

1 STATE OF IOWA
2 DEPARTMENT OF COMMERCE
3 BEFORE THE IOWA UTILITIES BOARD

4 - - - - - X
5 IN RE: : Docket No.
6 : HLP-2021-0001
7 SUMMIT CARBON SOLUTIONS, :
8 LLC :
9 - - - - - X

10 DEPOSITION OF JAMES BROGHAMMER,
11 taken by the Sierra Club before Darcy Kriens,
12 Certified Shorthand Reporter of the State of Iowa, at
13 111 East Grand Avenue, Suite 301, Des Moines, Iowa,
14 commencing at 9 a.m., Thursday, June 22, 2023.

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25 DARCY KRIENS - CERTIFIED SHORTHAND REPORTER



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15	REPORTER'S NOTE: EXHIBIT 3 WAS NEWLY MARKED AND	
16	RETURNED TO WALLACE TAYLOR. ELECTRONIC COPIES OF THE	
17	EXHIBIT WERE ATTACHED TO THE ELECTRONIC TRANSCRIPTS.	
18	(phonetic) indicates a phonetic spelling.	
19	{sic} indicates the text is as stated.	
20	Quoted text is as stated by the speaker.	
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1 P R O C E E D I N G S

2 JAMES BROGHAMMER,

3 called as a witness by the Sierra Club, being first
4 duly sworn by the Certified Shorthand Reporter, was
5 examined and testified as follows:

6 EXAMINATION

7 BY MR. TAYLOR:

8 Q. Good morning. Would you state your name,
9 please.

10 A. James Broghammer.

11 Q. Mr. Broghammer, I'm Wally Taylor. I'm an
12 attorney for the Sierra Club. I assume Mr. Leonard or
13 Mr. Dublinske have told you what a deposition is and
14 kind of how it plays out.

15 A. They have.

16 Q. Have you had your deposition taken before?

17 A. No.

18 Q. Just a couple of things before we start.
19 If any of us ask you a question you don't understand,
20 ask us to repeat it or rephrase it because we want to
21 make sure you understand it. Okay?

22 A. Yes.

23 Q. And if we ask you a question that you feel
24 is beyond your area of responsibility or expertise,
25 let us know and suggest somebody who may be a better

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1 person to ask that question of. Okay?

2 A. I'll do my best.

3 Q. Okay. Your written testimony said that

4 you're the CEO of Pine Lake Corn Processors in

5 Steamboat Rock; is that correct?

6 A. Yes.

7 Q. And how long have you been CEO there?

8 A. 2011.

9 Q. Did you work there before that?

10 A. I did. I was there from 2003 to 2008.

11 Q. Okay. What did you do before that?

12 A. I was a director of operations for Penford

13 Products Company in Cedar Rapids.

14 Q. I'm from Cedar Rapids.

15 A. So you know Penford.

16 Q. I know exactly where it is.

17 How long has Pine Lake been in operation,

18 if you know?

19 A. It's been in operation since 2005.

20 Q. So when did you start working there?

21 A. '03. I was responsible for building and

22 hiring and training and all that.

23 Q. I see. How big an area do you draw the

24 corn from to process in your facility?

25 A. Just did some work on that. I don't know

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1 the exact answer, but the approximate answer was the
2 average is 24 miles.

3 Q. Steamboat Rock is in Hardin County?

4 A. Yes.

5 Q. But it's close to the next county to the
6 east, isn't it?

7 A. Yes. Just a couple miles.

8 Q. Is that Grundy?

9 A. Yes.

10 Q. Okay. My geography is better than I
11 thought.

12 So you get some from Hardin and Grundy
13 Counties both, would you say?

14 A. Yes.

15 Q. Now, am I correct that you have signed an
16 agreement with Summit, if their pipeline is built,
17 that you would hook onto their pipeline and provide
18 carbon dioxide to their pipeline?

19 A. Yes.

20 Q. Okay. Do you recall when you signed that
21 agreement?

22 A. I do not recall. The initial agreement was
23 some time ago. I don't know exactly.

24 Q. Okay. Sometime early in '21, do you think?

25 A. I don't remember.

1 Q. How did you happen to connect with Summit?
2 Was it you? Did you go to them, or how did that come
3 about?

4 A. At the time I was the CEO of Homeland
5 Energy as well as Pine Lake Corn, and Summit
6 approached Homeland with a presentation to the board
7 of directors, and in turn, I said, "Would you consider
8 Pine Lake?" I said that to the Summit folks, and they
9 said, "Yes."

10 So shortly thereafter, then, they made a
11 presentation to the board of directors at Pine Lake.

12 Q. Okay. Was that Homeland, you say?

13 A. Homeland Energy Solutions.

14 Q. Where are they?

15 A. Lawler, Iowa.

16 Q. Do you recall what the representatives of
17 Summit said in that presentation they made to your
18 board of directors generally? Not word for word but
19 generally.

20 A. One of the general statements is they would
21 pay for the capital to install the sequestration.

22 Q. Who would own the sequestration equipment,
23 then?

24 A. Summit.

25 Q. And do you know who would own the CO2?

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1 MR. LEONARD: Wally, I'm going to object.
2 This gets into the confidentiality, the terms of the
3 optic agreements.

4 Obviously, we have a lot of fight about
5 that. The Board hasn't entered a protective order
6 yet, and nobody has signed one. So I'm going to
7 object to the terms of the optic agreement absent a
8 protective order being in place.

9 BY MR. TAYLOR:

10 Q. Do you know how the capture equipment
11 actually works?

12 A. No.

13 Q. In a proposal that Summit presented to you,
14 would there be a section of the pipeline that would
15 come to the ethanol plant in order to capture that
16 CO2?

17 A. There -- Yes.

18 Q. And it's my understanding that in Summit's
19 proposal only the carbon dioxide from the fermentation
20 process in the ethanol plant would be captured. Is
21 that your understanding?

22 A. Yes.

23 Q. I have no idea how an ethanol plant works,
24 so explain to me how the fermentation process goes and
25 how the CO2 is captured from that fermentation

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1 process, if you know.

2 A. Well, I'll keep it short.

3 Q. Sure.

4 A. We bring in field corn, number 2 yellow
5 head corn. We grind it to a fine powder, very fine.
6 We mix it with reclaimed water from the end of the
7 process, so we reclaim the water.

8 We add a mixture of enzymes, specialty
9 enzymes and other enzymes. It's a variety of enzymes,
10 and then we add yeast.

11 Just like you make beer or your neighbor
12 makes beer in his basement, we make beer. During that
13 process in these fermenters CO2 is generated, and then
14 the CO2 goes through a scrubber, CO2 scrubber, and
15 that, in turn, becomes a permitted ignition point for
16 the DNR.

17 You scrub any of the non-CO2 components
18 out, and then -- so the CO2 goes into the atmosphere,
19 and then from the beer we basically now separate it
20 into components. We get the alcohol out through
21 distillation. You reclaim water through a series of
22 presses and evaporation and so forth.

23 You reclaim the oil through centrifuge.
24 Oil is lighter than water, so it centrifuges off, and
25 then you continue the concentration and pressing of

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1 the remainder. Then what's left in our plant, we dry
2 that to make what's called DDG, dried distilled grain,
3 and then the water goes back to pick up some more corn
4 to come back through.

5 Q. You mentioned the DNR permits are for what?

6 A. The CO2 scrubber.

7 Q. And so the CO2 that's emitted now is
8 permitted by the DNR? Is that what you're telling me?

9 A. The emission point is permitted by the DNR,
10 that point, yes.

11 Q. I guess I'm not quite sure what the DNR is
12 actually permitting. I don't want to beat a dead
13 horse or something.

14 A. Air permits are regulated in Iowa by the
15 DNR, so any emission point that they regulate -- and
16 they have to regulate all of them in our plant --
17 they're permitting that for how much volume -- what is
18 the limits of whatever is in the air permit.

19 I don't recall the exact things, but they
20 give you the permit to operate that.

21 Q. So in other words, as far as the DNR is
22 concerned, there are no pollutants being emitted; is
23 that correct?

24 A. The permit has stated what it is limited
25 to, and I don't recall those.

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1 Q. Sure. How is the Pine Lake plant itself
2 powered? Coal or gas or what?

3 A. Our fuel is natural gas and then, of
4 course, electricity.

5 Q. What part of the operation does the natural
6 gas power?

7 A. The boilers that make steam that you need
8 for distilling alcohol out of the beer, and then also
9 for the dryers to turn the wet feed into a dry
10 distilled grain. So boilers and dryers.

11 Q. Are there some ethanol plants in Iowa, if
12 you know, that are powered by coal rather than gas?

13 A. Not that I know of.

14 Q. In your testimony you said that ethanol was
15 sold in low-carbon fuel markets throughout the world.
16 What is your source for that statement?

17 A. Iowa Renewable Fuels Association, the RFA,
18 Growth Energy, the trade organizations.

19 Q. But you've done no study of your own?

20 A. Me? No.

21 Q. And so is it fair to say that Iowa's
22 ethanol production right now is being sold to
23 low-carbon fuel markets?

24 A. I don't know how much, but yes.

25 Q. Right now there is no restriction or no

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1 limit on how much Iowa ethanol can be sold to
2 low-carbon fuel markets?

3 A. Could you repeat the question?

4 Q. She'll read it back.

5 (The requested portion of the record was
6 read.)

7 BY MR. TAYLOR:

8 Q. Is that correct?

9 A. Is that correct? I don't know.

10 Q. Are you aware of any ethanol that's been
11 attempted to be sold to a low-carbon fuel market
12 that's been refused for any reason?

13 A. Not that I know of that has been refused,
14 no.

15 Q. So there's nothing to prevent Iowa ethanol
16 producers from selling all of their ethanol to the
17 low-carbon fuel market; is that correct?

18 MR. LEONARD: Object to form.

19 Go ahead.

20 THE WITNESS: Say again?

21 MR. LEONARD: I'm objecting to form, but go
22 ahead and answer the question.

23 THE WITNESS: Sorry. Rephrase that.

24 Can I hear that again?

25

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1 (The requested portion of the record was
2 read.)

