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THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION HP14-002  
OF DAKOTA ACCESS, LLC FOR AN  
ENERGY FACILITY PERMIT TO CONSTRUCT  
THE DAKOTA ACCESS PIPELINE

=====

Transcript of Proceedings  
Public Input Hearing  
  
January 21, 2015  
Redfield, South Dakota

=====

BEFORE THE PUBLIC UTILITIES COMMISSION  
  
CHRIS NELSON, CHAIRMAN  
GARY HANSON, COMMISSIONER  
RICHARD SATTGAST, ACTING COMMISSIONER

COMMISSION STAFF  
  
John Smith  
Kristen Edwards  
Greg Rislov  
Brian Rounds  
Darren Kearney

APPEARANCES  
  
Brett Koenecke and Kara Semmler, Dakota Access Pipeline

Reported By Cheri McComsey Wittler, RPR, CRR

1                   TRANSCRIPT OF PROCEEDINGS, held in the  
2 above-entitled matter, at the Redfield Auditorium,  
3 Redfield, South Dakota, on the 21st day of January, 2015,  
4 commencing at 6 o'clock p.m.

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1           CHAIRMAN NELSON: Good evening, everybody. I  
2 want to welcome all of you here tonight. My name is  
3 Chris Nelson, Chairman of the South Dakota Public  
4 Utilities Commission.

5           With me here this evening are Commissioner  
6 Gary Hanson and Acting Commissioner, our State Treasurer,  
7 Rich Sattgast. Mr. Sattgast is acting as Commissioner  
8 for Commissioner Fiegen due to Commissioner Fiegen's  
9 determination that she has a conflict of interest because  
10 the pipeline will, if constructed, cross land owned by  
11 her sister-in-law and brother-in-law, and the Governor,  
12 therefore, has appointed Mr. Sattgast to act as  
13 Commissioner in place of Commissioner Fiegen.

14           Also at the head table we have Commission  
15 Counsel, John Smith, and Commission Advisor,  
16 Greg Rislov.

17           Our purpose here this evening is to hold a  
18 public hearing in Docket HP14-002 entitled In the Matter  
19 of the Application of Dakota Access, LLC for an Energy  
20 Facility Permit to Construct the Dakota Access Pipeline.

21           On December 15, 2014, Dakota Access, LLC filed  
22 an Application for an energy facility permit for the  
23 proposed Dakota Access Pipeline Project.

24           On December 23, 2014, Dakota Access filed a  
25 Revised Application that relocates the line in

1 Spink County to avoid a center pivot irrigation system  
2 and accommodate landowner preferences and in Lincoln  
3 County to avoid property within and close to the  
4 development areas near Sioux Falls.

5 The Revised Application is for approval of a  
6 permit to construct a 1,134-mile, 12-inch to 30-inch  
7 diameter pipeline that will connect the Bakken and  
8 Three Forks crude oil production areas in North Dakota to  
9 existing pipeline infrastructure in Illinois.

10 The project will originate in the northwest  
11 portion of North Dakota, travel southeast through  
12 South Dakota, Iowa, and Illinois and terminate at the  
13 existing Patoka, Illinois Hub.

14 The pipeline is proposed to transport  
15 approximately 450,000 barrels per day initially with an  
16 anticipated capacity of up to 570,000 barrels per day.

17 Approximately 272.3 miles of the 1,134-mile-long  
18 pipeline will be constructed within South Dakota,  
19 crossing 13 counties in the eastern half of the state.

20 The project would enter South Dakota in  
21 Campbell County, approximately 17 miles east of the  
22 Missouri River and continue southeast through McPherson,  
23 Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, Lake,  
24 McCook, Minnehaha, Turner, and Lincoln Counties.

25 The project would cross the Big Sioux River

1 approximately 14 miles south of Sioux Falls and continue  
2 in a southeasterly direction through Iowa. One pump  
3 station will be located in South Dakota approximately  
4 7 miles southeast of Redfield in Spink County.

5 A copy of the Revised Application is on file  
6 with the county auditors of each of the 13 counties  
7 crossed by the project. You can access the Application  
8 and all other nonconfidential documents in the official  
9 file on the Commission's website at [www.puc.sd.gov](http://www.puc.sd.gov) under  
10 Commission Actions, Commission Dockets, 2014 Hydrocarbon  
11 Pipeline Dockets, and scrolling down to HP14-002, or by  
12 calling or writing or stopping by the Commission  
13 office.

14 The purpose of this hearing this evening is to  
15 provide information to the public about the proposed  
16 project and to hear public comments about the project.  
17 Interested persons have the right to present their views  
18 and comments regarding the Revised Application, and we  
19 want to encourage you to do that. No decisions are being  
20 made tonight or in the near future.

21 The parties in this proceeding at this time are  
22 Dakota Access and the Commission Staff. The South Dakota  
23 Department of Transportation and Lake County have filed  
24 applications for party status, but the Commission hasn't  
25 acted on those yet.

1 Under South Dakota Law each municipality,  
2 county, and governmental agency in the area where the  
3 facility is proposed to be constructed or any interested  
4 person or organization may be granted party status in  
5 this proceeding by making written application to the  
6 Commission on or before February 13, 2015.

7 We have Application For Party Status forms  
8 available here this evening, if you would like to apply  
9 for party status. And the form is also available on the  
10 Commission's web page for this docket or by contacting  
11 the Commission.

12 I'd like to emphasize to everyone, however, that  
13 you do not need to become a party in the case to make  
14 your voice known to the Commission. The reason we're  
15 here this evening is to hear your comments and what you  
16 have to say and your concerns about the project.

17 We will also be accepting comments in writing  
18 from anyone, either by mail, e-mail, personal delivery,  
19 and the Commission's e-mail address for those comments is  
20 puc@state.sd.gov.

21 We'll take those comments right up until the  
22 time of the decision. So you only need to apply for  
23 party status if you want to participate formally in the  
24 case by putting on actual testimony or other factual  
25 evidence, conducting discovery, cross-examining

1 witnesses, making legal arguments, et cetera, and to  
2 preserve your right to appeal to the courts if you don't  
3 believe our decision was legally correct.

4 I also want you to know that each of the  
5 Commissioners and all the Staff assigned to this docket  
6 thoroughly read all of the comments submitted by the  
7 public, and they are also filed in the docket file.

8 For the permit to be approved our law says that  
9 Dakota Access must show that the proposed transmission  
10 facility will comply with all applicable laws and rules,  
11 will not pose a threat of serious injury to the  
12 environment or to the social and economic condition of  
13 inhabitants or expected inhabitants of the siting area,  
14 will not substantially impair the health, safety, or  
15 welfare of the inhabitants, and will not unduly interfere  
16 with the orderly development of the region, with due  
17 consideration given to the views of governing bodies of  
18 affected local units of government.

19 Based on these factors the Commission will  
20 decide whether the project should be granted, denied, or  
21 granted upon such terms and conditions or modifications  
22 of the construction, operation, or maintenance of the  
23 facilities as the Commission finds appropriate.

24 I'd like to point out to everyone that we have  
25 our court reporter, Cheri Wittler, here with us this

1 evening. So I'd ask that you please use the microphone  
2 and introduce yourself and spell your name when you speak  
3 so we get it on the record.

4 I'd also like to point out that we have  
5 Brian Rounds, Darren Kearney up in the back, and Kristen  
6 Edwards, who is at the front desk, of the Commission  
7 Staff here this evening. And we want you to feel free to  
8 seek them out if you have questions or need help with  
9 anything, either here this evening or as we go throughout  
10 this process.

11 We will begin this evening by having Dakota  
12 Access representatives make a presentation to explain  
13 their proposed project. Following that presentation we  
14 will take comments from any interested persons or  
15 organizations, and we want to strongly encourage members  
16 of the public to present your views.

17 Before we get started, I'd like to ask all of  
18 you to make sure to put your information on the sign-in  
19 sheets so we have a record of who attended the hearing.  
20 And I'd also like to just take a moment to thank  
21 Marilyn Hodges, the business manager, and the custodial  
22 Staff here who did a great job of allowing us, first of  
23 all, into the building and organizing things for us.

24 With that, Brett Koenecke, attorney for  
25 Dakota Access, will be the introductory spokesman for



1 Dakota Access this evening.

2 Brett, would you please introduce the folks that  
3 you have here with you and go ahead and begin your  
4 presentation.

5 MR. KOENECKE: Thank you, Commissioner and good  
6 evening.

7 My name is Brett Koenecke. I'm a lawyer from  
8 Pierre, and I'm representing Dakota Access in these  
9 proceedings. We are extremely glad to be here tonight  
10 and be interacting with the Commission and the public  
11 about the project. And thank you all for your  
12 attendance.

13 Seated alongside of me and behind me are  
14 Joey Mahmoud, Senior Vice President of Engineering, with  
15 responsibility for development and execution of the  
16 project. To my right is Tom Siguaw, Senior Director,  
17 with responsibility for the entire project.

18 To his right is Chuck Frey, Vice President of  
19 Liquid Engineering and Chief Engineer for Design and  
20 Safety. Seated behind me is Jack Edwards, Project  
21 Manager for Iowa and South Dakota and overall  
22 construction manager.

23 Micah Rorie is the right-of-way manager for  
24 North Dakota and South Dakota. Monica Howard is the  
25 environmental manager for the project. And Keegan Pieper

1 is the Associate General Counsel and project counsel from  
2 Texas.

3 With that, I will turn it over to Joey who will  
4 take us through the presentation.

5 Thank you, Mr. Chairman.

6 MR. MAHMOUD: Good evening, and thank you for  
7 having us here in Redfield. And we're very happy to be  
8 able to present our project.

9 My name is Joey Mahmoud. I'm with Dakota Access  
10 Pipeline. It's a -- you'll hear me say Energy Transfer  
11 and Dakota Access. Those are interchangeable. Energy  
12 Transfer is the parent company that owns Dakota Access  
13 Pipeline.

14 And so tonight I'll try to explain who we are,  
15 go through the presentation, and then at the end we'll  
16 have a chance to go over some questions and comments to  
17 the Commission Staff, which we hope to be able to provide  
18 answers to those.

19 So Energy Transfer, we're a pretty large  
20 company, a Fortune 500. Actually we're in the top 100 in  
21 the United States. Our principal business is the  
22 transportation of carbon-based products, crude oil, for  
23 example. That's what we're moving on this project.  
24 Natural gas, natural gas liquids.

25 We operate as a company somewhere around 71,000

1 miles of pipe. If you compare that to the rest of the  
2 industry, that makes us the second largest transporter or  
3 pipeline company in North America.

4           Depending on the commodities trading that day,  
5 we are either the first or second largest in  
6 transporting, again, of those carbon-based energy  
7 products in the United States.

8           So this map shows who we are. We span from the  
9 border of California and Arizona all the way to Florida,  
10 and then our footprint extends from Texas up to kind of  
11 the Sunbelt, the Midwest part and the central part of the  
12 United States to ending up around Detroit and then to the  
13 northeast. And then our footprint is now extending to  
14 the Dakotas, as you can see on this map, extending up  
15 through Iowa and South Dakota and North Dakota.

16           Just kind of quickly on the project. And I'm  
17 not going to -- I'll go through this kind of quick  
18 because the Commissioner already went through what the  
19 scope of the project is.

20           But the project is pretty -- the purpose and the  
21 project objective is really pretty basic. It's to move  
22 crude oil that's being produced in the Bakken in  
23 northwest North Dakota from the Bakken and Three Forks  
24 Plays, move that crude oil from that area to a  
25 redistribution point in Illinois called the Patoka or

1 around Vernon, Illinois, the Patoka Hub where it  
2 interconnects with other parties, other pipelines for  
3 redistribution of that crude oil to the Midwest and  
4 Gulf Coast areas for consumption in refineries and also  
5 to produce crude derivative type products.

