THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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

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Transcript of Proceedings
Public Input Hearing

January 22, 2015
Iroquois, South Dakota

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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

TRANSCRIPT OF PROCEEDINGS, held in the above-entitled matter, at the Iroquois Gymnasium, Iroquois, South Dakota, on the 22nd day of January, 2015, commencing at 10:30 a.m.

CHAIRMAN NELSON: Good morning, everybody. Appreciate everybody coming out this morning.

My name is Chris Nelson. I'm Chair of the Public Utilities Commission, and I am going to read some of the background of this case to set the stage for today.

With me here this morning are Commissioner Gary Hanson and Acting Commissioner, our State Treasurer, Rich Sattgast. Mr. Sattgast is serving as active Commissioner for Commissioner Fiegen, due to Commissioner Fiegen's determination that she has a conflict of interest because the pipeline will, if constructed, cross land owned by her sister-in-law and brother-in-law. And the Governor, therefore, appointed Mr. Sattgast to act as Commissioner in place of Commissioner Fiegen.

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

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

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

2014, Dakota Access filed a Revised Application that relocates the line in Spink County to avoid a center pivot irrigation system and to accommodate some landowner preferences and in Lincoln County to avoid property within and close to development areas near Sioux Falls.

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

The project will originate in the northwest portion of North Dakota, travel southeast through South Dakota, Iowa, and Illinois, and terminate at the existing Patoka, Illinois Hub. The pipeline is proposed to transport approximately 450,000 barrels per day initially with an anticipated capacity of up to 570,000 barrels per day.

Approximately 272.3 miles of the 1,134-mile long pipeline will be constructed within South Dakota, crossing 13 counties in the eastern half of the state. The project would enter South Dakota in Campbell County approximately 17 miles east of the Missouri River and continue southeast through McPherson, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, Lake, McCook, Minnehaha,

Turner, and Lincoln Counties.

The project would cross the Big Sioux River approximately 14 miles south of Sioux Falls and continue in a southeasterly direction through Iowa. One pump station would be located within South Dakota approximately 7 miles southeast of Redfield in Spink County.

A copy of the Revised Application is on file with the county auditors of each of the 13 counties crossed by the project. You can also access the Application and all nonconfidential documents in the official file on the Commission's website at www.puc.sd.gov under Commission Actions, Commission Dockets, 2014 Hydrocarbon Pipeline Dockets, and scrolling down to HP14-002 or by calling or writing or stopping in at the Commission.

The purpose of the hearing this morning is to provide information to the public about the proposed project and to hear public comments about the project. Interested persons have the right to present their views and comments regarding the Revised Application, and we want to encourage you to do so. No decisions are being made today or in the near future.

The parties to this proceeding at this time are Dakota Access and the Commission Staff. The South Dakota

Department of Transportation, Lake County, and the WEB Water system have filed applications for party status, but the Commission hasn't yet acted on those.

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

We have Application for party status forms available here this morning if you'd like to apply for party status, and the form is also available on the Commission's website for this docket or by contacting the Commission.

I'd like to emphasize to everyone you do not need to become a party in the case to make your voice heard before the Commission. The reason we're here this morning is to hear your comments and what you have to say and your concerns about the project.

We will also be accepting comments in writing from anyone, either by mail, personal delivery, or e-mailing the Commission at puc@state.sd.gov. We'll take those comments right up to the time of the decision. So you only need to apply for party status if you want to participate formally in the case by putting on actual

testimony or other factual evidence, conduct discovery, cross-examine witnesses, or make legal arguments, and to preserve your right to appeal to the courts if you don't believe our decision is legally correct.

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

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

Based on these factors, the Commission will decide whether the permit for the project will be granted, denied, or granted upon such terms and conditions or modification of construction, operation or maintenance of the facilities as the Commission finds appropriate.

I'd like to point out that we have our court reporter, Cheri Wittler, here with us this morning. So I'd ask that you please use the microphone and introduce yourself and spell your name so we get it on the record.

I'd also like to point out that we have with us Staff members Brian Rounds, Darren Kearney, and Kristen Edwards of the Commission Staff. We want you to feel free to speak to them, seek them out if you have questions or need help with anything today, either here or as we go through the process.

We will begin the hearing by having Dakota Access representatives make a presentation to explain the proposed project. Following that presentation we will take comments from any interested persons or organizations. And we strongly encourage members of the public to present your view.

Before we get started I'd also ask to make sure that each of you have placed your information on the sign-in sheets so that we have a record of who was here today. I want to take a moment to thank the folks here at the Iroquois School who have been very welcoming to us and made this available to us, and we appreciate their help.

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

Dakota Access this morning.

Brett, would you introduce the folks that you have with you and proceed with your presentation.

MR. KOENECKE: I will. Thank you, Commissioner and good morning, everyone.

My name is Brett Koenecke. I'm a lawyer from Pierre and representing Dakota Access in this proceeding.

With me to my right is Joey Mahmoud, Senior Vice President of Engineering with responsibility over development and execution of the project.

To my far left is Tom Siguaw, Senior Director over the entire project. To my immediate left is Chuck Frey, Vice President of Liquid Engineering, Chief Engineer for Design and Safety.

Behind me is Jack Edwards, Project Manager in Iowa and South Dakota and overall construction manager. Micah Rorie, right-of-way manager for North Dakota and South Dakota. Monica Howard is the project's Environmental Manager.

Keegan Pieper is Associate General Counsel and Project Counsel from Texas. And also my law partner Kara Semmler.

Commissioner, we very much look forward to participating in today's meeting, and I'll turn it over

to Joey who will take us through the PowerPoint.

MR. MAHMOUD: Good morning.

First let me say thank you for letting us come into your community to present our project to you. A little bit cold so we appreciate you all driving on the roads to get here.

I'm with Energy Transfer, a parent company of Dakota Access Pipeline. My name is Joey Mahmoud. I'm Senior Vice President of Engineering. I'm out of Houston, Texas. If I talk too fast or if you don't understand something I'm saying, please interrupt me and say slow down. I'd be happy to.

So who is Energy Transfer? I know a lot of you may not have heard who we are or maybe you have. Who is Dakota Access Pipeline?

First of all, Energy Transfer is a large company. We're a Fortune 500 Company, actually in the top 100. We are a transporter of energy products, not electricity but crude oil, natural gas, natural gas liquids. We process those liquids. We transport the gas. We fractionate it.

So our business is transportation to and from the production fields to the refineries where those products are taken and made into things that we use every day.

We operate somewhere just north of 71,000 miles of pipe. So we're a large operator in the U.S. We're actually the second largest by miles in the United States. By commodities moved, depending on the day, we're either the first or second largest. So we have a tremendous amount of resources behind us.

A lot of people ask Can they stand behind this project? Are they good neighbors? Do they conduct their business in a fair way? The answer is yes, or we wouldn't be who we are. We try to be very respectful. We are a large operator with a proven track record.

So our footprint stretches from the border of Arizona and California all the way to Florida and then from Texas up to the Sunbelt or middle part of the United States to the Detroit metro area, and then we extend east into the northeast. And then you can see where this pipeline moves from that central part of the U.S. to Illinois up through the Dakotas to northwest North Dakota.

That's our footprint. We operate in a lot of states. That will be our first venture here in South Dakota, and we're really looking forward to that.

So what is this project? Overall I'm sure you've read or seen certain things about it. Commissioner Nelson gave us a brief overview so I'll skip

over or go pretty quick over some of that.

But the basic objective here is to move crude oil from the Bakken, northwest Bakken, Three Forks Play, northwest North Dakota, move that crude oil from that producing region. Again, we're not the producer. We're the transporter. Taking that crude oil and moving it to Illinois, southeast Illinois around Patoka or Vernon, Illinois, where that crude oil will be redistributed to other pipelines or infrastructure for deployment to refineries in the Midwest and the Gulf Coast.

It's a reliable domestic supply. So this project, what it does is it displaces foreign source crude oil one for one that's consumed in the U.S. So when we -- we normally import a barrel. Instead of importing it, we would transport it from North Dakota. So it's a big benefit to our country to decrease our reliance upon foreign source crude.

Overall the project will move and been contracted for approximately 450,000 barrels a day of crude oil, with a design capacity to get to around 570 if the prescription requires it or more.

With that, that's about a third of the Bakken production that's being produced today. So a third of that oil that's being moved on the rail or trucks that's being produced and being transported will be displaced

and will be transported on this pipeline.

With that, we're going to build, sometime in the latter part of either 2015 or the first part of 2016, 1,134 miles of varying diameter pipe, the majority of that being 30 inch. In South Dakota it will all be 30-inch pipe. So somewhere around 274 miles.

There will be one pump station in Spink County. And that's the only major above-ground facility. And then the rest of the pipe is actually buried beneath the ground so you won't see it once we're done, except for valve locations that isolate the valve into sections. Those will be above ground. And then the pump station will be above ground. But everything else is buried beneath the ground.

So this shows the project kind of big picture scale from North Dakota to Illinois. So you can kind of see the orientation. It runs in a fairly straight line, a diagonal to the northwest to the southeast.

This map shows how we cross through the State of South Dakota. Again, on the eastern side of the state running from the north to southeast going into Iowa.

This slide here provides a breakdown of the miles and -- the anticipated miles on a county-by-county basis in the State of South Dakota. Approximately 274 miles. We round it up for this slide. The

Application actually shows just over 272, but with rounding it shows 274 here. So it's approximate, but it's somewhere around there with the current length.

So why is this project important to us as a country, and what are the benefits? The project is roughly a 3.8 billion dollar project of investment into the U.S. economy. That means into manufacturing, into labor resources, into goods and services that will be employed for the construction and operation of this pipe in the State of South Dakota that's about 820 million dollars. 820 million dollars represents the cost of the facilities that will be placed in this state.

When we pay taxes on this facility we will actually be paying taxes on 820 million dollars that the state will receive benefit from, and that's the cost for the materials plus construction in South Dakota.

The big benefit here -- the main benefit is that this project will move the oil that's being produced in the Bakken and transport that to the refineries in the Midwest and to the Gulf Coast that are existing today.

They have available capacity, they're existing, where new refineries do not have to be built. We just have to supply them with the crude oil to be refined into the gasoline, to the diesel, to the products that we use every day that move our vehicles, that fuel our tractors,

fuel the trucks that move our products, that fuel the trains that run on diesel.