3 A. As far as I know.

4 BY MR. TAYLOR:

5 Q. Aside from ethanol, is there any other fuel
6 that qualifies for the low-carbon fuel markets?

7 A. Not that I know of.

8 Q. Would you agree that it takes fossil fuel
9 energy for the entire ethanol production process from
10 the production of fertilizer to the planting and
11 harvesting of the corn to powering your ethanol plant
12 and perhaps taking a pasture or CRP land out of
13 production?

14 A. Yes, we use fossil fuel.

15 Q. So all of those things would enter into the
16 life cycle of greenhouse gas emissions from the
17 ethanol process? Would you agree?

18 A. I'm not an expert in this, the life cycle
19 analysis. I don't know.

20 Q. Would you agree that all those factors that
21 I mentioned would be a part of the process that would
22 use fossil fuels?

23 MR. LEONARD: Object to form.

24 Go ahead and answer.

25 A. Again, I'm not a life cycle analysis

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1 expert, so I'm going to say I don't know.

2 BY MR. TAYLOR:

3 Q. In your testimony you said that if Iowa
4 does not take advantage of the Inflation Reduction
5 Act -- which I assume you're referring to the 45Q tax
6 credits?

7 A. And 45Z.

8 Q. -- that ethanol plants outside of Iowa will
9 expand at the expense of Iowa's ethanol industry.

10 Is that a fair summary of what you said in
11 your testimony?

12 A. Yes, yes.

13 Q. What evidence do you have that the business
14 would go to ethanol plants in other states?

15 A. So the two companies I ran -- and I
16 continue to run Pine Lake -- when there was an
17 opportunity to expand and continue to make money with
18 that, we did extensively.

19 Q. The question was: What evidence do you
20 have that, if there were no carbon capture and no
21 pipeline in Iowa, ethanol plants in other states would
22 expand at the expense of Iowa's ethanol industry?

23 A. Because there would be a huge economic
24 reward for them to expand.

25 Q. To be fair, that's just speculation on your

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1 part, isn't it? Do you have any evidence of that?

2 A. No.

3 Q. And I assume South Dakota would be one of
4 the states you're referring to that would benefit?

5 A. Yes, yes.

6 Q. So why are the ethanol plants in
7 South Dakota supporting the Summit pipeline? It seems
8 to me if they were going to benefit by not having a
9 pipeline, they would not support the pipeline.

10 Does that seem logical?

11 MR. LEONARD: Object to form.

12 Go ahead and answer.

13 A. I don't know. I can't speak for
14 South Dakota.

15 BY MR. TAYLOR:

16 Q. You said in your testimony that without the
17 pipeline, corn producers will see lower prices. What
18 evidence do you have of that?

19 A. As corn is moved to places where there is
20 CO2 sequestration, farmers are going to have to be
21 paying for that freight to get it there. We see that
22 today.

23 Cedar Rapids's posted bid is \$1.05 over
24 September, and Lawler, Iowa, is 60 over. It's a
25 45-cent bushel difference between Lawler, Iowa, and

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1 Cedar Rapids.

2 Q. And why is that?

3 A. Cedar Rapids has a higher demand for corn.

4 Q. But that's based on the fact that there's a
5 pipeline, obviously; right?

6 MR. LEONARD: Object to form.

7 Go ahead. Go ahead and answer, if you know
8 what his question is.

9 THE WITNESS: Say again?

10 MR. LEONARD: Go ahead and answer, if you
11 know what his question is.

12 A. It has to do with the demand of corn from
13 Cedar Rapids versus the demand of corn in Lawler,
14 Iowa.

15 BY MR. TAYLOR:

16 Q. Sure. My question is: Does that have
17 anything to do with the presence or absence of a
18 pipeline?

19 A. No.

20 Q. I think you've indicated in your testimony
21 that if there were a pipeline that Iowa farmers would
22 grow more corn. Is that a fair summary of your
23 testimony?

24 A. I'm sorry. Can you repeat that? I didn't
25 quite hear it.

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1 MR. WHIPPLE: Sorry.

2 (The requested portion of the record was
3 read.)

4 A. I don't know that.

5 BY MR. TAYLOR:

6 Q. You talk about the presence of a pipeline
7 and producing more ethanol as raising the price of
8 corn for corn farmers. Is that your position?

9 MR. LEONARD: Object to form.

10 Go ahead and answer.

11 A. Could you rephrase that?

12 BY MR. TAYLOR:

13 Q. Sure. In your testimony you indicated that
14 with the pipeline that the corn farmers would see
15 higher prices for their corn. Is that your position?

16 A. Yes, yes.

17 Q. Is it fair to say that the higher the corn
18 prices are is adverse to the livestock industry
19 because they have to pay more for their feed?

20 A. I don't know.

21 Q. Is that a possibility?

22 A. It's complicated so much that I don't know.
23 I don't know.

24 Q. Okay. Regarding the low-carbon fuel
25 market, we're talking mainly about California, aren't

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1 we?

2 A. It has expanded to Oregon, Washington and
3 Canada and overseas, Europe.

4 Q. But California is the 800-pound gorilla,
5 isn't it?

6 A. Yes.

7 Q. And is it correct that California has
8 imposed a requirement for electric vehicles to be the
9 only vehicles sold, I think, by 2035?

10 A. I have read that in the headlines.

11 Q. And so wouldn't that pretty much kill the
12 low-carbon fuel market in California?

13 A. No.

14 Q. Why not?

15 A. You still have to use vehicles.

16 Q. But it's on the way out; correct?

17 A. I'm not sure.

18 Q. So at some point is it fair to say that
19 even if you have the carbon capture and the pipeline
20 and you're selling ethanol to California that in
21 several years you're not going to have that market?

22 A. I do not agree with that.

23 Q. Why not?

24 A. We're on a path to make a very low-carbon
25 fuel. We will -- There will be a place.

1 Q. But if all the vehicles are EVs, you
2 wouldn't have any need for fuel at all, would you?

3 A. If you believe the entire country was all
4 EVs.

5 MR. TAYLOR: I think that's all the
6 questions I have. Thanks.

7 FURTHER EXAMINATION

8 BY MR. WHIPPLE:

9 Q. Mr. Broghammer, my name is Tim Whipple. I
10 represent Shelby, Kossuth, Floyd, Emmet, Dickinson,
11 Woodbury and Wright Counties, and I'll probably just
12 say "the counties." It's not every county, but it's a
13 long enough list that I'll just say "the counties,"
14 okay?

15 I have some questions along the same lines
16 as Mr. Taylor had. Like him, I don't know a lot about
17 the ethanol industry, so these are rudimentary. I
18 guess, bear with me.

19 So is Iowa a leading ethanol producer as a
20 state? Would you agree?

21 A. Yes.

22 Q. Is South Dakota a leading ethanol producer
23 as a state? Do you know?

24 A. Leading, no.

25 Q. Do they have a significant amount?

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1 A. Yes.

2 Q. Does Minnesota have a significant amount of
3 ethanol production?

4 A. Yes.

5 Q. Does Nebraska have a significant amount?

6 A. Yes.

7 Q. Do you know, are there other states that
8 have a significant amount of ethanol production?

9 A. I don't know how to answer the word
10 "significant." I don't know.

11 Q. Let's start with any. Where are the
12 ethanol plants in America, I guess, is what I'm
13 driving at?

14 A. Yes, there's other states with ethanol
15 plants.

16 Q. Wisconsin?

17 A. Wisconsin, Illinois, Missouri.

18 Q. More or less, would you say, than Iowa?

19 A. They're all less than Iowa.

20 Q. More or less than Nebraska?

21 A. Which ones are you talking about?

22 Q. Is Wisconsin, for example, comparable to
23 Nebraska in the amount of production?

24 A. No.

25 Q. So it would be less?

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1 A. Wisconsin is less.

2 Q. Is Illinois comparable to Nebraska, or is
3 it less?

4 A. I'm not sure.

5 Q. Is there any production in the Mountain
6 West in the states like Montana, Idaho?

7 A. There was at one time, so right now I'd
8 have to say I don't know.

9 Q. On the East Coast? Do they produce ethanol
10 on the East Coast anywhere?

11 A. At one time they did, but now I have to say
12 I don't know.

13 Q. So would you agree that the bulk of ethanol
14 production in America is in the footprint of the
15 pipeline in the states where the pipeline runs?
16 That's where the bulk of ethanol is probably produced
17 in America?

18 A. Yes.

19 Q. Now, I mean, you've had interactions with
20 Summit and heard presentations at board of directors
21 meetings. If Iowa would not issue a permit, for
22 example, at the Iowa Utilities Board, is it your
23 understanding that the project would move forward in
24 those other states, if Iowa doesn't issue a permit?

25 A. I'm not sure.

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1 Q. So you've had no conversations about
2 anticipations if there's not a permit issued in Iowa?

3 A. No.

4 Q. Okay. I guess what I'm wondering is:
5 Where would the ethanol production go? If the Summit
6 pipeline isn't built, what other states would get that
7 growth that you talk about in your testimony?

8 A. Wherever the pipeline is built will get
9 growth.

10 Q. So where would that be, specific states?

11 A. I don't know. I don't know that.

12 Q. I'm going to talk a little bit more about
13 corn production, then. Where do you obtain your corn?

14 A. We did some work on this, so I kind of know
15 this. Our average distance was within 24 miles.

16 Q. Yes. So not just the distance, but do you
17 have it under contract with individual farmers, or how
18 do you do the purchasing with the farmers?

19 A. Yes, there's contracts with farmers and
20 co-ops, I believe, yes.

21 Q. Is there a fixed price for that?

22 A. No. It can be both fixed and on a basis.
23 There's several kinds of contracts.

24 Q. So are they obligated to deliver corn to
25 you on a long-term basis, any of the farmers?

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1 A. Only if they sign a contract.

