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THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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

=====

Transcript of Proceedings  
Public Input Hearing  
  
January 22, 2015  
Sioux Falls, South Dakota

=====

BEFORE THE PUBLIC UTILITIES COMMISSION

CHRIS NELSON, CHAIRMAN  
GARY HANSON, COMMISSIONER  
RICHARD SATTGAST, ACTING COMMISSIONER

COMMISSION STAFF

John Smith  
Kristen Edwards  
Greg Rislov  
Brian Rounds  
Darren Kearney

APPEARANCES

Brett Koenecke and Kara Semmler, Dakota Access Pipeline

Reported By Cheri McComsey Wittler, RPR, CRR

1                   TRANSCRIPT OF PROCEEDINGS, held in the  
2 above-entitled matter, at the Ramkota Hotel, Sioux Falls,  
3 South Dakota, on the 22nd day of January, 2015,  
4 commencing at 5:30 p.m.

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1           CHAIRMAN NELSON: I will call the PUC hearing to  
2 order. Good afternoon -- good evening, everyone. Thank  
3 you for coming tonight.

4           My name is Chris Nelson. I'm Chairman of the  
5 South Dakota Public Utilities Commission. And I'm going  
6 to spend a little bit of time reading through some of  
7 the basics of the process so we have a basic  
8 understanding.

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

18           At the head table we have Commission Counsel  
19 John Smith and Commission Advisor Greg Rislov.

20           Our purpose here this afternoon is to hold a  
21 public hearing in Docket No. HP14-002, In the Matter of  
22 the Application of Dakota Access, LLC for an Energy  
23 Facility Permit to Construct the Dakota Access Pipeline.

24           On December 15, 2014, Dakota Access, LLC filed  
25 an Application for an energy facility permit for the

1 purpose of the proposed Dakota Access Pipeline Project.

2 On December 23, 2014, Dakota Access filed a  
3 Revised Application that relocates the line in Spink  
4 County to avoid a center pivot irrigation system and  
5 accommodate landowner preferences and in Lincoln County  
6 to avoid property within and close to development areas  
7 near Sioux Falls.

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

13 The project will originate in the northwest  
14 portion of North Dakota, travel southeast through  
15 South Dakota, Iowa, and Illinois and terminate in the  
16 existing Patoka, Illinois Hub.

17 The pipeline is proposed to transport  
18 approximately 450,000 barrels per day initially with an  
19 anticipated capacity of up to 570,000 barrels per day.

20 Approximately 272.3 miles of the 1,134-mile-long  
21 pipeline will be constructed within South Dakota,  
22 crossing 13 counties in the eastern half of the state.  
23 The project would enter South Dakota in Campbell County  
24 approximately 17 miles east of the Missouri River and  
25 continue southeast through McPherson, Edmunds, Faulk,

1 Spink, Beadle, Kingsbury, Miner, Lake, McCook, Minnehaha,  
2 Turner, and Lincoln Counties.

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

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

18 The purpose of this hearing this afternoon is to  
19 provide information to the public about the proposed  
20 project and to hear public comments about the project.  
21 Interested persons have the right to present their views  
22 and comments regarding the Revised Application. And we  
23 want to encourage you to do so. No decisions are being  
24 made here tonight or in the immediate future.

25 The parties to this proceeding at this time are

1 Dakota Access and the Commission Staff. Several other  
2 organizations and individuals have filed an Application  
3 for party status, but the Commission hasn't yet acted on  
4 those applications.

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

11 We have an Application For Party Status form  
12 available here if you would like to apply for party  
13 status. And the form is also available on the  
14 Commission's web page for this docket or by contacting  
15 the Commission.

16 I'd like to emphasize to everyone you do not  
17 need to be a party in the case to make your voice heard  
18 by the Commission. The reason we're here this afternoon  
19 and evening is to hear your comments and what you have to  
20 say and your concerns about the project.

21 We will also be accepting comments in writing  
22 from anyone, either by mail, personal delivery, or  
23 e-mailing the Commission at [puc@state.sd.gov](mailto:puc@state.sd.gov). We'll take  
24 those comments right up until the time of the final  
25 decision.

1           So you only need to apply for party status if  
2 you want to participate formally in the case by putting  
3 on actual testimony or other factual evidence, conducting  
4 discovery, cross-examining witnesses, making legal  
5 arguments, and to preserve your right to appeal to the  
6 courts if you don't believe our decision is legally  
7 correct.

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

12           For its permit to be approved, our law says that  
13 Dakota Access must show that the proposed transmission  
14 facility will comply with all applicable laws and rules,  
15 will not pose a threat of serious injury to the  
16 environment or to the social and economic condition of  
17 inhabitants or expected inhabitants in the siting area,  
18 nor will -- and will not substantially impair the health,  
19 safety, or welfare of the inhabitants, and will not  
20 unduly interfere with the orderly development of the  
21 region, with due consideration given to the views of  
22 governing bodies of affected local units of government.

23           Based on these factors, the Commission will  
24 decide whether the permit for the project should be  
25 granted, denied, or granted upon such terms, conditions,

1 or modifications of construction, operation, or  
2 maintenance of the facility as the Commission finds  
3 appropriate.

4 I'd like to point out to everyone that we have  
5 with us our court reporter, Cheri Wittler, here this  
6 afternoon and evening. So I'd ask you to please use the  
7 microphone and introduce yourself and spell your name  
8 when you speak so we get it on the record.

9 I'd also like to point out that we have  
10 Commission Staff, Brian Rounds, Darren Kearney, and  
11 Kristen Edwards here this afternoon.

12 We want you to feel free to seek them out if you  
13 have questions or need help with anything either here  
14 this afternoon or evening or as we go through the  
15 process.

16 We will begin the hearing by having Dakota  
17 Access representatives make a presentation to explain the  
18 proposed project. Following that presentation we will  
19 take comments from any interested individuals or  
20 organizations, and we strongly encourage members of the  
21 public to present your views.

22 Before we get started, I'd also ask and make  
23 sure before you leave tonight if you haven't done so  
24 already, put your information on the sign-in sheets  
25 outside so we have a record of who is attending.

1           We've got a lot of folks standing in the back  
2 and that's certainly fine but we've also got a few  
3 scattered seats up front yet.

4           Okay. I'm just told they're checking on seeing  
5 if we can get this panel open here so we can get some  
6 folks over in that room.

7           Okay. That will be opening up so we can get  
8 some folks over here and get a little bit more space. We  
9 greatly appreciate the great turnout tonight.

10           I'm going to introduce Brett Koenecke, the  
11 attorney for Dakota Access who will be the introductory  
12 spokesman for Dakota Access here this evening.

13           Brett, at this time you can go ahead and  
14 introduce the folks you have with you and begin your  
15 presentation. Although I will say if they start moving  
16 that and we need to just take a break for a moment, why  
17 I'll give you the cue.

18           Go ahead, Brett.

19           MR. KOENECKE: Very good. Thank you,  
20 Commissioner, and welcome, everyone.

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

24           With me tonight are a number of representatives  
25 of Dakota Access, and I'll introduce them at this time.

1 Starting with Joey Mahmoud. Joey is the Senior Vice  
2 President of Engineering with responsibility for  
3 development and execution of the project. To my far left  
4 is Tom Siguaw, Senior Director over the entire project.

5 To his right is Chuck Frey, Vice President of  
6 Liquid Engineering and Chief Engineer for Design and  
7 Safety.

8 To my immediate left is Keegan Pieper,  
9 Associate General Counsel and Project Counsel from Texas.  
10 Behind me is Micah Rorie, the right-of-way manager for  
11 North Dakota and South Dakota. And Monica Howard who is  
12 the project environmental manager.

13 CHAIRMAN NELSON: Let's just take a minute or  
14 two and wait for them to get that pulled back before you  
15 start the presentation.

16 MR. KOENECKE: I would like to say we appreciate  
17 the large turnout tonight. We look forward to  
18 participating in this hearing, and we thank the  
19 Commission for organizing it.

20 (Pause)

21 CHAIRMAN NELSON: Joey, I think you can go ahead  
22 and get started. We've got everybody in the room, and  
23 they may be bringing more chairs, but at least we've got  
24 everybody in and I think the disruption will be minimal.

25 Go ahead.

1 MR. MAHMOUD: Thank you.

2 Well, thank you, everyone, for showing up  
3 tonight. It's a big crowd. Hopefully we will be able to  
4 answer a lot of your questions either in this  
5 presentation or as we go along through the question and  
6 answer session.

7 My name is Joey Mahmoud. I'm the Senior Vice  
8 President of Engineering at Energy Transfer. We're going  
9 to go over a brief presentation, go over the scope, kind  
10 of the benefits at a state level, national level, and  
11 local level. And then we'll get into some specifics  
12 about the project and how it affects you as a potential  
13 landowner if the project was crossing your property.

14 And I apologize for being so close.

15 So who is Energy Transfer? I know we get that  
16 question a lot. You may not have heard of us before. We  
17 are new in South Dakota. But we are a very large  
18 corporation. We're a Fortune 500 company. Actually we  
19 are in the top 100 in the United States.

20 We're a master limited partnership. We have  
21 multiple companies under our organization, the main one  
22 being Energy Transfer Partners. Energy Transfer Partners  
23 is the parent company for Dakota Access Pipeline. And  
24 there's another partner to Dakota Access called  
25 Phillips 66. So both companies are very large in scope

1 and have a lot of experience in operating pipelines.

2 Energy Transfer has just over 71,000 miles of  
3 pipe. We're the second largest transporter of energy  
4 products, not electricity but energy products in the  
5 United States. So we have a lot of experience doing  
6 this.

7 As far as other products, we've been in natural  
8 gas, natural gas liquids. We process them. We  
9 fractionate them. We basically carry the product, or in  
10 this case crude oil, from the production region to the  
11 refining centers where that's made into product for the  
12 consumption by you and I.

13 Diesel, gasoline. It goes to the petrol  
14 chemicals and refineries that make the shoes that we're  
15 wearing and the tires on our vehicles. All of those kind  
16 of things are part of the value chain that's tied to  
17 crude oil.

18 This kind of shows who we are and where we  
19 operate to give you a sense of our company. We operate  
20 pipes that originate or span from the Arizona and  
21 California border all the way to Florida, from Texas up  
22 to the Sunbelt region, crossing through Illinois into  
23 Michigan, to the Detroit metro area, to the northeast  
24 U.S., and then as well as we're moving our pipelines to  
25 the Dakota regions with the Dakota Access pipeline.

1 Over all the project scope is really pretty  
2 basic in its nature. The scope and the objective is to  
3 take the crude oil that's being produced -- and, again,  
4 that's not by Energy Transfer or Dakota Access. We're  
5 transporters of the crude oil, but gathering that crude  
6 oil up in the Dakotas and moving it down to a center in  
7 Patoka, Illinois actually called Vernon, Illinois where  
8 it redistributes that crude oil for distribution to the  
9 existing refine in the Midwest and the Gulf Coast region.

10 That's where the majority of the refining  
11 capability exist in our country, the Chicago area into  
12 Ohio, down along the Gulf Coast. So that's where all of  
13 our fuels and oils and all of those things are made.  
14 They're existing, and they're looking for a source to  
15 fill those capacities with the crude oil in lieu of  
16 importing foreign source, unreliable crude.

17 This project moves domestically produced crude  
18 oil from the Bakken to the refining centers for you and I  
19 to consume.

20 The project is proposed to move approximately  
21 450,000 barrels per day. That's the initial volume  
22 what's prescribed today. It's a common carrier pipeline.  
23 So 10 percent of that volume, of the 450, is reserved  
24 capacity or walk-up capacity. That means can take  
25 capacity to ship on it, but the remainder is sold at this

1 time.

2 There is the ability to expand it to 570,000  
3 barrels, maybe a little more. But right now we're at  
4 450,000.

5 The project scope over all is 1,134 miles in  
6 length. There's six gathering stations up in the Bakken  
7 area to gather or pool that crude oil, and then it  
8 transports it literally in kind of a southeasterly line  
9 to Illinois where then it's redistributed.

10 In South Dakota alone there's around 274 miles  
11 of pipe that's all 30-inch pipe. So there's all the  
12 smaller stuff is in the gathering field up in the  
13 Dakotas.

14 This map just kind of shows the general outlay.  
15 So it starts in that northwest corner where the Bakken is  
16 very active, and then it proceeds in a southeasterly  
17 direction through South Dakota into Iowa and then  
18 eventually into Illinois.

19 This map is just a closer up view of it how  
20 traverses the eastern part of South Dakota.

21 UNIDENTIFIED SPEAKER: Can you zero it in and  
22 show Sioux Falls?

23 MR. MAHMOUD: We're not on the question and  
24 answer yet, sir. I apologize. And, no, I do not have a  
25 map of that.

1           However, I do have the length where it crosses  
2 through the various counties. So here around Sioux Falls  
3 we're about 24 miles. This represents the miles across  
4 the state that sum up to -- and I know the Commission  
5 mentions 272. something.

6           I rounded up the numbers. That's why it says  
7 274. I just got rid of the decimals and rounded up. So  
8 it's about 274 miles of length, and these are the miles  
9 per county.

10           So over all the project is a 3.8 billion dollar  
11 investment into our economy. That includes all the  
12 construction costs, the material costs, the labor to  
13 build the project. That's the overall economic impact.

14           In the State of South Dakota that translates to  
15 about 820 million dollars of investment directly into the  
16 state. That's the cost of materials, the pipe, the pump  
17 station in Spink County, as well as the construction  
18 labor. Everything that's entailed or part of the project  
19 in South Dakota is about 820 million dollars, pretty good  
20 boost to the local economy here.

21           The big benefit from a national level, though,  
22 is to move this reliable, local domestic crude oil from  
23 the Bakken that we're producing in our country from that  
24 production area to the refining centers. That's  
25 important to everybody in this room because that's where

1 we're going to be securing our future for energy  
2 independence.

3 I know a lot of people talk about that, but this  
4 is actually -- this is how we do it. We have to build  
5 these infrastructure projects to allow for us as  
6 consumers to have access to that oil or to the natural  
7 gas or whatever it is, in this case crude oil, because  
8 without it then we don't have access to it and then we're  
9 stuck relying upon foreign sources that are very  
10 unreliable.

11 And we're all seeing this as the prices can be  
12 manipulated, the sources, supply and demand. So this is  
13 a very important project not only for my company but for  
14 everybody in the room to get access to that crude.

15 Some of the other things that are important  
16 benefits, that a pipeline is the safest form of  
17 transportation out there. Statistically proven, it's the  
18 safest form of transportation time and time again. When  
19 you compare it to trucks or compare it to a rail, it's  
20 intrinsically safer because it decreases the opportunity  
21 of interaction between you and I and those commodities  
22 being moved by rail or trucks. So it's a safer mode of  
23 transportation to improve the safety to the public.

24 The other thing it does, and for those that farm  
25 and you see the big piles of either wheat or corn on the

1 ground waiting to be transported, this will free up rail  
2 capacity by taking four to six crude-carrying trains off  
3 of their rails. And that's not a big number, but it's  
4 something that will actually benefit the local farmer  
5 that in South Dakota that's pretty important to free up  
6 that capacity from crude oil to commodity crop  
7 transportation. So those are just some benefits to our  
8 country.

9           The other thing it does, it provides somewhere  
10 between 10 and 12,000 construction jobs. Construction  
11 jobs are temporary in nature. When you build a house it  
12 only takes so long. This pipeline will take somewhere  
13 between six and nine months to build.

14           So although it's a temporary construction job,  
15 it's actually sustaining that construction business.  
16 Those guys that build these things, they're in it because  
17 that's what they do for a living. So it's 10 to 12,000  
18 jobs that we're sustaining as we're moving forward.

19           In South Dakota that translates into about 4,000  
20 of the 12,000. Roughly 50 percent of those will come  
21 from what are called the local union halls. We have  
22 entered into an arrangement with the unions to provide  
23 very skilled, highly skilled, trained staff to build this  
24 pipeline. They're the best in the country.

25           We're working with them to identify the right

1 resources to train those resources so when we build it  
2 it's very safe, the construction is conducted in a manner  
3 that's very professional and safe to the residents, as  
4 well as it's a very high quality product at the end.

5 50 percent of those jobs will come from the  
6 local union halls. And that means there's not 50 percent  
7 of those that will come from South Dakota because there's  
8 not enough construction folks in the state to support it.  
9 However, it will come from North Dakota, South Dakota,  
10 Minnesota, from that local region that's covered by those  
11 halls. So it will be local work force from a regional  
12 perspective.

13 Overall the pipeline will generate somewhere  
14 between 40 and 50 jobs. Here in South Dakota that's  
15 about 12, with the majority of those in Spink County  
16 where our pump stations are located because that's where  
17 most of the folks are required to operate that pump  
18 station.

19 Overall the pipe's buried. It's buried  
20 underground. You don't see it. Once the pipe's in the  
21 ground, you typically don't know it's there. So unless  
22 there's an above ground valve or you see a pump station  
23 in Spink County, you'll never know its presence. It's  
24 buried and out of the way. So it doesn't take a lot of  
25 people to operate the pipe once you put them into

1 service.

2 As far as project benefits to the State of  
3 South Dakota, when you look at the consumption of goods  
4 and services and you look at the materials that we bring  
5 into the state and when you bring them into the state we  
6 actually pay consumption taxes no matter where the  
7 material is produced or made.

8 When it comes into South Dakota that's its final  
9 distinction. We pay sales tax on those goods and  
10 services. When you look at that from an 820 million  
11 dollar perspective and the portion of that that's  
12 materials, that tax benefit's about 36 million dollars.

13 Also what's not in here, there's a contractor's  
14 excise tax that the contractor will actually pay for  
15 their portion of the project that goes into the general  
16 fund, and that's about 16 million dollars. Of course,  
17 that's something we pay to the contractor, but that's a  
18 benefit that's not on this slide but it's real.

19 The other thing is ad valorem taxes. We get a  
20 lot of questions about taxes. I'm not a tax expert.  
21 Nobody here that we brought is a tax expert. However,  
22 what I can tell you is this is our first year estimate.

23 So operation year one, which is in reality 2017,  
24 we calculate the tax value based on what's called the  
25 unit value or the cost of the asset that was put into

1 service. After year one that number will change. And  
2 people have asked, you know, what is that tax going to  
3 be. I can't tell you that because it changes based on  
4 the year and the tax laws and the tax rate.

5 However, the formula is different after year  
6 one. Year one is strictly based on what we call the  
7 value of the asset for its installed price. After that  
8 you get into operating history, other factors that go  
9 into the calculation of the tax.

10 It is done at the state level, but it is based  
11 on the tax rates on a county level. But it is assessed  
12 centrally or at the state level.

13 I hope that answers some of your questions.  
14 Much more than that I probably cannot answer, nor can any  
15 of the rest of us. But there are formulas. It is based  
16 on the laws of the State of South Dakota.

17 I guess the last thing on the slide is if you  
18 look at the miles in the State of South Dakota, the value  
19 of the property that we will be asking for an easement,  
20 and our calculation is it's roughly about 47 million  
21 dollars of payments to the landowners for easements,  
22 temporary or permanent, as well as damages to crops and  
23 other damages to those properties.

24 So schedule. We introduced this project to the  
25 PUC Staff last July. We had open houses that were in

1     October. We filed our Application in December. We're  
2     asking for a permit in the third quarter of this year.

3             That doesn't mean we're going to get it. The  
4     State actually has more time than that, but we've asked  
5     for it by then. We'll see if that happens. There's no  
6     promises made by anybody. And if we get it, we do. If  
7     not, maybe it will be the fourth quarter. That's okay.

8             We are planning on starting construction as soon  
9     as we get our permit so that could be the latter part of  
10    this year or the first part of next year with in service  
11    by the end of 2016. So by the end of 2016 we will  
12    hopefully be moving crude oil from the Bakken to  
13    Illinois.

14            As we move from point A to point B -- and a lot  
15    of people ask us this question, and the next couple of  
16    slides I hope to preempt some questions or at least set  
17    the framework for those.

18            A lot of folks ask, you know, why are we on your  
19    property or how did our route end up on my property or  
20    why are you in my backyard or across my field?

21            When we look at this we go through a very  
22    detailed analysis. And it is very detailed. It's all  
23    about you look at it from a very big picture. You have  
24    to start somewhere. You have to end somewhere.

25            The other thing is the pipe has to be

1 contiguous. You cannot have a gap in the pipeline to  
2 transport that product. So at the end of the day it has  
3 to connect. And although it may not be the best thing  
4 for somebody to have a pipe on their property, there are  
5 typically reasons, always reasons, why we end up where we  
6 do.

7           When we start we look at it from the very big  
8 picture, how to get from point A to point B. We factor  
9 in -- we go through what's called the siting analysis  
10 that's actually part of the PUC process where we look at  
11 all the various constraints, environmental constraints,  
12 residential, populated areas, city centers. It could be  
13 cultural resources. It could be a lot of things.  
14 Irrigation pivots.

15           So we look at all of those constraints. We put  
16 them together, and we come up with a route. A lot of you  
17 have seen our surveyors out in the field doing cultural  
18 surveys, environmental or civil surveys. We then send  
19 those people into the field to survey.

