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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION OF
TRANSCANADA KEYSTONE PIPELINE, LP FOR A
PERMIT UNDER THE SOUTH DAKOTA ENERGY
CONVERSION AND TRANSMISSION FACILITY ACT
TO CONSTRUCT THE KEYSTONE PIPELINE PROJECT

HP07-001

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Transcript of Proceedings
Yankton, South Dakota
June 25, 2007

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

ORIGINAL

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Reported By Cheri McComsey Wittler, RPR, CRR

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PRESENT FOR TRANSCANADA
Robert Jones
Michael Koski
L.A. "Buster" Gray
Heidi Tillquist
Meera Kothari
Sandra Roth
Scott Ellis
Brian Thomas
Nicole Aitken

=====

TRANSCRIPT OF PROCEEDINGS, held in the above-entitled
Matter, at the Yankton City Hall Gymnasium, Yankton,
South Dakota, on the 25th day of June 2007, commencing at
11 o'clock a.m.

1 CHAIRMAN JOHNSON: We're going to go ahead and begin
2 the public input hearing for Docket No. HP07-001, and as you all
3 know, that deals with the application by TransCanada Keystone
4 Pipeline for a permit to construct the Keystone Pipeline
5 project.

6 The date today is June 25. The time is approximately
7 11 o'clock in the morning, and we're here in Yankton,
8 South Dakota. This hearing concerns an application for the
9 permit to construct the pipeline.

10 There are really two purposes. We Commissioners view
11 this public hearing as having two purposes. The first is for
12 the company to better explain its application to interested
13 citizens. And the second is for interested citizens to provide
14 comments and questions, concerns to the Commissioners so that we
15 know what sort of factors are important to you when it comes
16 time to render our decision.

17 Interested persons, that's any of you, have the right
18 to present your views and comments regarding the application,
19 and we sincerely want to encourage you to do so.

20 I should note that a copy of the application is on
21 file with the Marshall, Day, Clark, Beadle, Kingsbury, Miner,
22 Hanson, McCook, Hutchinson, and Yankton County Auditors. You
23 all may also access the application and documents in the file
24 under the Commission's website at www.puc.sd.gov. And any one
25 of the Commission staff members can help walk you through the

1 best way to do that if you're curious.

2 Now right now the parties to this proceeding are the
3 Applicant, which is TransCanada, the Commission, and numerous
4 other interested persons who have requested and been given party
5 status. Under South Dakota Law each municipality, county, and
6 governmental agency in the area where the facility is proposed
7 to be constructed or any person or entity may be granted party
8 status in this proceeding by making written application to the
9 Commission on or before July 10, 2007.

10 That is, I think about not quite two weeks away.
11 Probably just about at two weeks away.

12 We do have applications available here today if you
13 would like to apply for party status.

14 This is probably as good of time as any to make a
15 couple of comments about party status. When you apply to gain
16 party status you are a legal intervenor in the case. I'll get
17 to the rights and responsibilities that come with that in a
18 little bit. But I'm going to make a presumption a lot of you
19 here today want two things. Number one, you want to retain your
20 rights of a landowner. You want to make sure that all of the
21 rights -- you know, you retain those. And also you want to make
22 your comments heard.

23 This is going to be one of a number of steps along the
24 process where we will solicit input from you all. You do not
25 have to be an intervenor to have your voice heard. You can

1 speak at this public hearing and the other three we have
2 scheduled this week. You can write a letter or e-mail to the
3 Commission really at almost any time during the process, and
4 that would be entered into the record.

5 There will likely be another opportunity, another
6 public hearing, toward the end of the process where you would
7 also have an opportunity to make your views heard. If you want
8 to make your views heard, you do not need to be an intervenor.

9 I should also note if it's not the beginning of the
10 process, it's very close to the beginning of the process. The
11 Commissioners aren't going to be cross-examining TransCanada.
12 We may have some clarifying questions, but this is not really
13 the formal evidentiary part of this proceeding.

14 Some number of weeks or months down the road we may
15 get to that point. But this is really an informational
16 opportunity for everybody to learn more about it. We're not
17 going to make a decision today. We're not going to make a
18 decision this week. And we're not going to be making a decision
19 this month. So if down the road if you do have comments you
20 want us to note, please feel free to let us know.

21 I think there's a perception out there that the
22 Commission has a lot to do with land acquisition or condemnation
23 or eminent domain. And we don't. The statutes that we operate
24 under say that we really need to take a look at the
25 environmental impacts, and we need to make sure a project like

1 this isn't going to interfere with the orderly development of a
2 region and it's unlikely to be significant damage to individuals
3 or areas.

4 It does not really give us the authority to examine,
5 you know, things like condemnation and eminent domain. That's
6 really a Circuit Court issue. I wanted to make that aware.

7 For those of you who think you may be interested in
8 party status, you need to know that means you're going to
9 participate in the formal legal proceedings. Those are things
10 like discovery, legal motions, introduction of evidence and
11 cross-examination of the witnesses at the formal hearing, as
12 well as briefing and arguing the legal and factual issues before
13 the Commission.

14 Those people who are formal parties to this case would
15 be subject to discovery if they are parties and to
16 cross-examination if they present evidence at the formal
17 hearing. If those of you that have applied for party status
18 think maybe I don't want to be a formal intervenor, that's fine.

19 We want anybody in the case who wants to be in. And
20 we're certainly if people would prefer just to be an interested
21 party rather than a formal legal party, we could certainly make
22 sure that you get wherever you want to be as part of this
23 proceeding.

24 Now, for its permit to be approved the Applicant must
25 show that the proposed pipeline will comply with all applicable

1 laws and rules, that the pipeline will not pose a threat of
2 serious injury to the environment or to the social and
3 economical condition of inhabitants or expected inhabitants in
4 the siting area, that the pipeline will not substantially impair
5 the health, safety, or welfare of the inhabitants, the pipeline
6 will not duly interfere with the orderly development of the
7 region with due consideration having been given to the views of
8 governing bodies of each affected local units of Government.

9 Based on those factors, the Commission will decide
10 whether the permit for the project should be granted, denied, or
11 granted upon such terms, conditions, or modifications of the
12 construction, operation, or maintenance of the facilities as the
13 Commission finds appropriate.

14 There's also a part in South Dakota State law that
15 makes it clear the Commission does not get to pick the exact
16 route. We don't have the opportunity to go parcel by parcel or
17 section by section across South Dakota and say this is exactly
18 where we want the pipeline to go. We can grant or modify or
19 deny the application. But the exact site is not something the
20 State of South Dakota has given itself authority to do.

21 We will begin this hearing by having the Applicant
22 make a presentation or explain its proposed project. Now at our
23 most recent June 12 hearing we asked TransCanada to hold its
24 presentation to 45 minutes.

25 Following that presentation, we're going to take

1 comments from interested persons, and we want to encourage
2 landowners and others here today to present your views.

3 I should also -- as I mentioned earlier, you can
4 provide your comments in writing.

5 All right. With that, and I'll make more comments
6 about the public hearing portion once TransCanada is done, at
7 this time let's turn it over to Brett Koenecke who is
8 TransCanada's attorney in this proceeding. And we would ask
9 Mr. Koenecke to introduce the others he's brought with him from
10 TransCanada.

11 MR. KOENECKE: Thank you, Commissioner. I appreciate
12 all the Commissioners and staff who are here today, certainly
13 all the people in the audience. Thank you for turning out.

14 My name is Brett Koenecke. I'm a lawyer from Pierre,
15 and I represent TransCanada in this proceeding. I've got with
16 me a number of people from TransCanada and people who work for
17 TransCanada. Only three of them are going to participate in the
18 45-minute presentation that we're going to be giving you here
19 this morning.

20 However, we did bring along people who might be able
21 to answer questions if necessary going on further through this
22 process this morning.

23 I want you all to know that we've looked forward to
24 this part of the process. We look forward to engaging in a
25 dialogue with you in front of the Commission about the project

1 about what it's going to do and not going to do, where it's
2 going to be and not going to be, and those sorts of things. We
3 really do look forward to your input and hope that we have a
4 really good proceeding here today.

5 The three gentlemen who will be presenting are
6 Robert Jones, he's the vice president with TransCanada and
7 responsible for the Keystone project; Mike Koski is an engineer
8 from Florida who's been contracted to provide a number of
9 administrative and other talents with respect to the pipeline;
10 and Buster Gray is seated next to him. And Buster is an
11 engineer from Houston by way of Kansas City, and he's
12 responsible for design and construction with respect to the
13 pipeline.

14 So we'll look forward to a brief presentation from
15 these guys. I'm the official time keeper for you fellows so
16 don't run over the time.

17 Thank you very much.

18 MR. JONES: Thank you, Brett. Well, it is a pleasure
19 to be here. I am really looking forward to a dialogue, being
20 able to explain the Keystone project to you, how important this
21 project is, and I look forward to being able to answer many,
22 many of your questions. So let me proceed.

23 Many of you think that TransCanada must be a foreign
24 utility way up north. That's not true. TransCanada actually
25 has more pipeline assets in the United States than we do in

1 Canada. We've been in operation for over 50 years. We laid our
2 first piece of pipe in 1957, and so we've been in operation
3 since then. And we've been able to accumulate up to \$24 billion
4 worth of assets. We're also a very strong financial company.

5 When we were developing the pipeline over the years --
6 and we've grown to 36,500 miles. We now have associated with us
7 40,000 landowners.

8 We have -- our project office is in Kansas City. We
9 have offices throughout the United States. We're in Nebraska.
10 We're in Oregon, Michigan, Illinois. So we -- and also in
11 Houston. That's where our U.S. head office is.

12 I believe it's very important for us to understand why
13 Keystone needs to be built. And the main reason Keystone needs
14 to be built can be shown on this graph. Canada has the second
15 largest proven reserves in the world. There's approximately
16 175 billion barrels of proven oil reserves in Alberta. And
17 there is probably they call it potential reserves up to
18 300 billion barrels.

19 As you can see, the number one country with reserves
20 is Saudi Arabia, and five of the top six countries are Middle
21 Eastern countries. The U.S. economy consumes 20 million barrels
22 of oil every day. And Canada is the largest country, largest
23 supplier of oil in the United States today, followed behind --
24 following Canada it's Saudi Arabia, Venezuela, New Mexico.

25 Oil output is forecast to grow out of Alberta from

1 approximately 2 million barrels a day to 3 million barrels by
2 2015. So a tremendous amount of investment and a lot of that
3 investment is from the U.S. energy companies. They're investing
4 money to produce the oil in Alberta.

5 The oil needs to go to market. And the market for
6 crude oil is refineries. And refineries produce products that
7 we use every day. We need gasoline for our cars. We need
8 diesel for our trucks. We need lube oil, fertilizer, aviation
9 fuel, and asphalt for our roads. These are all outputs of their
10 refinery.

11 So the Keystone Pipeline is the connection between
12 this massive, reliable reserve in Canada and U.S. markets and
13 refineries that supply the U.S. Midwest.

14 Keystone is a 435,000-barrel-a-day pipeline. It's got
15 the capacity to expand to approximately 590 barrels a day. To
16 demonstrate the need for this pipeline there was an open season
17 process. This is a commercial process where we solicited energy
18 companies, and we were able to get 340,000 barrels a day of
19 binding contracts with an average term of 18 years. So these
20 are U.S. energy companies who have signed binding contracts with
21 the Keystone Pipeline for up to 18 years. In fact, most of the
22 contracts are 20 years.

23 We are the trucker. Keystone does not own the
24 product. We just move the product. So the oil in the product
25 is owned by the energy companies. It's not owned by TransCanada

1 or Keystone.

2 When we go to -- we're hoping to be able to expand
3 this pipeline to also serve the refineries in Oklahoma. And
4 those refineries also serve the Midwest. And when we do that
5 we're going to have to build a 300-mile extension through Kansas
6 and down into Oklahoma.

7 I want to make this point very clear. Keystone is not
8 connected with the recent announcement of a potential refinery
9 in South Dakota. We are not part of that project. That is a
10 potential project. Keystone has contacts to serve refineries in
11 Wood River, Patoka, and Cushing.

12 I'd like to just describe the project. Keystone is an
13 1,800-mile-line-long pipeline. Approximately 1,082 miles will
14 be required to be constructed in the U.S. The pipeline will
15 operate at a pressure of about 1,440 psi. During our first
16 phase when we're at 435,000 barrels the operating pressure will
17 be less than 1,000 psi.

18 Like a good Canadian, the pipeline's shaped like a
19 hockey stick. The reason it is -- this part of the pipeline
20 we're converting existing natural gas pipeline. So that
21 pipeline's already in the ground. And that's the premise why it
22 goes through -- it has this route.

23 In other words, we didn't go straight because we're
24 re-utilizing the existing pipelines across the prairies in
25 Canada. So if that's the blade, the shaft is the direct route

1 right down, straight shot to Cushing.

2 In order to move the oil we need pumps. And the pumps
3 are located approximately in 50-mile spaces, and they're
4 electrically driven series motors.

5 The Keystone Pipeline is regulated both federally and
6 state by various agencies. And in order to construct a pipeline
7 across the international boundary you need to get a presidential
8 permit. And, therefore, the Department of State or DOS is the
9 lead agent. And they are responsible as the lead agent to
10 prepare a environmental impact statement under NEPA. And NEPA
11 is the National Environmental Policy Act.

12 The project will also be reviewed by the Corps of
13 Engineers, Fish & Wildlife Service, and the Department of
14 Transportation, if you're wondering what those letters stand
15 for.

16 In South Dakota the South Dakota Energy Conversion and
17 Transmission Facilities Act authorize the siting and the
18 construction of the project. And that's really why we're here
19 today. We're a part of that process. Other South Dakota
20 agencies that have a role in reviewing this project are the
21 Department of Environment and Natural Resources and the State
22 Historic Preservation Office.

23 We are seeking permits of approval to start
24 construction in the spring of 2008. And at that time we will
25 have been in regulatory process for up to two years. In fact,

1 well over two years.

2 So what are the benefits for the Keystone project?
3 During construction there will be a number of short-term
4 benefits. They'll result in food and lodging as construction
5 crews move along the right of way. And they will be -- those
6 personnel will be visiting towns and cities along the right of
7 way as they're building the pipeline over the two-year process.
8 It takes two years to build the pipeline. It's scheduled to go
9 into service in the fourth quarter of 2009.

10 The construction contractors are going to need a
11 number of supplies from local businesses. They're going to need
12 fuel. They're going to need hardware, equipment, parts.
13 They're going to need gravel, sand, and aggregate, concrete from
14 various suppliers.

15 The long-term economic benefit from the local
16 communities will be paid annually in taxes. We estimate under
17 today's current cost estimate \$6.5 million will be paid in taxes
18 to the counties and school districts along the pipeline right of
19 way. In addition to this property tax, there will be sales and
20 contract excise tax from the initial construction of the
21 pipeline as well.

22 There will not be a number of permanent employees.
23 We're going to basically use a lot of contract employees for the
24 four pump stations in South Dakota. We're going to need two
25 permanent journeymen electricians and a pipeline technician, but

1 we are going to need 50 to 60 contractors to help support our
2 operating and maintenance activity and also to support our
3 emergency response activities.

4 Now I'd like Mr. Mike Koski to come and talk to you
5 about route selection and the environmental impact.

6 MR. KOSKI: Thank you. Good morning, Commission.
7 Good morning, everybody. Thank you very much for coming. As
8 Robert mentioned, I'm going to run through the route selection
9 process for Keystone project and pipelines in general and touch
10 on the environmental impact assessment work that's been ongoing
11 and the mitigation of environmental impact.

12 This is a snapshot of the facilities proposed for
13 South Dakota. It's approximately 220 miles, 30-inch pipeline,
14 four pump stations, and 15 main line valves.

15 The route selection process is an iterative process
16 that takes quite a while. We've been doing this a little over
17 two years working on this particular route. The first step in
18 the process is to identify the project objective. It's
19 basically what's the project supposed to be. What's it supposed
20 to accomplish.

21 So in this case you've got oil in northern Alberta in
22 Canada and refineries with a need for oil in Wood River, Patoka,
23 Illinois, and as I'll explain here in a second, the markets went
24 through a slight evolutionary process whereby the markets
25 actually changed partway and that kind of affects the route

1 selection story here somewhere.

2 The basic objectives involve utilizing an existing
3 natural gas pipeline in Canada as Robert explained. Started in
4 northern Alberta and ended at the markets I just discussed. The
5 initial marketing points were Salisbury, Missouri, and the two
6 in Illinois, and subsequent to that Cushing, Oklahoma became a
7 important point for the project.

8 The next step is to identify control points. Control
9 points are basically the dots to which we need to or want to run
10 the pipeline. That certainly includes where the oil comes from.
11 That includes where the oil has to go. But it also includes
12 some important features along the way such as major river
13 crossings. If there's a gap between two national parks or
14 something of that nature, that really kind of defines where you
15 should go. Those sort of form the initial dots which we draw a
16 line.

