

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION
BY TRANSCANADA KEYSTONE PIPELINE, LP FOR
A PERMIT UNDER THE SOUTH DAKOTA ENERGY HP09-001
CONVERSION AND TRANSMISSION FACILITIES
ACT TO CONSTRUCT THE KEYSTONE XL PROJECT

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Transcript of Proceedings
April 27, 2009
Philip, South Dakota

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BEFORE THE PUBLIC UTILITIES COMMISSION,
DUSTY JOHNSON, CHAIRMAN
STEVE KOLBECK, VICE CHAIRMAN
GARY HANSON, COMMISSIONER

COMMISSION STAFF
John Smith
Kara Semmler
Nathan Solem
Bob Knadle
Stacy Splittstoesser
Tim Binder

APPEARANCES
Brett Koenecke, May, Adam, Gerdes & Thompson,
appearing on behalf of the Applicant

Reported By Cheri McComsey Wittler, RPR, CRR

1 Present on behalf of the Applicant:

2 Robert Jones
3 Neil Myers
4 James White
5 John Phillips
6 Dennis Calhoun
7 Meera Kothari
8 Heidi Tillquist
9 Jon Schmidt
10 John Hayes
11 Richard Gale
12 Jeff Rauh
13 Andrea McLandress

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15 TRANSCRIPT OF PROCEEDINGS, held in the
16 above-entitled matter, at the Fine Arts School, Philip,
17 South Dakota, on the 27th day of April, 2009, commencing
18 at 7 o'clock p.m.

1 CHAIRMAN JOHNSON: I think you all know that
2 this is the public input hearing. We're the Public
3 Utilities Commission. I'm Commissioner Dusty Johnson.
4 Also up here are Commissioners Steve Kolbeck and
5 Gary Hanson. And we'll introduce the rest of the
6 Commission staff here shortly.

7 But this is the public input hearing for
8 HP09-001, and that is our fancy docket name for the
9 filing made by the Applicant, TransCanada Keystone
10 Pipeline, and their Application for a permit under the
11 South Dakota Energy Conservation and Transmission
12 Facilities Act.

13 The date this evening is April 27, 2009, and the
14 time is right around 7 o'clock. And we're here in
15 Philip. This hearing concerns their Application to
16 construct the Keystone XL Project.

17 Now there are a couple of important purposes for
18 this hearing tonight. The first is for the Applicant to
19 inform all of us about what their Application contains.
20 And the second and most important piece is for you all to
21 have an opportunity in front of the Commission to ask the
22 Applicant questions and to make your concerns and feeling
23 on this project known to the Commissioners.

24 A copy of the Application is on file with the
25 Harding, Butte, Perkins, Meade, Pennington, Haakon,

1 Jones, Lyman, and Tripp County auditors. And anybody may
2 also access the Application at our Commission website,
3 which is www.puc.sd.gov. And any of the staff members
4 here tonight can help describe how to navigate so you can
5 find this particular information.

6 So right now the parties to this proceeding are
7 the Applicant and the Commission. But under South Dakota
8 Law each municipality, county, and governmental agency in
9 the area where the facility is proposed or any interested
10 person or entity may be granted party status by making
11 written Application to the Commission on or before
12 May 11. We do have applications here tonight if you want
13 to apply for party status.

14 Now nobody needs to become a legally-recognized
15 Intervener to be able to have their voices heard. You
16 can certainly talk tonight and you can send the
17 Commission an e-mail or a letter making your feelings
18 known and you don't need to do anything else to do that.
19 If you want to be able to have a, you know,
20 legally-recognized party status to call witnesses and be
21 subject to discovery and go through the discovery
22 process, you can do that by becoming an Intervener.

23 Now for the Applicant's permit to be approved
24 they must show four things. First, that the project will
25 comply with all applicable laws and rules. Secondly,

1 that the project will not pose a threat of serious injury
2 to the environment or to the social and economic
3 condition of the inhabitants or expected inhabitants in
4 the siting area. Third, that the project will not
5 substantially impair the health, safety, or welfare of
6 the inhabitants. And, fourth, that the project will not
7 unduly interfere with the orderly development of the
8 region.

9 Now based on those factors the Commission will
10 decide one of three things. The Commission can approve
11 the permit. The Commission can deny the permit. Or the
12 Commission can approve the permit with certain terms and
13 conditions to the construction, operation, or maintenance
14 of the facilities as this Commission finds appropriate.

15 We're going to begin tonight by having the
16 Applicant make about a 30-minute presentation to explain
17 the proposed project. And then following that
18 presentation we're going to open it up to you all.

19 First we'll open it up for questions so that we
20 can get some more information out there. Then secondly
21 we'll open it up to comments, shorter comments because we
22 want to be respectful for those people who have other
23 things that they need to do tonight. So we'll allow
24 those people with comments of 2 minutes or less to speak.
25 And then after that we'll allow people who have, you

1 know, longer comments to be able to present.

2 We're going to ask a couple of things about the
3 comments and questions tonight. Number one, we'd like
4 you to keep it on topic. We'd like you to keep it
5 relevant. And we'll allow a little flexibility there.
6 But if you wanted to ask a whole bunch of in depth legal
7 questions on condemnation, that's not something this
8 Commission has the expertise with or any authority over.
9 That would be a Circuit Court proceeding. And so we'd
10 probably frown on a real long line of questioning dealing
11 with something like that, for instance.

12 And then, secondly, we would just ask that folks
13 try not to be repetitive. If a question's been asked,
14 try not to ask it again. And if somebody's made comments
15 you agree with, you can certainly make yourself on the
16 record by saying, hey, I agree with that particular
17 comment and maybe add a couple of, you know, qualifiers
18 or any other information without going through the whole
19 thing again.

20 Now we do have a sign-in sheet at both ends of
21 the auditorium here. That's the official record of who
22 took an interest in this proceeding and who came tonight,
23 so we would really ask that you make sure to sign up
24 there. We have a court reporter so throughout the
25 evening we'll ask that you speak slowly, clearly, and

1 loudly. We'll make sure you get recognized. You can get
2 a microphone and then start out by stating your name and
3 your town or where you live so that we can get that for
4 the record as well.

5 So with that, before we introduce others, let's
6 pause and I'll look to my colleagues or Mr. Smith and see
7 if I missed anything.

8 Okay. We'll introduce other folks here from the
9 PUC. This is Commission General Counsel John Smith. We
10 have over here by the table Ms. Stacy Splittstoesser.
11 Back over here we've got Mr. Nathan Solem, Ms. Kara
12 Semmler. Over there in the gray shirt we've got Mr. Bob
13 Knadle. And back here we've got Mr. Tim Binder. And
14 they -- during breaks or afterwards they'd be happy to
15 answer any questions you've got about the process.

16 So with that, Brett Koenecke will be the lead
17 spokesman here tonight for TransCanada. Mr. Koenecke,
18 please feel free to introduce the others you have with
19 you tonight and then begin your presentation.

20 MR. KOENECKE: Thank you very much, Commissioner
21 Johnson, and thank you to Commissioners Kolbeck and
22 Hanson and the Public Utilities Commission staff for
23 convening this hearing tonight.

24 My name is Brett Koenecke. I'm a lawyer from
25 Pierre, and I represent TransCanada Keystone Pipeline in

1 this proceeding. We look forward very much to giving you
2 a short presentation about the project and then engaging
3 with you in a dialogue about it, answering your questions
4 and listening to the comments which you have to offer to
5 the Commissioners and to us at the same time. We very
6 much appreciate your turning out tonight and look forward
7 to sharing that information with you.

8 With me tonight seated right to my left is
9 Robert Jones, the vice president of TransCanada for the
10 Keystone Pipeline Project. John Phillips next to him is
11 a pipeline engineer from Houston, Texas. And next to him
12 is Jim White, also a TransCanada representative.

13 Behind me are a number of subject matter
14 experts, both TransCanada employees and contractors, who
15 are here to answer intricate-level questions that you
16 might have about any facet of the project. And we'll do
17 our best to provide you with information that will help
18 you make up your minds about the Keystone Pipeline
19 Project.

20 With that, I'll turn it over to Mr. Jones, and
21 we'll begin our presentation.

22 MR. JONES: Good evening. I'd just like to do a
23 test. Can you hear me clearly back there? No feedback
24 issues?

25 Good evening. Thank you, Commissioner Johnson,

1 Commissioner Kolbeck, Commissioner Hanson, ladies and
2 gentlemen. My name is Robert Jones. I'm the vice
3 president of the Keystone Pipelines. We are here today
4 to present information regarding the Keystone XL Pipeline
5 Project and to listen to your comments and to answer your
6 questions. Before I do that, I would like to acknowledge
7 and recognize that many of you have concerns about the
8 construction and operation of a crude oil pipeline and
9 the potential effect it may have on your land.

10 I'd like to provide you with two commitments.
11 The Keystone XL Pipeline will be designed, constructed,
12 and operated safely and in an environmentally-responsible
13 manner.

14 It is our commitment to treat landowners with
15 fairness and with respect.

16 Now let me tell you about TransCanada and the
17 project.

18 Who are we? Who is TransCanada? Well, we are a
19 North American energy infrastructure company with over 50
20 years of operating experience. TransCanada Corporation
21 is listed on the New York Stock Exchange. We have 4,000
22 employees and there are approximately 1,500 employees
23 based in the United States. Our corporate headquarters
24 is in Calgary, and our U.S. headquarters is in Houston.

25 At TransCanada we provide reliable supplies of

1 energy across this continent, and we are proud that
2 millions of North Americans depend on us every day for
3 their energy needs.

4 Now there are two logos on this slide that we
5 are very proud of. Last September TransCanada was named
6 to the Dow Jones Sustainable World Index for the seventh
7 year in a row. And for the third consecutive year
8 TransCanada has been recognized as one of the global 100
9 most sustainable corporations. These programs rank
10 companies from around the world based on their
11 environmental record and other key factors including
12 relationships with communities and with other
13 stakeholders.

14 This map gives you a look at a geographical
15 reach of TransCanada's assets. We operate more than
16 40,000 miles of pipeline assets either wholly owned or in
17 partnership with others. We also operate a growing fleet
18 of power generation, that being wind, hydropower,
19 nuclear, natural gas, power generation. We also supply
20 electrical power throughout the United States and Canada.
21 We are an energy infrastructure company with operations
22 in Canada, United States, and Mexico. And we have
23 ongoing relationships with over 40,000 landowners.

24 Now TransCanada has been a part of South Dakota
25 since the early 1980s as an owner of the Northern Border

1 Pipeline system. Now this system delivers natural gas to
2 South Dakota and to the Midwest. We now own and operate
3 this system and its headquarters are in Omaha, Nebraska
4 and we have a field office in Brookings, South Dakota.
5 Keystone's U.S. field operations will also be based in
6 Omaha, and Keystone will have maintenance bases that are
7 strategically located near the pipeline including a
8 number of them in South Dakota.

9 So why Keystone XL? This pipeline will connect
10 the world's second largest oil reserve with the world's
11 largest refined market. Venezuela and Middle Eastern
12 countries, six of the seven which are the top 10 holding
13 oil reserves in the world, are not friendly trading
14 partners with the United States so it's easy to see why
15 Canada is increasingly important as a supplier of energy
16 to the United States.

17 Canada is the leading supplier of oil to the
18 U.S. Canada supplies about 2.2 million barrels of the
19 20 million barrels consumed in the U.S. every day.
20 Canadian oil is growing in supply, and it's growing as a
21 supply source for the United States. Canada is the
22 United States' largest trading partner, and we certainly
23 are a secure and reliable trading partner.

24 Canadian oil provides an opportunity to replace
25 the oil from the Middle East, from Mexico, and from

1 Venezuela and also replace declining U.S. production.

2 So this map geographically represents
3 refineries. Refineries along the Gulf Coast represent 50
4 percent of the total U.S. refining capacity. These Gulf
5 Coast refiners are generally served by offshore supplies
6 from either the Middle East or Venezuela or Mexico, and
7 they come by supertankers. These shipments are subject
8 to weather disruptions like Hurricanes Rita and Katrina
9 and other production disruptions. But these are the
10 refineries that produce the gasoline and the diesel and
11 the lube oils and fertilizers and other products that
12 each of us use every day. And most of the products from
13 their refineries is transported to South Dakota via
14 pipeline from either the Gulf Coast refineries or from
15 Cushing area refineries.