20           We walk every inch of the pipe, by the way. And  
21 so we pick up all of those different constraints, we  
22 factor that into our pipeline route, and we shift it to  
23 avoid constraints as best we can.

24           At the end of the day the route is supposed to  
25 be the least intrusive route to get from that point A to

1 point B that avoids the majority or the most amount of  
2 stakeholders or impacts to their environment that we  
3 possibly can and still achieve the goal of the project of  
4 connecting the dots.

5 I hope that makes sense. And these are some of  
6 the things that we look at when we're considering the  
7 route.

8 As far as right of way goes, I know we've  
9 started talking to people about right of way and  
10 permanent easements across your property. We're asking  
11 for and requesting and purchasing a 50-foot-wide  
12 permanent easement, plus anywhere from 25 feet to  
13 100 feet of temporary workspace to actually build the  
14 pipeline.

15 At the end of the day the easement will be  
16 50 feet. The restrictions that come with that easement  
17 is you cannot put any permanent structure in that  
18 easement. Other than that, you can farm it, your cattle  
19 can run on it. Whatever the previous land use was,  
20 except for permanent structure, you can still utilize  
21 that piece of property. As well as you cannot plant  
22 trees in the right of way.

23 We have to be able to evaluate and look at that  
24 right of way to make sure that there's nothing  
25 encroaching onto the right of way from whatever

1 structure, as well as from our leak detection program.

2           When we talk about the pipe itself in that right  
3 of way it will be buried a certain depth depending upon  
4 the type of land. So in areas that are  
5 nonagricultural -- so it could be just open land that's  
6 not farmed, or maybe it's pastureland of some types. The  
7 minimum depth will be 36 inches or 3 feet. In ag areas  
8 where it's actively farmed, cultivated or row crops,  
9 those areas will be -- or hay land, I should add. Those  
10 areas of pipe will be buried a minimum of 48 inches or  
11 4 feet deep. Across roads, streams, other sensitive  
12 areas it will be buried a minimum of 5 feet or 60 inches.

13           Those are all minimums. So it could be deeper,  
14 but it will not be less than those depths. I hope that  
15 makes sense for everybody.

16           When we're talking to each of you or to the  
17 people that are affected we tend to not only purchase  
18 that right of way but also to pay for damages up front as  
19 best we can predict. So we intend to pay for year one  
20 full 100 percent of the crop loss. Year two, 80 percent,  
21 year three 60 percent. We anticipate construction will  
22 last or occur in that first year. We want to start and  
23 go into service in that first year.

24           The construction restoration, though, could last  
25 into year two or three as we're restoring that property.

1 But construction will be isolated to that one year and  
2 actually a lot lesser time frame when you're actually  
3 seeing equipment on the ground as we're installing that  
4 pipe. It could be 30 to 90 days, somewhere around there,  
5 to actually put the pipe in the ground depending on  
6 weather. But all major impacts will be within that first  
7 year.

8           Offers are going to be made based on market  
9 studies, just like you do for an appraisal for a house.  
10 You take the data, you look at the sales values for  
11 comparable properties in the area. That's our starting  
12 point. Where we end up, they're individual negotiations  
13 based on land-specific conditions.

14           So this diagram, what it shows is the typical  
15 right-of-way configuration. I hope everybody can sort of  
16 see that. Two important parts of this slide that I just  
17 want to point out. On the far right side there's a mound  
18 of soil that's built up. That's the topsoil.

19           So the first thing we do when we go into the ag  
20 areas is we strip that topsoil down to the depth of the  
21 topsoil. We take that soil, we move it over outside of  
22 the construction work area to preserve and protect that  
23 soil throughout construction.

24           It's also the last thing we do is we put that  
25 soil back after we're done with construction, again,

1 protecting that upper layer of the soil because that's  
2 the most productive zone, and that's where all the crops  
3 actually grow. So the intent is to preserve the valuable  
4 topsoil horizon during construction so we don't  
5 negatively impact the future production or yield of that  
6 field.

7           The other important part is where the pipe  
8 actually sits, it's that little red circle. And if you  
9 have drain tile in your fields, and I know a lot of you  
10 do, the intent is to actually bury the pipe to have  
11 2 foot of separation between that pipe and the drain  
12 tile.

13           If we know where the drain tile is at up front,  
14 that actually helps out quite a bit. If not and we do  
15 encounter it during the field, we put that pipe no less  
16 than 2 feet during the separation.

17           Some of the common questions we get is what  
18 happens if the drain tile's not there today but will be  
19 in the future. The answer is if you know where you're  
20 going to put a drain tile, if you have a plan, a sketch,  
21 a drawing, or you're working with a contractor, if you  
22 will provide that to us, we will incorporate that into  
23 our design, and we will pre-lay that pipe deeper to  
24 ensure that there's 2 foot of separation for when you  
25 come in and put that drain tile in.

1           If we don't know about it, that's okay. You can  
2 still put drain tiles across the pipeline -- or across  
3 that easement. There just may not be 2 foot of  
4 separation. But there's no -- there's no limitation of  
5 putting the pipeline or drain tiles across each other.  
6 We would just prefer to have 2 foot of separation. I'm  
7 sure you would too for interference.

8           As part of that, we're developing or have  
9 developed and are distributing what we call an  
10 Agricultural Mitigation Plan. This spells out everything  
11 from how we're entering the field, how we'll construct,  
12 restore the field. There's rock. If we bring rock into  
13 the soil, we'll remove the rock and what the size of  
14 those rocks are and how it will look afterwards.

15           I'll tell you the basic answer to that is we  
16 will remove the rock that we bring up from the subsoil  
17 so it will match the surrounding conditions once we're  
18 done.

19           It also talks about the topsoil segregation, the  
20 drain tiles, restoration. Decompaction is a big issue.  
21 We will decompact the soil, the subsoil as well as the  
22 topsoil. We have hired two agronomist outfits to help us  
23 through that.

24           So we build pipes. We know that. We're not  
25 farmers. Some of us maybe, but I'm not. But our

1 strength is in building that pipe. So we've hired a  
2 outfit called Key Agricultural Services and another  
3 outfit called DuraRoot. They're regional experts in ag  
4 issues. You all may have worked with them in the past.

5 We've hired them to be the liaisons to help us  
6 through those issues so when we're talking to the farmers  
7 that we get it right.

8 You know, the key is to get the restoration done  
9 right the first time so we don't have lingering and  
10 long-term problems. Which if we do for whatever reason,  
11 I gave you our commitment that we'll work through those  
12 issues and restore the land, but we really want to do it  
13 right the first time.

14 This is the last topic before I sit down and  
15 start taking questions. Not last in importance, though.  
16 It's the most important topic, and why it's last is  
17 because this is what I want to leave you with.

18 Our commitment to safety, that's our number one  
19 goal. Hands down, our number one goal. We take it very  
20 serious. We know this is a pipeline that's coming across  
21 your property. Our intent is to do it safely, to protect  
22 people, protect personal property all along the way.

23 To do that we have various safety systems. And  
24 I'm just going to go over a few of them. One is we  
25 monitor this pipe 24/7, 365. There's not a minute or

1 second that goes by where somebody is not going to be  
2 evaluating this pipe. We do it locally via our  
3 operators. We have remote control where we're  
4 communicating with the pipe. We have sensors. We have  
5 pressure, temperature, flow control.

6 We have operators sitting at control desks that  
7 actually can operate the pipe remotely. That means they  
8 can shut valves. They can increase the flow. They can  
9 decrease the flow. They can operate that pipe from our  
10 control center at all times. And there's somebody that's  
11 always there. No matter what, there's somebody operating  
12 that pipe.

13 We do that via what's called a SCADA system.  
14 The SCADA system is the way we communicate. We  
15 communicate via satellite. We put in these SCADA  
16 systems. Actually we subscribe to a service. We put in  
17 a satellite backup, either landlines or so, so we always  
18 have some form of communication. If we lose  
19 communication, we have local people that can operate that  
20 pipeline.

21 The other thing we have is what's called a  
22 Computational Pipeline Monitoring System. It's a complex  
23 leak detection system that's designed, and it gets  
24 smarter as you operate the pipe. So it's going through a  
25 lot of algorithms that says the pipe should be doing this

1 at this particular minute. When something doesn't  
2 operate right, something goes wrong, it gives us a  
3 signal. Our operators can take an action, and we can  
4 deploy resources. That goes on every day, every second  
5 and as part of our normal operations.

6 The other things we do is we fly this pipeline  
7 every 10 days. We have an airplane in the air that flies  
8 about 500 feet looking at our pipelines. And that's for  
9 a couple of reasons.

10 We're looking for encroachments. And  
11 encroachments are when somebody puts a garage or a  
12 swimming pool or a house or something on our right of  
13 way. That happens a lot actually, and you would think  
14 that it wouldn't. People forget there's a pipeline there  
15 because you don't see it. It's out of sight and out of  
16 mind.

17 So we look for those things to work with  
18 landowners to make sure those structures are not on our  
19 right of way. We also are evaluating it for leaks,  
20 making sure it's operating correctly.

21 We participate in the One-Call System. So for  
22 you that have either had to dig or when you're farming  
23 you have to drill a well or whatever you're doing, you  
24 call 811. We're part of that. So if you do call 811, we  
25 will send out someone to mark in a pipeline to ensure you

1 don't hit it and it's safe.

2 We provide public education to the public as  
3 well as to the emergency response organizations. Every  
4 year we invite those. We participate -- we invite those  
5 organizations, and we participate in presentations as  
6 well as we go over our Emergency Response Plan. We do  
7 that every year to help educate the public as well as the  
8 emergency responders to ensure the safety of the public  
9 and the private property.

10 Last, we will develop -- and this isn't  
11 developed yet. We have company wide plans and we have  
12 plans for other pipelines but we will develop a  
13 project-specific, pipeline-specific, by state,  
14 Emergency Response Plan and one that covers the whole  
15 pipeline that spells out how we will respond in an  
16 emergency.

17 It has everything from the operational controls  
18 to where our response equipment is, who to contact, when  
19 to contact, everything that we would need in an emergency  
20 situation as best we can predict will be in this plan.

21 That plan is submitted to the Federal  
22 Government. It's required by PHMSA, which is the  
23 Pipeline and Hazardous Materials Safety Administration.  
24 That's part of the Department of Transportation. We  
25 provide it to the State for the State level plans.

1           We provide portions of it to the emergency  
2 responders for the section that's apply to them. We  
3 train on it every year. We drill on it with the  
4 emergency responders at designated times.

5           So this is the plan that we operate by. In the  
6 event we do have an issue, we can respond in a timely  
7 manner to minimize impacts.

8           So with that, thank you very much for your time.  
9 We're here to answer questions if you do have them.

10           And I'll turn it back over to the Commissioner.  
11 Thank you.

12           CHAIRMAN NELSON: Thank you. I want to say to  
13 all of you thank you for your patience as our Staff  
14 worked with Ramkota staff to get some more chairs in here  
15 and hopefully make you as comfortable as you can be for  
16 the time we're going to be here.

17           We've allocated about three hours for the  
18 hearing tonight. We took a few minutes to explain the  
19 process to you. The company has just taken some time to  
20 explain the project to you. And the rest of the time  
21 tonight is yours. It's your opportunity to ask  
22 questions, to give comments, to give feedback.

23           Just a couple of things I want to say before we  
24 open up the floor. First of all, again, when you rise to  
25 speak give us your name and spell your name. And out of

1       deference to our court reporter, please do not speak like  
2       an auctioneer. She wants to be able to keep up.

3                 Secondly, again, we've got only so much time  
4       tonight and we've got an awful lot of people here and I  
5       suspect a lot of you want to say something tonight. And  
6       so be respectful of each other timewise to make sure that  
7       we can hear from everybody that's come here tonight to  
8       speak.

9                 With that, we've got a couple of wireless mics.,  
10       and we're going to do -- this part we are going to do  
11       like an auction. If you want to speak, you stick your  
12       hand in the air and one of these gentlemen will recognize  
13       you and get you a mic. and you can speak from where  
14       you're at.

15                First hand right there.

16                MR. JOHNSON: Thank you, Commissioners. My name  
17       is Aaron Johnson, A-A-R-O-N, J-O-H-N-S-O-N. I hail from  
18       Madison, South Dakota and Lake County.

19                While the proposed pipeline would affect me and  
20       my family's third generation organic family farm  
21       directly, I would like to address some of the concerns of  
22       all South Dakota residences and landowners.

23                Number one is liability. Dakota Access, LLC is  
24       a limited liability company. Any negligence on their  
25       part is limited to Dakota Access itself and not its

1 parent company, Energy Transfer, nor any other entity.  
2 If the pipeline fails, and there are plenty of examples  
3 of these type of pipelines failing, and cleanup costs  
4 exceed what Dakota LLC can pay, who is going to end up  
5 paying?

6 We need legal assurances that this  
7 responsibility will not be placed on South Dakota as a  
8 whole or the landowners affected by the pipeline.

9 Number two is performance bond. If the PUC  
10 approves this pipeline, one of South Dakota residences'  
11 main concerns is that Dakota Access be required to  
12 provide assurance that the highest environmental safety  
13 and health procedures are required and followed through a  
14 performance bond and not through the good word of the  
15 company itself.

16 A performance bond would require Dakota Access  
17 to meet predetermined guidelines that would preserve and  
18 protect the well-being and safety of South Dakota, its  
19 resources, and its people. The performance bond should  
20 be in place for each and every phase of this project from  
21 start to finish.

22 Number three is a decommission bond. At some  
23 point this pipeline will be old technology, and it will  
24 be worn out. It would be wise for the PUC to require a  
25 decommission bond for removal and cleanup of the project

1 when the pipeline is retired and/or fails to meet minimum  
2 safety and production guidelines.

3 In other words, South Dakota does not want a  
4 pipeline that's trickling oil to its destination just so  
5 Dakota Access doesn't have to go through the work of  
6 removing the pipeline.

7 Number four is payment. Dakota Access has  
8 offered a one-time payment to the landowners.  
9 South Dakota landowners and the PUC should not allow such  
10 a disservice to happen. This would be equivalent to a  
11 farmer paying a one-time rental fee on lands rented in  
12 exchange for all the production of unsaid years to come.

13 Landowners and the PUC should demand annual  
14 royalty and production payments and an annual lease  
15 payment.

16 And the fifth and final point I'd like to bring  
17 up is our drainage system. The pipeline would sever  
18 potentially hundreds of drainage tile lines. In the  
19 event of a leak, the contents within the pipeline can  
20 seep into the tile lines and contaminate downstream land,  
21 aquifers, creeks, and rivers. Case in point, Glendive,  
22 Montana.

23 Just for example, my family farms one quarter  
24 of land in the path of the proposed pipeline and nearly  
25 20 to 30 drainage tile lines would be severed. This

1 particular quarter of land is part of more than four  
2 quarters of land that has connected drainage tile. There  
3 is also a clay tile line nearly 100 years old that would  
4 be cut.

5 The pipeline corridor would require the drainage  
6 lines to be cut and then spliced. The settling of the  
7 dirt in the pipeline corridor would ruin the constant  
8 slope of the drainage lines and thus essentially plug the  
9 tile line and result in many frustrated farmers and lost  
10 production.

11 What protections are in place for farmers when  
12 our lands are flooded, tiles are broken, and crops are  
13 destroyed because the pipeline has dismantled our  
14 drainage system?

15 I respectfully submit these concerns to the PUC  
16 for further consideration. Thank you.

17 CHAIRMAN NELSON: Thank you, Mr. Johnson.  
18 There's a couple of points that I'd like to ask the  
19 company to respond to specifically, and then I want to  
20 make a comment or two about the bonding question.

21 Joey, if you would talk specifically about his  
22 first question about the structure, the corporate  
23 structure of your company.

24 MR. MAHMOUD: Sure. Thank you.

25 Our company -- so number one, just because it's

1 an LLC does not mean and is not true that we do not have  
2 liability for this company, project, or for the contents  
3 of that pipeline.

4 There are federal laws that require us and hold  
5 us accountable for anything that would happen in regards  
6 to this project.

7 An LLC does not give you a free pass. Many of  
8 you that have farms have LLC behind your name of your  
9 farm. You are not free of liability. I promise. Nor  
10 are we. So that statement is just simply not true.

11 Our company is an LLC. We do form -- we did  
12 form this because it's a joint venture. We have two very  
13 large parties that own this project. 75 percent Energy  
14 Transfer, 25 percent Phillips 66.

15 We have that structure set up to accurately and  
16 efficiently operate and manage this company from a  
17 business standpoint, not from a liability. I hope nobody  
18 walks away here thinking that we have some way of a free  
19 pass. It's simply not true.

20 And we have heard that from other folks, and I  
21 hope everybody understands the distinguishing part  
22 between an LLC and who's truly liable. Because I'll tell  
23 you we are 100 percent liable, not the landowner, not the  
24 government, not anyone, but us.

25 If we're transporting it and we have an issue,

1 we'll take care of it. If we don't take care of it, I  
2 promise the government will. There are programs in place  
3 that we pay into.

4 We pay a fee. And every transporter of oil in  
5 this country, by the way, pays an 8 cent per barrel fee  
6 into a fund that's managed by the government so that in  
7 the event we don't stand up and take care of our  
8 responsibility, the government would, and then they would  
9 seek those damages back from our company.

10 That's how it works and that's how we protect  
11 the public and that's how the government protects the  
12 public.

13 CHAIRMAN NELSON: Thank you.

14 Let me speak just a little bit about a couple of  
15 your bond suggestions.

16 Understand that throughout this process the  
17 authority of the PUC is guided and limited by state law.  
18 There is a specific state law that says we have the  
19 authority to require bonding for this type of project so  
20 far as protecting and making sure that public roads and  
21 public facilities are properly remediated after the  
22 project, if for some reason the company would not do  
23 that.

24 That would be something we'll be considering as  
25 we go throughout this.

1 State law does not provide any specific  
2 authority to us to provide the types of bonds you also  
3 referred to, the performance and decommissioning bonds.  
4 So that's not something that's specifically spoken to in  
5 state law.

6 Nor is the payment scenario. You talked about  
7 annual payments as opposed to a one-time payment. That's  
8 not something that's specified in state law either so  
9 that's just another issue that, you know, the law hasn't  
10 given us the authority to enter into that area.

11 Your other comments, though, we've taken those,  
12 and we appreciate those. As I think you know, we've  
13 heard some of these already as we've been to some of our  
14 other meetings, and we appreciate that.

15 Who's next? We've got one over here.

16 MR. KRIENS: I'm Travis Kriens from Hartford,  
17 T-R-A-V-I-S K-R-I-E-N-S.

18 Looking at your 2013 Annual Report it says there  
19 may not have enough cash reserves to cover any  
20 liabilities. It says we may incur substantial  
21 environmental costs and liabilities because of the  
22 underlying risk inherent to our operation. Although we  
23 have established financial reserves for our estimated  
24 environmental liabilities, additional contamination or  
25 conditions may be discovered resulting in increased

1 costs, liabilities for natural resource damages and could  
2 be a -- substantially increase our cost for sites  
3 projects. Accordingly, we cannot assure you that our  
4 current reserves are adequate to cover all future  
5 liabilities, even for currently known contaminations.

6 So has anything changed since the 2013 report?

7 MR. MAHMOUD: Well, number one, I have no idea  
8 what you're reading from, nor can I validate the source.

9 But I'll tell you we do have the financial  
10 resources. We are a very big company. We're a  
11 multibillion dollar company. If we should fail to  
12 provide those assurances, we have insurance in place to  
13 step in.

14 And as I have already mentioned, the government  
15 actually has that program to step in if we fail that then  
16 they would pay and then we would have to reimburse the  
17 government, whatever that would look like. So I don't  
18 know what part you're quoting from.

19 MR. KRIENS: Page 44 and 45. It's on your  
20 website.

21 MR. MAHMOUD: Like I said, I can't answer it.

22 CHAIRMAN NELSON: Sir, I want to interrupt for  
23 just a moment.

24 Commissioner Hanson, would you like to make your  
25 point?

1           COMMISSIONER HANSON: I just would like to you  
2 provide that information to the Public Utilities  
3 Commission as well.

4           MR. KRIENS: It's on their website.

5           COMMISSIONER HANSON: It's on their website, but  
6 if you would provide that.

7           Do you have the information right now that you  
8 can put it on the record?

9           MR. KRIENS: Yeah. Right there.

10          COMMISSIONER HANSON: Well, yeah right there  
11 doesn't -- she can't type yeah right there.

12          So if we can get that, please. I'd like it on  
13 the record.

14          Thank you.

15          CHAIRMAN NELSON: Other questions.

16          Almost looks like a County Commissioner.

17          MR. SCHMIDT: I don't know what County  
18 Commissioners actually look like. Jim Schmidt, J-I-M  
19 S-C-H-M-I-D-T. And I do get the privilege to serve as a  
20 Lincoln County Commissioner, but I am not here speaking  
21 for the Commission.

22          I am here on the behalf of several landowners  
23 that have called and asked to be -- asked for my comments  
24 tonight.

25          Members up there, I think I have listened to

1 your presentation three times, and you do a good job.  
2 The one thing I would comment on is I wish you would have  
3 held these kind of meetings prior to this meeting tonight  
4 so that everybody could have been adequately informed.