2 Q. But they do sign some contracts; right?

3 A. Yes.

4 Q. So you get some corn through contract and
5 then some on-the-spot basis?

6 A. Correct.

7 Q. How long are those contracts with the grain
8 producers typically?

9 A. For Pine Lake most, as in 98 percent of the
10 contracts that we would have signed, are within
11 roughly 90 days.

12 Q. So pretty short term; not multi-year
13 agreements or anything?

14 A. No.

15 Q. Okay. And do you fix a price per bushel in
16 those agreements, or is it pegged to a market, Chicago
17 Exchange price? How do you determine the price of
18 those?

19 A. You can do it a couple ways. They may ask
20 for a fixed price or basis contract because there's
21 actually several ways of buying corn. So one of
22 the -- those type of contracts.

23 Q. So how much corn do you buy today
24 typically?

25 A. How much corn do I buy today?

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1 Q. Yes.

2 A. Roughly approximately about 30 million
3 bushels.

4 Q. Thirty million bushels?

5 A. Plus or minus 5 percent.

6 Q. Is that typical?

7 A. Typical to what?

8 Q. In a typical, let's call it, calendar year,
9 production cycle. I mean, you're not meaningfully
10 lower now than you were in prior years, or are you?

11 A. No. It's a little bit more than last year.

12 Q. Are you near production capacity of your
13 plant --

14 A. Yes.

15 Q. -- today?

16 A. Today, yes.

17 Q. What's your production; like, your maximum
18 capacity today at the plant?

19 A. Our air permit is 88 million gallons per
20 year.

21 Q. So it's really limited by the permit and
22 not just the --

23 A. Our equipment is about --

24 Q. What you --

25 A. About 87.5 million.

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1 Q. So you're pretty close to what the
2 equipment can actually produce?

3 A. Yes, that's correct.

4 Q. After the pipeline is built, what do you
5 anticipate your production levels to be?

6 A. Eighty-eight million gallons per year.

7 Q. So you wouldn't need to buy more corn after
8 the pipeline is built, would you?

9 A. No.

10 Q. Okay. Then there's just one part of your
11 testimony that I wanted to just clarify. It's on
12 page 3, line 21.

13 A. Do you have a copy of my testimony?

14 MR. LEONARD: I've got one.

15 MR. WHIPPLE: Do you have one for him?

16 Okay.

17 BY MR. WHIPPLE:

18 Q. It may just be a typo. You say, "The end
19 result is 1.5B dollars bushels." Do you mean 1.5
20 billion bushels or \$1.5 billion?

21 A. 1.5 billion bushels.

22 Q. Bushels. Okay.

23 A. That's a typo.

24 Q. And then on page 4 you say, "I would expect
25 Iowa farm producers will see 50 cents to \$1 per bushel

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1 lower corn basis." So where does that expectation on
2 your part come from?

3 A. So in earlier testimony I said Cedar Rapids
4 this morning is posted at 1.05 over September and the
5 Chicago Board of Trade. Lawler is posted at 60 cents
6 over. Those two towns are two hours apart, 45 cents.

7 Cedar Rapids has a big draw on corn because
8 they make a lot of ethanol there, a lot of corn
9 fructose. You have Cargill. There's a lot of draw in
10 Cedar Rapids.

11 If we don't have a pipeline -- I went
12 through the numbers of how much more people that do
13 have a pipeline to their ethanol plant will be able to
14 pay for corn, so in states that possibly do have a
15 pipeline, such as South Dakota and Nebraska and
16 North Dakota, they're going to ship that way. So
17 you're going to end up with corn leaving the state of
18 Iowa in a big way, 1.5 billion bushels.

19 Q. What is the analysis that produced the
20 specific figures of 50 cents to \$1?

21 A. It was simply my estimate based on the
22 basis you see, just like today in Iowa. A two-hour
23 drive is 45 cents.

24 If you got to go from eastern Iowa to
25 Nebraska, you can speculate -- you can extrapolate

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1 that out.

2 Q. So did you use, like, any kind of software
3 product to do an analysis to produce that?

4 A. No, I did not.

5 Q. Is there any underlying work papers that
6 you produced that would substantiate that?

7 A. It was simply my analysis of corn bases.
8 I've been doing it since -- for over 30 years.

9 Q. Is it fair to say that if the pipeline
10 isn't built in Iowa and it isn't built in South Dakota
11 and it isn't built in Minnesota, because it isn't
12 built at all, there won't be an impact on corn prices?

13 A. My analysis is based on places that have
14 CO2 pipelines and places that don't. That's where I
15 made that analysis.

16 Q. Sure. And that's why I asked if Iowa
17 doesn't go forward, will South Dakota, Minnesota and
18 Nebraska go forward with the pipeline project?

19 A. I --

20 MR. LEONARD: Objection. Calls for
21 speculation.

22 Go ahead and answer.

23 A. I don't know.

24 BY MR. WHIPPLE:

25 Q. Okay. But you also say if the pipeline

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1 moves forward that you won't increase production
2 levels or buy more corn; correct?

3 A. I can't, so no.

4 Q. Okay.

5 A. Right. I mean, there's nothing -- No.

6 MR. WHIPPLE: Okay. Thank you.

7 MR. OSTERGREN: I have no questions.

8 MR. LONG: I don't have any questions.

9 MS. GRUENHAGEN: I have a few.

10 FURTHER EXAMINATION

11 BY MS. GRUENHAGEN:

12 Q. My name is Chris Gruenhagen, and I
13 represent Iowa Farm Bureau. I have some questions for
14 you as well.

15 In your testimony I have some things that
16 need more explanation, but I had a few background
17 questions first. Is Pine Lake an intervenor in this
18 proceeding before the Iowa Utilities Board?

19 A. What does an "intervenor" mean?

20 Q. Do you have an attorney who's applied to
21 participate in those proceedings before the Iowa
22 Utilities Board?

23 A. Okay. This is a legal thing, so I'm going
24 to say I don't understand, and I don't know.

25 Q. Is Pine Lake going to be participating in

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1 the proceeding before the Iowa Utilities Board?

2 A. I don't know. I really don't understand
3 the question.

4 Q. Okay. That's fair.

5 You talked a little bit about how much
6 grain you buy every year. Do you make those
7 grain-buying decisions, or do you have somebody on
8 staff that does that?

9 A. I have someone on staff that makes that
10 decision.

11 Q. Okay. And how is that price determined for
12 corn that you buy?

13 A. It's pretty much determined by what it
14 takes to buy corn in that area. So if the farmers
15 want -- if you have -- In Iowa there's a lot of demand
16 for corn, so you have to place your bid and offer
17 those types of bids, many types of contracts for corn.

18 So you have to do that to what the
19 marketplace says you need to do it at to buy it.

20 Q. So it's fair to say that it varies from day
21 to day, week to week depending on what everyone else
22 is offering?

23 A. Yes, yes.

24 Q. Who is the majority owner of Pine Lake?

25 A. Innovative Ag Services Co-op.

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1 Q. That cooperative, then, is that owned by
2 farmers?

3 A. Yes.

4 Q. And so what percent of the owners of Pine
5 Lake, just approximate, or the co-op members are the
6 suppliers of your corn?

7 A. I don't know that.

8 Q. Okay.

9 A. I don't know.

10 Q. Do you buy corn from folks that are not
11 owners of Pine Lake or members of the co-op?

12 A. Yes, yes.

13 Q. Okay. You mentioned that you own some
14 agricultural land?

15 A. I do, yes.

16 Q. That you do personally?

17 A. Yes.

18 Q. Do you also farm those acres or rent them
19 out?

20 A. I rent the land out.

21 Q. And then you also mentioned that your
22 participation in this process is because Pine Lake has
23 signed an agreement with Summit; is that correct?

24 A. Yes.

25 Q. Have you signed one agreement or more than

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1 one agreement? Is there only one contract with Summit
2 or multiple contracts with Summit?

3 A. There was an initial contract, and then
4 after they -- after the Inflation Reduction Act, there
5 is an updated contract.

6 Q. So you have two contracts with Summit?

7 A. I'm going to say I don't know because I
8 don't remember how the second one affects the first
9 one.

10 Q. So the second one may have been an
11 amendment to the first contract?

12 MR. LEONARD: I'll object to the extent it
13 calls for a legal conclusion.

14 Go ahead.

15 A. I don't know.

16 BY MS. GRUENHAGEN:

17 Q. Okay.

18 A. Again, it's legal. I don't know that.

19 Q. So the first contract was labeled as an
20 offtake agreement?

21 A. It was.

22 Q. What was the second contract labeled as?

23 A. An offtake agreement.

24 Q. So they're both labeled that way?

25 A. Yes.

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1 Q. Okay. Thank you.

2 You seem to have a lot of knowledge about
3 the ethanol industry, so I'm going to ask some general
4 questions about the ethanol industry. About how much
5 of the nation's ethanol does Iowa produce?

6 A. As I recall, it's 4.5 billion gallons;
7 approximately 15 to 16 billion.

8 Q. So is that about 30 percent roughly?

9 A. Yeah, roughly.

10 Q. Is Iowa the largest ethanol producer in the
11 country?

12 A. Yes.

13 Q. Most of the ethanol that's produced in
14 Iowa, do you know where that's sold?

15 A. I don't know.

16 Q. Do you know how much is currently sold to
17 California, Oregon and Washington?

18 A. I don't know that.

19 Q. Don't know. Okay. Do you know where Pine
20 Lake currently sells its ethanol?

21 A. Yes.

22 Q. Where does Pine Lake sell its ethanol?

23 A. We sell -- our two biggest customers is --
24 there's three. We sell into Chicago, we sell into
25 Canada, and we sell it to the Southeast United States.

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1 Q. Like, Georgia or somewhere?

2 A. Yeah. It's sold as something they call
3 Rule 11, which basically stays in a car and is
4 transported to the Southeast to a variety of places.
5 When I say "the Southeast," I mean Florida, the
6 Carolinas, Georgia, that whole area.