17 The next step after connecting those dots is to start
18 gathering data, a lot of data. We start with publicly available
19 environment, soils, land use information. We talk to agencies.
20 We get information from there. Aerial photography, mapping,
21 that's all gathered together.

22 And we use that information to identify what we refer
23 to as constraints and opportunities. Constraints are areas we
24 either want to avoid or minimize going through. Those are
25 things such as the national park areas, extensive wet areas,

1 poor soils, items of that nature. And opportunities are places
2 where we like to go, it's preferable for us to go. And probably
3 the most significant opportunity relative to pipeline
4 construction or pipeline routing is existing facilities such as
5 power lines and pipelines.

6 And the map here on the left is probably a little
7 difficult to see where you are because it's the network of
8 existing pipelines throughout South Dakota. There's gas lines.
9 There's liquid lines. And those are things we look at to
10 identify if there's an opportunity to collocate something.

11 Unfortunately, in South Dakota other than a few
12 discrete locations, there isn't a long existing pipeline that
13 goes where we want to go.

14 The next step after identifying all of that is to come
15 up with some alternatives. We've got to sit down in a room full
16 of people. We've got engineers, construction experts,
17 biologists, environmental folks, land people, and we start
18 coming up with a number of alternatives based on aerial
19 photography and mapping.

20 We then take those and hit the field. We do aerial
21 reconnaissance and we drive around (Inaudible) and we narrow
22 that down to a preferred option. Again, we're not talking
23 (Inaudible), but that's the preferred option with which we then
24 go to agencies. We lay it out, seek additional input. We have
25 open houses. We lay out to the public what our thoughts are and

1 we solicit (Inaudible). And then we circle back in and go
2 through most of these points all again. It happens over and
3 over again until we converge on a route that's suitable for
4 filing for a detailed environmental review.

5 We've certainly heard a lot of suggestions associated
6 with I-29. And at first glance it appears like an absolute
7 viable option, something that should be looked at and, in fact,
8 we did look at. It is an existing linear feature. I mentioned
9 we like to follow existing linear features, and it is one. It
10 roughly goes where we want to go, at least a portion of it.

11 At the early stage of the project when we were going
12 to Missouri, Salisbury, Missouri, and Illinois we were not going
13 to Cushing, Oklahoma. Our route actually went through Iowa at
14 that time. And we did at that time evaluate an I-29 option.

15 Now there's two ways one can utilize I-29. You can go
16 within the roadway right of way, or you can go adjacent to it.
17 We never considered going in the roadway right of way for a
18 number of reasons. And this certainly comes up on projects
19 throughout the U.S.

20 The interstates just by their very nature involve an
21 awful lot of interchanges and overpasses. Just in North Dakota
22 and South Dakota alone on I-29 there's over 100 interchanges,
23 and that's not including the overpasses.

24 At each one of those you've got on-ramps, off-ramps.
25 You've got bridge abutments. It gets very complicated. And

1 then add on top of that that tends to be where commercial
2 development exists and also towns, villages, cities.

3 So it very quickly becomes an exercise of having to
4 leave the right of way frequently to go around this stuff. And
5 very soon you realize that instead of avoiding impact with
6 private landowners you're actually adding more.

7 Other considerations are highway departments tend not
8 to like major facilities like ours in their right of way as it's
9 an impediment to maintenance and expansion if additional lands
10 are required or new overpasses. It's a continual problem for
11 them. And also there is certainly the safety aspect of
12 constructing a large diameter crude oil pipeline in direct -- in
13 direct vicinity with traffic on I-29 or any Interstate.

14 So I mentioned there was two options. The other
15 option was to follow adjacent to I-29. Again, you still have
16 the same problem with overpasses and interchanges. You're still
17 kicking away from the route repeatedly, and you end up
18 impacting -- increasing the length overall and impacting even
19 more landowners.

20 So then when I-29 was being considered as an
21 alternative it was rejected, and that was when, as I read, we
22 were going to Missouri and Illinois. We added Cushing. That
23 then threw another dynamic. Basically that forces the project
24 to go further south before it heads east in order to
25 economically serve Cushing as well as Wood River and Patoka.

1 That's when we came into play the Missouri River
2 crossing. Now the Missouri River, as everybody knows, is a
3 pretty large river, pretty active. Large sections are
4 designated under the Wild and Scenic Rivers Act. There's a
5 desire by many agencies to let that River go back to its natural
6 course, to let it wander all over like it used to and like it
7 still is. So we had to really look carefully to find a
8 reasonable crossing location for that.

9 And we looked up and down the River and landed on
10 Yankton, South Dakota. Right here is the preferred location.
11 It's the narrow breach of the River. It's very stable. It
12 hasn't moved much over time just downstream from the dam, and
13 there's two existing pipeline crossings right there. That sort
14 of becomes one of those control points that I mentioned to you.
15 And that is right here.

16 There we go. Roughly there. So that's roughly
17 30 miles west of I-29. When you combine that with an entry
18 point into the U.S. of roughly near Walhalla, North Dakota,
19 that's about 35 miles west of I-29 so you end up with two
20 significant control points west of I-29, and that further takes
21 it out of play as a viable option.

22 The project is subject to intense environmental
23 review. As Robert mentioned, the Department of State is a
24 federal agency. There are a number of other cooperative
25 agencies in that project, and they're in the midst right now of

1 preparing an environmental impact statement. In support of its
2 applications Keystone has filed extensive environmental
3 information with the Department of State and other federal
4 agencies involving detailed desktop and field surveys for
5 cultural wetlands, biologist threatened endangered species.
6 It's been feet of binders have been filed with the various
7 agencies to describe the impacts and mitigation socially with
8 the project.

9 A summary of impacts is provided -- can't quite get
10 this mic placement right -- in the South Dakota application
11 which covers all major resource areas.

12 A key part of all of our obligations has been what we
13 call our construction mitigation and reclamation plan, which is
14 our book of rules and specifications and procedures that how we
15 describe how we're going to construct and most importantly
16 reclaim various types of areas of the project. That includes
17 water bodies, wetlands, farmland. It's all spelled out in
18 intimate detail from the date construction starts through when
19 it ends and then afterwards the monitoring and the follow up
20 required after construction. That is outlined in there. It's a
21 key component of all of our applications and will be part of our
22 approvals.

23 And with that, I'd like to turn it over to Buster Gray
24 to talk to you a little bit about land and construction.

25 MR. GRAY: Good morning. As Mike has indicated, I'll

1 try and cover a couple of topics the (Inaudible) project. And
2 the land acquisition program and the engineering and
3 construction following are my responsibility.

4 Briefly to describe the land, I apologize at the size
5 of the slides, that they're going to be difficult to see.

6 But we will typically take about a 110-foot
7 construction right of way to construct the pipeline. 50 feet of
8 that is permanent easement. 60 feet of it is temporary
9 easement. And then we have what we call additional work space.
10 If we cross a stream, road, railroad, some topographic feature
11 that we need space to put soil or dirt is typically what we
12 need, then we would take additional work space for that.

13 As many of you are aware, we are in our land
14 acquisition phase. We've been acquiring right of way here in
15 South Dakota now for approximately two months. And that program
16 has been a little more prevalent in the northern part of the
17 state to working toward the southerly part of the state, but
18 many of you may or may not have been contacted at this point in
19 time but you will in the near future.

20 The key point that I want to make in this meeting is
21 the company's policy is to pay fair market value for the
22 easement itself. Our policy is to pay 50 percent of fair market
23 value for the temporary easement or temporary work space, and
24 our policy is to pay three years of crop damages 100 percent the
25 first year, 75 percent the second year, and 50 percent the third

1 year. That is the compensation program that will be presented
2 to you if it has not been presented to you today.

3 Other things, and I mentioned other damages, and those
4 are that if they're very unique damages to your property, you
5 will be compensated for those damages as well.

6 The other point that's on this slide is with the
7 pipeline being a buried utility is that we will retain some
8 rights under our easement that you cannot build a structure in
9 50 feet and some other rights that are stated, but as far as the
10 full use or enjoyment of the property relative to agricultural
11 production, it's our belief that over this three-year period, we
12 can return your land to normal productivity. But in the event
13 that we cannot, we are responsible for any post damages past
14 that period.

15 You see three names noted, and, again, if you're
16 having difficulty with these, there are actually some phone
17 numbers on the flyers that are out there. Ultimately, we have a
18 state supervisor in Huron, South Dakota that's responsible for
19 land acquisition in the state, a land manager where I'm located
20 in Kansas City, and then a TransCanada representative.

21 The main point of these contacts are if you are
22 treated unfairly or you feel like you were treated with
23 disrespect or you are treated in any manner that you believe is
24 strong-ended, I strongly suggest you to contact one of these
25 individuals. If you don't find the satisfaction in those, you

1 can certainly contact myself.

2 This graphic again is going to be difficult, I think,
3 for you to see. But a pipeline construction is an assembly
4 line. We build a pipeline much like an automobile factory
5 builds an automobile except in an automobile factory the worker
6 stays stationary. The product moves by the worker.

7 In a pipeline construction the pipe stays stationary,
8 and various crews move along this particular route building the
9 pipeline.

10 In this particular graphic one of the points that I
11 wanted to make here is that this will be comprised of
12 approximately 350 to 450 construction workers. Starting with
13 crews at the front end that are -- that are surveying and
14 clearing all the way to the pipe installation which at the end
15 you have your lowering in and your testing and your clean up.

16 This assembly line or spread, as we call it in our
17 industry, it -- from the front crews to the back crews is
18 typically about 50 to 60 miles. The construction will progress
19 about a mile and a quarter to a mile and a half a day. And the
20 typical landowner -- and we always have to wrap it around
21 weather conditions -- we believe will be impacted approximately
22 8 to 12 weeks once we start construction.

23 The next series of slides -- and I'm going to try and
24 run down them -- is just showing some of the assembly line steps
25 that we talked about. And one of the key items of building a

1 pipeline in the Midwest is restoring your land to its former
2 productivity. And Mr. Koski mentioned the construction
3 mitigation reclamation plan. It spells out techniques and
4 methods like this, which is topsoil stripping where we literally
5 remove the topsoil from an area of the construction right of
6 way. Once we complete the construction, we replace it.

7 The next operation from the pipeyards where we would
8 make along the construction right of way we move all the pipe to
9 the right of way. We use a term called "stringing" where we
10 string the pipe along the construction right of way. And people
11 find it somewhat hard to believe that this large (Inaudible) of
12 pipe, but we literally have to bend it to fit the topography of
13 the earth and also make turns in the pipeline. And there are
14 hydraulic machines that will do that.

15 This represents excavation of the trench line. We use
16 two different methods, wheel trench or backhoes. My personal
17 thoughts is probably the southern two-thirds of the state would
18 probably excavate with wheel trenches, the northern maybe third
19 by backhoe simply because for me it appears to be wetter than
20 the northern stretches.

21 The pipe is drawn together by welding. And we use
22 either a manual stick weld technique, or we use an automatic
23 welding technique. Both of those methods that are utilized will
24 either be inspected by radiography or ultrasonic inspection.
25 Both of those technologies are very similar to what you would

1 see in a medical facility.

2 The next slide is where we make the welds we cannot
3 have a mill coating. We have to coat that in the field. And
4 it's generally either sprayed or brush-applied field joint
5 coating. And then the entire coating of pipeline is checked
6 with a device we call a jeep. And it literally is an electronic
7 device that goes along the length of the pipe, and if there is a
8 nick or damage in the coating, it makes a jeeping sound, and
9 it's repaired or patched before it goes in.

10 Long sections of pipe lowered into the trench in very
11 long sections, maybe 2 to 3,000 feet in length, which they're
12 tied in together with underground welds called tying welds.

13 This line just represents the padding and backfill.
14 If we run into rock or other material that could be damaging to
15 the coating of the pipeline, we will put a padding material
16 around the pipe. If there's no material like that, we would
17 just use the spoiled material out of the trench. But if we use
18 padding material, it would be made from the soil that comes out
19 of the trench.

20 I mentioned before we would simply push the topsoil to
21 one side of the right of way, and we'll bring it back and spread
22 it over the entire width of the right of way.

23 Foreign utilities or other utilities. Any time you
24 build a linear project like a pipeline you literally cross
25 hundreds, if not thousands of existing utilities, whether

1 they're fiberoptic cables, other pipelines, water lines, sewer
2 lines. We generally work with the utility owner for
3 requirements to cross those utilities. And we typically cross
4 beneath them. We are required by code to have a 1-foot
5 clearance and separation with the existing utilities.

6 Most any improved or well-used road will be bored,
7 will not be opened. And that's simply to relieve our concerns
8 of maintenance of it in the future.

9 Once the pipeline is completed, it will be filled with
10 water, typically taken from a river or a stream along the
11 pipeline. Pump it full of water, and the pipeline is pressure
12 tested to 125 percent of maximum operating pressure of the
13 pipeline. Those records are recorded, and they're maintained
14 for the life of the pipeline.

15 The other device that you see is what we call a
16 caliper pig. It's an electronic device that checks the geometry
17 of the pipeline. If for any reason we have dented or buckled
18 the pipe during the course of construction, this device would
19 locate it, and we would remove that damage prior to putting the
20 pipeline in service.

21 Lastly is reclamation. And these slides represent
22 three things that we've experienced in the Midwest. With our
23 heavy compaction -- heavy equipment, compaction is probably the
24 most damage that we can do to your farmland. And we bring and
25 we rip the soil to relieve compaction much like I assume

1 periodically that you guys do yourselves on your farms.

2 Rock picking is that with our construction, rock or
3 glacial till in this area, we typically pick that up back to the
4 density and the size that existed on the adjacent right of ways.

5 And, lastly, we have allowed (Inaudible) areas over
6 the roads (Inaudible).

7 This particular slide is a before construction and
8 after construction of a same location. And the key point of
9 this slide is we will make every effort to restore the land and
10 the productivity. But we will not make the statement that we
11 can restore it to 100 percent. We will restore it to the best
12 of our ability. We believe we can bring the agricultural land
13 back to its original production. And this slide simply
14 represents that it is put back to a level that's good with the
15 environment. But we don't want to leave the impression that
16 anybody would tell you it would be exactly the same.

17 I believe with this I'll turn it back to Robert Jones.

18 MR. JONES: Thank you, Buster. How are we doing for
19 time here? We're still good? I appreciate your patience. I
20 know this is a long presentation, but there's a lot of
21 information we're trying to get up to you.

22 Keystone's key regulations and standards. Keystone is
23 subjected to federal -- compliance with federal regulations and,
24 of course, with national codes. These regulations are intended
25 to protect the public, our employees, and the environment. And

1 obviously our goal is to prevent any pipeline leaks. So to do
2 that we have a lot of design safety features.

3 To minimize the risk of damage, the top of the pipe
4 will be buried 48 inches below the surface of the ground. That
5 exceeds code. Code is 30 inches. So Keystone is 48 inches.

6 We are going to use high-strength steel from the
7 mills. The pipe will be externally coated when it comes out of
8 the mill. It will be coated with an epoxy coating that is fused
9 to the steel.

10 If there is a damaging of coating when it's in the
11 pipe, an additional protection is cathodic protection. Cathodic
12 protection is a low-voltage electric current that's supplied to
13 the pipeline.

14 I'm going to talk about SCADA protection and leak
15 detention in the next slide.

16 Marker signs. When we cross an area where we think
17 somebody may be excavating the pipeline or likely case of that,
18 like a railway crossing or road crossing, there will be marker
19 signs where the pipeline crosses that crossing.

20 And isolation valves. A number of isolation valves.
21 I believe Mr. Koski mentioned there will be 50 isolation valves,
22 and that is to provide additional environmental protection in
23 the unlikely event of a leak because it minimizes the area of
24 exposure.

25 TransCanada has developed over its 50 years of

1 experience a quality control and a quality assurance program
2 that begins with the acquisition of the steel. So we first
3 inspected the steel to make sure it meets the properties of the
4 codes, national codes and standards. We need to -- are
5 exceeding all the codes and all standards. That QCQA follows
6 through the (Inaudible) pipe. The delivery of the pipe right to
7 the site, and Buster went through all the construction
8 activities as well.

9 I think it's very important for you to understand
10 after fabricating the whole pipe we fill it full of water. We
11 test it to 125 percent of it's maximum allowable pressure, and
12 that ensures that we find any possible defects or flaws that
13 might have been in the pipe or in the wells.

14 The entire pipeline system is monitored 24 hours a
15 day, 365 days a year by highly skilled employees in a control
16 center. We also have a fully redundant control center.

17 The SCADA computer system detects any changes in
18 pressure or any upsets along the pipeline and assures that the
19 facilities are operating properly. If there's an incident,
20 we'll shut the line down immediately.

21 A dedicated leak detection system monitors the volume
22 balances within the pipeline. The best way to explain that is
23 to measure what goes in and measure what goes out, and they have
24 to be the same.