5 I speak not only as a Commissioner but I also  
6 speak as someone who has a pipeline going through the  
7 extent of my farm, which is the Lewis & Clark Pipeline.  
8 So I'm well aware of what happens to the land afterwards.

9 And if any of you who have pipelines you want to  
10 come to a mile and a half east of Lennox and see a  
11 pipeline, what it really does to the soil, regardless of  
12 what anybody says, it has a detrimental effect.

13 I'm not going to go into the details about  
14 transparency, but I do have a problem and I have to tell  
15 you that. You guys do a good job. And the political  
16 spin is what we get the first year or the first or second  
17 year.

18 My concern is what do we get in the fifth and  
19 sixth and seventh year and eighth year on down the line?  
20 Because it will be here a long time.

21 I'm very happy that you did move your pipeline  
22 not going through the heart of economic development right  
23 south -- southwest of Sioux Falls. But my concern -- and  
24 this is to you, members of the PUC. I wouldn't want your  
25 job. However, they're going to be asking for eminent

1 domain because that was determined when they testified in  
2 front of the Lincoln Minnehaha County Commission and the  
3 Sioux Falls area.

4 My one comment on eminent domain, and I do  
5 understand that, eminent domain is a useful tool  
6 providing that it's something like water or usefulness.  
7 But if you gentlemen or if any elected official uses  
8 eminent domain, we face the voters for our actions. They  
9 have -- they have a recourse.

10 Granting eminent domain to a pipeline company or  
11 to others, we have no really recourse except maybe going  
12 through an expensive court trial. So I ask you very  
13 carefully before you grant this because this is the --  
14 that's it. Once they got that. And they have used that.  
15 And you want --

16 I think you could raise the hands of how many  
17 people have been contacted, at least in Lincoln County,  
18 and talked about how they're going to provide them with  
19 the payment, and if they don't take it, of course, they  
20 have the resource of eminent domain, a club over their  
21 head, and they can do pretty much.

22 So I ask you to be very cautious in that regard,  
23 and I hope -- the other thing that I would like -- one  
24 more question, sir.

25 I don't argue about the value of pipeline. I

1 don't argue about that at all. But I wish you would  
2 address pressure.

3 Because I think somebody made mention what's  
4 going on in Montana. So if we have a leak in Lincoln  
5 County, how fast you can shut that off, if it's one valve  
6 or two valves, what's the flow rate, what's the  
7 temperature, but under what pressure does this flow?

8 Thank you.

9 CHAIRMAN NELSON: Jim, thank you. Appreciate  
10 those comments.

11 Let me address the eminent domain question, and  
12 then I want the company to address his last questions.

13 Let me be very, very clear. This Commission has  
14 no authority under state law to deal with eminent domain.  
15 As I said in our beginning comments, we can do one of  
16 three things with this Application. We can grant it, we  
17 can deny it, or we can grant it and attach conditions to  
18 it that the company must comply with.

19 Eminent domain is a function of state law, and  
20 under state law this type of facility has the ability to  
21 use eminent domain if they wish. That's a function of  
22 state law.

23 There are other states where the Public  
24 Utilities Commission gets to make that kind of decision,  
25 does this company get to use eminent domain or not.

1 South Dakota's not one of those. We don't get to make  
2 that choice. So I just want to be very clear as to what  
3 our authority is and is not.

4 With that, the company may want to make a  
5 comment about eminent domain and certainly address the  
6 last questions we had about pressure and so forth.

7 MR. MAHMOUD: Thank you.

8 Eminent domain is a tough topic for a lot of  
9 people. Our right-of-way agents I would hope are not  
10 threatening anybody. If they are, I sure would like to  
11 know. That's not our way of doing business.

12 I can tell you, and we've told the last group --  
13 we got a similar question -- I run a lot of our projects  
14 as a company. Big that typically begins with a B for  
15 dollars in billion, I run those. And I'll tell you after  
16 2,000 miles for the work that I personally have done for  
17 our company, we haven't condemned anyone. That's a fact.

18 So when people say that we condemn people, we  
19 may condemn people once in awhile because we have no  
20 choice. As I mentioned earlier, the project has to be  
21 contiguous. So there cannot be a holdout somewhere in  
22 the middle or along the way because then the project  
23 can't go through, and that's a negative effect to the  
24 people, to us, to a lot of folks along the way that would  
25 benefit. We all benefit from this project.

1           So although we will have and by state law we do  
2 have the authority of condemnation, or eminent domain,  
3 based on our definition of our company and our local  
4 providings of transportation service, that's our last  
5 resort.

6           We do not like to employ eminent domain. And  
7 that's a tough subject to talk about, but it's the  
8 absolute last thing that will happen, if we cannot reach  
9 an agreement, we come to an impasse.

10           And it's not that we can't negotiate and after  
11 one or two attempts we say we're going to go to court.  
12 We have time to work this out. I hope we can work it  
13 out, and I intend that we do. But at the end of the day  
14 at some point we all have to move forward, and if we do  
15 have to employ eminent domain, it's the absolute last  
16 thing. So I don't want anybody to think that's our  
17 negotiation tactic because it's not.

18           As far as the pressure goes, this pipeline will  
19 operate at 1,440 pounds of pressure. That is a lot of  
20 pressure. Where we do have sensitive resources and we do  
21 have, say, a water body or a -- a public drinking supply  
22 source or well protection area, which we did go around  
23 all of those, but say we do cross a river.

24           We have valves on each side of those sensitive  
25 areas so we can isolate those areas so if we did have a

1 leak for whatever reason, we can minimize those impacts.  
2 We can trigger the closure of those valves remotely  
3 within seconds. They take three to five minutes to  
4 close, depending on the valve and what's happening at  
5 that particular time. But it's very quick. I know  
6 that's not instantaneous, but it does minimize those  
7 impacts.

8           And a leak on a pipeline, although we have seen  
9 some recently, they are very rare. When you look at the  
10 amount of pipes, we have 71,000 miles of pipe. Although  
11 we do have leaks every once in awhile, it's not a common  
12 occurrence. And when it does happen we take care of our  
13 business.

14           MR. LEROHL: My name is Brian Lerohl, last name  
15 spelled L-E-R-O-H-L, and I have a question about the  
16 construction.

17           I assume that over the entire length of the  
18 pipeline, that it's going to be done in many segments  
19 simultaneously. And I was just wondering how many  
20 segments you're going to do at one time?

21           MR. MAHMOUD: Thank you.

22           We will have anywhere between 11 and 13 segments  
23 or what we call construction spreads. Somewhere between  
24 10 and 12,000 people. And there will be probably either  
25 three -- two to four, I should say, two to four

1 construction spreads in the State of South Dakota.

2 MR. LEROHL: Okay. Thank you.

3 MR. KILMER: My name is Tim Kilmer. I have a  
4 water management company in Beresford, South Dakota. We  
5 put in tile.

6 CHAIRMAN NELSON: Can you spell your name,  
7 please.

8 MR. KILMER: T-I-M K-I-L-M-E-R.

9 We have a water management business, and we  
10 could benefit a lot from -- I'm for the pipeline. I  
11 think the project is a good thing from an economic  
12 standpoint. Some people call it temporary jobs, but for  
13 us, I mean, we do contract work. Temporary jobs are what  
14 we do.

15 But my question is what process are the tile  
16 lines repaired? Is there a time limit how fast that a  
17 running tile line can be repaired? And if it's past that  
18 time limit, will the tile lines be completely replaced  
19 because of mud that has entered the line and may not ever  
20 get cleaned?

21 And if there's lines missed that we didn't --  
22 that weren't noticed and damaged or collateral damage  
23 from after two years or longer that the lines sag, is  
24 there a time limit from when those lines will not be  
25 covered or payment applied?

1 MR. MAHMOUD: Thank you.

2 As far as timing goes, we intend, and as part of  
3 our Agricultural Mitigation Plan, we have several  
4 proposals on how to cross drain tiles. It's very  
5 specific to the landowner and how they want us to cross  
6 and prescribe. Some people have an opinion; some people  
7 do not.

8 We're working with tile experts. You could be  
9 one of those if you install those tiles. Or other  
10 contractors as well as Key Agricultural Services and  
11 DuraRoot that can help us understand that.

12 We've looked at multiple techniques on how to  
13 cross those. One of those being building a header system  
14 on each side of the right of way and connecting those  
15 tiles that run perpendicular into that header to deflect  
16 water so we don't have impacts so we fill up those tiles  
17 with mud or siltation.

18 If we miss one as we're scoping them out, if we  
19 do hit one during construction, we will protect those.  
20 Our intent is to plug them up or protect the inlets so we  
21 don't silt them up upstream and downstream. Our intent  
22 is to deal with them either beforehand or during  
23 construction where we will protect those and stabilize  
24 them.

25 We will stabilize them either after construction

1 when we're restoring the right of way or we'll put in an  
2 alternate drain tile, and we'll replace the ones that can  
3 be replaced.

4           Timing of such, you know, if we do miss one or  
5 we do clog them up, we will test the drain tiles that we  
6 can. If for some reason we don't get it right -- and I  
7 hope we get it right, but if we do not, then we will be  
8 accountable for that to the landowner, to the farmer, or  
9 tenant that we will get it right.

10           So it's a long-term process in some situations,  
11 but we hope we can fix them up front. And if we don't  
12 get it right, I'll tell you we will fix it. It's not a  
13 liability we'll walk away from. And the Commission will  
14 hold us accountable for those, by the way.

15           MS. HOHN: My name is Joy Hohn, J-O-Y H-O-H-N.  
16 And I'm not a public speaker, but maybe after Dakota  
17 Access comes through, I might be.

18           I'd like to say, first of all, my family and I  
19 are landowners within the affected area of the proposed  
20 pipeline in Minnehaha County. And we are very concerned  
21 about this pipeline running through our land because it  
22 is a hazardous material. It is extremely flammable.

23           The Bakken crude oil has a low flash point and  
24 may be more explosive than some conventional crude oil.  
25 And it is also toxic. Last Saturday's oil spill in

1 Yellowstone River is a true testimony of how hazardous an  
2 oil spill really is.

3 That Yellowstone Pipeline, which is off the  
4 Bakken formation, is 12 inches compared to the proposed  
5 30-inch pipeline by Dakota Access. In less than an hour  
6 50,000 gallons of oil spilled into the Yellowstone River,  
7 and it has traveled 60 miles to the confluence of the  
8 Missouri River.

9 The town of Glendive, Montana had to shut down  
10 their water supply due to the cancer-causing agent  
11 benzene found in the water. Exposure can also cause  
12 headaches, dizziness, and possibly the loss of life.

13 Can you imagine how much more oil would be  
14 spilled with a 30-inch pipeline compared to the 12-inch  
15 in Yellowstone?

16 Do we really want to put ourselves and our  
17 children, our future generations, our water and land  
18 resources, livestock, and other assets at risk?

19 If we were -- if we were to have an oil spill on  
20 our land or my family's land, we have wells that water  
21 our livestock. In addition, my brother and parent's  
22 homes are not hooked up to rural water and also rely on  
23 these wells. We have a real concern of what would happen  
24 to our standard of life if an oil spill would occur. Not  
25 only is this a concern for us but once again for our

1 children's future and generations beyond.

2           Could Dakota Access Energy Transfer Partners  
3 ever return it to its original state? Never. This has  
4 been proven time and again. For instance, the spill  
5 caused by an explosion in Benton, Michigan on  
6 September 16 of 2014, just four months ago, which  
7 occurred even though the automatic valves in the pipeline  
8 started to shut off the flow of oil, as soon as the  
9 pressure -- or as soon as a drop in pressure was  
10 detected. Or the oil spill in Bismarck, North Dakota on  
11 September 29 of 2013, which is one of the largest  
12 on-shore oil spills in U.S. history.

13           Both of these oil spills left the farmland and  
14 crops saturated. That land can no longer be farmed and  
15 is worthless.

16           Pipeline spills are inevitable, whether it be  
17 from material, welding, equipment failure, corrosion, or  
18 the environment.

19           In July of 2011 another pipeline oil spill on  
20 the Yellowstone River in Montana released 63,000 gallons  
21 of oil. This pipeline broke during flooding, and oil  
22 washed up along the 85-mile stretch of the riverbank.

23           Pipelines require constant monitoring, and  
24 accidents may result from the undetected failures due to  
25 insufficient or delayed monitoring or insufficient

1 management procedures or inadequate training of control  
2 center personnel.

3           What is the required training for control  
4 operators? How many control operators are monitoring the  
5 pipeline? How often will Dakota Access perform integrity  
6 testing of the pipeline? How will aerial pilots  
7 effectively see any evidence of leaks when corn or other  
8 crops are planted over the pipeline? How often will the  
9 State inspect the pipeline and see if it's in compliance  
10 with regulations? Does the State of South Dakota have  
11 the necessary expertise to keep an eye on the pipeline  
12 during and after construction?

13           One of the most expensive oil spills was near  
14 Marshall, Michigan in 2010. Oil by -- or it was owned by  
15 Enbridge. This spill flooded the Kalamazoo River with  
16 over 840,000 gallons of oil. Enbridge only had liability  
17 insurance of 600 million. It cost the company twice that  
18 much in cleanup, 1.2 billion.

19           Even though Enbridge completed the cleanup last  
20 summer, the Environmental Protection Agency asserts that  
21 oil still remains in the Kalamazoo River.

22           How much liability insurance would Dakota Access  
23 have? And what if the company runs out of money? Who  
24 will pay for the cleanup? What kind of financial bond is  
25 the State requiring of the company? What kind of

1 financial compensation would be offered to landowners if  
2 there is a spill?

3 Will they have the spill cleaned up and money  
4 paid to landowners for compensatory damages to the  
5 landowners' satisfaction, or will things wind up in long,  
6 protracted legal battles in court?

7 And why wouldn't they put the pipeline along a  
8 highway? Sioux Falls Council Member Rex Rolwing  
9 wondered that at the Special Joint Meeting on January 13.  
10 He asked why wouldn't they go along Highway 81 and then  
11 Highway 84. If it's for safety reasons, as Dakota Access  
12 stated, then dig the pipe down deeper and leave the  
13 personal property owners out of it.

14 It's cheaper for the company to build a direct  
15 line pipeline instead of following highways. It's not  
16 for safety reasons. It's to put more money in their  
17 pockets.

18 Why don't they build a refinery in North Dakota?  
19 Same reasons. Cheaper for the company to build a  
20 pipeline than a refinery. More in their pockets.

21 I would like to ask that page 11 be displayed on  
22 the -- or if you want to follow along in your brochures,  
23 I'd like to go over some of the project benefits that  
24 Dakota Access has proposed.

25 It's called Project Benefits. The first one is

1 on short-term job creation. Dakota Access is also  
2 proposing job creation. In the report they estimated  
3 4,000 jobs on there, but Mr. Mahmoud had indicated 2 to  
4 4,000 temporary jobs last week at the council meeting.

5 What kind of quality workers will be laying this  
6 pipeline? And how closely will they be monitored?

7 My brother has buffalo in a pasture next to a  
8 proposed pipeline, and these buffalo cannot be confined  
9 in a small area during the construction process. How  
10 will temporary workers deal with this?

11 This pipeline is carrying has material, and they  
12 are employing temporary construction workers to ensure  
13 the safety of our human and environmental health in  
14 addition to our agricultural land and waters.

15 After the pipeline is built there will be  
16 only 12 permanent jobs. There are numerous, clean  
17 21st Century jobs that we could be bringing to  
18 South Dakota instead of these. We don't need these  
19 12 jobs.

20 And then if you want to follow on page 12, how  
21 long is the construction process expected to take? He  
22 indicated 6 to 12 months.

23 That's not the right sheet. It's project  
24 benefits, and it talks about the long and short-term  
25 economic benefits.

1           That first statement, the top figure is an  
2 estimation only for the construction phase of the  
3 project. After that, this benefit is gone. The next  
4 benefit Dakota Access is promoting is one of the project  
5 advantages, a long-term tax benefit of 13 million  
6 dollars, but that's just for the first year.

7           Minnehaha County Commissioner Jim Schmidt who  
8 just spoke queried Dakota Access about this last week at  
9 the Special Joint Meeting on January 13. It is important  
10 to note that this benefit will be depreciated over a  
11 10-year period. After the 10-year depreciation schedule  
12 what benefit is left to the State?

13           And next we have the permanent easements. If  
14 the pipeline will be pumping oil indefinitely, why is  
15 Dakota Access not giving financial compensation on a  
16 continuing basis to landowners as the pipeline becomes  
17 operational? They want to use our land indefinitely, and  
18 landowners should be entitled to royalties in addition to  
19 the permanent easement payments.

20           To me Dakota Access is like a spider weaving her  
21 web. Before the proposed pipeline is even approved they  
22 are already buying permanent easements from landowners.  
23 That way when it gets time to make their case in front of  
24 the PUC and persuade them they can say that they already  
25 have perhaps 70 or 80 percent of the easements already

1 purchased.

2 Landowners, if you agree to a survey, I want you  
3 to know that you do not have to settle on an easement.

4 And then we can go to page 10 of the benefits.  
5 Is this really benefiting the United States? We are  
6 paying use to facilitate the big oil and their big  
7 monies. How do we know that the oil passing through our  
8 land is used in the United States and not exported to  
9 China and the other places? Do we just take Dakota  
10 Access's word for it?

11 And the rest of the page about the railway, I  
12 know another concerned landowner Peggy Hoogestraat is  
13 going to address the rail points.

14 I want you to know that my father grew up in the  
15 Depression when people were afraid to buy land. He  
16 worked hard in order to purchase his first piece of our  
17 family farm, and then him and my mom continued to work  
18 hard to build upon that. Even today at the age of 95 he  
19 still works hard.

20 Yesterday I was helping him feed cattle, pull a  
21 baby calf of a new heifer, pull a tractor to get it  
22 started, and our children are working right beside us  
23 and, yes, even pulling those calves. How can we fight  
24 Dakota Access with their deep pockets?

25 They want to build this pipeline, reap the

1 benefits indefinitely, and then leave us with a  
2 continuous concern and worry of when and where this  
3 pipeline will break.

4 Our families will be here long after the  
5 pipeline people are gone, and we are asking you, the  
6 Public Utilities Commission, Commissioner Hanson,  
7 Commissioner Nelson, and Commissioner Sattgast, to be our  
8 voice and put a stop to the Dakota Access Pipeline.

9 CHAIRMAN NELSON: There were, obviously, a  
10 series of statements there and also a series of questions  
11 there. I'm going to give the company the option, if  
12 you'd, like to attempt to answer any of those. You've  
13 got the option of doing that.

14 Because of the number of questions, I think it  
15 might be more productive for you to sit down with  
16 Ms. Hohn and answer those one on one, but I'll give the  
17 company the option of how you'd like to handle that.

18 MR. MAHMOUD: There's not a chance I could keep  
19 up with all of that. So I apologize. And we have  
20 actually already talked about most of those issues.

21 CHAIRMAN NELSON: Thank you. Who's next?

22 MS. HOHN: Commissioner Nelson, while she walks  
23 up, I've got one more point to make. And that is in the  
24 last two years there have been 60 pipeline accidents in  
25 the United States. Is that something we want to go

1 through?

2 MS. HOOGESTRAAT: I'm Peggy P-E-G-G-Y  
3 H-O-O-G-E-S-T-R-A-A-T. I'm used to having to spell it.

4 I own property in Minnehaha County at the corner  
5 of Highway 38 and 460th Avenue. I am a South Dakota  
6 farmer and I love South Dakota and I was taught by my  
7 parents to be a steward of the land. And I continue to  
8 make improvements on the land.

9 And, Energy Transfer team, Dakota Access men,  
10 I'd like to tell you that South Dakota has a state song,  
11 and it says Hail, South Dakota, a great state of the  
12 land, health wealth and beauty, that's what makes her  
13 grand.

14 We're worried about our land. We want to keep  
15 it beautiful.

16 I did not know about October meetings. I don't  
17 know if anybody much did around here. In November a lady  
18 knocked on my door. She said I'm here to get permission  
19 to enter your property to do a survey, a preliminary  
20 survey, on your property to see if we might be able to  
21 put a pipeline through there.

22 I was quite stunned, but then as I started  
23 asking questions I realized she had old maps, she had old  
24 information. I continued to ask questions, and she --  
25 she answered them very graciously, but I was not allowed

1 to see where the pipeline would be on my neighbor's  
2 property. I could only see my property and where it  
3 would cross. She would not share any further  
4 information.

5 She did explain to me there are inspectors on  
6 the site as construction is done. That was a concern of  
7 mine. But what I was not comfortable with was she was  
8 actually willing to tell me she is an inspector for her  
9 husband's construction company, and that bothered me with  
10 the wife and the husband connection there. So I did  
11 question that part.

12 I explained to her that exactly where they're  
13 entering my property is land that I had -- I could have  
14 sold it three times already, but I saved that particular  
15 spot for my grandchildren to build a home on some day.  
16 And she said, well, I'm sorry. If the pipeline does go  
17 through, you will not be able to put a permanent  
18 structure on that particular spot. So that means any  
19 future plans for future generations would be eliminated.

20 For economical and environmental and personal  
21 reasons I did not give her permission to enter my  
22 property to survey the land.