16 The Keystone XL Pipeline will start with an
17 initial capacity of about 700,000 barrels per day, and it
18 will be expandable to about 900,000 barrels per day. It
19 will be operated as an integrated part of the Keystone
20 Pipeline system. The maximum nominal capacity will be
21 1.5 million barrels per day.

22 Now the need for this pipeline is demonstrated
23 by the long-term commitments. U.S. refiners and
24 marketers have executed binding contracts of 910,000
25 barrels per day for an average term of 18 years.

1 The Keystone XL Pipeline is estimated to cost
2 \$7 billion and with the \$5 billion of the Keystone
3 Project, the combined project is \$12 billion.

4 Now in terms of timing the Keystone Project
5 commenced construction last year in 2008 and the first
6 phase will be built -- completion of the first phase will
7 be done in 2009. And it will go in service to serve
8 refineries in southern Illinois by the end of the year.

9 We'll complete the Keystone Cushing extension by
10 late 2010 to supply the refineries in the Cushing,
11 Oklahoma area. Now pending regulatory approvals the
12 Keystone XL Pipeline Project will commence construction
13 in South Dakota in 2011 and 2012.

14 Now here's a map showing the route in
15 South Dakota. The pipeline will pass through portions of
16 Harding, Butte, Perkins, Meade, Pennington, Haakon,
17 Jones, Lyman, and Tripp Counties. The capital cost of
18 the Keystone XL Pipeline in South Dakota is \$921 million.
19 The pipeline is approximately 313 miles in length in
20 South Dakota, and the diameter is 36 inch. An example of
21 the pipe can be found as you came in the room.

22 Now there will be seven pump stations in the
23 state that will keep the oil flowing through the line.
24 There will also be six main line block and check valves
25 in addition to those pump stations.

1 Now Dennis Calhoun, our Keystone XL land
2 manager. Dennis, do you want to just wave? He's here
3 and he'll be available for those of you who are
4 interested in looking at detailed route maps.

5 Now pipelines are subjected to significant
6 federal and state review, regulatory reviews. On the
7 federal side the Department of State will review
8 Keystone's Application for a presidential permit as it
9 needs to cross an international boundary.

10 Now the Department of State is also the lead
11 agency under the National Environmental Policy Act or
12 NEPA. Now there's a dozen or more federal agencies that
13 will also review the project. A few examples are the
14 Corps of Engineers, Fish and Wildlife Service, Department
15 of Transportation, and the Bureau of Land Management.

16 Now the South Dakota Public Utilities Commission
17 has siting authority to review this project. But in
18 addition, the project will be reviewed by other state
19 agencies. They include the South Dakota Department of
20 Environment and Natural Resources or the DENR, and the
21 South Dakota State Historic Society.

22 Now this map shows the more than 1.3 million
23 miles of existing oil pipelines and gas pipelines in the
24 United States. But we tend not to notice these pipelines
25 once they're in the ground. Pipelines deliver nearly all

1 the natural gas and nearly all of the gasoline and the
2 diesel that we use in the U.S. and here in South Dakota.

3 The reason is that pipelines are the safest and
4 most efficient mode of transportation. Now interstate
5 pipelines are operated under federal regulations. And
6 within the Department of Transportation the Pipeline
7 Hazardous Materials Safety Administration or PHMSA
8 regulates pipeline safety. The PHMSA office for
9 South Dakota is based in Kansas City.

10 Now in addition to helping U.S. demand for oil,
11 the Keystone XL will deliver local benefits to
12 South Dakota. We estimate approximately 20 to \$30
13 million will be directly injected into the local economy.
14 Pipeline and pump station contractors will purchase food,
15 lodging, construction consumables, and other supplies.

16 Keystone will be the largest private
17 construction project in South Dakota. The workforce is
18 estimated to be about 1,200 workers per year in 2011 and
19 2012. But by far the largest benefit to South Dakota
20 will be the property tax revenue. It will be collected
21 every year by 9 counties and 13 school districts the
22 pipeline will traverse. We estimate that the first year
23 of property tax revenues in South Dakota will be \$10.3
24 million. And the state aid to education payments are
25 estimated to be reduced by \$5.2 million per year. There

1 will be a significant reduction in tax burden benefiting
2 all local taxpayers. Now another benefit will be the
3 reinforcement of local co-ops' electrical grid
4 infrastructure.

5 Route selection. It's a multistep process.
6 First we needed to identify the project objectives. For
7 the Keystone XL project they were to transport Canadian
8 oil to the Gulf Coast. So we needed to look at the most
9 direct route. From Hardisty, Alberta to Steele City,
10 Nebraska.

11 Secondly, we needed to identify some major
12 control points. One of them was the entry point into the
13 United States, the Ft. Peck Reservoir, the Charles
14 Russell National Wildlife Refuge, and the connection to
15 Steele City to combine with the Keystone systems. Once
16 we had the project objectives and the major control
17 points defined, we had what they call a study area.

18 We collected data and we solicited input from
19 various agencies, the public, and we did field surveys.
20 Once we had all the data identified we determined
21 constraints such as environmentally-sensitive areas, the
22 local terrain, and cultural features.

23 The study areas show that there were no existing
24 parallel northwest-southeast infrastructure like existing
25 oil and gas pipelines or power lines. We also developed

1 and assessed various alternatives. Additional input and
2 route refinements may occur as a result of further
3 studies and field work and further regulatory review.

4 We developed a comprehensive construction
5 mitigation and reclamation plan to minimize environmental
6 impacts based on industry best practices. There are a
7 number of agencies that will review and stipulate the
8 environmental protection measures. The Department of
9 State and other federal agencies will attach
10 environmental mitigation conditions to minimize these
11 impacts. The PUC and state agencies will also identify
12 additional environmental mitigation concerns. Keystone
13 will minimize the impact of the project on the
14 environment through the use of these construction and
15 restoration measures.

16 Now I'll ask John Phillips who oversees
17 engineering and construction to talk about the pipeline,
18 pipeline construction, and the easement necessary for
19 construction.

20 John.

21 MR. PHILLIPS: Thanks, Robert. To construct and
22 operate the pipeline Keystone will negotiate with
23 landowners for a 50-foot-wide permanent easement, as well
24 as an additional 60 feet of temporary construction work
25 space. Landowners will be able to ranch and farm over

1 the permanent easement after construction. Some areas
2 such as stream, road, and railroad crossings, as well as
3 rough and hilly terrain may require some additional
4 temporary work space to safely complete construction.

5 In addition, Keystone will obtain additional
6 rights for access roads and the temporary work space
7 reverts back to the landowner after construction.

8 In South Dakota the project is divided into
9 spreads which are about 80 to 95 miles in length, a
10 length which can be constructed in a single construction
11 season. The pipeline is constructed like an assembly
12 line, made up of separate crews, each with a different
13 task. Over two years a total of about 2,500 construction
14 workers will be spread over the length of the pipeline in
15 the state. 500, 600 construction personnel will work on
16 each spread. The work will progress at about a mile to
17 mile and a half per day per each crew on the spread.

18 After the right of way has been cleared and
19 graded, the topsoil is stripped from the right of way as
20 shown on the right and segregated away from the ditch
21 spoils which is shown on the left in order to prevent
22 mixing.

23 Pipe is delivered by train to rail sitings,
24 unloaded, and trucked to pipe yards adjacent to the right
25 of way. The pipe in 80-foot lengths is loaded on to

1 trucks at the pipe yard, delivered and strung along the
2 right of way and bent to conform to the contour of the
3 ditch.

4 The ditch is dug using a wheel ditching machine
5 or a backhoe. The ditch spoils are separated from the
6 topsoil to prevent mixing.

7 The pipe is welded together using automatic
8 mechanized or manual welding process. Every weld is
9 inspected using an ultrasonic inspection tool or
10 radiography to ensure that it meets quality requirements.

11 The weld areas are sandblasted and coated, and
12 the pipe is inspected to ensure its integrity before it's
13 lowered into the ditch. The pipe's lowered into the
14 ditch in segments, and the segments are welded together
15 at tie-in points.

16 In areas of significant rock, the pipe is padded
17 with select material, and then the ditch is backfilled
18 with the ditch spoils.

19 After the contours have been restored to the
20 original grade, the area's loosened to reduce compaction,
21 the topsoil is spread back across the right of way, and
22 the area is reseeded with specified seed mixes.

23 Prior to digging, in compliance with the state
24 law we contact South Dakota One Call who identifies the
25 location of existing utilities that are buried. These

1 existing utilities will often provide an on-site
2 representative to inspect during excavation as Keystone
3 will when you call after construction.

4 The pipe is fitted with test heads, filled with
5 water, and hydrostatically tested to 125 percent of
6 operating pressure to comply with code requirements. In
7 addition, the pipe is internally inspected with a device
8 called a pig that is used to inspect the pipe from the
9 inside for dents and ovality.

10 Although construction will disturb your land, we
11 will take great care to restore the land as close as
12 possible to its preconstruction condition.

13 We'll go to Robert for the next slide. Robert.

14 MR. JONES: Thanks, John. Test.

15 Keystone will meet or exceed all applicable
16 codes and regulations. We talked about -- we talked
17 previously about regulatory reviews that are associated
18 with this proposal. There are a separate set of
19 regulations and requirements and industry standards that
20 apply to the design of a pipeline. And they help ensure
21 pipeline safety and integrity for as long as the pipe is
22 in operation. Industry standards reflect the knowledge
23 gained through more than 100 years of experience,
24 pipeline experience, in North America. Regulations and
25 standards are intended to ensure protection of the

1 public, protection of the environment, and to prevent
2 pipeline failures.

3 Now Keystone XL will use state-of-the-art safety
4 features. For example, regulations require 2 and a half
5 feet depth of cover. The Keystone XL will be constructed
6 with 4 feet depth of cover. Now deeper depth of cover
7 minimizes the risk that a pipeline could be accidentally
8 struck by a third party. Although pipeline failures are
9 rare, when it has occurred, it is third-party damage that
10 has been the leading cause.

11 Now at TransCanada we have developed a
12 specification for high-strength steel pipe, and that
13 exceeds the existing standard for the fabrication of
14 large-diameter pipelines. Now TransCanada's
15 specification for external pipe protective coating is
16 put -- a coating called fusion bond epoxy. This
17 corrosion-preventing coating has virtually eliminated
18 external corrosion as a source of failures in pipelines
19 in the more than 29 years that TransCanada has been using
20 fusion bond epoxy coating. We have never had a failure
21 due to corrosion.

22 Cathodic protection is in addition to the
23 protective coating, and that is to protect the pipe in
24 case the coating is damaged after it's backfilled.

25 Now we'll also install markers at road

1 crossings, and we'll also bury warning tape in the ground
2 when we cross a utility. And that's an additional
3 warning to these utilities which cross the pipeline.

4 There is also isolation valves that are
5 strategically located to protect the environment in the
6 event of a release.

7 Now safety features associated with the
8 construction of the pipeline include many of the aspects
9 that John talked about. So let's start at the beginning.
10 Keystone will solicit pipe bids from mills that have only
11 met our high quality standards. We supply direct
12 oversight at the steel mill and in the pipe mill during
13 the fabrication process of the pipe. And then during
14 construction all the welds are checked by a qualified
15 x-ray or ultrasonic technician.

16 There are over 40 inspectors that monitor the
17 various aspects of construction of the pipeline. Now
18 before the pipeline's lowered into the trench the coating
19 is checked for its integrity. And after the pipe is
20 lowered in and the ditch is backfilled, the entire pipe
21 is filled with water and tested to 125 percent of its
22 operating pressure. Now we inspect the pipe internally
23 with what is called a caliper pig to ensure it meets
24 specifications.

25 Now throughout this process land agents will be

1 available during construction to keep the lines of
2 communication open so you're aware of all of these
3 construction activities.

4 Now the entire pipeline system is monitored 24
5 hours a day, 365 days a year. It's monitored by highly
6 trained, qualified employees at a computerized control
7 center. We have a backup control center that provides
8 redundant oversight. The control center is also equipped
9 with dual communication lines. These systems are
10 satellite based. We also have multiple leak detections.

11 Now Keystone has a pipeline integrity management
12 program that maintains the quality of the pipe throughout
13 its life. Keystone also has a damage prevention program
14 that includes the participation in South Dakota One Call.