25 Pipeline maintenance. TransCanada has a very

1 extensive pipeline maintenance program that we've developed over
2 our 50 years of experience. We have got years of experience
3 inspecting pipelines and repairing pipelines. Some of the
4 activities we do to ensure that there isn't any damage on the
5 line is aerial patrol to make sure nobody is digging over top or
6 unauthorized crossing.

7 One of the key pipeline maintenance features are these
8 pigs. Buster showed you a picture of these computerized tools
9 that go into the line. We call them smart pigs. And we are
10 scheduled to run one of these smart pigs within the first three
11 years, and that would look for any possible pipeline anomaly
12 that may have passed the hydro test but still is in the line.
13 Once we've got the data, we'll investigate the defect, and we'll
14 repair it immediately.

15 We'll participate in a number of public awareness
16 programs and -- to make sure that people know that the pipelines
17 is there so they don't dig over it without authorization. You
18 certainly can cross the pipeline with our authorization. And
19 we're going to participate in the South Dakota One-Call program.

20 Keystone will be submitting a detailed oil spill
21 response plan with PHMSA, which is a federal regulator for
22 pipelines prior to the commencement of operation. Spill
23 response and cleanup equipment will be located prior to
24 operations, will be prepositioned at locations that are
25 determined by the spill analysis, and that spill analysis is

1 based on the worst possible discharge case. So it will be --
2 most likely have a safety factor built well into any potential
3 unlikely event of a spill.

4 If there is a spill, in the unlikely event that we do
5 have a leak, Keystone will remediate the area under the
6 direction and coordination of federal regulators and state
7 agencies.

8 TransCanada's commitment. We have worked hard to be a
9 good neighbor in the communities that we have a presence. We do
10 that by respecting the health and safety and well-being of our
11 employees, our contractors, and the communities. And we look
12 forward to being a part of your community here in South Dakota.

13 As Buster mentioned, you can contact us at any time.
14 We have a website. We have a 1-800 number. And all
15 stakeholders are reminded they can contact us in either one of
16 these forms.

17 So that concludes our presentation. I thank you for
18 your patience, and I look forward to your questions.

19 CHAIRMAN JOHNSON: Thank you very much, Mr. Koenecke,
20 and everybody else from TransCanada. At this point we'll see if
21 the Commissioners have any clarifying questions, and after that
22 we will go to the public comment period.

23 Any Commissioner questions? Commissioner Hanson, go
24 ahead.

25 COMMISSIONER HANSON: Thank you, Mr. Chairman. Try it

1 again.

2 Thank you. On your presentation you explained that --
3 I appreciate the explanation of leak detection and, of course,
4 mitigation and those, I think, are primary concerns of mine at
5 least. You discussed a little bit the SCADA system and that
6 there will be functioning --

7 All right. Who else?

8 That they will be functioning 24-seven. I'm curious
9 on the sensitivity of your SCADA system.

10 MR. THOMAS: Thank you. Good morning. My name is
11 Brian Thomas, and my responsibilities with the Keystone project
12 will be for the control room, which will be located in Calgary.
13 And I'm also assisting with various other operational aspects of
14 the program, including emergency response.

15 With respect to the SCADA system itself, as I
16 mentioned, the control center will be located in Calgary,
17 Alberta. We will be receiving information from all of the pump
18 stations, valve sites, and other equipment that's along the
19 Keystone Pipeline. At the moment we are estimating that we will
20 have an 8-second scanning cycle.

21 So what that means is that we will complete a complete
22 loop of all of the pump stations and other equipment along the
23 pipeline system every eight seconds, which I think would be, you
24 know, considered extremely fast in comparison to other systems.
25 And it is keeping up with the current technology in terms of

1 availability of the communications of the data.

2 We will have as well both a primary and then a
3 secondary communication systems, such that in the event the
4 primary system goes down for any reason we will be able to swing
5 to the backup communication system so it will be the two
6 redundant communication links with all of the facilities along
7 the pipeline.

8 COMMISSIONER HANSON: That certainly helps from a
9 standpoint of telling me how quickly the response might be.
10 However, I'm still curious on the sensitivity.

11 How well will you be able to monitor what degree of a
12 leak or a rupture or challenge on the pipeline itself? I know
13 you're going through this loop every 8 seconds. However, I
14 don't imagine you detect I'll say a drop, just for an example,
15 or a gallon or a barrel.

16 What is the degree of sensitivity to the pipeline for
17 the SCADA system to detect a leak?

18 MR. THOMAS: Okay. So to begin with, in the
19 presentation Mr. Jones mentioned the leak detection system that
20 will be available again in the Calgary control center. That
21 system we are estimating its threshold will be 2 percent. So it
22 would detect a 2 percent leak in approximately 102 minutes. Now
23 larger leaks it will detect much faster. But as the size of the
24 leak is smaller and smaller, it takes more and more time for the
25 computer model to detect that.

1 Now I don't want to leave you with the impression,
2 though, that we won't be able to detect leaks that are smaller
3 than 2 percent. It's just that it's difficult to make an
4 accurate prediction as to an exact time of locate when you get
5 below that 2 percent threshold. So there will be an ability
6 both within the leak detection system to detect smaller leaks.

7 We're also going to be doing our routine aerial
8 controls. We'll certainly have employees in the area. There's
9 landowners that would potentially pick up the odor and call the
10 control center. You have many other ways as well to address the
11 leaks that are smaller than 2 percent.

12 COMMISSIONER HANSON: Thank you. I understand the
13 consistency of this product is not like oil that we would
14 imagine oil to be that we would put in the crank case of our
15 vehicles, that it's more of a consistency of molasses, for
16 instance. Is that accurate?

17 MR. THOMAS: I would say that's a reasonable
18 description. Keystone is looking at two commodity types. And
19 the first is the molasses type. It's diluted bitumen material.
20 It would be (Inaudible) so it's quite thick and gooey, so to
21 speak.

22 And there's another product that is an upgraded
23 product that is typically called synthetic oil. It is much
24 lighter and very similar I'll say to conventional crude oil that
25 you may be familiar with.

1 COMMISSIONER HANSON: Thank you. Can you tell me what
2 the freezing -- at what level this would freeze? At a -- like
3 our pipeline at -- I guess minimum temperature will be around
4 5 degrees Celsius. And this material in terms of a pour point
5 is significantly less than that.

6 I don't actually have that number. I believe it's
7 less than minus 40 degrees Fahrenheit.

8 COMMISSIONER HANSON: Thank you. If you could get
9 that number, I would appreciate it. I'm familiar with water
10 pipelines, and so to an extent I'm certainly challenged when I
11 look at construction and such for petroleum pipeline. And when
12 I hear that you're planning to bury it 48 inches beneath the
13 surface, it doesn't seem -- it's below the frost line in
14 South Dakota, but it still doesn't seem quite far enough for a
15 person who's familiar with water pipelines.

16 But if your freezing temperature is minus 40 degrees
17 as opposed to 30 degrees, it's helpful for us to know that. And
18 I appreciate knowing that.

19 Could you tell me what your commitment is -- I
20 recognize the presentation on mitigation, and the information
21 that you've provided us is very much appreciated. But could you
22 tell us what your commitment is to returning property to its
23 original state, if there is need for mitigation?

24 MR. GRAY: Is the company by the easement agreement
25 that it takes is responsible for any future -- and when I say

1 any future damages, like I had indicated on the construction,
2 damage payment provisions, the 100 and 75 and the 50 percent
3 being our belief after 3 years that we will return the cropland
4 to its normal or average productivity.

5 If in any event that did not occur, and for whatever
6 reason that productivity did not return, a landowner has a right
7 to assess his crop, bring forth that damage or diminished crop
8 return to us to seek compensation of that damage. And that is
9 how the process would work.

10 COMMISSIONER HANSON: Thank you. Thank you,
11 Mr. Chairman. I may have some further questions, but I'll let
12 the other Commissioners have an opportunity.

13 Thank you.

14 CHAIRMAN JOHNSON: Thanks, Commissioner Hanson. And I
15 should also note the Commissioners will have three other
16 presentations so certainly we'll be asking lots of other
17 questions that if you only attend one other meeting, you might
18 not hear us ask.

19 Commissioner Kolbeck, do you have questions?

20 COMMISSIONER KOLBECK: Yes. Thank you. I guess my
21 first question would be do the electrical utilities needed along
22 this route, do they need any advanced training or service to
23 serve these pump stations?

24 MR. JONES: The facilities we're constructing, the
25 pump stations which the electrical utilities will serve, are

1 very standard so there's no additional. The substation
2 requirements, high voltage lines that serve the substations, are
3 very standard and typical to this area so, no, there's no
4 additional training required from the electrical utilities.

5 COMMISSIONER KOLBECK: Okay. Thank you. Has Keystone
6 given any thought to small wind, other means to offset the
7 fossil fuels that are actually going to be coming through our
8 states to help with the power generation consumption that we'll
9 be using?

10 MR. THOMAS: I'm sorry. Could you repeat that
11 question?

12 COMMISSIONER KOLBECK: Has Keystone given any thought
13 to small wind or other renewable energies to help offset the
14 7.7 megawatts that they'll be using in the pump stations?

15 MR. JONES: Sorry. No, we haven't. Certainly as a
16 consumer, we're going to pay for that electricity. TransCanada
17 is in the business of transmitting electricity, and we have wind
18 facilities that we have built everywhere. But such a
19 proposition is really much more suited to the electrical
20 utilities.

21 That's really a responsibility for them to be able to
22 provide different industries, whether it be the pipeline or any
23 other industry that wanted to come to South Dakota, you know,
24 they would acquire the power and then the power utility would
25 determine the best way that they should produce that power,

1 whether it be wind, coal, gas fire, et cetera.

2 COMMISSIONER KOLBECK: And I guess I know with the
3 pipeline there's a lot of concern with explosions or leaking.
4 What is the flash point actually of crude oil?

5 What would actually have to happen to cause an
6 explosion?

7 MR. JONES: Very good question. Crude oil pipelines
8 don't explode. Crude oil pipelines have a very low flash point.
9 The -- I've actually been on oil spills where you could not take
10 a lighter and light the oil. So it has to get a flash point --
11 where you have an explosion you would need to have a confined
12 space -- in other words, you have to be in a tank with vapors
13 coming off the oil and a mixture of just the right oxygen and
14 then a spark to create an explosion.

15 For that to occur in the pipeline, the pipeline would
16 have to be down, and there would have to be oxygen in the line.
17 This pipeline won't have any oxygen in it. It's just
18 100 percent liquid. For it to explode you need to have all
19 three combinations. You need oxygen, you need fuel, and you
20 need an ignition source.

21 So, you know, the pipeline -- the liquid pipeline
22 won't explode.

23 Now natural gas pipelines are different situations.
24 But, in any event, whether it's a natural gas or liquid
25 pipeline, they're certainly designed so they won't fail or cause

1 explosion.

2 COMMISSIONER KOLBECK: I just have one question about
3 all the things your construction supervisor was mentioning of
4 the soil reclamation, how they were going to put it aside.

5 Is that in the easement that landowners would sign, or
6 is that in the CMR from the State Department?

7 MR. GRAY: Those construction requirements are stated
8 in the CMR. They are not imbedded in the easement documents.
9 But they will be a part of the permits that we receive. And
10 that's actually the reason we are not putting that information
11 in these documents, that we believe it's apprised in our permit
12 requirements which we're bound to just like the easement
13 agreement.

14 COMMISSIONER KOLBECK: And my last question here. In
15 one of the slides of the reclamation it showed that there were
16 trees there, and then there was the before and then the after.
17 The after obviously didn't have the trees.

18 Are they replaced, or is that something you negotiate
19 with landowners? Can they be replaced, or is that part of the
20 50-foot easement, you can't plant trees?

21 MR. GRAY: Is the tree removal, we would remove trees
22 over the width of the 110 feet. Once we've completed
23 construction and our rights outside of the 50 feet expire, we
24 have no rights after that. Typically we need to maintain a
25 width enough for in the unlikely event that we need to access

1 the right of way we need to be able to get up and down it.

2 And we will typically work with the landowner on a
3 special instance to even reduce into that 50 feet what we would
4 allow planting of trees back.

5 The literal planting of them, if requested, it's a
6 negotiable item with the landowner in the easement process. If
7 the landowner desires we plant them, if he desires us to replant
8 them, if he desires the third party to plant them, all of those
9 are negotiable.

10 COMMISSIONER KOLBECK: All right. Thank you. That's
11 all for now.

12 CHAIRMAN JOHNSON: Thanks, very much, Commissioner
13 Kolbeck.

14 At this time let's see if Mr. Rislov or Mr. Smith have
15 any questions.

16 Let's go ahead and proceed then to our public comment
17 period. And this is the portion that I think the Commissioners
18 are most interested in certainly. I should mention the sign-up
19 sheet is in the back. If for some reason it didn't come by your
20 seat, please at some point sign up at the sign-up sheet.

21 We do have a microphone right here in the middle in
22 the front. If for some reason you prefer not to stand, that's
23 okay. We're not going to make you stand up in front of us.
24 Just let Ms. Van Bockern know or whichever staff member is, you
25 know, schlepping the microphone around. We'll make sure it gets

1 to you.

2 You know, we've got -- my guess is there would be
3 about 180 people here. And if everybody took five minutes,
4 we'll be here for about 9 hours. So I'm trying to balance,
5 trying to get as much information from you all as we possibly
6 can while making sure we get that opportunity to hear from
7 everyone.

8 As a result, the Commissioners have agreed that those
9 people with relatively short comments -- say, if you've got
10 2 minutes or you've got 3 minutes, we really want to hear from
11 you first. Because if people have larger presentations, we
12 don't want to have to make you stay an hour or two hours so you
13 can get your peace heard. So I do think we will ask for people
14 with shorter comments to go first.

15 We will also ask for landowners to go first because
16 we're particularly interested with what people who have land
17 that could be affected by this pipeline -- we want to hear from
18 them and give their comments.

19 You know, we're not going to have a lot of limitations
20 on what somebody can and can't say. So rather than put rules
21 down, we're just going to make a request. That is that you try
22 to refrain from hearsay. We really want to know what you think,
23 what you believe, concerns you've got. That doesn't mean we
24 don't want to hear your neighbor's concerns, but we prefer to
25 hear it from your neighbor. But if they're not going to be

1 here, that's fine, we'll take them. But try to refrain from
2 hearsay, when possible.

3 If you've got questions, great. Please try to direct
4 those questions through the Chairman so we can maintain some
5 level of order.

6 I would also mention if you've got comments that
7 appear to be really repetitive, maybe 5 or 10 or 40 people
8 before you said it, maybe just mention that, you know, I would
9 echo Mr. Smith's comments about concerns about environmental
10 protection. I think that will help us get your concerns into
11 the record without having to have a word-by-word redundancy that
12 way.

13 And also, you know, ask people to stay focused on this
14 project and what the Commission's authority is over this
15 project. Again, you know, talk about what you really want to
16 talk about. But I think if you start talking about tangential
17 issues, issues that, you know, Gary Hanson, Steve Kolbeck,
18 Dusty Johnson can't do anything about, I think we may not have
19 an opportunity to talk to some people who do want to talk about
20 what this Commission has the authority to do.

21 And finally I would mention that if you've got
22 articles that you really want us to read, I mean, I'll
23 absolutely make a commitment. I mean, we will put those into
24 the record, and we will read them. Staff will read them. And
25 they will be part of the official proceeding in this case.

1 But I would ask that you don't read letters. Don't
2 read articles. Don't read journals. Let's just give those to
3 one of us, and we will make sure they get entered into the
4 record. If you want a minute to explain what you're putting
5 into the record, I think that's completely appropriate, but try
6 not to read verbatim we'd really ask.

7 At this time I'll pause to, you know, Commission
8 advisors or Commissioners to see if I've forgotten anything.

9 With that, do any landowners who have relatively brief
10 comments, would they like an opportunity? If you do, just come
11 to the mic or raise your hand if for some medical reason or
12 comfort reason you don't want to come to the mic.

13 Again, please state your name and your hometown or
14 rather where you're living now and speak slowly and clearly so
15 that our court reporter can get it all.

16 MR. DAN RUPIPER: Dan Rupiper, Yankton, South Dakota,
17 happen to be a City Commissioner and a landowner.

18 As I understand it, you have had about three sitings
19 going through the community or around the community. And as a
20 landowner, I would suspect that there are many of us are not
21 aware of where the sited plans are for the pipeline to go
22 through.

23 So we don't know, we're not aware of whether the
24 pipeline will actually affect us, go by us. I have heard that
25 the land that I own will be affected because it would be within

1 the 110-foot proximity. I don't know if the easement would take
2 part of my land or none of it.

3 And it would be nice to see some sort of plan as to
4 exactly where that's going to go or to find out how soon we
5 would know this and whether we would be contacted, et cetera.