6 The project scope, as the Commissioner pointed  
7 out, it extends 1,134 miles. It's a combination of  
8 mostly 30-inch diameter pipe. It also has some 12-inch  
9 and 24-inch up in the North Dakota area. But in  
10 South Dakota it's roughly 274 miles of 30-inch diameter  
11 pipe extending again overall from North Dakota to Patoka,  
12 crossing the northeasterly or easterly part of  
13 South Dakota.

14 So you can see in this map it basically shows  
15 the orientation of the project, running from North Dakota  
16 to Illinois.

17 And then this slide kind of gives you the  
18 orientation of the project where it enters into  
19 South Dakota and where it goes into Iowa in that  
20 southeastern portion of South Dakota.

21 Overall as we've mentioned, the project's about  
22 274 miles. It lists the miles of each county traversed  
23 so you can kind of get an idea of how many miles that  
24 we're actually building on a per county basis and what it  
25 would be here in Spink County.

1           So overall the project benefits, and really, you  
2 know, what does this project mean to us as a country and  
3 as well as to you as individuals or to the State of  
4 South Dakota?

5           The project is roughly a 3.8 billion dollar  
6 investment into the U.S. economy. That's the actual cost  
7 of the project from a materials standpoint, right of  
8 ways, easements, labor to actually build the project.

9           In South Dakota that's about 820 million  
10 dollars. So that's a direct infusion of the capital that  
11 would be spent in the state for those materials and  
12 resources to execute this project.

13           Probably the biggest benefit of this project,  
14 and a lot of people ask us this, is how does this benefit  
15 me or how does it benefit the State of South Dakota. The  
16 true benefit is that it provides a direct link to  
17 U.S.-produced crude oil that we're all dependent on in  
18 our everyday lives.

19           It provides a critical link from the Dakotas  
20 where it's being produced to those refineries along the  
21 Gulf Coast as well as the midpart of the United States,  
22 Chicago, Ohio, where those refining centers are.

23           Some of the other benefits that you may not  
24 think of is that pipelines are truly the number one or  
25 safest forms of transportation in the United States. So

1 by far they are the safest mode of transportation that we  
2 have.

3 So when we look at it from a safety standpoint  
4 to the public, by moving the crude oil -- which this  
5 pipeline when we talk about 450,000 barrels up to  
6 570,000, that's roughly one-third of the oil being  
7 produced in the Bakken.

8 By taking that crude oil and actually moving it  
9 via this pipeline we reduce the amount of trains that are  
10 carrying crude oil. We also reduce the amount of trucks  
11 carrying that crude oil. That results in a positive  
12 impact to the public.

13 The other benefit that you all would probably  
14 benefit more than other people in the country is it frees  
15 up rail cars. And we're not talking about a tremendous  
16 amount of rail cars that it frees up. But four to six  
17 unit trains that would normally be occupied by crude oil  
18 transportation, that capacity now becomes available for  
19 commodity crop transportation that directly affects this  
20 part of our country for moving your grain from this area  
21 to other parts of the U.S.

22 Some of the other benefits that we'll see as a  
23 result of this project is this project would generate  
24 somewhere between 10 and 12,000 construction-related  
25 jobs. So that's the number of people that it will

1 actually take to build this pipeline from North Dakota  
2 down to the Patoka area.

3 Of that, roughly 4,000 will be here in  
4 South Dakota that will be building this pipeline. And of  
5 those 4,000 folks, we've committed to build this pipeline  
6 utilizing union-based labor staff. They're highest  
7 trained, technically capable, and they have the available  
8 resources to build this pipeline in a safe manner and in  
9 a time frame that we need.

10 Of that 4,000 people, roughly half of those will  
11 be sourced from the local union halls. That means half  
12 of those 4,000 people or 2,000 folks will benefit  
13 directly from this project with jobs that they may not  
14 otherwise have that are either here in South Dakota or  
15 the immediate region, whatever union hall that they call  
16 out of. So that's a direct benefit to the state.

17 Some of the other benefits are long-term  
18 employment opportunities for along the project.  
19 Somewhere between 40 and 50 folks will work on this  
20 thing. Up to 12 will be here in the State of South  
21 Dakota. And roughly eight of those will probably be  
22 right here in Spink County because that's where our pump  
23 station is located.

24 So we'll have somewhere around eight permanent  
25 positions located right here in this county that will be

1 working and will live and become your neighbors. So  
2 that's a pretty good benefit to this region.

3 Some of the other big impacts on a state level  
4 when we look at this project are the direct benefits from  
5 a sales tax perspective. When we look at it, it's over  
6 all somewhere around 36 million dollars. That's a rough  
7 estimate based on the taxing of the materials and the  
8 goods and services that will be employed or utilized or  
9 purchased in the State of South Dakota.

10 When we bring our pipe into the state we  
11 actually pay sales tax on that pipe in the state no  
12 matter where it's produced. It's where it's consumed,  
13 and that's here in South Dakota. That's where the  
14 majority of that tax benefit comes from.

15 The other form of benefit to South Dakota on a  
16 state level are the ad valorem or property taxes. So  
17 this estimate, the 13 million dollars that we've proposed  
18 up here, that's an estimate based on current tax laws  
19 that's subject to change. And just like anything of real  
20 property, it depreciates over time. So this represents  
21 year one of tax value during operation that we anticipate  
22 paying through the state.

23 So as we move through the process of the  
24 project, we introduced the project to the PUC Staff last  
25 July. We had our open houses, which some of you may have



1 attended last October. We made our filing in December of  
2 this year. We're hoping for -- to have our certificate  
3 sometime in the latter part of this year. And then we  
4 hope to start construction the first part of '16 and then  
5 go into service in the latter part of '16.

6 So over all this is about a two-year project  
7 that we anticipate from start -- about two and a half  
8 years from when we started to when we go into service.

9 A lot of people ask, well, how long is this  
10 going to affect me as an individual? That's kind of a  
11 tough question to answer today. However, in general  
12 terms we believe that construction will last one growing  
13 season. So we should be in and out in that one-year  
14 period in 2016.

15 Restoration could extend longer. So it could go  
16 into year two, potentially even year three, depending on  
17 the weather conditions. And hard core construction, when  
18 you're going to see the tractors and the backhoes,  
19 somewhere between 30 and 90 days, maybe a little longer,  
20 maybe a little less, depending on weather.

21 Some of the other questions we get is, you know,  
22 how did we end up with this pipeline where it's located  
23 or sited, and why is it on my property? That's a pretty  
24 common question that we get.

25 And when we go through and part of the siting

1 analysis that we have to present to the PUC Staff we  
2 start at a very high level, where we're going to start,  
3 where we're going to end, and we draw a straight line.

4 So if you noticed on the map, it's pretty  
5 straight. And then we go through what's called a macro  
6 routing analysis. And that analysis takes into  
7 consideration environmental resources. It takes into  
8 consideration communities, the town of Redfield. It  
9 could be Sioux Falls.

10 So we take all of those constraints. And  
11 there's a lot. I can't go over all of them. But there's  
12 a lot of constraints. We factor all of those in  
13 together, and then we come up with a route that impacts  
14 the least amount of resources along the route.

15 As some of you have seen, we've been out in the  
16 field. We've been surveying with our civil crews,  
17 environmental and cultural resources. We call that micro  
18 routing. So when we come up to a house or a particular  
19 sensitive area we may shift that pipeline a couple  
20 hundred feet or a mile in one direction. Or maybe a  
21 couple feet, 40 feet. And that's to avoid that  
22 constraint.

23 But at the end of the day we have to have a  
24 pipeline that's contiguous from point A to point B and  
25 minimizing the impacts to the vast majority of the

1 resources and people that we can. And so it's very  
2 technical in approach. It's nothing personal. And so  
3 when people ask us, well, why can't you reroute, there's  
4 typically a pretty good reason. Because it may appear to  
5 make sense at that one piece of property, but if you look  
6 upstream and downstream, it may not work.

7           So as far as right of way, you know, how does  
8 this affect me as a landowner, some of the things we're  
9 asking for is a 50-foot permanent easement. That means  
10 we will -- we will compensate and try to purchase a strip  
11 of land across your farms or your property 50 foot wide.  
12 So that piece of property, anything can typically happen  
13 on that 50 foot except for permanent structures.

14           So when I say permanent structures, that could  
15 be a tree, or it could be a barn or something that's  
16 fixed. That's not allowed on that easement. But  
17 everything else is. You can still farm it. You can  
18 still have cattle on it, sheep. Anything else that you  
19 would normally do with that property except for putting a  
20 permanent structure or trees, then that's okay. And  
21 that's a typical use that we would allow.

22           The other thing we're asking for is anything  
23 between 25 and 100 feet of temporary construction  
24 workspace to actually build the pipeline. Once  
25 installed, and this is not on the slide, but our proposal

1 is to bury the pipeline in non-ag areas somewhere no  
2 less than 36 inches and agricultural areas no less than  
3 48 inches, and then roadways, ditches, water bodies no  
4 less than 60 inches or 5 feet.

5 As far as the easements go, once we approach you  
6 to purchase that easement, we've conducted what's called  
7 a market study to determine the base value. And we're  
8 not saying that's the absolute value. The base value  
9 based on sales of comparable property in the area, just  
10 like a market appraisal you would do if you were selling  
11 your home or your property.

12 We take that data. We apply it on a per acre  
13 basis, and then we will make a formal offer for that  
14 permanent easement, as well as a temporary easement. And  
15 in addition to those payments, we also pay for damages to  
16 the property or loss of crops or commodities or whatever  
17 the damages could be to your property.

18 So this slide, it shows you the right-of-way  
19 configuration of what the construction and the right of  
20 way would actually look like.

21 And if you look up here on the right-hand side,  
22 you'll see that pile of soil. That soil is actual  
23 topsoil. So one of the most important things that we  
24 hear from a lot of landowners is how are you going to  
25 protect my farm? How are you going to protect my

1 livelihood?

2           So we've gone through -- and I'll present here  
3 in a second. We're developing and have developed a  
4 Agricultural Mitigation Plan that will spell out how  
5 we're going to cross those ag fields, how we're going to  
6 restore them, what our plans are short term and long  
7 term.

8           One of the important parts of this slide is if  
9 you look closely where you see where the pipe is and if  
10 you have a drain tile or drain feature on your property,  
11 our plan is to be at least 2 foot of separation between  
12 that drain tile and our pipe to minimize interference  
13 with any farming or implements or activities when you're  
14 actually working in those fields.

15           So our pipe will be deep, no less than 4 feet,  
16 and then if there's a drain tile, we'll be 2 foot in  
17 addition to that 48 inches, depending on the depth of  
18 that drain tile itself.

19           So the plan is to present that ag plan to the  
20 farmers or to the tenants of those farms and to go over  
21 those ideas or concepts in specific terms on an  
22 individual basis to work out those details. So we can  
23 only be generic at this point, and then when we're  
24 working with you for an easement we'll get into those  
25 site-specific conditions to make sure that we're dealing

1 with whatever's on your property and we'll put those into  
2 the ag plan, into the easement, and incorporate our  
3 construction in that method.

4           So this kind of spells out what's in that ag  
5 plan. And I won't reiterate everything, but this is a  
6 very important document, in our minds, to kind of detail  
7 and spell out what those conditions are for how we're  
8 going to do business together. So our proposal to you,  
9 your concerns articulated in writing, so there's no  
10 misunderstanding when we get into construction or  
11 restoration.

12           All right. Some of the other parts of this that  
13 I kind of saved to the last because I think they're some  
14 of the most important are our pipeline operations and  
15 safety. And we only have a couple more slides. But some  
16 of the things -- and, again, we get these questions, you  
17 know, how do we protect the public? How are we  
18 monitoring our pipeline? You know, what are the steps  
19 that we take?