15 Now aerial surveillance or line patrol will
16 occur 26 times a year and is not to exceed three weeks.

17 Now in the unlikely event of a release, Keystone
18 will implement the emergency response plan. The plan or
19 the program is to protect the safety of the public, the
20 environment, to minimize damage to property and company
21 operations.

22 Now the emergency response program will be
23 submitted to PHMSA and the South Dakota department of
24 energy and natural resources. Keystone's public
25 awareness program will communicate our emergency response

1 program to stakeholders such as your community first
2 responders. Keystone employees and contractors will be
3 trained as first responders to address the
4 emergencies -- any emergency.

5 Keystone will work with community first
6 responders so -- such as local law enforcement and fire
7 departments to be aware of our role and our capabilities
8 and that they are to address public safety and to secure
9 the site.

10 Keystone's commitment is to design, construct,
11 and operate a safe pipeline, to build and operate it in a
12 socially and environmentally responsible manner, to meet
13 or exceed industry and government standards, to consult
14 with stakeholders. Keystone will treat landowners with
15 respect and fairness.

16 We look forward to being a part of your
17 community for generations and for being a good neighbor.

18 Keystone will continue to operate our project
19 website. We have an e-mail address. We have toll-free
20 numbers because we want to receive and respond to your
21 inquiries and to foster ongoing consultation. You can
22 find the toll-free information and the project website on
23 the back of any of the Keystone XL brochures which were
24 sitting outside as you came in -- outside the room as you
25 came in the building.

1 Dennis Calhoun, as I said, is also here, and
2 he's available to talk to landowners.

3 I want to thank you very much for listening to
4 me and then listening to us and coming here tonight.

5 CHAIRMAN JOHNSON: Thank you very much to the
6 Applicant. At this point we'll start off with questions.
7 If you've got a question, raise your hand and we'll have
8 one of the mikes come on over. You know, we're happy to
9 have you -- try to keep it to one question to start with.
10 Then they can answer your question. Then we can come
11 back to you for a follow-up or two. We don't mind that.
12 We want to make sure we spread it around so everybody's
13 got an opportunity to ask questions, but try not to ask
14 four or five in a long line. It makes it a little tough
15 for the Applicant to respond.

16 So with that, we've got a hand up right here in
17 row no. 2. And start by stating your name and where you
18 live.

19 MS. LAMBERT: Sylvia Lambert from Interior,
20 South Dakota. I have a question -- I have two questions.
21 One, doesn't Canada already have refineries so that
22 couldn't they refine it there seeing that this tar sands
23 bitumen is much cruder than even the crudest oil that we
24 do already have?

25 MR. JONES: Thank you for your question. I

1 think there were two questions I'll try and answer. The
2 first one is why isn't this product refined in Canada or
3 used in Canada. And the second one was a question around
4 the tar sands or the oil sands. So let me answer the
5 first one.

6 Canada is a country of about one-tenth the
7 population of the United States, and in Alberta there's
8 already a sufficient number of refineries. There is
9 also, you know, 20 million barrels of refining capacity
10 in the United States and about 15 million barrels --
11 between 12 and 15 million barrels every day is imported
12 from other countries, of which 2.2 million barrels are
13 imported from Canada.

14 Now the Keystone Pipeline can move virtually all
15 types of crude oil, any kind of liquid product. It's
16 designed to move light crudes and heavy crudes. Now
17 there's a lot of misinformation with regards to the oil
18 sands. There is no sand left in the oil. So when
19 they -- when they extract the oil from the ground, they
20 need to remove the sand and they can do that through two
21 processes. There's a mining process, and there's a
22 drilling process.

23 Now either way we have a certain specification
24 for the oil. It's the same specification that every oil
25 field in every country has to do to get into these

1 refineries. So the oil in Canada, once it comes into
2 this pipeline, is no different than the same
3 specification of the oil that you would find in North
4 Dakota or in the Rockies or in California or in Oklahoma.

5 It is also obviously compatible with the oil
6 that they're getting from Mexico, Venezuela, and Saudi
7 Arabia.

8 MS. LAMBERT: You mean the sand is taken out
9 there in Canada?

10 MR. JONES: That's correct.

11 MS. LAMBERT: The other question that I have,
12 I've heard that the pipe that you're using -- where is
13 that made?

14 MR. JONES: So we have not ordered the pipe for
15 this project, but there's been a lot of news lately about
16 the pipe that we acquired for the project that's under
17 construction today.

18 So when we first started building the Keystone
19 Pipeline that's being built in the eastern side of the
20 state, we started that project in 2005. And we went out
21 to bid in 2006. And I don't know about you guys, but the
22 economy was a lot better in 2006 than it is today. And
23 when we went out for bids there were 12 qualified pipe
24 mills in the world and only four in the United States.
25 All the steel mills and all the pipe mills in the

1 United States and in Canada were running at full
2 capacity.

3 So we -- when we went out to bid we were able to
4 get about half of the pipe from North American pipe mills
5 and the other half we had to go offshore. And our
6 choices were European mills and Asian mills. And the
7 company that could produce the best quality pipe was a
8 company called Welspun. Now this company, we've had
9 auditors. We've had a number of other pipeline companies
10 use them. And so that's the pipe that you've seen in the
11 news lately.

12 The pipe we're going to use for this project
13 will more than likely come from North America. And the
14 reason is -- and not that we're still going to go to bid
15 for the 12 around the world because we want to make sure
16 we have the best quality pipe for this project and those
17 12 mills can do it.

18 But what's happened is that since 2006-2007,
19 three new pipe mills have been built in the
20 United States, one of them by that company in India. And
21 so we expect that the majority of the pipe this time will
22 definitely come from North America.

23 CHAIRMAN JOHNSON: All right. Hand up right
24 over there.

25 MR. NELSON: Mark Nelson from Philip. My

1 question is in the event that there should be leakage,
2 how do you handle the containment and then the
3 reclamation and who would be liable for the land damage
4 and loss of use of the land?

5 MR. JONES: Mr. Nelson, I believe there were
6 three questions in there and I want to make sure I get
7 all of them answered properly. One of them was
8 containment, one was how we're going to clean it up, and
9 the other was liability.

10 So with regards to containment I'll ask
11 Mr. Hayes first to answer that question.

12 MR. HAYES: Sorry about that. I can't see.
13 When I turned 50 I need glasses. So I'll come over here.
14 My name is John Hayes, and I'm a consultant from
15 TransCanada specializing in emergency response. Is that
16 coming through okay? Okay. I'll start over.

17 My name is John Hayes, and I'm a consultant with
18 TransCanada with specialization in emergency response.
19 The question was on containment. And that's a big
20 question. I could talk about that for a real, real long
21 time.

22 What I would like to say, as Mr. Jones showed on
23 a slide, is what I have developed is a very comprehensive
24 emergency response program and that program has really
25 four broad components. The first one is the plan itself.

1 And we've gone to great lengths to develop a plan that
2 covers all kinds of things that you might expect of any
3 emergency response plan, certainly including containment.

4 The plan also is very unique in that it is
5 housed on an external server, and it's up to date all the
6 time so we have the best available technology in the plan
7 all the time 24 hours a day, 365. There is a very
8 specialized section on containment. In that plan we have
9 identified containment on any type of emergency in any
10 type of situation.

11 So, for example, we cover leaks on land, on
12 water, on streams, in school yards, in graveyards,
13 anywhere at all, under ice, on ice, and we've developed
14 very specific procedures on how to contain and clean up
15 oil in that regard. I didn't know where the question
16 came. Did that answer it for now?

17 MR. NELSON: Yes.

18 MR. HAYES: Thank you.

19 MR. JONES: And the second question was on
20 reclamation?

21 MS. TILLQUIST: My name is Heidi Tillquist. I'm
22 also a contractor for TransCanada. Cleanup of an oil
23 spill is really site specific. There's a number of
24 different ways that it can be cleaned up. They range
25 from excavating the soil, removing it. They can burn it

1 on site, they can treat it on site adding fertilizer.
2 They can let it naturally attenuate.

3 It's not a decision that's going to be made
4 solely by TransCanada. What happens in that case is that
5 there -- if it was here in South Dakota, Keystone is
6 going to be working and coordinating with the
7 South Dakota DENR to try to decide what's the best method
8 to address the issue.

9 There's also cleanup standards. They're going
10 to look at, you know, how much needs to be cleaned up in
11 order to provide safety for both the human environment
12 and make sure the vegetation grows back. There's a
13 multiple number of components that they will look at.
14 But it's not done in isolation just determined by
15 Keystone. It will be in coordination with the state and
16 sometimes federal agencies.

17 MR. JONES: And then I think the last question
18 was on liability; correct?

19 MR. WHITE: Thanks. My name is Jim White. I'm
20 a lawyer with TransCanada. The question with respect to
21 liability, the easement document that TransCanada is
22 taking out to landowners across the state has a lot of
23 detailed specifications about liability. But essentially
24 it can be summarized as Keystone is responsible and
25 liable for incidents that occur unless those incidents

1 are the result of negligence, willful misconduct, or
2 intentional action on the part of another party. So
3 that's -- I think that's a fair summary of the liability
4 provisions that will be in our easement.

5 MR. JONES: I just want to add that no matter
6 what, by state law and by federal law, no questions
7 asked, we clean up the mess. So if it does happen and
8 there's a release, TransCanada Keystone, we're
9 responsible to clean it up.

10 CHAIRMAN JOHNSON: I believe we had a question
11 over here.

12 MR. PROKOP: Yes, my name is Veryl Prokop,
13 Kadoka. I'm the director for the West River Lyman Jones
14 Rural Water System. That's Haakon, Jackson County, and
15 Jones County. And I have with us tonight our manager,
16 Dave Fitzgerald.

17 We've had a lot of questions concerning the
18 safety of the water. You'll be crossing our core lines.
19 You'll be crossing our distribution lines. And, of
20 course, we are very willing to work with you, but could
21 you put the people's mind at ease as to like -- well, one
22 question: Who's going to pay for these inspectors, and
23 how far are you going to bury them? What are you going
24 to do with our pipes that are already in there? Can you
25 give us kind of an overview of that?

1 MR. JONES: So if I understand the questions, I
2 just want to make sure we get them all. So the first of
3 all was who's going to pay for the inspectors. Now I'm
4 assuming you're talking about inspection of the various
5 pipeline crews, or the inspection when we cross the water
6 utilities?

7 MR. PROKOP: Well, it's going to be both. We're
8 going to have to be out there when you cross our lines
9 and then when we want to put in new lines you're going to
10 have to be out there and we have to come up with a
11 working agreement on this, see.

12 MR. JONES: Yes. That's correct. So actually
13 I'm going to have John talk about the utility agreements
14 and also our construction practices when we go to cross
15 water utilities.

16 MR. PHILLIPS: What we'd like to do is exactly
17 what you said. We'd like to work with you. Because, you
18 know, the freeze line -- what we'd like to do is work
19 with you to reimburse you to lower your water lines to a
20 depth below where our pipeline's going to be. We'll
21 reimburse for that.

22 What we'd also like to do is if you have future
23 plans that cross the easement, let's put a piece of
24 casing in there. If you have a pretty good idea what
25 size water line it might be, let's put a piece of casing

1 in across the right of way, figure out where it's going
2 to be and then come back that way. We're both taken care
3 of. You're not having to dig over the top of the pipe
4 later, and you can work with the casing.

5 We'll do all of this through some utility
6 crossing agreements. The land office in Rapid City
7 working with Dennis Calhoun's folks will get with you and
8 work out these arrangements. We'll work out the
9 reimbursement agreements and work with you, determine
10 where these lines need to be lowered, get them down to a
11 depth below where we're going to be with enough adequate
12 separation. And then that way when we come through to do
13 construction, your water lines are not in a place where
14 they're going to be a problem.

15 MR. PROKOP: Another question was does this
16 pipeline generate a lot of heat as that oil's going
17 through it?

18 MR. JONES: I'd like to get our pipeline
19 engineer to answer that question.

20 MS. KOTHARI: I am Meera Kothari, pipeline
21 engineer with TransCanada. The oil inside of the
22 pipeline is not heated when it enters the pipeline.
23 However, as it travels through the pipeline it does heat
24 up due to friction as it moves along the pipeline.
25 Presently we are conducting a temperature study of the

1 pipeline, and we can expect to see the oil inside the
2 pipeline in South Dakota to be anywhere between 89 F and
3 120 F. The temperature of the oil is dependent on a
4 number of factors: The time of the year, the viscosity
5 of the product, and the flow rate.

