p>10 North Dakota Geological Survey. And that's not</p> <p>11 necessarily an accurate representation of the geohazard</p> <p>12 analyses we'd done. And so slope and the percentage of</p> <p>13 slope of lands that we cross is absolutely part of our</p> <p>14 geohazard analysis.</p> <p>15 I think if you go back to -- and I know it's in</p> <p>16 the docket somewhere, I don't know the exact filing</p> <p>17 number, but my initial letter to Ed Murphy of the North</p> <p>18 Dakota Geologic Survey identified that we had an</p> <p>19 additional callout in regards to geohazards that the</p> <p>20 North Dakota -- I guess NDGS did not identify and that</p> <p>21 was one based off of slope. And so that's been an</p> <p>22 aspect of our geohazard analysis.</p> <p>23 And then over the 12 months starting, roughly,</p> <p>24 the first week of March 2023 and concluding with Ed</p> <p>25 Murphy's latest letter, March 2024, we've met with Ed</p> <p>PAGE 115</p>
<p>1 Summit has had with the North Dakota State Geologist?</p> <p>2 A. I was.</p> <p>3 Q. And based on your expertise and experience in</p> <p>4 working through those geological issues, do you have any</p> <p>5 responses you'd like to make to Ms. Elkins?</p> <p>6 A. Sure. I know that overall through these</p> <p>7 hearings there's been a significant amount of testimony</p> <p>8 regarding geohazards and there have been exhibits also</p> <p>9 submitted from the North Dakota Geological Survey and so</p> <p>10 I won't rehash everything that we've talked about but</p> <p>11 just kind of give it a summary of what has occurred.</p> <p>12 And so really geohazards, on June 2nd, 2022,</p> <p>13 PHMSA issued an advisory bulletin specific to geohazards</p> <p>14 and the risks associated with geohazards and how</p> <p>15 pipeline companies and operators can design around</p> <p>16 geohazards and ultimately monitor those geohazards. And</p> <p>17 so that's the basis for how Summit devised its geohazard</p> <p>18 assessment plan.</p> <p>19 We then contracted a number of geologist</p> <p>20 companies, Terracon and Geosyntec, and starting in March</p> <p>21 -- not March, sorry. In August of 2022 is when we</p> <p>22 started looking at things like lateral migration and</p> <p>23 scour of rivers. And so in August of 2022 is when we</p> <p>24 received a report from our geologists regarding the</p> <p>25 scour and lateral migration specifically of the Missouri</p> <p>PAGE 114</p>	<p>1 and his team a number of times to talk through</p> <p>2 geohazards specifically around landslides, presenting</p> <p>3 them information on how do we complete Phase II</p> <p>4 analyses, what do those look like? And so that's just</p> <p>5 kind of a brief recap.</p> <p>6 And then, in closing, one of the things that the</p> <p>7 PHMSA letter also -- or the PHMSA advisory talks about</p> <p>8 is how do you monitor geohazards. Because geohazards</p> <p>9 don't just end as soon as construction and the</p> <p>10 engineering side is done. And so one of the things we</p> <p>11 plan to do is we'll run what's called an "IMU tool."</p> <p>12 It's an inertial measurement unit. And so that tool</p> <p>13 allows you as the pipeline operator to get things --</p> <p>14 really geospatial data on where does your pipeline sit?</p> <p>15 And then as we continue to run smart tools in the future</p> <p>16 as part of our integrity management program, we can map</p> <p>17 how that pipeline's moving over time, if there are</p> <p>18 additional landslides or whatever else may -- may crop</p> <p>19 up.</p> <p>20 So I'll leave it there.</p> <p>21 Q. So you covered a lot of things. I just want to</p> <p>22 break that down and confirm a couple things. Is it your</p> <p>23 understanding that Summit has addressed the State</p> <p>24 geologist's concerns to his office's satisfaction?</p> <p>25 A. Yes.</p> <p>PAGE 116</p>

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<p>1 <b>Q.</b> And to address specifically an issue that</p> <p>2 Ms. Elkins talked about this morning, am I correct that</p> <p>3 Summit has undertaken a Missouri River crossing scour</p> <p>4 analysis?</p> <p>5 <b>A.</b> That is correct.</p> <p>6 <b>Q.</b> Do you happen to know whether that's been</p> <p>7 admitted in the docket?</p> <p>8 <b>A.</b> I do not know.</p> <p>9 <b>Q.</b> In fact, there are numerous pipelines and have</p> <p>10 been for decades that cross the Missouri River; correct?</p> <p>11 <b>A.</b> That's correct.</p> <p>12 <b>Q.</b> I want to switch subjects because she also</p> <p>13 talked a little bit about source water. Are there PHMSA</p> <p>14 rules that Summit is required to follow that</p> <p>15 specifically address drinking water?</p> <p>16 <b>A.</b> That is correct.</p> <p>17 <b>Q.</b> And what rule is that?</p> <p>18 <b>A.</b> Yeah. Under Part 195, specifically 450 is the</p> <p>19 definitions for high consequence areas. There's four</p> <p>20 different types of high consequence areas associated</p> <p>21 with pipeline design. One of those is labeled as</p> <p>22 unusually sensitive areas, sometimes referenced as</p> <p>23 "USAs." That points to a definition under 195.6, lists</p> <p>24 a number of different criteria for an unusually</p> <p>25 sensitive area. Once again, one of those is drinking</p> <p>PAGE 117</p>	<p>1 brittle fracture control. And so the way that pipeline</p> <p>2 companies address brittle fracture control is that, as</p> <p>3 part of your material selection, you really want to</p> <p>4 define what's called a "minimum design temperature" such</p> <p>5 that your brittle to ductile transition regime, that</p> <p>6 you're operating in that ductile area for the metals.</p> <p>7 And so when you look at that, that's done by, as I</p> <p>8 mentioned, specifying a minimum design temperature.</p> <p>9 And so when we look at our above-ground</p> <p>10 facilities in North Dakota, we've defined that at</p> <p>11 negative 50 degrees Fahrenheit to account for colder</p> <p>12 climates. I know it was discussed about differences</p> <p>13 between North Dakota and Texas, and Texas, that could be</p> <p>14 closer to 32 degrees Fahrenheit, and so significant</p> <p>15 changes there.</p> <p>16 And so when it comes to how do we validate that</p> <p>17 our pipe actually meets this negative 50-degree design</p> <p>18 criteria, is that's done through an API standard, it's</p> <p>19 API 5L, and more specifically they do what's called</p> <p>20 "drop weight tear testing." And so what they're doing</p> <p>21 is that they expose that material to a significantly</p> <p>22 cold temperature, they measure the shear percentage of</p> <p>23 that steel and validate that, independent of</p> <p>24 temperatures, you're operating in the ductile region for</p> <p>25 your design temperature.</p> <p>PAGE 119</p>
<p>1 water resources, drinking water supplies, in addition to</p> <p>2 things like critically endangered species, things along</p> <p>3 those lines.</p> <p>4 And so PHMSA does have regulations regarding</p> <p>5 potential impacts for pipelines that could affect high</p> <p>6 consequence areas in which drinking water resources</p> <p>7 would be included.</p> <p>8 MR. DUBLINSKE: We have nothing further at this</p> <p>9 time, Your Honor.</p> <p>10 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>11 CROSS EXAMINATION</p> <p>12 BY MR. PELHAM:</p> <p>13 <b>Q.</b> Sir, I'm wondering if you can address some</p> <p>14 testimony that took place last week. A witness</p> <p>15 testified as to the extreme nature of North Dakota's</p> <p>16 winters and the cold and the potential impact of extreme</p> <p>17 cold potentially causing brittle fractures in main line</p> <p>18 valves that are above surface. Are you -- did you hear</p> <p>19 that testimony?</p> <p>20 <b>A.</b> Yes. I heard parts of it.</p> <p>21 <b>Q.</b> Has Summit -- what has Summit done to address</p> <p>22 the potential for that?</p> <p>23 <b>A.</b> Yeah. As part of the federal regulations,</p> <p>24 pipeline operators have to account for fracture control</p> <p>25 generally. And so part of that fracture control is</p> <p>PAGE 118</p>	<p>1 And so when we work with the steel mills and the</p> <p>2 pipe mills, they'll be picking material specifications</p> <p>3 that put us in that ductile region up to, I guess,</p> <p>4 negative 50 degrees and higher.</p> <p>5 <b>Q.</b> And in that, when you say "negative 50," I mean</p> <p>6 some of the testimony related to windchill. Are you</p> <p>7 able to provide any context as to the impact of</p> <p>8 windchill? Is that negative 50 windchill or negative 50</p> <p>9 actual?</p> <p>10 <b>A.</b> That would be negative 50 actual, but you do</p> <p>11 have to remember that these above-ground facilities do</p> <p>12 have fluid flowing through them. And so ground</p> <p>13 temperatures are significantly warmer than that.</p> <p>14 They'll be generally in the 20 to 30 degrees Fahrenheit</p> <p>15 range based on our depth. And so that pipe would be, in</p> <p>16 reality, closer to 20 to 30 degrees Fahrenheit based on</p> <p>17 flowing conditions.</p> <p>18 <b>Q.</b> Thank you, sir. I don't have any other</p> <p>19 questions.</p> <p>20 ALJ HOGAN: Mr. Schock, any questions?</p> <p>21 CROSS EXAMINATION</p> <p>22 BY MR. SCHOCK:</p> <p>23 <b>Q.</b> I just want to go a little bit further. So you</p> <p>24 were talking about the temperature rating of the pipe.</p> <p>25 So is that pipe that would only be the above-ground</p> <p>PAGE 120</p>

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<p>1 portions or the entirety of the pipeline in North 2 Dakota? 3 <b>A. That would be the above-ground portions.</b> 4 <b>Q.</b> Okay. 5 <b>A. And so there would be a transition point as it 6 got to that four-foot depth of cover, the main line pipe 7 will be -- would be negative 5C or 23 degrees 8 Fahrenheit.</b> 9 <b>Q.</b> Okay. That's exactly what I needed. Thank you. 10 Nothing further. 11 ALJ HOGAN: All right. And is it Mr. Phillips 12 or Mr. Jorde going first? I don't know if you guys 13 discussed it. 14 MR. JORDE: I've got several questions. I'm 15 happy to go first. 16 MR. PHILLIPS: We haven't talked about it, but 17 that's just fine if he goes first. 18 ALJ HOGAN: All right. Go ahead, Mr. Jorde. 19 MR. JORDE: Okay. Thank you. 20 CROSS EXAMINATION 21 BY MR. JORDE: 22 <b>Q.</b> Now you're the -- what did it say? You're 23 director of engineering. How many other carbon dioxide 24 pipelines that intend to transport CO2 in a 25 supercritical state have you been the director of</p> <p>PAGE 121</p>	<p>1 MR. PELHAM: Well, as I've said before, the 2 Commission's protective order is what it is, but, you 3 know, I don't know if the witness can answer in 4 generalities as to the general statements that were made 5 as to what the response was, but it would seem to me 6 that there would be some ability to question the witness 7 on this area. I don't -- as to the specifics, though, 8 as to the specifics as to the actual dispersion 9 modeling, that has been deemed to be confidential by the 10 Commission. 11 ALJ HOGAN: I guess if the question can be 12 answered in a general nature without disclosing what has 13 been deemed or falls under the Commission's protective 14 order, you can provide that information. Otherwise, I 15 would sustain the objection because we've already 16 discussed there's a pending motion to revisit that 17 protective order, and until that analysis has been made, 18 that order does stand and protect that information. 19 MR. JORDE: So, Your Honor, I don't want 20 general. So if I'm being sustained, so be it, but I 21 want specifically exactly what was shared related to 22 that, and I'm going to walk through each one of these. 23 And so if they're sustained, they're sustained, but I 24 don't want general information from the rebuttal 25 witness.</p> <p>PAGE 123</p>
<p>1 engineering for previously? 2 <b>A. Summit is the first.</b> 3 <b>Q.</b> And you talk about the purpose of dispersion 4 analysis presentations on page 4 of your rebuttal 5 testimony, and you lead with "to provide foundational 6 information regarding dispersion modeling." Tell me all 7 the foundational information regarding dispersion 8 modeling that was shared. 9 MR. DUBLINSKE: Objection, Your Honor. That is 10 asking for the content of the confidential information. 11 ALJ HOGAN: I guess maybe I don't understand 12 what your question is, Mr. Jorde. Could you rephrase? 13 MR. JORDE: Sure, I'll try. 14 On line 2, page 4, he answers the question "What 15 was the purpose of the dispersion analysis 16 presentations?" And then in line 2 to 3 he talks about 17 providing emergency responders with, quote, 18 "foundational information regarding dispersion 19 modeling." And I want to know everything that that 20 consists of. 21 MR. DUBLINSKE: And, Your Honor, that paragraph 22 is giving an overview of exactly what's in the slide 23 presentation. That's precisely what's confidential. 24 ALJ HOGAN: Mr. Pelham, any thoughts on this 25 line of questioning?</p> <p>PAGE 122</p>	<p>1 ALJ HOGAN: Okay. Then I am sustaining the 2 objection as to the specifics because that was 3 previously determined or falls under the Commission's 4 protective order. 5 <b>Q.</b> (BY MR. JORDE) And, sir, then the same 6 question -- I'll just lump them together so this doesn't 7 have to get overly long -- I want you to please then 8 explain the details that you shared in these meetings as 9 to, quote, "Why dispersion modeling is used, what 10 dispersion modeling is and different methodologies for 11 performing it, the types of conditions dispersion 12 modeling accounts for, and how dispersion buffer mapping 13 compares to what actually happens when dispersion 14 occurs." 15 I'd like you to tell me the exact details of all 16 of that that you shared in these meetings. 17 MR. DUBLINSKE: Same objection, Your Honor. 18 It's pretty clear that this is describing at a high 19 level what the contents of the presentation materials 20 are. The presentation materials have already been held 21 to be confidential under the protective order. 22 You know, again, we're in a difficult spot 23 because we're trying to stay on the right side of the 24 protective order while also providing information that 25 was specifically requested and asked about by the</p> <p>PAGE 124</p>

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<p>1 Commission on April 22nd. I think this is similar to</p> <p>2 several rulings Your Honor has made that the important</p> <p>3 piece here is that these meetings are happening and that</p> <p>4 the Commission have a sense that they're genuinely</p> <p>5 happening and what's happening at them, but at some</p> <p>6 point you cross over into safety which is no longer in</p> <p>7 the Commission's jurisdiction.</p> <p>8 ALJ HOGAN: The objection is sustained for the</p> <p>9 rationale we previously discussed.</p> <p>10 <b>Q.</b> (BY MR. JORDE) In regards to how dispersion</p> <p>11 buffering mapping compares to what actually happens, I</p> <p>12 know now I'm not going to be able to get into that, but,</p> <p>13 sir, can you tell me if you presented information that</p> <p>14 tended to minimize or downplay Satartia, Mississippi,</p> <p>15 and information related to that plume and what happened</p> <p>16 there in any of these secret meetings you had?</p> <p>17 <b>A. No. We did not downplay the plume of Satartia,</b></p> <p>18 <b>Mississippi.</b></p> <p>19 <b>Q.</b> And you then go on to say, a couple lines here,</p> <p>20 your presentations were intended to begin laying the</p> <p>21 groundwork for local emergency responders to understand</p> <p>22 how dispersion modeling informs local emergency response</p> <p>23 plans. My question is does Summit intend for the</p> <p>24 affected communities to rely upon the accuracy of the</p> <p>25 dispersion information Summit shared with those</p> <p>PAGE 125</p>	<p>1 <b>communities.</b></p> <p>2 <b>In regards to my role in developing those plans,</b></p> <p>3 <b>generally outside of my scope. May supply some</b></p> <p>4 <b>information that helps develop some of those plans, but</b></p> <p>5 <b>in regards to how the local communities will actually</b></p> <p>6 <b>respond is outside of my knowledge set.</b></p> <p>7 <b>Q.</b> So if we can go back to the question I asked,</p> <p>8 did you intend on behalf of Summit, as the Summit</p> <p>9 director of engineering, that the invitees to these</p> <p>10 secret meetings where you shared dispersion modeling,</p> <p>11 did you intend those participants to rely upon the data</p> <p>12 you shared with them? Yes or no?</p> <p>13 <b>A. I don't think it's as easy as a simple yes or</b></p> <p>14 <b>no. I think, at the end of the day, emergency response</b></p> <p>15 <b>is a collaborative effort. And so if there's additional</b></p> <p>16 <b>information that those first responders will want or</b></p> <p>17 <b>need, that's something that we would be willing to offer</b></p> <p>18 <b>to them.</b></p> <p>19 <b>Q.</b> So you admit that the information you provided</p> <p>20 should not be relied upon by the emergency managers and</p> <p>21 first responders that you invited to these secret</p> <p>22 meetings?</p> <p>23 MR. DUBLINSKE: Objection. Obviously</p> <p>24 mischaracterizes Mr. Lange's testimony.</p> <p>25 MR. JORDE: Well, he hasn't answered the</p> <p>PAGE 127</p>
<p>1 communities' first responders?</p> <p>2 <b>A. Can you restate that question?</b></p> <p>3 <b>Q.</b> Yes. Does Summit intend for the first</p> <p>4 responders of the various communities to rely upon and</p> <p>5 take as fact the Summit-prepared and Summit-presented</p> <p>6 dispersion modeling so that they can rely on that when</p> <p>7 forming their own emergency response plans within their</p> <p>8 specific communities?</p> <p>9 MR. DUBLINSKE: I'm going to object to the</p> <p>10 extent that it calls for specific content, but I do not</p> <p>11 object if the witness can generally characterize to</p> <p>12 Mr. Jorde's point whether the presentation -- were the</p> <p>13 intended communities to rely on the accuracy of the</p> <p>14 material presented.</p> <p>15 ALJ HOGAN: I understood it as a general</p> <p>16 question or statement. So with that in mind, you can</p> <p>17 answer.</p> <p>18 <b>A. When it comes to the emergency response planning</b></p> <p>19 <b>side of things with not only county emergency managers</b></p> <p>20 <b>but also first responders, as my written testimony</b></p> <p>21 <b>outlines, what we've done right now is really start to</b></p> <p>22 <b>lay the foundation of what will come. And so there's</b></p> <p>23 <b>going to be future meetings and trainings in regards to</b></p> <p>24 <b>what are actual response tactics, what does the</b></p> <p>25 <b>emergency response plan look like for those local</b></p> <p>PAGE 126</p>	<p>1 question.</p> <p>2 MR. DUBLINSKE: It does not mean that you get to</p> <p>3 testify in his stead, however.</p> <p>4 MR. JORDE: Well, if he would answer the</p> <p>5 question, it would be great.</p> <p>6 ALJ HOGAN: Can you rephrase your question,</p> <p>7 Mr. Jorde?</p> <p>8 MR. JORDE: I'll try for the fourth time. Yes,</p> <p>9 I will, Your Honor.</p> <p>10 <b>Q.</b> (BY MR. JORDE) Sir, I know you don't want to</p> <p>11 answer this, but that's not how it works. So here's the</p> <p>12 question. Did you intend for the invitees to these</p> <p>13 secret meetings to rely upon the Summit information that</p> <p>14 you were providing them at these meetings? Yes or no?</p> <p>15 MR. DUBLINSKE: Objection, asked or answered.</p> <p>16 The witness already explained that this is not a simple</p> <p>17 yes or no question.</p> <p>18 MR. JORDE: He didn't answer it at all.</p> <p>19 ALJ HOGAN: I agree, I don't think he answered</p> <p>20 the specific question. And I think there's more context</p> <p>21 to it, but if you could answer a specific question.</p> <p>22 <b>A. Can you repeat it one more time?</b></p> <p>23 <b>Q.</b> (BY MR. JORDE) Sir, you've been brought here</p> <p>24 today to reassure the Commission of all these wonderful</p> <p>25 things you've shared with first responders and all your</p> <p>PAGE 128</p>



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<p>1 efforts, and that information is so important to you and</p> <p>2 your company that you're fighting tooth and nail to keep</p> <p>3 it secret and confidential. And the question is this:</p> <p>4 did you on behalf of Summit intend to have the invitees</p> <p>5 to these secret emergency responder meetings to rely</p> <p>6 upon the Summit dispersion modeling that you shared with</p> <p>7 them? Yes or no?</p> <p>8 <b>A. I think the answer would be yes.</b></p> <p>9 <b>Q.</b> Okay. Thank you.</p> <p>10 What is your personal background in selecting</p> <p>11 input values for dispersion modeling relative to a</p> <p>12 potential CO2 plume?</p> <p>13 <b>A. So Summit contracted a company called Audubon to</b></p> <p>14 <b>help us with dispersion modeling. And so it's, once</b></p> <p>15 <b>again, a somewhat collaborative effort as we talk</b></p> <p>16 <b>through what are the appropriate inputs based on what</b></p> <p>17 <b>we're trying to get for an output or what that output</b></p> <p>18 <b>would be. So it's a mix of system design specifications</b></p> <p>19 <b>as well as regional atmospheric conditions, humidity,</b></p> <p>20 <b>temperature, things along those lines.</b></p> <p>21 <b>Q.</b> Okay. So my question was what is your personal</p> <p>22 background in selecting input values for plume modeling</p> <p>23 related to carbon dioxide pipelines? And if you don't</p> <p>24 have any, that's fine.</p> <p>25 <b>A. Outside of Summit, I have not been a part of</b></p> <p>PAGE 129</p>	<p>1 <b>geographical location of your pipeline.</b></p> <p>2 <b>Q.</b> You were then asked how did presentation address</p> <p>3 what dispersion modeling is and different methodologies</p> <p>4 for performing it. I asked you about that and it was</p> <p>5 sustained, the objections were sustained.</p> <p>6 Are you confident in the results of the</p> <p>7 dispersion modeling that were performed for Summit's</p> <p>8 route including -- including potential ruptures on or</p> <p>9 near my clients' land, businesses, and residences?</p> <p>10 <b>A. Yes. I'm confident with the work that Summit</b></p> <p>11 <b>has done for our dispersion modeling.</b></p> <p>12 <b>Q.</b> And that would be across the entire footprint of</p> <p>13 over 350 miles in North Dakota; correct?</p> <p>14 <b>A. That is correct.</b></p> <p>15 <b>Q.</b> And by providing that information to the PSC,</p> <p>16 Summit intends that the three decisionmakers here, the</p> <p>17 two commissioners and Substitute Decisionmaker Dawson,</p> <p>18 rely upon that model and the data you've provided them;</p> <p>19 correct?</p> <p>20 MR. DUBLINSKE: Objection, Your Honor. A, calls</p> <p>21 for a legal conclusion as to the extent that is relevant</p> <p>22 to decision criteria.</p> <p>23 MR. PELHAM: I would join in that objection. I</p> <p>24 think it does call for a legal conclusion.</p> <p>25 ALJ HOGAN: The objection is sustained.</p> <p>PAGE 131</p>
<p>1 <b>plume modeling for CO2 pipelines.</b></p> <p>2 <b>Q.</b> All right. Then you go on to state the</p> <p>3 presentations explained that Summit performed dispersion</p> <p>4 modeling consistent with federal regulations. What are</p> <p>5 all the factors that you used to determine whether or</p> <p>6 not Summit's dispersion modeling was performed</p> <p>7 consistent with federal regulations? How can you make</p> <p>8 that statement?</p> <p>9 <b>A. Federal regulations through 195.452, the</b></p> <p>10 <b>integrity management plan section, ultimately require an</b></p> <p>11 <b>operator to identify the risks associated with</b></p> <p>12 <b>pipelines. And so when it comes to CO2, the risk</b></p> <p>13 <b>associated with some type of inadvertent release would</b></p> <p>14 <b>be the vaporization of CO2 and then an associated plume</b></p> <p>15 <b>with that. And so as part of our regulatory</b></p> <p>16 <b>requirements, making sure we can identify and understand</b></p> <p>17 <b>risk so that we can execute the integrity management</b></p> <p>18 <b>plan program as prescribed by 195.452 is a federal</b></p> <p>19 <b>requirement.</b></p> <p>20 <b>Q.</b> You're not suggesting, are you, that PHMSA has a</p> <p>21 specific carbon dioxide pipeline requirement related to</p> <p>22 input values or output values for dispersion modeling on</p> <p>23 CO2 pipelines, are you?</p> <p>24 <b>A. Not directly other than it obviously needs to be</b></p> <p>25 <b>applicable to what your pipeline design is and the</b></p> <p>PAGE 130</p>	<p>1 MR. JORDE: Okay. I'll try it again. I didn't</p> <p>2 ask for a legal conclusion.</p> <p>3 <b>Q.</b> (BY MR. JORDE) Sir, again, you are the</p> <p>4 engineering guy, you've been brought here in rebuttal to</p> <p>5 talk all about how wonderful this dispersion work was.</p> <p>6 You just said you stand by it. Is it your intent as an</p> <p>7 employee of Summit that the PSC rely upon the data</p> <p>8 you've provided them in confidence? Yes or no?</p> <p>9 <b>A. I think that's correct, yes.</b></p> <p>10 <b>Q.</b> All right. You then talk about gravity and</p> <p>11 topography, but you don't have any personal background</p> <p>12 in vapor dispersion relative to gravity and topography</p> <p>13 other than that what you've been involved with on this</p> <p>14 project; is that correct?</p> <p>15 <b>A. That is correct.</b></p> <p>16 <b>Q.</b> You mention that the presentations described how</p> <p>17 FLO-2D software that Summit uses to perform some</p> <p>18 modeling accounts for topography. Did you provide --</p> <p>19 did you provide any of these first responders any images</p> <p>20 in the PowerPoint or other descriptions of outputs from</p> <p>21 your FLO-2D modeling?</p> <p>22 MR. DUBLINSKE: Objection to the extent that it</p> <p>23 calls for materials specifically in the presentation</p> <p>24 subject to the protective order. I'm fine if Mr. Lange</p> <p>25 wants to give a general response.</p> <p>PAGE 132</p>