7 Q. It's shipped by rail, I'm assuming?

8 A. All of it, yes.

9 Q. Whether it's Chicago, Canada or the
10 Southeast, it's all by rail?

11 A. Yes.

12 Q. Does Pine Lake currently sell any of its
13 carbon dioxide?

14 A. No.

15 Q. Is that something that Pine Lake has looked
16 at, as to whether there's any markets for that, like,
17 in the beverage market?

18 A. No.

19 Q. Okay. So with your testimony can you kind
20 of give me kind of a big-picture overview of the key
21 points that you are making with your testimony?

22 A. The Inflation Reduction Act is offering
23 incentives that are very, very significant to our
24 industry. The CO2 sequestration is a key, key part of
25 that to the tune of if the CI score, carbon intensity

1 score, just, say is 60, CO2 sequestration is going to
2 lower that significantly to whomever has CO2
3 sequestration, and to not participate in that will
4 likely lead to the end of ethanol production in Iowa.

5 Q. All right. I think this is Exhibit 3.

6 (Deposition Exhibit 3 was marked for
7 identification.)

8 BY MS. GRUENHAGEN:

9 Q. I'll have you look at Exhibit 3 there.
10 Generally what do you think that represents? Is that
11 a map of Iowa?

12 A. Yeah, it's a map.

13 Q. And does the blue line roughly represent
14 the route of the Summit pipeline?

15 A. It sure looks like it, yes.

16 Q. Does the red line roughly indicate the
17 route of Navigator, to the best of your knowledge?

18 A. Only as I recall in the newspaper. I don't
19 have particular knowledge of it.

20 Q. Do you see Hardin County?

21 A. Yes.

22 Q. They're kind of in the middle?

23 A. I do.

24 Q. Do you see the red star?

25 A. I do.

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1 Q. Is that roughly where the Pine Lake plant
2 is located?

3 A. Actually, pretty close.

4 Q. I tried to get that close there.

5 Is there another plant in Hardin County
6 that is looking at participating in a carbon dioxide
7 pipeline project?

8 A. I don't know what POET is doing in
9 Iowa Falls. I'm not familiar with what they're doing.
10 I do not know.

11 Q. But POET is the other ethanol plant?

12 A. They're in Iowa Falls, yes.

13 Q. With that little leg up on Navigator, it
14 might look like maybe they're participating?

15 MR. LEONARD: Objection. Calls for
16 speculation.

17 Go ahead and answer.

18 A. Again, I don't know.

19 BY MS. GRUENHAGEN:

20 Q. Do you know about how far Pine Lake is from
21 the Navigator route roughly? Have you looked at that?

22 A. I don't know the exact number. If your
23 chart is right, you know, it looks like about half a
24 county.

25 Q. Would it surprise you if it's about

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1 7.5 miles?

2 A. No, it would not.

3 Q. Okay. And so did your board of directors
4 discuss or have any presentations from Navigator?

5 A. No.

6 Q. Was your board aware that Navigator was
7 also looking at this project?

8 A. No.

9 Q. And so did your board reach an agreement
10 with Summit prior to knowing that Navigator was out
11 there?

12 A. Yes.

13 Q. Okay. So that would be why the board did
14 not consider Navigator?

15 MR. LEONARD: I'm going to object. Calls
16 for speculation.

17 Go ahead.

18 A. I can't speak for the board directly, so
19 I'm going to say I don't know.

20 BY MS. GRUENHAGEN:

21 Q. I guess, were you aware of Navigator at the
22 time it went to the board?

23 A. No.

24 Q. Thank you. That helps. I've been
25 wondering that, so I appreciate that.

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1 Do you know what the average
2 carbon-intensity score is for Iowa ethanol plants?

3 A. No, I don't know the average of Iowa. I
4 don't know that.

5 Q. Has the carbon-intensity score for Pine
6 Lake ever been calculated?

7 A. Yes.

8 Q. What is Pine Lake's carbon-intensity score?

9 A. So we had -- 55.6 was the preliminary
10 estimate?

11 MR. TAYLOR: 55 or 59?

12 THE WITNESS: 55.6.

13 MR. TAYLOR: Thank you.

14 BY MS. GRUENHAGEN:

15 Q. So in your testimony on page 2, lines 23
16 and 24, it talks about a tax credit incentive with the
17 Inflation Reduction Act. It doesn't say this, but are
18 the numbers that you're quoting there from 45Z tax
19 credit?

20 A. Yeah. The 2 cents per gallon is 45Z.

21 Q. So is Pine Lake not taking advantage of
22 45Q? I understand you have to pick between the two.

23 MR. LEONARD: I'm going to object to the
24 extent it calls for a legal conclusion, but go ahead.

25 A. We will take the best option.

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1 BY MS. GRUENHAGEN:

2 Q. So is 45Q available to you also?

3 A. Only if you are sequestering CO2.

4 Q. Are you sequestering CO2? Is Pine Lake
5 going to be sequestering CO2?

6 A. That's part of the Summit CO2 offtake.

7 Q. Is that a yes?

8 A. Yes.

9 Q. So Pine Lake could take advantage of either
10 45Q or 45Z?

11 A. Once the pipeline is in place and in
12 operation, yes.

13 Q. But the numbers here are just talking about
14 45Z?

15 A. Yes.

16 Q. Why did your testimony not also look at 45Q
17 tax credits?

18 A. I chose to talk about 45Z.

19 Q. So no particular reason?

20 A. No.

21 Q. All right. So your statement there at line
22 24 says that you are 2 cents per gallon below 50, and
23 if Pine Lake is at 55.6, it would have to be below
24 that before you could get any credits?

25 A. Correct.

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1 Q. So in the calculation that you did on the
2 following page at the beginning, you're assuming that
3 the benefit from sequestering carbon dioxide would be
4 30 points. Now, is that 30 points from your 55 or 30
5 points -- or are you saying it's 35.6?

6 A. No. Pine Lake has approved projects that
7 will take us below 50.

8 Q. Currently?

9 A. Currently.

10 Q. What projects do you have to incur it?

11 A. We've improved a CHP, a combined heating
12 power plant, and we're building it, breaking ground.

13 Q. And how much will that possibly reduce your
14 CI score?

15 A. Again, you have to have the actual
16 production until you really know.

17 Q. Estimated.

18 A. Six.

19 Q. So it will take you just right under 50?

20 A. Yeah.

21 Q. Are there any other projects that you have
22 planned, that Pine Lake has planned to reduce their CI
23 score?

24 A. Yes, yes.

25 Q. Could you describe those for me?

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1 A. All of them are to lower the amount of
2 natural gas we use, yes.

3 Q. Such as?

4 A. Such as redesign the distillation so you
5 use less steam per gallon of ethanol. Capital money,
6 again, such as recapturing heat off the exhaust of the
7 dryers so you don't have to use steam to heat up the
8 front end of the process.

9 All of it is centered on using less natural
10 gas.

11 Q. Okay. So the plant is becoming more
12 efficient so they have to use less natural gas? Is
13 that a fair summary?

14 A. Yes, yes.

15 Q. Okay. Is Pine Lake also looking at the CI
16 score of corn suppliers that you buy from?

17 A. We have an effort underway to see how we
18 can better define that.

19 Q. So is that a possibility in the future?

20 A. It's hard to know, but I'm going to say:
21 Is it a possibility? Yes.

22 Q. Okay. Back to your natural gas
23 efficiencies. Has Pine Lake estimated the reduction
24 in the CI score from those efforts?

25 A. Yeah. Six points.

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1 Q. Okay. So that's an additional 6 points?

2 A. Yes.

3 Q. So you're looking at a reduction of 12
4 points with your current projects that you have in the
5 works?

6 A. Half of those are approved, and half of
7 them are under engineering. So they're not all
8 approved.

9 The turbine, the combined heating power is
10 approved, so yes.

11 Q. Okay. Thank you. I appreciate that.

12 And the 30-point reduction that you talk
13 about on line 2 is what Pine Lake anticipates being
14 able to reduce their CI score, should the Summit
15 Carbon sequestration go through?

16 A. Yes.

17 Q. Okay. Thank you.

18 Then on line 3 you talk about the 60 cents
19 per gallon of ethanol?

20 A. Line 3 or line 30?

21 Q. Line 3. Sorry. Page 3, line 3.

22 Your testimony talks about the
23 60-cents-per-gallon-of-ethanol benefit from the 45Z
24 tax credit; is that correct?

25 A. Right.

1 Q. And then you convert that to bushels;
2 right?

3 A. Yes.

4 Q. Why was that converted to bushels?

5 A. Because Iowa farmers are more in tune with
6 dollar per bushel versus dollar per gallon.

7 Q. So is Pine Lake looking at paying farmers
8 \$1.80 more per bushel as a result of the project?

9 A. We would prefer not to pay all the \$1.80s,
10 no.

11 Q. So what portion of that do you anticipate
12 corn farmers being paid more because of the project?

13 A. I'm not sure.

14 Q. Okay. I'm a farm girl. I'm always looking
15 at how you raised your pricing on the product, you
16 know?

17 Okay. Is Pine Lake a member of the Iowa
18 Renewable Fuels Association?

19 A. Yes.

20 Q. Any other trade organizations that Pine
21 Lake belongs to?

22 A. Yes. We belong to Growth Energy.

23 Q. So in the preparation of your testimony
24 today, did you consult with those two trade
25 organizations?

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1 A. Specifically about this?
2 Q. Yes.
3 A. No.
4 Q. And so the calculations and the information
5 that you have, where did you learn that information?
6 A. From these organizations.
7 Q. Okay.
8 A. Presentations that they gave.
9 Q. This is a data request. In the data
10 request response that was given --
11 MR. LONG: Chris, can you tell us which one
12 it is?
13 MS. GRUENHAGEN: This is Data Request 56
14 from the Office of Consumer Advocate. It asks where
15 the calculations came from.
16 BY MS. GRUENHAGEN:
17 Q. In response it says, "Consulting with
18 experts and trade information that provided a basis
19 for the quoted figures"?
20 A. Yeah. The 30 points was from our
21 consultants that estimate CI.
22 Q. Which consultants?
23 A. EcoEngineers.
24 Q. And where are they out of?
25 A. Des Moines.