6 On Keystone phase 1 in the eastern part of the
7 state we conducted a similar study, and the results of
8 that study were that there were no significant impacts to
9 crops as a result of the temperature in the pipeline.
10 And we expect the same results for this particular
11 pipeline. However, in the case that there is documented
12 damage for crops, Keystone will reimburse.

13 MR. PROKOP: Thank you very much. Jake, do you
14 have any questions? We will work with you as good as we
15 can, people, okay?

16 CHAIRMAN JOHNSON: Go ahead, Mr. Jones.

17 MR. JONES: I just want to add one more fact
18 about the temperature. The depth of cover really gives
19 us quite a protection when it comes to crop impacts
20 because it's the 4 foot depth of cover, it's an awful
21 long ways for the temperature to cause any problems. So
22 I just wanted to add that fact. Most pipelines are only
23 2 and a half feet deep.

24 CHAIRMAN JOHNSON: Okay. We'll go right here
25 and then up there.

1 MR. SEAMANS: Okay. I'm Paul Seamans from
2 southeast of Draper. And I'd like to know what is the
3 expected life of the pipeline and after being
4 decommissioned will the pipeline be removed or left in
5 place and will this abandoned pipeline create any safety
6 hazards in future years?

7 MR. JONES: Thank you, Mr. Seamans. Excellent
8 question. First of all, with regard to the life of the
9 pipeline. We're going to design and operate this
10 pipeline so it virtually can last for generations.
11 Pipelines now are almost -- can be designed and built to
12 operate safely for well over 100 years.

13 Now the fact that this is the world's largest
14 refining center and that it's connected to the second
15 largest oil reserve, we anticipate that the pipeline will
16 be used and useful for generations. However, what
17 happens is if -- if there becomes a reason to not use it
18 for oil transportation, we can use it for other means.

19 So, for example, if you look at the pipeline
20 that we're converting in Canada, it was originally built
21 in 1957 for gas service and now in 2009 we're converting
22 it for crude oil service. So once a pipeline is in the
23 ground it does have the usefulness if its purpose needs
24 to change to do so.

25 When it comes to the fact that you hit the end

1 of the life, there is no other application you can
2 consider, we -- you know, this is going to be many, many
3 generations from now. I can commit to you that we will
4 follow whatever the laws of the state and the federal
5 regulations are. And because it's going to be down the
6 road, you know, we would only speculate what they might
7 be.

8 CHAIRMAN JOHNSON: All right. Over here.

9 MR. EVANS: Yeah. Bill Evans from Rapid City.
10 As you may have become aware, western South Dakota's sort
11 of a treasure trove for paleontologists. I'm wondering
12 what sort of supervision is in place in case you do
13 uncover some kind of fossil bed and what kind of
14 guardianship you have for that.

15 MR. JONES: Thank you, sir, and ask Jon to take
16 that question.

17 MR. SCHMIDT: Thanks for the question.
18 Jon Schmidt, also a contractor with TransCanada.

19 There are surveys that were undertaken on
20 federal and state lands for paleontological resources and
21 TransCanada has made a commitment to have inspection in
22 place during construction if any kind of paleontological
23 find is discovered. Our understanding in South Dakota
24 State law is that that belongs to the landowner and we'll
25 work with them to deal with those finds that are found on

1 their property.

2 CHAIRMAN JOHNSON: Other questions? All the way
3 at the top there. That fellow right there too. And
4 then, Ms. Semmler, we've got black baseball cap and
5 maroon shirt right there.

6 MR. KILNESS: I'm Robin Kilness from Meade
7 County. My question is on the -- where the pipeline is
8 going and would be more of an economical problem for us.
9 And I think with Dennis I have talked to earlier but we
10 haven't got anything resolved.

11 The pipeline, I did not want it to go through my
12 buffalo grass in my calving pastures because the way this
13 year has been would have been a total disaster. We
14 couldn't cross it. The pipeline was supposed to -- or
15 the proposed route, the pipeline was supposed to go right
16 through the middle of my pastures between my water and my
17 calving barns.

18 And anyway, as of right now I don't know if
19 anything has been finalized on that. But I've given them
20 two alternate routes. They could go either about a
21 quarter of a mile either direction and I -- I mean, like
22 with the moisture this year if they tear up 110 feet
23 going through my wind breaks and calving pastures, that
24 would be devastating on little calf loss. Because I
25 already on sod we've got ruts over a foot deep trying to

1 get through stuff as is.

2 MR. PHILLIPS: You're on the right -- I'm sorry.
3 You're on the right path as far as talking to Dennis.
4 But what we'll do, we'll work with you on your individual
5 situation, take a look at -- we can send some folks out
6 to take a look at the routing, look and see if there
7 might be some other alternatives that might work, work
8 with the land folks, which it sounds like you're already
9 talking to them?

10 MR. KILNESS: Yeah. I have -- they have been
11 out, and I have shown different ways but as of now I
12 don't know if anything has been changed yet or not.

13 MR. PHILLIPS: All right. Well, we're very much
14 still working on some of the different things with the
15 route. It's an ongoing process. Some of our engineering
16 folks have just gotten back into the South Dakota
17 offices, and we're going to be out and we'll be working
18 with you and working through Dennis's people to take a
19 look at your particular situation and follow up on it.
20 But we'll work with you one on one for your particular
21 situation.

22 MR. KILNESS: One other thing that I wondered
23 about, when you fly with the helicopters. That was the
24 other problem I have seen. They fly -- there's a ridge
25 that they fly over and they're low enough that they do

1 split the cattle terrible and I'd hate to be out on a
2 green horse when they fly over.

3 MR. PHILLIPS: I understand. I know we've -- I
4 know we've made -- we took some contractors out to take a
5 look at the work back in late January, and if we -- if we
6 caused a problem with that, my apologies. We were -- you
7 know, there's some places along the route that are awful
8 hard to see from the truck or from the car and the
9 helicopter is about the best way to do it.

10 CHAIRMAN JOHNSON: All right, sir.

11 MR. HOSTUTLER: I'm Glen Hostutler of Midland.
12 You're going to cross two private well lines of ours, and
13 I wonder if you're going to sleeve them. And for future
14 water lines the first meeting I came to in this building
15 with the pipeline I had a private conversation with a man
16 concerning future water lines, and he told me that they
17 would put in a sleeve every quarter of a mile so that we
18 could put in future lines without having to bore under
19 your line.

20 MR. PHILLIPS: Okay. As far as the rural water
21 lines we're going to cross to start with --

22 MR. HOSTUTLER: These are private.

23 MR. PHILLIPS: Private. We can put a sleeve in.
24 In fact, I'd like to put a sleeve in. That way, if you
25 want to come back and change it out or do something

1 different, you don't have to dig over the pipeline to be
2 able to do it. You can just work from the end.

3 And, yes, we did have some discussions. I was
4 here actually last summer. You may have even spoken to
5 me or maybe Dennis. He was here too. But what we've
6 committed to is we'll put some sleeves in across the
7 right of way where you want to run your private water.
8 Maybe out to other pastures or something like that. Yes,
9 we'll do that. We'll do that. We're committed to do
10 that.

11 MR. HOSTUTLER: What material will these sleeves
12 be made out of?

13 MR. PHILLIPS: Well, typically we'd be talking
14 about some sort of PVC pipe.

15 CHAIRMAN JOHNSON: All right. Other questions?
16 Stick with questions for a little bit and then we'll move
17 to comments here.

18 MR. SEAMANS: Paul Seamans from Draper.
19 According to the newspapers, TransCanada is attempting to
20 use a thinner-walled pipe on this project than presently
21 specified. What is the reasoning behind this?

22 MR. JONES: Thank you, sir, for that question
23 because it gives us an opportunity to clear up some
24 misrepresentations with regards to the waiver. So I'll
25 ask our pipeline engineer to give you a more detailed

1 response.

2 MS. KOTHARI: Thanks. Meera Kothari,
3 TransCanada engineer. Under the Pipeline Safety Act
4 operators are allowed to apply to design, construct, and
5 operate pipelines at 80 percent of the specified minimum
6 yield strength. The current standard for liquid
7 pipelines is 72 percent of that specified minimum yield
8 strength.

9 The practice has been in place to design the
10 pipeline to 80 percent in Canada for over 30 years now on
11 the liquid and the natural gas side. Most recently in
12 late 2008 the federal standard for natural gas pipelines
13 in the U.S. has been changed to the 80 percent standard
14 for sheer size or volume of the applications coming
15 through to PHMSA. For liquid pipelines it's still on a
16 case-by-case basis as far as the Application is
17 concerned. So that's a little bit of background to that.

18 Specifically related to pipeline safety,
19 pipeline safety is not solely a function of the pipeline
20 wall thickness. It's the sum of a number of different
21 elements that comprise total pipeline safety. And during
22 the presentation we heard some of the design features for
23 the pipeline such as the 4 foot depth of cover burial,
24 the inspection, when we purchase components from
25 different fabricators, the inspection on site during

1 construction, the hydrostatic tests, the inspection of
2 the wells, and really the steel quality and the strength
3 of the steel.

4 So there's a lot of elements that have to make
5 up that pipeline safety and not necessarily strictly
6 dependent on the wall thickness of the pipe.

7 MR. SEAMANS: Will this -- will the same size
8 thickness pipeline be used in, say, Philip as in a bigger
9 city or something, or are there different pipeline
10 thicknesses?

11 MS. KOTHARI: So the pipeline thicknesses on
12 different parts of the pipeline are dependent on specific
13 constructibility items. For instance, if we were
14 crossing a road or boring under a river, the pipe
15 thickness would be different than what would be used in
16 standard main line construction strictly due to the
17 stresses on the pipe.

18 It's also dependent on what the applicable
19 threats are. If you're in a more populated city there
20 may be more heavily or more frequent construction, more
21 frequent excavation, more utility construction.
22 Therefore, our pipeline would be at risk from third party
23 strikes, which is probably the most common mode of
24 failure for new pipelines today. So that would be the
25 reason that we would look at putting in a thicker-wall

1 pipe.

2 For particular areas from a rural standpoint
3 where there's ranching and farming, the real concern for
4 the pipeline is can you safely farm or ranch over that
5 pipeline. And so we look at what that applicable threat
6 is, and we design the pipeline accordingly to ensure that
7 that concern is addressed.

8 CHAIRMAN JOHNSON: Go ahead, ma'am.

9 MS. LAMBERT: Sylvia again. What are
10 South Dakota taxpayers giving to TransCanada? And my
11 other question is what do you folks do about wind energy?

12 MR. JONES: So I'll ask Bill to talk about
13 taxes, and I can talk about wind. We do -- we do
14 construct wind-generation facilities. In fact, the
15 largest wind-generation facility proposed in North
16 America is being built by TransCanada in Quebec. So we
17 certainly are big proponents of wind generation. Now
18 Bill.

19 MR. TAYLOR: Thanks. My name is Bill Taylor.
20 I'm from Sioux Falls. And I did the tax work for
21 TransCanada. The question is what will TransCanada pay
22 in ad valorem property taxes in South Dakota? The answer
23 is in the first year the pipeline is completed, assuming
24 nothing changes from the current tax situation,
25 TransCanada will pay about \$10.3 million in property

1 taxes spread among nine counties, 13 school districts.
2 I'll tell you how we got to that number.

3 I had to have someplace to start, and the most
4 recent, complete numbers that are available in
5 South Dakota are for the 2008 tax year. So we operated
6 on this premise. Since we knew what the budgets were for
7 all the counties in 2008 and what the budgets were for
8 all the school districts in 2008, we knew what the
9 assessed valuation of all the property is in every one of
10 those districts, we pretended the pipeline was completed
11 and operating for 2008. And that 10,000 -- \$10,366,000
12 number is as if the pipeline were operating in 2008. So
13 if the -- if the tax structure changes, which the
14 legislature can do and sometimes does do every year, and
15 if there's a round of inflation or deflation, depending
16 on what the economy does, those numbers could change up
17 and down.