20           And I can tell you we monitor and evaluate and  
21 operate and have somebody looking at this pipeline 24/7,  
22 365 days a year. And at no time are we not evaluating  
23 this pipeline. We either have people on the ground or we  
24 have people monitoring via remote control stations back  
25 at our control centers.

1           We communicate with the pipeline and the  
2 facilities along that pipeline via what's called SCADA  
3 systems that are -- could be communicating via cell  
4 signals or satellite that we can actually operate the  
5 pipeline and communicate with the pipeline for its  
6 pressure and temperature and flow rates.

7           We also have what are called CPMs, or  
8 computational models, that actually are modeling the  
9 operations of the pipe to facilitate what that pipe  
10 should be doing under those design conditions. And if  
11 there's anything abnormal based on that model, it gives  
12 us a signal and says, hey, you have a problem, you need  
13 to go investigate.

14           So at all times -- and there's never a second  
15 that goes by that we're not evaluating this pipe. That's  
16 pretty common in the industry. And on these new  
17 pipelines that we're building and the industry's building  
18 this type of stuff is very common and is the high end  
19 technology to improve the safety to the public and to the  
20 environment.

21           Some of the other aspects of our safety systems  
22 is that we have aerial patrol. We fly our pipelines no  
23 less than every 10 days, depending on weather. So if  
24 it's bad weather, we may not be able to, but we strive to  
25 do it every 10 days. No more than every 26 days. The

1 federal requirement's every 26 days, but we try to  
2 improve on that and do it every 10 days. That's via a  
3 fixed wing airplane that we're flying somewhere around  
4 500 foot above the ground.

5 We participate in the One-Call System. For all  
6 of you that operate a farm up in this area or a business  
7 where you're actually excavating, I'm sure you're  
8 familiar with that where you call 811. We come out, and  
9 we mark our pipes to ensure that you don't hit your pipe  
10 during excavation. It's a safety program.

11 The other thing we do is we train and we  
12 communicate with the emergency responders in the  
13 communities where we operate. We do that on an annual  
14 basis. It's open to all the emergency responders as well  
15 as to the general public for whoever's interested where  
16 we train, and we go over what our plans are, how we  
17 operate, and what those emergency procedures are, should  
18 we have an event.

19 Lastly, we do develop what's called an  
20 Emergency Response Plan. This plan is required by the  
21 Federal Government under what's called Department of  
22 Transportation or Pipeline Hazardous Materials Safety  
23 Administration or PHMSA. We turn that plan in to the  
24 PHMSA as well as to the emergency responding  
25 organizations.



1           That plan details out all the safety systems,  
2 all of our safety plans that we employ on this pipeline.  
3 We actually train against that plan so should we have an  
4 event, our employees are trained and know how to respond.  
5 They work with the emergency responders in the community  
6 to have mock drills. So at any time that we should have  
7 an event our plans are in place to mitigate and to  
8 minimize those impacts.

9           So that's kind of a general overview. I  
10 really appreciate your time. And if you have any  
11 questions, we'll be happy to try to answer those.

12           Thank you.

13           CHAIRMAN NELSON: Thank you.

14           We've allocated up to three hours tonight for  
15 this hearing. We've taken a few minutes to explain to  
16 you the process. The company has taken some time to  
17 explain the project. The rest of the time is yours.

18           This is your time to ask questions, make  
19 comments, have discussion with the company to get your  
20 questions answered.

21           A couple of things before we open the floor.  
22 And we do have microphones for you. Someone will bring a  
23 wireless mic. to you.

24           First of all, we have our court reporter. She  
25 would greatly appreciate you not talk like an auctioneer

1 and that when you begin you give very clearly your name  
2 and spell your name so we have that accurately for the  
3 record.

4           Secondly, we've got plenty of time, but we also  
5 want you to be respectful of each other's time to make  
6 sure that everybody that's here tonight that wants to  
7 speak has an opportunity to speak. And so just be  
8 respectful of others with the amount of time that you're  
9 taking.

10           With that, the floor is open. Darren's got a  
11 mic. here. And I don't know if Kristen's got a mic., but  
12 who wants to be first up?

13           MR. WYATT: I'm Joseph Wyatt, W-Y-A-T-T. I'm a  
14 landowner along the proposed pipeline route.

15           I've had a chance to look through all of the  
16 appropriate information. A couple fairly minor concerns.  
17 The agricultural mitigation process plan, I did not see  
18 anything in there as far as access across divided  
19 property where there's a very large trench dug as far as  
20 what the plan to mitigate access is when you've divided a  
21 property where there's not access. That's a pretty minor  
22 point.

23           My largest concern is directed primarily to the  
24 Commissioners. When you take the long view of land, as  
25 we all do, most of us here I'm sure are multigeneration

1 families tied to the land. None of this ends in five,  
2 10 or 20 years, and yet when you read through the plan  
3 there's nothing about end of project life or mitigation.  
4 It only says it's not -- or remediation. It only says  
5 it's not necessary.

6 And the reality is nothing goes on forever in  
7 this world. Buildings we thought would stand our  
8 lifetime, they might, but our children or children's  
9 children will still have this pipeline in the ground.  
10 And there are a couple of things there's not a plan  
11 about.

12 Does it get filled with concrete? Does it get  
13 washed out? What happens when one day Bakken oil is no  
14 longer flowing? We'd like to think that will go on for  
15 500 years, but it probably won't.

16 So the reality is there has to be some sort of  
17 plan. Does it just sit in the ground empty?

18 And the next thing is where does the money come  
19 from for that remediation when there's no longer, you  
20 know, great sums of wealth being generated? And what is  
21 the Commission doing to protect that public interest so  
22 that ultimately the landowner or the people of  
23 South Dakota, once this thing is no longer functional,  
24 sold off to three LLC companies throughout various parts  
25 of the world where there's no jurisdiction, what

1 protective measures -- I'd like to hear you tell me the  
2 amount of bond you're going to make them put up so that  
3 we're not ultimately on the hook 150 years later when the  
4 pipeline is either decommissioned, not used, poorly  
5 maintained and either is sitting there unused or an event  
6 happens then.

7 CHAIRMAN NELSON: I'm going to turn to the  
8 Applicant to answer those questions from the Applicant's  
9 perspective.

10 MR. MAHMOUD: Well, I guess first off -- and  
11 thank you for your question. I will not sit here and try  
12 to predict what happens 150 years or 500 years from  
13 today. I mean, that's impossible.

14 I will tell you, though, that the project is  
15 being designed, and the reason we don't broadcast a plan,  
16 is that we do design the project to last for as long  
17 as -- it's infinity. We add cathodic protection to it.  
18 We manage the pipeline such that it doesn't degrade like  
19 you would think a piece of metal in the ground would,  
20 exposed to the atmosphere, exposed to the soil.

21 There's actually mechanisms and techniques to  
22 minimize that degradation of that pipe. So we can  
23 operate it forever, as long as we maintain it.

24 If we were to abandon the pipe for whatever  
25 reason, there are plans in place so we do purge and clean

1 the line from any hydrocarbon products. In most cases  
2 when we do abandon a pipeline, and that does occur, we do  
3 clean it, and then we purge it with nitrogen. We inert  
4 the pipeline, making it a nonhazardous pipeline at that  
5 point, and it sits there in place.

6 At some point if you actually do officially  
7 abandon the project or pipeline and you remove those  
8 protection mechanisms like the cathodic protection, it  
9 actually will deteriorate. Now that takes hundreds of  
10 years. But at some point it will -- the earth, Mother  
11 Earth, will take it back, I promise, because it does  
12 happen.

13 And we operate pipes that, you know, date back  
14 to the early 1930s, 1920s up through the '50s. So there  
15 are techniques to prevent the degradation to make it last  
16 forever. And we do have plans to mitigate or abandon a  
17 pipe.

18 This pipe's not being proposed for  
19 abandonment. But, again, I can't predict what's going to  
20 happen 100 years from now so I hope that helps with  
21 understanding.

22 CHAIRMAN NELSON: You have to wait for the mic.

23 MR. WYATT: I understand the science of how  
24 things can be maintained long term, but when not used,  
25 the real question, because you won't be employed by the

1 company anymore. They'll have potentially sold the asset  
2 off. I mean, that's the way a declining oil field works,  
3 and there are examples around the globe of when an oil  
4 field goes into decline.

5 And in particular to the Commission then the  
6 funding mechanism becomes the key thing when that's no  
7 longer generating revenue. Where does the money come  
8 from?

9 Which it sounds like a great plan which was not  
10 in the proposal, unless I missed it, as far as the  
11 filling it with nitrogen, making it inert, making it  
12 safe.

13 There's a way to do a cost analysis to say,  
14 well, what does it cost per mile of pipeline, and is that  
15 money being set aside to hold both the landowner and the  
16 State of South Dakota harmless in that event?

17 CHAIRMAN NELSON: Any further response? Or  
18 we'll respond --

19 MR. MAHMOUD: In the normal industry standard  
20 across the United States -- and, like I said, we operate  
21 more than 71,000 miles of pipe -- I can tell you we don't  
22 put bonds up for that event. I'm not aware of anywhere  
23 in the United States that that is occurring.

24 We as the owner of the pipe, we maintain  
25 ownership. It doesn't matter if it's abandoned or not.

1 Our liability never goes away.

2 If we do sell it, the next owner takes that  
3 liability and the next owner after that. So somebody is  
4 ultimately on the hook for it. Now I know that may not  
5 be comforting to you that you've got to chase down  
6 whoever that is at some point 200 years from now.

7 And if I'm still around in 200 years, I've done  
8 something very odd; right? But I don't know what's going  
9 to happen at that time. But that's not a very common  
10 occurrence.

11 And I don't know what the PUC has to say.

12 CHAIRMAN NELSON: Commissioner Hanson, do you  
13 want to speak next?

14 COMMISSIONER HANSON: Mr. Wyatt, that's an  
15 excellent question. And, frankly, I don't believe that  
16 the Applicant's answer to you was sufficient.

17 We in the Public Utilities Commission, we are  
18 required to look out for the interests of the citizens.  
19 Understand we're at the very front end of this and just  
20 going through the process right now with the public  
21 input, but that, in fact, your concern for remediation --  
22 excuse me -- for decommissioning is -- remediation and  
23 mitigation is a part of the plan, but decommissioning  
24 needs to be a part of the plan, at least from our  
25 perspective, and that is going to be one of the items

1 that we will be examining.

2 I cannot say what we're going to do because I  
3 cannot speak for the Commission. The Commission will  
4 speak for itself when we actually vote on this. And to  
5 give you a background, we had some 98 different  
6 conditions on the XL -- the Keystone XL Pipeline when  
7 that was passed.

8 However, the three of us cannot even talk to  
9 each other about this or any other docket except in an  
10 open meeting such as this one. So none of us can speak,  
11 and I have to be very careful how I speak because I don't  
12 want to imply that the Commission has reached any  
13 decision on this because we're right at the very, very  
14 front end. But that's an excellent concern.

15 We examined that as well when we're looking at  
16 wind turbines, for instance, and putting very large  
17 projects up. We want to be certain that the citizens are  
18 protected.

19 But thank you for bringing that up. I'm sorry I  
20 cannot give you specifics because I don't know anything  
21 in law pertaining to that.

22 CHAIRMAN NELSON: I would just like to echo  
23 Commissioner Hanson's comment. That is exactly the kind  
24 of input we are looking for tonight, those things that  
25 are of specific concern to you that we need to take into



1 account as we move through this process. So thank you.

2 Other comments, questions?

3 Question.

4 MR. WYATT: I'd like to thank the fact that  
5 you're, you know, listening to this concern. And just as  
6 you go forward, you know, encourage you to look at that  
7 long-term defense of the public and the state's, you  
8 know, real asset that this company is asking to use for a  
9 small amount of public good but a large amount of private  
10 shareholder good.