So this crude oil is vital for our survival and for our independence as a country to produce our crops, to produce the things -- what I'm wearing here today is all influenced by crude oil. The shoes that you have on your feet.

So everything that we do, we're a carbon-based society. That's why this project is important. We have to get the crude oil from the producing areas to the refineries to turn that crude into useful products for us, for all of us to benefit from.

The other benefits that we'll see, by taking that crude oil off of the trucks and the rail, is that it transfers to the pipeline which is by far the safest mode of transportation out there. The most efficient, the safest. Statistically it's proven time and time again. By doing that we decrease the overall risk to the environment as well as to us as citizens driving down the road where we decrease our chance of a truck incident or a rail incident.

For you in this part of the world in South Dakota where your crops and you're moving those commodities, the grains, the wheat, moving them from the field to the trains, from the trains to the market that

are stacked up and backed up right now, although this project isn't going to make a huge dent, it will displace somewhere between four and six unit trains per day which will free that rail capacity up for utilization for crop commodity movement. So that's a benefit that will result as the project is put into service.

The other thing it does, it creates a lot of jobs. I show temporary jobs up here of somewhere between 10 to 12,000. Construction jobs are temporary in nature. When you build a house it only takes so long to build. When you build a pipe it only takes so long. So this will take somewhere between six and nine months to build.

Those jobs, though, are permanent jobs for the employers that employ construction workers. So don't think of this as temporary. Think of it sustaining that construction work force. So its to going to affect 10 to 12,000 Americans that are going to build this pipeline.

Approximately 50 percent of that work force in South Dakota -- in South Dakota, I should have mentioned, will be about 4,000. So that's the amount of folks it will take to build this pipeline across the state.

Of those, we've made a commitment to the unions that are highly trained, skilled work force that build these pipelines in our country, we've made a commitment

to them to provide that local resource either here in South Dakota or in this region -- South Dakota cannot support 4,000 construction workers, but they draw upon the local region from North Dakota and Minnesota or Iowa, surrounding states, to fill those slots.

So roughly half of the construction work force will originate from this region. The rest will come from around the country.

Overall we'll produce somewhere between 40 to 50 permanent jobs. Of those, somewhere between 10 to 12 will be permanent in the State of South Dakota, with the majority of those in Spink County because that's where the pump station is located. So our employees will be up and down the pipe, but they'll be centered around where the pump station is. It takes a little bit more day-to-day operation than a buried pipeline that you really never see.

Other benefits indirectly to the State of South Dakota -- so it's kind of on a regional big picture basis -- directly to the State it's going to bring somewhere around 35, 36 million dollars of tax revenue to the State of South Dakota. That's during construction. So that's the sales tax that we pay on the goods and services that we bring into the state. So it's a benefit to the state to bring all of that money here.

The other thing that's not on this slide is South Dakota has what's called a contractor's excise tax. So when we hire that contractor here in the state we pay 2 percent -- or the contractor actually pays 2 percent of their fees as a tax to the State. Of course, we pay that. That's roughly 16 million dollars in itself. That's in addition to this money.

On a long-term basis ad valorem taxes, we all pay property taxes that will result in year one about 13 million dollars, and then that will depreciate over time. So year two will be a different value, year three will be a different value. But year one the tax value of the asset when it's put into service will result in about 13 million dollars of tax revenue ad valorem to the State.

The other thing that's on this slide is right-of-way compensation. And I want to talk about that. So that's direct payments for easements and damages for displacement of crops or disturbances to your property that we cross. That's estimated to be somewhere around 47 million dollars for direct payments to residents of South Dakota.

We started the project last year. We made our first presentation to the PUC in July of '14. We held several open houses in October. We made our filing to

the PUC in December. And then we're hoping for -- no guarantees. And I don't want to put these guys on the spot, but what we've asked for and we're trying to provide data to facilitate a certificate in the third quarter of this year, to facilitate construction either in the fourth quarter or in 2016. That's our plan horizon.

You know, that will be effective one way either Q4 of '14 -- or '15 and maybe go into Q1 of '16. But the big picture is we want to start construction the first part of '15, go into service in the latter part of 2016, some time around November or December.

The next several slides are kind of preemptive answers to questions that we really get quite a bit. Overall when the people -- a lot of folks ask Why are you on my property or How did you route this pipeline through South Dakota and Why are you here?

When we look at a pipeline we look at where we need to start and where we need to end. So from point A to point B. We draw a straight line on the map. It's really that basic. And then we start to go through an analysis that looks at the environmental resources.

We look at communities, residential neighborhoods, farms, pivots for irrigation, ponds, wetlands, archaeological resources.

We take all of that data into a database, and then we go through what's called a macro routing analysis that actually tweaks and moves that line either one way or the other to miss those environmental or sensitive resources or populated areas.

So when the Commission mentions, you know, we site the pipeline to minimize impacts as one of the requirements, that's what we do. That's the first step we do is we go through that analysis.

A lot of you have seen our surveyors in the field. We have environmental crews, archaeological crews, as well as civil surveyors. Those people are surveying to pick up the physical constraints on the ground -- we call micro routing -- to then further define that route so that at the end of the day when we make our Application to the State we have taken all the various factors and stakeholders and constraints into consideration, and that's what delineates our route.

So it's very methodical. It's very planned. It's not arbitrary. It's not discriminatory. It's this is how we get from point A to point B to minimize impacts to the most amount of stakeholders and environmental resources as we can.

I hope that helps explain some of how we get from point A to point B. And I know that doesn't make

everybody happy, but that's how we do it.

As far as right of way goes, we're asking for a 50-foot permanent easement. That means 50 foot across the various properties that will be a permanent -- some type of contract between us and the landowners. That will spell out certain terms for use of that property.

We are also asking for somewhere between 25 feet and 100 feet of additional workspace that's called temporary construction workspace that we'll utilize just to build the pipe. And then at the end of the use of that after restoration, we will just -- we'll have a residual 50-foot-wide swath. That's where the pipeline will sit, basically in the middle.

The pipe will be buried in nonagricultural areas no less than 36 inches. In ag areas 48 inches. And then under roads and ditches and streams no less than 60 inches or deeper.

When we're approaching the landowners to talk about easements, compensation, and temporary workspace we've gone through -- what we've done is a market study that takes into account the comparable sales of property in this area and on a county-by-county basis to generate what the value of the property is on a sales basis. That's our starting point. It's an average. It doesn't take into account site-specific conditions.

Our right-of-way agents then talk to the landowners about the valuation of the individual property. And we'll go through an appraisal process, and that's how we delineate what that cost is for the permanent easement.

We take that, multiply it by the acreage impacted, and then apply it to both permanent and temporary workspace. So it's very formula based, and it's a discussion and negotiation on a one-on-one basis. We also pay damages for crops if we impact crops or your property to compensate the landowner.

We anticipate construction to last one growing season. That's why we're paying for the damage 100 percent year one. We do anticipate it will take at least two seasons to get through restoration and maybe even three. But the real construction will happen year one.

And so we're offering and we will compensate landowners right up front 100 percent year one, 80 percent year two, 60 percent year three.

So this slide shows -- it's a little bit fuzzy.

Has it all been fuzzy? It's clear on my screen. Sorry about that. Does that look better?

Well, what's important on this slide is this stack of soil over here, this is where we will place the

topsoil. So as we enter on to the property we will strip the topsoil off the land to isolate and protect it throughout construction. We know that's the most valuable or most important part of your operation because this is what grows your crops.

So we move it off to the side. We protect it. That's the first thing we do. And then also the last thing we do is we put that back onto the fields so we're minimizing the disturbance to that soil along the way.

The other important part is the depth of the pipe, which I talked about. And this is a drain tile as an example. If you do have drain tiles, we will have no less than 2 foot of separation between our pipe and that drain tile to give as much distance to minimize interference as possible.

That's very site specific. We'll work with each landowner individually to determine where those are at and also to figure out a crossing plan to minimize those impacts.

Which brings me to we have developed and are working on a site-specific or global Agricultural Mitigation Plan that will then be delineated into a site-specific agricultural plan for each property that we cross that will spell out how we're going to enter to the property, construct, and then restore that agricultural

land.

So the reason to do that is to be up front, to negotiate, to also put forward that experts -- we build pipe. We operate pipe. We're not farmers. So what we want to do is talk to you, the landowners, the farmers. We've hired a couple of experts, a company called Key Agricultural Services and another company called DuraRoot.

They're local regional experts in agricultural issues. They're not pipeliners. They're the bridge between us and you to help us come up with the best plan to minimize impacts to your properties and farms. All of that will be presented in our easement documents and part of our negotiation, and that's something we will work on together as we negotiate and get through this easement process.

Lastly -- and not because it's the least important. It's actually the most important. So this is kind of the message we want to leave you with is our pipeline operations and safety.

This pipeline will be controlled, reviewed, evaluated, observed. There won't be a minute of any day that goes by that we will not be evaluating and monitoring this pipeline. 24/7, 365 days a year we monitor and operate our pipes. That's done by a couple

of systems, electronic, remote systems. One's called SCADA. We're actually communicating with that pipeline via sensors that tells temperature, flow, pressure that we can communicate and actually see that data as well as operate the valves, to open, close, or operate the pump station.

We have a leak detection system that actually is a model that goes through detailed algorithms that calculate how that pipeline's supposed to be operating and compare to actual conditions. It gives us early indication if there's a leak or issue so we can take action.

We have employees in the field that are evaluating this. A couple of the other things we do is we have aerial patrol. We fly the pipeline every 10 days, weather permitting. Sometimes we can't do it, but most of the time we fly it every 10 days with a fixed wing aircraft no less than 26 times a year.

We participate in the One-Call System. So the call before you dig, I know a lot of you know what that is. It's the 811 number. We respond to those. We come out and mark our pipe to minimize third-party damage.

And we educate the public. Every year when we go into operations we will meet with emergency responders. We will meet with the public for those that

are interested where we go over our emergency plans, our operating procedures, where our equipment's located, and talk about those things to make sure that the public's educated on how we operate our pipeline.

And the last thing we do is we will develop and issue what's called an Emergency Response Plan, and that plan is required by federal law under Department of Transportation or Pipeline and Hazardous Materials Safety Administration, or PHMSA.

This plan is developed. It spells out everything about the operations of the pipe, the safety systems. There are emergency response equipment, techniques, procedures. That's turned in to the Federal Government as well as to the local emergency responders.