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<p>1 ALJ HOGAN: If you can answer it in a general</p> <p>2 nature, please do.</p> <p>3 <b>A. We did talk about topography and the impact that</b></p> <p>4 <b>could play on CO2 dispersion modeling in the</b></p> <p>5 <b>presentation, yes.</b></p> <p>6 <b>Q.</b> (BY MR. JORDE) Are you aware that FLO-2D is</p> <p>7 primarily for flooding and mudslides and not for</p> <p>8 modeling supercritical CO2 from unintended releases or</p> <p>9 pipeline ruptures?</p> <p>10 <b>A. I'm not aware of that.</b></p> <p>11 <b>Q.</b> You described the phrase, quote, "a full</p> <p>12 bore --" B-O-R-E "-- rupture," end quote. Is that your</p> <p>13 way of saying the worst-case type of a rupture?</p> <p>14 <b>A. That is the worst-case release type, yes. Also</b></p> <p>15 <b>sometimes called a "guillotine release."</b></p> <p>16 <b>Q.</b> Okay. Thank you.</p> <p>17 And you say you explained dispersion buffer</p> <p>18 maps. And are those maps that you provided in these</p> <p>19 meetings that show various distances that a vapor plume</p> <p>20 is projected to travel from the release source?</p> <p>21 <b>A. We did show maps that also overlaid the buffers,</b></p> <p>22 <b>yes.</b></p> <p>23 <b>Q.</b> All right. And has that type of data, was that</p> <p>24 included in the information that Summit provided to the</p> <p>25 PSC confidentially?</p> <p>PAGE 133</p>	<p>1 Commission, PSC, has or doesn't have, with the first</p> <p>2 responders in an attempt or for the purpose of</p> <p>3 minimizing their concerns that they had relative to how</p> <p>4 far a toxic plume could travel? Yes or no.</p> <p>5 <b>A. The intention of sharing the maps is to educate</b></p> <p>6 <b>first responders on where a plume could potentially</b></p> <p>7 <b>travel.</b></p> <p>8 <b>Q.</b> You mention a PowerPoint slideshow. Was the sum</p> <p>9 and substance of any data provided during these meetings</p> <p>10 contained within the PowerPoint slideshow or were there,</p> <p>11 in addition to the slideshow, other risk analysis,</p> <p>12 dispersion, toxicity, in the form of handouts or</p> <p>13 physical documentation?</p> <p>14 <b>A. In some of the meetings we did offer up digital</b></p> <p>15 <b>versions of publicly-available information. The API CO2</b></p> <p>16 <b>tactical guidance is one of those items. Excerpts from</b></p> <p>17 <b>DOT 195 as it pertains to the regulations around</b></p> <p>18 <b>emergency response for pipeline operators is another</b></p> <p>19 <b>piece of information that was offered publicly. And</b></p> <p>20 <b>then also an API study for shelter-in-place as a</b></p> <p>21 <b>protective means. And so those three documents at a</b></p> <p>22 <b>minimum. And then there was a Summit-produced first</b></p> <p>23 <b>responders preparedness training draft. And those four</b></p> <p>24 <b>documents were at least offered verbally to be</b></p> <p>25 <b>transmitted electronically if desired. And I don't know</b></p> <p>PAGE 135</p>
<p>1 I'm sorry, I missed your answer.</p> <p>2 MR. DUBLINSKE: Yeah, we would object that</p> <p>3 that's getting into the content of what was submitted to</p> <p>4 the PSC and it's held under the protective order.</p> <p>5 MR. JORDE: Well, to be very clear, I'm not</p> <p>6 asking for values because I know that's going to get</p> <p>7 sustained. I simply want to know if the buffer maps he</p> <p>8 just talked -- well, he talks about -- in the rebuttal</p> <p>9 testimony that you put in play here, if those maps have</p> <p>10 been provided to the PSC confidentially.</p> <p>11 ALJ HOGAN: I'll allow him to answer that if he</p> <p>12 knows.</p> <p>13 <b>A. I don't believe so, but I'm not positive.</b></p> <p>14 <b>Q.</b> (BY MR. JORDE) And you intended to share the</p> <p>15 buffer maps with first responders and others in an</p> <p>16 attempt to minimize their concerns about how far a plume</p> <p>17 might travel based on the data you submitted to them; is</p> <p>18 that correct?</p> <p>19 MR. DUBLINSKE: Objection. That misstates the</p> <p>20 testimony and it also, again, calls for the content of</p> <p>21 the presentation.</p> <p>22 ALJ HOGAN: Perhaps you can rephrase, Mr. Jorde.</p> <p>23 MR. JORDE: Okay.</p> <p>24 <b>Q.</b> (BY MR. JORDE) Did you provide the</p> <p>25 Summit-generated buffer maps, which you're unsure if the</p> <p>PAGE 134</p>	<p>1 <b>exactly which counties have received some of that.</b></p> <p>2 <b>Q.</b> And so of the items that you just listed in that</p> <p>3 response, were any of those deemed by Summit to be</p> <p>4 confidential?</p> <p>5 <b>A. Not to my knowledge.</b></p> <p>6 <b>Q.</b> Okay. You then state that you provided the</p> <p>7 PowerPoint slides in question to the PSC, to the</p> <p>8 Commission, and then you note that there have been</p> <p>9 revisions to the presentation over time based on input</p> <p>10 from emergency responders. Are you able to get into</p> <p>11 what that is without violating this confidentiality</p> <p>12 order?</p> <p>13 <b>A. I can try to be -- I'll be as general as</b></p> <p>14 <b>possible. I mean, ultimately, as I've testified to, it</b></p> <p>15 <b>is an educational presentation to talk through some of</b></p> <p>16 <b>the -- the topics of dispersion. And so as we met with</b></p> <p>17 <b>first responders and as they had questions, we wanted to</b></p> <p>18 <b>make sure that we would address those moving forward for</b></p> <p>19 <b>future groups that we would potentially meet with.</b></p> <p>20 <b>And so there were a variety of items that came</b></p> <p>21 <b>up during those presentations where individuals would</b></p> <p>22 <b>ask us questions. We knew that we had additional</b></p> <p>23 <b>information or studies that may help paint that picture,</b></p> <p>24 <b>educate them further, and so we did make revisions as we</b></p> <p>25 <b>continued down this process to, once again, just try and</b></p> <p>PAGE 136</p>

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<p>1 <b>improve the education process for first responders and</b></p> <p>2 <b>emergency managers.</b></p> <p>3 <b>Q.</b> So as a part of improving that process, did that</p> <p>4 include sharing additional confidential information that</p> <p>5 wasn't initially contained in the PowerPoint provided to</p> <p>6 the Public Service Commission?</p> <p>7 <b>A. I don't know all the ins and outs of the</b></p> <p>8 <b>confidential information side of things, but my</b></p> <p>9 <b>understanding is yes.</b></p> <p>10 <b>Q.</b> Again, you then go on -- I'm on page 6 -- to</p> <p>11 mention presentations addressing toxicity, and then I</p> <p>12 think you previewed some of the reports you looked at.</p> <p>13 And so the PSC then, if they have the PowerPoint, they</p> <p>14 have the portion of your presentation that addresses the</p> <p>15 toxicity of CO2 from your perspective; is that correct?</p> <p>16 <b>A. That's correct.</b></p> <p>17 <b>Q.</b> And when you, on page 7, I think you again</p> <p>18 highlighted some of these, subpart 3 on your answer to</p> <p>19 the top of page 7 relative to toxic exposure, you</p> <p>20 reference a 2022 study by a team of Dutch scientists.</p> <p>21 And you're referencing there what's also known as the</p> <p>22 "Shell Global Solutions International BV Study"; is that</p> <p>23 correct?</p> <p>24 <b>A. I don't know it by that name. I've referenced</b></p> <p>25 <b>it as the "Van Der Schrier."</b></p> <p>PAGE 137</p>	<p>1 Summit's view?</p> <p>2 <b>A. Can you rephrase that one?</b></p> <p>3 <b>Q.</b> Yep. And if you want to follow along, I'm on</p> <p>4 page 7, line 12. It's a question. And the question is</p> <p>5 you reference mitigation steps. So you're telling these</p> <p>6 -- in these secret meetings about the mitigation steps,</p> <p>7 do you, on behalf of Summit, agree that the mitigation</p> <p>8 steps -- your words -- were those reasonable in the two</p> <p>9 Mississippi incidents and the Louisiana 2024 incident?</p> <p>10 <b>A. As I testified to earlier, PHMSA in 2022 came</b></p> <p>11 <b>out with the geohazard advisory bulletin and, to my</b></p> <p>12 <b>understanding, that is a recommendation from federal</b></p> <p>13 <b>regulators based on the Satartia, Mississippi, incident.</b></p> <p>14 <b>And so, yes, we took mitigative steps to design our</b></p> <p>15 <b>geohazard program around that advisory bulletin which</b></p> <p>16 <b>encompasses lessons learned from Satartia.</b></p> <p>17 <b>Q.</b> Okay. So you're answering your own questions</p> <p>18 again, sir. My question is do you believe that the</p> <p>19 mitigation steps taken in Mississippi in June of 2007,</p> <p>20 were those reasonable mitigation steps at that time?</p> <p>21 MR. DUBLINSKE: Objection, Your Honor. I think</p> <p>22 that mischaracterizes the testimony. Mr. Lange just</p> <p>23 said that "mitigation steps" there refers to steps that</p> <p>24 Summit took in design in response to lessons learned</p> <p>25 from those prior incidents.</p> <p>PAGE 139</p>
<p>1 <b>Q.</b> Okay. Thank you. And I don't need to get into</p> <p>2 that, but we've already had the expert testimony on</p> <p>3 that.</p> <p>4 And you're aware that that was the study where</p> <p>5 the study group, the selected participants in that study</p> <p>6 put on by the oil industry, were 66 healthy males ages</p> <p>7 18 to 25? Are you aware of that?</p> <p>8 <b>A. I do understand the volunteers to be healthy</b></p> <p>9 <b>males, yes.</b></p> <p>10 <b>Q.</b> Okay. And that the study then further separated</p> <p>11 out anyone from -- that suffered from panic disorder,</p> <p>12 hypertension, illegal drug use, present or history of</p> <p>13 alcohol abuse. You understand they weeded it out to</p> <p>14 find the most elite, healthy young males as they could?</p> <p>15 Are you aware of that?</p> <p>16 <b>A. I'm not aware of it to that level of detail.</b></p> <p>17 <b>Q.</b> Okay. Moving on, you talked that the</p> <p>18 presentation, your PowerPoint, reviewed details</p> <p>19 regarding two Mississippi incidents in 2007 and then the</p> <p>20 Satartia in 2020, as well as Louisiana in 2024. And</p> <p>21 then you reference mitigation steps.</p> <p>22 Do you believe the mitigation steps taken in</p> <p>23 response to each of the two Mississippi incidents and</p> <p>24 the recent Louisiana incident where there were CO2</p> <p>25 releases, were those reasonable mitigation steps in</p> <p>PAGE 138</p>	<p>1 MR. JORDE: Well, I'd object to the speaking</p> <p>2 objections and my question is my question. So if he can</p> <p>3 just answer my question.</p> <p>4 MR. DUBLINSKE: In which case it's asked and</p> <p>5 answered because he just explained why the premise of</p> <p>6 Mr. Jorde's question is incorrect.</p> <p>7 MR. JORDE: Okay. Well, should we just try</p> <p>8 again?</p> <p>9 <b>Q.</b> (BY MR. JORDE) Let me just try again, sir.</p> <p>10 And if you don't understand words I'm using, just stop</p> <p>11 me, okay, so we can get through this.</p> <p>12 Do you on behalf of Summit believe -- this is</p> <p>13 just a yes or no question -- believe that the mitigation</p> <p>14 steps taken in Mississippi in June 2007 in response to</p> <p>15 that CO2 release, do you believe those were reasonable?</p> <p>16 Yes or no?</p> <p>17 <b>A. Can I ask a clarification to that?</b></p> <p>18 <b>Q.</b> No.</p> <p>19 <b>A. I believe that the steps Summit took from the</b></p> <p>20 <b>lessons learned of those incidents are reasonable. If</b></p> <p>21 <b>your question is going towards the operators in which</b></p> <p>22 <b>had those releases, I can't speak on their behalf. I</b></p> <p>23 <b>guess I'm -- that's where I'm misunderstanding your</b></p> <p>24 <b>question.</b></p> <p>25 <b>Q.</b> All right. So you didn't -- in these</p> <p>PAGE 140</p>

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<p>1 presentations, you didn't make any comment or pass any</p> <p>2 judgment either way if any of the three incidents you</p> <p>3 reference, if those operators took reasonable mitigation</p> <p>4 steps. Is that true?</p> <p>5 <b>A. We did not discuss mitigation steps that those</b></p> <p>6 <b>operators would have taken, that is correct. We did</b></p> <p>7 <b>discuss mitigative steps we have taken in response to</b></p> <p>8 <b>those releases.</b></p> <p>9 <b>Q.</b> Okay. All right. So that's helpful.</p> <p>10 So you also then didn't provide any critique in</p> <p>11 terms of mitigation steps that weren't taken but could</p> <p>12 have been taken. Is that true?</p> <p>13 <b>A. We did not critique the other operators, that is</b></p> <p>14 <b>correct.</b></p> <p>15 <b>Q.</b> You provided an Attachment B. You may -- I'm</p> <p>16 sure you're aware when Mr. Powell was cross-examined I</p> <p>17 asked him about the sign-in sheets. Is your Exhibit B</p> <p>18 to your rebuttal testimony, is that the universe of all</p> <p>19 participants at all of the meetings as you have listed?</p> <p>20 <b>A. That is my understanding. Ultimately, I was not</b></p> <p>21 <b>responsible for the invitees. That was generally run</b></p> <p>22 <b>through the county emergency manager. I simply was just</b></p> <p>23 <b>there to present the information.</b></p> <p>24 <b>Q.</b> Did you personally prepare Attachment B? Did</p> <p>25 you type it yourself?</p> <p>PAGE 141</p>	<p>1 <b>A. That one was specifically Cass County.</b></p> <p>2 <b>Q.</b> All right. And the toxicologist that you</p> <p>3 consulted was whom?</p> <p>4 <b>A. Dr. Lumpkin.</b></p> <p>5 <b>Q.</b> All right. Then you talk about dispersion</p> <p>6 analysis providing information regarding emergency</p> <p>7 response plans. You acknowledge that communities can</p> <p>8 formulate their own emergency response plans completely</p> <p>9 independent or guided by Summit's emergency response</p> <p>10 plan if they choose; is that correct?</p> <p>11 MR. DUBLINSKE: Calls for a legal conclusion.</p> <p>12 ALJ HOGAN: Are you asking for a legal</p> <p>13 conclusion, Mr. Jorde, or are you asking in his opinion?</p> <p>14 MR. JORDE: I don't ask any questions for a</p> <p>15 legal conclusion from a non-lawyer. I mean, I'm</p> <p>16 literally reading out of his testimony. And so I'm</p> <p>17 curious if he has any personal idea whether or not local</p> <p>18 emergency management can formulate their own emergency</p> <p>19 response plans.</p> <p>20 ALJ HOGAN: You can answer.</p> <p>21 <b>A. Since I personally am not responsible for</b></p> <p>22 <b>emergency response planning, I don't know the answer to</b></p> <p>23 <b>that.</b></p> <p>24 <b>Q.</b> (BY MR. JORDE) Okay. So you're brought here</p> <p>25 in rebuttal to talk about information you personally</p> <p>PAGE 143</p>
<p>1 <b>A. I did not.</b></p> <p>2 <b>Q.</b> And so you don't know if the person who prepared</p> <p>3 that utilized the sign-in sheets or memory or some other</p> <p>4 document, or can you help me with that?</p> <p>5 <b>A. I know that -- my recollection is that the</b></p> <p>6 <b>majority of the meetings we did have sign-in sheets and</b></p> <p>7 <b>that was what was generally used to derive this list.</b></p> <p>8 <b>Q.</b> And did you maintain a copy of the actual</p> <p>9 sign-in sheets for each of the meetings in Summit's</p> <p>10 records somewhere?</p> <p>11 <b>A. I personally do not have those sign-in sheets.</b></p> <p>12 <b>Q.</b> Do you know who at Summit would have those?</p> <p>13 <b>A. I do not know who kept record of those sign-in</b></p> <p>14 <b>sheets.</b></p> <p>15 <b>Q.</b> You state that sometimes you get questions that</p> <p>16 you or other Summit personnel in attendance at these</p> <p>17 meetings can't respond to. You gave an example and you</p> <p>18 indicated you would pose the question on toxicity -- or</p> <p>19 treatment protocols to a toxicologist and get back to</p> <p>20 them with an answer. Have you done that?</p> <p>21 <b>A. Yes, we have.</b></p> <p>22 <b>Q.</b> All right. What -- well, okay. Probably can't</p> <p>23 answer that. Okay. And tell me this: which meeting</p> <p>24 was that -- did that question emanate from, if you</p> <p>25 recall?</p> <p>PAGE 142</p>	<p>1 provided related to emergency response plans. If you're</p> <p>2 not the person to answer those questions, who at</p> <p>3 Summit's group would be?</p> <p>4 <b>A. I think that slightly mischaracterizes my</b></p> <p>5 <b>testimony. My testimony is to talk about kind of the</b></p> <p>6 <b>foundation which emergency response planning would be</b></p> <p>7 <b>dispersion modeling and to talk through some of the</b></p> <p>8 <b>topics that we've talked through with first responders</b></p> <p>9 <b>and emergency managers, not necessarily to develop those</b></p> <p>10 <b>emergency response plans.</b></p> <p>11 <b>Q.</b> So who at Summit is that person?</p> <p>12 <b>A. For emergency response planning, Dave Daum would</b></p> <p>13 <b>be better versed to answer questions along those lines.</b></p> <p>14 <b>Q.</b> All right. Is it important to utilize</p> <p>15 dispersion modeling and that risk analysis when</p> <p>16 formulating emergency response plans?</p> <p>17 <b>A. I think that there would be some information or</b></p> <p>18 <b>topics that would be important, yes.</b></p> <p>19 <b>Q.</b> And would that answer be true not only for</p> <p>20 Summit, the one that PHMSA requires Summit as the</p> <p>21 operator to have, but would that answer be true also</p> <p>22 for, in your view, the local North Dakota response plans</p> <p>23 communities may have?</p> <p>24 MR. DUBLINSKE: Objection, Your Honor. The</p> <p>25 witness already testified that he is unaware of whether</p> <p>PAGE 144</p>