11 And that's good. I'm not -- pipelines are a  
12 good thing. They're better than rail. It's not a bad  
13 idea. But it needs to be done hopefully you looking out  
14 for, you know, the public's very real long-sided  
15 interest, which sometimes the short-sided shareholder  
16 doesn't think of at the time.

17 CHAIRMAN NELSON: Who's next?

18 MR. TSCHETTER: Brad Tschetter,  
19 T-S-C-H-E-T-T-E-R. If you're not from around here, you  
20 aren't going to know it. Thank you.

21 A couple of questions. I'll do it one at a  
22 time. What are you doing for townships and counties as  
23 well in construction? Some of our roads aren't up to  
24 that type of equipment.

25 Do you have any plans to help townships and

1 counties out on any road damage during construction?

2 MR. MAHMOUD: I didn't hear you 100 percent.  
3 Maybe you can talk a little louder.

4 MR. TSCHETTER: I was afraid I was talking too  
5 loud. Okay.

6 I was wondering if you have any plans in place  
7 for helping out counties and townships with roads. Some  
8 of our roads, and especially some of the areas you're  
9 going, the roads are marginal. And the type of equipment  
10 you're hauling and the traffic is going to cause damage.

11 I'm just wondering what you have in place to  
12 help us out on that. I'm on a township where it's going  
13 through on the township board of supervisors so it is a  
14 concern for us.

15 MR. MAHMOUD: Sure. Thank you for repeating  
16 that question.

17 We do have plans in place. I think the  
18 Commission will tell you that they will probably require  
19 some bonds of us to make sure that the roads are repaired  
20 back to satisfaction, of not only the townships but the  
21 Commission.

22 We have plans in place where we require our  
23 contractors who we hire to restore the roads back to  
24 preconstruction conditions. We document them up front.  
25 We document them after construction. And if there is a

1 problem, we require our contractor to fix it.

2 We hold a certain amount of retainage back from  
3 the contractor exactly for this issue so if there is an  
4 impact, the contractor doesn't fix it to everyone's  
5 satisfaction, we have the fund to actually go in and fix  
6 those roads.

7 And if for some reason there's not enough money,  
8 our company picks up that tab. We will repair and fix  
9 those roads back to their original condition, either like  
10 or better than we're done constructing the pipe.

11 CHAIRMAN NELSON: Before you go to your next  
12 question, I'd like Commissioner Hanson to weigh in on  
13 your question also.

14 COMMISSIONER HANSON: Thank you, Mr. Chairman.

15 The bonding that we required -- the reason I'm  
16 speaking to some of these is because I was on the  
17 Commission and the other two gentlemen were not when we  
18 gave the conditional permits to Keystone and the  
19 Keystone XL.

20 With the Keystone Pipeline we provided for a  
21 13 million dollar and a 2 million dollar -- might have  
22 been a 12 million and a 3 million. But it was  
23 15 million dollar worth of bonds. And with Keystone XL  
24 we had two bonds. Each were 15.6 million dollars.

25 And we had townships, counties, signing off with

1 the Commission letting us know -- and we also required an  
2 individual to be available 24/7 from the Applicant to  
3 work with the townships and counties, landowners, and  
4 with the Public Utilities Commission so that we were  
5 assured that the roads were rebuilt to the satisfaction  
6 of the counties and townships. And that is part of  
7 statute as well.

8 Does that answer your question?

9 MR. TSCHETTER: Yes. Thank you.

10 I do have a couple others, if I may.

11 I was wondering about if you have this easement  
12 for this pipeline, you actually -- obviously, have the  
13 ability to maintain it.

14 Would it allow you to put another pipeline next  
15 to it or to replace this one with a larger one or  
16 anything like that?

17 MR. MAHMOUD: So the answer is no. We have our  
18 easement and our approval is for a single 30-inch  
19 pipeline. If we did propose to replace that pipe for  
20 some reason with a larger diameter and/or put a second  
21 pipeline, we would have to go right back through a  
22 process like this. So it's a single 30-inch pipe.

23 MR. TSCHETTER: Okay. That answers my question.  
24 Thank you.

25 One more question. As a farmer where it's going

1 through my land, if you put that 36-inch pipeline and put  
2 all the dirt back in, I will have a hump there. Are you  
3 removing that dirt where necessary, or what's the process  
4 there?

5 MR. MAHMOUD: That's actually a great question.  
6 It is hard to believe, but it is true that in most -- I  
7 can't think of a case. Or there may be some. Almost all  
8 of that dirt goes back.

9 And it's amazing to think it. And it's a  
10 30-inch pipe, but that dirt will go back. If we don't  
11 have enough dirt, which sometimes happens, we will  
12 actually bring in dirt or soil to repair that right of  
13 way.

14 But typically if we do, we do like to crown the  
15 ditch. So over time as that ditch settles and compacts  
16 and restores itself that that crown will fall back to its  
17 original contour. If we do have sluffing or settlement,  
18 then we will back in and work with you to restore that  
19 right of way to make sure that that preconstruction  
20 contouring elevation is met.

21 And that's our obligation to you, by the way.  
22 So it may be something that we work together to do. If  
23 it's your land, you may want to do that, but we'll work  
24 that out on an individual basis.

25 MR. TSCHETTER: That's all I have. Thank you

1 very much.

2 MR. MAHMOUD: Thank you.

3 CHAIRMAN NELSON: Other questions?

4 MR. JANDEL: My name is Joe Jandel, J-A-N-D-E-L.

5 I have a couple of questions on your page 15.

6 One is what does re-vegetation of untilled [sic] land  
7 mean?

8 MR. MAHMOUD: What we're talking about here --  
9 and Monica's our environmental person by the way.

10 Re-vegetation of untilled land is basically  
11 where we restore it back to as close to whatever that  
12 vegetative cover was. So if it's grassland, then we will  
13 restore it back to, we hope, a native seed mix, if we can  
14 find and buy a native seed mix, or an approved seed mix  
15 with either the NRCS or the landowner.

16 Monica, anything to add?

17 MS. HOWARD: No.

18 MR. MAHMOUD: What she was saying is that we do  
19 not re-vegetate in agricultural fields. So if it's a  
20 planted field or commodity crop field, corn, wheat, we  
21 would typically not replant that with any type of  
22 vegetation other than what you would prescribe as the  
23 landowner.

24 MR. JANDEL: So on my farm ground you'll go  
25 through there and the next year we'll just replant it and

1 we'll be fine. But on my grass that you're going through  
2 you are going to replant the grass?

3 MR. MAHMOUD: Yes, sir.

4 MR. JANDEL: Okay. When you replant grass and  
5 you've got cattle out there you're going to have to keep  
6 them off of it for a year at least to maintain it, keep  
7 the weeds down.

8 Are you going to fence it also?

9 MR. MAHMOUD: That's a great question. And I  
10 don't know your land so I'm not going to try to make up  
11 an answer.

12 MR. JANDEL: Well, you cut two of my quarters in  
13 half that are grass. So it's going to have to be  
14 replanted. And then, you know, grass you just can't  
15 plant it and start to graze it right away or you won't  
16 have anything.

17 So that's my question. How do you handle that?

18 MR. MAHMOUD: It varies depending on what  
19 your -- I don't know if you have a grazing rotation  
20 program, if they're all out there. We will actually work  
21 with you with the right-of-way agent one on one to come  
22 up with a plan to -- one, to restore the property with a  
23 proper seed mix, between us what that agreement is.  
24 We'll spell that out in no uncertain terms, this is what  
25 we're going to do.

1           If we need to fence off that right of way  
2 because of your cattle, then we will. If we don't, then  
3 we'll figure out another method. But at the same time  
4 that's on a per track basis. And, again, because I  
5 don't know your land but our right-of-way agents that  
6 we've hired to come out and work with you, we will work  
7 with you specifically and anyone else that owns property  
8 or properties to identify what that technique needs to  
9 be.

10           MR. JANDEL: Okay. I've got one more question.  
11 When you're running that pipe you're going to cross  
12 township roads all over. Are you going to put an  
13 approach in to that pipe where you cross the roads?

14           MR. MAHMOUD: Typically we would, in accordance  
15 with whatever the road crossing permit is. We would have  
16 an approach onto or off of that, an apron onto or off of  
17 that road. I'm not -- I don't know if we're going to  
18 have one at every location. But they will be temporary  
19 in nature.

20           MR. JANDEL: The ones that you do put in, will  
21 there be culverts in every one of them?

22           MR. MAHMOUD: We may, if it's necessary. But  
23 they're temporary, and we'll pull those out. I'm pretty  
24 sure -- hold on one second.

25           So they're all temporary. I was asking our



1 construction manager, Jack Edwards. All the temporary  
2 access points would have a culvert or crossings to  
3 facilitate flow in that ditch.

4 MR. JANDEL: Okay. So if you're going to take  
5 them out when you're done and you're going to physically  
6 inspect that pipe, how are you going to get back in there  
7 if you don't have an approach?

8 MR. MAHMOUD: During operations?

9 MR. JANDEL: No. After. You said you're going  
10 to inspect these pipes frequently. You're going to fly  
11 them, but you're also going to drive them; correct?

12 MR. MAHMOUD: We typically do not drive  
13 pipelines during normal operation. I think I understand  
14 your question now.

15 During that operating period if we need  
16 re-access to that pipeline -- I mean, normally the pipe's  
17 buried underneath the ground so you physically cannot see  
18 it unless there's an above ground valve or the pump  
19 station that we have.

20 So you do not evaluate the pipe by visually  
21 looking at it. We have other techniques, and, Chuck,  
22 we'll ask you to give a description of those. But  
23 generally what we do if we needed to get back to that  
24 pipeline for whatever reason, we have agreements with  
25 various landowners for permanent access roads to our

1       easement where we would access that pipeline on  
2       somebody's piece of property or we would ask the  
3       landowner can we drive on your property to get to our  
4       pipe?

5               Or if we needed to approach the pipe off of that  
6       road again, we would go back to the county and ask for  
7       another temporary approach to access that pipe.

8               And, Chuck, do you want to talk real quick about  
9       evaluation of the pipe?

10              MR. FREY: Yes. The inspection program we have  
11       generally we don't need direct access to your land. The  
12       primary tool we use is an instrumented tool that we run  
13       through the pipeline on generally an every-five-year  
14       basis. The tool can look for any metal loss. It can  
15       look for any deformation in the pipe.

16              So if we find any area that needs to be  
17       investigated, we can come specifically to that area.  
18       Before we would do anything, obviously, we would contact  
19       the landowner. We would work out a plan that would allow  
20       us to expose the pipeline in the particular area that  
21       needed investigation.

22              And in all likelihood we would never have to  
23       come back to your land to dig anything up.

24              MR. JANDEL: Well, I understand you may not have  
25       to dig anything up. But the question was, you know, if

1 you have somewhere where you put this pipe in and, you  
2 know, it may sink and you might have to haul a load of  
3 dirt in there, you're going to have to access it again.

4 And that may or may not happen on somebody's  
5 land. But if you take the approaches out, some way  
6 you've got to get back there.

7 MR. MAHMOUD: And we would put those back in or  
8 find an alternate means of access.

9 MR. JANDEL: Thank you.

10 MR. MAHMOUD: Yes, sir.

11 COMMISSIONER HANSON: Mr. Chairman.

12 CHAIRMAN NELSON: Commissioner Hanson.

13 COMMISSIONER HANSON: Sir, I believe your name  
14 is Joe Jandel; is that correct?

15 MR. JANDEL: Jandel.

16 COMMISSIONER HANSON: Jandel.

17 We had approximately 98 different conditions for  
18 Keystone XL. And with Keystone that ran through the  
19 eastern part of the state we did require that the  
20 Applicant, TransCanada, work with the landowners on the  
21 replanting of grasses, for instance, and to use native  
22 grasses.