23 I do believe that many people that were  
24 approached may have given permission to survey, not  
25 knowing what was really going on. They were uninformed

1 and unaware, and they still can say no to permission for  
2 easement. I hope that you are aware of that.

3 On January 4 in the Argus Leader the Associated  
4 Press had an article. It said Crude oil shipments remain  
5 less than 2 percent of all the carloads major U.S.  
6 railroads deliver. Because the price of oil varies by  
7 market, railroads provide one of the best avenues for  
8 buyers and sellers to get crude to places where the price  
9 makes it economical.

10 And I'm going to just skip again here a little  
11 bit.

12 While we're talking about railroads, I've just  
13 been paying attention to newspaper articles just  
14 recently. In November 28, the Argus Leader had an  
15 article that said BNSF Railway has pledged 6 million  
16 dollars in capital improvements for their systemwide  
17 infrastructure next year. The railroad has been shipping  
18 record amounts of corn, wheat, and soybeans.

19 And on January 18 there was an article by USA  
20 Today, The BNSF railway is going to continue to take on  
21 growth and build and do what they need to to handle  
22 growth. They have underestimated how quickly the oil  
23 from the Bakken would come.

24 So we know there are standards for railroad  
25 cars, and we know they need to be improved to haul crude

1 oil. And we also know oil companies can stabilize that  
2 crude oil, making it less likely to explode upon spilling  
3 but they aren't willing to do that because it will cost  
4 them money and they don't want to spend that additional  
5 money.

6 I read, as I was just doing a little research,  
7 that the EPA said there were actually 14,000 oil spills  
8 reported each year. And I am concerned about how often a  
9 remote controlled valve is installed.

10 I'm sure they can't do it too often because the  
11 cost would be a factor. But because of oil pressure  
12 anybody that knows anything about pipes you can't just  
13 stop that oil when you've got that kind of pressure  
14 behind it. And by the time they do get it stopped my  
15 question is how many miles of oil will have to finish  
16 draining out of that pipe before it stops? Because if  
17 they don't have a valve at the end of every connection,  
18 you're going to have some miles of oil still draining.  
19 That is a concern of mine.

20 If the oil spills on my property, my home isn't  
21 right there, but there are tributaries to Skunk Creek  
22 there, and it will continue on down the line to the  
23 neighbors. It will continue down to Skunk Creek. It  
24 will get in a lot of different areas. And that's a  
25 concern.

1           I'm thinking of Wall Lake. I'm thinking of the  
2 nearby town that has a water source. A country well was  
3 mentioned. I'm thinking of Sioux Falls' Falls Park, and  
4 I'm concerned.

5           If they couldn't get the pipeline stopped for  
6 46 minutes in the -- by the Yellowstone River in 2011  
7 with the smaller pipe, as Joy mentioned, 46 minutes  
8 causes a lot of damage. And if they aren't worried about  
9 something as majestic as Yellowstone Park, what are they  
10 going to do for South Dakota? That is a concern of  
11 mine.

12           I'm also wanting to -- and I realize I do not  
13 expect answers on all of these. These are comments, and  
14 I realize that. And Joey and I have met already also.

15           But as a construction worker in South Dakota we  
16 know we cannot do construction 12 months of the year.  
17 There is a limited time. There's rain. There's snow.  
18 There's issues. And recently actually right where this  
19 pipeline is going this past year I just finished  
20 thousands of dollars of tiling in that very same spot.

21           But I also know it had to be delayed for  
22 installation because of rain and wet conditions. My  
23 concern is they may come in and, as he said, they would  
24 make sure there's the minimum amount of distance between  
25 the drain tiles. But we also know that the soil settles.

1 Things will change.

2 And as farmers we have to go back, and we have  
3 to adjust for those changes. I really don't think people  
4 from the Dakota Access are going to come back years later  
5 and fix a problem that has come up because of settling.  
6 I just can't imagine that would be happening.

7 Another concern we have is there are different  
8 construction companies that will be involved. It's not  
9 just one company doing all the work. And that was very  
10 clearly explained, and we understood that at the meeting  
11 on January 13.

12 But something that did concern me was Joey had  
13 mentioned that if the contractor does not do it  
14 correctly, he could deduct it from their pay, and they  
15 would not get paid because they had not done it right.  
16 And I assume then Dakota Access would have someone come  
17 back and do the construction project correctly.

18 In the meantime I feel South Dakotans would be  
19 delayed in maybe their crop production, maybe in other  
20 things that they had planned for the land, and that is a  
21 concern of mine that it may be difficult to get things  
22 done right.

23 A concern is that pastures will be unavailable  
24 during construction. I can't imagine with all the  
25 problems we've had in West River with animals and now

1 here what would the East River farmers do with their  
2 sheep, their cattle, their buffalo while construction  
3 goes on. And I realize they would try to do it in a  
4 quick fashion, but I also know grass production would be  
5 reduced. And then I question do the farmers have to  
6 reduce their herds to meet that?

7 My concern is for the township roads. I've been  
8 to township meetings. I've heard the cries for the lack  
9 of funds. We are told that the roads will be good or  
10 even better when the construction companies leave the  
11 area. But there again, I'm concerned about what will  
12 happen down the road because of how it's been disturbed.

13 I want to share a recent quote that Governor  
14 Daugaard said. "Our entire economy, our very well-being,  
15 depends on road infrastructure, and right now our roads  
16 are underfunded."

17 The Dakota Access group can throw money at a lot  
18 of these issues, but you cannot put a price on the true  
19 value of South Dakota land. Much of it has been passed  
20 on from generation to generation.

21 And I think calculating dollar figures for  
22 cropland loss, pasture loss, it's going to be really hard  
23 to come up with a fair compensation. And I don't think  
24 it will be adequate for the disruption.

25 Another thing I'd like to address is the true

1 rural South Dakotan knows that once you cut a fence line,  
2 that stretch of fence will never be as strong again. And  
3 I can't imagine how many fences will need to be cut as  
4 they come through South Dakota.

5 We know that South Dakota has a ripple effect.  
6 If the farmers and ranchers are hurting, it eventually  
7 affects the cities and the towns.

8 I had mentioned -- I was not aware of the  
9 October meeting. The meeting for today I am so thankful  
10 that so many of you are here. As I received a letter for  
11 this it was a certified letter. It had the wrong name  
12 with my address. And as I heard, there were many of you  
13 that maybe did not even receive the letter telling about  
14 this meeting, and I was told that it was due to an error  
15 at the attorney's office. This may have happened where  
16 the name and addresses did not get put together  
17 correctly.

18 But if you know someone that did not come today  
19 because they said, well, I didn't get a letter, I'm not  
20 affected, I would encourage you to give them information  
21 about today.

22 In the last part here -- I won't be much  
23 longer -- I just want to say that just January 13 USA  
24 Today said "Crude oil prices plunge to their lowest  
25 levels in nearly six years. And drilling and extraction

1 jobs that once soared are now heading back down. Housing  
2 projects being built on the fringes of the oil patch in  
3 North Dakota have paused or slowed as developers  
4 reassess."

5 Where does that leave those with pipelines on  
6 their properties years down the road? Pipelines  
7 abandoned? Or if the company files bankruptcy? The land  
8 is already destroyed so we wouldn't even benefit to  
9 remove the pipeline.

10 I do not approve of a pipeline moving a  
11 dangerous product for profit across my land. I believe  
12 the pipeline is an environmental and economic threat to  
13 the State of South Dakota and its citizens. I am opposed  
14 to the Dakota Access Pipeline going through South Dakota.

15 I ask that the South Dakota PUC deny the permit  
16 to build the Dakota Access Pipeline.

17 I encourage every South Dakota citizen to  
18 provide their concerns and comments to the South Dakota  
19 PUC, and as the citizens become more fully informed I  
20 would ask the Argus Leader to do another poll asking  
21 should an oil pipeline be built through the Sioux Falls  
22 area.

23 Thank you for your time.

24 CHAIRMAN NELSON: Thank you. There were --  
25 there were obviously a number of comments. There were

1 some things -- a few questions and some things that I'll  
2 give you the option of whether you want to address now or  
3 do that privately.

4 MR. MAHMOUD: I will address two things.

5 One, the October meeting, the reason that some  
6 people may not have been noticed about the open houses is  
7 there was a reroute that shifted the line south and west  
8 to the west side of Tea. And so some folks were not in  
9 the path of the pipeline at that time. Which, ma'am,  
10 that was you. I think you know that.

11 And so the reroute happened in December so when  
12 we shifted that route then some of you became traversed  
13 by that pipeline -- or the proposed pipeline, and that  
14 was in an effort to minimize impacts to congested areas  
15 and to shift that pipeline where some of the residents as  
16 well as the city councilmen asked us to move because of  
17 certain development activities in the area, which is part  
18 of the PUC siting criteria.

19 That's what happened in that case. And I just  
20 want today make sure everyone was aware of that.

21 I think that's about it. The rest we can  
22 address one on one.

23 Thank you.

24 CHAIRMAN NELSON: I'm going to ask our court  
25 reporter how are you doing? Would you like us to take

1 five minutes?

2 Our court reporter has -- I think you can  
3 understand has a limited endurance. So what we are going  
4 to do is we're going to take a five-minute break. And  
5 it's not going to be any more than five minutes, and then  
6 we're going to continue.

7 So we'll be back at 7:16.

8 (A short recess is taken)

9 CHAIRMAN NELSON: Okay. Ma'am, you are up.

10 MS. JOHNSON: Thank you. My name is Shelly  
11 Johnson. Shelly, S-H-E-L-L-Y. Johnson. Easier than  
12 some.

13 And before we broke there was almost a perfect  
14 segue about the people who are along the new proposed  
15 route. My husband and I are homeowners south of  
16 Sioux Falls. We live in a development. There are  
17 several homes and businesses along this new proposed  
18 route. We were notified on Christmas Eve via a certified  
19 letter.

20 So my question is a little bit different than  
21 some of the bigger concerns I've heard here tonight. As  
22 a homeowner and a lifelong resident of Sioux Falls,  
23 someone who has only recently moved south of Sioux Falls,  
24 like many, many people there's a lot of growth and  
25 development in that area of Lincoln and Minnehaha County.

1           So I would like to know what consideration was  
2 given when you moved it to the more populated area of  
3 85th Street and you moved it west of Tea. You're still  
4 in a very populated area of homes and businesses.

5           And I for one do not relish at all the idea of  
6 living probably within an eighth of a mile of a pipeline  
7 carrying that much crude oil. So I would like to know  
8 how that was addressed, how that was decided, and I would  
9 like our PUC to please take consideration of that.

10           CHAIRMAN NELSON: Thank you for that excellent  
11 question. And I'd like the company to address that  
12 because I know there are others that have that same  
13 question and concern.

14           MR. MAHMOUD: Sure. And thank you for the  
15 question.

16           When we routed the pipeline we did move it to  
17 the south and to the west to move out of what is  
18 currently more congested.

19           We did move outside of what we know of as  
20 being proposed for future development. It is in a rural  
21 area outside of town. It's outside of the city limits of  
22 Sioux Falls. We believe we moved it outside of the  
23 foreseeable development.

24           And I'm not trying to guess what your  
25 development plans are, but what we know, we did move it

1 outside of those limits, where we think we gave an  
2 adequate buffer from what we can accurately determine  
3 based on the available data that we have. That's how we  
4 determined that, to get as far outside and provide --

5 MS. JOHNSON: You're still very close. You're  
6 still very close.

7 CHAIRMAN NELSON: Who's next?  
8 Over here.

9 MS. KILMER: Hi. My name is Rosalinda Kilmer.  
10 It's R-O-S-A-L-I-N-D-A K-I-L-M-E-R, from Beresford,  
11 South Dakota.

12 And I really appreciate all the concerns that  
13 have been raised because it's important to kind of  
14 challenge the proposal and just make sure every, you  
15 know, scenario could be considered. But I want to take a  
16 more positive outlook on it.

17 But I did have a couple of questions before I  
18 make my comments just for my own clarification and maybe  
19 for others.

20 Is there like a projected annual revenues that  
21 the State foresees receiving because of permitting this  
22 pipeline to go through the state? Would you be able as  
23 to answer that right now?

24 MR. MAHMOUD: The State receives the revenue  
25 based on the ad valorem taxes. There's not a

1 commodity-based fee that we pay to the State. And as I  
2 tried to articulate, not being a tax expert, is there is  
3 a tax benefit to the State that changes on an annual  
4 basis based upon the prevailing tax laws.

5 What that is, it changes on an annual basis, but  
6 that's the revenue that the State will receive.

7 MS. KILMER: Do you have kind of a range, like a  
8 foreseeable range at all?

9 MR. MAHMOUD: I don't. I mean, I wish I did,  
10 but I do not. It's just hard to answer when the tax laws  
11 are subject to change.

12 MS. KILMER: Okay.

13 And does that go to our general fund, do you  
14 know, for like the State to be able to use it in any way  
15 that they want, or is it restricted to certain parts of  
16 our government?

17 MR. MAHMOUD: I'm sorry, ma'am. I didn't catch  
18 that.

19 MS. KILMER: I'm directing it more towards our  
20 elected officials. Does that money go towards certain  
21 projects or can it be open?

22 CHAIRMAN NELSON: That money flows back to the  
23 local units of government, counties, school districts,  
24 townships, where the project is located.

25 MS. KILMER: So that will not necessarily go to

1 like Medicaid, roads?

2 CHAIRMAN NELSON: Correct. It goes back to the  
3 local units of government.

4 MS. KILMER: Okay.

5 Well, just wanted to say, like, I think we  
6 talked about -- I know our Governor has been talking  
7 about the wear and tear on our roads and raising some  
8 taxes, raising some fees on different things to keep up  
9 with the demand. And if we're going to somewhat limit  
10 that because we don't have trucks transporting oil  
11 through our interstates through our roads, things like  
12 that, I would think that that's going to be a net benefit  
13 to our state.

14 I just think, you know, there's a lot of nuances  
15 to different owners and concerns so, like I said, I  
16 really appreciate the people that are raising those  
17 things. But I also think there's a lot of positive, and  
18 I just wanted to contribute that so not everything was so  
19 negative.

20 I think there's going to be a lot of  
21 opportunities for our communities to benefit from it.

22 MS. MOORE: My name is Shirley Moore,  
23 S-H-I-R-L-E-Y M-O-O-R-E.

24 And I have -- you know, it's easy for you guys  
25 to say we're prepared, but in the end I watched like with

1 the BP oil spill the big thing was I'm sorry, I'm sorry  
2 at the end. They couldn't pull it together. I don't  
3 want to hear that for South Dakota.

4 The other thing I want to know is these pipes  
5 you're going to use, where are they made? Where are the  
6 valves made? Is this stuff coming from China, or do we  
7 see American jobs here, folks?

8 CHAIRMAN NELSON: Folks, that was a great  
9 question, and we've had that asked at the forum last  
10 night actually. And I would appreciate having the answer  
11 that you gave last night. I think that would be very  
12 informative.

13 MR. MAHMOUD: Sure. So all of the pipe -- we  
14 did go out -- and I'll tell you 57 percent of the steel  
15 on this pipe will be produced here in the United States.  
16 None of it is China. None of the valves are from China.  
17 So those that clapped you can clap for that also because  
18 we're not buying from Chinese mills or manufacturers. We  
19 are buying from domestic supplies.

20 Where the pipe originates from we did actually  
21 attempt to buy all of the steel in the United States.  
22 The manufacturers of this steel, because it is thick  
23 steel, it is not something that everybody can  
24 manufacture. There are mills in the U.S. We went to  
25 those mills to build that pipe or to manufacture it.

1           When they either could not manufacture it our  
2 next step, we went to Canada. There's a large mill just  
3 north of the North Dakota border that we are actually  
4 doing business with. So 98 percent of the pipe  
5 originates either within the U.S. or Canada.

6           And what I didn't mention last night is of the  
7 steel that's being produced in Canada, where it's being  
8 rolled, all the steel that you make that pipe out of is  
9 actually coming from the United States.

10          An important point about that is is that that  
11 steel that's being manufactured from sources in the U.S.  
12 is actually recycled metal. So it's a benefit to us by  
13 utilizing recycled metals that is then remelted, formed  
14 into the plate or to the coil which is then made into the  
15 pipe.

16          So most of our materials, the majority of the  
17 materials, 57 percent of the pipe and all the other  
18 materials are sourced here locally except for the pumps,  
19 though. The pumps are not manufactured in this country.  
20 If they were, we would buy them. The simple fact is  
21 they're just not made here.

22          So everything else, though, we are a buy America  
23 company. We purchase from the U.S. where we can, and  
24 where we can we actually have to get the materials from  
25 somewhere. The rest are coming from Canada.

1 I hope that answers your question.

2 MR. FREY: Let me just correct one thing. The  
3 pumps are, in fact, cast and manufactured in the U.S.  
4 The best equipment.

5 MR. MAHMOUD: Thanks.

6 MR. DANGEL: Dave Dangel, D-A-N-G-E-L.

7 First, a comment to the PUC. For all the  
8 reasons that are already given and probably some that  
9 come up, I cannot support this project. But I do have a  
10 question for Dakota Access. And hopefully they have an  
11 answer.

12 Earlier you talked about lowering your --  
13 lowering our dependence on foreign oil, and that's a good  
14 idea. But my question is how many years worth of oil is  
15 there in North Dakota at the flow rate you talked about  
16 earlier in your presentation?

17 Is this a short-term thing? Are we talking  
18 five years worth of oil, 10, 20 years, or are we talking  
19 long term which truly becomes a lowering of our  
20 dependence?

21 MR. MAHMOUD: Thank you for that question. And  
22 I'm not 100 percent expert on this subject so I'll do my  
23 best.

24 What we know -- I read the same publications  
25 that you can read. They say it's greater than 100 years

1 worth of supply. The Bakken produces somewhere around  
2 1 million barrels a day. They hit that towards the  
3 latter part of last year. This pipe will transport  
4 roughly a third of that current production. It's  
5 expected to continue to grow as the producers produce in  
6 that region.

7 I don't know the absolute duration of that,  
8 other than it's projected to be greater than 100 years.

9 Our country produces somewhere north of  
10 7 million barrels a day. We also import 100 percent. So  
11 we import another 7 -- a little bit over 7 million  
12 barrels a day. So we are in a net deficit by 100 percent  
13 of the consumption that we need to feed our current  
14 consumption of crude oil products.

15 So this project, it will either simply displace  
16 foreign source crude or it will add to. As our economy  
17 grows and our consumption grows, it will either  
18 supplement new consumption or it will displace the  
19 foreign sourced.

20 MR. DANGEL: And then the second question is I  
21 read recently where the break even point for this oil in  
22 North Dakota is about \$43 a barrel. And currently it's  
23 down to about 46 or \$47 a barrel.

24 And it seems to me that OPEC is intentionally  
25 lowering their price and driving the price down to try

1 and shut some of our production down. If this happens,  
2 then who's going to use this pipeline if it's not  
3 fiscally worth their time to keep those oil fields going?  
4 And what happens to these pipelines --

5 What's the life of a pipeline? And what happens  
6 when that pipeline has used its useful life?

7 I know somebody talked about decommission  
8 earlier, but does the PUC require decommission plans?  
9 And what happens when these things become no longer  
10 useful and they have to be shut down or taken up?

11 Are they left there for future generations to  
12 have to deal with? What happens?

13 MR. MAHMOUD: I'm trying to answer this in a --  
14 as best I can because you asked about five things at the  
15 same time.

16 As far as the price break point, I'm not sure.  
17 That's on an individual producer basis. I don't know if  
18 it's \$43 or not. I hope everybody benefits in this room  
19 from the cheap gasoline that we have. That's a direct  
20 result of whatever OPEC's doing.

21 It's not a good thing, though, when a foreign  
22 country, OPEC, the producing group controls and  
23 manipulates the world economy.

24 I'm giving you my opinion here, but that's a bad  
25 thing for America. It's a bad thing for the world when

1 we are manipulated like that. That's what this project  
2 will help deter.

3 We have a local source, a domestic source, of  
4 crude oil that we can rely upon. And although we may  
5 benefit today by those cheaper gas prices, long term we  
6 suffer because it affects our economy, it kills jobs, it  
7 reduces our viability to protect our borders by having a  
8 readily source of available crude oil.

9 I can go on and on about this subject. It's a  
10 horrible thing for our country, other than the short-term  
11 benefit for gas and for money in our pocket that we're  
12 all benefiting from, which I enjoy myself.

13 I drive a pickup truck that guzzles gas, which  
14 is not a good thing, but at the same time I'm happy that  
15 I can afford it today and not paying 3.50 a gallon, which  
16 we were paying a month ago.

17 So when we look at that aspect of it, if the  
18 pipe was to become dormant, which we have long-term  
19 contracts in the crude world that's 5 to 15 years, maybe  
20 20, whatever those contracts are, the producers of that  
21 crude oil are obligated to transport their crude if they  
22 don't they actually pay for the use of that capacity  
23 anyway.

24 But they're going to continue to produce. Those  
25 wells that are producing today will continue to produce.

1 They just don't close the spigot. They may not produce  
2 more wells, but this will transport that third -- we  
3 think about a third of the current production today so it  
4 will be utilized.