18 We also know that effective next year, effective
19 2009 tax year, the way agricultural property is assessed
20 is going to change in South Dakota. The Department of
21 Revenue hasn't developed the regulations yet to tell us
22 how agricultural values are going to be measured. I've
23 been in the tax business a long time. I think
24 agricultural property tax values are going to go down,
25 which means the pipeline will pay more taxes relative to

1 the agricultural property tax.

2 MS. LAMBERT: My question is how are
3 South Dakota taxpayers helping you folks?

4 MR. JONES: I'm not aware of any direct payment
5 coming from TransCanada -- to TransCanada from
6 South Dakota taxpayers.

7 MS. LAMBERT: Well, maybe in some other way of
8 encouragement?

9 MR. JONES: No. Sorry. I'm not sure I
10 understand your question.

11 MS. LAMBERT: I know that South Dakota tends to
12 help businesses coming into the state in various ways,
13 and I was wondering how they were helping you folks come
14 into the state.

15 MR. JONES: I'm not aware of any direct
16 compensation coming from the government to TransCanada.
17 It's just not happening. Really the benefits to
18 South Dakota as we described will be in the ad valorem
19 property tax.

20 MR. TSITRIAN: John Tsitrian, Rapid City. How
21 many private landowners will you be negotiating with for
22 easement rights, and how far along into that process are
23 you now?

24 MR. JONES: An excellent question. I know for
25 the first phase of Keystone we had approximately 500

1 landowners, and we were successful with regards to all of
2 them. Maybe John, do you know?

3 MR. PHILLIPS: I want to say -- I'm not exactly
4 sure but I think it's somewhere -- I'm not exactly sure
5 but I think it's in the neighborhood of 2,400, somewhere
6 in that -- for the whole pipeline. And as far as I
7 believe that, you know, there have been some contacts
8 made, and I believe just recently that some of the
9 easements have been brought out to landowners and those
10 types of discussions have just recently started.

11 MR. TSITRIAN: So at this point you don't
12 actually have anything in hand in terms of easements that
13 you can say you've secured?

14 MR. PHILLIPS: We do have some, yes. And I
15 believe that process has just been ongoing for the last
16 couple of weeks, so just recently.

17 MR. TSITRIAN: Out of the 2,400, approximately
18 what percent?

19 MR. JONES: We've just started so we haven't
20 even commenced the process here in South Dakota.

21 MR. TSITRIAN: Do you anticipate any problems
22 from recalcitrant landowners, some negotiating
23 difficulties, some people holding out for better money,
24 any issues like that?

25 MR. JONES: You know, if I was to look at

1 TransCanada's experience, we've got over 40,000
2 landowners. Certainly our intent is to negotiate
3 easements with them all. There's always a small
4 percentage -- a lot of times there's trouble with the
5 estate, those kind of things. But our goal is to
6 negotiate an easement with all the landowners.

7 CHAIRMAN JOHNSON: Go ahead, sir.

8 MR. LOUDER: Merrill Louder from Jones County.
9 I'm a Commissioner. These boys tell us we're going to
10 get \$1.3 million a year and our auditor called Pierre's
11 tax outfit and they said about 80,000. I'd like to have
12 you explain the difference.

13 MR. TAYLOR: Well, I can't speak for how the
14 Department of Revenue may have figured it out, but I'll
15 tell you what my numbers are. Jones County, the county
16 itself on the county tax levy is going to receive
17 \$277,350. That's based on if everything were in place in
18 2008.

19 Jones County School District, 37-3, will pick up
20 about \$720,000 if everything were the way it was this
21 year. So that's -- Jones County School District and
22 Jones County don't have the same common boundaries. Tell
23 me what other school districts there are in Jones County,
24 and I'll give you those numbers. Anybody know?

25 MR. LOUDER: I think Midland got a little chunk

1 of it but not very much. It's just one school district.

2 MR. TAYLOR: I've got -- I've got Lyman 42-1.
3 I've got Jones County 37-3, and Haakon 27-1, and Kadoka
4 35-2. So I don't think Midland -- I don't think the
5 Midland School District's in the list. But I've got to
6 tell you that when we did the -- when we worked out the
7 school district lists, there's one little corner in there
8 that if we're a quarter of a mile either way it changes
9 it slightly but the dollar amount that it changes it is
10 like 10, 15,000 bucks.

11 MR. EVANS: I'm Bill Evans again from Rapid
12 City. And as a continuation of Mr. Tsitrian's question
13 here, contact with people who are using leased land, BLM
14 land and whatnot, who is the contact concerning the
15 proposed route with and how do we get access to these
16 high-resolution route aerial shots that you have down
17 here?

18 MR. PHILLIPS: Well, most of the contacts, the
19 contacts have been made through the land people. Now as
20 far as the BLM, I believe that's being handled by y'all,
21 isn't it, John? Okay. It's also part of the land
22 process. Yeah. So back to Dennis Calhoun and his land
23 people. The state office is in Rapid City for
24 South Dakota. And the maps are on the PUC website.

25 CHAIRMAN JOHNSON: All right. We'll go right

1 down there, front row, and then we'll go up top and then
2 we'll probably take a short break. Go ahead, sir.

3 MR. BARTELS: Del Bartels, editor for the
4 *Pioneer Review* newspaper here in Philip. Could you give
5 me the exact figures for Haakon County 27-1 and for
6 Haakon County as a county.

7 MR. TAYLOR: Haakon County, the county is
8 \$360,213. Haakon 27-1, \$1,106,404. And I'll tell you
9 that the school aid money is net of the reduction in
10 state aid that results as a consequence of the
11 construction of the pipeline.

12 CHAIRMAN JOHNSON: Did we get your question
13 answered, Del?

14 MR. BARTELS: Thank you.

15 CHAIRMAN JOHNSON: Great. Then we'll go up top
16 right there.

17 MR. BIERLE: My name is Kory Bierle, down by
18 Midland. And I'm wondering from the time that you grade
19 the right of way for the construction project and are
20 constructing, have the hole dug and until the time the
21 pipeline's covered up, you said you hope to get a mile of
22 pipe in a day. What is the time frame from when you
23 first grade the right of way until it's covered up?

24 MR. PHILLIPS: We're hoping to get about a mile,
25 mile and a half per crew basically. But from start to

1 finish it's anywhere from six to eight weeks typically.

2 MR. BIERLE: Okay. Then in reference to the
3 other gentleman's question from up here, do we talk to
4 the land men about the timing of that six to eight weeks
5 then? Because, you know, as he said, you know, wrong
6 time of year it could be a very critical issue to a lot
7 of people, you know, where the next mile and a half down
8 the road it wouldn't make any difference.

9 MR. PHILLIPS: Well, when we start construction
10 it's going to go all the way -- it will go on through.
11 The timing will be such that when we start we'll have
12 access to go through and work from one end to the other.
13 We can't do it in little pieces here and there. And you
14 work with the land folks to do -- you know, as far as
15 things like crop damages, specialized things for your
16 cattle if you're a rancher, work with them one on one and
17 but when we start construction it's going to be from one
18 end -- you know, we're going to be starting on one end
19 and working towards the other end. And we won't be
20 skipping from piece to piece.

21 MR. JONES: There is really the safety of the
22 workers that needs to be considered here. So we're going
23 to start construction at the front end of the spread in
24 May and carry through the spring, summer, and fall.
25 That's the ideal time to ensure highest productivity and

1 safety of the workers.

2 MR. PHILLIPS: And also the land folks will be
3 working with you to let you know, communicating with you
4 when we'll be coming in and they'll be talking to you all
5 the way through the process. And you will have already
6 worked out your arrangements with them on what they're
7 going to do to take care of what your needs are one on
8 one. But they'll be communicating with you all the way
9 through the process and when construction's ongoing and
10 when it gets finished and when it goes back through.

11 MR. BIERLE: Thank you. And also what is your
12 standard procedure for going underneath railroad tracks
13 and rivers?

14 MR. JONES: We -- the best practice, whether
15 it's a road, a railway track, or a canal would be to do
16 what they call a bore, which is to drill a hole. And
17 that's also why we need to have what they call an
18 abrasive coating to make sure that the pipe can go
19 through that bore. If it's a large river like the
20 Missouri River where we just crossed last year at
21 Yankton, we did what they call a horizontal directional
22 drill. That's where you start at one end of the bank and
23 you drill all the way to the other side.

24 CHAIRMAN JOHNSON: All right then. We've been
25 at it for about 80 minutes. Let's take a short break.

1 We can give our court reporter an opportunity to rest her
2 hands a little bit. Our intention when we come back
3 would be to take both questions and comments just in the
4 order they come up. So we'll see you back in 10 minutes.

5 (A short recess is taken)

6 CHAIRMAN JOHNSON: All right, everybody. Thanks
7 very much for your patience. At this time we'll look to
8 the Applicant to make a couple of clarifications.
9 Mr. Jones, go ahead.

10 MR. JONES: Thank you, Commissioner Johnson.
11 The break gave us a great opportunity to talk to a lot of
12 you one on one, and I want to thank you for your input.

13 There were three things that came up that we'd
14 like to clarify, and it's important we respond to
15 everyone. One of them had to do with the contractor's
16 excise tax, and I think that was the question you were
17 trying to ask us with regards to is the state giving you
18 anything. Actually the state doesn't give anybody
19 anything, but what we get to do is we -- all construction
20 projects can apply for a credit on the contractor's
21 excise tax. So we'll still be paying some, we'll just be
22 paying less as all construction projects are allowed to
23 do.

24 The third one had to do with the wall thickness,
25 that it had changed. And the answer is no, it hasn't

1 changed. It's still the same wall thickness that we came
2 with the first open houses. So it's still almost a half
3 inch. I think the exact thickness is .463 inches so that
4 hasn't changed. So I wanted to make those
5 clarifications. The third one I'm going to get
6 Mr. Koenecke to provide.

7 MR. KOENECKE: I understand there were some
8 questions during the break over the property tax and
9 whether that's applied to the value of the easement or
10 something else. And the answer is the something else.
11 It's the value of the pipe and the pump station, the
12 pipeline that goes through South Dakota that that
13 property tax is paid on the value of those installations
14 and not on the value of the easement or the 50-foot-wide
15 permanent right of way for the pipeline. I hope that
16 clarifies some things for some of you.

17 It's the value of the pipe. Utilities are
18 property taxed on the value of their installation. It's
19 done through the office in Pierre. The values are sent
20 out to the counties for the mill levies to be applied.
21 But it's on the value of the pipe and the pump stations
22 and not on the value of the 50-foot-wide strip.

23 CHAIRMAN JOHNSON: Okay. Thank you for those
24 clarifications. We're going to pause and see if we've
25 got any comments or questions from those who haven't had

1 an opportunity to speak yet, and then we'll come back
2 around. Comments or questions? Right there, sir.

3 MR. NEVILLE: Kenny Neville with Haakon County
4 highway department. I'm a little concerned about the
5 thickness of the pipe. I've heard is it thicker when you
6 go under our roads? How much thicker?

7 And the second question I have is to do with the
8 restoration of our roads after you guys have all --
9 hauled on -- or hauling agreements. I'm very concerned
10 about that.

11 MR. JONES: So with regards to the thickness of
12 the pipe underneath roads, so the pipe wall thickness is
13 thicker under roads and that's because we need stronger
14 structural strength. So it is slightly different than it
15 is -- not very much, though. It's about .6 compared to
16 about .5.

17 The other question with regards to working with
18 the different counties on restoring the roads. So we do
19 that. We work with every county. But on top of that we
20 have to put up a bond. So if we looked at the last
21 project as an example, we did about 100 -- a little less
22 than 100 miles in South Dakota last year and we had to
23 put up a \$3 million bond, and this year we're going to do
24 about another 150 miles and we are putting up a \$9
25 million bond. So that gives you an idea.

1 Now that being said, we don't anticipate any
2 issue with those bonds because we have worked with all
3 the counties to fix the roads.

4 COMMISSIONER KOLBECK: Mr. Jones, you had
5 mentioned at the other meeting in Winner and maybe you
6 want to give that number. What is the difference between
7 .72 and .8 in inches?

8 MS. KOTHARI: The difference between the .72 and
9 .8 in inches is 0.05 inches.

10 COMMISSIONER KOLBECK: 0.05?

11 MS. KOTHARI: That's correct.

12 MR. KOENECKE: Thank you.

13 MR. SEYMOUR: Yes. Jones County Commissioner
14 Sam Seymour. And do you sleeve where -- under the main
15 county highways?