We train on it. We train the public. We train the emergency responders. We train ourselves. We drill on it. So if something was to happen, we're prepared. This plan will again be given out to the emergency responders and to the Federal Government, and it will be employed on a daily basis should -- not daily meaning -- those are the techniques we would utilize in the event of an emergency, and we're prepared to protect the public as well as the private property out there.

With that, I'm going to sit back down, and myself and our team are here to answer any questions, if

you do have them. We encourage them. Again, I would like to thank you for your time this morning, and I appreciate the attention.

CHAIRMAN NELSON: Thank you for the presentation. We appreciate that.

We have scheduled up to three hours for this hearing. I began by taking a few minutes of laying out the process that we're going to be going through. The company has taken some time to explain the project to you. The entirety of the rest of our time is yours.

It's time for you to ask questions, make comments, find out the things that you want to know about the project or about the process.

A couple of things that I'd just like to remind you of. We've got a couple of individuals with wireless mics. and we'll just have you raise your hand and they'll get a mic. to you and you can speak from where you're at.

Again, begin by giving us your name, spelling your name, and in deference to our court reporter, don't talk like an auctioneer. That makes her nervous.

The last thing I would say is, again, 1:30 is kind of our hard deadline because we've got to get to another hearing in Sioux Falls. So let's be respectful of everybody. We want to make sure that everybody that's

here that wants to speak has time to speak.

And so, with that, who wants to be the first commenter or questioner?

Jay.

MR. GILBERTSON: Thank you.

Jay Gilbertson, G-I-L-B-E-R-T-S-O-N. I'm with East Dakota Water Development District, and I guess it's a question for the sponsors.

At several points as the pipeline moves through Kingsbury, Lake, and Minnehaha and you're undoubtedly going to be crossing areas that those counties have identified and provided protection -- have provided protection under county-issued ground water protection ordinances.

And I guess my question is were those -- was that part of the process in identifying places to cross or places to route the pipeline?

MR. MAHMOUD: Thank you for that question. And I forgot to mention -- and I'll answer your question -- if anyone has any questions, detailed questions about the property that we can't specifically answer because we won't know every detail, we have some maps in the back of the room that after the meeting we have some right-of-way agents that can help you isolate and look at those individually. So I apologize for not mentioning it

earlier.

Specifically to the water protection areas, absolutely. Those were taken into consideration. Several of our reroutes that we have actually are for that exact issue, to move around those water protection zones.

So I'm asking Monica, our environmental specialist.

At this point we're not within any water protection zones with the pipe. We've been able to move outside of those.

MR. JOHNSON: Good morning.

My name is Charles Johnson, C-H-A-R-L-E-S, J-O-H-N-S-O-N. I'm a farmer from southern Lake County, Orland Township.

I have three or four major concerns, and I guess I would like to address them more closely to the Commission itself. One is we're taking the word of a company that's an LLC as far as what's going to be done here in the next several years or years to come.

Actually to put money behind what they say or what their words are, I would encourage the PUC and the State Legislature to consider major bonding for this project. I don't think that we have to -- in this time and place of the world we can be pro business by asking

that we have indemnity up front rather than having to go through litigation if there is a problem.

We've seen in Montana -- here just last weekend in Glendive, Montana, that accidents do happen. Mishaps do happen. And I don't think that the city or those landowners or those residents have got to go through litigation to find remedies.

There should be bonding up front paid for by the company. You know, if you play poker, you've got to ante up. And I really think that we need to have bonding in this state for this pipeline.

Secondly, at some point this will be old technology, whether it be in 20 years or 200. And there's going to be a major amount of steel 4 feet under the ground for all of these landowners and operators. Where is the money or the finances to do decommissioning of this project? And, again, I would encourage that there be bonding in place for that project.

Thirdly, whenever I rent land -- as a farm operator I do -- I pay rent every year for the privilege of obtaining or at least the opportunity to make profit on a piece of land. I don't think it's enough for a company to enter onto a landowner's property, pay a one-time permanent easement, and then make plenty of profits at the benefit of that landowner or that

operator.

I really think that the Legislature and the PUC should encourage that royalty payments be made on an annual basis, on a continual basis, to the landowner and to the operators of that land where the pipeline crosses.

A fourth concern I have is more parochial. On the tract of land where it's going to cross where I operate -- my brother and I operate 2,400 acres of organic land in southern Lake County. The tract that they're going to be crossing on our property contains multiple tile lines, much of it patterned tile, which means about every 50 feet to 100 feet there's four-inch perforated tile.

I haven't studied it closely. I don't exactly know where the line is going to come across the property. But there's a potential of probably severing anywheres from 30 to 50 tile lines anywheres from 4 inches to 8 inches wide in that half-mile.

Now I'm enough of a farmer that I know over the years that soil settles if you trench it. I also know that a lot of water districts like Kingbrook Rural Water are finding resistance from operators that have existing tile to try to put their own pipelines.

But soil settles over years, and most of the

field tile or drain tile operates on a gravity system. And it's maybe only a few inches per thousand feet. And what happens to all of that tile line? Even if it's mended, as the soil settles it's going to crink those tile lines down and make that tile lines inoperable. All to the detriment of the operator and the landowner.

Secondly, that's perforated tile in most cases. That tile line is designed to take away liquids, which in most case water, restoring the water table to the land. What we've done is we've placed a potential for a hazard material to leak and to be within a few feet of perforated tile, which then can carry that hazardous material miles down the road in a quick hurry to rivers, streams, creeks, wherever that tile is going to drain into.

So it's not going to be a site-specific problem anymore. It's a problem that could be carried downstream within a matter of hours, affecting the water of different residents and people.

So those are four major concerns I have. And I really think that if we're going to operate this pipeline in this state, we need to make it right up front in a very businessman-like sense to the operators and the owners of farmland.

They need to be compensated. They need to be

assured that there's protection with the money behind this operation in the bank specifically.

I also want to note -- and maybe I'll be corrected in form, but I understand that the permit Application is with Dakota Access, LLC, which is a subsidiary of Energy Transfer Partners.

LLC is a limited liability corporation. So, as I understand it, if there is a spill, or if there is financial problems, the responsibility will be limited to just Dakota Access, LLC. And what is the assets and the financial resources of Dakota Access, LLC?

Is it just steel four feet buried below the ground when the time comes? Is Energy Transfer Partners going to be on the line from a litigation standpoint to provide responsibility to the pipeline and to the owners and operators of that land?

So I pose some questions here. I'm directing my eye attention to the Commission because you're, in fact, the steward of our resources here in the state. You are the stewards of the people who live on this land and live and work here, and I would really hope that you take responsibility to protect us and to protect our resources and to address these issues of what I consider from a very businesslike type atmosphere.

So thank you.

CHAIRMAN NELSON: Thank you. You've asked some good questions.

I'm going to turn to the company first because some of these questions I've heard answered by the company in our two previous meetings. And then I've got some comments that I want to make on behalf of the Commission.

MR. MAHMOUD: Okay. Well, thank you. There's no way I will get all of that, by the way.

You know, overall just from a big picture standpoint, if we all take a step back and say how are we going to get crude oil from point A to point B to sustain our livelihood in a carbon-based society, that's what we're up against here.

So anything we do -- and I'm not trying to dodge a bullet here, but when we do things that are not conducive to facilitating that goal and we add burdens that lead to the -- it becoming noneconomical, we all suffer.

So as we would do certain things that may sound good in theory but then ultimately discourage developers from developing and putting in pipelines and exploring for oil, it hurts every one of us. You, me, your family members, your neighbors, we all suffer from higher fuel prices.

We're all lucky right now. We have less than $2 gasoline. Let's be thankful for that and then plan for the future to ensure we have a sustainable society that's based upon carbon, if you like it or not, that we have to live with and find resources to provide that reliable supply as opposed to unreliable imports from foreign sources.

I'm just going to kind of get that out there. Because we are very much so proponents of energy independence of this country and doing that in an economical manner.

When we talk about bonding, that's not something that normally occurs. We're not subject to bonds on any of our pipelines from 71,000 miles to bonding to a state. We're required -- there's a lot of laws out there, both from a state perspective that talk about liability.

A limited liability corporation does not limit your liability when it comes to a spill when it's specifically on oil, when it's being transported. That's a misnomer. It's not a true statement.

We are liable from a corporate perspective. Dakota Access is a pipeline company, an LLC that was formed as a single business unit to do one thing: To contain and isolate the business practices of that unit from a management perspective. It's a joint venture

between Energy Transfer Partners and Phillips 66.

So it's just a mechanism to do business under that makes and facilitates an easier process to do that business. It's not to dodge the bullet or to limit liability. Because we are on the hook from a liability standpoint. We don't escape a single responsibility by having LLC after the name.

A lot of you probably have LLCs after the name of your farm, and you are responsible as that landowner and owner of that equipment and those operations for what your actions are, just like we are. It's the same structure, same rules apply.

When we talk about -- and we'll talk about bonding a little bit more. We are required, as the Commission will point out, to post road bonds to ensure that we leave the roads in the same condition as we utilize them. I know that wasn't a specific question, but that's something that is part of the bonding to ensure we do a good job when we leave the neighborhoods as we found them.

We are good stewards to the environment. We are good stewards to the landowners. If we do something, we absolutely step up and take care of that. We have the financial resources. We're a multibillion dollar company. We have not only the financial resources of our

overall organization, we also have insurance.

There are also federal programs that we pay into as a transporter of crude oil. We pay 18 cents per barrel, by the way, into a federal fund should we not be able to step up and take care of our business in a professional manner or a manner conducive to whatever the environmental agencies want us to in a spill situation.

They will take over. I promise you. The EPA or one form of the government will take over that clean up. We are then responsible for and have to repay the government for any expenses that they incur or the public incurs.

So we are on the hook, have the liability, and are responsible for anything we do. The landowner does not carry that burden. The landowner never carries that burden from now and forever.

If we abandoned that pipeline, we clean it. We remove all the hydrocarbons. We purge it. And then we put some type of inert material, typically nitrogen, into that pipeline to make sure it's not a hazard to the landowner.

Crossings where we have a road or we have a river crossing we typically will do what's called grouting of that pipeline. We'll refill the pipeline with some type of grout so if it ever does collapse --

because the steel will actually decay over time. Hundreds of years, but in those situations we will do those things.

I'm trying to remember what else was asked.

CHAIRMAN NELSON: The last question dealt with the tile lines and how you can ensure that those tile lines are going to maintain their proper elevation and angle as soil settles.