5 The life of the pipe with modern technology can  
6 last for a very long time. And I don't even know how  
7 long because it can almost last infinite if you maintain  
8 it properly and you keep cathodic protection, you  
9 maintain it in a proper manner. What the life of that  
10 is, how long the Bakken's going to produce, I can't  
11 predict.

12 But if we did for some reason shut down that  
13 pipeline, we would clean it, we would inert it, we would  
14 protect the pipeline for the landowners by making sure  
15 there's no hydrocarbons in it.

16 In certain areas we would grout it in, meaning  
17 we would fill in the void or the gap inside the pipe so  
18 as that pipeline corroded, as we removed the cathodic  
19 protection, that if it did collapse, it wouldn't have a  
20 sink hole.

21 But we would ultimately and forever whoever  
22 owned that asset -- just because we abandoned the pipe  
23 does not mean we relinquish liability. That lasts with  
24 the owner of that pipe forever, either Energy Transfer or  
25 the next person that owns it or company that owns it.

1 MR. DANGEL: And then what about  
2 decommissioning? Are there any requirements for  
3 decommissioning?

4 CHAIRMAN NELSON: That will be one of the things  
5 that we will consider.

6 MS. ANDERSON: Hi. My name is Kristi Anderson,  
7 K-R-I-S-T-I A-N-D-E-R-S-O-N. And I live 2 miles west of  
8 Hartford on 461st and Mickelson Road, and I want to just  
9 thank everybody for sharing.

10 I'm with Shelly from Tea over there, in  
11 agreeance with her. The pipeline is projected to go  
12 through the 80 that we live on at the top of our hill,  
13 which is about 1,200 feet away from our house, which is  
14 located down at the bottom of the hill with a pond, a  
15 gorgeous pond. We have a beautiful farm. We've worked  
16 so hard to maintain it and to make it what it is today.

17 And in regards to the oil spill that had  
18 happened just this week, in 60 minutes 60,000 gallons  
19 came out of that 12-inch pipe. That is alarming to me  
20 because I just want to ask you guys if you could picture  
21 in your head your favorite part of where you live and  
22 then a pipeline going through that and then it  
23 bursting.

24 According to msnbc.com 2014 had six oil spills.  
25 Three of them were from bursting pipes. So if 60,000

1 gallons can spill out of a 12-inch pipe in 60 minutes,  
2 where do you think all of that oil is going to go if it's  
3 at the top of my hill? I'm concerned about that.

4 And I feel like the reroute, like Shelly feels,  
5 isn't really considering the landowners or the citizens  
6 who vote for you guys to be our voice. I would ask you  
7 deny the pipeline and that you consider things like that.

8 The placement of where it's going to go through  
9 my land is not convenient. And I'm wondering even, Joey,  
10 when you guys drew that line did you consider that?

11 We did not allow for them to come in and survey  
12 our land. We denied that too. But they could clearly  
13 see it was the very top of our hill.

14 So just please consider that as you make your  
15 decisions. Thank you.

16 CHAIRMAN NELSON: Thank you.

17 Next down here.

18 MR. HEALY: My name is Chris Healy, H-E-A-L-Y.  
19 I'm a lawyer here in Sioux Falls, and I represent various  
20 landowners along the project.

21 My first couple of questions are procedural, and  
22 they're directed towards the Commission.

23 The reroute was referenced a couple of minutes  
24 ago and this modified location. Is the route that will  
25 be considered by the PUC the new route strictly? Is the

1 original proposal gone with the file of the amendment?

2 CHAIRMAN NELSON: The Revised Application was  
3 submitted, and that is what we will be considering.

4 MR. HEALY: And I've also heard that there are  
5 opportunities for Dakota Access during the siting process  
6 if something were to arise during construction that they  
7 would be maybe be able to deviate slightly from the route  
8 that is approved by the PUC.

9 My question is how far can those deviations be  
10 before they need to return to the Commission for  
11 approval?

12 CHAIRMAN NELSON: I'm going to turn to either  
13 Commissioner Hanson -- and the reason I do that is  
14 Commissioner Hanson has been through both the Keystone  
15 and the Keystone XL Pipeline sitings and has some  
16 experience with this.

17 Or, Commission Counsel Smith, did we put that  
18 into the conditions on either of those?

19 MR. SMITH: Yes, we did. However, we used a  
20 relatively subjective standard. And the term I think we  
21 used -- I don't have it here in front of me -- is a  
22 material deviation.

23 But in terms of the way it really works, minor  
24 deviations tend to be favorable usually because they're  
25 usually meant to either react to what's discovered in the

1 process or to later realize -- because during the actual  
2 construction process there's an enormous amount of  
3 interaction, you know, with landowners. And as landowner  
4 preferences become known, many what I call minor  
5 deviations do occur to try to accommodate those desires.

6 MR. HEALY: Thank you.

7 MR. SMITH: And, again, it's a subjective. You  
8 know, it's not a mathematical standard. It's one where  
9 it's a judgment standard.

10 CHAIRMAN NELSON: And I'd just like to emphasize  
11 I'd asked him to talk about what was put into the  
12 Keystone and XL petitions. That's an open topic for this  
13 Application and an area of discussion we may have in the  
14 future.

15 MR. HEALY: Just one follow up, if I may.

16 Is there recourse for a landowner who didn't  
17 perhaps benefit from the minor deviation? I mean, can  
18 they Petition the Commission?

19 MR. SMITH: In my own opinion, yes. Yep.

20 MR. HEALY: My final question is for Dakota  
21 Access.

22 Much to do has been made over the economic  
23 benefits to the State through taxes, trickle down to the  
24 county, school district, this ad valorem.

25 This is a big deal. You guys are going to have

1 the power to condemn private property from my clients and  
2 from others along this line. You flew in eight people  
3 here tonight, and no one can give even an estimate of  
4 what kind of tax revenue the citizens can expect beyond,  
5 I think, 2017 I saw in the pamphlet.

6 Is that strictly because the tax laws are  
7 changing, or is it because you depreciate some of your  
8 infrastructure and those revenues could potentially  
9 decrease drastically in the future?

10 Thank you.

11 MR. MAHMOUD: I'll answer part of that.

12 The reason we don't give an estimate for that  
13 and if you look at the past records and the depositions  
14 or the tax information that the PUC's actually collected  
15 and if you talk to the tax office, it's done on a  
16 valuation basis once the project goes into service.

17 It changes. The number I would give out tonight  
18 would be wrong. So instead of misleading anyone, why  
19 give out false information. That's the real reason.

20 I know a lot of people have made a big to do  
21 about this, but we've been very consistent. This is year  
22 one tax revenue for the State of South Dakota based on  
23 the laws that prevail today. It will change in 2017, and  
24 it will change in 2018 as the tax rates change on a per  
25 county basis and how the State assesses taxes on this

1 pipeline. So we cannot accurately predict what that is  
2 other than provide the data that we do have.

3 I'll tell you that we've hired a regional expert  
4 economics group out of Iowa that did an economic  
5 assessment for the project. That's available online.  
6 You can pull it up. It's public information. These are  
7 economic professors, former professors, economists that  
8 looked at this and provided a lot of this information.

9 We also used a public accounting firm, not just  
10 Energy Transfer, to help us figure it out. If you talk  
11 to the State taxing authority, they can't tell you what  
12 these taxes are going to be until the time that we  
13 actually give the information to the State so they can  
14 assess the tax.

15 So there's no hidden agenda here. There's no  
16 misinformation. There's no nonfacts. It's simply it  
17 doesn't benefit someone to talk about data that is not  
18 truthful until that tax year happens.

19 I hope that answers your question and provides  
20 some clarity.

21 MR. MERKLE: My name is Bret Merkle, B-R-E-T  
22 M-E-R-K-L-E. I'm a lawyer and a real estate broker so I  
23 understand values of land in and around Sioux Falls,  
24 South Dakota.

25 I'm wondering if the PUC or the company,

1 Dakota Access, is aware of the Minnehaha County or  
2 Lincoln County Comprehensive Growth Plan.

3 My land is directly in the path of this reroute,  
4 and it's within that growth plan. And so the -- one of  
5 the concerns is that you're going to be gobbling up land  
6 that is quite a bit more valuable just because it's right  
7 in the direct development path of Sioux Falls, Tea, and  
8 Harrisburg.

9 In fact, what I do know about the reroute is  
10 that it goes within about a mile south of the town of  
11 Harrisburg, and it's probably within not even a half a  
12 mile of the southern edge of Harrisburg.

13 I'm wondering if either can comment on that.

14 CHAIRMAN NELSON: I'd ask the company the  
15 question.

16 MR. MAHMOUD: Sure. Thank you. We have been  
17 working with the City Councilmen and the City leaders who  
18 actually helped encourage us to move the pipeline from  
19 its original location to the relocated location.

20 I'm not familiar with the plan details, but we  
21 did -- we did consult with certain folks in the City  
22 government to help us plan that route to minimize impact  
23 of future development.

24 MR. MERKLE: One other comment.

25 I would just like to express my disapproval of

1 this pipeline. As a landowner south of Sioux Falls, we  
2 have many people who have been waiting for years to be  
3 able to sell their land to developers, to be able to  
4 realize the value of their land, and this pipeline cuts  
5 right through the heart of that.

6 Thank you.

7 CHAIRMAN NELSON: Who's next?

8 We've got a couple here, and we've got one here  
9 in the middle.

10 MR. CHASTAN: Hello. Thank you. Joe Chastan,  
11 C-H-A-S-T-A-N.

12 With all due respect of hearing all the sides,  
13 I'm here representing thousands of folks that live in  
14 South Dakota and North Dakota, Minnesota, but thousands  
15 of which live in South Dakota as well that vote that  
16 we -- and on behalf of those, we are in support of this  
17 pipeline.

18 A couple of things. I just want to make some  
19 comments. First of all, we -- most of us know that this  
20 oil is not going to get stopped from coming out of the  
21 ground, and it's going to go to where it needs to go.  
22 Most of us know that it's the safest way to go, the  
23 pipeline.

24 So I'm looking out for the thousands of members  
25 that cannot be here and speaking on their behalf in

1 support of this line for -- a little bit about the --  
2 about 13,000 members in our local, operating engineers.  
3 30,000, 39,000 approximately, total people that are with  
4 the insurance -- covering their families. We're  
5 self-insured. And so it is big to them. Most of which a  
6 lot of us make our living on building these pipelines.

7 And I'm thankful that this company came to us  
8 along with my brothers and sisters that are in the other  
9 trades that take pride in what we do building these  
10 pipelines with the welders, the laborers, the teamsters,  
11 everybody that does this work.

12 We understand the concerns of going through  
13 land. You know, one thing about unions, we all look --  
14 it's not just about the one single person, it's about  
15 everybody. We look out for everybody.

16 Now when you look at a situation like this, this  
17 crude is being consumed by people, millions of people  
18 across the United States. So, I mean, I listen to  
19 everything. And, of course, I'm not a speaker so I'm not  
20 very well at it, but I'm speaking on behalf of thousands  
21 of members that are supporting this project. And I want  
22 to thank you all for coming to us and look forward to  
23 working with you in the future.

24 And I'll touch on one other thing about drain  
25 tiles that I heard a lot about. As the operating

1 engineers, it may not be the company that is the first  
2 one that sees issues when we're going through these  
3 properties and we see these drain tiles. It's the  
4 operators.

5 We've got the University of Minnesota that comes  
6 to our training facility, which, by the way, we have over  
7 100 state-of-the-art training facilities across the  
8 states that train. And one that I can be proud of is we  
9 bring in the University of Minnesota that trains at our  
10 facility on the environment, things to look at, things to  
11 do, be proud of us.

12 We see these drain tiles being hit. We're the  
13 ones, the first people reporting it to put it back, you  
14 know, so that it's recorded so that it's taken care of.

15 Like I say, I'm going to make it short and sweet  
16 and give more people an opportunity to speak here, but on  
17 behalf of over 39,000 members and their families, we  
18 support you 100 percent.

19 Thank you.

20 COMMISSIONER HANSON: Mr. Chairman.

21 CHAIRMAN NELSON: Commissioner Hanson.

22 COMMISSIONER HANSON: Sir, you said you  
23 represented 13,000 people. When you say that you must  
24 have an official capacity of some sort.

25 MR. CHASTAN: Yes. Approximately 13,000 members

1 and then 39,000 with their families. We're self-insured.  
2 So on behalf of them. And then in the State of South  
3 Dakota -- we cover three states, South Dakota, North  
4 Dakota, and Minnesota.

5 I can't give you an exact number, but we have  
6 thousands of members in South Dakota, thousands in  
7 North Dakota and thousands in Minnesota.

8 COMMISSIONER HANSON: So my question was in  
9 order to represent to us that you represent those folks,  
10 excuse me, you must have some type of an official  
11 capacity. What is your official capacity?

12 MR. CHASTAN: I am the pipeline director for  
13 Local 49.

14 COMMISSIONER HANSON: For Local 49.

15 MR. CHASTAN: Operating engineers.

16 COMMISSIONER HANSON: From Sioux Falls?

17 MR. CHASTAN: No. The International Union of  
18 Operating Engineers, Local 49. I'm the pipeline director  
19 for our local.

20 The total amount of members, which there will be  
21 someone else speaking tonight that we're a member of, the  
22 International Union of Operating Engineers, which has  
23 over 400,000 members. So we're just a Local out of the  
24 International of the operating engineers. We cover those  
25 three states.

1           COMMISSIONER HANSON: Thank you. You're from  
2 Sioux Falls?

3           MR. CHASTAN: No. I am from Minnesota.

4           COMMISSIONER HANSON: Thank you.

5           MS. GIER: My name is Angela Gier, G-I-E-R. I  
6 have a question for the gentleman from Dakota Access.  
7 Is -- or actually three questions.

8           Is all the oil from North Dakota from fracked  
9 wells?

10          MR. MAHMOUD: I can't answer that, ma'am. I  
11 don't know.

12          MS. GIER: Okay. And I understand that you do  
13 not own the oil. So who does own the oil?

14          MR. MAHMOUD: Well, complicated question. The  
15 producers have mineral leases with the landowners who own  
16 the mineral rights.

17          So at some point the landowners own the oil.  
18 The producers buy the rights to that oil. So at some  
19 point the producers own that oil. And then they own it  
20 all the way through the refining to whatever products --  
21 the products are and then is sold into commodities.

22          So the ownership that's transported on the DAPL,  
23 or Dakota Access Pipeline, is owned by the producers once  
24 it's entered into that pipe.

25          MS. GIER: Okay. My third question to you is

1 the benefits of domestic oil production have been  
2 mentioned here.

3 So when all of this oil goes to the refinery  
4 does this oil go into the world market, or does it stay  
5 right here in the United States of America?

6 MR. MAHMOUD: Again, we don't own the crude oil.  
7 We transport it.

8 What we understand is that it's domestically  
9 produced for domestic consumption. There are limitations  
10 for exporting crude oils out of this country. Those laws  
11 are actually changing as we speak.

12 There's been some recent changes that I'm not  
13 familiar with all of those because I'm in the  
14 transportation business, not the production business, nor  
15 do we own the refineries. Where those things go, that's  
16 being marketed and developed by someone else. Other than  
17 it's produced, consumed --

18 Remember we import 100 percent more than we  
19 produce.

20 MS. GIER: I understand that. I just wanted to  
21 know about this oil, if it's staying in the  
22 United States, if we know that for sure, if it's owned by  
23 American companies or lots of different companies.  
24 That's what I want, the answer to that.

25 And then the gentleman from the PUC, I went on

1 your website it says the Applicant has the burden of  
2 proof to establish that. Does that sound familiar? You  
3 have four points that they have to establish?

4 CHAIRMAN NELSON: Yes.

5 MS. GIER: Okay.

6 Number 3 says the facility will not  
7 substantially impair the health, safety, or welfare of  
8 the inhabitants. That's what number 3 said.

9 And so the first thing that stood out in my mind  
10 is what's the definition of substantially. But -- and as  
11 I listened to all of these really well prepared people  
12 here, and I'm thankful for the preparation, does that  
13 mean -- and then I'll sit down.

14 Does that mean that they can get this permit as  
15 long as what they're going to do while they're building  
16 it doesn't hurt anybody, or does the life of this  
17 pipeline -- do they need to successfully prove that they  
18 will not substantially impair the health, safety, or  
19 welfare of the inhabitants?

20 CHAIRMAN NELSON: We would be taking the entire  
21 lifetime of that into account as we evaluate this.

22 And just for everybody's information, the  
23 language that she quoted not only is on the website but  
24 that comes out of state statute. That's the standard by  
25 which we are measuring this Application.

1           CHAIRMAN NELSON: Question on this side.

2           MR. KRIENS: Travis Kriens, K-R-I-E-N-S.

3           I talked to a landowner near Hartford earlier  
4 this afternoon, and he's agreed to the easement. He's  
5 already been paid. Do you know how many checks have been  
6 written already for those who have agreed to easements?  
7 And is that normal procedure before it's even been  
8 approved?

9           MR. MAHMOUD: No. I cannot answer how many have  
10 already sold easements or bought easements.

11           It's very common. We give ourselves a year or  
12 more to purchase those easements, and that is to not rush  
13 the process. So we give as much time as we can to  
14 negotiate in good faith to let everybody consider the  
15 proposal, to consider their options, to negotiate those  
16 deals, and information, site-specific conditions. So  
17 that is very common.

18           And, you know, we typically have most of the  
19 right of way purchased by the time we get our  
20 certificates. That's very common. And that's at our  
21 risk, by the way. So the PUC doesn't condone it, but  
22 they don't deny it. We just do that at our risk in hopes  
23 of we're going to get a certificate so we can facilitate  
24 construction.

25           MR. GRACE: Kyle Grace, K-Y-L-E G-R-A-C-E.

1           To Joy Hohn's question, when she was talking  
2 about how they're going to cut through -- I'm a neighbor  
3 of hers, they're going to cut through the buffalo  
4 pasture.

5           And they say the first year is 100 percent crop  
6 loss, second year is 80, third year is 60. So what  
7 happens -- you got an easement to go across her pasture.  
8 Every year you might go there, three or four years. How  
9 do you pay us for that? You got to open gates, wreck our  
10 grass, cows graze on it.

11           How do you come up with a price for what we get  
12 on fair market value?

13           MR. MAHMOUD: If I understood your question  
14 properly, after the pipeline is constructed how do we  
15 reenter your property?

16           Typically we don't have to reenter your  
17 property. Once the pipeline is built, very rarely do we  
18 have to come back onto the property. It's a buried pipe.  
19 It's a very safe pipe. And once it's constructed and  
20 buried and restored, it's very uncommon for us to come  
21 back in. Should we have to come back in, and we did have  
22 to gain access other than along the pipeline right of way  
23 because the pipeline easement terms specify right of  
24 entry and access along pipeline easements to ensure the  
25 pipeline's safety and integrity, if we did have to enter

1 onto your property where we had damage we would  
2 compensate you for that damage.

3 The damage would be based upon whatever the  
4 value of the damage is. So that's a negotiation between  
5 you and the right of way agent or my company.

6 MR. GRACE: Okay. The next one is you're going  
7 through three farms I farm. And one is the acreage I  
8 live on. I just bought it being a young farmer trying to  
9 be third generation taking it over. You're cutting my  
10 farm in half so for me to expand is done. Because I  
11 can't build on it. I can't put trees.

12 How do you guys take that -- I mean, you're  
13 taking land I bought, I worked for, I worked the soil. I  
14 can never build the building. I'm big into cattle.

15 How am I supposed to do that if you're only  
16 paying me for the 50-foot easement?

17 MR. MAHMOUD: I don't know your particular  
18 situation so I apologize.

19 However, the easement is negotiated between you  
20 and us. And we take into consideration all sorts of  
21 things during the construction, which one of those is  
22 placement of that pipe. The fact that the pipeline is on  
23 your property does not negate the use of that property.

24 So if it does bisect your property, as you  
25 represent, you're not cut off from utilizing that

1 property. You can use it. You can't put a permanent  
2 structure so that is correct, but you can -- you can  
3 cross it. You can farm it. You can put cattle on it.

4 Anything you would normally do today other than  
5 a permanent structure. And I don't see how that cuts  
6 your future use of the property off, but I do not know  
7 your property.

8 MR. GRACE: Well, for cattle it cuts future use.  
9 I'm building a building. I calf heifers right now. I  
10 want to put one right where it's at. I just bought the  
11 place. Now it's coming through. I'm kind of --

12 How do you guys adjust for that future down the  
13 road? I got a little girl right now that might want to  
14 farm. It's cut in half. What am I going to do with the  
15 other half? I can't put a building out there.

16 The trees, shelter belt. How do you guys adjust  
17 that crop loss? It's a 50-foot easement. You're taking  
18 40 acres. For me to expand and go that way it's done  
19 because I can't go any further. If I want to put a  
20 building there, it's done.

21 MR. MAHMOUD: Again, maybe this is a  
22 conversation we can have afterwards so we can talk. I  
23 explained the method on how we compensate. It's based on  
24 an individual basis.

25 Without knowing your particular situation

1 exactly and looking at it, I really can't comment. But  
2 we would happy to take this off line.