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1 MR. LONG: Did you say the 30 points was
2 from EcoEngineers?

3 THE WITNESS: EcoEngineers.

4 MR. LONG: Came up with the 30 points or
5 cents per gallon?

6 THE WITNESS: They came up with the 30
7 points.

8 BY MS. GRUENHAGEN:

9 Q. Then you did the math to come up with the
10 60 cents?

11 A. (Witness nodded head affirmatively.)

12 Q. That's very helpful. I don't need to make
13 it an exhibit. I just wanted some clarification of
14 that.

15 So does Pine Lake anticipate taking
16 advantage of the 45Z tax credit, then?

17 A. I believe so, yes.

18 Q. Does Pine Lake meet the Prevailing Wage and
19 Apprenticeship Requirements of the 45Z tax credit?

20 MR. LEONARD: I'll object to the extent it
21 calls for a legal conclusion.

22 Go ahead.

23 A. That has to be determined by our counts.

24 BY MS. GRUENHAGEN:

25 Q. So if you meet the Prevailing Wage and

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1 Apprenticeship Requirements, would you anticipate the
2 dollar figure per gallon rather than the 20 cents
3 figure?

4 A. I'm sorry. Can you clarify? Please
5 clarify.

6 Q. The 45Z tax credit has different amounts
7 depending on what criteria the plan meets.

8 A. Right.

9 Q. You quoted a 20-cent figure in here in your
10 testimony. There's also a \$1-per-gallon available as
11 a tax credit in the same 45Z provision, if the
12 Prevailing Wage and Apprenticeship Requirements were
13 met.

14 That's what I was asking, is if Pine Lake
15 anticipated meeting those requirements.

16 MR. LEONARD: Object to form.

17 You can go ahead and answer.

18 A. This is a little confusing, how you're
19 asking the question.

20 BY MS. GRUENHAGEN:

21 Q. Okay. I'll try again.

22 A. So I'm going to make -- What I'm going to
23 say about 45Z, 45Z is, you know, clean fields
24 production credit. For every CI score below 50, you
25 get 2 cents per gallon.

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1 That's what I calculated here, is the
2 2 cents per gallon for every point below 50, and the
3 estimated CI reduction for CO2 sequestration is
4 30 points. Thirty times 2, 60 cents a gallon times
5 3 gallons per bushel, \$1.80.

6 Help me understand what you're talking
7 about here.

8 Q. Are you familiar that an increased amount
9 in the tax credit is available if the plant meets the
10 Prevailing Wage and Apprenticeship Requirements?

11 A. Are you referring to the Investment Tax
12 Credit?

13 Q. No. The Clean Fuels Tax Credit.

14 A. Then I do not know what you're talking
15 about.

16 Q. Okay. We'll move on.

17 Do you know if the 45Z tax credit sunsets?

18 A. I believe it sunsets December 31st of '27.

19 Q. So if it sunsets, what is the impact going
20 to be on Pine Lake?

21 A. That we -- that we used all of that in our
22 economic assessments of the projects; that it is
23 sunsetting, the 45Z.

24 Q. So an economic assessment has been done for
25 the project for Pine Lake?

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1 A. For what part?

2 Q. For participating in this project, in the
3 Summit pipeline project.

4 A. Sure, yes.

5 Q. Okay. Is Pine Lake planning on
6 transferring any of the 45Z tax credits?

7 A. I have no idea. I have no idea.

8 Q. Okay. Are there any other ways to claim
9 the 45Z tax credit, other than participating in a
10 carbon dioxide pipeline?

11 MR. LEONARD: I'll object to the extent it
12 calls for a legal conclusion, but go ahead.

13 A. What I've described is the only way I know.

14 BY MS. GRUENHAGEN:

15 Q. Have you done any analysis about whether or
16 not there's going to be an impact on the price of
17 ethanol --

18 A. No.

19 Q. -- as a result of the project?

20 A. No.

21 Q. So there hasn't been analysis as to whether
22 or not your product is going to sell for more or less
23 money afterwards?

24 A. The marketplace currently incentivizes
25 ethanol with low-carbon intensity scores currently.

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1 They do.

2 Q. Okay. So you don't know if the price of
3 ethanol is going to increase or decrease as a result
4 of the project?

5 A. You never know until the marketplace tells
6 you, so no, I don't know.

7 Q. So is it fair to say it's uncertain?

8 A. Yes.

9 Q. On page 4 of your testimony, you talk about
10 basis reduction. Can you explain "basis"? I don't
11 think you've done that yet today.

12 A. So places that consume corn in Iowa, they
13 would provide a posted price. Anymore most of it is
14 on the internet, and it will refer to basis -- In the
15 case of Homeland this morning, basis plus 60 with a
16 reference month being September, Chicago Board of
17 Trade.

18 So what that means is Homeland is willing
19 to pay 60 cents above the Chicago Board of Trade
20 incentive price by corn, and then they split it by
21 month, whether it's June, July, August, whatever.

22 And then Cedar Rapids, ADM, same kind of
23 thing. They have the posted price for June, and they
24 posted \$1.05, and then the reference month is
25 September, Chicago Board of Trade. So they're willing

1 to pay \$1.05 over that. So "basis" is the price that
2 location is willing to pay versus a month on the
3 Chicago Board of Trade.

4 How did I do?

5 Q. Pretty good. It's basically a difference
6 in prepaid by the corn buyer from a set price by the
7 Chicago Board of Trade?

8 A. Yeah.

9 Q. Is that a good summary?

10 A. Yeah, you did good.

11 Q. Okay. What kind of things are factored
12 into that basis price?

13 A. There's a lot, and I'm not going to be able
14 to say I know all of them. I'll give you an example
15 of two or three.

16 Q. That would be great.

17 A. How much corn do you need? How much corn
18 demand does that buyer need? What are the economics
19 of that buyer to buy it at said price?

20 Also, the availability of corn in that
21 immediate area would be a factor in the basis, but
22 there's many others. That's just three I can think
23 of.

24 Q. I think you mentioned earlier
25 transportation costs as well. Do transportation costs

1 factor into it?

2 A. Yes, the transportation cost is very much a
3 factor of basis, but you don't know what that
4 transportation cost is. It depends on how far you are
5 buying it from.

6 So that's a bit of a complicated question,
7 but transportation cost is a factor as well.

8 Q. So in your estimate here of 50 cents to \$1,
9 what things were factored into that basis that you
10 estimated there?

11 A. Ethanol production in Iowa goes away and
12 the corn gets transported to states that do have more
13 ethanol production.

14 Q. Did you consult any experts to come up with
15 that number?

16 A. No. That was my assessment.

17 Q. That was your assessment. Okay.

18 And your testimony says it directly
19 correlates to the cost of transportation?

20 A. Yeah. My assessment of that is what it's
21 going to take to transport corn from eastern Iowa to
22 Nebraska, South Dakota or wherever there's ethanol
23 production, yes.

24 Q. What state is the largest corn producer in
25 the country?

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1 A. It's a tie often between Illinois and Iowa,
2 but today it's Iowa.

3 Q. Okay. So does the production a lot of
4 times follow where the supply is? Is that why Iowa
5 has so many ethanol plants as compared to the other
6 parts of the country?

7 A. Could you rephrase that question?

8 Q. Sure. Is the reason Iowa has so many
9 ethanol plants is because the corn supply is here?

10 A. Yes.

11 Q. So if the pipeline isn't built, what's your
12 basis for thinking that the plants will all shut down
13 here?

14 A. Plants that do have CO2 sequestration and
15 the value that they're going to receive is \$1.80 per
16 bushel, those plants that are receiving CO2 tax
17 credits, or however you want to look at it, are going
18 to grow or expand and draw the corn to them.

19 So Iowa doesn't -- If the plants in Iowa
20 don't get the CO2 sequestration of tax credits of
21 \$1.80, they're going to stop investing, stop growing,
22 and eventually shut down. The plants that do receive
23 it are going to grow, expand, get larger, take
24 advantage of that.

25 Q. So the ethanol plants are going to make

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1 more money because of the 45Z credit? Is that what
2 you're saying?

3 A. It's a pretty good incentive.

4 Q. And so the capital flows to where the
5 profit is? Is that what you're trying to say?

6 A. Yes, it does.

7 Q. Okay. So what's your basis for thinking
8 that with a lot of these plants locally owned, for
9 them to shut down and no longer be a buyer of corn?

10 A. They will no longer be competitive.

11 Q. So will the price of ethanol, then, be
12 reduced below the cost of production for those plants?
13 Is that what you're alleging?

14 A. Yeah.

15 Q. Okay. So if this project is not approved,
16 what is Pine Lake's response going to be?

17 A. I don't know that.

18 Q. You've already mentioned some of the
19 projects that are underway to reduce your CI score.
20 Would Pine Lake continue to look at other ways to
21 reduce the CI score to take advantage of 45Z?

22 A. I know the decision on the CO2 pipeline is
23 going to affect our decision on future projects.

24 MS. GRUENHAGEN: Okay. I think that is all
25 I have. That's all I have. Thank you.

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1 THE WITNESS: Thank you.

2 MR. LEONARD: We have one attorney on Zoom.

3 Brian, are you there?

4 MR. JORDE: Yes.

5 MR. LEONARD: It's your turn.

6 FURTHER EXAMINATION

7 BY MR. JORDE:

8 Q. The prepared testimony that was submitted
9 with your signature, is it true that Summit's lawyers
10 drafted that and presented that to you for your
11 signature?

12 A. No. I wrote this.

13 Q. Did you type it up on a computer?

14 A. I did.

15 Q. And where is that computer located?

16 A. Pine Lake offices.

17 Q. And you typed it up from scratch, did you,
18 with no notes?

19 A. The -- They gave me an outline to fill out,
20 and then I filled it out.

21 Q. And when you say "they," you mean Summit's
22 lawyers?

23 A. I don't know if it was Summit's lawyers. I
24 don't know who it came from. It came from somewhere.
25 I don't know.

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1 Q. And do you have a lawyer sitting with you
2 today representing you?