MR. MAHMOUD: Great. Thank you very much.

We do have -- as part of our Agricultural Mitigation Plan that we are working with the landowners, we do have a plan to cross the tiles. We absolutely understand that when we go through there we disturb the soil, we put it back, that there probably will be some settling over time.

The farm equipment that you utilize today is as heavy or heavier than the equipment we will employ on this pipeline. The combines are giant. They're as big or bigger than equipment we use. So you're already putting that downward pressure onto those tile lines that we would exert onto those same tile lines.

When we disturb it, though, if we do have sluffing or sagging or impacts, we absolutely will come back in and fix those. We put them back. We repair them. We'll strip back outside the right of way, if

necessary, to make sure that we repair that tile line such that it does flow. We'll test that tile line. And then if we have long-term impact, we'll come back and fix it.

And that's where that relationship between landowner and company come into play. We don't leave the landowner hanging out there with a messed up tile system in their field. If we disturb it, we're going to fix it.

I can tell you I've had this conversation with our CEO of our company and explained to him -- because he didn't know what a tile line was. That's a corporate commitment and something that we will absolutely stand behind long term.

And I think the last thing that was asked was talking about royalty payments. That's not very customary in a pipeline. I don't know anybody that pays a royalty payment, except maybe on a tribal land. That's a sovereign nation.

In the United States and South Dakota easements are paid on a one-time basis. When we start talking about the legality of that and why is that such, I can't give you all the legal remedies of why, but it is on a one-time basis. And that's how we propose to compensate the landowners as we move forward.

CHAIRMAN NELSON: Thank you. I'd just like to

add a couple of comments from the Commission's perspective. Mr. Johnson mentioned bond several times.

State statute and state law is what guides how we have to operate as we work through this docket Application. State statute gives us specific authorities to require bonds for remediation of roads, should the company fail to do that properly.

In both the Keystone and Keystone XL Pipeline permits that was one of the conditions. We required the companies to post a bond, and then at such point as the local governing bodies assured us that the roads had been properly repaired, then those bonds were released.

The flip side of that is the Legislature has not given us authority to require bonds for the operation or the operational period of the pipeline. And Mr. Johnson correctly mentioned several times, you know, the Legislature should look at.

Well, whether they've looked at it or not, I don't know, but they've not given us the authority at this point to require that type of bonding.

Similarly, dealing with an easement versus an annual royalty, the Legislature has not passed a law saying in South Dakota it would be an annual -- a requirement for an annual payment as opposed to an easement. At this point that's something that is

contractual, a relationship between the company and the individual landowners as to how that will take place.

And so a couple of the issues that he talked about certainly are within the Legislature's purview. Whether they will make changes that will move in the direction Mr. Johnson's asking, that's up to the Legislature.

I do want to comment on the tile lines. And I'm an agy. I don't have tile lines on my property, but I'm an agy and I'm very sensitive to that. And that's something that we will definitely be looking at and asking some additional questions about. So I appreciate that.

Who's next?

MR. WALKER: My name is Craig Walker. C-R-A-I-G. Walker, W-A-L-K-E-R. I am from southern Lake County, also Orland Township.

Listened to the proposal and have talked to several individuals who have indicated that in Miner County this is -- the project that went through there a few years ago was done very professionally. We assume that the same would be done in this case.

But I do have a question in regards to compensation. Commissioner Nelson just indicated that that's an issue between myself, the landowner and the

company. You've laid out your protocol for establishing that. And I understand that, but it is a negotiated situation from my perspective.

And I did some quick math, and I guess I'd like you to please speak to my calculation so I can go home and tell my wife that I did the best I could. Okay.

So I anticipate that -- I've had an offer made to me. The staff that did that were very professional in making that presentation. And what it kind of came down to was I'll be getting approximately $25 per foot.

During your calculator presentation you indicated that 47 million dollars would be allocated to the State of South Dakota. If I take that to a per foot basis, it comes out to approximately $32 per foot. So I wasn't too far off in this deal.

Ultimately, based upon information I read in our local newspaper and restated here, there will be approximately half a million barrels a day of crude coming through the pipeline.

I did some research and found that the cost of moving a barrel of crude right now is approximately $8.44 per barrel to go from western North Dakota to southern Illinois. I'd like to find out if that is approximate correct. And then the other thing I need to find out from you is what is the approximate cost that

you anticipate of moving a barrel of crude?

Now I took a wild guess, and I'm assuming that you'll be able to do it for a lot cheaper than what rail or surface transportation will be able to do. And so I'm assuming, right, wrong or indifferent, that somebody's going to make about a $4 profit.

On the $4 profit on a half a million barrels a day times a year's time is 720 million dollars. The cost that you're going to be paying and I estimate to all the landowners up along the 1,130 mile-pipeline or approximate 6 million feet would be about 360 million dollars.

As I look at that, sir, 360 million dollars divided by a 720 million dollar potential profit in about six months all the landowners should be satisfied and that's -- that's a good deal for your stockholders, but I'm not sure that that's enough compensation from my perspective.

And so that's one of the reasons I came here today is to say, you know, how sharp is your pencil? I'm a businessman and every day I have to deal with individuals and they say you better sharpen your pencil or I'm not going to do business with you.

Now I also recognize in visiting with my local state legislator he said, Craig -- I asked him to do some

help and research, and he said this is something that you can't stop so I don't intend to stand at the fence and stop. But I do intend to demand that we sit down and negotiate perhaps a little harder on compensation.

The other area of concern is if it would come to litigation, where is that litigated at? Is that litigated in the State of South Dakota or in -- at the company headquarters potentially in Texas?

And then the final question I had to go along with Mr. Johnson's question is dealing with tile. And I actually will have to direct this question a little bit more towards my local County Commissioners.

Currently, I don't have a lot of tile in place, but I also might want to get that done or at least address ahead of time or in conjunction with this tile coming in. And so I guess I'll want to find out specifically if there are some allowances and tolerances to address tiling in the pipeline area ahead of the construction phase of this project.

I think that's all I have. Thank you for your time.

MR. MAHMOUD: Okay. I was going to say you're going to have to take a break and let me catch up.

Great questions. Thank you. You've obviously put a lot of time and thought and articulated your

questions very well. I'm going to start in reverse because I think I can remember best that way.

On the tile lines, absolutely. If you have -- and that's a tough one to commit to, but I'll tell you if you have plans for your tile lines where you're working with the ag commission or you're working with a contractor and you have a plan that's laid out, if you'll share that with us, we can make those accommodations now.

Once we construct, however, we cannot -- you can still put a tile line in. We just can't guarantee 2 foot of separation. But crossing the pipe with the tile line above or below, that's not a big deal for us. So we will definitely work with you there, and if you'll give us your plans, we'll try to work with you to accommodate it now.

Going backwards, as far as the compensation and profitability of the company, I can't answer that. I mean, even if I could, I mean, that would be information that would be proprietary that would have to be disclosed -- and the FCC, and I can't do it. I will tell you if we make that type of profit, we'll be very happy. I don't think so.

But at the same time you're right. I mean, this is -- we are risking 3.8 billion dollars of our capital

to build this pipeline and taking the risk of building it and operating it, all the liabilities that are associated with that. So it's multibillions of dollars that are at stake here.

As a businessman, you understand profitability, and you certainly would expect a return on your investment. And that's what we're expecting. I don't know what that ultimate dollar is going to be, but if we're investing that kind of money, we certainly expect a profit. We're not here to take advantage of anybody.

Your calculations are pretty close. $25 a foot is about right as an offer. That's obviously negotiable, depending on your specific property. Our right-of-way guys are here. Our head of right of way is sitting here with me. And after the meeting we can certainly talk. It's a starting point where we can negotiate in good faith to come up with what that value is.

Everybody's property is different. Values are different on a per property basis because you may have drain tiles in your field that improve your production versus your neighbor that does not. And you may have other improvements that your neighbor may not. So each value is different, and that's why we do an independent appraisal or evaluation on a per property basis, and we talk about it individually with the landowner.

So we would be more than happy to continue those discussions and hopefully can reach an agreeable deal.

And then litigation. Thank you. Litigation would be done. If we had to go to a condemnation, and I hope we don't, our company prides itself in not having to go to litigation or not having to rely upon eminent domain.

I can tell you personally the projects that I've been in charge of, and I've run all of our big projects in our company -- anything that has a B for billion dollars is something that falls under my control, and over 2,000 miles that we've put in over the past four years have not condemned one individual.

So we are a very good company to work with. We pride ourselves in negotiating in good faith.

We will respect everybody in this room and everybody that's not in this room to reach a fair deal. If we can afford it, we will do it. I give you that promise.

If we do have to get there, which I hope we don't, but if we do, that will be done here in the State of South Dakota.

CHAIRMAN NELSON: Other questions or comments?

MR. SNYDER: Hello.

MY name is Kelly Snyder K-E-L-L-Y, S-N-Y-D-E-R. What's in it -- what do you mix with it to make it flow?

MR. MAHMOUD: I'm sorry. We have this blower that's making it really hard for us to hear. Can you say it one more time louder.

MR. SNYDER: What do you mix with it to make it flow through the pipeline?

MR. MAHMOUD: Okay. Typically, it's just the crude oil. And sometimes we'll add what's called a drag-reducing agent to actually reduce or to make the crude oil less viscous so it flows easier.

And, Chuck, do you want to expand on that?

MR. FREY: Yes. The Bakken crude oil generally has the consistency of -- diesel fuel would be kind of what you can think of. So there's not anything we need to add to it to make it flow. As Joey mentioned, we will sometimes add a drag-reducing agent to reduce the friction loss in the pipeline.

But these drag-reducing agents we're talking about parts per million injection rates so it's a very, very small quantity that goes into the materials just to help it flow a little easier.

MR. SNYDER: Thank you.

MR. HOYER: My name is Dale Hoyer. D-A-L-E, H-O-Y-E-R. And I'm concerned.

You said you just picked up the pipeline path -- the pipeline, where it would go to where you wanted it to go. I would question why it -- just looking at the map you have presented, but the map shows that you cross a reservoir in North Dakota with the pipeline. You cross one in South Dakota, Oahe Reservoir. I don't know how you do that, but the water quality impact is very important.

It's important. A lot of wells come in this ground. I know you don't monitor the line 100 percent of the time unless you're concerned about leaks. So we also need to realize that you need to select a route that is less risk free.