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<p>1 or not localities can have their own emergency response</p> <p>2 plans.</p> <p>3 ALJ HOGAN: I agree. The objection is</p> <p>4 sustained.</p> <p>5 <b>Q.</b> (BY MR. JORDE) Were you ever asked by anyone</p> <p>6 locally if they could have their own emergency response</p> <p>7 plans or if they had to only follow whatever Summit</p> <p>8 decides to put out there? Were you ever asked questions</p> <p>9 like that?</p> <p>10 <b>A. I have not been asked that question.</b></p> <p>11 <b>Q.</b> Did anyone at these meetings from the community</p> <p>12 come with their own emergency response plan or ideas</p> <p>13 that they were working on and ask you questions about</p> <p>14 that?</p> <p>15 <b>A. No, not to my knowledge or recollection.</b></p> <p>16 <b>Q.</b> You state that you believe there's a</p> <p>17 misunderstanding regarding the plume from Satartia, and</p> <p>18 then you go on, on page 9 and 10, to kind of give your</p> <p>19 own opinion. Would you agree that you can't speak</p> <p>20 definitively about that diagram either?</p> <p>21 <b>A. I think that there are aspects of the diagram or</b></p> <p>22 <b>the use of that diagram that I cannot speak to</b></p> <p>23 <b>definitively, but there are other aspects that we can</b></p> <p>24 <b>talk to definitively.</b></p> <p>25 <b>Q.</b> So when you say in your opinion that the</p> <p>PAGE 145</p>	<p>1 <b>page that are also highlighted.</b></p> <p>2 <b>Q.</b> Right. And I just want to be clear. And,</p> <p>3 again, if you could just answer my questions. You</p> <p>4 didn't speak with anyone at PHMSA. Your interpretations</p> <p>5 and your interpretations of the meaning and the</p> <p>6 phrasing, that's your -- Mr. Lange's -- interpretations</p> <p>7 alone; correct?</p> <p>8 <b>A. I did not speak with PHMSA.</b></p> <p>9 <b>Q.</b> Okay. You don't dispute that first responders</p> <p>10 came across persons in Satartia unresponsive,</p> <p>11 unconscious, foaming at the mouth, laying on the ground,</p> <p>12 cars running, people sitting in them? You don't dispute</p> <p>13 any of that, do you, the eyewitness testimony?</p> <p>14 <b>A. I'm not familiar with the eyewitness testimony.</b></p> <p>15 <b>I do know in the Satartia incident report from PHMSA, it</b></p> <p>16 <b>does talk about at least one stalled-out car with three</b></p> <p>17 <b>individuals inside it unconscious.</b></p> <p>18 <b>Q.</b> Okay. So in preparation for your -- as the</p> <p>19 person charged with -- by Summit to go out and talk</p> <p>20 about dispersion modeling and essentially the safety and</p> <p>21 risk analysis and toxicity, you didn't bother to look at</p> <p>22 or review any of the first responder and eyewitness</p> <p>23 testimony in this docket related to Satartia?</p> <p>24 <b>A. We generally relied -- when we talked about the</b></p> <p>25 <b>Satartia, Mississippi, incident, we generally rely on</b></p> <p>PAGE 147</p>
<p>1 overwhelming majority of the area indicated would be at</p> <p>2 concentrations, CO2 concentrations, below levels that</p> <p>3 would cause any impacts, for you to say "any impacts,"</p> <p>4 you would have to know the health profile of all of the</p> <p>5 persons in that area, wouldn't you, to eliminate any</p> <p>6 impact at all to a person?</p> <p>7 <b>A. I think if you look at the chart which was</b></p> <p>8 <b>attached -- Attachment C of my written testimony, it</b></p> <p>9 <b>does call out concentrations and which were mapped by</b></p> <p>10 <b>the National Weather Service. And so looking at those</b></p> <p>11 <b>concentrations, the gray region is 4.2 parts per</b></p> <p>12 <b>billion. And for reference, atmospheric conditions,</b></p> <p>13 <b>depending on exactly season -- the season and where</b></p> <p>14 <b>you're at, are somewhere in the 300 to 600 parts per</b></p> <p>15 <b>million.</b></p> <p>16 <b>And so from a CO2 concentration perspective,</b></p> <p>17 <b>this map really doesn't provide any information. It</b></p> <p>18 <b>simply is just showing the direction in which the wind</b></p> <p>19 <b>and the atmosphere conditions would take a plume but to</b></p> <p>20 <b>no discernable CO2 concentration levels. And so I think</b></p> <p>21 <b>that's the -- the intent of the map.</b></p> <p>22 <b>Q.</b> Okay. So you didn't talk to PHMSA or anyone who</p> <p>23 prepared the map or the report. This is your</p> <p>24 interpretation; right?</p> <p>25 <b>A. It also is denoted in different aspects of the</b></p> <p>PAGE 146</p>	<p>1 <b>the PHMSA report associated with it.</b></p> <p>2 <b>Q.</b> And did you say you use Quest Consultants?</p> <p>3 <b>A. We did not use Quest Consultants. Quest</b></p> <p>4 <b>Consultants owns -- or is the company that owns CANARY,</b></p> <p>5 <b>which is a vapor dispersion modeling software.</b></p> <p>6 <b>Q.</b> Which was used in some of your dispersion</p> <p>7 analysis; right?</p> <p>8 <b>A. We used CANARY as the software, but we did not</b></p> <p>9 <b>have Quest complete the dispersion modeling.</b></p> <p>10 <b>Q.</b> Okay. So the entity that created the software,</p> <p>11 you didn't use them to use their own software, you hired</p> <p>12 a third party; right?</p> <p>13 <b>A. We hired Audubon to complete dispersion modeling</b></p> <p>14 <b>with CANARY, yes.</b></p> <p>15 <b>Q.</b> And have you heard of computational fluid</p> <p>16 dynamics? Do you know anything about CFD modeling?</p> <p>17 Have you come across that?</p> <p>18 <b>A. I am familiar with CFD.</b></p> <p>19 <b>Q.</b> And would you agree that in some situations the</p> <p>20 simplifying assumptions made with other softwares simply</p> <p>21 don't apply and that, in those cases, if you need</p> <p>22 detailed analysis, for instance, you turn to</p> <p>23 computational fluid dynamics?</p> <p>24 <b>A. I would disagree with that.</b></p> <p>25 <b>Q.</b> Okay. And so would you disagree that</p> <p>PAGE 148</p>

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<p>1 computational fluid dynamics is required to find</p> <p>2 solutions where there are complex variables, complex</p> <p>3 problems, and the simpler types of models out there,</p> <p>4 even the CANARY model, is not appropriate?</p> <p>5 <b>A. Can you rephrase that?</b></p> <p>6 <b>Q.</b> Yes. So do you agree or disagree that</p> <p>7 computational fluid dynamics is required when you need a</p> <p>8 solution to complex problems where other simpler</p> <p>9 modeling software packages aren't appropriate?</p> <p>10 <b>A. I would disagree and state that CFD is not</b></p> <p>11 <b>required.</b></p> <p>12 <b>Q.</b> Okay.</p> <p>13 MR. JORDE: Mr. Leibel, did we have Exhibit 52</p> <p>14 ready or printed off? If so, I'd like you to tell me</p> <p>15 please and if we could pass that around.</p> <p>16 ALJ HOGAN: Yep, he's passing it out right now.</p> <p>17 MR. JORDE: Okay. Very good.</p> <p>18 <b>Q.</b> (BY MR. JORDE) I'll wait, Mr. Lange, until you</p> <p>19 have a copy in front of you there.</p> <p>20 What's being passed around, sir, and what you</p> <p>21 have in your hands is Landowner Exhibit No. 52, which</p> <p>22 you can see is Quest Consultants. And the statements</p> <p>23 you disagreed with were statements that Quest</p> <p>24 Consultants has made related to computational fluid</p> <p>25 dynamics. Would you like to change your opinions at all</p> <p>PAGE 149</p>	<p>1 they're currently involved in related specifically to</p> <p>2 CO2 pipelines in the United States?</p> <p>3 <b>A. I have not seen PHMSA issue any hard dates.</b></p> <p>4 <b>Q.</b> All right. I thank you, sir. I don't have</p> <p>5 anything further.</p> <p>6 ALJ HOGAN: Mr. Phillips, any questions?</p> <p>7 MR. PHILLIPS: I do have questions. Would you</p> <p>8 like me to go into them or is it a break point?</p> <p>9 ALJ HOGAN: Well, let me ask you this. How many</p> <p>10 -- did you have significant questions?</p> <p>11 MR. PHILLIPS: Not quite as long as that</p> <p>12 questioning but not just a few minutes either.</p> <p>13 ALJ HOGAN: Maybe we should take our lunch break</p> <p>14 and then come back and then we'll start with you, Mr.</p> <p>15 Phillips.</p> <p>16 Why don't we do that. So let's take our lunch</p> <p>17 break. I always like to end at a time that's easy to</p> <p>18 remember. So why don't we reconvene at 1:30.</p> <p>19 (Recess)</p> <p>20 ALJ HOGAN: All right. My clock said 1:30 so we</p> <p>21 are going to get started again and continue with</p> <p>22 cross-examination of Mr. Lange.</p> <p>23 And we stopped right before I got to you, Mr.</p> <p>24 Phillips, so you can go ahead.</p> <p>25 MR. PHILLIPS: Thank you, Your Honor.</p> <p>PAGE 151</p>
<p>1 that you gave a second ago?</p> <p>2 <b>A. I think that when it comes to, I guess, this</b></p> <p>3 <b>statement, I somewhat fail to see where it calls out</b></p> <p>4 <b>CANARY as in relation to CFD. And then I think also</b></p> <p>5 <b>applicability in regards to exactly what you're modeling</b></p> <p>6 <b>is extremely important context in regards to determining</b></p> <p>7 <b>the solution and the appropriate solution for vapor</b></p> <p>8 <b>dispersion modeling.</b></p> <p>9 <b>Q.</b> Have you come to understand that the basic Quest</p> <p>10 Consultant package is CANARY, and then if there are</p> <p>11 situations deemed to be where more detailed analysis is</p> <p>12 needed, then Quest themselves recommends utilizing the</p> <p>13 computational fluid dynamics package they offer?</p> <p>14 <b>A. I am not aware of that.</b></p> <p>15 MR. JORDE: I would offer Exhibit LO-52.</p> <p>16 ALJ HOGAN: Any objection to 52?</p> <p>17 MR. DUBLINSKE: No objection.</p> <p>18 ALJ HOGAN: Mr. Pelham.</p> <p>19 MR. PELHAM: No objection.</p> <p>20 ALJ HOGAN: 52 is received.</p> <p>21 MR. JORDE: Thank you.</p> <p>22 <b>Q.</b> (BY MR. JORDE) Just give me one minute, sir.</p> <p>23 I think I'm wrapping up here.</p> <p>24 Do you have any insight that you can share about</p> <p>25 when PHMSA will complete the rule-making procedure that</p> <p>PAGE 150</p>	<p>1 CROSS EXAMINATION</p> <p>2 BY MR. PHILLIPS:</p> <p>3 <b>Q.</b> Good afternoon, Mr. Lange. I'm going to ask you</p> <p>4 some additional questions. I'm going to do my best not</p> <p>5 to cover the same ground that Mr. Jorde did. If there's</p> <p>6 any overlap, it's not intentional so just bear with me</p> <p>7 on that.</p> <p>8 Based on your testimony earlier and your written</p> <p>9 testimony, is my understanding correct that you were the</p> <p>10 one that actually presented at the November 27th, 2023,</p> <p>11 meeting with Burleigh County emergency people?</p> <p>12 <b>A. That is correct.</b></p> <p>13 <b>Q.</b> And as the director of engineering for Summit,</p> <p>14 you also were personally involved in creation of the</p> <p>15 dispersion model that was discussed at that meeting?</p> <p>16 <b>A. That is correct.</b></p> <p>17 <b>Q.</b> There's a binder, I believe the one to your</p> <p>18 left. If I could just have you turn to Exhibit BC119.</p> <p>19 <b>A. Is it the API tactical guidance, CO2 tactical</b></p> <p>20 <b>guidance?</b></p> <p>21 <b>Q.</b> Correct. And I believe you'd even mentioned</p> <p>22 this document in your testimony earlier. I assume</p> <p>23 you're familiar with this?</p> <p>24 <b>A. That is correct.</b></p> <p>25 <b>Q.</b> Is this a document that Summit provided to the</p> <p>PAGE 152</p>

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<p>1 various first responders and emergency response</p> <p>2 directors at the various counties?</p> <p>3 <b>A. It appears so.</b></p> <p>4 <b>Q.</b> And this one -- actually if you turn back to</p> <p>5 BC118, this is -- appears to be a cover email where this</p> <p>6 document is listed among the ones that were sent to Mary</p> <p>7 Senger at Burleigh County. Do you see that? I believe</p> <p>8 it's the first document listed.</p> <p>9 <b>A. Yes, that's correct.</b></p> <p>10 <b>Q.</b> All right. Turning back to BC119, this looks on</p> <p>11 its cover here to be a guide developed by the American</p> <p>12 Petroleum Institute and Liquid Energy Pipeline</p> <p>13 Association with input from the National Association of</p> <p>14 State Fire Marshals. Is that accurate?</p> <p>15 <b>A. That is my understanding, yes.</b></p> <p>16 <b>Q.</b> And it was published in August of 2023 so</p> <p>17 relatively recent; correct?</p> <p>18 <b>A. That is correct.</b></p> <p>19 <b>Q.</b> And is this document specific to CO2 pipelines?</p> <p>20 <b>A. Yes.</b></p> <p>21 <b>Q.</b> Is it your understanding that this is an</p> <p>22 authoritative document or that Summit considers this an</p> <p>23 authoritative document on preparedness for response --</p> <p>24 or preparedness for a response to a pipeline release of</p> <p>25 carbon dioxide?</p> <p>PAGE 153</p>	<p>1 that not every provision in here is necessarily complied</p> <p>2 with?</p> <p>3 <b>A. I don't remember that.</b></p> <p>4 <b>Q.</b> This document was talked about at your</p> <p>5 presentation, though?</p> <p>6 <b>A. Typically, they are talked about. A lot of</b></p> <p>7 <b>individuals will ask "What does a CO2 release look</b></p> <p>8 <b>like?" And this does provide good graphics in regards</b></p> <p>9 <b>to what you would visually see in a CO2 release.</b></p> <p>10 <b>Q.</b> Let's turn on this exhibit to page 10. And I'm</p> <p>11 looking at section 4 here on page 10, and it's called</p> <p>12 "Dispersion Modeling Best Practices." It says there at</p> <p>13 the beginning "The potential for CO2 pipeline systems to</p> <p>14 affect high consequence areas must be evaluated." Is</p> <p>15 that something that Summit did an evaluation of?</p> <p>16 <b>A. So that's referencing -- and it's called out on</b></p> <p>17 <b>the bottom -- 195.452 does require all operators to</b></p> <p>18 <b>identify risks to high consequence areas. And so that's</b></p> <p>19 <b>the federal regulation minimum. Summit has completed</b></p> <p>20 <b>dispersion modeling for all pipeline segments</b></p> <p>21 <b>independent of whether they can affect a HCA or not.</b></p> <p>22 <b>Q.</b> That goes on to say that "Modeling is conducted</p> <p>23 to estimate the potential worst-case consequences in the</p> <p>24 event of pipeline rupture in or near an HCA." Is that</p> <p>25 something that Summit has done, modeling based on the</p> <p>PAGE 155</p>
<p>1 <b>A. In regards to it being federal regulations, no,</b></p> <p>2 <b>but it does provide good guidelines in regards to a</b></p> <p>3 <b>variety of CO2 emergency response planning or</b></p> <p>4 <b>preparedness for information.</b></p> <p>5 <b>Q.</b> And kind of looking on every other page, on the</p> <p>6 right side of it, it says "Best Practice Guidelines,"</p> <p>7 kind of what it refers to as itself. Would you describe</p> <p>8 it as best practice guidelines?</p> <p>9 <b>A. I would.</b></p> <p>10 <b>Q.</b> Does Summit attempt to comply with the</p> <p>11 requirements contained in this guideline?</p> <p>12 <b>A. I can't say definitively that we comply with</b></p> <p>13 <b>every single guideline, but there are a number of them</b></p> <p>14 <b>that we have used and considered when developing our</b></p> <p>15 <b>procedures or dispersion model.</b></p> <p>16 <b>Q.</b> As part of your presentation and communications</p> <p>17 with the counties, did you explain to any of those</p> <p>18 county representatives that not all of the things within</p> <p>19 this guideline are complied with?</p> <p>20 <b>A. We did not. And as I was -- as I just</b></p> <p>21 <b>mentioned, I just -- without rereading it right now, I</b></p> <p>22 <b>can't say definitively that every single item in this we</b></p> <p>23 <b>are complying with.</b></p> <p>24 <b>Q.</b> Did you have a conversation with any</p> <p>25 representative of Burleigh County where you explained</p> <p>PAGE 154</p>	<p>1 worst-case consequences event?</p> <p>2 <b>A. We have modeled worst-case consequences, yes.</b></p> <p>3 <b>Q.</b> Is that part of a dispersion model that was</p> <p>4 discussed in your earlier testimony?</p> <p>5 MR. DUBLINSKE: Objection, Your Honor. Calls</p> <p>6 for the content of confidential information.</p> <p>7 MR. PHILLIPS: Your Honor, I would argue that</p> <p>8 it's a general topic similar to what was testified to</p> <p>9 earlier and simply whether or not it's covered, not the</p> <p>10 values or any specifics from the model.</p> <p>11 ALJ HOGAN: I'll let him answer generally, but</p> <p>12 we won't get into the specifics.</p> <p>13 <b>A. In the presentations, one of the dispersion</b></p> <p>14 <b>models we showed was a worst-case release type that we</b></p> <p>15 <b>talked about previously, the guillotine full bore</b></p> <p>16 <b>rupture.</b></p> <p>17 <b>Q.</b> That third sentence, would that be covered by --</p> <p>18 by that? It talks about "The consequence analysis</p> <p>19 calculations should be performed for full bore pipeline</p> <p>20 rupture under worst-case operating and atmospheric</p> <p>21 conditions."</p> <p>22 MR. DUBLINSKE: Again, I'm going to object that</p> <p>23 this is getting into content of what was modeled, what</p> <p>24 wasn't modeled, what the inputs and outputs were, and</p> <p>25 that is all part of what's covered by the protective</p> <p>PAGE 156</p>

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<p>1 order.</p> <p>2 MR. PHILLIPS: May I respond?</p> <p>3 ALJ HOGAN: Sure.</p> <p>4 MR. PHILLIPS: Your Honor, this document is</p> <p>5 already in evidence and it was provided to Burleigh</p> <p>6 County as best practices. And I'm not asking about any</p> <p>7 specifics, just simply did you, in fact, carry out those</p> <p>8 best practices. And I don't have any follow-up</p> <p>9 questions on the details of what the model shows as to</p> <p>10 these topics, but I think Burleigh County should be able</p> <p>11 to confirm that the information that was given to it is,</p> <p>12 in fact, accurate.</p> <p>13 MR. DUBLINSKE: And to that degree I would</p> <p>14 object as asked and answered as Mr. Lange testified this</p> <p>15 paragraph goes to the content of the federal regulation</p> <p>16 and Summit will abide by the federal regulation.</p> <p>17 ALJ HOGAN: Is your question specific to the</p> <p>18 meetings or in general?</p> <p>19 MR. PHILLIPS: I think my question wasn't</p> <p>20 specific to the meetings. I think, in general, has</p> <p>21 Summit, in fact, done this analysis.</p> <p>22 ALJ HOGAN: And I think he did testify to that</p> <p>23 already, that they've complied with those. So I do</p> <p>24 believe it's been answered.</p> <p>25 MR. PHILLIPS: Thank you, Your Honor.</p> <p>PAGE 157</p>	<p>1 <b>any feedback from Burleigh County on their own internal</b></p> <p>2 <b>analysis of the documents provided.</b></p> <p>3 <b>Q.</b> The various documents that were provided that</p> <p>4 are listed on BC118, as to all of those, did you have</p> <p>5 any conversation with anybody at Burleigh County</p> <p>6 discussing whether Summit would comply with every</p> <p>7 provision in each of those documents?</p> <p>8 <b>A. We did not have that conversation.</b></p> <p>9 <b>Q.</b> That information is not available to members of</p> <p>10 the public either; correct?</p> <p>11 <b>A. Can you clarify that one?</b></p> <p>12 <b>Q.</b> The various documents that were provided to</p> <p>13 Burleigh County that are listed on BC118, as you sit</p> <p>14 here today, you don't know if Summit has complied or</p> <p>15 intends to comply with all of the provisions of all of</p> <p>16 those documents. Is that a fair statement?</p> <p>17 <b>A. I think that there's a -- there's a number of</b></p> <p>18 <b>documents in here where there is really no compliance</b></p> <p>19 <b>you can have. And so some of these are more of an</b></p> <p>20 <b>educational purpose in regards to like your</b></p> <p>21 <b>shelter-in-place place, right. That document is purely</b></p> <p>22 <b>a study on is shelter-in-place an adequate means for</b></p> <p>23 <b>protective measures. It's not so much that there are</b></p> <p>24 <b>requirements within that shelter-in-place document that</b></p> <p>25 <b>Summit can abide by.</b></p> <p>PAGE 159</p>
<p>1 <b>Q.</b> (BY MR. PHILLIPS) Moving on, there is a list</p> <p>2 in that paragraph of key inputs. It says "Listed below</p> <p>3 are key inputs to most of the models and can impact the</p> <p>4 calculated potential impact area." The first item there</p> <p>5 is pipeline parameters, and it lists various parameters</p> <p>6 that you can read there. Did Summit use these inputs in</p> <p>7 its model?</p> <p>8 MR. DUBLINSKE: Same objection, Your Honor.</p> <p>9 ALJ HOGAN: Yeah, I think we're getting into the</p> <p>10 specifics so I'm going to sustain that objection.</p> <p>11 <b>Q.</b> (BY MR. PHILLIPS) Summit provided this</p> <p>12 document to Burleigh County; correct?</p> <p>13 <b>A. That is correct.</b></p> <p>14 <b>Q.</b> And Summit has never provided any document to</p> <p>15 Burleigh County for them to be able to analyze whether</p> <p>16 these best practices have been followed?</p> <p>17 <b>A. Can you rephrase that?</b></p> <p>18 <b>Q.</b> Yes. Summit has not provided any additional</p> <p>19 documentation to Burleigh County for Burleigh County to</p> <p>20 be able to analyze whether you followed the best</p> <p>21 practices that are listed in the document you provided</p> <p>22 them?</p> <p>23 <b>A. Summit has provided, and I think it was called</b></p> <p>24 <b>out in a prior reference, BC118, a few documents to</b></p> <p>25 <b>Burleigh County. To my knowledge, I have not received</b></p> <p>PAGE 158</p>	<p>1 <b>Q.</b> The next paragraph in this section talks about</p> <p>2 the influence of surrounding topography. Do you see</p> <p>3 that?</p> <p>4 <b>A. I do.</b></p> <p>5 <b>Q.</b> Do you agree that north and east of Bismarck</p> <p>6 there's terrain with a significant topographic relief?</p> <p>7 MR. DUBLINSKE: I'm sorry, could I ask Mr.</p> <p>8 Phillips to pull the microphone slightly closer? I</p> <p>9 didn't hear the end of that question.</p> <p>10 <b>Q.</b> Do you agree that north and east of Bismarck</p> <p>11 there's terrain with significant topographic relief? In</p> <p>12 other words, you know, variation in elevation and slope.</p> <p>13 <b>A. I think it depends how you define "significant."</b></p> <p>14 <b>When I look at topography in the digital elevation maps</b></p> <p>15 <b>around this area, I would consider the west side of the</b></p> <p>16 <b>Missouri River to have significantly more severe kind of</b></p> <p>17 <b>elevation changes.</b></p> <p>18 <b>Q.</b> If you start north of Bismarck, generally the</p> <p>19 terrain slopes toward the city; isn't that right?</p> <p>20 <b>A. I don't know that I know the answer firsthand,</b></p> <p>21 <b>but that's my general understanding, yes.</b></p> <p>22 <b>Q.</b> Toward the Missouri River Valley?</p> <p>23 <b>A. I think that's generally correct, yes.</b></p> <p>24 <b>Q.</b> And there's that paragraph that starts with</p> <p>25 "similarly" in paragraph -- or section 4 on page 10.</p> <p>PAGE 160</p>