3 A. No.

4 Q. Okay. Does Pine Lake have separate legal
5 counsel beyond Summit's legal counsel?

6 A. I'm not -- Are you talking about do we have
7 a lawyer we use?

8 Q. For this project, for this process.

9 A. Yes, we have a lawyer we use. Yes.

10 Q. All right. So who is representing you
11 today as your legal counsel at this deposition?

12 A. I don't know if I know the legality of this
13 or how to answer that. I'm not sure I know.

14 Q. Before you got here today, Summit's
15 counsel, did you meet with them and talk with them
16 about the testimony?

17 A. I did meet with them, yes.

18 Q. And you both walked into the room together
19 this morning; right?

20 A. Yes.

21 Q. You didn't have any other lawyer present
22 from a different firm or the Pine Lake plant regularly
23 works with; is that true?

24 A. Not here right now. That's correct.

25 Q. All right. So you're relying on Summit's

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1 counsel to make the objections here today and direct
2 you and prepare you for this testimony?

3 A. Yes.

4 Q. All right. Did they send you e-mails of
5 that outline, or how did that outline of what needed
6 to be in your testimony get to you?

7 A. Yeah, they -- I have an e-mail with the
8 outline, and then I -- then I filled this out.

9 Q. All right. Has anybody asked you to
10 produce all of your e-mails between you and Summit and
11 anyone working with or for Summit?

12 A. No.

13 Q. All right. Do you have an IT person at
14 Pine Lake that handles your server that houses e-mail
15 correspondence and electronic communications?

16 A. We have a consultant IT person, yes.

17 Q. And who is that?

18 A. Chris Perkins.

19 Q. And who does Chris work for?

20 A. I don't know the name of his company. He
21 owns it.

22 Q. How would you go about finding that out?

23 A. I'd look at his bill to find the exact
24 company name.

25 Q. All right. Do you happen to know his phone

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1 number?

2 A. No.

3 Q. Do you happen to know his e-mail, as we sit
4 here today?

5 A. No, no.

6 Q. All right. So when was Pine Lake first
7 contacted by Summit or any Summit representative about
8 this project? What was the date that occurred?

9 A. I said that earlier. I don't actually
10 recall the exact date.

11 Q. Do you recall the year?

12 A. No, I don't recall the year. I'm not that
13 good with dates.

14 Q. Was it five years ago?

15 A. Less than five years ago.

16 Q. All right. How about four years ago?

17 A. I'm not good with dates. I'm sorry. I
18 don't know.

19 Q. And the very first in-person meeting, was
20 that a meeting with your entire board or just you or
21 who?

22 A. Both meetings with Homeland was with the
23 entire board, and Pine Lake was with the entire board.

24 Q. And prior to contracting with Summit, did
25 you notify the owners of Pine Lake of Pine Lake

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1 board's intent to contract?

2 A. I don't remember if we did that or not.

3 Q. Does Pine Lake produce newsletters or
4 regular types of updates or communication to its
5 shareholders?

6 A. No.

7 Q. How do you communicate with your
8 shareholders, and how often do you do that?

9 A. At the board meeting once a month.

10 Q. All right. Does the board maintain meeting
11 minutes?

12 A. Yes.

13 Q. Who is the secretary of the board?

14 A. Mike Miller.

15 Q. And does Mr. Miller maintain it, or do you
16 have separate legal counsel or some outside entity
17 attending board meetings that makes the copy or takes
18 down what is being said?

19 A. No. Mike takes the notes.

20 Q. And then those notes are kept in a meeting
21 minute book that's on-site at the Pine Lake office?

22 A. Sure, yes. Yes.

23 Q. Has anyone yet in this litigation asked you
24 to produce a copy of your meeting minutes?

25 A. No.

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1 Q. Would that be fairly easy to do?

2 A. Not difficult, yeah. Not difficult.

3 Q. All right. So prior to executing the
4 offtake agreement with Summit, the first one, what
5 promises or representations did they make to you
6 before you signed the contract?

7 A. I don't recall. The only thing I recall is
8 they would pay for the capital.

9 Outside of that, I don't remember all the
10 specifics of the contract. It's a big contract.

11 Q. So I'm very familiar with the contracts,
12 but I just want to talk about right at this moment
13 everything leading up to the offtake agreement.

14 So as you sit here today, all you can
15 recall is that they promised to pay for the equipment
16 necessary to hook up to a pipeline they would
17 eventually build, and you don't remember anything
18 else?

19 A. I do not, no. Not specifics.

20 Q. And you don't remember any promises or
21 projections of how economically valuable or beneficial
22 this would be for Pine Lake?

23 MR. LEONARD: Objection. Asked and
24 answered.

25 Go ahead.

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1 A. I do not recall anything else.

2 BY MR. JORDE:

3 Q. Okay. I think someone might have asked:
4 Do you have a practice of taking notes on a meeting of
5 that importance?

6 A. No.

7 Q. And you did or didn't take notes at that
8 specific meeting?

9 A. I have no notes of that specific meeting.

10 Q. And at that specific meeting, would your
11 full board have also been present?

12 A. The board was there. I can't recall if
13 every single board member was there. I don't recall
14 if everyone was there.

15 Q. Was it a meeting where you needed a quorum,
16 or was it, "Hey, we've got these people coming in.
17 Whoever can attend, stop by"?

18 A. It was a meeting where the entire board was
19 invited.

20 Q. Okay. And did Bruce Rastetter present for
21 Summit, or who presented?

22 A. There was several people in the room, and
23 Bruce was there.

24 Q. And you were familiar with Bruce prior to
25 Summit contacting you about this potential project?

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1 A. I knew of Bruce before the meeting, yes.

2 Q. Does Bruce Rastetter or any entity which he
3 has any ownership or involvement, if you know, sell
4 any corn to Pine Lake at any time?

5 MR. LEONARD: Objection. Calls for
6 speculation.

7 Go ahead.

8 A. I do not know.

9 BY MR. JORDE:

10 Q. Do you have a list of customers? I should
11 have said: Do you have a list of corn suppliers?

12 A. I don't have that. We buy our corn through
13 our owner, Innovative Ag Services, so they would -- I
14 would think they would have a list of corn buyers,
15 yes.

16 Q. And did you earlier say that about 24 miles
17 is the radius around the Pine Lake location where you
18 typically get the corn supply you need for your
19 operations?

20 A. It's an average of 24 miles, yes. I did
21 say that, yes.

22 Q. Okay. And pretty obvious ethanol plants
23 are built where corn supply is; right? The corn
24 supply is the first key, and then the ethanol industry
25 started locating the plants near abundant corn supply;

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1 right?

2 MR. LEONARD: Object to form.

3 Go ahead.

4 A. You're going to have to rephrase the
5 question.

6 BY MR. JORDE:

7 Q. Well, which came first, the corn growers or
8 the ethanol plants?

9 A. The corn growers.

10 Q. All right. And does Pine Lake pay a
11 dividend?

12 A. We are owned entirely by Innovative Ag
13 Services, so I'm not really sure dividends are
14 supposed to be discussed here. I guess --

15 Q. Okay.

16 A. -- I'm not comfortable answering that
17 question.

18 Q. Well, unfortunately, that's not an option.

19 So does Pine Lake or Innovative Ag pay
20 dividends or patronage payments to its shareholders?

21 A. So the answer to that is: Over the past
22 11 years that I've been back there, we have not paid a
23 dividend.

24 Q. And so you say you're owned by Innovative
25 Ag Services, and I might have misheard you before. I

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1 thought the business model of Pine Lake was a co-op
2 where the corn supplier farmers actually are owners of
3 Pine Lake.

4 Is that not how you're set up?

5 A. Correct.

6 Q. Okay. The Pine Lake operations are owned
7 by this Innovative Ag Services 100 percent?

8 A. Yes.

9 Q. And does Innovative Ag Services own other
10 ethanol plants located in Iowa?

11 A. They own a portion of another.

12 Q. Which one?

13 A. Lincolnway Energy.

14 Q. Is that a plant that either is contracted
15 or looking at contracting with Summit?

16 A. Yes.

17 Q. And where is that located?

18 A. Nevada, Iowa.

19 Q. Does it currently have an executed offtake
20 agreement, or is it thinking about entering into one?

21 A. I don't know.

22 Q. Have you authored personally any letters or
23 e-mails or correspondence or communications of any
24 kind, since that initial meeting with Summit, meant to
25 generate support for the project in any way?

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1 A. I don't recall. I don't recall.

2 Q. Have you participated in any meetings or
3 town halls or forums of any kind where you were
4 promoting this project in any public way?

5 A. I do not believe so. I don't recall any.

6 Q. Do you have an opinion of whether or not
7 rail or pipeline is a more superior or efficient
8 method of transportation?

9 A. Pipeline.

10 Q. And so why aren't you spending your energy
11 working on an ethanol pipeline as opposed to a CO2
12 pipeline?

13 A. It has been attempted a couple different
14 times by plants or manufacturers of ethanol much
15 bigger than Pine Lake unsuccessfully.

16 Q. In your meetings with Summit prior to
17 contracting, did Summit or any of their
18 representatives or agents or individuals that you
19 believe to be associated with them explain that they
20 are in direct competition with you in the ethanol
21 market?

22 MR. LEONARD: Object to form.

23 Go ahead.

24 A. No.

25

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1 BY MR. JORDE:

2 Q. Are you aware of Mr. Rastetter or any of
3 Summit-related or common ownership-related entities
4 that produce and sell ethanol anywhere in the world?

5 A. Yes.

6 Q. What are you aware of?

7 A. He has production in Brazil.

8 Q. And are you aware of where the Brazilian
9 production is transported and sold?

10 A. No.

11 Q. Would it make any difference for you in
12 contracting if the market for any part of that
13 production was the U.S. market or Canada or any of the
14 markets that you want to sell into?

15 A. No, it wouldn't make any difference.

16 Q. Who is the actual signatory or the person
17 that would actually sign or, I should say, did sign
18 both of the offtake agreements we discussed on behalf
19 of Pine Lake or Innovative Ag?