3 MR. GRACE: Thank you.

4 MR. BENSON: I'm LeRoy Benson, B-E-N-S-O-N.

5 My question is this pipeline that you're putting  
6 through -- and it's there to drain the oil out of the  
7 Bakken field; right?

8 MR. MAHMOUD: Yes, sir.

9 MR. BENSON: Okay. So is there any possibility  
10 of another source of oil coming into this? And then  
11 would your pipeline be able to handle it?

12 Like I'm referring to Keystone. If that  
13 negativity is going through -- won't go through, would  
14 that be a possibility that that could end up in your  
15 pipeline?

16 MR. MAHMOUD: One, I don't think -- if you don't  
17 mind, so I can not forget your question, the pipe is sold  
18 out except the walk-up capacity. There is the  
19 opportunity to expand that.

20 The pipe is designed to carry domestically  
21 produced crude that's coming from the Bakken. We're not  
22 joining that with Keystone. There's no proposal to do  
23 that.

24 They originate in different locations. So this  
25 originates in northwest North Dakota, not Canada. So the

1 supply points are different. So they're not -- they're  
2 moving different crude oil from a different location.  
3 And if somebody did come up with another point where  
4 there was crude oil that we could transport, pick up,  
5 absolutely. It's an open access pipeline or a common  
6 carrier pipeline where we transport the oil.

7 MR. BENSON: So we could end up with a different  
8 type of oil coming through there?

9 MR. MAHMOUD: I mean, theoretically, sure.

10 MR. JANJIGIAN: Good evening. My name is  
11 Armen Janjigian, A-R-M-E-N J-A-N-J-I-G-I-A-N.

12 I've been hearing and I've been listening first  
13 for the most part, and I'm very glad I'm here tonight to  
14 discuss this pipeline. This pipeline is going down the  
15 middle of my land. And I feel I have something to say  
16 about this.

17 There's another pipeline that is on my land.  
18 And for what the plans have been told to me that this  
19 pipeline will follow adjacent that gas pipeline that is  
20 there now.

21 I'm very concerned about this. This is a  
22 different pipeline, and I don't know anything about this  
23 company. I've been to their website, and it's not a very  
24 old company. I do know it's related to an old company  
25 named Sunoco from what I read on the website and I do

1 know about Sunoco gas. And this company does deal with  
2 gas.

3 What I'd like to know is that if this pipeline  
4 is approved by the committee here, by the PUC and at that  
5 point they will be going through, they will start asking  
6 everybody their easements.

7 At some point I'm going to have to accept this  
8 pipeline whether I like it or not. And I will have to  
9 learn to protect it because it will be stuck on my land  
10 forever until the day I die. It will probably be passed  
11 on to my children.

12 Now that old gas pipeline was owned by Enron,  
13 and we all know what happened to Enron. Until  
14 MidAmerican, which owns that gas pipeline now supplies  
15 gas to the City of Sioux Falls. I do not know what will  
16 happen in the future, but that pipeline will be there.  
17 And I'm concerned about this, and I will have to learn to  
18 accept it whether I like it or not.

19 I am concerned about protection of this  
20 pipeline, if I have to protect it. What if there are --  
21 how much of this pipeline is going to be out of the  
22 ground through the state of South Dakota?

23 This pipeline is going to go from North Dakota,  
24 South Dakota through Iowa down to Illinois. This  
25 Commission is only going to deal with what happens in

1 South Dakota. I know you guys are going to go through  
2 all the other states and whether you can get permission  
3 from them too.

4 This is a big, big project. And I'm concerned  
5 about vandalism and protection and where this pipeline  
6 might be out, might stick out at some point. I'm worried  
7 about spills.

8 Now if your company does not react fast enough,  
9 South Dakota does have an environmental protection part.  
10 That is their arm. The PUC does not -- the PUC only  
11 grants this, but they do have their own environmental  
12 protection staff. And I have talked to them. And there  
13 are -- they have to deal with the oil spills. They have  
14 to have inspectors themselves that go out.

15 Now I was wondering what protections do you have  
16 that this pipeline -- when it does go through, what will  
17 happen afterwards?

18 I have just heard about the settlement when this  
19 pipeline when it's put in when it settles in, and you may  
20 have to come back at some time in the future.

21 I'm worried about possible breaks. Because I do  
22 have cattle on my land. I do grow corn and soybeans on  
23 my land. I have ducks on my land. I have pheasants on  
24 my land.

25 The pheasant is our number one bird in the

1 State of South Dakota. Agricultural is still our number  
2 one commodity here. Oil is coming in close because I  
3 know there is a lot of oil drilling going up in the State  
4 of South Dakota.

5 But I am concerned about this, and I'd like to  
6 be eased a little more to know what would you do -- how  
7 much of this pipe is going to be out of the ground at  
8 some point in the state of South Dakota?

9 Where are you going to put your shut-off valves?  
10 How far these shut-off valves are going to be from each  
11 other? How fast will they be there? What is the time  
12 rate? At what point will you put that oil pipeline --  
13 will you be putting it onto the creek?

14 Now there is a Skunk Creek that runs through my  
15 land. And are you going to be putting it close to that  
16 creek, or are you going to put it further away from that  
17 creek? And that creek runs through several people's  
18 lands.

19 I can't do anything with that creek. I have to  
20 talk to the Army Corps of Engineers if I want to do  
21 anything with that. I have to get permission from the  
22 County here if I want to do anything with that. And then  
23 you come in, and you're going to have to deal with the  
24 same people I'm going to have to deal with.

25 So that's my question. How are you going to

1 deal with the -- if this -- what is your protection on  
2 this? Where are you going to put these shut-off valves?  
3 How far are you going to put these shut-off valves? At  
4 what side of the gas pipe are you going to put it on?  
5 Are you going to put it more to the creek? I'm worried  
6 about that. I'm worried about the environment.

7 Has anyone ever talked about Ducks Unlimited?  
8 Has anyone talked about Pheasants Forever? They're part  
9 of our group too. Sporting is big too in this state, and  
10 I'm also going to mention those people as well.

11 Thank you.

12 CHAIRMAN NELSON: If the company would -- and  
13 I'd like you to answer some of those questions that you  
14 haven't answered already tonight.

15 And maybe specifically talk about how you put  
16 that pipe in when you're going across a waterway. I  
17 don't think you've addressed that tonight. And he  
18 mentioned that several times.

19 MR. MAHMOUD: Well, thank you, and I'll try my  
20 best to articulate some of the answers.

21 Where we do cross Skunk Creek I believe -- I  
22 don't have actually the exact policy method, but there's  
23 multiple ways that we cross a creek. And we do have to  
24 get those approvals from the U.S. Army Corps of  
25 Engineers. That's part of our permitting process.

1           We're required to follow the Clean Water Act  
2 Section 404 to get those permits, just like anyone else  
3 that has to operate and get a permit to affect a water of  
4 the U.S.

5           If we do cross that creek, and I don't know  
6 where we cross the creek and the exact conditions, but we  
7 will either open cut the creek -- there's three  
8 techniques.

9           You open cut the creek where you actually  
10 approach it and you dig down and get a minimum cover of  
11 5 feet and then you re-bury and you put the dirt back and  
12 you reestablish those creek banks.

13           If the creek is too deep or the river is too  
14 deep or there's conditions that you cannot cross by open  
15 cutting, you would use either a directional bore where  
16 you drill two big pits on each side and you push the pipe  
17 underneath the creek at the required depth.

18           If that technique will not work, you do what's  
19 called a horizontal directional drill where you back up  
20 even further, and then you directionally drill. It looks  
21 like a U shape, kind of an elongated U so as the pipe  
22 bends it goes pretty deep, 25, 50 below that creek bed  
23 and then it comes back up, and you tie in.

24           I guess the other technique could be what's  
25 called a damming pump where you would dam upstream of the

1 crossing, and then you pump the water around so you have  
2 a dry crossing.

3 So there's multiple techniques, and I just don't  
4 know that particular location on your land so I  
5 apologize. But I will tell you we will get a permit to  
6 do it. No matter what, the Corps of Engineers and, of  
7 course, the PUC has to approve our crossing. And the  
8 DENR has to make sure that we're following the 401 water  
9 quality standards and storm water prevention. So we  
10 follow all of those rules.

11 CHAIRMAN NELSON: Another question that he asked  
12 several times is how much of this is going to be above  
13 ground in South Dakota. If you'd just reiterate that.

14 MR. MAHMOUD: Very little. So the only portions  
15 that are above ground -- everything's below ground except  
16 for we have our valves. And then we have some station  
17 piping and a little bit of pipe in Spink County where  
18 it comes up and goes into and out of that pump station.

19 Everywhere else is a buried pipe. So where the  
20 valve comes up or where the pipe comes up to the valve  
21 and goes back down it's a pretty small area. So, I mean,  
22 we're talking about .0001 percent, maybe even less than  
23 the length of pipe above ground because it's all buried.

24 Where we have the valves is above ground. Where  
25 we have those we fence those off so nobody can get around

1 those. And those valves, by the way, are located to  
2 protect sensitive environmental resources or what are  
3 considered high consequence areas.

4 For example, that could be a stream or a creek  
5 or wellhead protection area.

6 CHAIRMAN NELSON: The other thing that I heard  
7 him mention was talking about him having to take care of  
8 the pipe.

9 Can you talk just a little bit about how you  
10 work again with 811 and what the responsibility of a  
11 landowner would be in that regard.

12 MR. MAHMOUD: Sure. Thank you.

13 So the landowner has no accountability or  
14 responsibility to operate our pipe. Now I do like the  
15 sentiment that you do want to protect the pipe so you  
16 don't hit the pipe and damage it. That's a great thing  
17 to hear. I would encourage everyone to do that.

18 However, it's up to us to protect our pipe. We  
19 bury the pipe in ag areas 4 feet for a reason. That's  
20 deeper than most farm implements. That's deeper than or  
21 equal to the frost line so we're getting below the area  
22 that's affected. It's deeper than the root zone of the  
23 crops that are growing. So we bury that to protect the  
24 pipe.

25 We also are members of the 811 or the One-Call

1 System. So if you are going to dig around the pipe, you  
2 call 811. That's required by law, and we will come out  
3 and we'll mark that pipe and work with you to ensure that  
4 that pipe is not hit or damaged. That's what we do as a  
5 company, and we flag our pipe with flags so you can  
6 clearly see it.

7 And any time we have an approach by a roadway in  
8 the line of sight distance you can see where that  
9 pipeline lines up. So it's readily available to minimize  
10 impacts to the pipeline.

11 CHAIRMAN NELSON: Who's next?

12 MR. ANDERSON: Matthew Anderson, M-A-T-T-H-E-W  
13 A-N-D-E-R-S-O-N. And we covered some of this stuff  
14 already so I'll try to keep it brief.

15 Commissioners, for permit approval Dakota Access  
16 must show that there will be no negative economic or  
17 environmental condition expected to occur. I don't  
18 believe there will be no negative impact for this  
19 proposed pipeline. In reality oil pipelines do leak.

20 Look at what happened last weekend in Montana  
21 when a 12-inch oil line ruptured leaking over 50,000  
22 gallons of oil. Now they have contaminated drinking  
23 water. The proposed pipeline route puts all of the Sioux  
24 Falls area water at risk for contamination.

25 Dakota Access put up some big numbers, tax

1 revenue. Let's remember that a small amount of this will  
2 actually go to South Dakota. Dakota Access has stated  
3 that the pipeline will be depreciated over time, and  
4 South Dakota will end up with no tax revenue after a few  
5 years.

6 Sounds like a great deal for Dakota Access, no  
7 more taxes, and they don't have to pay the landowner for  
8 operating a business on their land. But let's all take a  
9 look at who we're dealing with.

10 Energy Transfer, the parent company to  
11 Dakota Access, is a Fortune 500 company in the top 100.  
12 They don't care about South Dakota. If they look at the  
13 project vicinity map, you can see how much effort was put  
14 in crossing our state. It is pretty easy to take a ruler  
15 and draw a straight line from point A to point B.

16 I am a landowner and I have not been contacted  
17 about easement to install the pipe. We know that the PUC  
18 does not have a role in the eminent domain process. The  
19 PUC needs to keep in mind that Dakota Access has stated  
20 they will seek eminent domain. It appears to me that  
21 this large out-of-state company doesn't even try to come  
22 to terms with landowners.

23 They pick the fastest way across the state, keep  
24 the landowners in the dark just to one day plow their way  
25 through with eminent domain. A better route would be to

1 follow existing state road right of ways, and that would  
2 require far less acquisition of privately owned land.

3 Some will say this pipeline will free up rail  
4 cars for grain, and it may do that. But let's remember  
5 this pipeline will only move some, not all of North  
6 Dakota oil.

7 I do farm in Minnehaha County, and all of my  
8 grain goes to local ethanol or processing plants. It is  
9 not shipped out on trains. The hauling by trucks of my  
10 grain locally provides tax dollars and jobs long after  
11 the pipeline has been depreciated down to zero tax  
12 dollars.

13 The proposed pipeline project is being planned  
14 with incorrect and very old data. The maps for my farm  
15 show that all the land is pasture or hay. Half of my  
16 acres have been cultivated crop production for many  
17 years. A project of this size should not be constructed  
18 with old or incorrect data.

19 Energy Transfer the will not be paying  
20 royalties. They expect to run a business on our property  
21 and make money every day with no consideration to the  
22 property owners. A small, one-time easement payment is  
23 nothing compared to what this large corporation makes  
24 every day.

25 If this proposed pipeline is allowed to go

1 through, I will be asking my county for a lower tax  
2 assessment. I feel the pipeline will greatly hurt the  
3 value of my property, mostly because a new home or  
4 building will not be allowed to be built on one of the  
5 few places possible.

6 Commissioners of the PUC, I feel this proposed  
7 project does not serve or benefit South Dakota. Thank  
8 you.

9 MR. WEELBORG: Tony Weelborg, W-E-E-L-B-O-R-G.  
10 Just two questions and an observation.

11 One question was brought up earlier. You're  
12 saying there's supposedly 100-plus years of oil here.  
13 Why not a refinery instead of this line?

14 MR. MAHMOUD: A couple of reasons. One, there's  
15 available capacity at the existing refineries in the  
16 central part, Midwest part of the United States, as well  
17 as the Gulf Coast.

18 A refinery -- to build a new refinery takes  
19 years and years and years to build. They're a lot more  
20 expensive than this proposal to move that crude oil  
21 from -- locally. Then you still have the same issue of  
22 moving those products, whatever that refinery would make,  
23 from that point to the consumers in the U.S.

24 So if you did it in North Dakota, there's no  
25 infrastructure to support moving those commodities out of

1 that state. As opposed to moving the single source crude  
2 to the refining centers where there is infrastructure to  
3 move those commodities or those final products back to  
4 the consumers to you and I so we can consume those  
5 products.

6 It's economics. It is cheaper to do it that  
7 way, and it's more beneficial because you're actually  
8 minimizing the environmental footprint by utilizing  
9 existing facilities rather than building new. And you're  
10 still having to build pipelines. You can't get away from  
11 that.

12 MR. WEELBORG: Question two.

13 You were asked how far apart are the shutoffs,  
14 and you never did answer that.

15 MR. MAHMOUD: That's correct because I don't  
16 have that answer inside my head. And it's based upon the  
17 physical features along the landscape.

18 So if there's a river, we have valves on each  
19 side of the river. We have a wellhead protection area.  
20 There's valves that are spaced. So it's based upon the  
21 constraints on that route. So where there's a constraint  
22 there's a valve. Now what that equals I can't tell you  
23 without going over the alignment sheets with you.

24 MR. WEELBORG: So there could be a valve every  
25 what, 100 miles then?

1 MR. MAHMOUD: No. You're taking it out of  
2 context.

3 What I'm telling you is where there's a need on  
4 a high consequence area there will be a valve on every  
5 side of a river and then other areas as the conditions  
6 persist. So we control it.

7 I think, Chuck, you might help me out here, but  
8 I think the longest distance is somewhere 15, 18 miles  
9 between valves.

10 You know, again, that's an alignment sheet  
11 discussion that we'd be glad to have with you if you're  
12 interested.

13 MR. WEELBORG: Then my observation. I've been  
14 to enough of these meetings I know they're just a  
15 technicality. I truly believe you should be in the  
16 political game because you have not clearly answered any  
17 questions that I've heard. Other than your paycheck  
18 would be way smaller.

19 CHAIRMAN NELSON: Okay. Now we've got one in  
20 the back.

21 MR. BLOW: Mark Blow, B-L-O-W.

22 This question was very interesting because one  
23 mile -- I'm assuming all the line in South Dakota is  
24 30 inches? I mean, we don't have any -- I assume all  
25 30-inch pipe in South Dakota?

1 MR. MAHMOUD: Yes.

2 MR. BLOW: Okay. That's important because one  
3 mile of 30-inch pipe, static, nonflowing is 193,000  
4 gallons of oil. So that's a lot of oil if there's 15  
5 miles between valves.

6 One question that I agree with him too that you  
7 have not answered is the property -- I mean, the ongoing  
8 revenue. That's like basic question number one.

9 I've heard the word depreciation, expected  
10 value. Are we talking millions a year or zero? If you  
11 depreciate to zero, is there zero income year 20?

12 I guess we're not looking for a specific  
13 actuarial number. A ballpark within, you know, 5 million  
14 a year for projected income benefit for the State would  
15 be appreciated.

16 MS. KILMER: Rosalinda Kilmer again. I just had  
17 kind of follow up.

18 I know there's a lot of concern about safety,  
19 but I would kind of want to throw it out there. When I  
20 looked up the Yellow River story, and it sounds to me  
21 like that was a pipeline that it was mentioned about a  
22 half a century year old or maybe older, and I've got a  
23 smartphone next to me that didn't exist 50 years ago.

24 So I'm assuming that if there's a lot of  
25 technology developed and things that have happened in the

1 last 50 years how companies like yours make this a lot  
2 safer.

3 And I would also assume that not having too many  
4 vales is a good thing? From what you said, it has to  
5 actually come up above ground, and if it stays below  
6 ground, you're down 4 or 5 feet, it's a lot safer,  
7 nobody's really going to interact with it, that kind of  
8 thing.

9 So I wanted to see if you could maybe address  
10 that.

11 MR. MAHMOUD: Sure. First, you're right. If  
12 that's -- I don't know what the vintage of that pipe was.  
13 I know it happened. I read the papers just like you do.

14 If it was a 50-year-old plus pipe, there  
15 certainly was not horizontal directional drilling  
16 technology. The Yellowstone River I can almost promise  
17 if we approached it and any other pipeline would today,  
18 that you would cross that with a horizontal directional  
19 drill so that the depth of that pipe would not be close  
20 to the surface or to the bottom of the river. It would  
21 be 25, 50 maybe even 100 feet below. So it is certainly  
22 a lot deeper than what you would have had 50 years ago.

23 Secondly, the rules have changed. Valves were  
24 not required on each side of a river back then so the  
25 spacing of those valves, I'm sure, is considerably

1 different than what it would be today.

2 Today if that was the fact that we were crossing  
3 a similar river, if we do, we have valves on each side of  
4 the river set back a little bit to be within a safe  
5 offset from the river's edge.

6 But we do have valves to isolate those  
7 conditions that it sounds like -- and, again, I don't  
8 know what happened up there, but it's considerably  
9 different for sure.

10 Chuck, do you want to add anything to that?

11 MR. FREY: You covered it mostly right. There  
12 are valves on each side. We also -- on our river  
13 crossings we use heavier wall pipe so we have additional  
14 thickness of steel. We use an additional coating that  
15 adds more protection to the pipe.

16 So there are a number of things that take place  
17 at a river crossing that provide additional protection  
18 since we know those are sensitive areas.

19 MR. MAHMOUD: I think there was a second part  
20 that I may not have answered. Did you ask a second step  
21 to that?

22 MS. KILMER: Just about the valves coming up  
23 above ground. And, obviously, it sounded like you said  
24 it was a really low percentage of the spots where that  
25 happens, and I'm assuming that's because you want to

1 avoid it being in areas where people can get to it much  
2 easier than when it's below ground.

3 MR. MAHMOUD: That's correct. But there are  
4 enough valves to isolate the pipeline to protect what is  
5 defined by the rules by Department of Transportation for  
6 what are called high consequence areas. So we put those  
7 valves in that area that are prescribed by the design  
8 criteria and by code to make sure to protect those  
9 resources.

10 But those are the only places that are above  
11 ground. Everything else is below the valves and the pump  
12 station.

13 Thank you.

14 MR. MCMAHON: My name is Brian McMahon,  
15 M-C-M-A-H-O-N.

16 Two questions. One concerning the right of way.  
17 I understand it's 50 feet wide in most places. You were  
18 talking about the construction. I don't remember  
19 catching today whether there was -- I've heard before  
20 it's a 300-foot setback from the right of way, whether  
21 that's correct or not?

22 And another one is on the tile when you  
23 encounter tiles. It was brought up about during the  
24 construction process there might possibly be one that  
25 might be missed and could get dirt in it, cause problems.

1           If this goes off the ground of the person  
2 that's -- that it's crossing through and gets downstream  
3 farther on somebody who's not directly with the pipeline  
4 on their property, how is that addressed?