23 In a couple of instances the seed that they  
24 applied was not native and it was not the type that  
25 cattle would consume, and so we are actually still

1 working with two of the landowners. It was an  
2 accidental slip because they had somehow gotten the wrong  
3 seed.

4           However, with the cattle we also required that  
5 TransCanada isolate the cattle from the trench area  
6 during construction to make certain -- and work with the  
7 landowners certainly to make certain cattle didn't wander  
8 over. Obviously, they didn't want them in the  
9 construction area.

10           Additionally, we also provided a requirement  
11 that an area -- in some areas where there was a need for  
12 it, a specific proven need, that there was the ability  
13 for the property owner to be able to have the cattle  
14 cross the trench area.

15           So they had to construct a -- it was basically  
16 just a berm that was placed there temporarily so that  
17 cattle could cross.

18           So that is an -- excellent questions here  
19 tonight, and that is part of the process for it.

20           MR. SCHLEY: Thank you, Commissioner. My name  
21 is Doug Schley, representing some of my dad's grassland.

22           And you just answered part of the question I was  
23 going to ask because I think I know exactly who you're  
24 talking about. Some places where they planted Crested  
25 Wheatgrass back in there in the native grass, and the

1 cattle just won't eat it. And that's part of my concern  
2 on dad's land, that we get some of the native grasses  
3 back in there.

4 And the second question I had was I also worked  
5 in the area where the wind turbines were built down  
6 there. And when they did a lot of road reconstruction  
7 down there they used some very large crushed rock and the  
8 farmers down there and I myself have experienced flat  
9 tires from driving over the large crushed rock.

10 They got very sharp edges on them, and the  
11 farmers in that area are experiencing a lot of flat tires  
12 now that they never had before. So a concern about what  
13 type of fill they put back on the road.

14 CHAIRMAN NELSON: Any response?

15 MR. MAHMOUD: Great points. And we certainly  
16 will take that into consideration and as part of our  
17 planning.

18 And we certainly don't want to have a bunch of  
19 flat tires to buy and fix so we will work with the local  
20 county road commissions and make sure we put on the right  
21 size rock so we don't have that issue. We certainly  
22 understand that.

23 MR. TSCHETTER: Larry Tschetter, Hitchcock,  
24 South Dakota. T-S-C-H-E-T-T-E-R.

25 Will you be removing the rocks from the pipeline

1 area? Because I guarantee you, you will find rocks on my  
2 route. And where will you dispose of them?

3 MR. MAHMOUD: We will remove the rocks. Our  
4 construction spec. requires us to move any rock 3 inches  
5 or larger from the surface of the ground. If we unearth  
6 it, we remove it.

7 We also -- if there is rock on your surface now,  
8 we will match -- the right of way will look like the  
9 adjacent property. So you won't have anymore rock than  
10 what you would normally have. And if we do bring a bunch  
11 of rock to the surface, we will remove it. That's part  
12 of our construction techniques and plan.

13 And I guess to answer the second part, some  
14 landowners want the rock. If you do not want the rock,  
15 then we will haul it off and dispose of it.

16 MR. TSCHETTER: My second question, will  
17 Energy Transfer Partners provide a parent company  
18 guarantee related to Dakota Access and any subcontractors  
19 for liabilities associated with the pipeline?

20 MR. MAHMOUD: The first part of the answer is  
21 no. But that doesn't mean that we're not going to honor  
22 our obligations to you.

23 An easement is a contract. The contract is  
24 enforceable by law. If we don't live up to our  
25 obligation -- I hope this doesn't happen, and I would be

1 very disappointed if it did -- that you would have to  
2 call an attorney or call the PUC Staff to say we're not  
3 living up to our obligation.

4 But we do provide compensation for those  
5 easements. We sign an easement. Those are the governing  
6 documents that we live by and, of course, with whatever  
7 the certificate says. But we do not provide parent  
8 guarantees to individual landowners.

9 MR. TSCHETTER: You may be aware that LLCs like  
10 Dakota Access are formed to avoid liabilities. And  
11 Energy Transfer Partners has the ability to just pull the  
12 plug any time then and walk away with no responsibility  
13 for clean-ups or spills.

14 So what's your comment?

15 MR. MAHMOUD: Well, that's not true. So I don't  
16 want anybody in here to think that that's true because  
17 it's not.

18 We as a company, an LLC that was formed for this  
19 project, this is a joint venture project. There's two  
20 business partners. There's Energy Transfer Partners and  
21 Phillips 66, both Fortune 500 companies, actually both in  
22 the top 100. Giant companies with a lot of resources.

23 We form a company for an LLC simply to isolate  
24 that company for a business management perspective. It's  
25 not to dodge the bullet to limit our liability from any

1 potential impacts to your property or anyone else's. If  
2 we had an impact, we absolutely would stand behind  
3 whatever our word is.

4 We're actually obligated. Just because we have  
5 LLC, our parent companies are still liable if we had an  
6 impact. We just don't get to walk away just because it's  
7 an LLC. That's a false statement and is not accurate at  
8 all.

9 MR. TSCHETTER: I guess that's what I wanted  
10 know, if the parent company was going to be backing up  
11 Dakota Access? You just don't know what's going to  
12 happen in the future. There's no guarantees about  
13 anything so that was my --

14 MR. MAHMOUD: Sure. I appreciate that.

15 Keegan or Brett, do you want to add anything to  
16 that?

17 No. Okay.

18 MR. FREY: As Joey said, the federal law  
19 obligates the parent corporation in events of spills.

20 But in addition to what money we bring to the  
21 table, there's a federal fund. There's an 8 cent fee  
22 that's charged on every barrel of crude oil that's moved  
23 that goes into a federal fund so that if any company is  
24 unable or not doing the right work per the Federal  
25 Government, they will come in and clean up using that



1 fund and then bill the company that was responsible.

2 So there's an extra layer of protection even  
3 behind the money that the company has.

4 MR. TSCHETTER: One more question.

5 Will the State be getting any revenue off of  
6 this pipeline possibly for cleanup or some other  
7 costs?

8 MR. MAHMOUD: The State does not receive revenue  
9 off the project. South Dakota doesn't have a commodity  
10 charge.

11 They do receive -- just like you pay property  
12 taxes for your property, we pay property taxes for the  
13 asset that's in the ground. It's 13 or so million  
14 dollars.

15 If there is a spill, I think that's what you're  
16 referring to, the State does not have a fee that they  
17 charge in the event of a reclamation or to clean up.

18 But as Chuck was just mentioning, we do pay a  
19 fee, an 8 cent per barrel fee, to the Federal Government  
20 that the Federal Government actually holds that money.  
21 And in the event there is a spill that we failed to live  
22 up to our obligation, they utilize that money to pay for  
23 that cleanup in the state.

24 So the State is being protected by the Federal  
25 Government that once that cleanup is done, then the

1 government actually comes back to the company. In this  
2 case it would be Dakota Access or the parents, and we  
3 would have to repay the Federal Government for that  
4 money. If not, the government would go through their  
5 legal processes to get their money.

6 So when you've seen big spills out there where  
7 the government has come in, the EPA or one of those  
8 agencies that takes over that spill response, they're  
9 going back to the company to recover the money. So the  
10 public is not out any money. It may perceive to be up  
11 front, but at the end of the day they're recovering those  
12 dollars that were spent.

13 MR. TSCHETTER: Okay. Thank you.

14 MR. MAHMOUD: Thank you.

15 MR. NIELSON: Larry Nielson, N-I-E-L-S-O-N.

16 Can you quantify what the local property tax  
17 mill or value might be to the school districts and  
18 stuff?

19 MR. MAHMOUD: I cannot. I know we can, and if  
20 that's something you're specifically interested in, we  
21 can talk afterwards. I can get your name and phone  
22 number, and I'll be happy to talk, but I just do not have  
23 that information memorized. I apologize.

24 MR. RATHJEN: My name is Richard Rathjen,  
25 R-A-T-H-J-E-N.

1           It crosses the center pivot of mine. And I  
2 asked the field man if the well went bad and I had to  
3 drill my well like test holes on the other side, and he  
4 said that they would pay to bury underneath or through  
5 the -- underneath the pipeline because it would have to  
6 be 6 feet deep so it would have to go underneath.

7           Is that correct?

8           MR. MAHMOUD: I'm going to try to restate what I  
9 think I heard. If you relocate your center pivot, would  
10 we pay for the relocation?

11          MR. RATHJEN: No. The well. If the well went  
12 bad and it cuts the field in half and I had to drill on  
13 the other side of the pipeline, I would have to bury  
14 the line through the center pivot through the pipeline  
15 area.

16          MR. MAHMOUD: Okay. Certainly now I understand.  
17 Thank you.

18          Typically, no. But that's something that we  
19 would actually work together on. If we -- our pipeline  
20 resulted in an adverse impact to you today or 10 years  
21 from now in a situation like that, it would depend on the  
22 circumstance. If we resulted in causing you more harm or  
23 money that you would normally not pay but for that pipe,  
24 we probably would pay for that damage.

25          I just can't say for certain that we would

1 because I don't understand or have the specific  
2 circumstance or situation. But we're pretty good  
3 neighbors. And most times we take care of our business.

4 CHAIRMAN NELSON: If I could ask a follow-up  
5 question, I'm an agy, but I'm not an irrigator.

6 How deep would you typically bury that pipe?

7 MR. RATHJEN: It has to be below frost line so  
8 you go -- mine is 6 feet or a little under. Now it's  
9 going to be going underneath of their pipeline.

10 MR. MAHMOUD: So let me -- typically we are, as  
11 I mentioned earlier, at least 48 inches. So one of the  
12 things I would suggest -- and I don't know if this is  
13 just a hypothetical or something you're dealing with  
14 today.

15 If you have an area that you know you're going  
16 to relocate that water line, if you'll work with our land  
17 agent, then we can actually make those accommodations for  
18 you now as opposed to having that additional expense  
19 later on.

20 It's just we can't predict everything. But if  
21 you work with us, we probably can do something.

22 MR. RATHJEN: But I can't predict that either.  
23 If that well goes bad and the test hole is better on the  
24 other side, there's three-quarters of a mile length  
25 there. How am I to know where you should bury deeper?

1 MR. MAHMOUD: I agree. The hypotheticals are  
2 endless.

3 But I give you our word and our commitment that  
4 the right-of-way agents today are construction  
5 right-of-way agents. When we go into operations they  
6 will typically be company employees. And those  
7 individuals will work with you to try to mitigate or  
8 minimize those impacts.

9 MR. RATHJEN: You could pick a point, but say it  
10 was in the middle and the well was in the south end.  
11 That would put a lot more cost on me to bury that clear  
12 over to the middle than to get to my center pivot.

13 MR. MAHMOUD: Right. Yeah.

14 MR. KUEHN: My name is Randy Kuehn, K-U-E-H-N.

15 On your presentation you talked about the  
16 pipeline, but you never talked about the pump station. I  
17 live within a mile of this proposed pump station, and  
18 there is a family that lives within 100 or 200 yards of  
19 this pump station. And I'd like to know what the effects  
20 of this pump, noise, what it entails, size, motors, and  
21 why that site was chosen.

22 It looks like on your map you made almost a  
23 90-degree angle to go to that location, and all the  
24 sudden you turn 45 degrees and go back south again. I'd  
25 like to know why this location was chosen. And I think

1 there's probably a better location for this station  
2 further away from families and farms.

3 MR. MAHMOUD: That's a two-person answer. And  
4 I'm going to ask Tom or Jack to answer the siting  
5 location.

6 MR. EDWARDS: The pump station was located there  
7 because the power's there.

8 MR. RATHJEN: I can't hear you.

9 MR. EDWARDS: The pump station was located there  
10 because there's power lines there. And the electric  
11 motors that run the pumps, that's where the pump station  
12 is, for the -- the power lines are in that location.