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<p>1 And it says -- a sentence into there, it says "Similar</p> <p>2 to wind, it is particularly problematic when the</p> <p>3 direction of the terrain relief is in the direction of a</p> <p>4 populated area or HCA. The use of atmospheric</p> <p>5 dispersion modeling, coupled with overland spread</p> <p>6 analysis using computational fluid dynamics modeling,</p> <p>7 may be necessary in these areas," and it continues on to</p> <p>8 recommend computational fluid dynamics modeling.</p> <p>9 Do you see that part?</p> <p>10 <b>A. I do.</b></p> <p>11 <b>Q.</b> And just that last sentence of that paragraph</p> <p>12 says "In these areas, to truly understand whether a</p> <p>13 nearby HCA could be affected by a CO2 release, CFD</p> <p>14 modeling can be added in order to determine the</p> <p>15 additional dispersion distance and ultimately determine</p> <p>16 whether the dispersion plume might impact a nearby HCA</p> <p>17 at any given point on the pipeline."</p> <p>18 Did I understand your testimony earlier that</p> <p>19 there was not computational fluid dynamics modeling done</p> <p>20 with the software that was used by Summit or its</p> <p>21 contractor?</p> <p>22 <b>A. In my engineering opinion, you somewhat get into</b></p> <p>23 <b>the nuances of what CFD is and is not. We did use</b></p> <p>24 <b>FLO-2D, which is addressed in my written testimony.</b></p> <p>25 <b>That does include the use of digital elevation maps with</b></p> <p>PAGE 161</p>	<p>1 <b>Q.</b> Did Summit conduct an analysis of whether it</p> <p>2 would be necessary in Burleigh County?</p> <p>3 <b>A. As I testified to earlier, Summit, and I guess</b></p> <p>4 <b>myself personally, we're very comfortable with the</b></p> <p>5 <b>dispersion modeling we've conducted. And when it comes</b></p> <p>6 <b>to topography and the use of the digital elevation maps</b></p> <p>7 <b>through FLO-2D in combination with CANARY gave us the</b></p> <p>8 <b>information that we needed to understand how topography</b></p> <p>9 <b>can play a role.</b></p> <p>10 <b>Q.</b> And as you've testified earlier, the dispersion</p> <p>11 model is not available to Burleigh County or the public</p> <p>12 at large to confirm any of that; correct?</p> <p>13 <b>A. That is my understanding, yes.</b></p> <p>14 MR. PHILLIPS: Give me one moment, Your Honor.</p> <p>15 ALJ HOGAN: Sure.</p> <p>16 (Pause)</p> <p>17 MR. PHILLIPS: Thank you, Your Honor. I have</p> <p>18 some additional questions regarding the inputs, but in</p> <p>19 light of your ruling on the objection, I'm not going to</p> <p>20 go ahead and ask those, but I'll just reiterate that we</p> <p>21 would intend to admit those and are not pursuant to your</p> <p>22 order.</p> <p>23 And, with that, I have no further questions.</p> <p>24 ALJ HOGAN: All right. Thank you.</p> <p>25 Commissioner Christmann.</p> <p>PAGE 163</p>
<p>1 <b>inputs from the -- our CANARY output model to help</b></p> <p>2 <b>understand how a heavy vapor would flow with terrain.</b></p> <p>3 <b>Q.</b> Did I understand your testimony earlier that</p> <p>4 there is additional software packages available for</p> <p>5 computational fluid dynamics that was not used by Summit</p> <p>6 or its contractor?</p> <p>7 <b>A. I think that's fair. I think even with vapor</b></p> <p>8 <b>dispersion there are other options available outside of</b></p> <p>9 <b>CANARY.</b></p> <p>10 <b>Q.</b> I believe you'd been asked questions about</p> <p>11 whether that would be required for more complex</p> <p>12 scenarios. Is that fair?</p> <p>13 <b>A. Can you repeat that question?</b></p> <p>14 <b>Q.</b> No. I'll strike the question. That's fine.</p> <p>15 Did you tell anybody at Burleigh County that you</p> <p>16 would not be using computational fluid dynamics as part</p> <p>17 of a dispersion model?</p> <p>18 <b>A. I don't recall that level of detail from the</b></p> <p>19 <b>meeting.</b></p> <p>20 <b>Q.</b> It's fair to say that the best practices in this</p> <p>21 document that you provided to Burleigh County suggested</p> <p>22 that it be used in situations where the topography</p> <p>23 slopes towards a populated area?</p> <p>24 <b>A. I would say that this document says that CFD</b></p> <p>25 <b>modeling may be necessary in some areas.</b></p> <p>PAGE 162</p>	<p>1 COMMISSIONER CHRISTMANN: When you -- were you</p> <p>2 at all the meetings that are laid out in your testimony</p> <p>3 with the list of attendees and invitees who did not</p> <p>4 attend?</p> <p>5 THE WITNESS: Yes. I was a presenter at every</p> <p>6 single one.</p> <p>7 COMMISSIONER CHRISTMANN: Okay. How would you</p> <p>8 assess the responses of -- and kinds of things I'm</p> <p>9 looking for are how often were people requesting</p> <p>10 specific equipment or requesting more meetings or</p> <p>11 requesting more detailed information than you were able</p> <p>12 to give?</p> <p>13 THE WITNESS: Yeah. I think that we'll kind of</p> <p>14 break that down. One is for additional meetings. And</p> <p>15 so if you look at that list, there was at least one</p> <p>16 incident -- or not incident, but we did Oliver and</p> <p>17 Mercer County twice. And so the first time we were at</p> <p>18 Oliver and Mercer it was during the workday and so</p> <p>19 didn't have the best attendance, and so those counties</p> <p>20 reached out, said, "We would like to set up another</p> <p>21 one." And so we did follow-up on May 16th.</p> <p>22 And in regards to equipment, generally not a lot</p> <p>23 of conversation there. In Cass County, the emergency</p> <p>24 manager did ask, when it comes to things like CO2</p> <p>25 detectors, who would be responsible for paying for those</p> <p>PAGE 164</p>

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<p>1 for their first responders? But in regards to 2 additional equipment needs, I don't recall any other 3 requests. 4 And then generally we'll sometimes get questions 5 in regards to specific atmospheric conditions, winter, 6 summer, or different wind speeds, things along those 7 things. And so that -- I don't know. That's kind of a 8 general tone. But I think ultimately what I've seen 9 from all these presentations is that there are, as you 10 guys are aware, a significant number of pipelines in the 11 state of North Dakota and so I think that a lot of these 12 emergency managers are familiar with the safety 13 practices, the emergency response training process that 14 operators abide by in the state, and then there's those 15 federal regulations. And so just familiarity with 16 pipelines in general. 17 COMMISSIONER CHRISTMANN: But outside of a few 18 counties, this being a different commodity than most of 19 them are used to dealing with, was there any discussion 20 like that this is going to be an annual thing or a 21 monthly thing or a one-and-done? 22 THE WITNESS: Yeah. So when we start the 23 training, we really kind of give the background and that 24 this is ultimately kind of the foundation of what will 25 be coming. And so for a lot of these first responders,</p> <p>PAGE 165</p>	<p>1 THE WITNESS: Unfortunately, I was not involved 2 in the invitation list and so I don't know the answer to 3 that. I, more or less, just showed up to present the 4 information and so I can't speak to the -- 5 COMMISSIONER CHRISTMANN: Who would have created 6 the invitation list for Emmons County? 7 THE WITNESS: Most of it rolled through county 8 emergency managers and so they would propose kind of the 9 majority of the list, and then if there are individuals, 10 county commissioners that voiced to us that they would 11 be interested in attending, that was something that we 12 -- we would have extended an invitation to them as well. 13 COMMISSIONER CHRISTMANN: Okay. No other 14 questions. Thank you. 15 ALJ HOGAN: Commissioner Haugen-Hoffart. 16 COMMISSIONER HAUGEN-HOFFART: Yeah, I do have 17 questions. I don't even know where to begin based on 18 notes and what we've just received as far as testimony 19 so bear with me. 20 I'm going to first go to your resume. 21 THE WITNESS: Okay. 22 COMMISSIONER HAUGEN-HOFFART: And under the 23 Summit Carbon Solutions, employment began September 2021 24 to present. You indicated that this is your first CO2 25 pipeline design?</p> <p>PAGE 167</p>
<p>1 when you talk about emergency response planning and 2 preparedness, you need to make sure that you understand 3 dispersion modeling and what constitutes dispersion 4 modeling, what tools do we have available to us so that 5 we can help educate first responders. 6 At the end of the day, my background is 7 engineering and so some of those topics that are 8 important to first responders I may not be aware of 9 until we start to hold some of those conversations. And 10 so it is a collaborative effort in that regard and 11 sharing information. 12 COMMISSIONER CHRISTMANN: The responses you got, 13 whether it's questions, statements, was it mostly from 14 the political side, the city commissioners, the county 15 commissioners, etcetera, or mostly from the actual first 16 responders? 17 THE WITNESS: I would say it was generally from 18 the actual first responders. 19 COMMISSIONER CHRISTMANN: And last, I don't have 20 it -- remember what page it's on, but maybe I missed one 21 or am off something here, but as I scrolled through them 22 I think I noticed that in all the cases one or more 23 county commissioners were invited except Emmons County. 24 Were there no -- did something not get printed in here? 25 Was there no county commissioners invited or what?</p> <p>PAGE 166</p>	<p>1 THE WITNESS: That is correct. 2 COMMISSIONER HAUGEN-HOFFART: Okay. You're 3 leading a team of engineers. Under that team, how many 4 of them have experience with CO2 pipelines? 5 THE WITNESS: On the internal side, the 6 engineers from my team personally, there would be none. 7 We do have employees at Summit; our control room manager 8 who has CO2 experience. And then on the external side, 9 there would be a significant number of employees that 10 would have CO2-related experience. 11 COMMISSIONER HAUGEN-HOFFART: What would you say 12 that significant number is? 13 THE WITNESS: The quantity of employees? 14 COMMISSIONER HAUGEN-HOFFART: That have 15 experience in CO2 pipeline when you say "significant 16 number." 17 THE WITNESS: It would likely -- I mean, when 18 you include all the contractors that are working on the 19 project, Gulf Interstate, some of their project 20 managers, David Ammerman was on the Dakota Gasification 21 project. And so if you start including contractors that 22 support, whether it's the engineering side or the 23 metallurgy side, you probably have close to a dozen. 24 COMMISSIONER HAUGEN-HOFFART: And what would you 25 say the years of experience are with those 12 people</p> <p>PAGE 168</p>

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<p>1 that you've identified?</p> <p>2 THE WITNESS: Most of them would be in the</p> <p>3 probably 20-plus years range for each of those</p> <p>4 individuals.</p> <p>5 COMMISSIONER HAUGEN-HOFFART: Okay. You say</p> <p>6 you're responsible for the development of the company</p> <p>7 risk management -- risk assessment and risk management</p> <p>8 process. Is that internal or internal and external?</p> <p>9 THE WITNESS: We have external contractors that</p> <p>10 help us develop an internal risk management process</p> <p>11 under the integrity management program.</p> <p>12 COMMISSIONER HAUGEN-HOFFART: And how many of</p> <p>13 them have CO2 pipeline experience?</p> <p>14 THE WITNESS: Some of those individuals will be</p> <p>15 -- will overlap between the engineering team and the</p> <p>16 risk management team, right. They play the same role.</p> <p>17 The main lead for risk management is a guy named Kent</p> <p>18 Muhlbauer, and I do not know his CO2 experience, but he</p> <p>19 has extensive PHMSA background and experience. And if</p> <p>20 you read some of the documents that are ultimately</p> <p>21 issued through PHMSA, Kent is one of the authors on a</p> <p>22 lot of those when it comes to risk management. But I</p> <p>23 don't know his specific CO2 experience.</p> <p>24 COMMISSIONER HAUGEN-HOFFART: Fair enough. So</p> <p>25 when you said on page 4 of your testimony, and you've</p> <p>PAGE 169</p>	<p>1 working with emergency managers, first responders?</p> <p>2 Where is your lead role?</p> <p>3 THE WITNESS: Yeah. So --</p> <p>4 COMMISSIONER HAUGEN-HOFFART: In what areas?</p> <p>5 THE WITNESS: I think the overall development of</p> <p>6 that emergency response plan we would take the lead role</p> <p>7 on. It does also take some, once again, coordination</p> <p>8 with local responders in regards to what equipment do</p> <p>9 they have, where are resources based out of. But we</p> <p>10 would drive a lot of that when it comes to development</p> <p>11 of emergency response plans and making sure they feel</p> <p>12 that they're adequately -- they have the adequate</p> <p>13 resources to help us respond. And so there are federal</p> <p>14 requirements as well in 195 in regards to how often we</p> <p>15 train first responders, things along those lines. And</p> <p>16 so we will -- we'll comply with all that.</p> <p>17 COMMISSIONER HAUGEN-HOFFART: Give me a brief</p> <p>18 summary of that requirement that you just referenced.</p> <p>19 THE WITNESS: Are you talking about the 195</p> <p>20 requirements --</p> <p>21 COMMISSIONER HAUGEN-HOFFART: Right.</p> <p>22 THE WITNESS: -- for emergency managers?</p> <p>23 COMMISSIONER HAUGEN-HOFFART: Yes.</p> <p>24 THE WITNESS: One of them is that you must have</p> <p>25 a training annually, not to -- or every calendar year,</p> <p>PAGE 171</p>
<p>1 alluded to this several times about laying the</p> <p>2 foundation, would you describe that, you know, when you</p> <p>3 lay the foundation -- and I've worked some in risk</p> <p>4 management and emergency response and all that,</p> <p>5 information sharing. And as you go on, it gets more</p> <p>6 detailed and detailed; right?</p> <p>7 THE WITNESS: I agree with that.</p> <p>8 COMMISSIONER HAUGEN-HOFFART: So who leads that</p> <p>9 detail of information? Would it be you as Summit or do</p> <p>10 you expect emergency managers to lead that? What's your</p> <p>11 expectation in, you know, you're responsible for risk</p> <p>12 management and assessment?</p> <p>13 THE WITNESS: Yeah, I think it's ultimately a</p> <p>14 collaborative effort. And so I think a starting point</p> <p>15 is that Summit does provide a lot of the information,</p> <p>16 right. But as time goes on, and similar to how the</p> <p>17 presentation has evolved over time, new questions come</p> <p>18 up, new topics come up. And so we want it to be a</p> <p>19 collaborative effort between us and those emergency</p> <p>20 managers and first responders. And so if there's</p> <p>21 information after that first take that they don't feel</p> <p>22 was appropriately addressed, that's something that we</p> <p>23 would work through with those individuals.</p> <p>24 COMMISSIONER HAUGEN-HOFFART: Where would Summit</p> <p>25 take the initiative and take the lead in regarding to</p> <p>PAGE 170</p>	<p>1 not to exceed every 15 months. And so within those</p> <p>2 timelines we'll have to reach out to first responders</p> <p>3 across the project, bring them up to speed on where are</p> <p>4 we at on the project, any potential things that may have</p> <p>5 arisen on our project, and then really just continual</p> <p>6 education when it comes to first responders. And so</p> <p>7 that's the -- that's one part of it.</p> <p>8 And then it's also, as I mentioned, development</p> <p>9 of emergency response plans, how do you respond to an</p> <p>10 incident, things along those lines.</p> <p>11 COMMISSIONER HAUGEN-HOFFART: At these meetings,</p> <p>12 it's been referenced several times by Summit as far as</p> <p>13 the sign-in sheets are the actual documentation on who</p> <p>14 attended. And you referenced earlier you don't know who</p> <p>15 has those sign-in sheets. So who's ultimately</p> <p>16 responsible for maintaining safety documentation? I</p> <p>17 mean, where does the repository of information lie and</p> <p>18 with whom?</p> <p>19 THE WITNESS: Yeah. I think it -- it's a</p> <p>20 slightly more complex question than a simple answer.</p> <p>21 And so it's kind of broken out into different</p> <p>22 categories. So when you look at relationships with</p> <p>23 emergency managers and first responders, Dave Daum has a</p> <p>24 lot of those relationships, especially when it comes to</p> <p>25 emergency response planning. When it comes to setting</p> <p>PAGE 172</p>

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<p>1 up the different meetings and owning kind of those</p> <p>2 sign-in sheets, that would really fall to what I would</p> <p>3 call our Bismarck office and really Wade's team.</p> <p>4 And so it's kind of a team effort where</p> <p>5 individuals will have specialties and they'll -- we'll</p> <p>6 work together to answer whatever questions or topics may</p> <p>7 arise.</p> <p>8 COMMISSIONER HAUGEN-HOFFART: So someone has</p> <p>9 them?</p> <p>10 THE WITNESS: My understanding is that someone</p> <p>11 has maybe not all of them but most or many of them, yes.</p> <p>12 COMMISSIONER HAUGEN-HOFFART: Where would they</p> <p>13 be? I mean, if you're saying that -- if it's been</p> <p>14 testified that these sign-in sheets are documentation</p> <p>15 that -- these safety meetings, where would they be? I</p> <p>16 mean, why wouldn't you have them all to show that --</p> <p>17 THE WITNESS: Yeah. When we -- when we first</p> <p>18 started the process, I don't know that the first couple</p> <p>19 meetings we maybe had sign-in sheets. I can't recall</p> <p>20 that far back. But ultimately I do know that meeting</p> <p>21 invites exist in regards to who was invited to those</p> <p>22 meetings through Outlook. And then we do have a number</p> <p>23 of sign-in sheets to validate who showed up to these</p> <p>24 number of meetings. And so I know that we use those</p> <p>25 when compiling the list of individuals that showed up.</p> <p>PAGE 173</p>	<p>1 not better understand, that phrasing, but to understand</p> <p>2 what is kind of that at-worst case type of condition and</p> <p>3 what that may look like. And without going into details</p> <p>4 on exact inputs and outputs that we have, it's a little</p> <p>5 difficult to answer that question here.</p> <p>6 COMMISSIONER HAUGEN-HOFFART: I have no further</p> <p>7 questions.</p> <p>8 ALJ HOGAN: Mr. Dawson, any questions?</p> <p>9 SUBSTITUTE DECISIONMAKER DAWSON: I preface this</p> <p>10 by saying I am not a scientist, I do not know much about</p> <p>11 metallurgy or pipelines, so when I ask this it's out of</p> <p>12 ignorance, but you talk about a break in a line being a</p> <p>13 worst-case scenario, and then we hear about, if I</p> <p>14 understand correctly, if it got broken in any fashion,</p> <p>15 it would be colder than negative 50 degrees and one --</p> <p>16 every -- would it guillotine break in every circumstance</p> <p>17 because of that cold? Sooner or later at least</p> <p>18 fracture?</p> <p>19 THE WITNESS: I think what you're -- you're</p> <p>20 going back to the question I had earlier about brittle</p> <p>21 pipelines. And so -- try and word it. Really, when we</p> <p>22 design a pipeline, we select a number of parameters,</p> <p>23 right, in regards to how are we going to design the</p> <p>24 pipeline, whether that's a temperature number both in a</p> <p>25 minimum and maximum case, design temperature, whether</p> <p>PAGE 175</p>
<p>1 COMMISSIONER HAUGEN-HOFFART: You have stated</p> <p>2 several times "I'm confident with the work that Summit</p> <p>3 has done with dispersion modeling." You've used the</p> <p>4 word "confident" many times. So elaborate a little bit</p> <p>5 more on that.</p> <p>6 You know, safety is a big thing for many people.</p> <p>7 Very passionate. I could get very passionate about it,</p> <p>8 what I'm hearing from people, especially saying that --</p> <p>9 I'm going to say it -- that we don't care about it, that</p> <p>10 we don't care about the citizens of North Dakota. That</p> <p>11 is so false. So false.</p> <p>12 So tell me why Summit is so confident in this</p> <p>13 pipeline and dispersion modeling and safety.</p> <p>14 THE WITNESS: Yeah. I think it -- it really</p> <p>15 started from the beginning in regards to how do we even</p> <p>16 determine a model to use. And so it really -- without</p> <p>17 going into too many details, some of those would be</p> <p>18 covered in the confidentiality order, it really started</p> <p>19 from the selection of a model and just the modeling</p> <p>20 software in general, and then it really goes down</p> <p>21 towards when we reference some of those documents in</p> <p>22 regards to worst-case conditions and the modeling</p> <p>23 associated with that, Summit ultimately used extremely</p> <p>24 conservative values to kind of create some of these --</p> <p>25 these dispersion buffers to better understand -- maybe</p> <p>PAGE 174</p>	<p>1 that's pressure.</p> <p>2 And so when it comes to steel pipelines, you</p> <p>3 really want the steel to operate or that metal to be in</p> <p>4 a ductile state. And so a ductile state allows for that</p> <p>5 pipeline to really deform without losing its material</p> <p>6 toughness. And if you go into a brittle state,</p> <p>7 deformation may lead to cracking and fracturing of our</p> <p>8 pipeline.</p> <p>9 And so by selecting the design criteria that we</p> <p>10 did and the temperature ranges that we did, and then</p> <p>11 ultimately following API 5L requirements for testing of</p> <p>12 your drop-weight tear testing, you can validate that the</p> <p>13 steel and the composition of the steel that you selected</p> <p>14 will always operate within that ductile region. And so</p> <p>15 then you can sustain potential deformations without</p> <p>16 necessarily resulting in some type of fracture. And so</p> <p>17 it really comes down to how you specify your pipes and</p> <p>18 your metallurgy of your pipe.</p> <p>19 And so generally the answer would be no, is that</p> <p>20 you could have some type of smaller break, let's call it</p> <p>21 a pinhole leak from corrosion or whatnot, that would not</p> <p>22 result in a guillotine release.</p> <p>23 Did that answer your question?</p> <p>24 SUBSTITUTE DECISIONMAKER DAWSON: I'd ask you to</p> <p>25 dumb it down some more, but that will do.</p> <p>PAGE 176</p>