5           MR. MAHMOUD: For the -- the width of the right  
6 of way is a 50-foot permanent easement. The temporary  
7 construction workspace will be anywhere from 25 feet to  
8 an additional 100 feet. In addition to the 50 feet.

9           So it could be anywhere from 75 feet wide to  
10 150 feet wide.

11          MR. MCMAHON: I understand that. When I was at  
12 the county meeting last week they talked about a 300-foot  
13 setback from that for permanent structures.

14          MR. MAHMOUD: For permanent structures, no, sir.  
15 So the permanent structures we typically -- a permanent  
16 structure cannot be built within the permitted easement.

17          And what he's referring to is we had a meeting  
18 last week with the City Councilmen where we presented a  
19 similar presentation. And the comment is how can you put  
20 a permanent structure in the right of way, or how close  
21 can you get to the right of way itself? There are no  
22 permanent structures in the permanent easement.

23          There's not a standard or a wall that says you  
24 can't -- there's no required setback from the pipe other  
25 than what's industry practice and makes good sense.

1           We as a company typically do not like permanent  
2 structures, meaning houses, to be within a couple hundred  
3 feet of our pipeline. But that doesn't mean you can't.  
4 It just means we would rather not.

5           And so if there was a situation where you wanted  
6 to put a structure, you just cannot put it within that  
7 50-foot corridor. So 25 feet offset from the centerline  
8 of that pipe would be the minimum distance that we would  
9 allow as part of our easement negotiations.

10          MR. MCMAHON: The other part of the -- or the  
11 other question I had was concerning the tile, if there  
12 was a blockage, you might call it, off the site on  
13 someone else's property.

14          MR. MAHMOUD: If we did for some reason block a  
15 drain tile that extended off of your property or the  
16 landowner's property, then we would have to secure access  
17 to the neighboring property to try to unclog that tile  
18 and/or replace that tile.

19          So we would have to pay those damages and get  
20 that legal access to that area to make that repair.

21          MR. LAURITSEN: Mark Lauritsen,  
22 L-A-U-R-I-T-S-E-N. I know it's late. I'll be brief, and  
23 I can only hold my stomach in for so long.

24          A couple of quick things. I'm only indirectly  
25 affected by this. This pipeline runs within a third of a

1 mile of my property. So who's going to compensate me for  
2 the daily risk that I have to live with, for the fear  
3 that I have to endure, and for my lower property values  
4 because a lot of people would not want to move to a  
5 nuisance like this.

6 Is there any compensation for all the people  
7 like me?

8 MR. MAHMOUD: No, there's not.

9 MR. LAURITSEN: That's what I thought.

10 Secondly, because this does affect property  
11 values, I'd just like to make it a matter of record to  
12 the PUC and other entities in the State of South Dakota  
13 that we only see the benefits that have been shown to us  
14 today, but what about the lowering of property values?

15 What about all the building eligibilities that  
16 are now going to be negated by this, future construction  
17 projects, future situations like my friend and neighbor  
18 over there that can't build, can't further develop their  
19 properties because of these easements?

20 I hope when we do a cost analysis of this that  
21 we're as quick to include the loss in property values,  
22 the loss in future construction, and the loss of  
23 increased revenue that the State could have incurred by  
24 property taxes.

25 And also I hope the State of South Dakota will

1 be as quick to lower property taxes on those affected  
2 areas. Because why should we pay property taxes on  
3 property that's worth less?

4 And, finally, I'd also be concerned from both  
5 sides for the liability issue. This is a hypothetical to  
6 my neighbor, by the way. But let's say at the point that  
7 somebody signs a voluntary easement they then become  
8 complacent with this energy company so his pipeline, my  
9 neighbor's pipeline leaks and affects my property. Do I  
10 have the right to sue him?

11 Does he incur personal exposure because of a  
12 pipeline that leaked? But you know how it works in law.  
13 Anybody can sue anybody for anything. So that's another  
14 consideration to people signing these easements.

15 I would be interested in knowing the legal  
16 ramifications that they're incurring, as far as that  
17 goes. You know, because I know if I was signing the  
18 easement, I would be worried about that.

19 The last point is one of my huge hot button  
20 issues is illegal immigration. And I know that labor  
21 unions support illegal immigration. And I am concerned  
22 about the people working on this pipeline actually being  
23 citizens of the United States.

24 That's it. Thanks.

25 MR. POMMIER: Rex Pommier, P-O-M-M-I-E-R.

1 I've got about 20 questions, but I'm only going  
2 to ask two. This one is directly to the company.

3 You just stated a couple of minutes ago that you  
4 prefer that any new construction going up stays 200 feet  
5 away from the pipeline. Do you offer the same  
6 consideration to the homeowners, the people who already  
7 have property?

8 I just found out 20 minutes ago that your new  
9 proposed route is about 10 feet outside of my property  
10 line, and I have buildings right up next to the edge of  
11 my property. Does that mean that your -- are you going  
12 to give me the same 200-foot consideration that you're  
13 asking me to give you?

14 MR. MAHMOUD: One, we can walk out there and  
15 look so you can show me what you're talking about because  
16 I have no idea where your property is.

17 MR. POMMIER: It doesn't really matter where my  
18 property is.

19 MR. MAHMOUD: I realize that.

20 The other part of that is you as an adjoining  
21 property are not affected by -- directly by the  
22 pipeline. Our rule when I said it's 200 feet -- about a  
23 couple hundred feet is our general rule.

24 So when we're routing the pipe we try not to put  
25 our pipe closer to a structure in that regard. If you

1 were to build a future home or a building next to the  
2 pipeline, as long as you're not on our easement, that's  
3 your prerogative. It's not our decision. It's your  
4 decision how and when you site your improvements to your  
5 property.

6 We do not allow structures to be put within our  
7 permanent easement. That's 50 foot wide or 25 feet on  
8 each side of that easement.

9 MR. POMMIER: I wasn't asking about future  
10 buildings. I was specifically asking structures that are  
11 already there.

12 How far away will you remain from currently  
13 existing structures?

14 MR. MAHMOUD: Yeah. And what I've represented,  
15 we try to be a couple hundred feet away if we can, and  
16 that's our goal. I don't know where we're at, if we are  
17 or not on your property.

18 I'm not aware that we are or not. So I don't  
19 know how to answer that.

20 MR. POMMIER: And then the other question is  
21 kind of directed towards both of you. There was talk in  
22 the somewhat recent past about Hyperion putting a  
23 refinery down by the Beresford area. I don't know  
24 whatever happened to that, but has there been any  
25 consideration with the idea that that may or may not

1 happen of routing the pipeline further south so that it  
2 would be able to tie in to the refinery if it becomes  
3 available in Beresford that it be able to feed crude oil  
4 into that facility?

5 CHAIRMAN NELSON: The PUC is not -- was not, is  
6 not involved in the Hyperion matter at all so I can't  
7 speak to that. And I don't know if the company wants  
8 to.

9 MR. MAHMOUD: I'm not even familiar with it. So  
10 if it became available at a future date, could there be a  
11 tie into it with a lateral? Possibly. But as of today,  
12 no.

13 CHAIRMAN NELSON: Okay. Back here.

14 MR. WALLACE: My name is Phillip Wallace,  
15 W-A-L-L-A-C-E. And I want to clear up one thing, and I  
16 got a couple of comments.

17 I represent the Union. We're welders that's  
18 going to weld this pipeline together. I've been a union  
19 pipeline welder in the welding business for 39 years and  
20 worked many jobs the last few years around Energy  
21 Transfer.

22 The Union does not support illegal immigrants,  
23 though. That just really boils me there. We spend  
24 millions every year to keep these people from coming into  
25 our Gulf Coast area and getting our jobs. You know, so

1 that's -- that's not true at all.

2 Another thing I just want to comment about is,  
3 you know, this country, you know, there's three things  
4 that I see here tonight that we really need. We need the  
5 farmers. You know, farmers feed us. You know, we need  
6 railroads. We also need crude oil. We can't survive  
7 without crude oil.

8 And the safest way to transport this crude oil  
9 is by pipeline. You put it in up there in North Dakota,  
10 and it comes out down there in Patoka, Illinois. And  
11 these railroads are moving this crude. For every barrel  
12 we put in this pipeline is going to be a barrel that's  
13 not going to be rumbling through your towns.

14 Because all small towns and big towns, you  
15 know, when these railroads come in about 150 years ago,  
16 100 years ago towns grew right on top of that railroad  
17 because they needed that transportation. But, you know,  
18 you look over Casselton, North Dakota last year had a  
19 crude oil train wreck there and burned, exploded.

20 There's been one runaway train wreck in Canada,  
21 killed 47 people in one train wreck. That -- that's  
22 enough right there for me to not ever want to transport  
23 hazardous liquids by rail.

24 Pipelines do leak. The ones that do are either  
25 50 to 60 years old. They wasn't built like this pipeline

1 was built. We got PHMSA. We've got the DOT, the utility  
2 boards that regulates how this thing is built.

3 50 or 60 years ago one of these pipelines that  
4 had a couple of leaks in -- recently in the Yellowstone  
5 and even the one over in the Michigan there, those are  
6 60 year old pipelines. They wasn't built with the  
7 regulations we build them by today.

8 So, you know, I just want to ask the utility  
9 board to consider -- you know, I know leaks is a terrible  
10 thing. But a well built, a well maintained pipeline,  
11 it's very unlikely there there will -- you can't  
12 guarantee that it will not leak, but all the components,  
13 safety components, the extra valves, the emergency  
14 shutdown system, you know, that -- that's pretty new the  
15 last few years when these gas companies, oil companies  
16 started these -- these new systems to prevent those  
17 leaks.

18 So I just wanted to clear up a couple of things  
19 there and give my comment.

20 CHAIRMAN NELSON: Do we have others?

21 MR. NOONAN: I'm Jim J-I-M N-O-O-N-A-N.

22 I was wondering, there's a lot of prime  
23 development properties, you know, and if the pipeline  
24 comes through and cuts that property off, if you were  
25 going to --

1 I have a place where --

2 The prime development property, you know, when  
3 the pipeline comes across and you say, well, you can't  
4 build a permanent structure there, is there any  
5 compensation considered when -- you know, in the easement  
6 say, well, you just cut through my property, and, you  
7 know, I could have got 50,000 for that site? So is that  
8 considered in, you know, the easement?

9 Rather than, you know, you're going through  
10 agricultural land. Well, yeah. That's just corn, but  
11 how about if it cuts right alongside somebody's place and  
12 he could have sold that -- you know, that building  
13 there -- or that building site for 50,000? Does he get  
14 any extra compensation?

15 MR. MAHMOUD: So the value of the easement is  
16 based upon the land that's appraised individually plus  
17 the improvement value or the potential for it to sustain  
18 whatever activity. So each individual land is valued  
19 differently, and an appraisal is done.

20 So it's not a one-size-fits-all negotiation.  
21 It's individual by landowner.

22 MR. NOONAN: Yeah. If you was to lose your  
23 housing eligibility because of this pipeline, that's what  
24 I'm getting at. There went \$50,000 here. So would you  
25 get the 50,000 or anything that would help on that?

1           MR. MAHMOUD: I can't answer. It's individual  
2 tracts. I'm sorry.

3           MR. NOONAN: One thing too. They've proposed  
4 that maybe going along the highways, and it seems to me  
5 that, you know -- I know you can't change it, but it  
6 would affect a lot less landowners if you just went down  
7 along the roads and that's state property and it seems to  
8 me that would be a longer pipeline but maybe that's more  
9 practical.

10           I know you can't change it now, but in the  
11 future. Everybody is, you know -- everybody's benefiting  
12 from the pipeline, like you said. Maybe you want to go  
13 on state property or maybe that would be a hazard to the  
14 cars. I don't know. That seems more practical.

15           Thank you, though. I know we need the pipeline,  
16 and we got -- you know, we got to do what we got to do.

17           CHAIRMAN NELSON: Commissioner Hanson has asked  
18 to be recognized for a question.

19           COMMISSIONER HANSON: I just want to make sure I  
20 was able to ask a question here. We're beyond time here,  
21 but I'm curious about a few things. And I believe I've  
22 read through all the information, despite a number of  
23 dockets we have before us right now, but I missed a few  
24 things.

25           There were some statements about this product

1 that you'll be shipping as being highly flammable, and I  
2 assume it is. Do you know what the flash point of that  
3 product is?

4 MR. FREY: I don't recall the flash point. The  
5 tariffs on our system restrict the maximum vapor pressure  
6 on the crude oil to be shipped to I believe either 13 and  
7 a half or 14 and a half pounds vapor pressure.

8 And it's kind of -- something to compare that  
9 to, motor gasoline in the summertime has a 9 pound vapor  
10 pressure and in the wintertime has a 13 and a half to  
11 15 pound vapor pressure. So the vapor pressure of the  
12 crude oil will be similar to motor gasoline.

13 COMMISSIONER HANSON: So it will be highly  
14 flammable then? You would not challenge that.

15 MR. FREY: The vapors of any hydrocarbon are  
16 flammable.

17 COMMISSIONER HANSON: Certainly. But, I guess,  
18 the verbiage would be highly flammable as opposed to, for  
19 instance, the XL Pipeline they indicated that it's  
20 certainly flammable, but I think its flash point was 100  
21 and -- I forget exactly what their flash point was. But  
22 there are different flash points out there.

23 MR. FREY: There are, yes, different flash  
24 points, different vapors. The flash point is the  
25 temperature at which the product begins to off gas vapors

1 that can be ignited.

2 COMMISSIONER HANSON: Would you get that for us,  
3 please. Appreciate that.

4 MR. FREY: Yes.

5 COMMISSIONER HANSON: And I do very much  
6 appreciate the fact that you moved the suggested route.  
7 I was really taken aback by the original route. I was  
8 quite surprised by the original route.

9 And I'm wondering even going through the process  
10 that you did in moving the proposed route recognizing  
11 that you're still in an extremely highly populated area  
12 and that you're still going through not only likely  
13 growth areas but you're still proposing to go through  
14 areas that are planned growth, heavy growth, residential  
15 properties, commercial properties, transportation areas,  
16 why did you not give greater consideration to moving the  
17 route further west and further south?

18 MR. MAHMOUD: I'm trying to answer that as best  
19 I can, but, I mean, we moved the pipe to the point  
20 outside of where the reasonable development was projected  
21 to be. If there's plans -- just like in any proposal,  
22 anybody can say I have plans for development. That's a  
23 common tactic or excuse to not have a pipeline on my  
24 property. We understand that.

25 We moved the pipe outside of where that

1 reasonable development was planned that we coordinated  
2 with the City planners here. The residences that we  
3 talked to that demonstrated where that route would need  
4 to be to avoid that development.

5 So we moved it outside of what we believed to be  
6 a reasonable distance from that development that we were  
7 aware of or that's been made public. So if there's more  
8 data out there that would suggest development that's  
9 reasonable and predictable and legitimate, then, of  
10 course, we would consider that.

11 But nobody has provided that to us in a manner  
12 that is legitimately defensible that we can defend,  
13 predict, and route the pipeline based upon without claims  
14 that it's going to be developed. That's a hard thing to  
15 do, and it's something that we balance when we go through  
16 the siting studies. And we do our best, but if there's  
17 more data out there, of course, we're open. We just  
18 don't have it.

19 COMMISSIONER HANSON: I'll tell you,  
20 Commissioner, I have a great deal of difficulty with that  
21 answer and with the history of my experience with the  
22 area here. This is a very fast developing area in the  
23 State of South Dakota.

24 Do you have any estimate on the period of  
25 time -- the duration by which development would reach

1 where your pipeline is proposed?

2 MR. MAHMOUD: No. We do not.

3 COMMISSIONER HANSON: Do you have -- I know  
4 you're going to have cathodic protection as a covering.  
5 XL, the Keystone Pipeline, has a fusion bond epoxy  
6 covering.

7 Will you be using a similar covering?

8 MR. MAHMOUD: We will. Yes.

9 COMMISSIONER HANSON: Thank you.

10 I assume -- just for the information for the  
11 folks here, there's been a lot of talk about taxes. We  
12 will have the Department of Revenue testifying before us  
13 and providing us information so that we'll have a more  
14 concrete explanation of that.

15 Joey, do you have or will you provide to us a  
16 history of Energy Transfer's leaks or do you already have  
17 that on your website or is there somewhere that that's  
18 accessible to us?

19 MR. MAHMOUD: It is public data. It's  
20 accessible via the Department of Transportation. I don't  
21 believe we provided that to you.

22 We have 71,000 miles of pipe where we could  
23 provide whatever data that you would be interested in  
24 seeing for the different business units, sure.

25 COMMISSIONER HANSON: There was a question about

1 whether or not you could -- an interesting question about  
2 whether or not you would be able to move other products.  
3 I'm sure that the inference was a potential for product  
4 from Canada, which is, of course, a different product.

5 As I recall, the psi that was required for that  
6 product in Keystone was 1,800 psi. And you will be  
7 operating at 1,440, I believe it is?

8 MR. MAHMOUD: 1,440.

9 COMMISSIONER HANSON: What will be the test that  
10 you will place on your pipeline prior to use? Will it be  
11 like 125 percent of that?

12 MR. MAHMOUD: Chuck, do you want to go over our  
13 testing plan?

14 MR. FREY: Yes. I believe you're talking about  
15 the hydrostatic test, the pressure test with the water  
16 that will be done prior to the line being placed into  
17 service. And the minimum test pressure will be 1.25  
18 times the maximum operating pressure.

19 COMMISSIONER HANSON: Thank you.

20 I'll have some further questions when you're  
21 before the Commission, but I appreciate the information  
22 that you've provided these folks and to us in this  
23 process.

24 One last question, though, piggybacking on the  
25 last question. Is there the ability, since Keystone has

1 a lot more pumping stations and -- and a higher pressure  
2 to maintain in order to get their product through, is it  
3 possible for you to add additional chemicals to that  
4 product and then ship it through at a much lower  
5 pressure?

6 MR. MAHMOUD: I can't represent Keystone. So  
7 we're transporting Bakken crude. We have no plans to  
8 connect to anyone transporting crude oil from Canada.

9 So it's a different source. They're hundreds of  
10 miles apart literally. We're not connected to Canada at  
11 all. So when somebody wants to transport that crude oil  
12 they would actually have to negotiate a deal with us.  
13 That's not in the works.

14 So we're subscribed to the capacity that's being  
15 offered to the public, the 450,000 approximately barrels  
16 per day that we're transporting with 10 percent reserved  
17 that's originating from the Bakken.

18 If we do expand to the larger volume, that also  
19 originates from the Bakken. So adding chemicals to our  
20 pipeline to transport additional crude oil, that's not  
21 part of our plan, nor our design.

22 We may add drag-reducing agents to have the  
23 product flow more efficiently, but right now we're not  
24 adding any other crude oil other than the Bakken crude  
25 oil.

1           COMMISSIONER HANSON: Understanding it's not  
2 part of your plan, but you have engineers available, I  
3 believe, who can answer the question for me right now.  
4 Perhaps Chuck can.

5           Is it possible to add chemical to a product that  
6 presently requires 1,800 psi so that it would be able to  
7 be transported on your line?

8           MR. FREY: That is not something that we have  
9 looked at doing. We're not aware of drag-reducing agents  
10 that are commonly in practice now for use with the heavy  
11 Canadian crude oil.

12           Additionally, if we were to put -- if you were  
13 to put heavy Canadian crude oil in our line and operating  
14 at lower pressure, it would significantly reduce our  
15 ability to move product through the line. It would slow  
16 the line down. We would move many, many fewer barrels.  
17 And so just from a practical standpoint it's not  
18 something that would make business sense for us.

19           COMMISSIONER HANSON: Thank you. Appreciate  
20 that.

21           Thank you, Mr. Chairman.

22           CHAIRMAN NELSON: Commissioner Sattgast.

23           ACTING COMMISSIONER SATTGAST: Yes. I have a  
24 question about a testimony that you gave during your  
25 presentation earlier this evening.

1           You had stated that in the process of digging  
2 the area for the pipeline you would remove all of the  
3 topsoil to whatever depth that the topsoil was stated in.  
4 In the proposal that you had provided to the Public  
5 Utilities Commission states that it would be at a maximum  
6 depth of 12 inches.

7           So I was wondering which one of those is  
8 correct, which was presented to us?

9           MR. MAHMOUD: A great detail question.

10          So our topsoil segregation, I don't remember if  
11 it's at a maximum or a minimum. I apologize. The intent  
12 is to remove the topsoil to the limit of whatever that  
13 topsoil is. So it could be 2 inches. It could be 8  
14 inches. It could be 2 feet.

15          So we have the agronomists that we've hired to  
16 actually walk and help us identify the depth of that  
17 topsoil to remove.

18          I think the reference in our ag plan that was  
19 submitted was more of a general reference that we would  
20 move 12 inches is what's expected, but it certainly  
21 varies per property.

22          CHAIRMAN NELSON: Sir, this is going to be your  
23 second one so I'm going to ask you to be very, very brief  
24 so we can see if there's anybody else that hasn't spoken  
25 yet.

1           MR. JANJIGIAN: Hi. My name is name is Armen  
2 Janjigian. I spoke earlier. I don't have to repeat my  
3 name again, do I?