What I have for information and what's done in my area, your environmental and economic impact was not considered. It shows no evidence of doing the least impact.

If you change that -- can you consider on an individual basis that that impact would be changed? In my case, it goes right through my yard, the one you marked out, and it goes through sewer lines, water lines, electrical lines, all underground. And if it lines up correctly, it's going to destroy also three tile lines.

And you can casually put it back together, but the gentleman was very right. You've got to have it

right the first time or it doesn't work. You go back and fix it up, you've probably destroyed more. In the settling you'd have more crop loss, that you obviously have to go to the field, the spot where the tile is.

But you also -- varying soil compaction with the type of soil you're doing. So you can't set up a standard for that either.

The third thing we have is many farmers are doing this. We talk about how it's going to be the same as machinery. We go -- in compaction on our farm we go over the soil as little as possible, field track it, and go over it rapidly. We don't sit in one spot, dig holes. When we do that you've got compaction that lasts 10 years.

So that's not even mentioned compensating. You're talking about 100 percent the first year and I'm supposing you're going on a rent basis but you're going on 80 percent and then 60 percent.

That line goes diagonal through every field. You'll create, the first year, diagonal lines. For headlands that's wasted crop. For turn lanes that's wasted crop. You have to plant more headlands because you cannot get the turn done with the machinery under a normal straight angle. So those things haven't been considered.

In my area -- and I've done a 10-mile survey of the stretch -- that line could have been moved three-quarters of a mile west and not impacted anything. Instead, it's going through farmsteads, through shelter belts. That's not being environmentally friendly at all.

Now I don't know how negotiable the line is, but you look at your map on page -- I believe it's page 6, Miner County. Why did you make a jog on Beadle County northeast of Huron? I think that would be the center of Beadle County, I believe -- well, it's hard to read. It's the name of the county, but Huron is in about the central part of that.

But there was no reason -- either line, if you took a straight line down from where you started it, you took a 6-, 7-, 8-mile jog to the east, went through the good farmland in South Dakota, and came back at the Sioux Falls point so that if you drew a line straight as you said you did, you would have come through the northwest corner of Miner County instead of the northeast. That's about where the variation is.

I just put a ruler on there today. That doesn't make sense. The environmental impact the further you go east to agriculture is tremendous. The crop ratio is probably double yield as you go east of Miner County. West it would be in the 50 percent or less range. That's

yield production.

Now I don't know how you change it, but just quickly if you took a line from the star on your page 5 and went straight down to your goal, you would have been moving that line continually over and it would have been shorter in the long run than you do it as it is, with no reservoirs to go through, over, or under, whatever you do.

And this may be to the PUC. The wisdom of putting that money and the crude into Houston kind of escapes me when we want to use that money right here in South Dakota and surrounding agricultural production areas, Iowa, Minnesota, and so on. North Dakota, eastern also. And into Nebraska and Kansas.

That's where a lot of that will get used. It has to be -- sometimes we're in short supply, the bid goes up. Why put it into what I -- should I say marked? It's discussed in politics. One of the marked terrorist areas to hit if we have that type of impact in the United States. Well, we've had the Twin Towers so we know we have that impact.

But if you spread that out, it wouldn't impact our production near as much. I'm wondering how the PUC -- if there is any research into an alternate source of refinement.

This looks like it would be a wise program in the future. And we don't know what that future is, but we're talking 20, 30 years on this pipeline. So something to think about. That's something to think about where the wealth goes.

The wealth of developing our own resources in our own given area where it is consumed is a savings beyond anything that any oil cartel will ever give you. And talking about -- if you're talking oil money, you're talking Houston, Texas and the surrounding area.

So you have a large economic cluster that are benefiting from this. That was raised here a little while ago, but that's -- that is something that is given to -- they wouldn't be up here trying to build a pipeline if they didn't know where it was going to go, and they know that they can export crude any place -- sorry. They can export refined oil any place in the world.

And you go down there and bring it back up here you're going to always pay the oil price. It's something to think about.

Well, I've taken long enough, but I'll go ahead with you.

CHAIRMAN NELSON: I'd like to ask just one very specific follow-up question.

Very early in your comments you said the

pipeline was slated to go right through your yard. Can you expand on that?

How close to your house? How close to a barn? Are we talking about going through a feedlot? Can you give me just a picture of that?

MR. HOYER: Certainly. It's an interesting process that's been going on. And it makes it sound like they're all up front and concerned about you.

I caught a pickup going around the roads and the neighborhood and he had some instruments in it and I asked stopped and asked him what he was doing. This was last summer. Probably late June or early July. And he says oh, I'm just looking at roads for the county. And I said --

CHAIRMAN NELSON: If I could just stop, I'd like a specific answer to my question. How close is this slated to your house, your barn, your feedlot?

MR. HOYER: Well, that's what I'm getting to. This was the initial survey by this company. I found out later. Okay. No -- in secret. When they came and drove stakes about two months later that lined right up to go through -- I took the stakes and took all three stakes, lined them up and took them out a mile and a half out the other way, and that went between my house and my workshop, which they are approximately 40 feet apart.

It goes through my new shelter belt that was 20 years -- planted 20 years ago. It cuts all the communication, phone lines, everything between myself, the house, in other words, and the shop where I do work and do business. And I still farm so I'm getting messages in and out all the time.

And I have electric lines and propane gas to heat my house going through there. And I have the sewer going out of the house. It looks like it hit the septic tank. It's just unbelievable that they even put a stake in there. So nobody cared, obviously. That pretty much covers the question because I did the survey for that very same reason. My own survey.

CHAIRMAN NELSON: Thank you. If I could get the company to respond, obviously there were some questions regarding the overall routing in this area, starting up in Beadle County, the jog.

I'm particularly interested in what he's just said about this going between his house and his shop. Please talk to me about that.

MR. MAHMOUD: Sure. I think I -- as I mentioned earlier in the presentation, when we route the pipeline -- and you're right. We started with a straight line -- the thing that we look at is we take all the constraints into consideration, and we balance those

out.

And I know that not everybody likes to hear that, but when we move the pipe from one landowner to the next that's what's called transference of impacts. And so that becomes an arbitrary decision to move it from one person to the other, and that's not something we do.

And I know it doesn't sound fair to the person that the pipe landed on their property. But there's a reason that led us to that conclusion. And that was purely based on technical attributes to minimize the impacts to the most people, to the most resources and stakeholders involved, and it may or may not result in the best route for you as an individual but it does for the greater population or stakeholders along the route.

As far as this gentleman's property, I can't tell you, sir, exactly. I don't know where you live, but I will tell you there's not a single place along this pipe where we are within 40 feet of a house. I will tell you that as a fact.

So I don't know if we've surveyed on your property or not. It doesn't sound like we have. So if we could, I think the best solution would be for us to meet with you to survey on your property. If there is a minor route adjustment, we can do those.

But I know we're not within 40 foot of any

house. I know that for a fact. We're not within 150 foot of any house along this pipe.

CHAIRMAN NELSON: Well, let me ask a very specific question not only related to what he's related but to anyone. I mean, are you going through people's farmyards?

MR. MAHMOUD: I can't answer that 100 percent, but I seriously doubt it. There could be --

CHAIRMAN NELSON: I will tell you that's an answer that I will need to know as we move through this process.

MR. MAHMOUD: Sure. And it could be that somebody's farmyard could be 5 acres or 10 acres or 20 acres. So I'm not going to try to -- I don't know. So we'll get you the right answer.

CHAIRMAN NELSON: Thank you.

Other questions?

MR. HOYER: You mentioned that you -- either one farmer or another farmer. I said in this survey that I did there would be 9 miles out away from me, less than a mile, there would be no farms. And you're going through farmland where you go next to, through, or under shelter belts, whatever you do, through the aesthetic lines of tree belts further down the road.

You don't need to hit any of them if you're

concerned, like you said. And that would be a 9-mile stretch you wouldn't have to talk to anybody as far as their yard is concerned. So this is not true what you're saying.

CHAIRMAN NELSON: Other questions or comments?

MR. SEAMANS: My name is Paul, P-A-U-L, Seamans, S-E-A-M-A-N-S.

This question is for you. You talk about bonding will clean up the spill -- the federal U.S. liability spill trust fund or something. But after it's cleaned up how do you make the farmer or the rancher whole?

Suppose you fill my well up with oil and then you clean it out and then I got a well that's no good for drinking anymore? Would your company be willing to pay into a spill trust fund for South Dakotans that will more or less make them whole if there is a spill?

Because it could ruin your water, could -- like happened in North Dakota. It could ruin your soil. Would you be willing to pay into a South Dakota spill trust fund?

MR. MAHMOUD: Thank you for the question. And we already do.

When we transport on this pipe we pay into a fund that's managed by the Federal Government. So it

does provide that protection. If we don't step up and we provide for that remediation, it does.

I know you're shaking your head, but that's what it was established for.

So if we did have a long-term impact to your property, you actually could make a claim to that fund to get compensated for that. They would come back after us. So the government actually -- that's one program that they do actually protect the citizens that we contribute to today. 8 cents per barrel goes into that.

As far as if we did have an impact to your property or to anybody's property, we 100 percent are liable for those impacts when it happens or after it happens. If we have residual impacts and if we impacted your water supply, we would provide you an alternate water supply until that water supply was safe or cleaned up for you to consume or utilize again.

That's part of the liability that we take or the risk that we take by being an operator of this pipeline.

MR. SEAMANS: So you would not pay into a spill trust fund?

MR. MAHMOUD: Well, one, there's not one that I'm aware of. And if it's something that was required by law -- and I'm not trying to dodge that, but we have to

have certain ways that we conduct our business, and if it was a requirement, we would.

And, like I said, we already do pay that 8 cents per barrel fund today for the current pipes that we transport on, and we will for this one.

MR. SEAMANS: I have not been aware that this fund would make a rancher or a farmer whole yet. So I'll check into that. It's a new one to me.

MR. MAHMOUD: I'll tell you because I live on the Gulf Coast, and when the big spill happened out in the Gulf of Mexico they set up funds and they set up claim centers for people to file claims that the government actually managed and then distributed the funds against those claims.

So, I mean, those things do happen. I know you don't have experience up here because there's not as much production. But we've seen that. We weren't part of it, but I see it just like everybody else does in the media, and those are the messages that are portrayed out there.

MR. SEAMANS: So you're saying if I were to be made whole again, it would come out of that 8 cents a barrel spill trust fund?