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<p>1 THE WITNESS: I apologize.</p> <p>2 ALJ HOGAN: Mr. Dublinske, any redirect?</p> <p>3 MR. DUBLINSKE: (No audible response.)</p> <p>4 ALJ HOGAN: All right. Well, thank you, Mr.</p> <p>5 Lange.</p> <p>6 Next witness.</p> <p>7 MR. DUBLINSKE: Your Honor, while we're between</p> <p>8 witnesses here, if Your Honor would like, we can commit</p> <p>9 to filing those sign-in sheets. We didn't because, A,</p> <p>10 there may be some that -- some meetings that there</p> <p>11 weren't sign-in sheets. In other cases, they may have</p> <p>12 been supplemented by people looking at them and saying,</p> <p>13 "Well, hold it, I remember this person was there."</p> <p>14 So I think that the typed will be more accurate,</p> <p>15 but if Your Honor would like to see those, we can</p> <p>16 certainly file those as a late-filed exhibit.</p> <p>17 ALJ HOGAN: Is that something the commissioners</p> <p>18 would like?</p> <p>19 COMMISSIONER HAUGEN-HOFFART: I think you've --</p> <p>20 it's been answered for me, but I won't speak on behalf</p> <p>21 of the other two.</p> <p>22 COMMISSIONER CHRISTMANN: I'm fine with what</p> <p>23 we've had. No one's challenged it and said, no, this</p> <p>24 shows a person that attended that didn't or anything</p> <p>25 like that. So it wasn't challenged so I'm fine with</p> <p>PAGE 177</p>	<p>1 <b><u>WADE BOESHANS.</u></b></p> <p>2 being first duly sworn, was examined and testified as</p> <p>3 follows:</p> <p>4 DIRECT EXAMINATION</p> <p>5 BY MR. GLUDT:</p> <p>6 Q. Mr. Boeshans, have you testified in these</p> <p>7 proceedings prior to today?</p> <p>8 A. I have.</p> <p>9 Q. And you testified specifically at the</p> <p>10 April 22nd, 2024, hearing in Mandan; correct?</p> <p>11 A. I did.</p> <p>12 Q. And in preparation for today's hearing, have you</p> <p>13 prepared written rebuttal testimony?</p> <p>14 A. I did.</p> <p>15 Q. And was that testimony prepared by you or under</p> <p>16 your control and supervision?</p> <p>17 A. It was.</p> <p>18 Q. And when you prepared that testimony, was it</p> <p>19 true and correct?</p> <p>20 A. It was.</p> <p>21 Q. And as you sit here today, does your testimony</p> <p>22 remain true and correct?</p> <p>23 A. It does.</p> <p>24 Q. Are there any corrections you need to make to</p> <p>25 your testimony?</p> <p>PAGE 179</p>
<p>1 those.</p> <p>2 SUBSTITUTE DECISIONMAKER DAWSON: I'd agree.</p> <p>3 The accuracy hasn't been challenged.</p> <p>4 ALJ HOGAN: All right. No extra work for you.</p> <p>5 MR. DUBLINSKE: I wanted to make sure. Thank</p> <p>6 you.</p> <p>7 MR. GLUDT: Your Honor, at this time the</p> <p>8 Applicant would call Wade Boeshans.</p> <p>9 ALJ HOGAN: Welcome back, Mr. Boeshans. I'll</p> <p>10 have you state your full name for the record.</p> <p>11 WADE BOESHANS: Wade Wayne Boeshans.</p> <p>12 ALJ HOGAN: All right. And I know you've been</p> <p>13 sitting in the room all morning so you heard me go</p> <p>14 through the penalties for perjury?</p> <p>15 WADE BOESHANS: Yes, I did.</p> <p>16 ALJ HOGAN: And you understand what perjury is?</p> <p>17 WADE BOESHANS: I do.</p> <p>18 ALJ HOGAN: And being advised of the potential</p> <p>19 penalties for perjury, do you promise to tell the truth</p> <p>20 in this case today?</p> <p>21 WADE BOESHANS: I do.</p> <p>22 ALJ HOGAN: All right. Thank you.</p> <p>23 Go ahead, Mr. Gludt.</p> <p>24 MR. GLUDT: Thank you, Your Honor.</p> <p>25</p> <p>PAGE 178</p>	<p>1 A. No.</p> <p>2 MR. GLUDT: Your Honor, at this time we'd move</p> <p>3 to admit Mr. Boeshans' written rebuttal testimony as</p> <p>4 SCS R-19.</p> <p>5 ALJ HOGAN: Any objection, Mr. Pelham?</p> <p>6 MR. PELHAM: No objection.</p> <p>7 ALJ HOGAN: Mr. Jorde.</p> <p>8 MR. JORDE: Your Honor, same objections as</p> <p>9 before. Improper rebuttal and relevance. Thank you.</p> <p>10 ALJ HOGAN: And Mr. Phillips.</p> <p>11 MR. PHILLIPS: I'll just join those objections</p> <p>12 for the same reasons.</p> <p>13 ALJ HOGAN: All right. The objections will be</p> <p>14 noted, but I will admit SCS 19.</p> <p>15 Q. (BY MR. GLUDT) All right, Mr. Boeshans, I just</p> <p>16 want to highlight a couple of points from your written</p> <p>17 testimony. Were you here or were you able to hear</p> <p>18 Mr. Wachter's testimony regarding the distance of the</p> <p>19 current pipeline route to his Silver Ranch development?</p> <p>20 A. I did.</p> <p>21 Q. And Mr. Wachter testified that at the time and</p> <p>22 based off a map that Burleigh County had produced, that</p> <p>23 that distance was approximately two miles. Do you agree</p> <p>24 with that assessment?</p> <p>25 A. I do not.</p> <p>PAGE 180</p>

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<p>1 Q. Can you please explain for the Commission why</p> <p>2 you disagree?</p> <p>3 A. Yeah. There was a map that was presented to</p> <p>4 Mr. Wachter and he was asked that question. The map was</p> <p>5 Burleigh County 101. And specifically to that question,</p> <p>6 you know, the map is -- I have it in front of me here --</p> <p>7 relatively small scale. He was asked, you know, what's</p> <p>8 the distance from 80th Street to the current pipeline</p> <p>9 route. If you look at the map, although it's really --</p> <p>10 you have to look very closely, you'll see that 80th</p> <p>11 Street is actually covered up by the text that labels</p> <p>12 Silver Ranch and -- and so you just can't tell the</p> <p>13 distance very easily or clearly on this map. And</p> <p>14 additionally, the route that was depicted by Burleigh</p> <p>15 County was from preliminary information and not exactly</p> <p>16 accurate.</p> <p>17 So in my testimony you'll see Exhibit A. And on</p> <p>18 Exhibit A you see the -- the route that was filed in</p> <p>19 October of 2022 in blue on that exhibit. You'll see the</p> <p>20 updated route including the Bismarck reroute, which goes</p> <p>21 off of the page to the north in yellow and black dashed.</p> <p>22 And then you see that it's labeled -- the actual</p> <p>23 distance is approximately four miles from 80th Street,</p> <p>24 which is the eastern extent of Silver Ranch to the</p> <p>25 current pipeline route.</p> <p>PAGE 181</p>	<p>1 field. We, rather, followed the treeline which follows</p> <p>2 a transmission line and came back to -- you know,</p> <p>3 towards -- towards the east and then followed the</p> <p>4 property line again straight to the north. And there</p> <p>5 was another landowner just on the north side of Pahlke's</p> <p>6 property who didn't want the route on their property and</p> <p>7 we routed off of them and onto landowners that have</p> <p>8 since signed easements.</p> <p>9 And so all this was part of -- you know, we</p> <p>10 worked with, I think there was about a half a dozen</p> <p>11 landowners and we developed this route and secured</p> <p>12 easements on, roughly, six miles; some of it on the</p> <p>13 south side and some of it on the north side of the</p> <p>14 interstate at the same time.</p> <p>15 But that's the actual route. You can see how</p> <p>16 it's materially different than BC101. You can also see</p> <p>17 that it didn't move any closer to the city of Bismarck.</p> <p>18 Q. I'm going to switch gears a little bit here,</p> <p>19 Mr. Boeshans. Did you have the opportunity to hear the</p> <p>20 testimony provided by Ben and Rose Dotzenrod at the</p> <p>21 public hearing in Wahpeton?</p> <p>22 A. I did.</p> <p>23 Q. And did you hear the concerns expressed by the</p> <p>24 Dotzenrods regarding their drainage easement?</p> <p>25 A. I did.</p> <p>PAGE 183</p>
<p>1 But, again, it would be difficult for</p> <p>2 Mr. Wachter to detect that from this exhibit that he was</p> <p>3 looking at given the -- you know, things weren't easy to</p> <p>4 read given the small size of it. And -- and so I just</p> <p>5 wanted to make that clarification.</p> <p>6 Q. And Mr. Wachter also testified that he was</p> <p>7 surprised to learn that the reroute to the east of</p> <p>8 Bismarck where the pipeline crosses I-94, right around</p> <p>9 that area, actually moved closer to the city of Bismarck</p> <p>10 based on the map that Burleigh County had produced. Is</p> <p>11 that accurate?</p> <p>12 A. No, it's not accurate. Again, Mr. Wachter was</p> <p>13 presented with this Burleigh County 101 exhibit or BC101</p> <p>14 exhibit, and they had predicted or mapped, I guess,</p> <p>15 based on some preliminary information, the pipeline</p> <p>16 route. And if you look at my Exhibit A -- or, excuse</p> <p>17 me, Exhibit B, you'll see the actual route. And on that</p> <p>18 route again you'll see the route that was filed in</p> <p>19 October of 2022 in blue and you'll see the current route</p> <p>20 in yellow and black dashed.</p> <p>21 And so where we cross highway -- or, excuse me,</p> <p>22 Interstate 94, you can see how the route has changed in</p> <p>23 that area as we worked -- and I personally worked with</p> <p>24 the landowner there, Dale Pahlke, to make that</p> <p>25 adjustment where we didn't cut kitty-corner across his</p> <p>PAGE 182</p>	<p>1 Q. Can you explain to the Commission the steps</p> <p>2 Summit intends to take to address those concerns,</p> <p>3 please?</p> <p>4 A. I can. So as I understood, Mr. Dotzenrod's</p> <p>5 concern was his drainage facility on the drainage</p> <p>6 easement that was not on his property but was on the</p> <p>7 property adjacent to his. You know, we're willing to</p> <p>8 bore underneath his line. As I understand it, he has a</p> <p>9 drainage pipeline in that easement. It's draining his</p> <p>10 -- it's the main drain for his drain tiles. So we're,</p> <p>11 you know, willing to commit to the Dotzenrods and</p> <p>12 Mr. Dotzenrod that we'll bore under it and, therefore,</p> <p>13 not disturb that line.</p> <p>14 Additionally, we're working on an agreement that</p> <p>15 we are willing to present to the Dotzenrods that we'll</p> <p>16 provide them indemnification and guarantee the -- any --</p> <p>17 indemnification for any loss related to our use of our</p> <p>18 easement and installation of our pipeline.</p> <p>19 MR. GLUDT: Your Honor, I don't have any further</p> <p>20 questions at this time. We would tender the witness for</p> <p>21 cross.</p> <p>22 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>23 MR. PELHAM: I don't, but Mr. Schock does.</p> <p>24</p> <p>25</p> <p>PAGE 184</p>

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<p>1 CROSS EXAMINATION</p> <p>2 BY MR. SCHOCK:</p> <p>3 Q. So I think your written testimony does a good</p> <p>4 job of cleaning up the corridor width and the route</p> <p>5 buffer they requested, but I just want to make sure I</p> <p>6 understand it clearly.</p> <p>7 A. Sure.</p> <p>8 Q. So the current corridor you're requesting is</p> <p>9 200 feet wide across the entirety of the project in</p> <p>10 North Dakota; is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. And a route typically is an infinitely</p> <p>13 small point, but in the last, say, five years or so</p> <p>14 we've started to allow for route buffers just so that</p> <p>15 you can kind of work around things as you get out there</p> <p>16 in the field.</p> <p>17 So you're requesting a total of 50 feet wide,</p> <p>18 25 feet on either side of the centerline of the -- of</p> <p>19 any potential approved route as a buffer; is that</p> <p>20 correct?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. Okay. I think that's all I have. Thank you for</p> <p>23 clarifying that. Thank you.</p> <p>24 ALJ HOGAN: Mr. Phillips, any questions?</p> <p>25 MR. PHILLIPS: Yes, Your Honor.</p> <p>PAGE 185</p>	<p>1 A. I would disagree with that. Because absent the</p> <p>2 -- you know, all of the information, I can't say that it</p> <p>3 is possible, I can't say that it's not possible. So</p> <p>4 it's a "it depends" answer.</p> <p>5 Q. All right. And I appreciate that. Because the</p> <p>6 question you were asked in line 8 on page 4 uses the</p> <p>7 word "possible." And so just so that we're clear,</p> <p>8 you're not saying it's impossible to do the reroutes</p> <p>9 that my clients have suggested, are you?</p> <p>10 A. I don't know that specifically. I'd have to</p> <p>11 look at the exact situation.</p> <p>12 Q. And the further along in the process, I mean it</p> <p>13 -- I guess I take that, that it would have been easier</p> <p>14 in your view to talk about reroutes and modifications a</p> <p>15 month ago, a year ago, I mean two years ago. Is that</p> <p>16 what you're getting at?</p> <p>17 A. Yeah. I would say generally it's a lot easier</p> <p>18 when you have all of the information sooner to address</p> <p>19 them together, which is what this kind of says.</p> <p>20 Q. And you say that you are willing to personally</p> <p>21 meet with the affected landowners to discuss possible</p> <p>22 alternatives. Now, you mean you're willing to speak</p> <p>23 with myself, Mr. Leibel as their representative, and</p> <p>24 with them. I mean, you're willing to have a Zoom</p> <p>25 meeting with all of us to hammer this out? Or what's</p> <p>PAGE 187</p>
<p>1 CROSS EXAMINATION</p> <p>2 BY MR. PHILLIPS:</p> <p>3 Q. You had made some clarifications in relation to</p> <p>4 the testimony of Chad Wachter and relied on Exhibit A</p> <p>5 and B to your testimony. I just want to clarify you're</p> <p>6 not here to rebut any other testimony from Chad Wachter</p> <p>7 in this case, correct, just in relation to those two</p> <p>8 exhibits?</p> <p>9 A. Yeah. Well, we covered the two things. That's</p> <p>10 correct.</p> <p>11 MR. PHILLIPS: Thank you. No further questions.</p> <p>12 ALJ HOGAN: Mr. Jorde, any questions?</p> <p>13 MR. JORDE: Yes, Your Honor. Thank you.</p> <p>14 CROSS EXAMINATION</p> <p>15 BY MR. JORDE:</p> <p>16 Q. Sir, in your prefiled testimony, on page 4 you</p> <p>17 are posed a question about in certain situations it's</p> <p>18 not possible to implement every route adjustment</p> <p>19 requested, and one of the factors you list there says,</p> <p>20 quote, "The further along in the process and the more</p> <p>21 parcels with signed easements, the more constrained</p> <p>22 changes are."</p> <p>23 I mean, would you agree it doesn't become</p> <p>24 impossible, it's just less convenient for you in those</p> <p>25 situations?</p> <p>PAGE 186</p>	<p>1 the invitation you're offering up there?</p> <p>2 A. Yeah, the invitation is to -- to meet with the</p> <p>3 landowners, and if they choose to have their attorney</p> <p>4 present, happy to accommodate that as well. So I wasn't</p> <p>5 that explicit in the invitation here, but that's what I</p> <p>6 would envision, is the opportunity to hear from the</p> <p>7 landowners and understand what -- you know, what the</p> <p>8 possibilities are, what could we work out and make work.</p> <p>9 Q. Okay. And so do you think is the ball in your</p> <p>10 court? Should I call you after you're done testifying</p> <p>11 to set this up? I mean, how do you envision that</p> <p>12 invitation actually turning into something?</p> <p>13 A. Yeah, I would say you could reach out to our</p> <p>14 attorney, or if the landowners want to reach out to me</p> <p>15 personally, I'm happy to take their call.</p> <p>16 Q. Okay. And then as to the Dotzenrods, okay, you</p> <p>17 say you're willing to bore underneath the drainage</p> <p>18 easement, but the answer says -- it's qualified --</p> <p>19 "absent any unforeseen constructability issues."</p> <p>20 So let's say, hypothetically, sir, you were --</p> <p>21 meaning Summit -- were granted a permit but it wasn't --</p> <p>22 or the application was granted, but it wasn't</p> <p>23 conditioned upon boring under the drainage easement.</p> <p>24 Based on your answer, you could rely on that</p> <p>25 qualification and say, "Well, something came up and</p> <p>PAGE 188</p>

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<p>1 we're not going to do it." Is that right?</p> <p>2 <b>A. I wouldn't characterize it that way. What</b></p> <p>3 <b>that's meant to say is we would need to go out and meet</b></p> <p>4 <b>with Mr. Dotzenrod and look at the property, determine</b></p> <p>5 <b>exactly what's there, do a constructability review and</b></p> <p>6 <b>say here's how we're going to -- here's how we plan to</b></p> <p>7 <b>cross this line. And the unforeseen part is, you know,</b></p> <p>8 <b>we won't know what's there until we actually uncover or</b></p> <p>9 <b>start construction, if you will. Find, locate the line,</b></p> <p>10 <b>and if there was something there that either us or</b></p> <p>11 <b>Mr. Dotzenrod doesn't know of today, then that's the</b></p> <p>12 <b>unforeseen part.</b></p> <p>13 <b>Q.</b> And let's say that it plays out that way and</p> <p>14 you're out there and you're doing whatever analysis you</p> <p>15 think you need to do. Would you submit that then to the</p> <p>16 PSC? Because of course this, you know, our question and</p> <p>17 answer period, the hearings would be over by then. And</p> <p>18 if you did -- if you would agree to submit that, if it</p> <p>19 didn't show any constructability issues, would you be</p> <p>20 willing for there to be a condition in any order, should</p> <p>21 there be one, that requires you to bore underneath the</p> <p>22 Dotzenrod drainage easement?</p> <p>23 <b>A. Yeah, I would say that, in my view, regardless</b></p> <p>24 <b>of how we cross the line, we're offering an indemnity</b></p> <p>25 <b>and a repair guarantee. Okay. Now in terms of the</b></p> <p>PAGE 189</p>	<p>1 new distance from her home if that were to be</p> <p>2 implemented?</p> <p>3 <b>A. I do not know the distance and I don't see it</b></p> <p>4 <b>here.</b></p> <p>5 <b>Q.</b> Do you know if the red line proposed here stays</p> <p>6 out of her virgin prairie grasses?</p> <p>7 <b>A. It looks like it does, but, again, I don't know</b></p> <p>8 <b>for sure.</b></p> <p>9 <b>Q.</b> And does it stay out of and far enough away from</p> <p>10 Native American burial sites on her property?</p> <p>11 <b>A. We would have to survey it to verify that. So</b></p> <p>12 <b>it's -- again, to do any of these, we would have to be</b></p> <p>13 <b>doing some survey to determine if this was a permissible</b></p> <p>14 <b>route or a route that avoided certain features.</b></p> <p>15 <b>Q.</b> And you, I think, were in the room when</p> <p>16 Mr. Powell last testified to his prefiled testimony</p> <p>17 where he said, quote, "We know where the cultural sites</p> <p>18 or cultural resources --" I don't remember the word</p> <p>19 "-- are." Do you remember that testimony?</p> <p>20 <b>A. I don't, not that specifically.</b></p> <p>21 <b>Q.</b> All right. And then to suggest the -- the</p> <p>22 purple line, your current route, you would agree that --</p> <p>23 I mean you would still, to your logic, need all the same</p> <p>24 information that you apparently don't have to suggest a</p> <p>25 red line; is that right?</p> <p>PAGE 191</p>
<p>1 <b>specific bore itself, I would say we're committing to do</b></p> <p>2 <b>that given this -- with this unforeseen caveat because</b></p> <p>3 <b>we haven't actually gone out and investigated the area,</b></p> <p>4 <b>if you will, and did a review or survey of any type and,</b></p> <p>5 <b>to my knowledge, haven't had any -- received any</b></p> <p>6 <b>information from Mr. Dotzenrod around this specific</b></p> <p>7 <b>installation of the drain line. And so I think there's</b></p> <p>8 <b>more work to do to check those boxes and figure that</b></p> <p>9 <b>out. What I'm saying is we're committed to doing that.</b></p> <p>10 <b>Q.</b> Okay. Let's go to -- I don't know if you have</p> <p>11 your testimony, but page 11, that's Exhibit C, have a</p> <p>12 Valera Hayen, and I have some questions about that.</p> <p>13 <b>MR. JORDE:</b> And then, Mr. Leibel, if you're able</p> <p>14 to get Exhibit 54 passed around.</p> <p>15 <b>Q.</b> (BY MR. JORDE) So, sir, I'm looking at what</p> <p>16 you have submitted here as of yesterday. Did this get</p> <p>17 prepared yesterday? I suppose you have a map person</p> <p>18 that put this together? When was this prepared? Do you</p> <p>19 know?</p> <p>20 <b>A. I believe this was prepared on Friday,</b></p> <p>21 <b>Friday/Saturday.</b></p> <p>22 <b>Q.</b> All right. Now do you know if your -- or the</p> <p>23 red line that you've got here on page 11 of your</p> <p>24 rebuttal testimony, does that move the proposed pipeline</p> <p>25 further away from Ms. Hayen's home, or do you know the</p> <p>PAGE 190</p>	<p>1 <b>A. Yeah, that's correct. The red line has not been</b></p> <p>2 <b>surveyed and so, you know, this is a -- here's an</b></p> <p>3 <b>alternative of things we could do to help address the</b></p> <p>4 <b>concerns of Hayens. And, again, until we actually got</b></p> <p>5 <b>in the field and survey it and, quite frankly, hear from</b></p> <p>6 <b>the Hayens around what is their input on a route that</b></p> <p>7 <b>addresses their concerns, those things all have to come</b></p> <p>8 <b>together.</b></p> <p>9 <b>Q.</b> All right. And I think Exhibit 54 has been</p> <p>10 passed around. I hope so. And I believe it's been</p> <p>11 emailed. And I think one will be coming to you, sir, in</p> <p>12 a moment.</p> <p>13 <b>A. All right.</b></p> <p>14 <b>ALJ HOGAN:</b> I think everybody has it.</p> <p>15 <b>MR. JORDE:</b> All right.</p> <p>16 <b>ALJ HOGAN:</b> Yep, go ahead. Sorry, I didn't know</p> <p>17 you hadn't handed it to him.</p> <p>18 <b>Q.</b> (BY MR. JORDE) And I'm not going to ask you a</p> <p>19 bunch of questions because this has just been handed to</p> <p>20 you, but since we got your document yesterday, tried to</p> <p>21 turn this around with Ms. Hayen quickly, but, sir, what</p> <p>22 I represent this to be is -- you see an RTA with a line,</p> <p>23 and that's a southern line, and then it starts heading</p> <p>24 west and then back up north in section 20, 21 there.</p> <p>25 That's Ms. Hayen's preferred reroute, and then reroute B</p> <p>PAGE 192</p>