16 MR. JONES: We don't sleeve. In fact, we really
17 recommend not sleeving, and I'll tell you why: It's not
18 a best practice.

19 So outside of third-party damage, another cause
20 of pipeline leaks is casings. Now when we talk about
21 casing water lines, that's PVC to PVC. But when we talk
22 about casing a crude oil or natural gas pipeline, that's
23 steel pipe to steel pipe. And whenever that occurs over
24 time they end up contacting with one another. And if
25 that happens, you end up getting a failure at that spot.

1 So the best practice is to use an abrasive coating and
2 not to use casings.

3 We also are quite a bit deeper. When we end up
4 boring underneath the highway we'll be, you know, 9 to 12
5 feet I would suggest --

6 MR. PHILLIPS: Yes. Usually -- and the key is
7 the bar ditches on the sides. I think we have to be 5
8 foot below the bar ditches on the sides. And the
9 abrasion coating that Robert's referring goes on top of
10 the fusion bond epoxy corrosion coating. And this --
11 this is a -- this is a best practice doing these bores
12 rather than doing casing.

13 MR. IVERSEN: Roy Iversen from Murdo. Last
14 summer in August we had a meeting with some of your land
15 agents. Mr. Calhoun was there and he probably recalls
16 that meeting. But at that time he led us to believe that
17 you guys already had a presidential permit in place. And
18 during that meeting he basically told us that it was --
19 today is the last day that you have to decide, you know.
20 Are these tactics or those kind of tactics, are they
21 commonplace in your guys' business practices?

22 MR. JONES: Sir, I'm not sure exactly what went
23 on in that meeting because I wasn't there. And there has
24 been some confusion. So first of all, thank you for
25 bringing it to my attention, and I will talk to Dennis

1 about it. But there is some confusion with regards to
2 the presidential permit we received when we built
3 Keystone phase 1. And so when we're talking about the
4 construction that we have today, you know, we certainly
5 do have the presidential permit. In fact, we have all
6 our permits for construction.

7 If we're talking about the Keystone XL project,
8 we don't have any of our permits. And that's why we're
9 here today. We're applying for them all. So we are
10 still working on all the regulatory permits for the
11 Keystone XL project.

12 MR. IVERSEN: Why would your land agent lead us
13 to believe that you had them in order for us to give them
14 permission to survey?

15 MR. JONES: To provide survey access -- I'm
16 sorry. I thought you were asking me with regards to
17 easement. We have just started the easement optioning
18 process now. As for survey, I think the -- you know,
19 Dennis or whoever was talking misspoke. We were applying
20 for our permits. We certainly hadn't received them.

21 MR. IVERSEN: All right. Thank you.

22 CHAIRMAN JOHNSON: Okay. We've got right over
23 here.

24 MR. NELSON: Mark Nelson from Philip again. I
25 had one question that -- and we don't think about it much

1 in this area, but what precautions has Keystone XL taken
2 against possible terrorist acts against the pipeline and
3 how do you train the local law enforcement to deal with
4 them?

5 MR. JONES: You know, terrorist activity to our
6 pipelines, under the Homeland Security Act they have
7 asked pipeline operators not to post detailed route
8 sheets and such on the internet. As for, you know, other
9 activities, it's really following PHMSA's guidelines, so
10 that's the federal agency and the Department of
11 Transportation. There's no doubt that they are
12 classified by the Homeland Security as a valuable
13 utility, you know. And so far the only direction we've
14 had is with regards to posting the details on the
15 internet.

16 MR. HAYES: It doesn't quite reach. I'll move
17 closer to Heidi. Sir, to answer your question, we also
18 are developing a security response plan, and that's based
19 on the Homeland Security guidelines. And that has been
20 developed for Keystone already and will be just kind of
21 added on to KXL. And it has certain things in there that
22 are consistent with what the Homeland Security aspect of
23 terrorist activities.

24 CHAIRMAN JOHNSON: Okay. We can go up there and
25 then I know, ma'am, you've got some questions. We'll

1 come back.

2 MR. HEEB: The dollars that you guys were
3 talking about that are going to be generated, I talked to
4 the fellow about it and he wanted me to mention those
5 dollars are coming back to Haakon County or are those
6 dollars going into state funds and then Haakon County
7 gets a portion thereof?

8 MR. JONES: I'll direct this question to Bill.

9 MR. TAYLOR: The tax dollars don't go anyplace
10 except Haakon County. The way the system works is the
11 Secretary of Revenue figures out what the assessed value
12 of the pipeline is for tax purposes. Then he sends that
13 number to the Director of Equalization in Haakon County.
14 When your Commissioners do their budget in August and
15 when your school board turns in its budget in August the
16 treasurer in Haakon County figures out what the tax
17 levies are going to be and assesses the tax levies
18 against the landowners, the pipeline company, in Haakon
19 County and the tax bills get paid in Haakon County.
20 That's how the system works. So I suppose you could say
21 the money goes to Pierre and comes back but I don't think
22 it really does.

23 MR. HEEB: But what you're saying tonight,
24 though, is 100 percent of that money stays in Haakon
25 County. It's not taken to the state level, Sioux Falls

1 takes a chunk, Aberdeen takes a chunk, Watertown takes a
2 chunk and then we get a little dab at the end.

3 MR. TAYLOR: I wish they would build a pipeline
4 through Sioux Falls. I live there. Take a little burden
5 off of us. No. The tax money that we're talking about
6 is the ad valorem property taxes that are collected for
7 the benefit of Haakon County for the benefit of the nine
8 counties that the pipeline passes through and the 13
9 school districts.

10 Sioux Falls -- what you're thinking about is the
11 state aid to education formula where the legislature says
12 every year this is how we divide up the money that comes
13 out of the general fund from sales tax revenue and all
14 the other revenues. This has got nothing to do with
15 that. This is the ad valorem property taxes payable here
16 in these counties.

17 CHAIRMAN JOHNSON: Okay. We'll go right here,
18 ma'am.

19 MS. LAMBERT: If I understand you correctly, you
20 are applying for some kind of a waiver of contractor's
21 excise taxes.

22 My other question is what protection does the
23 public have from you folks in case something goes wrong
24 or the commercial climate deteriorates and you have to --
25 or protection from you folks applying for bankruptcy or

1 some other method so that the taxpayers don't have to
2 bail you folks out? Don't tell me have it in writing.

3 MR. JONES: I think the -- first of all, let me
4 tell you a little bit about TransCanada. We are a -- we
5 have assets of over \$40 billion, as I described, all
6 through Mexico, Canada, and the United States. We're
7 traded on both the Toronto and the New York Stock
8 Exchanges.

9 Through this economic down time we've been able
10 to manage our A grade credit rating. And the reason is
11 because we're a valuable utility. You know, we provide
12 energy to North Americans every single day.

13 And so even if there was to be something in the
14 future change -- I'll take your assumption. So what if
15 we end up going bankrupt? The fundamentals are we're a
16 utility. We need to continue to provide the services.
17 So even when pipeline companies in the past have gone
18 bankrupt, they continue to operate because they need to
19 maintain the pipeline so it's safe and that it continues
20 to provide the service to the people of the United States
21 and Canada. So it continues to operate until the
22 bankruptcy courts figure out how to do the payments and
23 it carries on.

24 But utilities that go bankrupt continue to
25 operate. There's no question. It has to happen.

1 MS. LAMBERT: Who pays?

2 MR. JONES: What do you mean by who pays?

3 Sorry. There's no obligation by the state to pay.

4 Because we continue to collect the revenue, the shippers
5 continue to pay. Yes, that's the answer to your
6 question. The shippers on the pipeline continue to pay.

7 MS. LAMBERT: And the thing about the waiver,
8 did I understand --

9 CHAIRMAN JOHNSON: Ma'am, let's make sure we get
10 the microphone to you if you're going to ask questions.

11 MS. LAMBERT: Your comment about the waiver, did
12 I understand that correctly?

13 MR. JONES: It's not a waiver. It's a refund on
14 the contractor excise tax, and it's basically the same
15 refund that all construction projects work under.

16 MS. LAMBERT: You mentioned PVC pipe a couple
17 times. How do you folks use that, and is that made from
18 this tar sands crude oil?

19 MR. JONES: The Application, and when we
20 describe the use of the PCV pipe is as a casing for the
21 water lines. So water pipelines are made with PCV, and
22 it has nothing to do with crude oil. PVC. Sorry. PVC
23 pipe. And it's got nothing to do with transporting crude
24 oil whatsoever.

25 MR. HOSTUTLER: Glen Hostutler. Back to the tax

1 thing. Does the value of your pumping stations and your
2 pipeline depreciate or go down in value over the period
3 of time, and how fast does it go down?

4 MR. JONES: Again, I'll have my tax expert
5 address your question.

6 MR. TAYLOR: That's an interesting question.
7 Now you've got to think about depreciation two ways. We
8 tend to all think about depreciation in the sense of
9 federal income tax. You buy a new piece of farm
10 machinery and it has a usable life and it's depreciated
11 over the usable life and you get to write that
12 depreciation off on your federal income tax.

13 Ad valorem property tax is a different story.
14 Ad valorem property tax is by the direction of the
15 legislature. The value of the pipeline is supposed to be
16 figured out based on three things: Its market value, the
17 income it produces, and its replacement cost. Those are
18 the three classic elements of appraisal every building,
19 every improvement ever appraised is done that way.

20 So the Secretary of Revenue's supposed to say
21 what is the value of this pipeline looking at those three
22 factors? Depreciation plays a part because the pipeline
23 is a mechanical system and it will wear out. Just like
24 your house is a mechanical system and it wears out. But
25 for ad valorem property taxes, there isn't anybody in

1 this room who will say that their house has gone down in
2 value, even though it eventually will wear out.

3 So, yes, depreciation is a real factor for ad
4 valorem property taxes. In my lifetime, I've never seen
5 depreciation play a role in ad valorem property taxes
6 because the value of everything always goes up. Does
7 that make any sense?

8 CHAIRMAN JOHNSON: Other questions or comments?

9 Other questions or comments? While people
10 gather their thoughts, we'll mention just once more this
11 is not the end of your opportunity to provide public
12 comment to the Commission. It's just the beginning. And
13 if there's something you've forgotten or you want to
14 raise up later, you can go to our website, gather some
15 information on how to provide that comment or contact any
16 of the staff members tonight and they'll help walk you
17 through the process. Go ahead, sir.

18 MR. HEEB: Ed Heeb again. The other question I
19 am wondering about is it was kind of mentioned a little
20 bit earlier about our existing water lines that we have,
21 private owned, wiring systems, all of that stuff that we
22 have in the ground. When and where do we get contact on
23 that? Because, I mean, we're going to bump into each
24 other. And then who covers that expense? My existing
25 lines are there and the way I'm understanding you it's --

1 what I have existing is going to go under you. So then
2 our water systems are going to be shut down for, you
3 know, a short period of time, but who takes care of that,
4 that expense?

5 MR. PHILLIPS: You'll be working with our land
6 people to work out those details specifically. When they
7 come out and survey on your place you need to let them
8 know where those water lines are and then the land people
9 will work out the specific details with you one-on-one
10 about what we need to do, how we go about that.

11 MR. HEEB: Okay. And then what kind of time
12 frame is that? Is that going to be ahead of the
13 pipeline --

14 MR. PHILLIPS: Well, the land folks have been --
15 have you had contact with anyone yet with the land group?

16 MR. HEEB: No.

17 MR. PHILLIPS: Oh, with construction? The land
18 people -- we'll try to get those things fixed before
19 construction if we can. I mean, that's the best case
20 scenario is that we make whatever arrangements we need to
21 to get your water lines out of the way down below where
22 we're going to be prior to construction. That way when
23 the construction comes through there's not anything that
24 would cause any kind of problems for either of us. So
25 we're going to try and do all of that in advance. And

1 working with the land folks they'll work with you to --
2 about how we'll go about that.

3 MR. HEEB: Okay. Then I guess I still didn't
4 really understand you when you said the length of time.
5 When you're on a mile stretch -- that's what I'm going to
6 have involved is a mile. How long are you going to be on
7 my land for that mile? I guess I thought -- the way I
8 understood is maybe six weeks to get a mile?