MR. MAHMOUD: That's if we don't step up and take care of it ourselves. So that's in the event we do

not live up to our obligation. And then the government comes after us. So you as a landowner would not have to.

Of course, you could. Nobody's taking away your rights. But that is a mechanism that you're protected by federal programs that exist today.

MR. SEAMANS: Thank you.

MR. PEDERSEN: Scott, S-C-O-T-T, Pedersen, P-E-D-E-R-S-E-N. And I'm with Lake County.

Joey, when was the last spill that you had, and why can't those people be a go-to to find out how you handled the event if you did have an issue so there's some, hey, we did have a problem, because obviously you've had problems, and you can prove to these people that what you're saying is true.

Because sometimes, I'm in sales, they don't believe me, but they may believe one of my customers. So is there some examples that you could give of spills that you had and when you were done you had satisfied people?

Secondly, when I look at this you talk about 13 million dollars per year in taxes. So as a County Commissioner is it fair that I take 274 miles, you divide it into 13 million dollars and say that that's going to allocate about $47,445 per mile?

And, thirdly, how many miles of pipeline can you

do a day?

MR. MAHMOUD: I can answer all three of those.

First of all, we had spills. I would never say that we didn't. Our last spill was in northwest Louisiana. I can't remember the exact amount that was spilled. And that was actually not too long ago.

As far as satisfied customers, I couldn't give you these people's names, but if you look at our record, it's all public. All of our safety performance and our operating performance is very public. It's all recorded to the Department of Transportation. They keep those statistics out there.

When we have our Emergency Response Plan prepared -- it's not prepared yet. We're not going into operation for a year or more. Actually for two years almost. Those plans will be in place, and they will detail every bit about how we're going to operate.

And it's not a secret. We will issue those plans. They're public plans. It's just we don't have them today. So I don't want to tell you something that's not true.

But if you look up, you can do a search. One of our affiliates called Sunoco Logistics, who we own, that's where the spill was. It's public data.

You need me to speak up?

UNIDENTIFIED SPEAKER: Repeat that spill you just said.

MR. MAHMOUD: Where our spill was? We own an affiliated company, just like Dakota Access, called Sunoco Logistics, where we had a spill in northwest Louisiana. So, I mean, that's public record. It's out there. You can see how we responded. You can look it up.

I'll tell you, if you haven't heard of it, I would be very surprised because we took care of our business and cleaned it up in a professional manner. That's how we operate. We don't dodge the bullet.

As these pipelines have operated over the years. Social media has made spills much more apparent to everybody in the United States. And that's probably a good thing. So they are rare. Pipelines are the safest and most efficient means of transportation in this country.

If you look at the statistics again by the Department of Transportation, they're the ones that track all of this stuff. It's very clear where the safety -- who has the safest record. And it's just pure movement of product over miles of pipe. And statistically there's just nothing better or a better means to transport this.

We will build about, per spread -- so we will have somewhere around 11 to 13 spreads on this project. Each one of those construction spreads we'll probably install about a mile a day if we're lucky, depending on weather. So we'll install somewhere between just say 10 and 15 miles a day along this pipe. That's across the whole thing.

In the State of South Dakota that's probably 2 to 4 miles a day, if that answers the second part of your question.

Oh, the taxes, how they're allocated. That's a great question and not a very good answer, by the way. So we provide the value of the asset to the state tax office where that value is assessed -- and it's not a total value. It's the value of what's taxable. That's --

The taxing authority then levies their tax. We pay it to the State. Our estimate is calculated on the miles of pipe in each county based on the tax rate. We that to the State and then the State distributes that back to the counties or townships. We have no control over that because we pay directly to the State.

How it gets back to you, I cannot answer. But that's how we do the tax. And the 13 million dollars is year one taxes. So year one means that's the assessed

value. Just like a tractor depreciates over time, this pipeline will depreciate over time. So year one is the most value that it has is 13 million bucks. Year two will be a little bit less, year three a little bit less, so forth and so on as the value of that asset depreciates over time.

I hope that answers your questions.

MR. SEAMANS: It's my understanding that the construction costs and the assessment valuation are considerably different.

MR. MAHMOUD: That's correct.

So in South Dakota there's also what's called a contractor's excise tax. So we pay the value of the asset. So we're paying tax on -- say when we bring the pipe in to the State of South Dakota we're paying consumption or sales tax on that asset, the pump station, the materials, et cetera. That's one tax. And that's where the 35 million dollars comes from.

Property tax or ad valorem is a second set of taxes.

And then third is what's called the contractor's excise tax, which is 2 percent of the value of the contract that we will pay to the contractor. And that's even further broken down based on some criteria. And I can't quote all of those. But that's worth somewhere

around 16 million dollars itself that the contractor will pay that we will actually end up paying to the contractor. But that's part of the fee.

So there's three levels of taxes in South Dakota.

CHAIRMAN NELSON: At this point in deference to the endurance capability of our court reporter, can I see a show of hands?

How many more folks want to speak today?

We're going to take a short five-minute break, and we're going to reconvene in five minutes.

(A short recess is taken)

CHAIRMAN NELSON: I'll call the hearing back to order, and we will continue with public comment testimony and questions.

Who wants to be next?

Maybe all the guys that raised their hands left. Charlie's still here. So I know he's still got a question.

Go ahead, sir.

MR. LINDSAY: Roy Lindsay, R-O-Y, L-I-N-D-S-A-Y, from Madison.

Is there a reason in that that the pipeline isn't going toward the refineries in Montana?

MR. MAHMOUD: The refineries that this will

serve -- and I'm not familiar with all the refineries in the U.S.

Chuck, do you know the ones in Montana?

MR. FREY: Yes. I mean, the short answer is because the ones in Montana have adequate supply, and so they do not need any of the crude oil from this pipeline.

MR. MAHMOUD: So our target audience or at least our producer's target audience is the Chicago market east towards, say, Ohio and then to the Gulf Coast to where all the other refineries are located.

CHAIRMAN NELSON: Next question.

MR. JOHNSON: I just have a follow-up question or comment. Charles Johnson from Madison.

And I'm holding a copy of this hearing notice here in my left hand. And it says December 15, 2014, Dakota Access, LLC, a Delaware -- not a Texas but a Delaware Limited Liability Company and subsidiary of Energy Transfer Partners, a Delaware Master Limited Liability Company filed with the South Dakota PUC.

So I just want to for the record or at least hear for the understanding of the crowd here today who is the permit Applicant for this pipeline? Is it Energy Transfer Partners? Is it Dakota Access, LLC?

You mentioned "we," the gentleman over here at

the table. I always like to know who's behind "we"?

CHAIRMAN NELSON: Mr. Johnson, I'm going to have our Commission Counsel, John Smith, answer that question.

MR. SMITH: Yeah. I'm going to -- at least a little bit of introduction, and then maybe Joey can follow up. But if you were to take all of the companies that serve us here in South Dakota, with anything, I don't care what it is, Northwestern Corporation, the electric company, Xcel Energy, almost all of those, they're all Delaware corporations.

It's just that Delaware is a state that maintains a corporate system that companies around America and a whole lot of South Dakota companies find to be the best place to incorporate. That's the state of incorporation. That's not your state of location. Okay.

It's like -- I mean, I used to work for a Delaware corporation, right. In Sioux Falls for 15 years I did. And even though our headquarters was in Sioux Falls, we were a Delaware corporation. And we did that because of the Delaware corporate statutes and the ease with which Delaware -- the Delaware corporate law system works and the Delaware court system, which has an absolute expertise in corporate law.

But that has nothing to do with where a

corporation is located or where it does business and that. It's just a technical thing as to that's where you incorporate.

The Dakota Access Pipeline is an affiliate and a subsidiary of -- oh, what's the --

MR. MAHMOUD: Energy Transfer Partners.

MR. SMITH: Energy Transfer Partners. And they are located in Texas but they're incorporated in Delaware and that's an extremely common way companies do business. That's reality. Okay.

MR. JOHNSON: I guess what I'm asking for the record, who's the Applicant?

MR. SMITH: That's who the Applicant is.

CHAIRMAN NELSON: I'm going to interject. The Application, which is obviously online, you can go on and look at it, Dakota Access, LLC is the Applicant.

And you can view that on the PUC's website. You can look at the entire Application. That is the Applicant.

MR. JOHNSON: So, therefore, Energy Transfer Partners is not on the line liability-wise for this project.

Could we assume that?

CHAIRMAN NELSON: Once again, that question, I believe, has already been answered. But I'm going to

turn it back to the company, and if you care to explain that one more time, go ahead.

MR. MAHMOUD: Sure. Thank you.

As we stated, the Applicant, as the Commission just stated, is Dakota Access, which is a company of or affiliate of Energy Transfer Partners, which is a JV between Energy Transfer and ConocoPhillips. Our headquarters are in Dallas, Texas. Our business operations, we have offices all over the United States.

I can tell you the structure was for a business operating unit, not to defer liability. So the inference of making it sound like we're not on the hook or that we're not liable is just incorrect. We are.

MR. JOHNSON: But, sir, are you on the Application?

MR. MAHMOUD: We are liable. We maintain our liability. It goes up to the parent company. It goes up to the parent company of Phillips 66 for their share of the project. So there's no perceived cover-up, no perceived nonliability here. It's just a trickle down for the economic tracking of the project. That's it.

We are liable. We have everything in place to operate this pipe via our corporate structure, and Energy Transfer as a company is standing behind this project. It's just we're permitting it as the operating

entity, which is the Dakota Access Pipeline.

MR. JOHNSON: Yes. But Dakota Access is listed as an LLC. They're the only Applicant on this permit. Technically, all liability ends at their gate and door.

MR. MAHMOUD: All I can tell you is hire a lawyer and go talk to him about what the LLC structure is to educate yourself.

MR. JOHNSON: That's what you're telling a landowner is to hire a lawyer to analyze your business structure?

MR. MAHMOUD: Thank you for your comment.

MR. JOHNSON: Well, not very good.

The other thing I want to see, anecdotal type of situation, but the land agent that was in our area of the county, his spiel was all the permits and all the requirements for this project were already acquired and landowners, you know, should best sign the easement -- or not the easement, but the permission to access the land for surveying.

I then asked this young man Aren't you aware of the PUC? He had no idea who the PUC was, who was on it, what it consisted of. Now is that the type of information that a major company coming in here with a pipeline should be telling its own land agents as they interact with landowners?

Is that common practice? Is that how we operate? Behind veils of dishonesty?