13 I didn't understand the second part of your  
14 question.

15 MR. RATHJEN: Explain a pump station. How many  
16 motors does it take? What's the decibel rating? How  
17 loud is it? It's in my backyard. I don't appreciate it  
18 being there.

19 MR. MAHMOUD: I appreciate that. That was  
20 Jack Edwards speaking, by the way.

21 Chuck, can you go over the pump station  
22 specifics for us?

23 MR. FREY: The pump station will consist of, I  
24 think, two pumping units here, either two or three  
25 pumping units. They are electric motor driven, and so

1 they are not nearly as loud as an engine driven location  
2 would be.

3 I don't know the exact decibel level. I know we  
4 have pump stations much closer than that in other  
5 locations to residences. We will work with the landowner  
6 on any noise issues. But I don't have specifics of  
7 exactly what the decibel level would be at your home  
8 coming from that specific pump station.

9 MR. MAHMOUD: I think to add a little bit of  
10 clarity, our normal design criteria is 55 decibels.  
11 That's less than a lawn mower. At 200 yards away you  
12 probably wouldn't be able to hear much of that lawn  
13 mower.

14 So they're electric driven so they're very  
15 quiet. It's not like a tractor engine or a big pump that  
16 you may be envisioning. They are big, but they're  
17 electric driven. It's more of a hum than an engine  
18 sound.

19 I don't know if that helps clarify that at all  
20 for you.

21 CHAIRMAN NELSON: If I could ask a follow-up  
22 question, the location of pump station, is that property  
23 that you plan to purchase?

24 MR. MAHMOUD: Yes, sir. It is.

25 CHAIRMAN NELSON: Thank you.

1 MR. WAGNER: My name is Jeff Wagner,  
2 W-A-G-N-E-R.

3 I have two questions. One, it's going to be  
4 pure crude coming through this pipeline; am I correct?

5 MR. MAHMOUD: Yes, sir. Crude oil.

6 MR. WAGNER: There are no chemicals in that?

7 MR. MAHMOUD: Well, that's kind of a trick  
8 question. There are chemicals that are part of the crude  
9 oil, yes. We're not adding -- we could add -- we're not  
10 adding -- I don't know what chemical you're referring to.

11 However, we could add a drag-reducing agent to  
12 help the flow efficiency of the pipe, of the crude oil in  
13 the pipe.

14 MR. WAGNER: In other words, the crude that  
15 comes out of the Bakken, whatever chemical is in that  
16 crude will be coming through the pipeline; correct?

17 MR. MAHMOUD: That's correct. With the  
18 potential addition of what's called a drag-reducing agent  
19 to reduce the friction of that crude moving through the  
20 pipe.

21 MR. WAGNER: Second question. If God forbid  
22 there would be a problem that you would have a break in  
23 the pipe, what if it was caused by, let's say, a  
24 lightning strike? I've heard of that causing a hole in  
25 a pipeline.



1           You will be responsible for that? Or would that  
2 be just because it's on your land, it's your problem?

3           MR. MAHMOUD: We are 100 percent -- 1,000  
4 percent owners of that pipe and responsible for the  
5 material that is transported in that pipe.

6           The landowner has no accountability or  
7 responsibility for that pipeline, nor that product. So  
8 we would clean it. We would be responsible for the  
9 remediation. The landowner would not be.

10          MR. WAGNER: Could I ask one more question?

11          MR. MAHMOUD: Sure.

12          MR. WAGNER: All right. Let's say, worse case  
13 scenario, the Access company would go bankrupt. Then  
14 what happens?

15          MR. MAHMOUD: Well, that's a great question.  
16 The hypotheticals are hard.

17           I'll tell you when Enron went bankrupt, and I  
18 think most of you probably have heard that story when  
19 they went bankrupt, those assets just don't sit idle.  
20 They're valuable assets. So when they went bankrupt our  
21 company -- my company actually bought a lot of those  
22 assets.

23           So just because one outfit, if we were ever to  
24 go bankrupt -- which I can't imagine, but I can't predict  
25 everything. If we did, I can't imagine this valuable,

1 nearly 3.8 billion dollar asset would sit in that ground  
2 underutilized or not utilized and somebody wouldn't buy  
3 it out of bankruptcy.

4 CHAIRMAN NELSON: Others?

5 MS. HOLT: My name is Shirley Holt, H-O-L-T,  
6 landowner. I have a couple two or three questions to ask  
7 actually.

8 I had heard up at the Bakken where they're doing  
9 all of this fracking that it is causing salt issues in  
10 the residential's drinking water up there. I didn't know  
11 if that was going to be -- when that oil is coming down  
12 through our pipeline and running adjacent -- this is a  
13 two-part question, running adjacent to the WEB Water  
14 lines also too, we don't have to worry about the salt I  
15 know that, but if there happens to be a leak, is that  
16 going to go into our WEB Water?

17 Are we going to ever have trouble with our  
18 drinking water?

19 MR. MAHMOUD: I cannot comment on what's  
20 happening up in the Bakken on the drilling side. That's  
21 not what we do for a living. I don't know if those are  
22 true or untrue accusations.

23 As far as the WEB county water at our last  
24 meeting there was actually somebody there that brought up  
25 a similar question. And I guess there is a study out

1 there that shows that over time if crude oil sat next to  
2 a PVC pipe, that there's a potential of crude oil being  
3 able to migrate into that water line.

4 That happens in a stagnant environment over a  
5 long period of time in a controlled atmosphere. So the  
6 reality of that really happening is very low.

7 I'll tell you we are working with the water  
8 districts to lower and move their pipes and to actually  
9 case those pipes to add added mitigation and protection  
10 just to ensure that if there was a situation, that we  
11 would not contaminate the water supply.

12 We're doing that. We're committing to do that  
13 with the water district to protect those assets. Even  
14 though we think it's a very, very, very remote  
15 possibility, it's not even worth the chance so we're just  
16 committing to do it and working with them to employ those  
17 mitigation measures.

18 CHAIRMAN NELSON: I'd like to just follow up on  
19 that. In our meeting at Bowdle today, Steve Harper, the  
20 general manager of WEB was there and asked some very  
21 specific questions based on his obvious understanding of  
22 his system and the interaction with the proposed system  
23 and how that would all work. They were great questions.

24 He indicated that he or WEB intends to become a  
25 party to this case so they can follow all of this very

1 closely and be at the table as this progresses.

2 MS. HOLT: Thank you. I was also -- just one  
3 more question. If there happens to be a leak and it does  
4 get into our water, drinking water, like what is going  
5 on at the Yellowstone River -- say it happens in the  
6 James River, in a frozen river, what does that cleanup  
7 entail, and how do you get that oil out of our drinking  
8 water, our bathing water, our cattle's tanks?

9 How is cleanup actually done?

10 MR. MAHMOUD: There's many techniques to clean  
11 up a spill. And if it did happen, there's -- one, you  
12 can collect the oil. You use booms. You use absorbent  
13 materials that actually absorb the crude oil from the  
14 ground or from the water.

15 You can apply different bacteria or -- not  
16 bacteria. What are they called? Bugs, basically, that  
17 eat the oil. Sorry. I don't have the exact name. But  
18 they basically eat the oil. So they eat it. They  
19 decompose it. So that's one way or one technique.

20 You can collect the dirt and burn it off and  
21 bring the dirt back. There's just a number of ways to  
22 mitigate impacts to the environment. I'm not saying any  
23 of them are pretty or great or don't take time.

24 If we were to contaminate the water supply, we  
25 as the company would be obligated to replace that water

1 supply. It's that simple. We are 100 percent liable and  
2 responsible.

3 We have a lot of resources at our disposal. We  
4 have insurance to -- if we can't afford it for whatever  
5 reason, which we can, we have insurance that would kick  
6 in to help pay for that cleanup.

7 The Federal Government has a program to step in  
8 in the event we don't live up to that obligation, and  
9 they would come back after us.

10 So there's a lot of protection mechanisms in  
11 place, should that event occur, which is very unlikely.  
12 But we understand your concern. And there are lots of  
13 techniques to do it. I just can't tell you which one  
14 would be employed when and how because each spill is  
15 individual. It's different. And you employ the  
16 technique for that given situation.

17 So if it's in water, you use certain techniques.  
18 If it's on land, you use certain techniques. If it hits  
19 your farm pond, you use different techniques. So I don't  
20 know how to answer it 100 percent other than we're liable  
21 and we will do our best to clean it up and if we can't,  
22 the government will and they'll come back after us.

23 Go ahead, Chuck.

24 MR. FREY: I'll add one thing. Part of our  
25 Emergency Response Plan, we will have identified all

1 downstream intakes for water supply that could be  
2 affected by a release like into a river. And so one of  
3 the first contacts that's made is to the manager of that  
4 water resource so that they can take steps to protect  
5 their intake from any oil being able to get into the  
6 system.

7 That's one of the first protection things that  
8 goes into practice in response to a release, if it  
9 occurs. So our first step if a release occurs, is to try  
10 and make sure it does not get into the water system at  
11 all.

12 MS. HOLT: Thank you.

13 COMMISSIONER HANSON: Mr. Chairman.

14 CHAIRMAN NELSON: Commissioner Hanson.

15 COMMISSIONER HANSON: If I could add a little  
16 bit to that, I was the Utilities Commissioner for the  
17 City of Sioux Falls during a period of time when a  
18 pipeline did rupture north of the City. Also during that  
19 time a tank farm leaked, and the gasoline mitigated --  
20 crossed an area into -- I should say migrated, not  
21 mitigated. Migrated into an area that caused the closing  
22 of a grade school. We also had a Super Fund site during  
23 that period of time.

24 So I have experience in dealing with these type  
25 of situations. And actually the pipeline rupture was the

1 easiest of all the challenges we had during that time to  
2 mitigate because the soils were simply -- the soaked  
3 soils were removed to another location by the owner of  
4 the pipeline, and other soils were just simply turned  
5 over.

6 We have to remember that oil comes from the  
7 ground, and a lot of oil is leaked. And I don't mean to  
8 be giving testimony on behalf of the Applicant, but from  
9 my practical experience in that and as Chairman of  
10 Governor Rounds' Underground Pipeline Task Force, I'm  
11 aware that there are fundings available when an  
12 Applicant -- when an owner of a pipeline does not take  
13 care of the challenge.

14 Although, ultimately the pipeline owner is  
15 responsible. The soils were simply overexposed and  
16 eventually they were able to be used again, but the owner  
17 of the pipeline was responsible for all of the costs and  
18 did have to compensate the landowners for those costs.

19 MS. HOLT: Just one more question.

20 How deep are you putting this pipeline in the  
21 ground? Is it below the frost line?

22 MR. MAHMOUD: Typically it is. You know, the  
23 frost line varies based on the winter. Our standard  
24 burial depth is 36 inches in non-ag areas, 48 inches in  
25 agricultural areas. So that includes commodity crop --

1 row crops. It includes hay pastures. Anything that's  
2 farmed will be a minimum of 48 inches to the top.

3 And then across roads or ditches, a minimum of  
4 60 inches. Typically that's below the frost line but not  
5 always. And certainly below the roots of most of the  
6 plants that grow up in this area.

7 MS. HOLT: Thank you.

8 MR. RATHJEN: Rich Rathjen, R-A-T-H-J-E-N. I  
9 have another question.

10 Once this is in place and that easement is  
11 permanent, can we tile all of that ground above that  
12 pipeline in the easement area?

13 MR. MAHMOUD: That's another good and difficult  
14 question to answer.

15 And the answer is yes. So when we put in our  
16 pipeline, our proposal -- right now if there's existing  
17 tiles, our standard separation is 2 feet. So if the tile  
18 sits at -- if you're -- I don't know what your depth is  
19 at the A B Horizon. If you're at 2 and a half feet, our  
20 pipe would be another 2 feet below that. So 4 and a half  
21 feet below that tile.