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<p>1 is the second-least bad reroute.</p> <p>2 So I would just respectfully request that your</p> <p>3 team take a look at this and maybe we can circle back on</p> <p>4 this, unless you have any comments right out of the gate</p> <p>5 to tell me why this is impossible?</p> <p>6 <b>A. No comments, just will look at it.</b></p> <p>7 <b>Q.</b> All right.</p> <p>8 MR. JORDE: I would offer Exhibit 54.</p> <p>9 ALJ HOGAN: Any objection to 54?</p> <p>10 MR. GLUDT: No, Your Honor.</p> <p>11 ALJ HOGAN: Mr. Pelham.</p> <p>12 MR. PELHAM: No objection.</p> <p>13 ALJ HOGAN: All right. 54 is received.</p> <p>14 MR. JORDE: Thank you.</p> <p>15 <b>Q.</b> (BY MR. JORDE) And then if we go to the next</p> <p>16 page, sir, in your prefiled testimony, which would be</p> <p>17 page 12 on Exhibit C, the Starobas, I'm just curious,</p> <p>18 you show one of their parcels there near the land</p> <p>19 parcel, but what about the second parcel which is part</p> <p>20 of the east half of section 35-132-51? Have you agreed</p> <p>21 to make route modifications on that portion of your</p> <p>22 proposed route?</p> <p>23 <b>A. Yeah. So on -- I'll just start with what's</b></p> <p>24 <b>shown on Exhibit C, page 12. It's really just showing</b></p> <p>25 <b>that the current route is what Mr. Staroba had</b></p> <p>PAGE 193</p>	<p>1 <b>can do and what we can't do there.</b></p> <p>2 <b>Q.</b> Okay. So for the items that you didn't</p> <p>3 understand relative to his other parcel that's</p> <p>4 unaddressed here, what was kind of your thought process</p> <p>5 of gaining that understanding? Were you going to email</p> <p>6 me or send a letter? Or what were you -- how were you</p> <p>7 going to get that understanding that you say you didn't</p> <p>8 have?</p> <p>9 <b>A. Yeah, we'd have -- we would start communicating.</b></p> <p>10 <b>And, again, I think the last correspondence that I'm</b></p> <p>11 <b>aware of here -- again, I've had limited involvement in</b></p> <p>12 <b>these tracts outside of the Bismarck reroute, but there</b></p> <p>13 <b>are some such as Mr. Goerger that I have been involved</b></p> <p>14 <b>in and -- and just because Terry and I have a</b></p> <p>15 <b>relationship that goes back to, you know, 12 years ago</b></p> <p>16 <b>or so. And they started having problems down in -- or</b></p> <p>17 <b>were getting a lot of questions from his neighbors.</b></p> <p>18 <b>And I went down there and met several times and</b></p> <p>19 <b>had 20-plus landowners in the room together, and most of</b></p> <p>20 <b>them ended up working out easements with us.</b></p> <p>21 <b>Mr. Staroba was never part of that. So the first step</b></p> <p>22 <b>here would be for us to communicate with each other</b></p> <p>23 <b>around what are the questions and see if we can't work</b></p> <p>24 <b>toward a resolution.</b></p> <p>25 <b>Q.</b> Well, yeah, I disagree, I guess. And maybe I</p> <p>PAGE 195</p>
<p>1 <b>requested. And I knew that because I was working with</b></p> <p>2 <b>Mr. Goerger who owns the property in the upper</b></p> <p>3 <b>right-hand piece of that diagram, and he was talking to</b></p> <p>4 <b>Mr. Staroba and helped me understand or helped us</b></p> <p>5 <b>understand that diagonal crossing. And we incorporated</b></p> <p>6 <b>it into the route and were able to get that approval</b></p> <p>7 <b>from the Richland County Commission to cross at that</b></p> <p>8 <b>angle.</b></p> <p>9 <b>The property that's off the page or would be the</b></p> <p>10 <b>next tract to the east or to the right of the diagram on</b></p> <p>11 <b>page 12, I recall from Mr. Staroba's testimony in</b></p> <p>12 <b>Wahpeton that he wanted a change to that route. Willing</b></p> <p>13 <b>to work -- look at that with him. I didn't fully</b></p> <p>14 <b>understand what he was asking for there so I can't</b></p> <p>15 <b>comment -- you know, comment in terms of "Can we do it</b></p> <p>16 <b>today," but just that we would like to meet with him and</b></p> <p>17 <b>understand exactly what that is and then what's possible</b></p> <p>18 <b>there.</b></p> <p>19 <b>One of the limitations in this case is that's a</b></p> <p>20 <b>railroad that's crossing the property and separating</b></p> <p>21 <b>Goerger's property from his. Typically, we have to</b></p> <p>22 <b>cross railroads at 90 degrees. And the sketch that I</b></p> <p>23 <b>saw, I think that you submitted, didn't include a</b></p> <p>24 <b>90-degree crossing and there were just some other things</b></p> <p>25 <b>we'd have to understand and find -- determine what we</b></p> <p>PAGE 194</p>	<p>1 asked a bad question. So, you know, he testified in</p> <p>2 Wahpeton, and I just wanted to make sure so we're not</p> <p>3 ships passing in the night, you then said -- you just</p> <p>4 told me you were confused by his testimony relative to</p> <p>5 his other piece in Wahpeton, and I just wanted to make</p> <p>6 sure, are you going to -- is this how I had to learn</p> <p>7 about your confusion, by cross-examining you, or are you</p> <p>8 going to reach out on that, or what was your plan?</p> <p>9 <b>A. Yeah, let's reach out.</b></p> <p>10 <b>Q.</b> Okay.</p> <p>11 <b>A. I'll have our attorneys contact you, or if it's</b></p> <p>12 <b>easier, I'll just contact Staroba directly.</b></p> <p>13 <b>Q.</b> And then as to the Lugerts' property, based on</p> <p>14 what you're showing here on 13, do you believe that</p> <p>15 alleviates their concerns based on their testimony that</p> <p>16 they've provided in this matter both last year and</p> <p>17 recently in Wahpeton?</p> <p>18 <b>A. I believe this is similar to what they requested</b></p> <p>19 <b>or you requested, but in terms of -- I don't know --</b></p> <p>20 <b>without talking to them, I don't know that it addresses</b></p> <p>21 <b>their concerns, but I think it's similar to what you</b></p> <p>22 <b>sent to us.</b></p> <p>23 <b>Q.</b> Okay. And you -- and it very well might be,</p> <p>24 sir, but you understand all of those suggestions were in</p> <p>25 -- you know, far lower on the totem pole than just</p> <p>PAGE 196</p>

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<p>1 reroute around the property. So have you considered any</p> <p>2 reroute around the Lugert property like to the north or</p> <p>3 the south of it?</p> <p>4 <b>A. Not at this time.</b></p> <p>5 <b>Q.</b> All right. And then the next one, to the APH</p> <p>6 Farms, we got a glimpse of this earlier today with</p> <p>7 Mr. Hagerott, Jon. And he expressed his opinions on it.</p> <p>8 Have you, Summit, looked at options either to the north</p> <p>9 or the south around the Hagerott land?</p> <p>10 <b>A. Not that I'm aware of. Again, I haven't been</b></p> <p>11 <b>involved in these tracts. What I do know is I think</b></p> <p>12 <b>this -- this again reflects the approximate route that</b></p> <p>13 <b>was identified in our communication from you, but that's</b></p> <p>14 <b>the limit of my knowledge of this specific property.</b></p> <p>15 <b>Q.</b> All right. And then same question, sir, to the</p> <p>16 next page, 15, the Rockstad parcel. Based on the</p> <p>17 objections that have been submitted and you're aware of,</p> <p>18 do you believe that -- well, let me just strike that.</p> <p>19 Have you looked at a reroute option that would</p> <p>20 eliminate placement of the proposed hazardous pipeline</p> <p>21 on the Rockstad property?</p> <p>22 <b>A. I personally have not been involved in a reroute</b></p> <p>23 <b>that avoided the Rockstads.</b></p> <p>24 <b>Q.</b> Okay. And who -- I understand you were heavily</p> <p>25 involved in Bismarck, but who would be that person</p> <p>PAGE 197</p>	<p>1 questions?</p> <p>2 COMMISSIONER CHRISTMANN: Yes, Your Honor.</p> <p>3 I think just one, but it applies to basically</p> <p>4 all of Exhibit C. I got kind of confused along the way.</p> <p>5 First I thought that these were, you know, not finalized</p> <p>6 because I think you indicated that they haven't been</p> <p>7 surveyed, but these were proposals that Summit is</p> <p>8 willing to discuss with these landowners who are</p> <p>9 objecting. But then some of the time you're saying you</p> <p>10 haven't looked at anything.</p> <p>11 So are these the requests from the landowners</p> <p>12 where they would prefer to have the pipeline at or are</p> <p>13 these things that Summit -- are these reroutes that</p> <p>14 Summit is proposing could be looked at to satisfy some</p> <p>15 of the concerns that you've heard?</p> <p>16 THE WITNESS: Uh-huh. Yeah, I think I -- as I</p> <p>17 understand the question, it's some of both. In most</p> <p>18 cases the landowners that have provided us an alternate</p> <p>19 route on their property, we've looked at that and said,</p> <p>20 yeah, we think we can do that, but we need to survey it</p> <p>21 to verify what we think. So it was just purely looking</p> <p>22 at it from a desktop perspective.</p> <p>23 And then there are a couple others that said,</p> <p>24 "Well, we want you to move it entirely off of our</p> <p>25 property" or a reroute that doesn't include their</p> <p>PAGE 199</p>
<p>1 that's kind of looking at, for instance, the Rockstads</p> <p>2 and the APH Farms parcels?</p> <p>3 <b>A. So that would be our, you know, pipeline routing</b></p> <p>4 <b>team. Again, as I've committed to here, I'll take the</b></p> <p>5 <b>lead and initiate and try to figure this out with your</b></p> <p>6 <b>clients.</b></p> <p>7 <b>Q.</b> All right. And then the Malloy piece on page</p> <p>8 16, apparently the red line is a reroute that kind of</p> <p>9 mirrors the southern boundary line as it curves around.</p> <p>10 And so have you looked at a potential reroute, sir, that</p> <p>11 avoids the Malloy ground altogether?</p> <p>12 <b>A. I have not, and I'm not aware of one.</b></p> <p>13 <b>Q.</b> Okay. And then that takes us to page 17, the</p> <p>14 Walochs. Same question there. Are you aware of any</p> <p>15 work on selecting a route that would avoid the Waloch</p> <p>16 land?</p> <p>17 <b>A. I'm not.</b></p> <p>18 <b>Q.</b> Well, then that answers the same for page 18,</p> <p>19 the Shirley Waloch land as well?</p> <p>20 <b>A. That's correct. As you can see, there's lots of</b></p> <p>21 <b>wetlands out there and so it's a challenging area of the</b></p> <p>22 <b>state.</b></p> <p>23 <b>Q.</b> Correct. I agree with that. Okay. All right.</p> <p>24 I don't have anything further, sir. Thank you.</p> <p>25 ALJ HOGAN: Commissioner Christmann, any</p> <p>PAGE 198</p>	<p>1 properties, in which case we've taken a look at it and</p> <p>2 said, well, we first need to go engage with the other</p> <p>3 landowners and we need to survey the route.</p> <p>4 So it gets -- it's a lot simpler when we're -- a</p> <p>5 landowner is asking us for a reroute on their property</p> <p>6 because now they are in total control of can we survey</p> <p>7 it and can we then, if we make that change, proceed to</p> <p>8 an agreement, an easement agreement. When it's somebody</p> <p>9 else, we haven't had -- we haven't talked to neighbors,</p> <p>10 that I'm aware of, to look at alternate routes around</p> <p>11 that property. Now, our team may have previously to</p> <p>12 this, but, again, my -- my involvement here since the</p> <p>13 hearing started today on these tracts, we have not done</p> <p>14 that.</p> <p>15 COMMISSIONER CHRISTMANN: Okay. And then based</p> <p>16 on your map that you showed that showed the east of</p> <p>17 Bismarck area there in that reroute --</p> <p>18 THE WITNESS: Yes.</p> <p>19 COMMISSIONER CHRISTMANN: -- it sure would look</p> <p>20 to me like it's just short of four miles, as you</p> <p>21 indicated. Did you have any discussion with Mr. Wachter</p> <p>22 since that testimony about the map that he had in front</p> <p>23 of him and the confusion on that distance?</p> <p>24 THE WITNESS: Yes, I did. I talked to him after</p> <p>25 the hearing. I told him that, you know, it was -- just</p> <p>PAGE 200</p>

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<p>1 what I testified to here, and I told him that I would</p> <p>2 correct it. And he was, like, yeah, he -- he hadn't</p> <p>3 seen the map before or indicated he hadn't so...</p> <p>4 COMMISSIONER CHRISTMANN: Okay. No other</p> <p>5 questions. Thank you.</p> <p>6 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>7 COMMISSIONER HAUGEN-HOFFART: I think it's just</p> <p>8 -- you know, looking at Exhibit 101, I think</p> <p>9 Mr. Flanagan testified based on the map 100, they looked</p> <p>10 at your map that was submitted, 100, and they developed</p> <p>11 map 101. Is that your understanding from his testimony?</p> <p>12 THE WITNESS: I -- my understanding is they</p> <p>13 looked at the map, and I'd have to see which number it</p> <p>14 is specifically --</p> <p>15 COMMISSIONER HAUGEN-HOFFART: I thought he</p> <p>16 referenced 100.</p> <p>17 THE WITNESS: And is that in the black book?</p> <p>18 ALJ HOGAN: Black binder.</p> <p>19 COMMISSIONER HAUGEN-HOFFART: Yep.</p> <p>20 ALJ HOGAN: BC100. Should be the first exhibit.</p> <p>21 THE WITNESS: That's what I recall.</p> <p>22 COMMISSIONER HAUGEN-HOFFART: Okay. So I</p> <p>23 mean --</p> <p>24 THE WITNESS: I recall that he was referencing</p> <p>25 this map.</p> <p>PAGE 201</p>	<p>1 COMMISSIONER HAUGEN-HOFFART: Or a reasonable</p> <p>2 request.</p> <p>3 THE WITNESS: Yeah, a reasonable request, yes.</p> <p>4 The way I understand it is that, you know, we filed the</p> <p>5 updated route, the current route, in January, and the</p> <p>6 map book reflects all of that routing. And then we</p> <p>7 discussed here today some potential reroutes or</p> <p>8 modifications on all these properties. At some point</p> <p>9 then we would update that again and submit it, submit</p> <p>10 the updated routes.</p> <p>11 But it's also my understanding if those changes</p> <p>12 are less than a mile and a half, then they're considered</p> <p>13 minor in nature. And then they're still updated with</p> <p>14 the Commission but -- and into the docket. I'll have to</p> <p>15 defer to others that are -- that are, I guess, more</p> <p>16 familiar with that process than I am.</p> <p>17 I'm just saying that, you know, we'll provide</p> <p>18 updates as frequently as the Commission would like us to</p> <p>19 provide them, but that's just been the process, as I</p> <p>20 understand it.</p> <p>21 COMMISSIONER HAUGEN-HOFFART: So we have to</p> <p>22 request it?</p> <p>23 THE WITNESS: I would say that you don't have</p> <p>24 to. You could request it, as I understand it. Or we</p> <p>25 could file it, which we would at some point in time,</p> <p>PAGE 203</p>
<p>1 COMMISSIONER HAUGEN-HOFFART: Right. He</p> <p>2 referenced map, the 100. And then based on their</p> <p>3 programming, they developed 101 in which Mr. Wachter</p> <p>4 testified; correct?</p> <p>5 THE WITNESS: That was my understanding, yes.</p> <p>6 COMMISSIONER HAUGEN-HOFFART: Okay. I just</p> <p>7 wanted to make sure we're on the same page on how this</p> <p>8 map came about --</p> <p>9 THE WITNESS: Yes.</p> <p>10 COMMISSIONER HAUGEN-HOFFART: -- based off of</p> <p>11 your initial 100 map.</p> <p>12 THE WITNESS: Yep, understood. I could tell by</p> <p>13 comparing the two that this doesn't match -- 100 and 101</p> <p>14 don't match exactly, and that's the difference I'm</p> <p>15 showing on my Exhibit B.</p> <p>16 COMMISSIONER HAUGEN-HOFFART: Okay. So we have</p> <p>17 before us a lot of exhibits, a lot of maps. So as we go</p> <p>18 forward, if something is changed, can we expect an</p> <p>19 updated map, you know, frequently as things change so we</p> <p>20 can look at it? Or how is that process going to work?</p> <p>21 Because I mean, just today, I don't know how many maps</p> <p>22 we've gotten, you know. So as we move forward, how are</p> <p>23 we going to get updated maps in a timely fashion?</p> <p>24 THE WITNESS: Yeah, that's a -- that's a</p> <p>25 reasonable question.</p> <p>PAGE 202</p>	<p>1 say, okay, we've done all of these, we've confirmed</p> <p>2 them, surveyed them, secured easements, now let's file</p> <p>3 or update the route. But I am not familiar with exactly</p> <p>4 what that timing or practice has been or, quite frankly,</p> <p>5 should be.</p> <p>6 So it can work either way is the way I</p> <p>7 understand it, but certainly we'll be communicating</p> <p>8 with, you know -- with Victor in trying to make sure we</p> <p>9 are providing the Commission what the Commission needs</p> <p>10 in a timely way.</p> <p>11 COMMISSIONER HAUGEN-HOFFART: Thank you. No</p> <p>12 further questions.</p> <p>13 ALJ HOGAN: Mr. Dawson, any questions?</p> <p>14 SUBSTITUTE DECISIONMAKER DAWSON: One question.</p> <p>15 What are your rules of engagement with represented</p> <p>16 landowners? You were saying that you'll talk directly</p> <p>17 to landowners but not to attorneys and attorneys talk to</p> <p>18 attorneys. Is there kind of a rubric you have here that</p> <p>19 you follow?</p> <p>20 THE WITNESS: That's a great question. What I</p> <p>21 follow is if a landowner is represented by an attorney,</p> <p>22 I will have our attorney or our land guy work with their</p> <p>23 attorney. Sometimes landowners work out -- reached out</p> <p>24 for me directly or us directly or request a meeting with</p> <p>25 me. And if they request to meet with me, I will always</p> <p>PAGE 204</p>

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<p>1 meet with them. And if they want their attorney to be</p> <p>2 there, then he'll come with them. And sometimes they</p> <p>3 don't want their attorney to be there, they'd say,</p> <p>4 "Well, I just want to get some information," and we'll</p> <p>5 do it that way. But that's the way I engage with or</p> <p>6 have engaged with landowners. I don't know that there's</p> <p>7 a rubric.</p> <p>8 SUBSTITUTE DECISIONMAKER DAWSON: No further</p> <p>9 questions.</p> <p>10 ALJ HOGAN: Any redirect, Mr. Gludt?</p> <p>11 MR. GLUDT: No, Your Honor.</p> <p>12 ALJ HOGAN: All right. Thank you, Mr. Boeshans.</p> <p>13 THE WITNESS: Thank you.</p> <p>14 ALJ HOGAN: Next witness.</p> <p>15 MR. GLUDT: The applicant calls David Daum.</p> <p>16 COMMISSIONER CHRISTMANN: Your Honor, while</p> <p>17 Mr. Daum is taking the stand, I just want to remind in</p> <p>18 case there's different people in the room that I have</p> <p>19 that other commitment at about 3 and so I'll be leaving</p> <p>20 for that reason, but I'll review the recording.</p> <p>21 ALJ HOGAN: All right. Thank you for that</p> <p>22 reminder.</p> <p>23 All right. Good afternoon, Mr. Daum. I'll have</p> <p>24 you start by stating your full name and spelling your</p> <p>25 last name for the record.</p> <p>PAGE 205</p>	<p>1 Q. When you wrote that testimony, were the answers</p> <p>2 true and correct?</p> <p>3 A. Yes, they were.</p> <p>4 Q. If I asked you those same questions today, would</p> <p>5 your answers be the same or substantially the same?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have any corrections to make?</p> <p>8 A. I do not.</p> <p>9 MR. MAHLBERG: Your Honor, we'd offer the</p> <p>10 rebuttal testimony of Mr. Daum as SCS R-20.</p> <p>11 ALJ HOGAN: Mr. Pelham, any objection?</p> <p>12 MR. PELHAM: No objection.</p> <p>13 ALJ HOGAN: Mr. Phillips.</p> <p>14 MR. PHILLIPS: No objection.</p> <p>15 ALJ HOGAN: And Mr. Jorde.</p> <p>16 MR. JORDE: Same objections, improper rebuttal</p> <p>17 and relevance and to foundation. Thank you.</p> <p>18 ALJ HOGAN: All right. Those objections are</p> <p>19 noted, but I will admit SCS-20.</p> <p>20 Q. (BY MR. MAHLBERG) Now, Mr. Daum, I want to</p> <p>21 briefly go over the points of testimony that you gave,</p> <p>22 and understanding that you're third in line today and</p> <p>23 so, for some of these, significant portions of your</p> <p>24 testimony was addressed.</p> <p>25 Generally speaking, though, your rebuttal</p> <p>PAGE 207</p>
<p>1 DAVID DAUM: Yeah. It's David James Daum. Last</p> <p>2 name is D-A-U-M.</p> <p>3 ALJ HOGAN: And, Mr. Daum, did you hear me go</p> <p>4 through the penalties for perjury earlier today?</p> <p>5 DAVID DAUM: I did.</p> <p>6 ALJ HOGAN: And do you understand what perjury</p> <p>7 is?</p> <p>8 DAVID DAUM: I do.</p> <p>9 ALJ HOGAN: And being advised of the potential</p> <p>10 penalties for perjury, do you promise to tell the truth</p> <p>11 in this case today?</p> <p>12 DAVID DAUM: I do.</p> <p>13 ALJ HOGAN: All right. Thank you.</p> <p>14 Go ahead, Mr. Mahlberg.</p> <p>15 MR. MAHLBERG: Thank you, Your Honor.</p> <p>16 <b><u>DAVID DAUM,</u></b></p> <p>17 being first duly sworn, was examined and testified as</p> <p>18 follows:</p> <p>19 DIRECT EXAMINATION</p> <p>20 BY MR. MAHLBERG:</p> <p>21 Q. Mr. Daum, over the weekend did you prepare or</p> <p>22 cause to be prepared a document entitled "Rebuttal</p> <p>23 Testimony of David J. Daum on Behalf of SCS Carbon</p> <p>24 Transport LLC" dated June 2, 2024?</p> <p>25 A. Yes, I did.</p> <p>PAGE 206</p>	<p>1 testimony addressed four issues. One is first</p> <p>2 responders meetings, another was equipment requests, the</p> <p>3 grant program, and the Texas A&amp;M training; correct?</p> <p>4 A. That's correct.</p> <p>5 Q. With respect to -- with respect to the equipment</p> <p>6 requested -- I'm going to skip over the first responders</p> <p>7 and emergency manager meetings -- based on the content</p> <p>8 of your written testimony and the lengthy discussions</p> <p>9 today, I don't think we need to go over that again</p> <p>10 now -- but can you summarize what you have to say in</p> <p>11 your written testimony about the equipment requests and</p> <p>12 the grant program?</p> <p>13 A. Yes. Summit -- Summit has committed to</p> <p>14 providing a grant to each county that the pipeline runs</p> <p>15 through in the amount of \$50,000 and \$1,000 per mile of</p> <p>16 pipeline in that county for -- for the county emergency</p> <p>17 managers to use however they see fit, for what they may</p> <p>18 need, and that is in addition to carbon dioxide monitors</p> <p>19 that we have already committed to providing.</p> <p>20 Q. Beyond the carbon dioxide monitors that you have</p> <p>21 already committed to providing, are you aware of any</p> <p>22 outstanding request for equipment from any first</p> <p>23 responders?</p> <p>24 A. I am not.</p> <p>25 Q. Okay. Then, Mr. Daum, with respect to the Texas</p> <p>PAGE 208</p>