6 CHAIRMAN JOHNSON: Excellent question. Let's go ahead
7 and pause, look to Mr. Koenecke and his team for the answer.

8 MR. GRAY: Yes. One of the things I was going to say
9 today is we have a set of room maps here in the building. I
10 believe that earlier we had them over on this table. They're
11 over on this side or in the back. And we'd be happy to visit
12 with you concerning that.

13 MR. DAN RUIPIPER: That route map, would it include
14 going by small lots or going through small lots within the
15 community? It's a very -- you know, it's very difficult to see
16 anything on the ones I've seen back here.

17 MR. GRAY: Okay. I can't speak for -- some relatively
18 detailed route maps are included on this table. I'm not talking
19 about the wall maps. But certainly after the meeting here I'd
20 be happy to visit with you. Or leave your phone number. I'd be
21 happy to visit with you.

22 CHAIRMAN JOHNSON: Thanks very much. Yeah. Go ahead.

23 MR. J. JAMES NEU: My name is J. James Neu. J. James.
24 I own the building at 705 Brambly (phonetic), just east of
25 Yankton. According to the map that I see at the county offices,

1 the pipeline will run virtually within 50, 100 feet of the
2 building I own. Brambly Road is a one-lane, one-street road.
3 It has been leased to a local company for some 16 years. The
4 lease has ran out. They employed something like 50 people, 60
5 people in there virtually all the time. Other buildings up and
6 down Brambly Road are industrial buildings, I don't know how
7 many employees involved in them.

8 However, I'm looking at this thing as this pipeline
9 meanders down through South Dakota. I would assume they
10 virtually missed every community in the whole state, with the
11 exception of Yankton. In the event of a spill, with one single
12 route down Brambly Road those employees will be out of work for
13 some period of time until that spill is cleaned up and repaired.

14 Might I suggest that they consider going to the east
15 side of the Jim River and then swinging west or going straight
16 south? We know the River quite well and at least I'm not an
17 engineer but it appears to me like the same type of load water
18 crossing is available a few miles down than it is directly south
19 of Yankton.

20 In addition, in the event of a spill, when -- I have
21 this building. I have it leased out. The people buy
22 interruptible insurance. What happens if this thing happened to
23 rupture on the thing? There is no interruptible insurance
24 available for the ruptured pipelines say a few feet from your
25 door.

1 Now granted I'm sure you'll say we'll fix it up and
2 we'll reimburse you. But, however, I never hear we'll reimburse
3 you for the attorney fees in the event there is a dispute
4 between the two. Just thought I would throw it out.

5 I think the thing should bypass Yankton. We've got a
6 free shot all the way across the state. Bypass Yankton. If you
7 want to move a little west along the river, that's fine. Thank
8 you.

9 CHAIRMAN JOHNSON: Thank you very much. Other
10 comments?

11 MS. JEANETTE SCHRAMM: My name is Jeanette Schramm. I
12 live at 1705 Pearl Street in Yankton. My husband's family has
13 farmed and owned property for 100 years, and we feel an
14 obligation to return that property to our families in the
15 condition that we've received it.

16 Now promises have been filed, but I'm sure you've all
17 tried to contact people and when you try to contact them they're
18 not available. And generations down the road nobody's going to
19 remember what was said here or done here.

20 So we're asking this: When you submit a contract to
21 us, TransCanada, include these promises, include what's going to
22 happen if you don't follow them, and we'll probably look at that
23 contract that you have as nontransferable. If you sell the
24 company, it isn't worth the paper it's written on.

25 So we need to have a different type of contract with

1 guarantees and people that are going to be contacted and you'll
2 be held responsible for your actions.

3 CHAIRMAN JOHNSON: I should just -- I think that's a
4 good comment. I should note that if the pipeline were to be
5 approved by the Commission, presumably there would be some
6 conditions, and those conditions would have the legal weight of
7 the law. And I think your comments are well taken.

8 Thanks.

9 MS. MARGARET RAHN: My name is Margaret Rahn. And I
10 live on 801 Dakota Street in Yankton. What I want to know what
11 is the policy -- how possible is it for a spill to come on to
12 land half a mile away from the oil pipe?

13 CHAIRMAN JOHNSON: Okay. Let's go ahead and look to
14 TransCanada for any answer they might have about the logistics
15 of that.

16 I believe -- and let me know. I'm going to try to
17 rephrase your question. Let me know if I'm wrong.

18 How likely is it, how possible is it, for a spill to
19 put product on to a location, an area of land, that is a
20 half-mile away? Or we'll say, you know, some significant
21 distance away from the pipeline itself?

22 MS. TILLQUIST: My name is Heidi Tillquist. I work
23 with TransCanada. I work with a lot of the spill statistics.

24 As far as the chance of spill occurring within a
25 1-mile segment along the pipeline, we would estimate based on

1 all the studies we've done, a frequency of no more than one in
2 every 9,000 years. So very infrequent event. Chance of it
3 migrating half-mile away is fairly unlikely. It can migrate --
4 I think they've had some instances where it's been hundreds of
5 yards and things, but half-mile is extremely unlikely.

6 CHAIRMAN JOHNSON: Go ahead toward the back, sir. Go
7 ahead.

8 MR. ED GLEICH: My name is Ed Gleich (phonetic).
9 (Inaudible).

10 CHAIRMAN JOHNSON: Hold the microphone a little closer
11 to your mouth.

12 MR. ED GLEICH: (Inaudible).

13 MS. VAN BOCKERN: The question was the volume going
14 through the pipeline every day.

15 CHAIRMAN JOHNSON: Good question. We'll take that one
16 first. The volume.

17 MR. JONES: The pipeline is designed to move 495,000
18 barrels a day. We have contracts for 360,000 barrels a day. So
19 we would anticipate to start with 340,000 barrels a day. As we
20 grow with contracts and the need in the Midwest, it will grow to
21 495,000 barrels a day.

22 And if the expansion proposal is successful in
23 refineries in the Cushing area, with like access to Canadian
24 crude, then the pipeline can be expanded with additional pump
25 stations with no more additional impact to landowners to 590,000

1 barrels a day.

2 And again compared to the 20 million barrels of oil
3 every day that's used in the United States, it's a very small
4 volume.

5 UNIDENTIFIED SPEAKER: My comment is about the 2
6 percent loss on (Inaudible).

7 CHAIRMAN JOHNSON: Okay. Senator Kloucek, go ahead.

8 SENATOR FRANK KLOUCEK: (Inaudible).

9 CHAIRMAN JOHNSON: The reason we've got to face this
10 way, we've got to make sure Cheri --

11 SENATOR FRANK KLOUCEK: Okay. Well, these folks can't
12 hear out here.

13 CHAIRMAN JOHNSON: We'll turn up the volume and to a
14 certain extent also we want to make sure when you're speaking
15 you get that microphone relatively closely.

16 SENATOR FRANK KLOUCEK: Okay. They can't hear the
17 feedback you guys are giving. You'll have to hold it closely.
18 (Inaudible) I'm a shy Senator from Scotland. I've got four
19 constituents' questions. I'm trying to keep it short. They're
20 very disappointed in the P.A. system today. I feel for them.
21 If they could talk closer to the mic, I can hear it.

22 CHAIRMAN JOHNSON: Senator, hold on a second. I want
23 to make sure we get everything you need done, done. Let's pause
24 for a moment. Let's get the volume turned up a little bit.
25 We'll try to reface this a little bit. We'll do what we can.

1 (Discussion off the record)

2 CHAIRMAN JOHNSON: Okay. Thank you for your patience,
3 everybody. Let's go ahead. Go ahead, Mr. Kloucek,
4 Senator Kloucek.

5 SENATOR FRANK KLOUCEK: Thank you, Mr. Chairman. I
6 guess the first question would be the CRP program, how that
7 would affect that. And if we have an issue with (Inaudible)
8 water and our rural utilities, you know, if there are some leaks
9 that are going to affect those, the turnaround time and the
10 compensation programs, have a lot of landowners concerned about
11 the compensation for those damages and what will happen, of
12 course, with the CRP program.

13 That would be my first kind of shot at questions. I
14 do have a lot of concerns from those people, especially our good
15 drinking water and our public utilities, rural electric program
16 that has the lines that are going to be crossed there.

17 The second -- do you want to touch on that one, Brett?

18 MR. KOENECKE: Thanks for the questions, Senator.
19 Keep that list handy. Tell me about your question about CRP.
20 Tell me some more about that so we can decide if we can help
21 you.

22 SENATOR FRANK KLOUCEK: The CRP will be how they'll be
23 notified, do they have the input on the issue, how we'll be
24 affected if it's going to be tore up continually. Of course, in
25 the CRP once that's tore up, you lose your benefits. If you

1 have to go in and destroy that CRP ground, you lose that.

2 What happens if there's a leak, it goes through the
3 CRP ground? I understand they're going to reseed it once they
4 make the original pipeline. What happens once they have a major
5 leak, if there is one, in that situation and the CRP is
6 destroyed? Is there going to be full compensation for that as
7 well?

8 MR. KOENECKE: Thanks for clarifying that.

9 MR. KOSKI: With respect to the CRP issue we've had
10 extensive discussion with the FSA concerning CRP. And we've --
11 we fully expect that it will work similar to how it does on
12 other pipeline projects that involve CRP.

13 When a landowner identifies that they have CRP and are
14 receiving CRP payments, we will work with the landowner and work
15 with the local FSA to assure the FSA that we will restore back
16 to the CRP land in a manner that's consistent with the
17 requirements of the FSA and the NRCF in such a way the
18 landowners do not lose such payments from the CRP program.

19 If they do lose payments from the CRP program,
20 whatever reason, if one-year restoration is not sufficient, for
21 whatever reason it's unusual or if that would occur, Keystone
22 would compensate for the loss of income with the CRP.

23 SENATOR FRANK KLOUCEK: Okay. We have a constituent
24 that's within 300 feet of their house or closer. It's a rural
25 farm home setting, and it's really close to their house and

1 Yankton and other where. Wondering if the program -- there's
2 alternative routes around that house? Are you guys going to be
3 doing any looking at that? Should they request that they build
4 that pipeline away from this person's house? They're very
5 concerned about the close proximity to their households.

6 MR. GRAY: To the extent in routing the pipeline
7 across the state any time you go 1,080 miles it's virtually
8 impossible to miss every resident, every business the landowner
9 is going to fall on.

10 These pipelines do coexist in not only rural home
11 environments but also in semi-urban and urban environments. By
12 our standards that we construct pipelines to, even though for a
13 liquid pipeline there is an offset unless we have a 4-foot depth
14 of coverage, which our pipeline would have, mandated by codes,
15 we are -- do not have other codes with standards that require
16 minimal setbacks any greater than that.

17 And I think that the -- just as I think some gentleman
18 has mentioned, there's existing pipelines coming across the
19 Missouri River here at Yankton just I think east of the bridge
20 and you kind of come into the urban area, but most major cities,
21 most cities with airports have jet fuel and refined products,
22 pipelines running in those environments.

23 We build to codes and standards like highway
24 departments do, railroads, road bridges, electrical utilities.
25 We coexist with the program.

1 SENATOR FRANK KLOUCEK: Okay. Then I have one real
2 short question, a concluding question and I'm done. I have a
3 question on the \$6.4 million in taxes. How much really does
4 stay in the county?

5 Is it true that only 20 percent of that amount stays
6 in that county, or what is the actual figures, the tax dollars
7 that are generated stay locally?

8 MR. KOENECKE: Thanks for the question, Senator. I'll
9 try and answer that myself. My research indicates that the
10 pipeline would be centrally assessed. Meaning that its value
11 would be assessed at the State Department of Revenue as an
12 entire project from one end of the state to the other and that
13 the State Department of Revenue would then send the particular
14 values for the counties out to the county auditors for
15 application of the particular mill levy from those counties and
16 those dollars stay right there. That's my understanding of the
17 code as set forth.

18 SENATOR FRANK KLOUCEK: And then in conclusion I just
19 wish you the best, and we strongly ask that you treat our
20 constituents fairly. That's what we want. We want them to be
21 compensated fairly and treated fairly. And, of course, in
22 politics money is the mother's milk of politics.

23 And my final question would be to our PUC
24 Commissioners and to the elected legislators and Congress woman
25 and senators, that we would all take a pledge, especially as

1 this pipeline is being built, if you would consider taking a
2 pledge not to accept any money from Trans America (sic) pipeline
3 at this time until it's completed, just a pledge of good faith
4 not to have any acceptance of their money for campaign purposes.

5 The Commission, would they be willing to sign a pledge
6 to not accept money from TransCanada? We'll turn it over to
7 you.

8 And thank you and good luck to you and just ask that
9 you treat our constituents fairly, pay them and, of course,
10 relocate their houses if they can't -- maybe a relocation
11 process or something for housing on that safety side. I'm
12 really concerned about that and that you treat them well.

13 CHAIRMAN JOHNSON: Thank you, Senator Kloucek. We'd
14 respond directly to your request. I would note South Dakota
15 State law currently forbids -- prohibits any -- really any
16 business contributions of any kind of any elected officials. If
17 you're a business, you cannot make a contribution to an elected
18 official. So for campaign purposes.

19 Ms. Van Bockern, who is next up? We'll go right up
20 here in front.

21 MR. ED LAMMERS: I'm Ed Lammers, resident of Yankton
22 with property across the River, which I think you may miss. I'm
23 not real sure. One of the things that I didn't hear from you --
24 maybe I missed it -- it has to do with wildlife, how wildlife
25 is --

1 You know, we have a lot of people come in to this
2 state, spend a lot of money to shoot pheasants and so on and so
3 forth. And if you displace the habitat, if you force habitat to
4 be overloaded and you move your system through the area, where
5 is that compensated to the owner or to whom?

6 CHAIRMAN JOHNSON: All right. Mr. Koenecke, we'll
7 hear from TransCanada, from the Applicant now.

8 MR. KOENECKE: This line crosses jurisdictions up
9 here.

10 MR. GRAY: I think your question broaches upon two
11 subjects. And one is indeed affecting habitat and maybe another
12 is where there's a commercial business, whether it's hunting
13 leases or whatever. There's two aspects. I think that's why
14 we're passing the baton back and forth.

15 But I'll address the conversation. And if you have
16 lease -- hunting leases on your property that are impacted by
17 the construction or operation of our pipeline, we would be
18 responsible for those damages. It is very, very common in our
19 easement negotiations for a landowner to say he has a particular
20 water fowl species or mule deer, hunting season they say between
21 October 15 and December 1 and actually request us to restrict
22 some of our construction operation during that period.

23 For us we have to assess it as to the commercial
24 impacts to our construction. And we would sit down and either
25 work out what we could do to compensate you for your loss, even

1 to the extent if we have to find leases for your hunters to go
2 to, other than your own, or we restrict our construction
3 operation so we don't impair that business.

4 I think with that -- I don't know, Mike, relative to
5 the environmental studies that go on.

6 MR. ELLIS: My name is Scott Ellis. I'm supporting
7 TransCanada with the environmental studies that are going on.
8 And we have done extensive mapping of the wildlife habitats
9 along the line. We've identified the areas that will be --

10 CHAIRMAN JOHNSON: Mr. Ellis, I'm sorry to interrupt.
11 I have a couple of people cup their hands to their ear asking
12 the mic be closer to your mouth. Restate your name and start
13 over. We appreciate it.

14 Just worth noting. It's going to sound really, really
15 loud to everyone over there. The speaker is right behind you.
16 I've noticed the same thing with myself, but I try to power over
17 and through yourself into the crowd. Thanks.

18 MR. ELLIS: Okay. Hopefully this is not too loud. My
19 name is Scott Ellis. I'm supporting TransCanada in developing
20 and doing the environmental studies along the line. And we have
21 mapped a lot of the habitat for wildlife. We've done a number
22 of primarily threatened endangered plant and animal studies in
23 the State of South Dakota.

24 But I think if I -- I think what I heard you say is
25 was you're concerned -- I think Buster addressed the question of

1 compensation, but I think you're probably -- another concern you
2 have is restoration where, you know, you're coming back to
3 putting back the habitat that was there originally and just what
4 mechanism and what sort of approach we would take.

5 And I think it's kind of the same where we're saying
6 we sit down with the landowners and talk about any special needs
7 that they have in terms of looking at wildlife restoration, you
8 know, what it would take in terms of kind of plantings that were
9 needed and some idea how long it would take to get that back.
10 And still kind of considering the fact you do have to leave some
11 access down the permanent right of way but still considering the
12 fact that you have some special habitat restoration needs would
13 certainly be considered.

14 CHAIRMAN JOHNSON: Thank you very much. Other
15 comments, other short comments?

16 MS. LILLIAN ANDERSON: My name is Lillian Anderson.
17 I'm from Langford, South Dakota, which is 18 miles from the
18 North Dakota border.

19 I have one question -- I actually have one
20 (Inaudible). When they said it took 2 percent before things
21 shut down, that's 365,400 gallons of oil that will be in your
22 soil before they shut anything down.