I wasn't going to get too parochial in my comment, but I just want to analyze that in all cases we're not getting the truth out here in the field.

Thank you.

CHAIRMAN NELSON: Other questions or comments?

MR. WELLNITZ: John Wellnitz, up from Beadle County. W-E-L-L-N-I-T-Z.

This line, the proposed location crosses a couple of aquifers, one that we irrigate out of. And what is the construction procedure for any potential leak through those areas?

MR. MAHMOUD: Well, I'm not familiar with what aquifer you may be referring to. But if it's a deep aquifer, our pipeline depth when we actually excavate and we bury the pipe -- so it will be 4 foot of cover so we may have a foot or so more.

So the ditch could be, say, somewhere between 4 to 8 foot, depending on where we're at. I don't know if that gets into the aquifer or not that you're referring to. Because there are some shallow surface water areas that are pretty shallow here, and there's also some that are deeper.

We usually don't get into what's called and

technically referred to as ground water tables. We're a lot shallower in depth than that.

If we do encounter a water lens in the soil during construction, we do pump that water out of the ditch, and we pump it through and discharge through some type of sediment filtration bag or dissipating structure to make sure that we are not moving sedimentation off from the ditch line to the ag areas or to off right of way.

If we have to, also we do what are called well points where you actually pump the water during construction. You pump that into discharge structures also to control the water level. Then once we're done we essentially let it equalize, backfill, and continue on.

MR. WELLNITZ: Okay. So that's the construction phase. What about the pipe as it's -- remains there?

Is it double walled or do you have a cement cap around it or is there an impermeable fabric in the bottom of -- what's the continuing protection for the next 50 years?

MR. MAHMOUD: Well, the pipe is steel, impermeable by the substance. So the crude oil does not permeate through that steel. So that's your protection. It's 429 nominal wall. That's almost a half inch thick.

In aquifer areas, say for buoyancy control, we

do put either concrete coated pipe or stack weight in some way to counteract the floating of that pipe up.

And if we did have a spill in an area, we would remediate that spill. But the normal operation is it's very unlikely that we would have a spill. The wall thickness of the pipe provides that protection and isolation of the crude between the pipeline and the soil.

MR. WELLNITZ: So just the pipe.

MR. MAHMOUD: It's just the pipe.

MR. WELLNITZ: And your leak detection -- and how quickly can you actually contain and shut down a leak?

In Michigan the Kalamazoo River leak, that was Enbridge I think was the company that owns that pipe, and that went for 17 hours before that was actually stopped.

MR. MAHMOUD: I don't know all the specifics about that. I know it occurred.

Depending on the location where the spill happens, the location of the valves upstream and downstream of that location, that will determine the duration of the isolation of the spill.

What I can tell you is -- because that's an impossible question to answer, and a lot of people ask that but it's simply impossible because every inch along

the route is different. And in relation to a valve or not to a valve or whatever the atmospheric, environmental soil conditions are, I don't know.

However, we have valves that are placed at strategic locations. So, say, if we're, for example, at a major river crossing, the Missouri River. We do have valves on each side to isolate those crossings so in the event we did have a leak that we could quickly isolate that section to mitigate or minimize the amount of the spill.

Once we are noticed of a leak, and that's either done by our computational models, observation, any form of identification of a leak from anybody, we automatically respond, shut down the pipe, isolate those points.

Typically our systems can communicate within seconds of noticing something's happening. So if we have a pressure loss that triggers an event, that's within seconds. It takes 3 to 5 minutes to close a valve. So it's 3 to 5 minutes times the length of the area between the two valves. That's how much crude could be spilled in your question.

MR. WELLNITZ: So what kind of gallonage or barrels are we talking?

MR. MAHMOUD: I couldn't tell you that because,

like I said, it's different depending on where the location is every time.

MR. WELLNITZ: Is the DENR or EPA or somebody -- who is determining these things like the permeability of these aquifers, these ground water pollution points?

Who is determining that, and how much of that is made public for us to look at?

MR. MAHMOUD: I'm going to -- we're going to answer this -- because we actually go through a study that helps determine those factors.

So go ahead, Chuck.

MR. FREY: There are a number of environmental factors that are looked at to determine what are called high consequence areas where there's special habitat or threatened and endangered species, and that's factored into where you place the valves.

Also on our Emergency Response Plan one thing it will do is it will have modeled what is called a worst-case spill. And so we have to provide for the Federal Government what we believe the model of the worst-case spill event could be along this pipeline system.

And so, again, that's when the Emergency Response Plan is filed with the government, that information will be in the Emergency Response Plan.

MR. MAHMOUD: Yeah. And I'll add there are a couple of agencies. So the Environmental Protection Agency deals with water quality. So they're the ones that actually are monitoring from a federal level what's called the storm water as well as water quality. There are two sections in the Clean Water Act that mandate that.

You also have Department of Transportation that is promulgating or having or pass those laws that we have to comply with for the Emergency Response Plan. That's the Department of Transportation.

So there's -- and the State agencies. So the DENR here in South Dakota as well as the U.S. Army Corps of Engineers from a wetland and water body standpoint.

So there's multiple layers of consideration as well as the PUC Staff make sure that we're compliant with all of those things and get the right permits.

MR. WELLNITZ: So all of that analysis has been done prior to your Application? Or at what point in the permitting process is this completed and also made public?

MR. MAHMOUD: Okay. Great questions.

We have done a lot of the studies. We are continuing to do studies. We've made our applications to the U.S. Army Corps of Engineers for wetland and water

body crossings. Those went in in December concurrent with the PUC Application. Those analyses are going on today.

The plans that we have for mitigating a spill or emergency response, those are in development now. We are actually meeting with the emergency response organizations along the entire length of the line. Those meetings are occurring as we speak.

Once we're done assimilating all of that data, we'll put that plan together, and we'll distribute it. They're public plans. Some of it's not public because it has what's called critical infrastructure in it. But for the most part the emergency response part of that is very public and is filed with the Department of Transportation as well as the State agencies.

MR. WELLNITZ: Okay. You had mentioned to Charlie about a lawyer. And in the event of litigation over a spill or something, where is that -- who actually is -- who's paying for the legal aspect of that?

If a farmer or landowner has to go up against you as a company and there's some contention about something, is there something in place that -- with the lease agreements or something on that line to pay for the legal fees on both sides?

MR. MAHMOUD: Typically not. When we do

easement negotiations usually the landowners request that we compensate them for any legal fees that they had up to that point.

The recommendation to get a lawyer was simply to understand what an LLC is, not telling you all to go get a lawyer but understand that definition because we weren't making much headway there.

As far as future litigation, no. The courts usually determine that. So if there was a suit brought, the courts would decide who pays whose legal fees. That's not a predetermined situation.

MR. WELLNITZ: Thank you.

MR. MAHMOUD: Thank you.

CHAIRMAN NELSON: If I can ask just a follow-up question.

You've talked about your SCADA system. You've talked about the valves, remote control. What's the communication link between all of those and your op center?

MR. MAHMOUD: That's actually the SCADA system that communicates either via satellite, cellphone, landline. So we typically have at least two of those. If we can get three, we will.

So if we can have cell, satellite, plus a landline, we will. That's how we're communicating.

Internet connections. Any means possible to communicate wirelessly or wired.

CHAIRMAN NELSON: And so you're not putting your own com system or wires or fiber in the trench.

MR. MAHMOUD: Well, we may, depending on the utility that's providing the service. So we absolutely put in our own satellite equipment that communicates with services that we subscribe to.

CHAIRMAN NELSON: Thank you.

Other questions?

Paul.

MR. SEAMANS: I got kind of a two-part question. I'd kind of like to expound on what this guy was talking about with the Emergency Response Plan.

Will that be available to the public?

MR. MAHMOUD: The majority of it will be, yes. Because it's handed out to the emergency responders. So there's certain parts that the DOT may redact. I'm not sure. But it will be filed.

Monica Howard was helping me out here.

There's also a state level report that will be your plan that's also filed that is 100 percent public. So that's mostly just the plan with the redacted sections.

MR. SEAMANS: You will not have any -- you will

not have any deal with the PUC that says it's confidential? It will be available to the public?

MR. MAHMOUD: I don't know what the rules are for the PUC on that.

MR. SEAMANS: That's your decision. With the Keystone XL they have a confidentiality agreement. We cannot see the ERP.

MR. MAHMOUD: I'm not sure what Keystone does. I don't work for them. But our attorney says they do. They did keep that confidential.

We turn ours in to the agencies. You know, we have a state level plan. Not all the information in there is public, though. I will tell you that. There is some that is not.

MR. SEAMANS: Okay. Thank you.

My third question is on the 13 million dollar property tax, how do you arrive at that? How do you figure that? You explained it. I'm a little slow maybe.

MR. MAHMOUD: We take the length of the pipe and each county, each county has a different tax rate. I can't quote what the county rates are, but each county has a different tax rate. We take the linear miles in those counties, the value of the asset in those counties minus labor, and apply that tax rate, and that's how we

calculate it.

Then we turn that in to the State. The State verifies it, except they come up with their assessed tax. It's going to be somewhere around that number. It's not a hard number, and then they collect that from us and redistribute that back to the communities. And that's about as much as I know.

MR. SEAMANS: Okay. That sounds kind of simplified to me because I'm going to go back to the Keystone XL. The centrally assessed pipeline is not only the value of the pipeline, but it's the product -- value of the product that flows through it and the value of the company.

Dakota Access, LLC as a company probably does not have much value, and if the pipeline is not running full or it's transporting cheap oil, that is also going to affect the property tax.

MR. MAHMOUD: Let me help you out there. There's not a commodity excise tax in South Dakota. That's not part of it.

MR. SEAMANS: Maybe I don't understand this, but it's not just the value of the pipeline that determines the property tax. It's also the value of the product that it ships and the value of the company.

Am I wrong on that?

MR. MAHMOUD: I can just tell you how it's done. Those are not part of the valuation. I'm not a tax expert. I know the basics so that's all I can answer.

MR. SEAMANS: One reason I bring this up is one way pipelines get people to be on their side is promising big property taxes. And I think with the Keystone one there might be some people here that are on the Keystone one.

I think there was a study done where the counties were only getting about a third of the property taxes that they were promised.

MR. MAHMOUD: All I can tell you -- and we've done an economic study, and we know what the dollars are. We've hired tax experts. These are the numbers.