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<p>1 A&amp;M training, can you give a brief synopsis of what your 2 testimony tells us about that?</p> <p>3 <b>A. Yeah. The Texas A&amp;M is something that was</b> 4 <b>brought to our attention that provides information</b> 5 <b>around CO2 emergency response, pipeline basics,</b> 6 <b>emergency response planning, how to use air monitoring</b> 7 <b>equipment, those types of safety things. And we've</b> 8 <b>offered -- we have -- we have the availability of some</b> 9 <b>spots at that training when they do have it, and we've</b> 10 <b>offered that -- to provide some folks from the emergency</b> 11 <b>response community the opportunity to go down there at</b> 12 <b>Summit's cost and go to the training.</b></p> <p>13 MR. MAHLBERG: Your Honor, I don't have anything 14 further and would expose Mr. Daum to cross-examination.</p> <p>15 ALJ HOGAN: Mr. Pelham, any questions?</p> <p>16 MR. PELHAM: I don't. Thank you.</p> <p>17 ALJ HOGAN: Mr. Schock?</p> <p>18 Mr. Phillips, any questions?</p> <p>19 All right. Mr. Jorde, did you want to go first?</p> <p>20 MR. JORDE: Yeah, that would be great. Thank 21 you.</p> <p>22 CROSS EXAMINATION</p> <p>23 BY MR. JORDE:</p> <p>24 <b>Q.</b> Sir, your title is, let's see, the senior 25 director of health, safety, security, and environmental</p> <p>PAGE 209</p>	<p>1 <b>Q.</b> And during the safety tour meetings, was any 2 information related to plume dispersion or modeling, 3 risk analysis, hazard distances, those kind of things 4 shared with the public?</p> <p>5 <b>A. The only thing regarding dispersion modeling in</b> 6 <b>there was that it was a requirement of PHMSA that we do</b> 7 <b>dispersion modeling and what we use it for, which is to</b> 8 <b>inform our integrity management programs and our</b> 9 <b>emergency response programs.</b></p> <p>10 <b>Q.</b> All right. And as the director, the senior 11 director dealing with safety for Summit, are you 12 familiar, do you make yourself familiar with the PHMSA 13 rules and regs and the Pipeline Safety Act?</p> <p>14 <b>A. Yes, I'm familiar with PHMSA regulations.</b></p> <p>15 <b>Q.</b> And are you familiar that, under the Pipeline 16 Safety Act, the Secretary of Transportation did not 17 prescribe to PHMSA any ability to locate or route a CO2 18 pipeline facility?</p> <p>19 MR. MAHLBERG: Object to the extent it's calling 20 for a legal conclusion about the regulations.</p> <p>21 ALJ HOGAN: Do you want to rephrase your 22 question?</p> <p>23 MR. JORDE: Yes. I don't want a legal 24 conclusion. I'm just curious if he's familiar with that 25 regulation, yes or no. I don't need his interpretation</p> <p>PAGE 211</p>
<p>1 for Summit; right?</p> <p>2 <b>A. That's correct.</b></p> <p>3 <b>Q.</b> And that's because safety is a very important 4 part of this project; right?</p> <p>5 <b>A. Yes.</b></p> <p>6 <b>Q.</b> Now your experience, according to your CV, you 7 worked many years for British Petroleum; is that right?</p> <p>8 <b>A. Yes. I worked for BP.</b></p> <p>9 <b>Q.</b> All right. And is that where you -- I'm sorry, 10 go ahead.</p> <p>11 <b>A. I worked for BP for 22 years.</b></p> <p>12 <b>Q.</b> All right. Very well.</p> <p>13 And is that where you became familiar with 14 Mr. James Powell, at BP?</p> <p>15 <b>A. I did meet Mr. Powell at BP, I believe, back</b> 16 <b>in 2001.</b></p> <p>17 <b>Q.</b> Did you, throughout your BP tenure, have any 18 involvement at all with the Deepwater Horizon project?</p> <p>19 <b>A. I did not.</b></p> <p>20 <b>Q.</b> All right. You provided information, some 21 additional, in these safety -- safety tour meetings. 22 And just to be absolutely clear, those are different and 23 separate and apart from the emergency response meetings 24 that Mr. Lange was talking about; is that right?</p> <p>25 <b>A. That's correct.</b></p> <p>PAGE 210</p>	<p>1 of it.</p> <p>2 <b>A. Can you tell me what the regulation is?</b></p> <p>3 <b>Q.</b> (BY MR. JORDE) Yeah. We've got the Pipeline 4 Safety Act, and then we've got Section 60014(e) which 5 states, quote, "This chapter does not authorize the 6 Secretary of Transportation to prescribe the location or 7 routing of a pipeline facility," end quote.</p> <p>8 Are you familiar with that?</p> <p>9 <b>A. I'm familiar that PHMSA does not site pipelines.</b></p> <p>10 <b>Q.</b> Okay. And then are you also familiar that PHMSA 11 cannot issue federal safety standards for a pipeline's 12 location or a pipeline's route?</p> <p>13 MR. MAHLBERG: Object to the extent it's asking 14 about a legal conclusion and relevance to the extent 15 we're just going to have Mr. Jorde read out of the 16 guidelines.</p> <p>17 ALJ HOGAN: Yeah. Can you reword?</p> <p>18 <b>Q.</b> (BY MR. JORDE) Well, you're the -- not just 19 the safety person, the senior safety person. And I'm 20 just curious, sir, as your familiarity with PHMSA and 21 your preparation as the senior safety person for this 22 project, are you aware one way or another whether or not 23 PHMSA can or can't issue federal safety standards for a 24 pipeline's location or route in the state of North 25 Dakota?</p> <p>PAGE 212</p>

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<p>1 <b>A. I don't believe that PHMSA has a regulation to</b></p> <p>2 <b>site pipelines in North Dakota.</b></p> <p>3 <b>Q.</b> And because PHMSA doesn't get involved in where</p> <p>4 a CO2 pipeline is located or routed, would you agree</p> <p>5 that there's no prohibition for utilizing safety</p> <p>6 considerations as a factor in where the pipeline might</p> <p>7 be routed within North Dakota?</p> <p>8 MR. MAHLBERG: I'll object to the extent that</p> <p>9 one's calling for a legal conclusion, as to speculation</p> <p>10 about what can and can't be considered and by whom, and</p> <p>11 also relevance and we're outside the scope of the</p> <p>12 testimony. I don't understand what this line of</p> <p>13 questioning does in relation to the rebuttal testimony</p> <p>14 as filed.</p> <p>15 ALJ HOGAN: I'm not sure I understand the</p> <p>16 relevance of your question either, Mr. Jorde.</p> <p>17 MR. JORDE: Okay. I can maybe try to help on</p> <p>18 that.</p> <p>19 <b>Q.</b> (BY MR. JORDE) So did you personally go to</p> <p>20 these safety meetings and not just the secret ones, the</p> <p>21 -- what would you call them, the safety one -- safety</p> <p>22 tour meetings? Were you personally there?</p> <p>23 <b>A. I was.</b></p> <p>24 <b>Q.</b> Okay. And you're probably aware of -- or maybe</p> <p>25 you're not -- questions related to, you know, what can a</p> <p>PAGE 213</p>	<p>1 to us," are you meaning the federal regulations that</p> <p>2 apply to Summit as an operator?</p> <p>3 <b>A. Federal and state.</b></p> <p>4 <b>Q.</b> Okay. Now you were asked if the -- in your</p> <p>5 experience, is Summit's outreach it's conducted with the</p> <p>6 emergency responders typical? And is that outreach</p> <p>7 you're talking about these more detailed secret meetings</p> <p>8 starting in November 2023 or how did you take that</p> <p>9 question that you answered?</p> <p>10 MR. MAHLBERG: I'm going to object to the form</p> <p>11 to the extent that these meetings continue to be called</p> <p>12 "secret meetings." That's -- that's not reflecting the</p> <p>13 actual testimony.</p> <p>14 ALJ HOGAN: And I think just so our record is</p> <p>15 clear, Mr. Jorde, when you say "secret meetings," are</p> <p>16 you referring to the meetings where the general public</p> <p>17 was not invited to them?</p> <p>18 MR. JORDE: Yeah, where it was only for the</p> <p>19 invited list and then the secret information that the</p> <p>20 parties here don't have, those meetings. The ones, I</p> <p>21 think, Mr. Lange laid out in his testimony that I</p> <p>22 believe Mr. Daum was a participant in.</p> <p>23 MR. MAHLBERG: I think we all understand which</p> <p>24 meetings are being referenced, but to avoid an objection</p> <p>25 on the form of the question, they are not secret</p> <p>PAGE 215</p>
<p>1 county do, what can a state do, where do the feds come</p> <p>2 in? I mean, help us understand. Did you participate in</p> <p>3 any type of discussions in these meetings relative to</p> <p>4 your proposed project here dealing with those kind of</p> <p>5 questions, kind of the interchange of who does what?</p> <p>6 MR. MAHLBERG: I'm going to object to the form</p> <p>7 of that as compound. There are lots of questions in</p> <p>8 there. I think that -- a simpler question will get a</p> <p>9 simpler answer out of this.</p> <p>10 ALJ HOGAN: Can you break that down, Mr. Jorde?</p> <p>11 MR. JORDE: I'll take as long as we need, be</p> <p>12 happy to.</p> <p>13 <b>Q.</b> (BY MR. JORDE) So we have established that you</p> <p>14 personally were at the safety tour meetings, you were</p> <p>15 personally at the secret meetings. And the question is</p> <p>16 did you personally -- were you personally asked or are</p> <p>17 you personally aware of anyone in any of these meetings</p> <p>18 asking any questions related to the interchange of what</p> <p>19 localities can do, what the State can and can't do, and</p> <p>20 versus what the Federal Government can and can't do</p> <p>21 relative to your siting of your pipeline project?</p> <p>22 <b>A. I don't recall any specific questions to me</b></p> <p>23 <b>regarding that. What I do know is what we had on one of</b></p> <p>24 <b>our boards was the regulations that applied to us.</b></p> <p>25 <b>Q.</b> And when you say "the regulations that applied</p> <p>PAGE 214</p>	<p>1 meetings. Members of first responders in several</p> <p>2 counties were invited and came. Emergency managers were</p> <p>3 invited and came. So the implication that they're</p> <p>4 secret meetings, rather than having to object to the</p> <p>5 form of this question each time, if we could just not</p> <p>6 mischaracterize them.</p> <p>7 ALJ HOGAN: Yeah, I agree. I don't think the</p> <p>8 characterization of a secret meeting is appropriate,</p> <p>9 Mr. Jorde, so I'd ask that you refrain from using that</p> <p>10 phrase.</p> <p>11 With that said, did you -- you didn't object to</p> <p>12 the question, just the --</p> <p>13 MR. MAHLBERG: Just the mischaracterization of</p> <p>14 the nature of the meetings.</p> <p>15 ALJ HOGAN: Mr. Jorde, we might need your</p> <p>16 question again.</p> <p>17 MR. JORDE: Sure.</p> <p>18 <b>Q.</b> (BY MR. JORDE) So the confidential meetings</p> <p>19 where none of the other parties to this proceeding were</p> <p>20 allowed to be present, those are the meetings I'm</p> <p>21 talking about. And are those the meetings that you're</p> <p>22 referencing in your answer on page 4 to the question</p> <p>23 "Based on your experience, is the outreach that Summit</p> <p>24 has conducted with emergency responders typical?"</p> <p>25 <b>A. No. I was talking generally in -- in --</b></p> <p>PAGE 216</p>

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June 3, 2024, Formal hearing

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<p>1 <b>outreach in general to emergency responders and first</b></p> <p>2 <b>responders.</b></p> <p>3 <b>Q.</b> In terms of --</p> <p>4 <b>A. Which may include those meetings.</b></p> <p>5 <b>Q.</b> Okay. Very good. So just kind of generally,</p> <p>6 whatever meetings you had with first responders, you're</p> <p>7 kind of including all those. Is that fair?</p> <p>8 <b>A. Yes, that's fair.</b></p> <p>9 <b>Q.</b> And then this grant program, did I hear you</p> <p>10 right that a \$50,000 grant would go -- would that be</p> <p>11 paid to the county with the intent that the emergency</p> <p>12 manager can spend it on whatever he or she sees fit? Is</p> <p>13 that the intent?</p> <p>14 MR. DUBLINSKE: If I may, Your Honor, sort of a</p> <p>15 point of personal privilege, my -- it may just be my</p> <p>16 hearing that's going, but can you pull that microphone</p> <p>17 just a little closer, Dave? I'm having trouble hearing.</p> <p>18 THE WITNESS: Okay. Is that better?</p> <p>19 ALJ HOGAN: I think so. Use your outside voice.</p> <p>20 THE WITNESS: Sorry.</p> <p>21 <b>Q.</b> (BY MR. JORDE) Did you need me to state that</p> <p>22 again?</p> <p>23 <b>A. Yeah, can you repeat that, please?</b></p> <p>24 <b>Q.</b> Sure. And I'm on page 5 of your testimony if</p> <p>25 that helps. But this \$50,000 grant, if that's something</p> <p>PAGE 217</p>	<p>1 pipeline in a specific county, is that per year or is</p> <p>2 that one time at construction or what's that?</p> <p>3 <b>A. That's part of the one-time grant. And</b></p> <p>4 <b>oftentimes there are others -- other grants that come</b></p> <p>5 <b>later during the project.</b></p> <p>6 <b>Q.</b> All right.</p> <p>7 <b>A. But this -- right now this is a one-time \$50,000</b></p> <p>8 <b>grant plus \$1,000 per mile in the county to each county</b></p> <p>9 <b>that the pipeline goes through.</b></p> <p>10 <b>Q.</b> Are you aware that some lobbyists in South</p> <p>11 Dakota lobbied to do away with such a requirement in</p> <p>12 Senate Bill SB201 in South Dakota, the per-mile</p> <p>13 commitment?</p> <p>14 MR. MAHLBERG: I'll object to the extent that</p> <p>15 we're talking about apparently South Dakota legislation</p> <p>16 when Mr. Daum is not testifying about South Dakota</p> <p>17 legislation.</p> <p>18 ALJ HOGAN: I'll sustain that objection.</p> <p>19 <b>Q.</b> (BY MR. JORDE) How much is the grant for the</p> <p>20 affected landowners, business owners, and occupants?</p> <p>21 What's their grant amount?</p> <p>22 <b>A. I don't know which grant you're talking about.</b></p> <p>23 <b>Q.</b> Don't you have one for the people that actually</p> <p>24 are living, working near the proposed pipeline? If</p> <p>25 you're giving the county a large 50,000, what are you --</p> <p>PAGE 219</p>
<p>1 that Summit would -- you know, they're going to pay it</p> <p>2 into the county or you pay it directly to emergency</p> <p>3 managers? What's the mechanism? And then are there any</p> <p>4 restrictions or guidelines on what to do with that</p> <p>5 money?</p> <p>6 <b>A. No. It's a grant in to the emergency managers</b></p> <p>7 <b>for them to use as they see fit for equipment or</b></p> <p>8 <b>whatever else they may need to respond to incidents.</b></p> <p>9 <b>Q.</b> And when you say "a grant," that kind of term of</p> <p>10 art, rather than you're going to write a check for</p> <p>11 50,000, do you mean that if emergency manager in X, Y, Z</p> <p>12 county says, "We only spent a thousand," that you'd</p> <p>13 retain 49,000 or is -- I'm just trying to figure out the</p> <p>14 mechanism, if you can help me out on how that works?</p> <p>15 <b>A. That is not my understanding.</b></p> <p>16 <b>Q.</b> Okay. And then is there a contract with the</p> <p>17 county? Say, for instance, the current owners of Summit</p> <p>18 sell before this is constructed, I mean is there</p> <p>19 something in writing where we can force you or a county</p> <p>20 can force you to pay those funds? Or how is that</p> <p>21 working?</p> <p>22 <b>A. I don't know that there's a contract at this</b></p> <p>23 <b>point, but there's a commitment -- a letter that serves</b></p> <p>24 <b>as a commitment to that -- to that grant.</b></p> <p>25 <b>Q.</b> And the additional thousand dollars per mile of</p> <p>PAGE 218</p>	<p>1 what are you proposing specifically for safety-related</p> <p>2 things for the actual affected persons?</p> <p>3 <b>A. I'm not aware of any grant for that purpose.</b></p> <p>4 <b>Q.</b> And you're certainly aware that a county can</p> <p>5 construct its own emergency response plan; correct?</p> <p>6 They don't have to rely on Summit's emergency response</p> <p>7 plan, do they?</p> <p>8 <b>A. No. A county can construct an emergency</b></p> <p>9 <b>response plan. Typically, they're called "preplans."</b></p> <p>10 <b>Q.</b> And --</p> <p>11 <b>A. Or different -- different things that may be in</b></p> <p>12 <b>there in their county for different scenarios or</b></p> <p>13 <b>businesses or whatever it may be in their county.</b></p> <p>14 <b>Q.</b> And in order to create a robust and accurate and</p> <p>15 informed county-level emergency response plan, you would</p> <p>16 agree that the county should be provided not just a</p> <p>17 high-level summary but the exact plume modeling,</p> <p>18 dispersion modeling data that Summit's conducted;</p> <p>19 correct?</p> <p>20 MR. MAHLBERG: I'm going to object to this line</p> <p>21 of questioning which is going to go down the exact same</p> <p>22 road or line of questioning that has gone on on this</p> <p>23 topic with nearly every witness. There's no reason to</p> <p>24 do it again.</p> <p>25 ALJ HOGAN: I'll allow him to answer this</p> <p>PAGE 220</p>

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1 question, but, Mr. Jorde, I don't want to go down this  
2 road again because we've gone over this ground many,  
3 many times during this hearing.  
4 **Q. (BY MR. JORDE) What's your answer, sir?**  
5 **A. Whenever a -- whenever an emergency response**  
6 **plan, whether it's the county or it's us, we're required**  
7 **to do it by PHMSA, which also requires us to have**  
8 **conversations with -- with emergency responders. We**  
9 **talk about all the information that's relevant. And if**  
10 **they want to use that information in their -- in their**  
11 **preplan or plan, whatever they call it, they can do it.**  
12 **And we are also going to be putting together**  
13 **what we call "initial response tactics" based on**  
14 **information that we receive from first responders as**  
15 **well as the information and data that we have regarding**  
16 **the pipeline to have the best emergency response plan**  
17 **that we can have in a collaborative fashion with the**  
18 **best response capabilities and technologies.**  
19 **Q. In terms of the Texas A&M training, you state**  
20 **that Summit's invited North Dakota emergency managers to**  
21 **the course at Summit's cost. Is there something in**  
22 **writing, some type of a contract whereby this is an**  
23 **ongoing annual training and retraining for new folks**  
24 **that might become employed in the various emergency**  
25 **response offices or volunteer firefighters, for**

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1 instance? Or how do you envision that working?  
2 **A. Again, no contract in place, but we have sent a**  
3 **letter to, for example, Ms. Senger, the emergency**  
4 **manager for Burleigh, offering that training and**  
5 **committing to that. And I, personally in the meetings**  
6 **that I've been in, brought that up and -- and asked if**  
7 **-- if any of the -- you know, in the case of the**  
8 **meetings I was at, the fire chiefs or any of their**  
9 **personnel would be interested in going, you know, to**  
10 **that -- to that training at this point in the project to**  
11 **learn more about pipeline basics and CO2 safety.**  
12 **Q. And I appreciate that. My question is a little**  
13 **more specific. Is the commitment here to offer**  
14 **participation in this program on an annual basis to**  
15 **those persons within the North Dakota-affected counties**  
16 **that may want to go or is this kind of a front offer?**  
17 **I'm just trying to get a little more meat on what this**  
18 **offer is.**  
19 **A. Yeah, so -- so we get -- as I mentioned, we get**  
20 **a certain amount of spots, usually two to four spots per**  
21 **session. There's usually about four sessions per year**  
22 **that we can send people to. And we'll continue to do**  
23 **that as long as the course is provided. It's a**  
24 **third-party course, but we will send people to those**  
25 **courses as long as it's there.**

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1 **Q. And when you say "at Summit's cost," is that the**  
2 **course cost or does that include travel expenses so**  
3 **there's not a burden on county resources? Or where does**  
4 **Summit's cost contribution or reimbursement stop?**  
5 **A. Yeah. So the -- for the people we've sent,**  
6 **we've paid for expenses and the course cost.**  
7 **Q. Okay. And expenses, trip to get there --**  
8 **A. Travel, hotel, meals.**  
9 **Q. Very good.**  
10 **All right. I think you have here that no North**  
11 **Dakota emergency response personnel has taken Summit up**  
12 **on this opportunity. Is that still true as we sit here**  
13 **today?**  
14 **A. As far as I know, that is true.**  
15 **Q. Okay. All right. Let's see.**  
16 **MR. JORDE: Your Honor, I -- I don't have any**  
17 **more questions for this witness, but before I pass, I**  
18 **just want to clean up -- I thought I -- I'm almost**  
19 **positive I offered Exhibit 57, which were the photos of**  
20 **the Olson family that I said we'd produce later, but to**  
21 **the extent I failed to offer Exhibit 57, I just want to**  
22 **clean that up and get that admitted here.**  
23 **ALJ HOGAN: You previously offered and I**  
24 **accepted 57.**  
25 **MR. JORDE: Okay. I thought so. Thank you.**

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1 **And thank you, sir. Nothing further.**  
2 **ALJ HOGAN: Mr. Phillips, any questions?**  
3 **MR. PHILLIPS: Yes, Your Honor.**  
4 **CROSS EXAMINATION**  
5 **BY MR. PHILLIPS:**  
6 **Q. Good afternoon.**  
7 **A. Good afternoon.**  
8 **Q. There's been some discussion in your testimony**  
9 **about grants to the counties. Are you aware of Burleigh**  
10 **County's requirement for accepting and spending grants,**  
11 **that those have to be approved at a public county**  
12 **commission meeting?**  
13 **A. I am not.**  
14 **Q. Your current position is, if I can read it**  
15 **correctly, senior director of health, safety, security,**  
16 **and environmental at Summit; is that correct?**  
17 **A. That's correct.**  
18 **Q. What education, training, or experience of any**  
19 **kind do you have specific to carbon dioxide pipelines as**  
20 **it relates to emergency response procedures?**  
21 **A. So my background is I have a bachelor's degree**  
22 **in occupational safety and health, a minor in**  
23 **environmental health, and a master's in industrial**  
24 **management, and I'm a certified safety professional.**  
25 **Q. And that was a lot of broad terms. I do want to**