22 If for some reason you put in a tile later on  
23 and -- you know, we will have to work together to figure  
24 out how to get that tile across that pipeline. We'll  
25 mark it and work with you. If we know where the -- where



1 your potential for your drain tiles are now -- and I'm  
2 not talking about just sketching it out on a piece of  
3 paper and saying, hey, one day we think we're going to do  
4 it. But if you have an engineered plan or a tile plan  
5 that you're working on with a tile contractor, if you  
6 will get that to us we will accommodate that depth now.

7 It's very difficult to do it after the fact  
8 because the pipe's already in the ground.

9 MR. RATHJEN: That's my question. There's so  
10 much tiling going on in our state now, and people may  
11 want to tile most all of their ground above it in the  
12 next 10 years.

13 Can they tile that?

14 MR. MAHMOUD: They can. It just may not be  
15 2 foot of separation like we would prefer if we knew  
16 where the tile was today or what the plan was. So it  
17 could be that there's less than 2 foot of separation.  
18 But they absolutely could put tiles above or below.

19 MR. RATHJEN: So if it's 48 inches down, you  
20 could run tile 2 and a half feet down and still be two  
21 feet above your pipeline through that easement area.

22 MR. MAHMOUD: It would be a foot and a half.  
23 And, yes, sir, you could.

24 MR. MILLER: I'm Kevin Miller, K-E-V-I-N,  
25 Miller, M-I-L-L-E-R.

1           Thank you and I appreciate the time to speak  
2 here today.

3           Kevin Miller, I'm a special pipeline  
4 representative with the International Union of Operating  
5 Engineers. We represent over 400,000 people here in the  
6 United States and Canada and, to be more specific, in the  
7 State of South Dakota approximately 1,000 members.

8           I do have a couple of questions, but first the  
9 whole basis, just like many of our members throughout the  
10 country are -- including myself, we're hunters,  
11 fishermen, outdoor enthusiasts, and any project no matter  
12 whether it be a big heavy highway job or a power plant or  
13 this pipeline, if we ever thought that there would be  
14 something that could potentially endanger something that  
15 we loved in a pastime, we would never ever support a  
16 project like this.

17           However, we do feel that energy has gone way,  
18 way out and beyond others in this industry, in this  
19 country to show that they're not going to do things the  
20 cheap way.

21           I do have a couple of questions, and if you  
22 guys could just clarify some for me. Dust mitigation  
23 program, do you guys have one written for this for road  
24 crossings around businesses, especially homes, et cetera,  
25 et cetera?

1 MR. MAHMOUD: We control the dust. Our dust  
2 mitigation plan is basically just spraying water on to  
3 the ground to avoid that dust from being, you know,  
4 promulgated off the right of way.

5 I don't know that we've put that in writing  
6 anywhere, but it will be in our contracts that we have to  
7 control dust when we're constructing the pipeline with  
8 our contractors.

9 MR. MILLER: Okay. And I assume -- and I'm not  
10 supposed to assume, but I am in this situation -- access  
11 yes, access no signs for temporary access roads or in our  
12 industry we call them shoe flies, will they be  
13 specifically marked, the red and the green type signs so  
14 that people aren't making mistakes heading down, you  
15 know, landowner driveways and stuff or places they're not  
16 supposed to be so we don't have any issues?

17 MR. MAHMOUD: Absolutely, yes. We will mark all  
18 of our access points.

19 MR. MILLER: Okay. All right. Well, on behalf  
20 of the International Union of Operating Engineers, I'll  
21 just make this short. We are in support of this pipeline  
22 fully.

23 CHAIRMAN NELSON: Out of respect for the  
24 endurance capabilities of our court reporter, could I  
25 just see how many more folks want to visit with us

1 tonight?

2 Maybe four, five, six.

3 Okay. She's saying let's roll forth, and you  
4 give me the high sign if you need to take a short  
5 break.

6 MR. OVERBY: My name is Glenn Overby,  
7 O-V-E-R-B-Y.

8 And these projects are promoted on the economic  
9 benefits that they shall give to the United States and  
10 all other areas. Do these pipeline companies,  
11 specifically this one, use 100 percent American steel and  
12 pipe production in their pipelines?

13 MR. MAHMOUD: I love this question, and I wish I  
14 could say yes.

15 The simple fact is that we tried. We are buying  
16 57 percent of our steel from here in the United States,  
17 being rolled in Arkansas as well as -- well, most of it's  
18 in Arkansas. We tried to buy it. The remainder --  
19 almost the remainder, about 95 percent is either being  
20 produced here in the U.S. or in Canada.

21 Those mills that we contracted with, that was  
22 the most they could make. So we tried to buy it. They  
23 couldn't make it. So we had to go outside the country.  
24 Our next stop was our border states, which in this case  
25 was Canada. And then what they could not produce, we

1 actually had to go outside of Canada to procure.

2 MR. OVERBY: Okay. You say we tried. But you  
3 advertise this is economic development to the  
4 United States. I think you should cease to advertise in  
5 that false manner because you admit that you don't buy  
6 all the material in the United States.

7 And I would suggest to the Public Utilities  
8 Commission that they seriously consider this. And you  
9 can require that U.S. steel and products be used before  
10 they approve of a pipeline as such.

11 Now I'm not talking for or against the project.  
12 I'm talking economic development to the United States.  
13 And I think it would be a good idea to use American steel  
14 in building these pipes that benefit our country.

15 So give that a thought.

16 And how close to buildings, houses, and barns  
17 and feedlots can these lines be put in, these oil  
18 lines?

19 MR. MAHMOUD: Another good question. And I'll  
20 say we tried to buy all the steel from the United States.  
21 We could not produce it as a country, unfortunately.

22 We don't have a set standard for offsets. We  
23 try to be 200 feet away from a residence. As far as a  
24 feedlot or a barn or a nonhuman occupied structure, we  
25 could be pretty close, meaning that we would not have

1 anything within the permanent easement.

2 And typically it wouldn't even be within the  
3 temporary easement. So that alone would be about 150  
4 feet. And we try to be more than that when possible.

5 I can't think of a circumstance when we're  
6 closer, but there may be.

7 MR. OVERBY: Okay. I don't like the word "try."  
8 We should have a definite policy. A few years ago we  
9 talked to the Spink County Commissioners wanting them to  
10 pass an ordinance on protection to the farm property in  
11 Spink County, and it failed to pass there because of  
12 several items.

13 It wasn't because a number of the people didn't  
14 want it. But I think we should have a regulation too on  
15 the pipeline that we allow to go through our country --  
16 our area that most of this gas, if not all of it, or fuel  
17 be used in South Dakota or states nearby, the  
18 United States at least.

19 I understand that some of this goes down to  
20 Texas and is exported, and that does not bring cheaper  
21 fuel to us.

22 But anyway I thank you for allowing me to make  
23 comments.

24 MR. BUSHONG: My name is Todd Bushong,  
25 B-U-S-H-O-N-G.

1           I see by PowerPoint that part of your ownership  
2 and the people you deal with on both ends of the pipeline  
3 are members of the American Petroleum Institute.

4           The American Petroleum Institute has been  
5 relentless and ruthless and most of the time untruthful  
6 on what they say about ethanol.

7           I'm not necessarily against this project. We  
8 have land that is affected by this project. Our economy  
9 and agriculture in general is energy driven. But at some  
10 point the right thing to do is for your people to quit  
11 disparaging and talking down our product, which is just  
12 an additive which has proven itself time and time again  
13 for it's environmental benefits and do the right thing  
14 and do the right thing to these agriculture producers  
15 here tonight and quit your daily attacks on the Renewable  
16 Fuel Standard and trying to get the Renewable Fuel  
17 Standard repealed.

18           And I can't speak for the other ag producers  
19 here today, but the chances of us signing an easement if  
20 the Renewable Fuel Standard gets repealed because of the  
21 lobbying effort of the American Petroleum Institute,  
22 which is your people, the chances of us signing an  
23 easement is just about zero.

24           And to the Commission, agriculture is the number  
25 one industry in this state. This town has an ethanol

1 plant that has three to four times the number of full  
2 time jobs in Spink County that their project promises to  
3 deliver to this county.

4 The economic multiplier of that ethanol plant is  
5 about 7.2. The front side capital intensive investment  
6 projects like this pipeline have an economic multiplier  
7 of less than 3. Because once they're built there's no  
8 money coming.

9 So my thoughts to the Commission and to the  
10 board is do the right thing. Quit attacking our product.  
11 If you want us to support your product and your projects,  
12 the right thing to do is to support our product.

13 CHAIRMAN NELSON: Others.

14 MR. ALBRECHT: My name is Dave Albrecht,  
15 A-L-B-R-E-C-H-T. I want to thank the DAPL for coming,  
16 and I want to thank the PUC for coming. You guys got a  
17 tough job, and we appreciate it.

18 Here in Spink County we have a superintendent  
19 and he's been talking to other superintendents along the  
20 proposed pipeline and the intention is to have uniform  
21 agreements along the pipeline so when and if your  
22 company -- your pipeline comes through, each county  
23 doesn't have to go through the same process over and  
24 over.

25 So are you people part of the agreements that



1 are coming out of this group of counties?

2 MR. MAHMOUD: Are you referring to road  
3 agreements?

4 MR. ALBRECHT: Road use agreements and such.

5 MR. MAHMOUD: We're trying to be, absolutely.  
6 And the more consistent, the better for us and for the  
7 counties.

8 MR. ALBRECHT: Okay. That's all I needed to  
9 know. Thank you.

10 MR. BINDENAGEL: Curt Bindenagel,  
11 B-I-N-D-E-N-A-G-E-L.

12 The question I had tonight was the path that  
13 your pipeline -- the route that it goes you're going to  
14 have to cross the James River. I'm just wondering  
15 what -- how are you planning on getting the pipeline  
16 across the James River?

17 And is there going to be any effect on the level  
18 of the water during construction and afterwards? Is  
19 there going to be any effect on that?

20 And also what size leak can you actually detect  
21 as far as gallons? If there was a leak, at what point  
22 can you actually detect it?

23 So kind of a couple of questions for you.

24 MR. MAHMOUD: Okay. I'll see if I can remember  
25 all of them.

1           First of all, when we cross the James River  
2 we'll do it by what's called a horizontal directional  
3 drill. So as we approach that crossing we will actually  
4 set back a certain distance, and we will drill underneath  
5 the river. That depth beneath the river will be no less  
6 than 25, 50 foot below the bottom of the river bed.

7           So when we approach it we will have no impact to  
8 the river whatsoever. So we won't drain it. We won't  
9 affect it. We won't do anything to it, other than we  
10 will cross underneath it. So there's no impact.

11           As far as a detectable leak, Chuck, can you help  
12 me with that?

13           MR. FREY: Yes. As was mentioned in the  
14 presentation, we do have a computational model program  
15 and what that's doing is doing hydraulic models of the  
16 pipeline as it's operating with the live data input, and  
17 it's looking at the numbers it sees and comparing it to  
18 the model and seeing if it sees anything that is at  
19 variance with that that doesn't look right, gives us a  
20 warning.

21           If we get an alarm to the control point  
22 operator, he checks and can immediately shut the pipeline  
23 down, block in areas.

24           I can't give you a specific size leak that can  
25 be found because it varies depending on the flow rate of

1 the pipeline, the type of crude oil that's in the  
2 pipeline. Larger leaks are much easier to find than a  
3 small leak.

4 But the model is pretty detailed, and it -- if  
5 it sees anything that's a deviation with what it should  
6 be seeing, it gives us a warning and gives us an  
7 opportunity to go out and do an onsite investigation with  
8 our operating personnel.

9 MR. MAHMOUD: Did that answer your questions?

10 MR. BINDENAGEL: Yeah.

11 CHAIRMAN NELSON: Others.

12 MR. TSCHETTER: I have a couple more, please.  
13 Brad Tschetter. Just a couple of questions.

14 Do you bore all improved roads, bore underneath  
15 them rather than disturb them?

16 MR. MAHMOUD: Our general practice is to bore.  
17 If it's a public road, yes, we bore roads.

18 MR. TSCHETTER: My second question is, and this  
19 would be more in the grasslands there are Native American  
20 artifacts.