20 A. I don't recall who signed the first one. I
21 know I signed the second one.

22 Q. And I take it if you signed it, you read that
23 agreement from front to back?

24 A. It's a big agreement. No, I haven't read
25 it from front to back, but my lawyer did.

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1 Q. Who is your lawyer advising you on that?

2 A. Bill Hanigan.

3 Q. Which firm is Bill with?

4 A. It's his law firm.

5 Q. Okay. It's, like, Hanigan Law or something
6 like that?

7 A. I don't recall.

8 Q. All right. Where is he out of? What town
9 is he based in?

10 A. Des Moines.

11 Q. Now, what are the triggers or what are the
12 events that would allow you to get out of the
13 contract?

14 MR. LEONARD: I'm going to object again to
15 the extent that goes to the terms of the offtake
16 agreement, which we do not have a confidentiality
17 order in place for the people in this room or for this
18 proceeding at all for that matter.

19 BY MR. JORDE:

20 Q. All right. What is the time frame of the
21 contract?

22 A. I don't remember the exact time frame, but
23 I know it's more than ten years. I don't recall the
24 exact time frame.

25 Q. Now, you had stated initially that

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1 Pine Lake can take part in 45Z tax credits, and then
2 later you were asked a clarifying question and said it
3 was your belief that you, meaning Pine Lake, can take
4 part of the 45Q tax credits.

5 Is that your testimony?

6 A. You're going to have to clarify that.

7 Q. Well, I'm just simply trying to clarify,
8 sir, what you said. I'm not putting words in your
9 mouth. I want to make sure I'm clear.

10 Do you believe, on behalf of Pine Lake,
11 that the Pine Lake ethanol plant can participate in
12 claiming the 45Z tax credit as well as the 45Q tax
13 credit?

14 MR. LEONARD: I'll object to the extent it
15 calls for a legal conclusion.

16 Go ahead.

17 A. I don't believe so, no.

18 BY MR. JORDE:

19 Q. All right. I must have misheard you.

20 Would you agree with me that only the
21 entity that owns the sequestration/capture equipment
22 is qualified or is eligible to apply for 45Q tax
23 credits?

24 MR. LEONARD: Same objection.

25 Go ahead.

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1 A. I have no idea.

2 BY MR. JORDE:

3 Q. All right. So in your economic
4 assessments, who did these economic assessments? Was
5 that a third-party contractor or you personally?

6 A. No. We went through the Bill Hanigan Law
7 Firm.

8 Q. Okay. So your lawyer was the one that did
9 the calculations on the economic assessments?

10 A. Yes.

11 Q. All right. And so do you know if Bill
12 Hanigan contracted out with, for instance, a CPA or
13 accounting firm or someone who regularly does those
14 projections?

15 A. I do not know.

16 Q. And do you have a copy of those
17 projections?

18 A. No, not here with me. No.

19 Q. Okay. I'm sorry. Not with you, but I
20 mean, certainly back at your offices, you have a copy
21 of the production that Bill put together for you; is
22 that right?

23 A. I think I can find that. I think so, yeah.
24 I believe we do. I believe we do.

25 Q. All right. Do you recollect, what were the

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1 inputs or the metrics used in the assessment? Do you
2 recall the underlying factors that were analyzed to
3 generate the ultimate conclusion?

4 A. No. No, I do not.

5 Q. Have you personally done any research on
6 45Z or 45Q tax credits?

7 A. No.

8 Q. You had stated that the market determines
9 ethanol prices, and that's true today, and that will
10 always be true; is that fair?

11 A. I can't predict the future, but that's what
12 I believe.

13 Q. Well, sure. I mean, unless we become a
14 communist country, in a capitalist society the market
15 dictates commodity prices; is that fair?

16 A. Yeah, market determines the price.

17 Q. And we can agree that there's virtually
18 infinite factors that can affect what buyers and
19 sellers may or may not rely upon or utilize to make
20 market-based purchases or sales decisions; right?

21 MR. LEONARD: Object to form.

22 Go ahead.

23 A. I don't know.

24 BY MR. JORDE:

25 Q. Then to be clear, you, meaning your ethanol

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1 plant, sells ethanol into Canada, the southeastern
2 United States, Chicago, and was there anywhere else?

3 A. Today that captures our three markets.

4 Q. And all exclusively transported physically
5 by rail?

6 A. Yes.

7 Q. I'm sorry. I was a little unclear of your
8 analysis, and I want to be clear if it was Bill
9 Hanigan's analysis or your analysis that determined
10 other states will benefit at Iowa's expense if the
11 Summit pipeline is not approved.

12 Who came up with that?

13 A. No. That was me.

14 Q. Oh, okay. All right. I'm sorry. I missed
15 that.

16 What was the theory there? If the Summit
17 pipeline is not approved by the IUB within the state
18 of Iowa, how do other states benefit?

19 A. Well, again, repeating what I said earlier,
20 if other plants have a CO2 pipeline and are receiving
21 this \$1.80-per-bushel tax credit, they're going to be
22 incentivized to -- that's a big tax incentive, so they
23 will be incentivized to expand capacity, grow capacity
24 and pull corn out of Iowa.

25 Q. And so that is based on an underlying

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1 assumption that the Summit pipeline would be built
2 anywhere, if it's not constructed in Iowa; correct?

3 A. It -- I'm not sure I understand the
4 question. Can you rephrase it?

5 Q. Yes, certainly.

6 So your assumption or your argument that if
7 the IUB doesn't approve the 400 or 500 miles of the
8 proposed hazardous Summit CO2 pipeline, that in order
9 for other states to benefit at Iowa's expense, it
10 would, obviously, have to be approved and constructed
11 and operated in those other states; correct?

12 MR. LEONARD: Object to form.

13 Go ahead.

14 A. I'm going to answer this with my assumption
15 it is using plants that are sequestering CO2 to Iowa
16 plants that are not. That's how I'm basing my
17 economics.

18 BY MR. JORDE:

19 Q. I want to be clear we're talking about the
20 same phrase here.

21 When you say "sequestering," are you aware
22 of a single ethanol plant, as we sit here today, that
23 is sequestering CO2?

24 A. A single ethanol plant?

25 Q. Yes.

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1 A. I believe there is one -- I'm not sure of
2 this, but I believe there's one in North Dakota.

3 Q. All right. Are you referring to the
4 Tharaldson Ethanol plant?

5 A. That's what I've been told. I have not put
6 my two eyes on it myself. I've only been told that.

7 Q. Okay. Well, I'll just tell you, if that
8 jogs your memory, that is the sole plant in the entire
9 state of North Dakota that is currently contracted
10 with Summit to transport CO2, should the North Dakota
11 PSE approve it.

12 Does that help kind of refresh your memory?

13 MR. LEONARD: Object to form.

14 A. You've listed a bunch of details I have no
15 knowledge of.

16 BY MR. JORDE:

17 Q. All right. Has Summit told you or anyone
18 at Pine Lake or Bill Hanigan, to your knowledge, that
19 it would not build a pipeline in South Dakota,
20 Nebraska or North Dakota if Iowa doesn't approve the
21 Iowa portion?

22 A. No one has told me that.

23 Q. Okay. Have you had any discussions with
24 Summit or anyone about the possibility of approval
25 happening in not all of the states in the Summit

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1 proposed footprint and how that would affect building
2 in the remainder of states?

3 A. I have had no discussions with them on
4 that.

5 Q. And is it your underlying claim that if the
6 Summit pipeline is constructed within the state of
7 Iowa that corn prices will be higher?

8 A. I believe they will be.

9 Q. Would you be surprised to learn that in
10 Summit's private placement memorandum, one of the risk
11 factors to Summit in its business model is high corn
12 prices?

13 MR. LEONARD: Object. Calls for
14 speculation.

15 Go ahead.

16 A. Would I be surprised?

17 BY MR. JORDE:

18 Q. Yes, if high corn prices are actually
19 adverse to Summit's business model.

20 A. No, I would not be.

21 Q. Now, are you arguing that Iowa corn farmers
22 are going to grow more corn to participate in selling
23 more corn at higher prices to ethanol plants that
24 allegedly will benefit from this pipeline?

25 A. No, I'm not saying that.

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1 Q. Okay. So we can agree that you're not
2 saying that the corn production in the state of Iowa
3 will increase if the pipeline is built? That's not a
4 conclusion you're drawing; is that correct?

5 A. That's correct. That's not a conclusion
6 I'm drawing.

7 Q. All right. And then just to summarize, you
8 walked through a bit of your current CI score, which
9 you had stated was 55.6, and I believe you had said --
10 correct me if I'm wrong -- that you have a firm or
11 consultants, Echo [sic] Engineers, who calculated that
12 score; is that right?

13 A. Yep, yes.

14 Q. And when did Pine Lake first start doing
15 business with Echo [sic] Engineers?

16 A. It's actually Eco.

17 Q. Eco. Pardon me.

18 A. Off and on through the years it seems like
19 we've used them for some various assessments of our
20 CI. They also work on cellulosic RINs. They also
21 work on California GREET modeling.

22 So I can't answer that. I'm going to say I
23 don't know. I'm not sure I know. It's been a while.

24 Q. For the CI work that EcoEngineers has been
25 doing for you recently, has Pine Lake been paying

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1 those bills, or has Summit been paying them?

2 A. No. I pay that bill. Pine Lake paid that
3 bill.

4 Q. What was it that led Pine Lake to first
5 contract with such a consultant about wanting to
6 understand more about your CI score?

7 A. The advent of the Inflation Reduction Act
8 using the National Argon Model, we wanted to
9 understand where we were at.

10 Q. So would you say their work on your CI
11 score started after the passing of the Inflation
12 Reduction Act?

13 A. That's correct.

14 Q. To summarize again, you have current
15 methods available to you and technologies available to
16 you, meaning Pine Lake, that can reduce the CI score
17 by 12 points; correct?

18 A. That's our projected estimates. You don't
19 actually know it until you actually -- I mean, you
20 have to measure the electricity and measure the gas,
21 turn in your gallons. It's a very regimented process,
22 but that is our estimate, yes.