9 MR. PHILLIPS: Well, we're talking about
10 multiple crews that are involved. You know, during the
11 slide presentation we talked about how this kind of works
12 as an assembly line. Well, there's multiple crews that
13 are working and each crew we try and work -- each crew
14 can work maybe a mile, mile and a half a day. And so but
15 we're talking about multiple crews and there's spacing in
16 between those crews too. So the answer I like to give is
17 that we're usually -- from when we first come into your
18 place with the clear and grade to when we finish with the
19 cleanup, usually about six to eight weeks.

20 MR. HEEB: Okay. Then the other question that
21 poses to me is you're going to have to cut fences to get
22 through, so are you guys buttoned up and shored up at
23 night or do you have somebody set on these fence lines?
24 Because we just went through this with the water line,
25 and that's kind of the way they worked it.

1 MR. PHILLIPS: Typically what happens is the
2 fences are gapped, and they're closed every evening. So
3 I mean, everything's buttoned up at the end of the day.

4 MR. JONES: You know, I just want to add on the
5 length of time. Sometimes the cleanup is really
6 dependent on weather. And if you were to look at the
7 rainfall we had last year we may have it all flat and
8 graded but not the final cleanup.

9 So I do want to make sure folks understand that
10 if the weather's great, then for sure within that time
11 period. But sometimes the cleanup crews, because they
12 want to do a really good job, they may be a little later
13 than that. With that being said, we'll work within the
14 whole next year to try and satisfy folks to make sure
15 it's the way it was before we got there.

16 MR. HEEB: I guess in -- okay. One of the
17 things that we seen with the rural water line that came
18 through, you know, everything was pretty good for six to
19 eight months, maybe even a year, and then all of a sudden
20 we had a lot of cave back in and the ground packed and
21 stuff. So then you guys will -- do you come back and
22 take care of that after the fact? I mean, some of this
23 it could take -- if we stay dry, we could sit there for
24 three years and then we finally get wet again, then it's
25 going to sink. And that's your responsibility still to

1 come back and take care of that and not ours; right?

2 MR. PHILLIPS: If the ditch sinks, we come back
3 and fix it.

4 MR. JONES: Now I also want to thank you for
5 that question because it actually helps us to provide
6 another clarification on some of these representations.
7 Our construction techniques are far different than a
8 water pipeline. So we actually bring the compaction back
9 over the top of the line so the opportunity for
10 settlement is far less in the technique we use compared
11 to that kind of construction.

12 Again, we try to use the best practice. And
13 obviously the sophistication of the type of contractors
14 and construction techniques we use is, you know, quite a
15 bit different than what you might have seen with the
16 water line.

17 MR. KILNESS: Robin Kilness again. I will
18 probably have to talk to Dennis about this but I was just
19 thinking. Now where the proposed pipeline is right now
20 coming through, it comes so close to the house. And it's
21 even closer to my barns. What about for liability issues
22 where we have young kids that may be at the barn and
23 would be within maybe 100 feet of the right of way or
24 the -- the working way from the center? I haven't --
25 they haven't got it staked the way it was proposed. I

1 wasn't there the day they did it. But I wondered like
2 with all of that big equipment working and kids and that
3 around, how -- I mean, what precautions are taken in
4 place for that?

5 MR. JONES: You know, one of the things -- thank
6 you very much for that question. That's great because it
7 allows us all to also talk about safety. Our
8 presentation doesn't clearly emphasize how important
9 safety is in everything we do, and especially for not
10 only the public but for our workers. So we want to make
11 sure that when we outline the construction, we come
12 through your property with construction, we want to
13 ensure the safety of not only our workers but for you and
14 your family. So that will be our very first priority is
15 to identify that.

16 Now with regards to ensuring that safety I'm
17 going to get John here to provide a little further
18 details on that.

19 MR. PHILLIPS: Typically what we do when we're
20 working near residences and, for example, small children
21 or children are involved, we'll do some safety fencing,
22 some orange safety fencing to -- in some areas to make
23 sure that -- you know, it's not easy access to get into
24 the ditch just as an example.

25 CHAIRMAN JOHNSON: Other questions? Comments?

1 Other questions? Comments? Okay. Ma'am, right here in
2 front. Sorry. Go ahead, ma'am.

3 MS. HANRAHAN: My name is Debbie Hanrahan,
4 H-A-N-R-A-H-A-N, Philip. Where you cross the river, the
5 Cheyenne River, and come up a steep, rugged hillside,
6 that land there is very unstable. We have massive
7 landslides occur at any given time. Sometimes you can
8 see them before they happen and sometimes they just
9 happen. Such as a wet year we'll have large slides.

10 We addressed this issue with TransCanada. We
11 met with some of your engineers. We showed them some of
12 the landslides that we had. So you adjusted the proposed
13 line. But I don't feel that moving the line 200 feet
14 would really make it any safer because the area is
15 unstable.

16 And then the oil line does cross another large
17 waterway called Bridger Creek. And the name can be
18 eluding because it sounds like a small winding creek, but
19 actually in its flood stage it can look like the Cheyenne
20 River. So it can carry a large body of water. This area
21 also is just as unstable as near the Cheyenne River.

22 So I was wondering if there is a leak, say, in
23 the river and say the water is near flood stage as it was
24 two weeks ago, this area is 50 miles north of Philip, 120
25 miles from Rapid City. If there is a leak, how soon can

1 you get to the area to stop it? I know you have shutoff
2 valves, but the distance between your shutoff valves, you
3 know, how much is going to leak into the river and how
4 far is it going to go? And we all know the Cheyenne
5 River flows into the Oahe.

6 MR. JONES: Thank you for your question. I'll
7 direct that to a couple of experts to help answer your
8 question.

9 MR. GALE: My name is Richard Gale. One of the
10 first questions you addressed, Ms. Hanrahan, correct?
11 One of the things, I know that we have been out talking
12 to you on that and there was a route deviation that was
13 proposed kind of in your area. I think we looked at a
14 maximum deviation across through there approximately
15 1,100 feet in places to kind of move the line based upon
16 some of the discussions.

17 And you mentioned the Cheyenne River and yes,
18 the Cheyenne River is a horizontal directional drill so
19 that particular crossing will be at a lot greater depth
20 when we cross through there for the various reasons that
21 you have mentioned as far as the stability on each side.
22 So we'll pick the best spot on the entry and exit side of
23 that particular river to cross there to get deep enough
24 across there at that river.

25 Now the creek that you mentioned and the other

1 places that you mentioned, what we do on places like this
2 is we take a look at these from an engineering
3 standpoint. We look at the scour potential for these
4 particular things. So you're right, some of these things
5 may look like little meandering creeks but they have a
6 potential in the floodplain area to get a lot of drainage
7 that comes through there. So we'll look at each one of
8 those individually. We look at what the scour potential
9 is, whether or not we have to have an extra depth across
10 underneath your water body. And we also look at what the
11 lateral migration could be in these particular points.

12 So, for example, this is a large floodplain and
13 it looks like that the river for some reason could
14 straighten out rather than be meandering or whatever and
15 for some reason or another we might need to have extra
16 depth across for certain amount of variable, we'll also
17 take that into account and that's put into the design of
18 each one of these particular crossings as we go through.

19 And as far as the restoration, we will work
20 towards restoring these. It's not -- it's not a matter
21 of just going through there, fixing it and leaving.
22 We're there for the long-term to make sure it's restored
23 back the way it needs to be.

24 Now for the specifics as it regards to the leak
25 and leak detection and things like that, John Hayes here

1 can answer that question.

2 MR. HAYES: Thanks again, Ms. Hanrahan, for the
3 question. I appreciate it. Every spill is unique, and
4 our pipelines are designed to the highest safety
5 standards known. In the unlikely event of a leak, I
6 mentioned earlier within the gentleman's question that
7 we've developed a very comprehensive emergency response
8 plan.

9 There's a few unique things in the plan that I
10 was able to include. And the one part of the plan that's
11 unique on that I've taken from 30 years in doing pipeline
12 work and the best practices available in Canada and the
13 U.S. is what we call tactical control plans. And a
14 tactical control plan is a predetermined area downstream
15 on a water crossing where we are able to go and safely
16 respond to a leak.

17 The second part of that other than what's in our
18 plan is we do have and will have strategically placed
19 specialized oil spill response equipment along our
20 pipeline. That equipment will be stored at a
21 contractor's yard yet to be determined and is available
22 24 hours a day all year long.

23 The third part about equipment is we also have
24 retained what I call the 1,000-pound gorilla in the
25 United States. The National Response Corporation has

1 more independent equipment, owned equipment, and
2 contractor alliances in the United States than anybody.
3 They have guaranteed us a response to anywhere in the
4 United States within 12 hours with as much equipment as
5 we need. That contract has been signed, and it is part
6 of our response plan.

7 Lastly, and an important part, it's nice to have
8 a plan in place to have equipment. We also have to train
9 our employees. We are in the process right now for our
10 Keystone employees in training our employees on what's
11 called HAZWOPER. That's a U.S. federal requirement to
12 train our employees on oil spill response. I have
13 retained the best available trainers in the business to
14 help us get our people well versed in oil spill
15 containment and recovery in all situations like I
16 mentioned before.

17 We just recently completed a very, very
18 comprehensive five-day program in Yankton on the Missouri
19 River in teaching our U.S. and Canadian employees on how
20 to contain oil on a river. And that program will
21 continue, and we'll also be working with local first
22 responders and helping them understand our priorities and
23 theirs as well.

24 MS. TILLQUIST: One more thing I would add to
25 that is under PHMSA we are required to put valves,

1 isolation valves, on both sides of major rivers, and
2 that's in order to control spill volumes so if an
3 incident occurred they would be able to shut that off and
4 control the spill volume. So that's something that's
5 required, and that's something that actually John and I
6 and a few other people have been working on throughout
7 the process is trying to figure out where is the best
8 place to put these valves to minimize spill volumes
9 should a spill occur.

10 MS. HANRAHAN: But the land is unstable. In
11 some of these hillsides, they are not just small
12 hillsides. They are steep. And these landslides can
13 occur, perhaps you know how to tell. But we've shown
14 some of your engineers some of the landslides we have
15 had. Is your pipeline going to hold up to something like
16 this? And I guess -- I guess that's my question. I
17 just -- I am questioning the strength of your pipeline as
18 opposed to some of this earth movement.

19 MR. JONES: Just to supplement Richard's answer,
20 you know, certainly with 100 years of pipeline experience
21 the industry has and TransCanada's experience, what we
22 find is the best practice in these unstable slopes, these
23 major river crossings, is a horizontal directional drill
24 and that will get the pipeline deep enough so that it
25 will be able to avoid these unstable portions of the

1 slope that you're describing here at the Cheyenne.

2 CHAIRMAN JOHNSON: Okay. We've got a question
3 right here or comment.

4 MS. LAMBERT: I think you have mentioned that
5 TransCanada has what, \$40 million for liability; is that
6 correct? What did you say in case of the company goes
7 bankrupt or goes -- you know, decides to quit? Is that
8 what you said?

9 MR. JONES: No, I didn't. I believe I described
10 our asset value. We have \$30 billion worth of assets.

11 MS. LAMBERT: Okay. That would cover anything
12 that went wrong or if you went out of business and needed
13 to do environmental cleanup and so forth?

14 MR. JONES: I think it certainly shows the
15 strength of our company with regard to our capability to
16 be able to respond to any type of emergency.

17 MS. LAMBERT: Okay. So that was 38 billion?

18 MR. JONES: With the change in the currency, we
19 have 10s of billions of dollars of assets in North
20 America.

21 MS. LAMBERT: I had thought you said million,
22 and I was just kind of wondering. Million isn't much.

23 CHAIRMAN JOHNSON: Other questions? Comments?

24 MR. NELSON: My name is Clayton Nelson. What is
25 your compensation formula? So much a mile or so much an

1 acre and so much a year and the following years? What do
2 you pay someone?

3 MR. JONES: Sir, I assume you're asking us what
4 is our easement compensation program?

5 MR. NELSON: I couldn't hear. I don't hear too
6 good.

7 MR. JONES: Okay. Sir, I'm just trying to
8 clarify your question. I believe you're asking us what
9 is our proposed compensation to acquire an easement?