23 My next question is I've seen Mr. -- Buster Gray
24 probably the fourth time. Each time they've told me they would
25 not tolerate abuse of the landowners. I have three names:

1 Van Rork, Jack Stanley, and Kathy Gibson (phonetic). Are they
2 still working for TransCanada? I understand two of them have
3 been sent to Nebraska, but that just moves the problem from here
4 to there. Another one of their land agents has a record for
5 abuse and assault.

6 Is this going on?

7 CHAIRMAN JOHNSON: Okay. Thanks for your question,
8 Ms. Anderson. At this time, TransCanada, see if they have any
9 comments.

10 MR. KOENECKE: I appreciate the question. There were
11 several in there. Would you like to tell us which one you want
12 answered first?

13 MS. LILLIAN ANDERSON: I want to know if those people
14 are still working for TransCanada.

15 MR. KOENECKE: Would you say their names again,
16 please.

17 MS. LILLIAN ANDERSON: Jack Stanley, Kathy Gibson, and
18 Van Rork.

19 MR. GRAY: Ms. Anderson, I will say to you I'm jotting
20 the names down. To my knowledge unless they've been moved or
21 released, they would still be working for the project.

22 However, as I will state to you today is today is the
23 first day that I've been given names, particularly of people
24 that you're indicating are not conducting their business
25 properly.

1 MS. ANDERSON: My house was one.

2 MR. GRAY: But I will certainly investigate the
3 individuals that you have mentioned.

4 MS. ANDERSON: How long is it going to take you to
5 investigate? This is the third time I've reported Van Rork.

6 MR. GRAY: Ms. Anderson, all I'll suggest to you is by
7 the end of the week I will investigate these three individuals.
8 I just strongly suggest to you this is the first complaint that
9 I've heard.

10 CHAIRMAN JOHNSON: Okay. Thank you very much. Other
11 comments? Let's go ahead and feel free to raise your hand.
12 Ms. Van Bockern is bebopping all over the room.

13 Yeah. Right over here up front.

14 MR. DON TUCKER: My name is Don Tucker. I live in
15 Yankton. The pipeline's going to go through some of my
16 property, I think. Can the county or the city build a road over
17 the pipeline within the right of way or -- the easement? Can
18 the county and the city build a structure -- they said no
19 structures, but can they build a road over it? Can they put in
20 a sewer system around it, those kinds of things? Can that go on
21 that 110-foot area?

22 CHAIRMAN JOHNSON: Thank you for the question. We'll
23 look to the Applicant.

24 MR. GRAY: Is to construct or -- whether public,
25 private, or whatever type of facility across us, you will need

1 to come to us and seek permission to do such. However, any time
2 you build a pipeline 1,080 miles long, whether it's other
3 utilities, whether it's roads, highways, drainage ditches, drain
4 tiles, all of these type things that develop over time, we have
5 to deal with literally on a case-by-case basis.

6 But generally particularly other utilities are not
7 precluded from crossing our easement. We may request some
8 separation, or we may request you do certain things to cross it,
9 but you would simply have to seek our permission and have a
10 reasonable plan to do such.

11 I would also state, though, whether it's a city or
12 county or landowner, if you know about a potential improvement
13 or development today, that if you communicate that to our land
14 group that you're going to build a road or some other utilities,
15 we will design our pipeline to accommodate it today. And that's
16 very common in our practice.

17 MR. DON TUCKER: We have a street that goes nowhere.
18 It's called the Eighth Street Extension. It comes around Gehl's
19 (phonetic) property and heads up north. Dead-ended it there,
20 but they've -- supposed to bring it up to Whiting Drive
21 (phonetic), which is on the east side of some property that I
22 own.

23 At the same time I notice you guys went around
24 Gehl Manufacturing with the pipeline route. Then you cut back
25 in and come up my property. And I'm wondering a couple of

1 things. Why did you go around Gehl and, number two, when you go
2 up a section line do you split that in half and put half on one
3 person's property and half on another? Or how do you go up a
4 section line? Like I live right on a section line.

5 MR. GRAY: I believe, Mr. Tucker, I would ask you
6 before you leave if you come over with Ms. Roth if you could
7 leave your name, we'll look at the route at that particular
8 spot. I'm just not familiar with you today.

9 But the second question about going up a section line
10 is typically when we go up a section line we will put all of the
11 easement and work space on one side. We typically do not split
12 the middle unless there's some topographic reason or buildings
13 or something that would force us to do that. We typically like
14 to be all at one side. So without a specific location if I
15 could look at it on a map, I might explain more clearly.

16 CHAIRMAN JOHNSON: I know Commissioner Kolbeck has a
17 follow-up question. Commissioner, go ahead.

18 COMMISSIONER KOLBECK: This kind of pertains to your
19 question too. I've heard questions about roads and counties.
20 What happens if a road is lowered? Who's responsibility is
21 that? Can it be lowered?

22 Obviously if you're thinking about drainage questions,
23 obviously roads aren't perfect the first time around. That was
24 my question.

25 MR. GRAY: My experience and my career is that it's

1 many times on a case-by-case basis. But generally when we cross
2 the road you have extra depth to cover simply because of wanting
3 to be further away from things where county workers clean out
4 ditches and do various things, and we typically put extra depth
5 there.

6 If there's lowering the road that's -- I'm going to
7 guess a number, a foot or two, I would suggest to you it's
8 probably little exposure to having to do anything. But if
9 there's a major road improvement where you're redesigning the
10 grade of an entire road for several miles and then indeed you
11 would either have to in your permit conditions state what
12 requirements and limits you had with us even to the extent that
13 we have to make the improvements to facilitate your road.

14 Or in the instance where you did not, you might be
15 requested to compensate us for the redesign or relocation of the
16 utility.

17 But we would strongly suggest to state and county
18 officials that any areas that there are even the slightest
19 thoughts of significant improvements over the next 5 to 10
20 years, if you will tell us about them, we will design to
21 accommodate today. And that's in both (Inaudible).

22 CHAIRMAN JOHNSON: Thank you. I should note it is
23 about 10 to 1. We're going to need to take a short break at
24 1 o'clock so the court reporter can rest her hands for just a
25 minute. Even though we're taking a short break, it will just be

1 relatively short. So if we don't get to you before 1, we'll get
2 to you. Yes. Go ahead, ma'am.

3 MS. JUDY KAUFMAN: I'm Judy Kaufman. I live in
4 Hutchinson County or have land in Hutchinson County. You
5 addressed an oil line break, and you said -- when the rural
6 water breaks it comes bubbling out of the ground. What does oil
7 do? Does it come up, underneath? You said an odor. Is it an
8 odor of oil?

9 What are we to expect in the worst-case scenario?

10 CHAIRMAN JOHNSON: Thanks for your question, very
11 much. Applicant.

12 MR. THOMAS: I'm going to answer the first part of
13 your question, and if I could, I'd just get you to restate the
14 second question.

15 In the event of a leak, again, as we said, it is very
16 unlikely, but it does behave much like a water leak, excuse me,
17 in that it will come to the surface. And really that is because
18 the pipeline is in this trench that's been backfilled with the
19 original material, but the original material hasn't been
20 compacted to the same extent as the virgin soil on either side.

21 So as a result of that, the oil will come to the
22 surface in by far the majority of the cases.

23 So I hope that answers the first part of your
24 question, and if I could just ask you to restate your second
25 question, I missed that.

1 MS. JUDY KAUFMAN: Someone said something about an
2 odor. Are you talking about the odor of oil, or what was the
3 odor?

4 MR. THOMAS: Yes. That was me. With respect to the
5 odor, crude oil and the types of commodities that Keystone will
6 transport will definitely have an odor. And I guess it's
7 difficult to describe the odor. But there's a certain amount of
8 sulfur within this crude oil. And that is typically what you
9 would smell. So there is definitely an odor along with the
10 crude oil that in the event of a spill it's definitely
11 noticeable.

12 CHAIRMAN JOHNSON: Good. Thank you for the question.
13 Yes. Go ahead, sir.

14 MR. OREN STAHL: I'm Oren Stahl. And you are going
15 through my land. Plus a half-mile away you are having a pumping
16 station.

17 Can you tell me the loudness of this pumping station?
18 Is it going to be loud or is there going to be vibration or tell
19 me a little bit about it.

20 And plus I can agree with the woman back there that
21 said something about being treated rudely. I had an easement,
22 and my lawyer told me not to sign it because it gives me no
23 rights. And once I told her I had a lawyer look at it, she was
24 pretty huffy about it. And I believe it's one of the names that
25 was on there.

1 So I also -- you say on the videotape that we can farm
2 over it. But we've had a 5-inch rain now. And we had washouts
3 3 feet deep. We drive over it with our equipment, we don't know
4 exactly where the line is, we have 100,000-pound piece of
5 equipment and this easement doesn't give us no right. It's our
6 fault if we break the line.

7 Can you address that then too?

8 MR. THOMAS: I'll just begin with addressing the first
9 part of the question in regards to pump station noise and
10 vibration.

11 The pump stations, as Mr. Jones mentioned, will
12 utilize electric-driven pumps and motors, or at least the pumps
13 will be driven by the motors. They are 5,000 horsepower. And
14 there's no question that they make noise. There is also
15 associated with these pump stations a pressure control valve.
16 And that is actually the device that we use to control the
17 pressure itself on the pipeline. And they do emit some noise as
18 well.

19 As a commitment, Keystone will undertake whatever
20 actions are necessary to mitigate that noise issue, and it will
21 involve things -- such things as planting trees, potentially
22 erecting shelters over some of these facilities such that we can
23 limit any of the noise-related issues.

24 So it's really going to be a case-by-case type of
25 situation. If there is a noise issue, Keystone will address

1 that.

2 CHAIRMAN JOHNSON: This is Commissioner Johnson. I
3 might just ask, can you give us a ballpark of what the noise
4 would be? Are we talking 40 decibels, 60 decibels at a quarter
5 mile? Just kind of give people a ballpark of how loud that
6 would be.

7 MR. THOMAS: Yes. From a decibel perspective we would
8 mitigate down to 55 decibels.

9 CHAIRMAN JOHNSON: Could you give people an idea of
10 what -- how loud that is?

11 MR. THOMAS: It was about like that lawn tractor we
12 heard just a few minutes ago. It would be I guess something
13 similar to like a secondary highway that would be, well, a
14 reasonable way off or off in the distance. So it's a very --
15 well, low level of noise.

16 CHAIRMAN JOHNSON: Thanks very much. Let's go ahead
17 and take one more comment or question before we take a short
18 break.

19 MR. KOENECKE: Commissioner, he had more questions.

20 CHAIRMAN JOHNSON: I'm sorry. You had additional
21 questions. Let's pause and make sure that we get those answers.

22 MR. GRAY: A couple of items. But if the agent's name
23 that you're registering the complaint, if you have that name and
24 could give it to me, I would appreciate it.

25 Then I think the two comments were that the easement

1 per your legal advice was not having any rights, and that's
2 coupled with your farm question relative to the rain and the
3 weight of the equipment.

4 We have heard over the past couple of months feedback
5 from landowners concerning the complexity of the easement
6 agreement relative to the indemnity or liability languages that
7 are in it. We are moving forward to rework the easement
8 document to make the language less complex and more direct from
9 the feedback that we've heard from landowners.

10 But unequivocally, unequivocally, liability and
11 responsibility for the -- any damages created by the company are
12 the responsibility of the company. Unequivocally in the
13 easement document that's been presented to you and in the new
14 one that is being I guess condensed to make it less complex, and
15 it's all in one location of the easement document, it is our
16 intention to bring that easement document out to the landowners
17 and the public, hopefully within the week to 10 days that we'll
18 have that out to the agents where it is not -- hopefully it is
19 not interpreted as your legal counsel has interpreted it.

20 Then, secondly, the rain and -- all I can tell you is
21 relative to things is that, you know, when you have huge events
22 and problems and issues that you've described, whether it's acts
23 of God or nature, that we would ask that all people use prudence
24 and caution into their operations. But when we construct this
25 pipeline we will compact a trench line to an extent to prevent

1 the type of erosion that you described to the best of our
2 ability.

3 Can we absolutely assure you that there will be no
4 roads if you have a 5-inch rain like you described? Certainly
5 not. Our comments would be under those conditions and things we
6 would expect landowners to operate prudently and recognizing
7 that a pipeline being present.

8 The only other aspect -- there's some -- there's some
9 3 to 400,000 miles of pipeline in the United States, a large
10 diameter, cross-country pipeline regulated by the Federal
11 Government. These pipelines cross the Midwest. They cross the
12 state of Mississippi where I'm from. It's highly agricultural.

13 And the comments being that the heavy farm equipment
14 at the depth of coverage we are, are not a problem. We do not
15 restrict you from crossing our pipeline. Certainly if there
16 were erosion, it would heighten our concern, but I would suggest
17 to you that it has not been an issue in our industry over the
18 course of time or history.

19 CHAIRMAN JOHNSON: Did we get all of your questions
20 answered, sir?

21 MR. OREN STAHL: Yes.

22 CHAIRMAN JOHNSON: Let's take a 10 -- we will go ahead
23 and take -- since you're standing, we'll go ahead with you and
24 after that we'll take a 10-minute break so the court reporter
25 can rest the hands a little bit.

1 MS. JEANETTE SCHRAMM: Jeanette Schramm. I live at
2 1705 Pearl. On the property that I own there's a housing
3 development. When you speak of the odor of sulfur going through
4 the pipeline, it's certainly going to affect the living
5 conditions of those people in that housing development.

6 I wonder how many other people that you're coming
7 close to their homes that's going to have an effect.

8 CHAIRMAN JOHNSON: I would just -- before we get to
9 the Applicant's answer, we've got a lot of people sort of
10 chattering and it sounds real quiet where you're at but the
11 cumulative effect of that is really loud.

12 Folks in back, we're actually having a hard time
13 hearing some of the questions because of that. Again, we're
14 just about two minutes away from the break. Let's let the
15 Applicant answer that question.

16 MR. GRAY: The reference to odor of the oil was in
17 reference to the unlikely event of a leak or a spill. This
18 product's totally contained in about a three-eighths-inch thick
19 steel pipe, and as such there will be no odor.

20 I'm sorry. Is the reference to odor is in reference
21 to the unlikely event of a spill or a leak. And the oil is
22 contained in an approximate three-eighths-inch steel pipeline,
23 and there will be no odor from it in its normal operation.

24 CHAIRMAN JOHNSON: With that, we will take a short
25 break. Try to reconvene in 10 minutes. Thanks very much.

1 (A short recess is taken)

2 CHAIRMAN JOHNSON: It is a little after 1:15. We'll
3 go ahead and reconvene this public hearing. We will see -- I
4 think we're still on a relatively short comments. I think so
5 far your questions and comments have been excellent, been on
6 target. We definitely appreciate all the input so far.

7 Are there relatively short comments from those people
8 in attendance? Just go ahead and raise your hand or step to the
9 microphone.

10 MS. VAN BOCKERN: I had a question over the break, and
11 I think this would be one the company can answer.

12 CHAIRMAN JOHNSON: Maybe just note that this is not a
13 question from Commission staff.

14 MS. VAN BOCKERN: No. This is from a citizen in
15 attendance today. The question was that if this 2 percent leak
16 does happen, how many gallons that might be? And I believe that
17 may have been asked earlier, but it was asked again.

18 And how that would affect aquifers and home wells, and
19 in the event they are affected, what TransCanada would do to
20 help fix it?

21 MR. KOENECKE: Thank you very much for the question.
22 Heidi, is this your area of expertise?

23 MS. TILLQUIST: I guess I'm going to answer it -- the
24 second half of the question because I'll have to have somebody
25 else talk about the 2 percent for me.

1 In answer to spills over aquifers, in the majority of
2 the pipeline route there's isolating materials that will protect
3 aquifers. But there are some areas that do have more isolating
4 soils. They basically form a barrier between the pipeline and
5 the aquifer.

6 If a spill did occur over an aquifer, given the soil
7 characteristics, the spill response time, TransCanada's got an
8 emergency response plan. All of these things would interact,
9 and we believe that TransCanada would respond in a timely
10 fashion and be able to intercept the majority of the material
11 before it ever entered an aquifer.

12 So that's -- I guess that's the basic answer I want to
13 give.

14 If an aquifer did become contaminated, there are
15 regulations. There's (Inaudible) remediation activities. It
16 would fall into a regulatory category, and TransCanada would be
17 responsible for cleaning up.

18 CHAIRMAN JOHNSON: Other questions or comments? Did
19 you have another citizen's comment, Ms. Van Bockern?

20 MR. KOENECKE: I think, Commissioner, we still are
21 working on the 2 percent calculation.

22 While they're doing that I'll take a minute to detail
23 clearly under state law TransCanada's required to respond and to
24 assist and pay for the mitigation and remediation efforts.
25 That's been in state law for a number of years according to my

1 research. So there's no question that the state has made
2 preparation in that regard.