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<p>1 narrow it in specifically to CO2 pipelines.</p> <p>2 <b>A. As far as CO2 pipelines specifically, I have</b></p> <p>3 <b>never worked on a CO2 pipeline project previously.</b></p> <p>4 <b>Q.</b> And if I understand your testimony correctly,</p> <p>5 you were present at the November 27th, 2023, meeting</p> <p>6 with the Burleigh County emergency responders and</p> <p>7 managers; is that correct?</p> <p>8 <b>A. That's correct.</b></p> <p>9 <b>Q.</b> I'm going to have you look at that black binder</p> <p>10 and turn to Exhibit BC119.</p> <p>11 <b>A. 119?</b></p> <p>12 <b>Q.</b> Yes.</p> <p>13 <b>A. Okay, I think I'm there.</b></p> <p>14 <b>Q.</b> Did you hear the testimony earlier from Mr.</p> <p>15 Lange about this document?</p> <p>16 <b>A. About what? I'm sorry, I didn't hear the end of</b></p> <p>17 <b>your question.</b></p> <p>18 <b>Q.</b> Did you hear the testimony earlier by Mr. Lange</p> <p>19 when he testified about this document?</p> <p>20 <b>A. Yes. I was in the room.</b></p> <p>21 <b>Q.</b> And is this a document that you provided to Mary</p> <p>22 Senger with Burleigh County?</p> <p>23 <b>A. I did, after that meeting, per -- per request</b></p> <p>24 <b>and per the documents that were requested in that</b></p> <p>25 <b>meeting.</b></p> <p>PAGE 225</p>	<p>1 <b>A. Okay, I'm there.</b></p> <p>2 <b>Q.</b> And the heading there at the top, 3.1,</p> <p>3 "Community/Stakeholder Outreach." It lists sort of a</p> <p>4 list of stakeholders there. Does Summit or has Summit</p> <p>5 reached out to these various stakeholders? We can start</p> <p>6 with the first, the affected public.</p> <p>7 <b>A. Well, I'll go back and say so this is community</b></p> <p>8 <b>outreach and it references 195.440, which is the public</b></p> <p>9 <b>awareness program, which also references Recommended</b></p> <p>10 <b>Practices 1162 on Public Awareness, which is another API</b></p> <p>11 <b>document. And those are requirements that we will have</b></p> <p>12 <b>to follow when the time comes.</b></p> <p>13 <b>At this point, you know, the public awareness</b></p> <p>14 <b>program isn't in place because we're not in operation.</b></p> <p>15 <b>Okay. Have we -- have we talked to the affected public?</b></p> <p>16 <b>Yes. The safety tour meetings that we're having and</b></p> <p>17 <b>those types of things. But it's a little premature and</b></p> <p>18 <b>it's a little bit different, what we're spending there,</b></p> <p>19 <b>than what would be specific to the requirements of this</b></p> <p>20 <b>regulation.</b></p> <p>21 <b>Q.</b> I don't think I caught what you said triggers</p> <p>22 when these requirements will come into place. Can you</p> <p>23 explain that?</p> <p>24 <b>A. When we're operating a pipeline with CO2 in it.</b></p> <p>25 <b>Q.</b> Regardless of whether it's required at this</p> <p>PAGE 227</p>
<p>1 <b>Q.</b> Is it your understanding that Summit intends to</p> <p>2 comply with all the requirements in this guideline</p> <p>3 document?</p> <p>4 <b>A. The document is a guidance document. I believe</b></p> <p>5 <b>we either comply with or we will comply with those that</b></p> <p>6 <b>are applicable to the project. Some may not be</b></p> <p>7 <b>applicable to the project and some items may be</b></p> <p>8 <b>applicable only in certain situations.</b></p> <p>9 <b>Q.</b> Are you familiar with which ones are applicable</p> <p>10 and which ones are not?</p> <p>11 <b>A. For example, there's -- there's a piece about</b></p> <p>12 <b>forced air displacement and using fans as emergency</b></p> <p>13 <b>response equipment. In some scenarios we may use those</b></p> <p>14 <b>depending on the situation and some they wouldn't work</b></p> <p>15 <b>and we wouldn't use them. That's just an example that I</b></p> <p>16 <b>can think of off the top of my head.</b></p> <p>17 <b>Q.</b> What about the portions of the document that do</p> <p>18 clearly apply, do you -- does Summit intend to comply</p> <p>19 with the requirements in this document?</p> <p>20 <b>A. Yes, I believe so. There's requirements in</b></p> <p>21 <b>there that reference PHMSA regulations and we have to</b></p> <p>22 <b>comply with those specifically around emergency</b></p> <p>23 <b>response.</b></p> <p>24 <b>Q.</b> We'll look at a specific one, to page 6 of that</p> <p>25 document.</p> <p>PAGE 226</p>	<p>1 time, has Summit reached out to one of the items there,</p> <p>2 fire departments, law enforcement, local emergency</p> <p>3 planning committees?</p> <p>4 <b>A. Yes.</b></p> <p>5 <b>Q.</b> What about hazmat teams?</p> <p>6 <b>A. Not specifically but sometimes indirectly</b></p> <p>7 <b>because hazmat teams are part of the fire departments.</b></p> <p>8 <b>Q.</b> Excavators and contractors?</p> <p>9 <b>A. Not that I'm aware of at this time.</b></p> <p>10 <b>Q.</b> What about public officials?</p> <p>11 <b>A. If you consider public officials such as county</b></p> <p>12 <b>commissioners and -- and -- then yes.</b></p> <p>13 <b>Q.</b> Would Summit have records of all the public</p> <p>14 officials it's reached out to?</p> <p>15 <b>A. I believe there's records of all the public -- I</b></p> <p>16 <b>believe there's records of all the meetings, commission</b></p> <p>17 <b>meetings, that -- that Summit has attended.</b></p> <p>18 <b>Q.</b> There was some prior testimony about whether</p> <p>19 county officials were invited to a meeting in Emmons</p> <p>20 County. Do you know if commissioners were invited to</p> <p>21 that meeting in Emmons County?</p> <p>22 <b>A. I'm not aware.</b></p> <p>23 <b>Q.</b> Would the documents exist in Summit's possession</p> <p>24 that establish whether or not those officials were</p> <p>25 invited?</p> <p>PAGE 228</p>

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<p>1 <b>A. From -- from what I understand how the process</b></p> <p>2 <b>works around public outreach and public -- public</b></p> <p>3 <b>outreach, that any meetings that -- that we -- we ask</b></p> <p>4 <b>for or we send to officials would be documented in a</b></p> <p>5 <b>system that we have within Summit Carbon.</b></p> <p>6 <b>Q.</b> Part of the outreach that you did was in</p> <p>7 relation to this November meeting in 2023 with Burleigh</p> <p>8 County; correct?</p> <p>9 <b>A. Yes, I would say that was outreach.</b></p> <p>10 <b>Q.</b> And I'm sorry to jump back a little bit, but I</p> <p>11 want to make sure I cover this here. You talked earlier</p> <p>12 about your -- or I asked you about education, training,</p> <p>13 and experience, and you indicated this is the first CO2</p> <p>14 pipeline you worked on. You didn't really address</p> <p>15 education or training. What education or training do</p> <p>16 you have specific to CO2 pipelines?</p> <p>17 <b>A. So I've been to the TEEX course as one reference</b></p> <p>18 <b>of training. I've attended that. My -- my education as</b></p> <p>19 <b>a whole covers many different aspects of safety,</b></p> <p>20 <b>whether, you know -- and a broad array of different</b></p> <p>21 <b>chemicals. So I've worked around CO2. I've worked</b></p> <p>22 <b>around H2S. I've worked around xylene, refined</b></p> <p>23 <b>products, so on and so forth.</b></p> <p>24 <b>You know, the regulations basically translate to</b></p> <p>25 <b>whatever the product may be. The product -- you know,</b></p> <p>PAGE 229</p>	<p>1 <b>it's a natural gas pipeline or it's a crude oil pipeline</b></p> <p>2 <b>or it's a CO2 pipeline, you still have to do the same</b></p> <p>3 <b>thing. You have to do the public outreach. You have to</b></p> <p>4 <b>do the emergency response plan. You have to do the</b></p> <p>5 <b>training. You have to share the emergency response plan</b></p> <p>6 <b>with first responders. You have to train first</b></p> <p>7 <b>responders, so on and so forth.</b></p> <p>8 <b>Q.</b> Still looking at Exhibit BC119, the second full</p> <p>9 paragraph there on page 6 talks about operators becoming</p> <p>10 familiar with potential public gathering centers such as</p> <p>11 schools, hospitals, etcetera, along the route. What</p> <p>12 work has Summit done in relation to things like schools</p> <p>13 and hospitals and the like?</p> <p>14 <b>A. So those types of things will be -- will be part</b></p> <p>15 <b>of -- I mentioned earlier the initial response tactics</b></p> <p>16 <b>is something we do in addition to the emergency response</b></p> <p>17 <b>plans, and that is understanding -- that will be done</b></p> <p>18 <b>for each mile of the pipeline. And that is</b></p> <p>19 <b>understanding what is in the areas of the pipeline and</b></p> <p>20 <b>what could be affected by a potential release, you know,</b></p> <p>21 <b>from the pipeline.</b></p> <p>22 <b>And so, you know, when the -- when the line gets</b></p> <p>23 <b>finalized, you know, we'll, you know, look at that data</b></p> <p>24 <b>and that information and collect it, and that will be</b></p> <p>25 <b>some of the discussions we have with first responders as</b></p> <p>PAGE 231</p>
<p>1 <b>those safety data sheets and their properties is -- is</b></p> <p>2 <b>what then we manage the risk to.</b></p> <p>3 <b>Q.</b> Do you agree that CO2 release and a subsequent</p> <p>4 response would present some unique circumstances that</p> <p>5 are different from more common products like oil and</p> <p>6 gas, natural gas?</p> <p>7 <b>A. I would say that CO2 has some different</b></p> <p>8 <b>properties than -- than natural gas and it has some of</b></p> <p>9 <b>the same. They're both simple asphyxiants so they</b></p> <p>10 <b>displace oxygen. CO2 is heavier than air. Natural gas</b></p> <p>11 <b>is lighter but often contains things like butane and</b></p> <p>12 <b>propane, which are heavier and, under the right</b></p> <p>13 <b>conditions, can cause a cloud to drift and sit in</b></p> <p>14 <b>low-lying areas as well. CO2 is non-flammable. Natural</b></p> <p>15 <b>gas is flammable. So those are just some of the</b></p> <p>16 <b>properties. But, yes, there's differences.</b></p> <p>17 <b>Q.</b> And this is your first time working on a CO2</p> <p>18 pipeline?</p> <p>19 <b>A. Pipeline specific, yes.</b></p> <p>20 <b>Q.</b> Are those differences between CO2 and some other</p> <p>21 chemicals part of the reason it's important to educate</p> <p>22 stakeholders?</p> <p>23 <b>A. I think it's always important to educate the</b></p> <p>24 <b>stakeholders no matter what it is, and that's why the</b></p> <p>25 <b>regulations, like I said, translate, you know, whether</b></p> <p>PAGE 230</p>	<p>1 <b>to how we would respond specifically in an area where</b></p> <p>2 <b>there may be a hospital or there may be a school or</b></p> <p>3 <b>there may be a few homes, or whatever it may be. And</b></p> <p>4 <b>that's what those specific response tacticals are for.</b></p> <p>5 <b>Q.</b> That one doesn't have a footnote to any federal</p> <p>6 regulations. Is that part of a federal regulation or is</p> <p>7 it just one of the best practices in this guideline?</p> <p>8 <b>A. I don't recall specifically if that's in the</b></p> <p>9 <b>regulation or just the guideline at this point.</b></p> <p>10 <b>Q.</b> Is there a process in place to make sure that</p> <p>11 Summit will go ahead and do that at the appropriate</p> <p>12 time?</p> <p>13 <b>A. Can you clarify that, go ahead and do what?</b></p> <p>14 <b>Q.</b> Well, you testified earlier about how certain</p> <p>15 things will become requirements under federal law when</p> <p>16 you're operating the pipeline. This, it appears, may</p> <p>17 not be a federal regulation. Is there anything that's</p> <p>18 going to trigger Summit to know to go out and comply</p> <p>19 with this best practice?</p> <p>20 <b>A. The best practice, no. The regulation, yes, and</b></p> <p>21 <b>which this is part of the Regulation 440, which is the</b></p> <p>22 <b>public outreach regulation.</b></p> <p>23 <b>Q.</b> To be clear, what we're talking about here is</p> <p>24 becoming familiar with public gathering centers. Does</p> <p>25 Summit have a plan to become familiar with any public</p> <p>PAGE 232</p>

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<p>1 gathering centers as part of its plan of action in 2 relation to this pipeline project?</p> <p>3 <b>A. Yeah, I believe so. As I mentioned, you know,</b> 4 <b>we will -- we will have to understand what could be</b> 5 <b>impacted by a potential incident along the pipeline, and</b> 6 <b>if there is one of these type of locations that are</b> 7 <b>there, then we have to -- you know, we have to identify</b> 8 <b>those and that will be part of the -- the discussion we</b> 9 <b>have with first responders as to how it's best to</b> 10 <b>respond, do they have the right equipment, so we have</b> 11 <b>the right equipment, so on and so forth, based on the</b> 12 <b>guidance and this -- this document.</b></p> <p>13 <b>Q.</b> There's a list here in that same section of 14 things that should be considered when developing a plan 15 of action. I'm not going to read them all off there, 16 but you can read them, starting with ability to safely 17 evacuate people from the school, hospital, or other 18 place of gathering. Is that list part of the federal 19 regulation?</p> <p>20 MR. MAHLBERG: I'm going to object. Two things. 21 One to the form of that question, that he's going to ask 22 him about a list that he just told him not to read. 23 Second, going down this path, I think Mr. Daum 24 has testified that they're going to comply with all the 25 applicable regulations. He's testified now beginning to</p> <p>PAGE 233</p>	<p>1 <b>first responders will start, and prior to going into</b> 2 <b>operation, we will conduct exercises and drills with</b> 3 <b>first responders and our personnel to make sure</b> 4 <b>everybody's on the same page.</b></p> <p>5 <b>Q.</b> And what about Section 3.3 on page 8? This 6 deals with training of pipeline operators. What plan 7 does Summit have for training of pipeline operators?</p> <p>8 <b>A. This is in regard to emergency response. Our</b> 9 <b>pipeline operators that Summit will employ will -- will</b> 10 <b>be trained as first responders.</b></p> <p>11 MR. PHILLIPS: Just one moment or two, Your 12 Honor. I just want to check my notes.</p> <p>13 (Pause)</p> <p>14 MR. PHILLIPS: Thank you. No further questions.</p> <p>15 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>16 COMMISSIONER HAUGEN-HOFFART: I have no further 17 questions.</p> <p>18 ALJ HOGAN: Mr. Dawson.</p> <p>19 SUBSTITUTE DECISIONMAKER DAWSON: You say that 20 you will take requests for equipment and besides and 21 oxygen-based breathing apparatus of some sort. Is there 22 any sort of anticipated equipment that might be 23 requested? I'm just curious.</p> <p>24 THE WITNESS: We haven't heard too much besides 25 the CO2 monitors, but I can tell you some of the things,</p> <p>PAGE 235</p>
<p>1 be ad nauseam about line by line by line out of this 2 document. I think it's becoming cumulative and 3 unnecessary at this point.</p> <p>4 ALJ HOGAN: Do you want to address that, Mr. 5 Phillips?</p> <p>6 MR. PHILLIPS: Yes, Your Honor. I believe I 7 said that I wouldn't read it out loud but that the 8 witness certainly can and should. But I think -- you 9 know, you can say, yes, we're going to comply with all 10 the regulations and everything in this big document. I 11 should have an opportunity to go through some of the 12 details with him to confirm that this isn't a broad 13 statement that's not based in reality. I should be able 14 to test the veracity of that claim.</p> <p>15 ALJ HOGAN: I'll allow him to answer.</p> <p>16 <b>A. Looking at this briefly, it looks like these are</b> 17 <b>all things we would consider.</b></p> <p>18 <b>Q.</b> (BY MR. PHILLIPS) Looking at page 7, "Response 19 Drills and Exercises," has Summit conducted any response 20 drills or exercises with Burleigh County?</p> <p>21 <b>A. Not to date.</b></p> <p>22 <b>Q.</b> Does it have a plan to do so at a certain time?</p> <p>23 <b>A. Yes. Part of our timeline, and this was also</b> 24 <b>communicated in these safety tour meetings, was that</b> 25 <b>once we start construction, that's when training with</b></p> <p>PAGE 234</p>	<p>1 you know, small things we've thought of include things 2 like reflective vests because we may have people 3 blocking traffic in a certain area, flashlights, you 4 know, road barricades, general things you would use to 5 respond to an incident, block roads and keep people 6 away.</p> <p>7 SUBSTITUTE DECISIONMAKER DAWSON: So besides 8 perhaps an oxygen-based breathing apparatus of some 9 sort, there's really no other sort of specialized 10 equipment?</p> <p>11 THE WITNESS: No. I mean, in -- and the 12 document, the guidance document, is there. And I 13 mentioned it earlier, like fans, these big fans. Those 14 will be things that will be evaluated for certain types 15 of releases.</p> <p>16 And what else? As I mentioned, it displaces 17 oxygen so, you know, breathing apparatus, CO2 monitors. 18 Those are the main -- the main response equipment that 19 -- that we would be looking at.</p> <p>20 SUBSTITUTE DECISIONMAKER DAWSON: Thank you. No 21 further questions.</p> <p>22 ALJ HOGAN: Commissioner Haugen-Hoffart.</p> <p>23 COMMISSIONER HAUGEN-HOFFART: I do have one.</p> <p>24 THE WITNESS: Okay.</p> <p>25 COMMISSIONER HAUGEN-HOFFART: You talked about</p> <p>PAGE 236</p>

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<p>1 the grants at the county level. What about the state 2 level? Has there been any communication with North 3 Dakota DES in offering the State -- and I don't know if 4 they're eligible so -- but at the State, like if there 5 was a command center opened up or anything? Has there 6 been communications with the State? 7 THE WITNESS: Not that I'm aware of at this 8 time. 9 COMMISSIONER HAUGEN-HOFFART: Is there 10 anticipated communication with the State on emergency 11 response? 12 THE WITNESS: I guess it's not something I've 13 thought of at this point but definitely can, happy to do 14 that. 15 COMMISSIONER HAUGEN-HOFFART: That would -- that 16 might be a good place to, you know, have that 17 communication with the State. 18 THE WITNESS: Sure. 19 COMMISSIONER HAUGEN-HOFFART: Yep. Thank you. 20 THE WITNESS: Thank you. 21 COMMISSIONER HAUGEN-HOFFART: Now I'm saying no 22 further questions. 23 THE WITNESS: Thank you. 24 ALJ HOGAN: Mr. Mahlberg, any redirect? 25 MR. MAHLBERG: No, Your Honor. Thank you.</p> <p>PAGE 237</p>	<p>1 Honor. 2 ALJ HOGAN: Okay. All right. Other matters to 3 discuss? 4 Mr. Jorde, did you have something? 5 MR. JORDE: No. Mr. Pelham read my mind. I 6 just wanted to be clear, though, because I know we've 7 kind of moved things up in the schedule and that's 8 perfectly fine, but does -- maybe Mr. Dublinske, does 9 that mean that Mr. Daum and Mr. Dillon are not going to 10 be presented tomorrow? I just want to make sure I have 11 the clear lay of the land. If I put my two people on 12 and Mr. Braaten calls whoever he calls, is that -- I 13 mean, is that the end of it? Or maybe you can clarify, 14 Mr. Dublinske. 15 MR. DUBLINSKE: Yes. So my understanding from 16 Judge Hogan's order was that we were expected to put on 17 as much of our rebuttal case as we could today and that 18 she was leaving open the door to potentially allowing 19 rebuttal of new material from tomorrow. Knowing the 20 witness list, at this time I don't anticipate calling 21 anybody. And if we did, I don't know whether that would 22 be Mr. Daum or Mr. Boeshans or somebody else entirely. 23 We have no current plans to put Daum or Dillon -- I 24 think were the two you mentioned -- up tomorrow. 25 MR. JORDE: Okay. Or anybody at this time is</p> <p>PAGE 239</p>
<p>1 ALJ HOGAN: All right. Thank you, Mr. Daum. 2 THE WITNESS: Thank you. 3 ALJ HOGAN: Any further rebuttal witnesses on 4 behalf of Summit? 5 MR. DUBLINSKE: No, Your Honor. 6 ALJ HOGAN: All right. Any other issues we need 7 to address before we conclude today? 8 MR. JORDE: Your Honor -- sorry, go ahead. 9 MR. PELHAM: I was just going to say that if we 10 could get a rundown as to what is anticipated tomorrow 11 so everyone is on the same page so we don't start off 12 tomorrow wondering where we're going to start. 13 ALJ HOGAN: Yep. And I'll just note that it's 14 my understanding Emmons County intends to call, I think 15 they filed a list, two to five or six -- one for sure 16 and then four, five maybes, I think. 17 And, Mr. Jorde, I think your list had two 18 witnesses. 19 MR. JORDE: Correct. The Kertzman Farm Trust, 20 the two owners of that will testify. That's all I've 21 got. 22 ALJ HOGAN: And on behalf of Summit, I know it's 23 hard to guess, but do you anticipate rebuttal witnesses 24 tomorrow? 25 MR. DUBLINSKE: At this time we do not, Your</p> <p>PAGE 238</p>	<p>1 what I'm hearing. 2 MR. DUBLINSKE: That's correct. That's correct. 3 MR. JORDE: Okay. Thank you. 4 ALJ HOGAN: And I will note that we will take 5 public testimony tomorrow too so that's the other factor 6 that we -- or item we have for our hearing tomorrow. 7 All right. Anything else? 8 Just to clarify, Mr. Phillips, are you or 9 Mr. Bakke appearing at tomorrow's hearing? 10 MR. PHILLIPS: I don't believe so, Your Honor. 11 ALJ HOGAN: All right. Well, I will note -- 12 MR. JORDE: I'm sorry, one more thing, if I can. 13 Did we determine if there might be this same setup for 14 tomorrow? Is it going to be phone? And then if it's 15 phone, if that could be circulated to me, I'd really 16 appreciate it. 17 MR. SCHOCK: Phone, it should be -- sorry. I 18 wasn't thinking about the phone question so let me -- 19 yeah. Yeah. So we do have a GoTo Meeting link for 20 tomorrow. If you don't have it, shoot me an email and 21 I'll send it to you. You can certainly dial the phone 22 option on that GoTo Meeting. 23 I know the sound contractor is there setting up 24 right now. They're going to have at least limited 25 connectivity. I don't know that we'll be able to do</p> <p>PAGE 240</p>

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1 audio and video, but we will certainly be able to  
2 broadcast out audio, is what I'm told. So you could  
3 have the audio connection for you -- would be available.  
4 MR. JORDE: Okay. Thank you. I'm sending you  
5 an email right now. I appreciate it.  
6 ALJ HOGAN: All right. I will note for our  
7 record it's 3:44 p.m. and that we will recess for today  
8 in Public Service Commission Case No. PU-22-391.  
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## CERTIFICATE OF TRANSCRIPTIONIST

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I, Lisa A. Hulm, CET-783, a certified electronic transcriber, do hereby certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter, to the best of my professional skills and abilities. I further state that I was not present during these recorded proceedings, and I am only the transcriber of the recorded proceedings.

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Dated this date of November 3, 2025.

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<div>\$</div> <div><div>\$1,000</div><div>[2] - 208:15, 219:8</div></div> <div><div>\$10,000</div><div>[1] - 6:8</div></div> <div><div>\$2.62</div><div>[1] - 92:2</div></div> <div><div>\$20,000</div><div>[1] - 68:3</div></div> <div><div>\$50,000</div><div>[4] - 208:15, 217:10, 217:25, 219:7</div></div> <div><div>\$6,000</div><div>[2] - 67:6, 68:3</div></div> <div><div>\$85</div><div>[1] - 93:3</div></div>	<div>'</div> <div><div>'50s</div><div>[1] - 68:7</div></div> <div><div>'70s</div><div>[1] - 34:14</div></div>	<div>1</div> <div><div>1</div><div>[4] - 27:9, 63:10, 64:10, 68:7</div></div> <div><div>10</div><div>[12] - 58:21, 67:24, 70:10, 87:10, 94:2, 94:3, 111:17, 112:4, 145:18, 155:10, 155:11, 160:25</div></div> <div><div>100</div><div>[6] - 201:9, 201:10, 201:16, 202:2, 202:11, 202:13</div></div> <div><div>101</div><div>[6] - 181:5, 182:13, 201:8, 201:11, 202:3, 202:13</div></div> <div><div>11</div><div>[10] - 58:21, 70:13, 87:10, 88:11, 88:25, 111:15, 111:18, 190:11, 190:23</div></div> <div><div>1162</div><div>[1] - 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