How the State distributes that back to the communities is between the State and the communities. We don't actually have anything to do with that.

MR. SEAMANS: Other than tell people what they're going to get.

MR. MAHMOUD: Well, I'm telling you what the value of the tax is, not how it's distributed, and that's all we can tell you.

MR. SEAMANS: I guess I'm telling people here that don't be surprised if you don't get what he promised you.

CHAIRMAN NELSON: We've got a question back here, Darren.

MR. WALLACE: Phillip Wallace, P-H-I-L-L-I-P W-A-L-L-A-C-E. And I don't really have questions. I have a few comments about the meets.

I represent the welders that's going to weld this pipeline together and build the stations that's going to -- I think one station here in South Dakota. And we're the pipeline welders. That's what we do.

We don't do anything else. We don't build bridges. We don't build roads. We build pipelines. And Energy Transfer has came in partnership with us for us to do their project. And we'll be installing all the valves. We will be putting the emergency shutdown systems in, and we will be testing them.

You know, this is going to be a pipeline that's state of the art. You know, it's -- we have regulations set by DOT, the public utility boards, PHMSA, you know, that we have to make our welds by. You know, these welds -- every weld on this job will be 100 percent x-rayed. You know, if there's any defects at all, they will be removed.

And, you know, this country needs this domestic crude. We're sending our dollars to the -- many countries we're getting our crude from, South America,

Venezuela, that's where we're getting our oil from. You know, we need to use our oil.

This Bakken crude oil is light sweet crude. It's the good stuff. You don't have to dilute it to pump it, you know, like the tar sands out of Canada, you know, where you have to put these dilutants in there to thin it up to pump it. This is the good stuff, and it's domestic crude. It cannot be exported.

It's going to our Midwest refineries, eventually through other systems to the Gulf Coast refineries where, you know, there's been a lot of talk of building a refinery right here in South Dakota. And I wish that would happen. But it's been kind of on the back burner for the last couple of years.

But, you know, this country needs farmers. You know, they feed us. And I really think that this -- this pipeline will help every American here, you know, in this country to quit relying on this foreign oil and quit moving it by rail.

You know, every small town in this whole pipeline corridor where this pipeline is running through is being -- this crude is being moved by rail or by truck and, you know, that's so -- every little small town there's a railroad runs through it. And these -- these 75 to 100 railcar freight trains are rambling through

there. And, you know, there's been a lot of train wrecks.

There's been a lot of deaths related to the crude being shipped by rail. And I think this country needs this pipeline. And I would -- you know, we need the farmers too.

You know, there's a lot of talk, you know, we need more windmills generating electricity. You know, I agree with that, but I don't know if there's any farmers in here that's got wind farms on their property but I would think that that would be a very hard thing to farm around. Because every one of those generators has got to have a road that runs to that tower for maintenance. It's -- quite frankly, it's pretty ugly to look at.

So when this pipeline is in service it will be out of sight, and you will farm right over the top of it. Even the drain tiles we talked about here, you know, we will install those. And, you know, they will be installed right. And whenever the farmer -- whenever the pipeline's covered, the topsoil's replaced and they're farming, there is settlement, this gas company is responsible for that right-of-way maintenance. They will come back and make it right.

So I would like to ask the utility board to grant this permit. Thank you.

CHAIRMAN NELSON: Others?

Not seeing -- we've got one more here.

MR. PEDERSEN: Scott Pedersen. Years in business, miles of pipeline, and number of spills.

MR. MAHMOUD: We started, let's see, 2005? Is that right? 2003 we went public.

Miles of pipe, we're somewhere just north of 71,000.

And number of spills I could not tell you. I do not have that data memorized. We can look it up. You can look it up, and you can pull the records and see what it is.

Go ahead, Chuck.

MR. FREY: Online DOT maintains a database. I think it goes back 20 years of all spills in the U.S., the company location, et cetera. And so you can check that database. Again, it covers I think the last 20 years.

MR. PEDERSEN: A follow-up question to that would be that you have a parent company, and then you have those LLCs. So how would I differentiate to know which one of the LLCs fall under your parent company?

MR. MAHMOUD: If you search for Energy Transfer, our corporate structure is out there. If you go to the DOT website, it actually will have some of that data

prescribed as far as where the link gets back to the various parent companies. That's part of our submittals to them.

So I encourage you to look us up. You can go to our website, and it will give you our corporate structure of who all our affiliates are and various companies.

We are a big company, like I said earlier, 28,000 employees, 71,000 miles of pipe. We have the second largest crude oil storage terminal down on the Gulf Coast. So we have a lot of assets. And we're a big growing company. And we've had a lot of success because we're good at what we do.

Thank you.

CHAIRMAN NELSON: Anybody else?

MR. GILBERTSON: Again, Jay Gilbertson, East Dakota Water Development District. And I guess I'm not sure who this question would be for. Perhaps Mr. Smith.

What will be the role of the State DENR in evaluating this project and perhaps issuing permits?

MR. SMITH: Those are different things. I mean, we're the permitting entity for the right to build the pipeline. Now does DENR play a role in that? Yes.

You've got Brian Walsh sitting right up there. And a number of the witnesses that testify at hearing -- and I'm assuming this is going to go to hearing hearing,

not the input hearings like this.

When we go to a hearing hearing it's like a trial. It really is. And a number of the witnesses, a great many of the witnesses that Staff or -- Commission Staff is a party to the case when we go to hearing. And a large number of their witnesses are, in fact, DENR employees of various divisions within that.

Geological Survey, they deal with hydrology. You've got the Division of Environmental Quality. They present evidence on those kinds of issues. And then following that, assuming the permit's issued, one of the things, you know, we talked about the Emergency Response Plan and all of that. A part of that is federal. It's PHMSA, you know. But part of it is the State.

We have our own spill prevention statutes that are under the DENR statutes. And I don't read those every day so I'm not as familiar with them as I am with our own stuff.

But that absolutely requires the filing of an Emergency Response Plan with DENR here at the state level. And DENR, following the permit issuance, DENR will be one of the major entities that will have a role in anything that may happen following the issuance of the permit, assuming that happens. So they do have a -- they have a significant role in this.

I don't know, Brian, do you have anything you want to add? I mean, you've got to get the mic. if you're going to.

MR. WALSH: Brian Walsh, W-A-L-S-H, South Dakota Department of Environment and Natural Resources.

Mr. Smith was pretty much right on. Permitting-wise we don't have a lot of authority. All the siting authority lies with the PUC.

During construction there are permits that any big construction project like a pipeline would need, temporary water rights, a temporary discharge permit, which all get processed through our office.

And then, as Mr. Smith said, there's a state law that requires crude oil pipeline operators to submit their Emergency Response Plan to the DENR for evaluation prior to their operation.

CHAIRMAN NELSON: Any others?

MR. WELLNITZ: John Wellnitz again.

Just to clarify, you said the DENR has input after the permit is issued? And for these temporary --

MR. SMITH: No. A lot of the witnesses at our hearing -- we are the entity that has the permitting authority, the PUC. But I would say close to all of the witnesses called by the Staff, not quite all -- there's some Department of Revenue and some other people called,

but the vast majority of the people who testify for our Staff --

Because, see, the Commission operates like a court. So the Commission itself doesn't present evidence. The Staff does. And you've got Darren there, a few people that work for the Staff here today. They prepare the case that is then taken before the Commission on behalf of Staff. And a great many of their witnesses are DENR witnesses.

So do they have involvement? The answer is yes. Do they issue the permit prior to? No. That's us. That's what we do.

But after that DENR's responsibility is to oversee the emergency response program in the State of South Dakota. And like, you know, Joey over there mentioned, you know, the Federal Super Fund Program and all of that and the inputs into that, we have our own program like that.

And, again, I'm not going to make Brian talk about it again. But we have our own similar kind of program to the Super Fund here. And it's meant to provide an emergency backup in case there's a problem with remediation.

And I can't remember. The last time I checked the dollar amount in there was -- I can't remember. It

was like 4.2 million. But that varies. Because they do have various times they've got to respond. And believe it or not, one of the main sources of responses that happen in this state, they really are, you know what they are? They're truck accidents.

They have more incidents related to truck accidents than any other source in the State of South Dakota.

And that's the role they play is if the permit's issued, then following that DENR has one of the -- they have one of the main roles in terms of after the fact regulation of what goes on, depending on what goes on.

MR. WELLNITZ: Okay.

In the event of a ground water contamination, who's responsible to continue drilling and testing?

There's a spill in Okoboji, Minnesota. I was reading about it. I think it was in the late '70s. And that plume of oil underground is still moving, and they continue to test it and see where it's going. So there was no way it could be actually dug up.

Does that fall on the DENR then or on the EPA, or who takes responsibility for that?

CHAIRMAN NELSON: I'm going to have Mr. Walsh answer that. He's shaking his head.

MR. WALSH: Brian Walsh, South Dakota Department

of Environment and Natural Resources.

The person who causes a release in South Dakota is responsible for the cleanup and mitigation of that release until the State relieves them of that responsibility.

So in the event that there was a pipeline release that contaminated the ground water, the pipeline would be responsible to monitor that until we told them they could stop. So indefinitely or until there was no longer a risk to human health or the environment.

CHAIRMAN NELSON: Any others?

If not, ladies and gentlemen, on behalf of the Commission, I greatly appreciate your taking time out of your day to learn more about this.

Before we close, I want to see, Commissioner Hanson, do you have any questions?

Acting Commissioner Sattgast, any questions?

Let me just close by reminding you that we will take comments from anyone right up until the time that we ultimately make a decision one way or another on this particular docket. And you can submit those. You have to do it in writing either by sending a letter or sending an e-mail. And we will add those to the docket file, and then they'll be available to all of the Commissioners and to the public and to the Applicants so everybody knows

who's saying what as we go about considering this.

With that, again, thank you for taking part in this today. The hearing is adjourned.

(The hearing is adjourned at 12:58 p.m.)

STATE OF SOUTH DAKOTA)

:SS CERTIFICATE

COUNTY OF SULLY)

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

DO HEREBY CERTIFY that as the duly-appointed shorthand reporter, I took in shorthand the proceedings had in the above-entitled matter on the 22nd day of January, 2015, and that the attached is a true and correct transcription of the proceedings so taken.

Dated at Onida, South Dakota this 20th day of February, 2015.

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Cheri McComsey Wittler,
Notary Public and
Registered Professional Reporter
Certified Realtime Reporter

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