3 Maybe we'll come back to that question. It looks like
4 they've got a steam-powered calculator here.

5 We've got an answer.

6 MR. THOMAS: The 2 percent number works out to 14,800
7 barrels. And I just -- don't want to leave you with the
8 impression that the leak detection system is incapable and just
9 systems in general are incapable of picking up leaks that are
10 smaller than that. That is very much the threshold that we're
11 comfortable with providing at this point.

12 As we get to know the system and see how it performs
13 and so on, we certainly expect to be able to improve and do
14 better with the computer-based model than the 2 percent. That
15 is, I'll just mention as well, a pretty common industry
16 threshold. Somewhere between, you know, 1 and 2 percent is
17 what's typically out there.

18 Now over and above the computer module, the -- the
19 computer model, pardon me, we will have these other systems in
20 place that will also detect leaks, and they will certainly
21 detect them down to the lower limits than that. But at the
22 moment to be conservative we're just indicating this 2 percent,
23 which is something that we certainly think we'll be able to
24 achieve.

25 We've looked at, excuse me, additional instrumentation

1 that will be installed on the pipeline, additional pressure
2 monitoring points, additional flow meters and so on, and we're
3 pretty much to the threshold of what we can achieve with its
4 instrumentation. And if we had more instrumentation, we
5 actually can't get a benefit and lower that number any. So
6 we've optimized the amount of instrumentations out there, and
7 that really gives us this 2 percent number.

8 CHAIRMAN JOHNSON: Thank you very much. Yeah. Go
9 ahead. We've got a question right here. Go ahead and step up
10 to the mic, if you want.

11 MR. DARRELL NELSON: Hi. I'm Darrell Nelson from
12 Yankton here. My question for you is very similar here. If
13 there is a contamination, would the affected soil be removed and
14 replaced with like kind soil?

15 CHAIRMAN JOHNSON: Good question. Let's look to the
16 Applicant.

17 MS. TILLQUIST: It will depend on the site-specific
18 situation. In some cases the soil can be taken off and taken
19 somewhere and treated, and there will be clean soil brought in.
20 Some cases it's left on the ground and you can use things like
21 fertilizer and things to actually conduct bioremediation of the
22 site.

23 It's a matter of working with the state and federal
24 agencies to make sure that the oil levels are taken down below
25 thresholds which will affect the vegetation, impose human health

1 hazards so all will be remediated to levels that are safe.

2 CHAIRMAN JOHNSON: Commissioner Kolbeck has a
3 follow-up.

4 COMMISSIONER KOLBECK: Yeah. I just had a clarifying
5 question on that. With the soil that will be removed that's
6 contaminated, is it the 50-foot easement, or does it go -- if it
7 goes for 300 feet, is 300 feet worth of dirt removed or just the
8 50-foot easement?

9 MS. TILLQUIST: It would be the area that's
10 contaminated that's above the safety thresholds.

11 COMMISSIONER KOLBECK: So the total contaminated area
12 is taken away and replaced with new soil.

13 MR. KOENECKE: The two concepts are actually quite
14 separate. The easement is simply right of way for the pipeline
15 to exist and function, but in the event of a spill,
16 Commissioner, my understanding is working with the state and
17 federal authorities, DENR and probably pipeline safety, you
18 would determine what the spill area is without regard to that
19 easement whatsoever and remediate and take care of the problem
20 no matter where it exists and how far it went to a safe level as
21 probably dictated by rules and regulations as someone set forth.

22 Does that help?

23 COMMISSIONER KOLBECK: Thank you.

24 MR. DARRELL NELSON: I'd like to elaborate on that a
25 little bit. You refer to a threshold level for safety, but will

1 that threshold level still allow the use of the agricultural
2 crops on the ground? It would? That's all regulated under EPA
3 law, isn't it?

4 MR. JONES: That's correct. My experience is when
5 there's been a spill they do on-site restorations that within
6 three years the soil's ready again for ground use. But, again,
7 it's a site-by-site specific analysis that needs to happen, and
8 it's all done with the guidance of the state agencies and the
9 federal authorities.

10 CHAIRMAN JOHNSON: Commissioner Kolbeck.

11 COMMISSIONER KOLBECK: And other than you being on
12 public record here, what is his guarantee? Is that in that CMR
13 that you spoke of earlier, or is that in the easement?

14 MR. KOENECKE: Would you restate that for me,
15 Commissioner?

16 COMMISSIONER KOLBECK: I guess just maybe to help
17 put -- by -- what is the guarantee that that's going to happen?
18 Is that in the state law, the federal law, CMR, or the easement?

19 MR. KOENECKE: To my way of thinking it's in the
20 interplay in the federal law with the state as to what happens
21 when there's an oil release and how those matters are handled.
22 They're not contained within the easement because the oil's not
23 with respect to that easement. It's going to go where it's
24 going to go.

25 In the unlikely event it will leak, those matters are

1 going to be tightly handled by the Environmental Protection
2 Agency and certainly the Department of Environment and Natural
3 Resources.

4 CHAIRMAN JOHNSON: Comments or questions from the
5 public? Yeah. Did you want the mic brought to you, or did you
6 want to come forward?

7 MR. MIKE ANDERSON: Hi. My name is Mike Anderson. I
8 have family that has land near Freeman, and they've got a couple
9 of questions. One is dealing with the crop damage that is paid
10 back. We have first year, second year, third year of
11 100 percent, 75 percent, and 50 percent respectfully.

12 Is that paid to the tenant of the land, or is that
13 paid to the landowner?

14 MR. GRAY: The crop damage is actually belonged to the
15 tenant. One of the things we have to deal with is the
16 contractual relationship between the tenant and the landowner is
17 we will strive to see that the tenant is the recipient of the
18 crop damages. But in some instances -- in some instances if
19 there are not formal agreements in place between tenants and
20 landowners, it's not as simple as I've prescribed.

21 Whether you are a tenant or whether you are a
22 landowner, that should be discussed in detail with the
23 landowner. But by right the tenant is owed the damages.

24 MR. MIKE ANDERSON: Okay. My second question deals
25 with the easements and the reasons that have been talked between

1 the landowners and some of the people that have come around
2 requesting easements. And that is if an agreement is made on
3 the easement going across their land and for some unknown reason
4 the project was rerouted or it does not go across their land,
5 how does that affect the easement?

6 Does the easement stay in place? Do they keep the
7 easement, perpetual thing?

8 MR. GRAY: I would suggest to you if we would reroute
9 the pipeline off your property after we had acquired an
10 easement, one of the first things I would say to you is we would
11 not seek recovery on those payments. That would just be our
12 tough luck for lack of a better word.

13 But typically we're not wanting to have your land
14 incumbered and we would probably request that you come to us or
15 we would come back to you and simply release the easement and
16 put on record at the courthouse to relieve that burden or
17 that -- on your title.

18 Because we certainly don't want it either.

19 MR. MIKE ANDERSON: And then I just have one comment
20 regarding the numbers of the gallons of potential oil spill as
21 far as detection. It's been brought up several times.

22 You noted you would be able to detect a 2 percent loss
23 over 102 minutes. My comment would be you might have overstated
24 the amount of barrels lost in that 102 minutes. Because a
25 2 percent loss over an entire day would be 10,000 barrels if we

1 were talking 14,000, 102 minutes.

2 MR. GRAY: I'll have to give this to the guy that
3 calculated it.

4 Mr. Commissioner, could we just double-check
5 everything and maybe at the end of the hearing we would get that
6 on the record?

7 CHAIRMAN JOHNSON: Absolutely. When I was younger my
8 mother advised me never to do math in public. As she always has
9 been, she was probably right then and now. So go ahead and
10 check your math, and we'll get an opportunity yet. We'll make
11 sure that gets into the record. We're still in relatively
12 brief -- where is the mic? Go for it.

13 MR. RANDY JENKS: My name is Randy Jenks. J-E-N-K-S.
14 Two very short questions that deal with easements. The easement
15 that you had -- once a pipeline has gone through, a rural water
16 line we want to go across the pipeline, do you have any special
17 requirements?

18 I understand you have a permitting process, but
19 casement of the water line, water line load?

20 MR. GRAY: Typically I would say on a case-by-case
21 basis we would look at the request, and we would not necessarily
22 make you go beneath us if you could go above us and have
23 adequate clearance for your frost depths and things that you
24 have for water lines.

25 But typically our main requirements are 12-inch

1 spacing between our facility and your facility and, secondly,
2 that we have qualified people present when you excavate around
3 our facility. Those are the two key items with foreign or other
4 utilities that cross us.

5 MR. RANDY JENKS: Would there be special insurance
6 requirements for that?

7 MR. GRAY: Typically there is not. And typically
8 again as a utility ourselves dealing with hundreds and thousands
9 of other utilities we kind of recognize that whatever
10 requirements that we put on other people subject to the type we
11 put on ourselves. So the utility industry as a whole has a
12 pretty good gentleman's kind of arrangements and agreements
13 about these not --

14 But if I ask for a bond for you to cross me, in all
15 likelihood next time you're going to ask for a bond we can cross
16 too.

17 MR. RANDY JENKS: More or less leads me to my second
18 question. On all of those rural water lines that are out there
19 you will be crossing we hold existing easements that are
20 recorded. What's your plan for how to address that?

21 MR. GRAY: Our plan would be to contact each of the
22 utilities along the pipeline route, whether again it's a water
23 line or an electric utilities or whatever utility. We make
24 every effort to contact every utility that we will cross or
25 encroach upon to meet with you. We will typically send you a

1 letter with a map that says we understand you have the utilities
2 in this region of the project. Would you identify those
3 utilities and identify your crossing requirements that you have?

4 Many utilities -- this may be hard to believe. Many
5 utilities would simply give us a formal letter back identifying
6 the requirements, contact notice requirements. Some utilities
7 we cross would ask us to enter into like a crossing agreement,
8 like a contract that says we're going to notify you we've
9 crossed this, we'll do these things. And as long as they are
10 reasonable, we generally have no problem in executing those
11 requirements.

12 MR. MIKE ANDERSON: Thank you.

13 CHAIRMAN JOHNSON: Go ahead.

14 MR. JEREMY NAGEL: My name is Jeremy Nagel, N-A-G-E-L.
15 I'm the emergency management director for Yankton County. Just
16 a series of brief questions.

17 The first one with a placement pipeline in
18 Yankton County we suddenly have a potential target of national
19 interest that we didn't have before.

20 What is TransCanada's program, policy, as far as
21 mitigation, prevention, and surveillance damage of this type of
22 pipeline?

23 MR. JONES: We have pipelines that cross the U.S. in a
24 number of very high consequence areas right into the Bronx in
25 New York City. The design line is such that I wouldn't suggest

1 that you couldn't discover it and excavate it in such to cause
2 significant intentional damage. However, it's an extremely
3 unlikely event considering how deep this line would be and that
4 that would go unnoticed, especially when you consider the number
5 of landowners, the air patrol, a program that we do have.

6 The main thing we've been asked to do by the
7 department of land security -- sorry. Homeland Security is that
8 we don't post where the pipeline is on the Internet with regards
9 to great amount of detail, and that may be some of the
10 frustration that folks are having here. Because they're trying
11 to find exactly where it is and we want to be able to just
12 inform those specific landowners, and we don't want to have it
13 posted all over the world so that people can fly to the Dakotas
14 and cause trouble.

15 So that is one of the requests from Homeland Security
16 is that we don't post a detailed location of the pipeline on any
17 map. That's the requirement I am aware of.

18 At our pump stations if they are thought to be in an
19 area of high traffic, we have put security in. They always are
20 fenced or walked to try and ensure that nobody can just walk
21 right up and get egress to the site.

22 MR. JEREMY NAGEL: Just to follow up to that somewhat
23 related. When you talk about valves or shutoff valves, what's
24 the response time should that need to be done? Is that an
25 automatic thing, or does that mean an employee coming down and

1 manually closing the valve? If so, what's the maximum expected
2 time to achieve, if that were to happen?

3 MR. JONES: It is an automatic computerized system in
4 Calgary would notice the incident or loss of pressure and
5 automatically shut down the system. The timing I'd have to give
6 you to Mr. Thomas to give you the specifics.

7 MR. THOMAS: In the case that you've described there's
8 two things that have to occur. Basically first the pipeline is
9 shut down. By that I mean all the pumps along the pipeline are
10 shut down. That, of course, is all done remotely from the
11 control center in Calgary.

12 And then once the pumps are shut down, the valves
13 themselves are closed. So if I just kind of back up, the valves
14 themselves take about 3 minutes to close. It will take the
15 operator about 7 minutes to actually shut all the pumps off. So
16 combined we're looking at about 10 minutes to actually shut the
17 pipeline down and close all the lines and valves.

18 MR. JEREMY NAGEL: One last thing and I'll be done.
19 As it's developed what's the process for integrating with our
20 local emergency planning with your planning and getting you
21 folks in here so we can update some of that and make sure we've
22 got our basis covered and so on?

23 MR. THOMAS: Thank you. That's a very good question.
24 We are expecting to begin that process in the first quarter of
25 2008. And by that I mean that is the time we will actually have

1 people with feet on the ground dealing with all the various
2 local, state agencies in developing a detailed and comprehensive
3 oil spill response plan. And not only will we be dealing with
4 the local and state agencies, but we'll also be dealing with and
5 looking for various oil spill response contractors and so on
6 such that we can develop a comprehensive plan that would involve
7 those sorts of folks in our response efforts as well.

8 MR. JEREMY NAGEL: Thank you.

9 MR. KOENECKE: Commissioner, if it's all right with
10 you, I'll give the microphone back with Brian, and we'll discuss
11 the spill.

12 CHAIRMAN JOHNSON: Absolutely.

13 MR. THOMAS: Yes. We have gone through and actually
14 recalculated. We did have an error. And the 2 percent
15 represents 616 barrels in 102 minutes. So if you basically do
16 the math on that, it's just a little under 26,000 gallons.

17 CHAIRMAN JOHNSON: Okay. Thank you. Other brief
18 comments or questions? Yes. Right here.

19 MR. RICK ALTHOFF: Yes. I'm Rick Althoff from Yankton
20 here. And I think mine's more of a comment. I think a lot of
21 questions have been asked, and I'd just like to make a comment
22 that all of this is determinate on the integrity and the
23 fairness of the corporate side of America. And all of it -- the
24 other side is dealing with making sure that everything's applied
25 for the best well wishes of the citizens of South Dakota.

1 And, you know, this forum has certainly proved that
2 that can come together. I hope that we can have a good neighbor
3 relationship. I think this is a wonderful -- a positive
4 opportunity for the State of South Dakota to develop their
5 economic foundation, particularly in hopes of attaining
6 high-tech jobs and keeping our young people in this state, and I
7 see it as being a positive step that way. And I just hope that
8 we can continue on that forward and keep it that way.

9 You know, looking at transmission of lines and roads
10 and all of these issues, this is just another way if we're going
11 to be an energy-dependant country and continue to enhance and
12 build upon our continued independence, we have to have
13 transmission lines such as this. And I see it as being one of
14 the least intrusive ways to enhance our energy appropriation for
15 the -- not only our state but for our country. So thank you.

16 CHAIRMAN JOHNSON: Thanks for the comments. Yeah. Go
17 ahead, sir.

18 MR. JIM SCHMIDT: I have one more question about the
19 crop damage. My name is Jim Schmidt. I'm from Harrisburg, and
20 my mother is coowner of some ground that this pipeline is
21 proposed to go through.

22 It's my understanding that although the cropland is
23 not set out in the easement, it is set out in the agreement
24 filed with the PUC; is that correct?

25 MR. GRAY: I guess -- I guess there's confusion to me

1 the commenting on is there's no -- there's no agreement not
2 going to be filed with the PUC.

3 MR. JIM SCHMIDT: So all of these figures on the crop
4 damage is not spelled out in the easement or with the PUC or --
5 because I heard you say that there's going to be 100 percent
6 first year, 75 percent second year, and where is that spelled
7 out in writing anywhere?

8 MR. GRAY: What I was going to describe is we have a
9 document, I don't know that you've seen it, but it's called a
10 construction restriction binding agreement. And it can
11 certainly be spelled out on that particular document what the
12 damage payment would be.

13 MR. JIM SCHMIDT: Would this be an addendum to the
14 easement that you would be willing to sign then?

15 MR. GRAY: It is not an addendum. It's like a
16 contract between TransCanada and the landowner, but it is not an
17 addendum to the easement.

18 MR. JIM SCHMIDT: Okay. And then I have another
19 question is when would that be paid? Because we were told that
20 it would all be paid up front. Is it going to be paid in the
21 fall, or is it going to be paid at the beginning of the
22 three-year period for all three years or how is that going to be
23 done then?

24 MR. GRAY: Our policy right now is to pay the first
25 year damages at the time of execution of easement, that that

1 first year damage would be paid in coordination with the payment
2 for the easement itself. The second year and third year of
3 damages would be paid at those points in time. And I -- I guess
4 I would suggest to you it's negotiable as to when you want to
5 set up that second or third year payment.