4           As I mentioned earlier, your pipeline will be  
5 adjacent to another pipeline that is on my land. That  
6 pipeline is owned by MidAmerican. A lot of gas goes  
7 through that pipeline to Sioux Falls.

8           I'm wondering what are the safety features that  
9 you're going to be putting in next to a very explosive  
10 gas pipeline to begin with, possibly one, and how close  
11 are you going to be digging close to that pipeline, and  
12 have they given you the permission yet to --

13           I think they told me, and I contacted  
14 MidAmerican that the -- you have to get permission from  
15 them to even get close to their pipeline.

16           So I was just wondering what -- how close are  
17 you going to get to theirs, and what would happen if that  
18 spill occurred next to their pipeline? And do you have  
19 to contact MidAmerican too? And what emergency  
20 procedures would you put in place?

21           That's my question. Thank you.

22           MR. MAHMOUD: We are approximately 40 to 60 feet  
23 offset from that existing pipeline. Our easements abut  
24 each other. The MidAmerican pipeline easements from what  
25 I understand are somewhat undefined. They're old

1 easements that have been there for a long time, and at  
2 that time period it did not always define those  
3 easements.

4 But where they are defined we would offset so  
5 we're somewhere, again, greater than 40 foot offset from  
6 centerline to centerline.

7 We do work with that company. We will work with  
8 them to -- as we approach construction. So we'll solicit  
9 and trade plans and communicate and make sure that we're  
10 not interfering with each other, and when we do cross or  
11 approach them, that they have their representatives  
12 present to make sure that we're working in a safe manner  
13 and in cooperation with each other.

14 As far as other design features, Chuck, do you  
15 want to talk about the cathodic protection?

16 MR. FREY: Yes. The cathodic protection, any  
17 place we would cross another pipeline we will work with  
18 them to make sure that our cathodic protection system  
19 will not interfere with theirs and vice versa.

20 There are test bonds and test sites that are put  
21 in so that each company can monitor that to verify that  
22 that continues as the lines are in operation.

23 CHAIRMAN NELSON: Thank you.

24 Darren, do you have somebody?

25 MR. LEROHL: I'll keep it short. My name is

1 Brian Lerohl.

2 This stuff is going to be shipped one way or  
3 another, whether it's by rail or by pipeline or, rare  
4 cases, by some other method. After I found out -- I used  
5 to think that rail was the best way to ship it. And I  
6 found out what happened at Lac-Megantic and Casselton I  
7 changed my mind. And I think the pipeline is actually  
8 the best way to go.

9 Thank you.

10 CHAIRMAN NELSON: Others? Right here.

11 MR. COLE: John Cole, C-O-L-E.

12 I think we've done a great job of covering the  
13 subject tonight. There's been a lot of input and  
14 questions asked and answered. And I just have one, I  
15 guess, that wasn't talked about.

16 My farm is up in Lake County. I'm in the Upper  
17 Vermillion Watershed area and the little Topeka Shiner is  
18 a protected species. That pipeline will be going through  
19 their habitat.

20 Just wondering what you've taken to -- what  
21 measures you've taken to avoid damaging that  
22 fragile infrastructure.

23 MR. MAHMOUD: Well, thank you, number one. Very  
24 important question.

25 That is a protected species under the Endangered

1 Species Act. We are aware of it. We are working with  
2 the U.S. Fish and Wildlife Service to determine the  
3 correct crossing method of the streams that support that  
4 species to ensure that our project does not result in a  
5 negative impact to that species.

6 So we're working with two agencies actually, the  
7 U.S. Army Corps of Engineers who regulates the actual  
8 crossing of the streams, and then the Fish and Wildlife  
9 that protects those species. So we're working through  
10 that plan with those agencies.

11 We've met with them in Minneapolis where they're  
12 headquartered and the other local offices where we're  
13 coming up with plans to mitigate those impacts. And  
14 those plans are not finalized but they are in the works  
15 and we are talking to them and we will have the  
16 appropriate approvals to cross those streams protecting  
17 that species.

18 MR. MILES: Brad Miles, M-I-L-E-S.

19 Something Commissioner Hanson kind of touched on  
20 as far as your relocation claims and the original route  
21 you're planned south of Sioux Falls and moving your  
22 pipeline -- (Inaudible).

23 Yes. This was a follow up on Commissioner  
24 Hanson's comments about the location of the pipeline.  
25 And basically from what it originally was just a couple

1 of miles south of Sioux Falls they moved it about 4 miles  
2 farther south.

3 But in doing so they basically located the  
4 pipeline in the juncture within just a mile of Harrisburg  
5 and Tea, which is your two fastest growing cities  
6 basically in the last five years in southeast  
7 South Dakota or all of South Dakota.

8 And over the last two years in Lincoln County  
9 we've had major erosion problems from basically  
10 development area in Sioux Falls that they added concrete  
11 and asphalt which basically has flooded out roads, washed  
12 out bridges, culverts, and it's going to become a  
13 continuing process as the developing area in Sioux Falls  
14 continues to grow.

15 And I'm kind of wondering how much can this  
16 pipeline withstand as far as the power of water and  
17 erosion, which basically is getting worse and worse the  
18 closer you are to Sioux Falls every year to the south.

19 And why did you choose this route for your  
20 pipeline now instead of to begin with?

21 MR. MAHMOUD: I've talked about how we routed  
22 the pipeline. I know it's not a popular answer, but  
23 that's how we did it. We worked with the Commissioners  
24 and the City Councilmen, and we ended up with a route  
25 that we believe to be the best route around the area to

1 mitigate those impacts.

2 As far as erosion is concerned, we do have an  
3 erosion control plan. That plan is the Sedimentation and  
4 Erosion Control Plan. It's another one of those  
5 protections that we're required to have and that we do  
6 put into place so when we're constructing we put erosion  
7 control devices to minimize sedimentation erosion off of  
8 our construction right of way.

9 So we do take those into consideration. We put  
10 them into our construction plans. We maintain and  
11 monitor those devices, and then after construction we  
12 will ensure that we minimize and avoid the off side or  
13 relocation of sedimentation and erosion off of our right  
14 of way until that right of way is re-stabilized so we're  
15 not having that erosion.

16 I hope that -- did that answer your question?  
17 Okay.

18 MR. MILES: I guess what I was asking was what  
19 can your pipeline withstand as far as water pressure  
20 against it from erosion?

21 Because we've had a lot of bridges, a lot of  
22 culverts, a lot of roads that have been washed out that  
23 never used to even flood just south of Sioux Falls, and  
24 now they're constantly being repaired, replaced, having  
25 to improve basically the whole infrastructure in

1 Lincoln County because of flood waters every year.

2 MR. MAHMOUD: I'll try to see if I can phrase  
3 this, and Chuck can answer it.

4 The pipeline's buried. And so if it did become  
5 exposed because of an erosion event, what he's asking is  
6 what's the lateral pressure that the pipe could withstand  
7 from a water hitting that pipeline?

8 MR. FREY: That's not something I can answer  
9 here. That's something that we just have to do  
10 calculations to see.

11 The pipeline's not designed to be in that  
12 situation because it's buried. We protect it from  
13 erosion. Any time -- you know, one of the things the  
14 patrol pilots, for example, are looking for is any  
15 evidence of erosion, anything that may cause exposure of  
16 the pipeline. But as far as a number to tell you, that  
17 would be a calculation we would have to run for a  
18 specific incident.

19 CHAIRMAN NELSON: We're getting late. I don't  
20 want to cut off any debate. But does anybody have any  
21 new questions, anything that we haven't covered already?

22 MS. WALTJER: Susan Waltjer, W-A-L-T-J-E-R.

23 And this might seem like an unusual question. I  
24 live very close to the landfill so very close to where  
25 the proposed pipeline is going through. Unfortunately,

1 most of my drainage into my property will probably come  
2 from the direction where the pipeline is.

3 We were talking about the pipelines going in  
4 close proximity to gas pipelines and that kind of thing.  
5 Well, of course, a municipal landfill is a huge gas  
6 producer.

7 Is there any added safety or is that even a  
8 concern to even look into?

9 I mean, if you live close to it, you see the gas  
10 being vented and burned off so you know it's there and it  
11 is volatile and you are shipping a highly volatile --  
12 close to a highly volatile area.

13 I wonder if that's even something you guys  
14 address or try to avoid or try to stay far away from. It  
15 looked to me and I wish we would have had access to these  
16 maps earlier. I'm a little unhappy. I've been trying to  
17 look up the route for days to prepare questions, and that  
18 route was not made available. So transparency's been a  
19 little annoying.

20 But, anyway, is there certain precautions that  
21 you try to take to stay far from municipal landfills?  
22 And also I know it is heading west, but it looks like it  
23 cuts it off where it might go, you know, farther in that  
24 direction also.

25 CHAIRMAN NELSON: While they're consulting on

1 their answer, I will just mention the Application that  
2 includes all of the maps was posted on the PUC website  
3 back in December when the Application came in.

4 Go ahead.

5 MR. MAHMOUD: Sure. We do have maps on our  
6 website of where the pipe is routed.

7 MS. WALTJER: Not specific like we have here  
8 now.

9 MR. MAHMOUD: Okay. I don't know if we cross  
10 your property, but if we do, and we will be happy to  
11 review that with you.

12 As far as the landfill goes, we took that into  
13 consideration when we were routing the pipeline to avoid  
14 sites like that, a landfill. As far as special  
15 construction considerations, not really because the --  
16 other than the routing to avoid those areas, to have an  
17 event you have to have a certain flammability. The  
18 atmosphere has to be right.

19 So just because the landfill is emitting methane  
20 into the atmosphere does not necessarily make that a  
21 hazardous location. What we do do, though, is we avoid  
22 having to unearth that landfill. So we route around it  
23 to avoid direct impacts to it and to mitigate those  
24 interferences with each other.

25 CHAIRMAN NELSON: Any other new questions?

1           Darren.

2           MS. STOOPS: Hi. My name is Linda Stoops,  
3 S-T-O-O-P-S.

4           My first question: When asked directly by a  
5 lady that was over here whether this oil was fracked oil  
6 from North Dakota, they didn't answer that. They said  
7 actually we don't know. That's pretty unlikely. I don't  
8 think they're going to be shipping things through their  
9 pipeline that they don't know what it is.

10          So my question is to you guys will you be  
11 looking into that, and do you have any clout to find out  
12 what is really in fracked oil?

13          As I understand it, the companies that hold the  
14 patents for this process refuse to tell anyone what's in  
15 those chemicals. So you're going to have things coming  
16 through a pipeline that you don't even know what it is.

17          So I'm hoping that you will look into that the  
18 best you can and find out, and if you can't, that kind of  
19 seems like it would be a deal breaker to me.

20          CHAIRMAN NELSON: If I could respond to that,  
21 it's not going to be within our purview to determine how  
22 the oil is -- oil wells are operated. And the chemicals  
23 that you're referring to, my understanding of fracking,  
24 those chemicals are injected into those wells to force  
25 the oil out. That's not what's coming through the

1 pipeline.

2 Our concern is the oil coming through the  
3 pipeline. And so we're obviously going to be concerned  
4 about that. But so far as what's going on in North  
5 Dakota to extract the oil out of the ground, that's not  
6 going to be within the purview of what we're going to  
7 look at.

8 MS. WALTJER: Except for the fact that I don't  
9 think you can push that chemical into the ground without  
10 it mixing with the oil. So you're not getting pure crude  
11 like they would like you to believe. You're getting  
12 crude mixed with those chemicals. So that's what's going  
13 to be coming through here.

14 Another thing that they didn't seem to answer or  
15 maybe this was the comedy part of the evening and nobody  
16 laughed, when asked about the lifeline of these types  
17 they said almost infinite. I hope you guys are going to  
18 be looking into that because we're talking steel carrying  
19 corrosive material through solid water. Lincoln County  
20 has a really high water table.

21 I know the place by my place they're talking  
22 about they're going to be in the water table. So  
23 surrounded by water and farm chemicals. Will you be  
24 contacting like the Engineering Department at SDSU or  
25 something and finding out what the real life of such a

1 steel pipeline is?

2 And, if so, do you have the clout to require  
3 this company to be on a schedule of maintenance that is  
4 like over a 20-year period you'll replace 5 percent of it  
5 this year, 5 percent this, you know, whatever 20 percent  
6 each year to get up to the full pipeline replaced  
7 constantly?

8 The reason I'm asking that is I'm not sure who  
9 all is from Sioux Falls on your board, but Sioux Falls  
10 had a problem not that long ago with the Williams  
11 Pipeline where an entire portion of Sioux Falls was  
12 really destroyed by them not maintaining a pipeline.

13 There's a public school, Hayward, I think.  
14 Anyway one of the public schools that had to be actually  
15 abandoned and rebuilt because there was no maintenance.  
16 Unless you force them to, they won't do that.

17 Now is that in your power to do?

18 CHAIRMAN NELSON: I'm going to ask the company  
19 two questions before I answer your question.

20 The first one is do you know, does the oil  
21 you'll be carrying include fracked chemicals in it? Do  
22 you know the answer to that question?

23 MR. MAHMOUD: We know it's coming from fracking.  
24 I don't know if it's all coming from fracking. And I do  
25 not know if the chemicals mix. That's not what we do.

1 We transport. We don't do the production.

2 CHAIRMAN NELSON: The second part of her  
3 question was dealing with the maintenance, perhaps  
4 replacement of the pipe.

5 Can you talk about what the federal requirements  
6 are for maintenance of the pipe?

7 MR. MAHMOUD: Sure. And, Chuck, I'm going to  
8 turn that over to you to give the detail.

9 MR. FREY: Yes. We are required to run a  
10 instrumenting tool in the pipeline a minimum of every  
11 five years. This instrumenting tool allows us to look at  
12 any deformations in the pipe that shows us any evidence  
13 of wall loss that would be corrosion related either  
14 internal or external.

15 When we get that information any areas that show  
16 concern we can go investigate those and dig out that  
17 location and we make repairs or replacement as required  
18 to fix those sites that may have any damage or  
19 degradation.

20 MS. WALTJER: That sounds nice, but what I'm  
21 talking about is are you required to completely replace  
22 it every so many years?

23 MR. FREY: There are no regulations I'm aware of  
24 that require pipelines to be replaced on any given  
25 frequency.

1 MS. WALTJER: It's common sense. Steel is not  
2 forever so you can't expect it's going to be forever. It  
3 needs to be replaced at regular times.

4 And the reason I'm speaking strongly about this  
5 is you have absolutely no margin for error on a leak.  
6 Some places maybe you do. You know, maybe you think, oh,  
7 we're five miles from the river. No. In Lincoln County  
8 you are right in the water table. So there is a -- a  
9 leak is in the water table, it's headed into the aquifer  
10 right now no matter how fast you turn that off.

11 The other thing is Lincoln County and probably  
12 Minnehaha County, I don't know, but they're heavily drain  
13 tiled. Any liquid that's in the ground is immediately  
14 being siphoned off into the nearest creek and from there  
15 right into the Sioux River and into the Missouri.

16 There's no margin for error there. We don't  
17 say, oh, we've got a leak but we turned it off in an  
18 hour. Huh-uh. Too late.

19 You know, unless you -- if the standard is that  
20 they have to show that they're not going to harm any of  
21 us, they failed on both parts so far. I hope you see  
22 that and deny them the permit.

23 Thanks.

24 CHAIRMAN NELSON: Other new questions or  
25 comments?

1 MR. REBELEIN: Dennis Rebelein, D-E-N-N-I-S,  
2 last name R-E-B-E-L-E-I-N. One quick question with  
3 respect to the easements.

4 Are the easements written such that it limits it  
5 to a single pipeline? Or is that left open for the  
6 addition of another pipeline in the future? I have a few  
7 other questions if you'd like to handle this one first.

8 MR. MAHMOUD: Sure. Our Application was for a  
9 single pipeline. I know that doesn't answer 100 percent  
10 of your question.

11 The easements are for -- we can define and put  
12 in there we're asking for a single pipeline right now.  
13 If it makes the landowner more comfortable, we will write  
14 in there one pipeline.

15 The certificate is for a single pipeline. If we  
16 wanted to put another one in, we would have to go back  
17 and get another certificate to do that.

18 MR. REBELEIN: Now on to the engineering of the  
19 pipeline. It's running at 1,440 psi. It's test  
20 pressured at 1.25 times operating pressure.

21 What's the designed surge allowance in the  
22 pipeline? Are you accounting for surge?

23 MR. FREY: Yes. We will be accounting for  
24 surge. A surge analysis will be performed on the  
25 pipeline, and either relief valves in the surge tanks or

1 other control valve mechanisms will be installed as part  
2 of the design and construction of the pipeline before  
3 it's placed in service. But, yes, we'll have surge  
4 analysis in place before the line goes into operation.

5 MR. REBELEIN: My last question then pertains to  
6 the SCADA control valves. The control valves that are  
7 there responsible to reduce the amount of a spill in the  
8 event of a spill.

9 How often do those control valves have to be  
10 exercised?

11 MR. FREY: They have to be exercised a minimum  
12 of twice a year, specifically no period of time to exceed  
13 7 and a half months. That's DOT regulations.

14 MR. REBELEIN: Thank you.

15 MR. JOHNSON: Larry Johnson, L-A-R-R-Y  
16 J-O-H-N-S-O-N. I'm going to direct this to the PUC.

17 It's my understanding that there is a methane  
18 gas line coming out of the landfill heading south towards  
19 one of the ethanol plants. And I was wondering about  
20 whether they cross that or not.

21 CHAIRMAN NELSON: I'm going to direct that to  
22 the company. Do you know if you cross that?

23 MR. MAHMOUD: We're not aware, no, sir.

24 CHAIRMAN NELSON: We're not aware, and they've  
25 already addressed how they would react if they crossed

1 that one and how they will react when they cross other  
2 similar lines.

3 Question over here.

4 MS. GIER: Angela Gier, G-I-E-R.

5 My question is actually about terrorism.  
6 Because we're talking a lot about we're carrying this oil  
7 because it's domestic, and we don't want to rely on other  
8 people. The pipeline is very carefully mapped out, not  
9 so carefully that you know exactly where it is but  
10 generally so that people know where it is.

11 Is it safe if -- like is there a way to use it  
12 to blow it up? I mean, I don't know how oil works, but,  
13 I mean, is it safe from terrorism?

14 CHAIRMAN NELSON: There's the billion dollar  
15 question of the night.

16 MR. MAHMOUD: Okay.

17 Practically. If you look at this pipeline and  
18 you compare it to, say, the Gulf Coast, this pipeline --  
19 I'm just speaking honestly here from one American to  
20 another. This is probably not a target from terrorism.

21 Because the Gulf Coast and other areas are much  
22 higher value places to disrupt our economy and our way of  
23 life. I say that, you know, again, not from a terrorism  
24 expert perspective but just from a practical nature  
25 standpoint.

1           We work with the State authorities, the Federal  
2 authorities. We have terrorism programs to protect our  
3 assets. And those programs include alerts to us. As we  
4 become aware, we alert the government so that we can work  
5 with those agencies that protect us, you and I, just like  
6 they protect our assets.

7           So we have plans in place. Those are mostly  
8 confidential for obviously reasons. And we would employ  
9 and work with the government in the event that there was  
10 a terroristic attack.

11           But I personally believe, me, that's a pretty  
12 low target when you look at the bigger picture in the  
13 U.S.

14           CHAIRMAN NELSON: Other new questions?

15           Wow. We might be there.

16           Well, ladies and gentlemen, let me just say a  
17 couple of things. First of all, sincerely from the  
18 entire Commission, thank you for coming out tonight.  
19 Thank you for sharing your information and, in some  
20 cases, just sharing your heart with us, letting us know  
21 what you're feeling, given what's being planned here.

22           A couple of things. Whoever's missing their  
23 spectacles, they either drove home without them -- that's  
24 not good -- or they're one of yours so come up and get  
25 them.

1           The final thing I'd like to say, this is not the  
2 end. This is the beginning of this process, and we will  
3 take your comments right up until the time we make our  
4 final decision. And you need to submit those to us in  
5 writing.

6           You can do that either by sending a letter or  
7 sending an e-mail to us, and we will add those to the  
8 docket file. And what that allows then is for all of us  
9 to read that, for the Applicant to read that, and for us  
10 to deal with that.

11           We have had some phenomenal questions tonight.  
12 And we greatly appreciate that because this gives us the  
13 basis then to try to determine which of those three  
14 decisions we make. Do we grant, do we deny, or do we  
15 grant with certain conditions. And so you have been  
16 helpful to us tonight, and I want to thank you for that.

17           Any last questions, Commissioner Hanson?

18           Commissioner Sattgast?

19           If not, the hearing is adjourned.

20           (The hearing is adjourned at 9:30 p.m.)

21

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23

24

25

1 STATE OF SOUTH DAKOTA)

2 :SS CERTIFICATE

3 COUNTY OF SULLY )

4

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

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

13 Dated at Onida, South Dakota this 25th day of  
14 February, 2015.

15

16

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18 \_\_\_\_\_  
19 Cheri McComsey Wittler,  
20 Notary Public and  
21 Registered Professional Reporter  
22 Certified Realtime Reporter

23

24

25

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