10 MR. NELSON: Right. And does it vary from,
11 well, mile to mile and 10 miles, yes.

12 MR. JONES: Yes. Thank you very much. We'll
13 try and answer that question for you.

14 MR. PHILLIPS: Okay. The permanent easement's a
15 one-time payment. It's based on acreage. It's based on
16 land use. The -- but it's a one-time payment for the
17 permanent easement. Fair market value. Some percentage
18 of fair market value, yes. Because when -- you'll still
19 be able to farm and ranch over the permanent easement
20 once we finish construction and the pipeline's been
21 installed and in operation.

22 CHAIRMAN JOHNSON: Sir, go ahead.

23 MR. BIERLE: Kory Bierle from Midland. What is
24 your ability to detect a leak as expressed as a percent
25 of daily capacity of the pipeline?

1 MR. JONES: Sir, could you repeat that question
2 again?

3 MR. BIERLE: What is your ability to detect a
4 leak, and if you could express it as a percentage of the
5 daily capacity of the pipeline? Like you're going to
6 pump so many million gallons a day. At what level are
7 you able to detect a leak?

8 MR. JONES: Yeah. Thank you for that question.
9 That gives us an opportunity to describe our leak
10 detection system. I'll ask Mr. Hayes to address your
11 question.

12 MR. HAYES: Okay. Thank you. Am I on at the
13 back? Okay. Yeah, I'm happy to answer that question on
14 leak detection.

15 Both Keystone and KXL has implemented and will
16 implement the most sophisticated leak detection system
17 known available in the world today. It is a system that
18 has five overlapping and complimentary applications, and
19 what I'd like to do is describe those five to you.

20 I guess to start with I'll divide them into two
21 kind of silos. The first silo represents what Mr. Jones
22 showed on his slide, and that is a control center, a
23 picture -- if you recall that picture of a control center
24 in Calgary, it kind of looks like NASA, if you will. And
25 what those people do in the control center is they

1 operate what's called our SCADA system. SCADA is an
2 acronym for System Control and Data Acquisition.

3 So the first part of SCADA that these
4 highly-trained and skilled operators use in our control
5 center, just like you know as far as you're all ranchers
6 and farmers, you understand pressures and flows. On our
7 pipeline system there's pressure monitors and flow
8 devices installed along our pipeline. And we are able to
9 detect with pressures and flows from 100 to 30 percent of
10 the flow rate of the volume.

11 Now if there's a problem with flow or pressures
12 at those thresholds, the pipeline is immediately shut
13 down. Okay? So that's the first one.

14 The second one is called an MBS or Mass Balance
15 System. If you think of that long linear pipeline like a
16 big tube and it has volumes that are metered in so at
17 Hardisty, Alberta the volumes are metered in and what
18 comes out has to balance. Otherwise we have a problem.
19 So the Mass Balance System, which is continually running
20 in our control center and is on an individual screen with
21 an operator can detect leaks from 30 to 5 percent of the
22 flow rate.

23 Now we can also take it one step further. This
24 is the third application as far as our computer systems.
25 It's called a Computational Pipeline Monitoring System.

1 And it's able to detect 5 to 1.5 percent of the flow rate
2 in 102 minutes or less. Now they typically do find that
3 leak but if for some reason the Computational Pipeline
4 Monitoring System is not able to do that, it continually
5 kicks in and runs again and again and again until we can
6 find that leak. But again -- and Ms. Tillquist is going
7 to talk about some statistics on how quick those leaks
8 are found.

9 So with those three computerized systems, the
10 other part is the softer side, and that's what we call
11 direct observation. And Mr. Jones has already talked
12 about our aerial surveillance frequency. But what I do
13 want to add to the frequency of aerial patrol is it's
14 just not a patrol plane flying down the pipeline. These
15 are highly-trained, highly-skilled pilots that have
16 specific training to identify leaks from the air, and any
17 type of anomalies that they haven't seen on the patrol
18 before, third-party damages, sunken ditch, any of those
19 things that might cause us a concern for pipeline safety.

20 We train them to look at oil staining, stressed
21 vegetation, discolored snow or ice, or any of those
22 things that might represent a leak for us.

23 That's the first method of direct observation
24 and the fourth one I've discussed.

25 The other one that we really feel is critical is

1 the education of public first responders and anybody else
2 that is in and around our pipeline. We rely on others as
3 well to hopefully be aware where our pipeline is through
4 our education programs. Particularly I see we have some
5 emergency response folks over there. We want to educate
6 them on where our pipeline is, what their role is, what's
7 in the pipeline, and what safety precautions they need to
8 take.

9 So our leak detection, again, has five big
10 components. I do want to add one I forgot and it's kind
11 of -- if there's any accountants in the group, we also
12 have to true-up accountingwise and that's kind of a sixth
13 one, although a softer one. When we pull what's called a
14 ticket on how much volume is going into the pipeline we
15 also have to match that to what leaves.

16 So, again, we are typically able to detect leaks
17 down to a couple of days. And I'm going to ask
18 Ms. Tillquist who has some data to share with you on some
19 of the statistics that happen as far as leak detection.

20 MS. TILLQUIST: I want to talk a little bit
21 about actual historical data. We're talking about
22 systems that we're going to be implementing, but
23 sometimes it's nice to go back to actual data and see
24 what's happened in reality and what has been detected and
25 how quickly.

1 There is a database that's maintained by PHMSA.
2 This is the Pipeline Hazardous Material Safety
3 Administration. They look at pipeline incidences across
4 the entire United States. The most current database
5 starts in 2002 and runs to date. The nice feature about
6 that database is it now incorporates information about
7 detection time so we're able to run some information
8 trying to determine how quickly leaks have been detected.

9 And just to throw some numbers out at you, the
10 majority of the leaks that are in the database are
11 detected within three hours. 97 percent of the leaks are
12 detected within seven days. So, again, we're talking
13 about what at that point would be a very small leak. So
14 they're still able to pick up those very small leaks.
15 And of those small leaks -- you know, so if we didn't
16 detect it within the first 24 hours, the majority of
17 those spills, they're not really monstrous spills. In
18 fact, the majority of them were 15 barrels or less. So,
19 I mean, we can look at the -- what I want to reassure
20 people is it's not a leak that's sitting out there
21 gushing, you know, 10s of thousands of barrels. They're
22 typically very small amounts.

23 CHAIRMAN JOHNSON: Sir, before you ask your
24 question, let's get a feel for I'm trying to judge when
25 to take another break. How many more questions or

1 comments would we have by a show of hands? Okay. Then
2 we'll keep plowing. Go ahead.

3 MR. HOSTUTLER: Glen Hostutler. You can detect
4 a leak down as far as 1 and a half percent; right, of the
5 volume that's going through?

6 MR. HAYES: Yes. But we'll both say yes.

7 MR. HOSTUTLER: Okay. In a day's time is that
8 about 395,000 gallons?

9 MS. TILLQUIST: Well, what he's saying is --

10 MR. HOSTUTLER: 1 and a half percent of the
11 volume that you can detect in a 24-hour period, is that
12 about 395,000 gallons?

13 MR. HAYES: So I think, sir, that number
14 contemplates your math, if I understand it correct, that
15 is for a full-line rupture. And we detect that
16 instantly.

17 MR. HOSTUTLER: No. 1 and a half percent of the
18 volume, a small leak.

19 MS. KOTHARI: I think what we'd like to clarify
20 is that the leak detection systems that we described,
21 they can detect a 1 and a half percent leak of flow rate
22 within 102 minutes. That's not to say that the leak
23 detection system stops working at the 1 and a half
24 percent mark. It will continue to work and detect
25 volumes lower than 1 and a half percent. It will just

1 take a little bit longer of a time frame.

2 And in that time frame from a supporting aspect,
3 as John mentioned, the direct observation methods will
4 likely find those leaks much quicker than the electronic
5 system. But it's not to say that the electronic system
6 is not working to continue to find those leaks less than
7 the 1 and a half percent, it's just a threshold --
8 they're both working at the same time, but it's just a
9 threshold that for a 1 and a half percent leak the
10 typical time frame to detect that is 102 minutes.

11 CHAIRMAN JOHNSON: And Ms. Kothari over here,
12 did you say 102 minutes?

13 MS. KOTHARI: Yes. 102 minutes.

14 CHAIRMAN JOHNSON: Okay. Thank you. Questions
15 or comments?

16 MS. LAMBERT: What if there's a leak in water,
17 the rivers in particular?

18 MR. JONES: We have answered that question. You
19 know, I guess I -- we certainly will try and answer it
20 again. But maybe I'll just try and ask my witnesses to
21 be a little bit more brief this time.

22 MR. HAYES: That would be this witness that has
23 to be brief on a subject that's near and dear to my
24 heart. Again, if there's a leak in water we have an
25 emergency response plan. We have our own equipment

1 that's stored at a contractor's yard, and we have highly
2 trained and skilled people to respond. We're right now
3 training these people as we speak.

4 CHAIRMAN JOHNSON: Sir, let's go ahead and after
5 the fact, after we break why don't you chat with her to
6 make sure she gets all the detailed information she
7 needs.

8 MR. HAYES: I'd be more than happy to do that.

9 CHAIRMAN JOHNSON: Great. Thanks very much.
10 Other questions or comments? Other questions or
11 comments?

12 MR. NEVILLE: Kenny Neville again. You spoke
13 about the restoration of the cropland and the pasture
14 land. What about the restoration going through the
15 Cheyenne River and Bridger Creek itself? There's a lot
16 of cedar trees in there that will be disrupted. Do you
17 plant trees back? Do you -- that type of thing?

18 MR. GALE: Within the 50-foot permanent easement
19 we do not plant trees back. But one thing to be clear,
20 like, for example, what we do at the Cheyenne River,
21 these aren't discrete drills that just cover the distance
22 of the river. What we typically do for 36-inch pipe, we
23 have to get back a pretty good way. So don't quote me on
24 the exact length of the drill, but for the length of
25 drill on the Cheyenne River we'd be looking somewhere

1 around 3,000 feet perhaps for that drill. So you're
2 backing a good distance up on the entry and a good
3 distance up on the exit. And you're getting very deep.

4 So, you know, the slopes on the side of the
5 river are not impacted whatsoever. There's trees that
6 are there at the edges of the banks of the river, they're
7 still there after the HDD. We do not mess with those.
8 So it's entry disturbance, exit disturbance, and
9 everything in between is exactly the way it was.

10 CHAIRMAN JOHNSON: And it was probably obvious
11 to everybody, but HDD is an acronym for horizontal
12 directional drilling. And that would be drilling down
13 underneath the river or like Bridger Creek.

14 MR. GALE: That is correct.

15 MR. SEAMANS: Paul Seamans. Back to that
16 question on the leak. If you're running 900,000 barrels
17 through it per day and at 1 and a half percent leak in
18 one hour you're losing about 31,000 gallons; is that
19 right? Or is my math wrong?

20 MR. HAYES: Mr. Seamans, if I understand your
21 question, that also assumes a full rupture.

22 MS. SEAMANS: I'm assuming 1 and a half percent.
23 You're detecting down to 1 and a half percent. That's
24 about 13,500 barrels a day.

25 MR. JONES: Exactly. So you take 900,000

1 barrels per day, how many minutes that would be. Shorten
2 it down to 102 minutes and then take --

3 MS. SEMMLER: Right. So it's going to be even
4 more than 31,000. I just figured for one hour. We'll
5 have to get together.

6 MR. JONES: We'll work together and work on the
7 calculation. Thank you.

8 CHAIRMAN JOHNSON: Doing math in public is
9 always fraught with public embarrassment potentially.
10 All right. Questions and comments? Questions and
11 comments? Questions or comments?

12 Well, on behalf of the Public Utilities
13 Commission we certainly want to thank you all for your
14 patience and the good hospitality the people of the area
15 have shown us.

16 And let's have staff one more time raise
17 their hands. We've got Mr. Solem back here,
18 Ms. Splittstoesser, Mr. Knadle, Ms. Semmler, Mr. Binder,
19 Mr. Smith, and the Commissioners.

20 And thank you very much. We'll stand
21 adjourned.

22 (The hearing was concluded at 9:33 p.m.)

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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 27th day of
11 April, 2009, and that the attached is a true and correct
12 transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 11th day of
14 June, 2009.

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

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