6 MR. JIM SCHMIDT: Okay. Thank you.

7 CHAIRMAN JOHNSON: Other comments or questions?

8 Everybody's done just a phenomenal job of keeping
9 their comments brief.

10 Go ahead, Mr. Hohn.

11 MR. HOHN: Thank you. Can everybody hear? It's been
12 real tough for me to hear. I hope everybody can -- we're
13 thinned out a little bit, but I hope you can hear what I have to
14 say.

15 The PowerPoint, a presentation you might (Inaudible)
16 your future hearing now that we know that's possible.

17 TransCanada's been kind enough to allow me to use their easel
18 rent-free.

19 My name is Curt Hohn, H-O-H-N. I'm the general
20 manager of the WEB Water system. It's one of the largest rural
21 water systems in South Dakota, from Aberdeen, South Dakota. We
22 are opposed to the proposed pipeline route which will cross our
23 water system and the communities we serve in the northern part
24 of the state. There are a couple of reasons which I'd like to
25 explain to you.

1 The reason I'm here is this is all one state. If pipe
2 crosses us, it crosses you. Obviously the route is connected.
3 And we want to explain to you why people in our part of the
4 state are not in favor of this route.

5 I want to show you something that TransCanada probably
6 won't, and that is that a photo of an oil leak. This gentleman
7 is going to help me get it up. This is an oil leak that
8 occurred at the Bemidji, Minnesota about 28 years ago. It was a
9 crude oil pipeline. And you can come up and look at this after.
10 This is an old railroad line. This is where the pipe route was.

11 Here's where the leak was. These circles are where
12 some of the pooling was. In relation to the state it's in the
13 northern part of Bemidji. This has been studied in great detail
14 independently by the U.S. Geological Survey. And what it shows
15 is this oil continues to move toward a lake not far from this
16 site.

17 According to the U.S.G.S. report about half of the oil
18 or a little better was cleaned up at the time of the spill. And
19 then about 100,000 gallons remain. 28 years later nothing is
20 growing at this site.

21 I'm a farm kid. I always thought Kochia weed would
22 grow anywhere. It won't grow in an oil-infested soil. So with
23 all due respect to these fine people, they say we will make
24 every effort, it will be our responsibility, the fact is if you
25 have an oil spill on your land, it's gone in your lifetime.

1 And so when you look at the easement, one-time
2 payment, which over 50 to 100 years figures out to less than
3 cash rent would be, you've got to think about whether that's a
4 good bargain.

5 And so the question we've raised -- it's been raised
6 by farmers in my area and I'll raise here today, a one-time
7 payment is one thing. A perpetual payment would be a better
8 improvement. Because when you own this land and you're crossing
9 it you change the value of the property because the landowner
10 can't continue to use it the way they used to and there's a high
11 risk. It would seem only reasonable that there be a payment
12 every year to the landowner for that risk as long as oil flows.

13 TransCanada will ship about 28 million -- \$28 million
14 worth of oil across your land every day, 28 million a day.
15 10 billion a year at the current price. Why shouldn't they
16 treat our landowners better?

17 I provide drinking water to 8,000 rural hookups and
18 farmers, 104 towns, five ethanol plants. This pipeline is going
19 to cross a 12-inch line near Andover, and if it spills or leaks
20 is going to take that part of our system down.

21 That's not just a place where I sell water. That's a
22 place where I live and work. I think people should be treated
23 fairly, and I don't think we have been.

24 I have another concern or question for the chief
25 executive of this company. This is a map that was taken out of

1 the information submitted by TransCanada to the State Department
2 and the president requesting a federal permit. And it was -- I
3 don't believe it was in any of the map presentations that were
4 given today.

5 The question about why the alternate route over I-29
6 was not taken.

7 If you would have come to somebody's home and stayed
8 for the weekend as a guest, would you decide which room you're
9 going to stay in, or would that be up to your host?

10 Several years ago TransCanada decided which route they
11 were going to take through South Dakota, a foreign oil company
12 deciding where they're going to go without asking anybody.
13 Wouldn't it have been better to have come in and said, We're
14 looking at several routes, what do you think?

15 I think that the Interstate highway, I-29, is a great
16 location. And now that the records TransCanada filed with the
17 PUC as confidential and would not release until they were forced
18 to, now that that came out five days -- five days before this
19 hearing, a mountain of information that nobody would ever have
20 enough time to examine, now that came out all the sudden an oil
21 refinery is proposed, announced at Elk Point.

22 Now if you come up and look at this map, those of you
23 who know this area better than I, if I'm not mistaken that I-29
24 alternative route would have ended at Elk Point.

25 This was an acceptable route, a preferred route. We

1 really didn't ask for it over in our part of the state. Instead
2 of taking good, fine, productive land out of production and
3 putting an oil line out that carries liabilities and risks, why
4 not put it in the state road ditch, a wide state road ditch that
5 would give you good access by highway for inspection and
6 emergency response, that would limit the impact it would have on
7 landowners and farmers?

8 You know, they don't make anymore farm ground. If you
9 take land out of production, and this will -- and they say,
10 well, yeah, but you can farm it, you can use it. Think about
11 what an oil line, 30-inch oil line under your soil is going to
12 do when they heat it up and you try to grow corn and soybeans.

13 The temperature of soil has a lot to do with what you
14 can raise on it, and the placement where these kind of oil lines
15 are built, it changes the use of the land. But if you put that
16 in a state road ditch, the land is already there. The State
17 owns it. Mike Rounds could give you an easement in one synch.

18 They're saying, well, there's a safety concern about
19 building in the state highway. WEB Water has 155 miles of large
20 (Inaudible) pipeline, and much of that 30-inch pipeline, same
21 size as this pipe, was placed in the road ditch along Highway 12
22 between Selby, South Dakota and Mina, South Dakota. I helped
23 build most of it. It worked fine.

24 It worked in the road ditch. We had plenty of room.
25 Those places where we felt we needed a little more working room

1 or access we got a temporary easement from the landowner for a
2 year, drive our equipment and store our materials. We put the
3 pipe in the ditch. And if you drove that Highway 12 today and
4 looked at that route, you'd have a hard time telling where that
5 pipeline is.

6 How do you cross approaches? We bored them. We bored
7 under them. TransCanada certainly has more money than the rural
8 water system would have. They could afford to do that. The
9 State would get the easement money. And better yet these
10 gentlemen and ladies say, Don't worry, chances of a leak are
11 limited.

12 The chances of a leak are very limited. That's great
13 if it's not on your land. Somebody told me once, a farmer, he
14 said the best pipeline is a pipeline that's on somebody else's
15 land. People in town always think it's okay for farmers to give
16 easements so we can get drinking water to cities, but if you ask
17 them, the people in town, let's put a big 30-inch pipe in your
18 backyard, nobody seems to want to do that.

19 What you're asking the landowner to do is give up full
20 use of his property that he's paying taxes on, that may have
21 been in the family for years. And before you do that, I think
22 you have to look at I-29 closer.

23 And I think with all due respect to TransCanada, I
24 think our Public Utilities Commission should sit down with the
25 people of South Dakota and give that a good look. Because, you

1 know, if we're going to have a pipeline in this state, a big oil
2 pipeline, this would be a first. We don't want to do it wrong.
3 And we don't want to have regrets.

4 I don't think we turn over the decisions to experts
5 from out of state who fly in and then leave and we're left with
6 whatever happens.

7 The emergency response plan is not filed yet,
8 Mr. Jones, as far as I know. None has been filed. If there is
9 one, I wish you'd hand me a copy. Because we'd like to know how
10 you are going to respond to a leak when you need these people in
11 Omaha. We have ice storms and snow storms here. It's hard to
12 get people even from Aberdeen to Britton. And, you know, these
13 things seem to happen the worst possible time.

14 Our local fire departments between Britton and Andover
15 and Carpenter and Freeman and those places are not capable -- do
16 not have the equipment to fight oil and gas leaks and fires.
17 They're volunteers.

18 I have employees that work for me that are volunteers
19 in the fire department. You talk about emergency responders.
20 We fund the things with pancake feeds.

21 I-29 would offer a better option there because you
22 have larger cities like Watertown and Brookings and Sioux Falls
23 that have professional fire departments that could respond and
24 would have the special Tyvac suits and the air packs to go out
25 and deal with the fumes that are going to come out of an oil

1 leak or an oil fire.

2 As far as the accessing and right of way, we did not
3 need to work on the state roadway when we put a 30-inch pipeline
4 in near Selby or Bowdle, but the state highway department would
5 have allowed us a permit and that two-lane road with barriers
6 and flaggers.

7 Interstate 29 is four-lane. I'm sure Governor Rounds
8 and the State would allow you to use one of those lanes if you
9 needed to for staging given you're going to move about a mile at
10 a stretch.

11 So if you look at the best ground, come from Manitoba
12 down through North Dakota and South Dakota. You get this line
13 in as quick as possible in a way that is the least amount of
14 impact, and in the long run it will be easier to maintain and
15 operate if it's I-29.

16 You're bringing it through our area. They're bringing
17 it through ground water that's at 45 feet of depth. If you have
18 a leak, you're going to ruin our entire aquifers.

19 The first area is around Britton where the BDM Rural
20 water system, one of my colleagues, serves people all the way
21 from the Jim River to the Minnesota line.

22 Your only source of water in that area is an aquifer
23 that's 45 foot deep. And your pipeline is going to go right
24 across it. Now that map, Commissioners, is not in the packet
25 that was filed with you. Not that I saw. So I hope you find it

1 so you can see what I'm talking about. It's not my map. It's a
2 Government map, U.S. Geological Survey, South Dakota Geological
3 Survey. The aquifers are at 45 feet in that area.

4 The same thing is true in Day County and Clark County.
5 If you have a leak, if you have a -- and by the way, TransCanada
6 doesn't refer to it as a leak. They call it a spill. If I
7 spill coffee on my desk, that's a spill. If you have a 1,700
8 psi pipe that leaks, that's not a spill. Any farmer who's ever
9 had a piece of hydraulic equipment fail, you know what 1,700 psi
10 looks like. If you put your hand in front of it, you'll inject
11 the oil in your hand. 1,700 psi is tremendous pressure.

12 Now assuming this pipeline was built with 40-foot
13 lengths of steel, which is common as I understand for the
14 industry, that's 132 wells each mile. 132. 29,000 wells from
15 North Dakota to Yankton. Every one of them's a potential place
16 to fail. Will it pass the first test? Of course. It should.
17 And I don't doubt that Mr. Gray has a team to inspect it.

18 I see water lines that were put in 20 years ago that
19 failed in tremendous fashion because of some flaw or some
20 failure that wasn't caught during the initial construction.

21 The difference between my 38-inch pipe and his is if I
22 spew water into a field at 200 psi, I just ruined the crop and
23 pay crop damage for that year. If they spew oil, the land is
24 gone for a long time.

25 Now we talk about how little it will leak out. And

1 there's all of these calculations. But the reality is what has
2 actually happened. The U.S. Geological Survey, which has
3 studied oil leaks, crude oil leaks, has many times and has
4 reports on it and they're independent of the oil industry, says
5 that a leak of some 84,000 gallons can contaminate 400 acres 3
6 feet deep.

7 The oil spill at Prudhoe Bay, British Petroleum, very
8 respected long-time oil company, 200,000 gallons, more than a
9 section. Now if you happen to be the unlucky farmer who gets up
10 in the morning to check your crop -- maybe you haven't been over
11 there for a day or two because you know people aren't driving by
12 this every day. There's times in the fall or winter when people
13 hardly go across some of this farmland. And you happen to find
14 that leak that's been leaking for days or weeks, their SCADA
15 system is not going to find that pinhole because the one we use
16 won't find a pinhole even in water. We find it when somebody
17 gets stuck or locates them. And by then you can have 200,000
18 more gallons of oil very quickly.

19 How does that get cleaned up? They have to get in
20 there with equipment, heavy equipment, pumping trucks and tanks,
21 suck the oil up and pull it out of the area. Everybody
22 acknowledges you won't get all of it so there will be some left.
23 If it happens to me in some of these areas with shallow
24 aquifers, that aquifer is gone. You can't get it out of the
25 water. It will be there indefinitely.

1 Some of this you can't treat out of the water, some of
2 these chemicals and petroleum products. And so it's going to be
3 a very serious problem. And it's going to be resting with state
4 officials, your state taxes, trying to get these people to come
5 back and clean it up, and frankly to get it all out won't be
6 practical so they'll be expected to live with it.

7 At one of the meetings Mr. Gray said if for any reason
8 TransCanada or whoever TransCanada sells this to fails to clean
9 it up under the Federal Government's program with the oil
10 fund -- seeking fund and emergency fund they can come in and fix
11 it, clean it up. That fund has been behind for years. If the
12 oil leak is in the I-29 corridor in the west ditch and somebody
13 calls the Governor, whoever that happens to be, if he calls
14 TransCanada or whoever owns it at the time, he'll probably get
15 something done. If you're a farmer out in whatever township on
16 a back road, what do you think the odds are?

17 I'm skeptical. They'll come in and stop the leak
18 because they don't want to lose the oil. But whether they get
19 that all cleaned up to your satisfaction as a landowner is
20 another matter.

21 As far as \$320 million worth of construction impact,
22 most of that is pipe and materials that we don't even make here.
23 It's brought into the state. And while it will be taxed, it's
24 not anything that's purchased in South Dakota.

25 I got a couple other comments. Some time ago

1 documents were opened and released. They had been marked
2 confidential. To our amazement TransCanada marked everything
3 confidential, including the table of contents. Some of that
4 information has been opened up.

5 Now they say one person here told me that was a
6 mistake, they didn't intend to do it. Well, it was done. All
7 of this information filed April 27, some of it just became
8 available five days ago.

9 I would ask that TransCanada to volunteer to release
10 everything except those few, few pages that appropriate state
11 and federal officials say are confidential, not determined by
12 you but by somebody in some position of authority, and if you
13 don't do it, the Commission open them up.

14 Because people need to know what's going on. They
15 shouldn't have been filed confidentially in the first place, not
16 if you want a good working relationship with South Dakota
17 people.

18 The Northern Border pipeline was built through
19 South Dakota some 20 years ago. I was a young man building a
20 water system in (Inaudible). Got to know some of the people
21 that operated it. 31 miles of pipe were built in that county.
22 There were 40 leaks. 31 miles, 40 leaks. I think the average
23 (Inaudible). They were fixed. Here's the remarkable thing.

24 20 years later they're operating that pipeline with
25 less people to maintain it than they did when it was new. You

1 have farm machinery and equipment -- I run a water system. I
2 can tell you I'm not aware of any way you can reduce your labor
3 costs unless you reduce maintenance and by reducing maintenance
4 you're reducing safety.

5 Where is the oversight? And you know TransCanada is
6 one of the partners in that pipeline, as I understand it. Why
7 is it that all the senior people were let go when Enron was
8 running the pipeline and managing it, senior people. What's
9 left? Some very nice young people, but they've never seen a
10 failure.

11 These pipes, we have got a picture on the back, that
12 red picture over on the far, three maps west of the pop machine
13 is a pipe that failed in Carlsbad, New Mexico on the El Paso Gas
14 Pipeline.

15 What happened was there were bellies in the pipe.
16 Water caustics, the corrosives settled out, and the pipe 5:30 in
17 the morning failed. 12 people camping nearby were killed.

18 Now they'll say, well, that was a gas line. We have
19 oil lines. The premise is the same. The reason that pipe
20 failed according to the National Transportation Safety Board was
21 there was no maintenance, wasn't proper maintenance.

22 Two or three years before that failure they had a
23 similar failure on the same line. The maintenance wasn't there.
24 The care wasn't there.

25 Can you build it properly? Probably. Would we know?

1 Probably not. Because I don't think anybody at the state level
2 is looking at these plans and actually approving them. But
3 let's say they build it properly. There's still the issue of
4 maintenance.

5 Well, what's the connection between that pipe or a gas
6 line and an oil line? The oil -- the pipe failure you read
7 about in Prudhoe Bay the BP had a problem with some years ago.
8 200,000 gallons spilled. According to information coming out in
9 Congressional hearings the end of May of this year, they were
10 moving tar sands, crude oil, and the sand was not all removed
11 from the oil. It settled out in the belly of the pipe. There
12 was corrosion. The chemicals that were sent through to try to
13 treat the pipe never reached the corrosion because the sand kept
14 them away. And that's why it failed.

15 And according to the Chicago Tribune, and I've given
16 the documents to the Commission to approve this, the reporter
17 covering that reported that the failure was not reported and
18 found by the SCADA system. You know how they found it? Some
19 guy driving by with his window down smelled it.

20 The failure in Carlsbad -- the pipe failure and fire
21 lasted 55 minutes because the pump station that had the
22 automatic valve didn't shut off, and one of those pump stations
23 was named Keystone. I'm Irish and German. The Irish side is
24 always skeptical and superstitious. Why would you name an oil
25 pipeline running through South Dakota Keystone after a pump

1 station that failed in New Mexico?