21 Do you do archaeological surveys ahead of time?

22 MR. MAHMOUD: We do, yes, sir.

23 MR. TSCHETTER: Thank you.

24 MR. CHRISTENSEN: My name is Doug Christensen,  
25 C-H-R-I-S-T-E-N-S-E-N. And the pipeline is going through

1 my CRP contracts.

2 How do you do the government contracts with the  
3 CRP acres?

4 MR. MAHMOUD: How do we cross your CRP land?

5 MR. CHRISTENSEN: No. We've got contracts with  
6 the government on this. What happens to our contracts  
7 when you guys bore the lines across the CRPs?

8 MR. MAHMOUD: Nothing.

9 I don't know your particular contract, but in  
10 general when we cross a CRP property a crossing with a  
11 pipeline is typically a permitted use. I'm not aware of  
12 any that say you cannot.

13 The key is how we restore that property. So we  
14 usually do the topsoil segregation. We will always  
15 use -- if we can get the seed. So I need to be  
16 careful -- a native seed mix that is similar to or the  
17 same as the species that are growing on that CRP  
18 property. Those are usually the requirements.

19 We have to cross it in accordance with, you  
20 know, normal construction procedures but also to restore  
21 the land back to its prior condition. And if we do that,  
22 we've never seen an impact to a CRP property.

23 MR. CHRISTENSEN: So how would we do our  
24 easements then? We have to sign an easement away from  
25 the CRP contracts.

1 MR. MAHMOUD: No. You should not. I mean, the  
2 pipeline easement does not take away from the area or the  
3 contribution to your CRP land.

4 MR. CHRISTENSEN: Okay. So you just resume  
5 your -- the way the CRP was the first time?

6 MR. MAHMOUD: Yes, sir.

7 MR. CHRISTENSEN: Okay. That's all I wanted to  
8 know.

9 Thank you.

10 MR. MAHMOUD: You bet.

11 MR. BUCHHOLZ: Roy Buchholz, B-U-C-H-H-O-L-Z.

12 On the depth of the pipeline you said on  
13 tillable ground you're going 48 inches and on pastureland  
14 3 foot?

15 Can you work with each landowner if he wanted  
16 to -- on his pasture if he wanted it being down the same  
17 depth as a tillable ground?

18 MR. MAHMOUD: Yes, sir. And some people want us  
19 to be deeper, and some do not. Our typical is minimum  
20 36 inches. So when you're working with our right-of-way  
21 agents if you will specify and talk about that with our  
22 agents, that's typically something we can do, yes, sir.

23 MR. BUCHHOLZ: One quick question. What's the  
24 pressure running through that pipeline?

25 MR. MAHMOUD: The pressure? 1,440 pounds.

1 CHAIRMAN NELSON: Any other questions?

2 Okay.

3 MS. HOLT: I'm Shirley Holt again. H-O-L-T.

4 The pressure of that oil going through that  
5 pipeline, if there is a leak, will that shoot up in the  
6 air?

7 MR. MAHMOUD: In theory it could. If the leak  
8 was at the top of the pipe and it moved the dirt to the  
9 side, sure.

10 MS. HOLT: How far, and how wide of an area  
11 would that take in?

12 MR. MAHMOUD: I could not even guess. There's  
13 so many environmental factors that come into play; wind,  
14 temperature, pressure of the pipe, amount of cover. I  
15 couldn't answer that.

16 MS. HOLT: I was just going to ask one more  
17 quick question, if I could.

18 For us landowners who do not want the pipeline  
19 on our land why -- why can't that be respected, and why  
20 can't that pipeline be moved to either side?

21 MR. MAHMOUD: Sure. And we get that a lot, and  
22 so we're very respectful of your land and your feelings.  
23 And I tried to explain that earlier.

24 When we do our routing analysis we actually go  
25 through a very detailed analysis of not just your

1 property but your neighbors upstream and downstream.  
2 And, unfortunately, upstream and downstream means up  
3 north or south or east or west but where your property is  
4 in each direction that approaches your property.

5 We look at all the constraints that lead up to  
6 that point along the entire route. And in certain  
7 circumstances and at this point where we've done our  
8 routing studies and we've done our micro analysis the  
9 route was selected based on the least amount of impacts  
10 to the most amount of people and resources.

11 So, unfortunately, by moving the pipeline it  
12 could lead to increased impacts to someone else. So  
13 that's called transference of impacts.

14 Now I know that doesn't found fair and I know  
15 you probably don't like this answer, but we do it in a  
16 way that is supposed to and we think and we work real  
17 hard to minimize impacts to the least amount of  
18 resources, environmental, people, houses, and the various  
19 stakeholders that we can. And that sometimes results in  
20 placing that pipe onto property where the landowner may  
21 or may not want that pipeline.

22 MS. HOLT: Thank you.

23 CHAIRMAN NELSON: Question up here.

24 MR. TOMSHA: Thomas Tomsha, T-O-M-S-H-A.

25 How often do you daylight it to -- I believe you

1 have to daylight it to shut it off if you did happen to  
2 have a leak.

3 MR. MAHMOUD: How long from the time we notice  
4 the leak until we can turn it off?

5 MR. TOMSHA: How many miles in between day  
6 light?

7 MR. MAHMOUD: Okay. Between valves.

8 It varies. We go through an analysis.  
9 Depending on what's in between. High consequence areas  
10 where mostly that's centered around water, intakes for  
11 drinking water, wetlands, streams.

12 So the valve placement is dependent upon the  
13 geographic features or the physical constraints on the  
14 ground. So it varies. I can't give you an exact number.

15 We know where our valves are located. So  
16 depending on what the constraints are, it could be a  
17 mile, five miles, or 10 miles in between along that pipe.  
18 And, again, it's very variable based on the site-specific  
19 conditions.

20 MR. TOMSHA: But what would be the longest  
21 you've ever seen?

22 MR. MAHMOUD: Well, I would say our longest is  
23 probably no more than 10 miles in any -- maybe 15 in any  
24 event?

25 Do you know, Tom?



1           MR. FREY: This is from memory from an adjacent  
2 state, but that was approximately 18 miles was the  
3 longest spacing.

4           One thing to note is that at every river  
5 crossing there will be valves on both sides of the river  
6 to help provide additional protection, safeguards, at  
7 areas of additional concern.

8           MR. TOMSHA: And I'd like to ask, is this pump  
9 station or where it pumps, is that set in stone right  
10 now?

11          MR. MAHMOUD: So we're in negotiations to buy  
12 the piece of property. It's 99 percent certain.

13          MR. TOMSHA: Can you tell me where the closest  
14 one of these is that is in operation right now?

15          MR. MAHMOUD: I cannot. Do you all know?  
16 Go ahead.

17          MR. KOENECKE: I'm Brett Koenecke.

18          There's a pump station on the Keystone Pipeline  
19 over by Carpenter. That would be the closest that I  
20 could think of. And it's not like a compressor station  
21 like you'd find on a natural gas pipeline. That's a  
22 completely different kind of facility. The nearest pump  
23 station is at Carpenter, that I know of.

24          MR. KEARNEY: This is Darren Kearney for  
25 Commission Staff.

1           And I sent this information to another  
2 landowner, and so I can forward it to you. Just give us  
3 a call, and I can give you the township and range where  
4 that pump station is located.

5           MR. TOMSHA: All right. Thank you.

6           MR. KUEHN: Randy Kuehn. I talked earlier.  
7 K-U-E-H-N.

8           Is that pump station in Carpenter going to be  
9 familiar -- or similar to yours that's going to be going,  
10 or is it smaller, bigger?

11          MR. MAHMOUD: All I know is it's electrically  
12 driven. I can't tell you the size, what it looks like.

13          We don't own it. We don't operate it. So I  
14 don't know.

15          MR. FRANKENSTEIN: Jim Frankenstein,  
16 F-R-A-N-K-E-N-S-T-E-I-N.

17          Your pipeline goes through two of my center  
18 pivots. And my well driller's log shows that I have  
19 water-bearing sand at 12 foot, and it's pretty much  
20 throughout the whole field.

21          If you're going to have a pipeline 4 to 5 foot  
22 deep and then another 36 inches, you're only going to be  
23 3 to 4 to 5 feet away from water-bearing sand.

24          My question is with 1,000 pounds pressure you  
25 ain't going to have a clue that you're losing oil. And

1 how would you ever possibly clean that oil spill up in an  
2 aquifer?

3 MR. MAHMOUD: Unfortunately, I couldn't  
4 understand everything that you were saying. If I  
5 understood some of it, though, you're saying there's sand  
6 lands or a sand layer?

7 MR. FRANKENSTEIN: No. Water-bearing sand  
8 starts at 12 feet. That's according to well driller's  
9 logs.

10 So I'm saying that if you have a pipeline 4 to  
11 5 foot deep and then another 36 inches deep, there's only  
12 going to be 3 to 4 foot of clay between the pipeline and  
13 water-bearing sand.

14 If you've got 1,000 pounds of pressure and  
15 13,000 gallons a minute flowing through that pipeline,  
16 how are you going to clean up my aquifer if there is a  
17 small leak?

18 MR. MAHMOUD: Okay. Thank you for clarifying.

19 If we do have a leak, if we do have -- and I  
20 can't tell you whatever the leak size is going to be.  
21 But in the event we did, if there is a clay layer in  
22 between the sand lands that's where that water is  
23 located. And the clay layer, typically the oil or crude  
24 does not penetrate that clay, number one.

25 But say it did and it did get into that water

1 table. We would have to figure out a way. And there are  
2 techniques to pump that water table and to try to  
3 remediate that water. I can't possibly even think about  
4 explaining and getting into that exact situation because  
5 it's too variable to know.

6 But you're right. If there was an impact or a  
7 leak, there could be a negative impact that we would have  
8 to mitigate and clean up.

9 MR. FRANKENSTEIN: I guess I would like to see  
10 you go to an area where you have maybe 10 to 15 foot of  
11 clay in between the pipeline and the water-bearing  
12 sand.

13 CHAIRMAN NELSON: Any others tonight?

14 If not, ladies and gentlemen, I want to just say  
15 on behalf of the Commission, thank you for coming out  
16 tonight. Thank you for your very, very good questions,  
17 questions that are going to be very helpful to us as we  
18 proceed throughout this docket.

19 Before we close I'd like to ask, Commissioner  
20 Hanson, any questions?

21 Acting Commissioner Sattgast, questions?

22 If not, again, all of the information on this  
23 docket is available on our website. You can track it as  
24 new documents are filed.

25 And, as I said at the beginning, we will take

1 comments on this docket right up to the very end. Those  
2 comments do have to be submitted in writing so that we  
3 can post them to the file and that all of the  
4 Commissioners have access to that, and you can do that  
5 either by sending us a letter or sending an e-mail to the  
6 Public Utilities Commission.

7 With that, I declare the hearing adjourned.

8 (The hearing is adjourned at 8 o'clock p.m.)

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1 STATE OF SOUTH DAKOTA)

2 :SS CERTIFICATE

3 COUNTY OF SULLY )

4

5 I, CHERI MCCOMSEY WITTNER, a Registered  
6 Professional Reporter, Certified Realtime Reporter and  
7 Notary Public in and for the State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed  
9 shorthand reporter, I took in shorthand the proceedings  
10 had in the above-entitled matter on the 21st day of  
11 January, 2015, and that the attached is a true and  
12 correct transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 13th day of  
14 February, 2015.

15

16

17

18 Cheri McComsey Wittner,  
19 Notary Public and  
20 Registered Professional Reporter  
21 Certified Realtime Reporter

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