2 And there is a connection. Because TransCanada bought
3 part of the pipe facilities owned by El Paso Gas.

4 My point is these people are coming into the state.
5 They want the right of eminent domain as a private company.
6 They want to be able to condemn farmers' land and private land
7 if you're not willing to cooperate. Why would we want to give
8 the right of eminent domain to a foreign company?

9 That was supposed to be left to roads and REAs and
10 local utilities that provide a direct benefit. WEB Water and
11 rural water systems have the right of eminent domain. You know
12 how many times we used it on WEB to put in 6,700 miles of pipe?
13 Never.

14 The reason we didn't is because our board of directors
15 are locally elected, and they just did not want to have to
16 condemn somebody. Last resort.

17 If I knew somebody, utility manager, and you're not
18 happy in my area, you go to the board. You might even see the
19 director at church. Who do you appeal to if two or three or
20 four years from now you're not happy with what TransCanada has
21 done? You call the 800 number in Alberta? By then the pipe
22 will be built.

23 Mr. Chairman, in closing I wanted to come down to
24 Yankton to tell people that there's more to this than meets the
25 eye. I think you need to look very carefully. If this fails,

1 and pipelines fail and they leak -- in fact, in their own
2 assessments and the documents they filed with the U.S. State
3 Department, they predicted failure. They predict it less than
4 U.S.G.S. and other independent parties. This pipe will fail,
5 and it's just a question of when and where. And then what
6 mechanism will be in place either at the state level or in
7 easement documents to protect that one landowner, that one
8 family, that one (Inaudible).

9 That's the duty I think of people like Commissioners
10 sitting before us. I think it's also the responsibility of the
11 DNRD and others in state Government. It's a big responsibility.
12 It's a daunting one.

13 But the challenge will be for that one citizen,
14 family, landowner, wetland resources damaged, then what? What
15 do we do? And how are we protected? And my feeling is if it's
16 not in writing and if the CEO of TransCanada has not signed it,
17 I don't think it's much better than a kiss in the back seat of a
18 Buick on a Saturday night.

19 You need -- we need documentation, not promises. We
20 need things in writing to protect our community. It won't cross
21 the WEB pipeline unless we have a document. And my first choice
22 is move it. You don't need to be in our area. We live -- the
23 area you're proposing to cross, Marshall, Day, and Clark County,
24 the people from out of the area may look at it and say it's the
25 sticks. It's the end of the world. There's nothing there.

1 We think there's everything there. We have clean air,
2 clean water. We don't worry about our kids getting asthma. We
3 don't worry about how much benzine is in the water. We don't
4 worry about if our father or son goes out to fight a fire
5 they're going to end up fighting a fire in a oil line, that
6 they're overcome by hydrogen sulfide, which is -- according to
7 Canadian safety people is a serious problem.

8 We live in an area that is still pristine, one of the
9 few left, and I would rather not see an oil pipeline come in
10 because no matter what you do, no matter how well you think
11 you're going to build it, what man builds fate and Murphy's Law
12 can undo and now we have a spill and now you just damaged
13 something that didn't need to be damaged.

14 If the oil line fails over the 12-inch line that
15 serves Day County 1,000 farms, eight towns, Pickerel Lake, a new
16 soybean plant we're building, all of those things will be
17 affected. Just to build the pipeline system that was there
18 would cost \$11 million.

19 Because when the -- when the petroleum gets next to
20 the plaster it seeps through the wall. And now you got
21 petroleum casing in your water and pretty soon it takes out the
22 rubber gasket and it ruins the plastic pipe. And now you've got
23 to replace it. And it isn't just replace the spill. You've got
24 to worry about how far it went into the system before you caught
25 it.

1 You also have to worry about what customers might want
2 to sue you, WEB, because you allowed this to happen. So we take
3 it as a very serious thing. I think the best place for it is a
4 public right of way. It might cost you a little more money.
5 You'll have a whole lot less resistance.

6 And to my friends and neighbors and fellow
7 South Dakotans who live down there in the Yankton, Elk Point,
8 Sioux Falls area, read your paper, the Argus Leader, it sounds
9 like there's quite a bit of interest in the oil refinery in
10 Elk Point.

11 My advice to you is if you invite an oil refinery into
12 southeast or eastern South Dakota, then you've got to take the
13 pipe. Because we don't want it.

14 Thank you very much.

15 CHAIRMAN JOHNSON: Thank you very much, Mr. Hohn. I
16 should note for the record that presumably you wanted this
17 packet of information entered in as well?

18 MR. HOHN: Yes.

19 CHAIRMAN JOHNSON: Thank you very much. This is a
20 courtesy that is entitled Testimony Presented By Curt Hohn, and
21 we do have a hardcopy here.

22 CHAIRMAN JOHNSON: I would ask the Applicant if the
23 PowerPoint can be entered into the record as well.

24 MR. KOENECKE: Sure.

25 CHAIRMAN JOHNSON: And electronic as well.

1 MR. KOENECKE: We'd be glad to do that too,
2 Commissioner.

3 CHAIRMAN JOHNSON: Suppose follow the official legal
4 procedure. First we should ask if any of the interveners have
5 any opposition to Exhibit 1.

6 Hearing none, that will be entered.

7 MR. KOENECKE: I'd have to come over and take a look
8 at it. It wasn't provided to me.

9 CHAIRMAN JOHNSON: Let's pause. We'll give you some
10 time during other public comment to review that.

11 Exhibit 2, which was the PowerPoint, was presented.
12 Any of you interveners here have any opposition to that
13 Exhibit 2 being entered?

14 Okay. We will go ahead and General Counsel John Smith
15 has asked to make a couple of clarifying comments.

16 MR. SMITH: Just one comment. I would note that
17 Mr. Hohn made the comment that the emergency response plan was
18 not filed. And it was. It's been part of the file since the
19 beginning, and it was made public here a month or so ago. It
20 was one of those documents that initially they had inadvertently
21 and incorrectly marked as confidential, but it's now there and
22 for everybody to look at.

23 We are going to be attempting to on the website if you
24 guys have gone on the website to take additional steps to make
25 the huge amount of material that's in the file easier for people

1 to access.

2 Right now it's a little tough to find stuff in there.
3 It's all there, but it's a little tough. And we're going to try
4 to make that a little more user-friendly so you can get as it a
5 little easier. Thank you.

6 I have one other note too, and I just want to note
7 this again. Chairman Johnson noted this at the outset. I just
8 want to make it clear that under South Dakota State law this
9 Commission explicitly is prohibited from routing a pipeline. We
10 can't do that. We can deny this particular application, but
11 this Commission here has absolutely zero authority under
12 South Dakota State law to say, no, you move it over Interstate
13 90. We cannot do that.

14 CHAIRMAN JOHNSON: Let's -- we'll give Mr. Koenecke
15 some additional time to look at that filed testimony. Any other
16 comments or questions?

17 Feel free to raise your hand, and Ms. Van Bockern will
18 make sure you get the microphone.

19 I know that from time to time there have been words
20 and phrases and perhaps even more that will be difficult to
21 hear. We will have a transcript of this meeting, this public
22 hearing, and it will be posted on the website. So if you have
23 any questions about what was said, that will be a resource
24 available to you.

25 Yes. Mr. Hohn. Wait while we bring the mic over.

1 MR. HOHN: Mr. Chairman, I don't know if I should
2 direct this to you or Mr. Smith or who, but at the hearing on
3 June 12 requesting documents to be released at that time I think
4 the question came up about does the Commission have any
5 regulatory authority over condemnation, and I think John said
6 you didn't.

7 Now today you're saying you have no authority over the
8 route. What authority does the PUC have? Could you define
9 that?

10 MR. SMITH: Yes. I would. And I think I left in the
11 back of the room there -- and I don't know if there were enough
12 for everybody, but I sat up statutes. It's on a piece of paper
13 like this. And the whole code of course is a lot bigger than
14 that. But it's a few of the applicable statutes.

15 The fact of the matter is this Commission doesn't have
16 any legal authority really at all over eminent domain. That's
17 strictly a function of state law. And it's handled by the
18 courts. It's one of the sections of the eminent domain law,
19 Section 10.1. It's the Circuit Court that has the ability to --
20 they have the authority to decide whether a pipeline gets to --
21 or anything, transmission line, what have you. It's to use
22 right of eminent domain.

23 And the bottom line is it's this simple. Under state
24 law with respect to pipelines if the pipeline is a "common
25 carrier" under state law it's just a matter of black-and-white

1 state law. There's no board or anything anywhere that decides
2 that. It's that's just the way it is. If they're a common
3 carrier, they have it as a matter of law.

4 That's what the statute says. And again I've got
5 additional copies if some of you out there would like to see
6 that.

7 And, again, I guess the other question was with
8 respect to the documents. All of the documents in the file are
9 public right now, all of them, except for very specific location
10 identifications of cultural artifacts, most of which are
11 Native American type grave yards, that kind of thing, and the
12 very explicit locations of endangered species locations, raptor
13 nests and that kind of thing.

14 Those have been explicitly requested to remain
15 confidential by both the Historical Office of the State of South
16 Dakota and by the United States Fish & Wildlife Service.

17 And the reasons that those are kept confidential is
18 because for one thing with respect to cultural resources if you
19 happen to be a landowner who has those on your land, it's just
20 an invitation for thieves. I mean, that's the bottom line. And
21 I happen to be a family that had a bunch of those on our land.
22 And so there's good common sense reasons for that.

23 You know, if a person believes that it may be -- go
24 ahead. If there's -- if anybody out there wants specific access
25 to those particular descriptions of where those grave yards,

1 et cetera are, we have procedures that can allow people to
2 access that. But in general, I mean, I guess with respect to my
3 own family situation normally we know if we have that on our
4 property. And if we don't have it on our property, in general a
5 lot of people out there don't want that advertised to the whole
6 world. So that's why that stuff is -- otherwise, everything in
7 the file is currently available to the public, and it's
8 available on our website. And we have I think given the
9 information as to how you can get on there.

10 MR. HOHN: Mr. Smith, what about the land ownership
11 list that people cross? Is that public?

12 CHAIRMAN JOHNSON: Mr. Hohn, I'm just going to respond
13 to your question and Mr. Smith's response. We've got a little
14 bit far afield of what we're here to do today. That doesn't
15 mean the question you're asking isn't going to be responded to.
16 But for all of those of you on Tuesday, tomorrow, at the
17 Commission -- regularly scheduled Commission meeting we do have
18 an official action item on our agenda with regard to this
19 confidential discussion.

20 And I would just note that -- clarification of what
21 Mr. Smith said. I don't think it matters what people want to be
22 confidential. We're looking at state law. You know, what has
23 to remain confidential because of the federal -- because of a
24 federal or state rule or law.

25 But also Mr. Hohn had asked a question about what is

1 the Commission's authority. And I think on page 3 of his
2 testimony he did a very good job of laying out the four basic
3 issues before the Public Utilities Commission. And this will be
4 posted on the website, and I think Mr. Hohn does an excellent
5 job of talking about exactly what is the Commission's authority
6 under that citing statute.

7 Mr. Hohn.

8 MR. HOHN: Mr. Chairman, I'm glad you brought that up.
9 Because, you know, when we hear people say, well, we don't have
10 authority for this and we don't have authority for that, I think
11 the question in most people's minds will be what will you be
12 able to do.

13 And you can as a Commission put conditions on this
14 project and restrictions and limitations. And also you
15 determine as outlined -- I took it right out of your notice --
16 that TransCanada has the burden of proof that they comply with
17 all state and federal laws. TransCanada has to prove they won't
18 pose a threat of serious injury to the environment. TransCanada
19 has to prove they will not substantially impair the health,
20 safety, or welfare of the environment or inhabitants and they've
21 got to prove they will not interfere with the orderly
22 development.

23 And you're looking at that as a board or a Commission
24 to see whether all of those things apply, as I understand. And
25 at the end when you look at approving a permit you could place

1 restrictions -- you might not be able to tell them where to
2 place the pipe, the route, although I would question I wouldn't
3 know why you couldn't, but you'll have to determine that. But
4 you can put conditions on and say in the interest of the people
5 of South Dakota what's good for us as well as you, here's some
6 things we'd like to see.

7 And I hope you look closely at that because that is
8 very important. No matter where this goes, if it goes, we've
9 got it for 50 or 100 years. Thank you.

10 CHAIRMAN JOHNSON: Thank you very much, Mr. Hohn. And
11 I think your -- I think your point is well taken that certainly
12 the Commission is very concerned about the proposed route.
13 Thanks.

14 Other questions, comments? Let's look to
15 Mr. Koenecke. Mr. Koenecke, did you have a problem with
16 Exhibit 1 being offered? And of course this is a little bit
17 different. Anybody can offer information.

18 MR. KOENECKE: Thank you, Commissioner. This is a
19 little bit different. I'll just say I don't think I have a
20 legal objection to this. But to the extent that someone either
21 at the Commission or on Commission staff is telling the world
22 that what's in here is factual or correct in all respects, that
23 I do have a problem with that.

24 The misstatements of fact that went on during
25 Mr. Hohn's half-hour presentation a few minutes ago, I

1 practically ran out of ink to write them all down. And a lot of
2 them are contained in the document.

3 For example, he showed the picture up there of the oil
4 spills 27 years later now nothing growing. He didn't bother
5 telling the fine people who sat through his audience the picture
6 was from 1991, 16 years ago.

7 We get to the list further in this document about 12
8 or 15 things that can be done, and there are legal impediments
9 to a number of things that he doesn't bother to tell people
10 within this document.

11 I guess I want to go on record to say I challenge the
12 veracity of a huge amount of information that was provided in
13 this multicolored document that was just provided to me, and I
14 think it bears saying somebody needs to stand up and say, hey,
15 wait a minute. Just because it's printed on paper, doesn't mean
16 it's so.

17 We look forward to having the debate about what is
18 right and wrong in this document. Make no mistake about that.
19 I look forward to having that discussion as this process moves
20 forward. But I take issue with a great number of statements
21 that are made in this document.

22 CHAIRMAN JOHNSON: Thank you, Mr. Koenecke. It is
23 worth noting any of the information that's offered today,
24 nobody's been sworn. This is not testimony in the legal sense.
25 There is a time and place for that. Rather than call it

1 exhibits, let's just call them handouts. We can have them
2 labeled that way on the website. I would ask staff to consider
3 posting information onto the links to this transcript and other
4 information just indicating that, you know, no one was sworn.
5 This was information that was offered and has not necessarily
6 been verified.

7 With that, would that -- yes, Mr. Hohn.

8 MR. HOHN: (Inaudible)

9 CHAIRMAN JOHNSON: Let's get a mic to you, Mr. Hohn.

10 MR. HOHN: Mr. Chairman, I can take the same
11 exceptions to the P.R. piece that TransCanada presented in
12 PowerPoint. I don't agree with what -- the summary that he
13 presented, and he doesn't agree with what I presented. And
14 we'll deal with that in a hearing process. This isn't a court
15 of law.

16 What you've presented, some of it is very broad and
17 very slim. For example, you never -- just one issue. You imply
18 all the experience that TransCanada has, and yet you don't own
19 or operate an oil line right now. It's all gas. But people
20 looking at it would think, gee, they run a lot of oil pipes.

21 I mean, we'll get into the detail of that in the
22 proper hearings. But you take exception to mine. I register
23 exception to yours. Because I see it's nothing more than P.R.
24 puffness, like a lot of the slick literature you mail out.
25 You're not telling us the facts, what happens when things go

1 south.

2 And my job and anybody else who has concerns, it's our
3 right as citizens of the state to come to this public body and
4 raise those. You can object. But to take exception and try to
5 exclude it I think it's getting a little too rough a little too
6 early.

7 MR. KOENECKE: You think so?

8 MR. HOHN: Thank you.

9 CHAIRMAN JOHNSON: And I do think we'll just make a
10 notation on the website that information provided at the public
11 hearings this week was not provided under oath. And I think
12 that will allow this Commission as well as individual citizens
13 to give the information offered the appropriate weight.

14 MR. KOENECKE: That's abundantly fair, Commissioner.
15 Thank you.

16 CHAIRMAN JOHNSON: Thanks very much, Mr. Koenecke,
17 Mr. Hohn. Any other comments or questions?

18 I want to -- on behalf of Commissioner Kolbeck,
19 Commissioner Hanson, myself, we do want to thank you for taking
20 the time to come out today. And with that the hearing is ended.

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1 STATE OF SOUTH DAKOTA)

2 :SS

CERTIFICATE

3 COUNTY OF HUGHES)

4

5 I, CHERI MCCOMSEY WITTLER, a Registered Professional
6 Reporter, Certified Realtime Reporter and Notary Public in and
7 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 25th day of June 2007,
11 and that the attached is a true and correct transcription of the
12 proceedings so taken.

13 Dated at Pierre, South Dakota this 20th day of July 2007.

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