23 Q. Well, I appreciate and understand they're
24 estimates, just like the 55.6. That's an estimate.

25 It could be lower, or it could be higher;

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1 correct?

2 A. They did use past history of my electrical
3 demand, my nitrogen demand and my nitro gas demand and
4 my production of ethanol and my production of PDG and
5 my production of cornmeal. So they used some history
6 that I had, because we've been in operation for a
7 while, to make that estimate. They did, yes.

8 It's an estimate, but they did use real
9 data to come up with that estimate.

10 Q. And then beyond the two methods that you're
11 already looking at that would be non-carbon pipeline
12 methods of reducing your CI score, are there other
13 methods, such as scrubbers, or any other technology
14 you're aware of that would help reduce your CI score
15 directly on-site?

16 A. None that I'm aware of that are -- No. I
17 mean, we're pursuing the ones that I know of and
18 understand and are familiar with.

19 Q. And did you say that it's your projection
20 that if you participate in the Summit Carbon pipeline
21 project that your CI score would go down to 30 or be
22 reduced by 30?

23 A. It would be reduced by 30.

24 Q. So if your projections are currently
25 showing a reduction of 12 points, you're saying it's

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1 your opinion that if you add the pipeline on top of
2 that, you would be reduced by another 18 to get a
3 total of a 30-point reduction?

4 A. No. I'm saying it would be the fifty --
5 I'm going to round it to 56. So if it stays at 56,
6 minus 12 will make us 44, minus 30 would make us 14.

7 Q. Have you done any analysis of the alleged
8 economic benefits to Pine Lake if your CI score is,
9 say, 30 versus 15, or have you done different analyses
10 depending on the CI score?

11 A. Well, the analysis that we've used, because
12 it's at least written down and it's material, is
13 the -- you know, the Investment Tax Credit that's in
14 the Inflation Reduction Act, that spells out 2 cents
15 per gallon per point, that's something that you can
16 say with some certainty is there to tell us what will
17 our ethanol bring because it's a lower-carbon fuel.

18 It's a little difficult -- In fact, we
19 don't want to use that because if Pine Lake is doing
20 things to improve, so is every other ethanol plant
21 trying to make themselves better. So to sit there and
22 say, "Oh, I'm going to get this because that's what
23 the marketplace is today," when you go two years down
24 the road and you have these projects in place and say,
25 "Oh, I'm no longer getting this because other plants

1 are doing these things as well," we try not to make
2 the assumption that we're going to automatically get
3 more ethanol price. So no, we have not done that.

4 Q. So the main cost of your business, aside
5 from labor costs, would be the costs you have to pay
6 for corn, nitrogen, electricity and natural gas?

7 A. It's corn, it's natural gas, and then it's
8 chemicals and then electricity. Labor is usually tied
9 for fifth.

10 Q. Okay. I appreciate that.

11 So the order which you just gave me those
12 are generally your largest input costs or costs of
13 running your business to, then, the least of the five
14 you mentioned?

15 A. Yeah, yeah.

16 Q. Let's see. So just like the ethanol price
17 is determined by the market, the price you can offer
18 to your corn suppliers is also based on a market
19 price; correct?

20 A. Yes.

21 Q. And, again, you would agree that that price
22 can fluctuate for a large variety of different reasons
23 and factors?

24 A. Yes.

25 Q. If this Summit pipeline that you're

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1 currently contracted with is not built, do you expect
2 farmers in your 24-mile radius to stop producing corn?

3 A. I -- I don't know. It's so hard to answer.
4 I don't know.

5 Q. If the pipeline's not built, do you expect
6 farmers in your 24-mile radius to stop selling you
7 corn?

8 A. Well, the real question -- I'm going to say
9 I don't know again. I don't know.

10 I know that the CO2 -- what I do know is
11 the CO2 sequestration incentives in the IRA are what
12 I've talked about here. It's going to end up being
13 60 cents a gallon. It's going to end up being \$1.80
14 per bushel, and those are numbers that can very
15 significantly affect our business to the tune of I
16 believe we will shut down.

17 Q. Your belief that you would shut down, is
18 that shared by anyone at Innovative Ag Services that
19 you know of?

20 A. Well, we -- we talked about it at the board
21 meeting, if that's what you mean, but Innovative Ag, I
22 don't know the conversations that go on at Innovative
23 Ag. I don't know that.

24 Q. And so prior to the Inflation Reduction Act
25 getting passed into law, were you a part of any

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1 discussions, either at the Pine Lake plant level or
2 related to Innovative Ag Services, where you were
3 projecting filing bankruptcy or closing this plant
4 down?

5 A. Oh, no.

6 Q. All right. And as far as you know, Pine
7 Lake is profitable for Innovative Ag Services?

8 A. Yes.

9 Q. Other than selling ethanol, are there any
10 other profit centers at Pine Lake?

11 A. So we sell ethanol. We sell DDG, and we
12 sell corn oil, and all of them are a factor in us
13 making money.

14 Q. Is the DDG sold back to farmers, or who are
15 the buyers of the DDG?

16 A. It's -- very few farmers, if any. The
17 primary buyers are feed mills in Iowa.

18 Q. Just to be clear, when you say "feed
19 mills," are you saying feedlots for cattle or feed
20 mills for other types of finished product?

21 A. So the DDG is a portion of what would go
22 into a finished hog ration or finished chicken ration.
23 A lot of the DDG goes to chickens as well.

24 Iowa is a major producer of eggs. I don't
25 know if you're familiar with that. A major producer

1 of eggs.

2 So the DDG gets sold to people that make
3 the rations for feed mills, so the feed mill will use
4 whatever they happen to have in their current ration
5 for the current size pig, type of chicken. So it goes
6 to the feed mills and is a part of the feed that they
7 will use.

8 Q. I'm sorry. That was a good explanation.

9 So it's ethanol, DDG, and what was the
10 third one?

11 A. Corn oil, corn oil.

12 Q. And is corn oil a byproduct of the ethanol
13 distillation process, or is corn oil something you
14 separately produce?

15 A. Corn oil is -- we extract it from the
16 stillies that's left over after you take the ethanol
17 out, and it looks like an oil. It has a reddish tint
18 to it, and it is used for the production of renewable
19 biodiesel by more than half of it, and then the other
20 half is used in animal feed.

21 Q. So anything other than those three products
22 that you sell for profit at the plant?

23 A. No. That's it. Just those three.

24 Q. Do you have an idea what your cost of
25 production is, what it costs you to produce one gallon

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1 of ethanol or one train load or however you want to
2 quantify it?

3 A. It varies based on price of corn because
4 that's our number-one cost by more than 80 percent of
5 our cost. I don't recall exactly, so I could give you
6 approximately \$3 a gallon to produce a gallon.

7 Then we look at everything on a per-gallon
8 rate. So if you sell ethanol for 2.40, and you sell
9 DDG at -- it gets you X dollars per ton but comes back
10 to 50 cents a gallon and you sell corn oil at 20 cents
11 a gallon, so you add that up, and that kind of roughly
12 gives you the numbers.

13 So it's roughly today approximately \$3 a
14 gallon to produce, but with that, you don't just get
15 ethanol. You also get DDG and corn oil, and that's
16 approximately -- that depends on the price of corn and
17 what it does today. It may -- It literally goes up
18 and down every day.

19 Q. Understood. Your profit and loss is,
20 obviously, highly dependent on the market price of
21 corn; right?

22 A. Yes, very much.

23 Q. And then approximately how many gallons do
24 you produce in any given year, if you're at full
25 capacity like you are now?

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1 A. We're running at 88 million gallons per
2 year, right there. Eighty-eight.

3 Q. I'm sorry. What are you right now selling?
4 What's your market price for a gallon of ethanol?

5 A. So corn went up 30 cents yesterday, and
6 ethanol went up 10 cents yesterday. So I think -- I
7 think it's 2.60, but I don't actually know that for a
8 certain. I believe it to be 2.60 per gallon.

9 Q. Okay.

10 A. By the way, I'm sure it's changed since
11 I've been sitting here.

12 Q. Well, yes. You could be making money or
13 losing money; right?

14 Sir, are you planning on testifying
15 in-person at the IUB hearings in this matter?

16 A. I have been asked to do that, and I'm going
17 to do that.

18 Q. All right. Very good.

19 And then for your transportation and any
20 hotels and any expenses related to that, do you have
21 an agreement for Summit to compensate you?

22 A. No.

23 Q. All right. Have they compensated you for
24 any of your time or any of your travel expenses to
25 date in this matter?

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1 A. They have not.

2 Q. All right. Very good.

3 MR. JORDE: Okay. I don't have anything
4 further, sir. Thank you.

5 MR. LEONARD: I don't have any questions.

6 MR. TAYLOR: I have some questions, but
7 should we take a break first and give the reporter a
8 rest?

9 MR. LEONARD: Yes. Let's take a short
10 break. Say, ten minutes.

11 Brian, I'm just going to leave you on
12 rather than mute you.

13 MR. JORDE: Sure. I appreciate it.

14 (Recess taken.)

15 FURTHER EXAMINATION

16 BY MR. TAYLOR:

17 Q. Are you familiar with the POET Ethanol
18 Company?

19 A. I know of them.

20 Q. It's my understanding -- maybe you can
21 correct me if I'm wrong -- that they are already
22 capturing their own carbon and sequestering it
23 somewhere or doing something with it, other than
24 putting it in a pipeline.

25 Is that your understanding?

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1 A. I don't know that.

2 Q. And how many plants does it have in Iowa,
3 if you know?

4 A. Largest number in Iowa of anyone, but
5 again, I don't know the exact number.

6 Q. I was thinking maybe seven. Does that
7 sound right?

8 A. I think it's going to be more than that
9 after they purchase the Flint Hills plants. So I
10 think it's going to be a little more than that now.

11 Q. I think when you were talking with
12 Mr. Jorde, you agreed -- as I took my notes anyway --
13 high corn prices are adverse to Summit's business
14 model.

15 Is that your recollection of what you said?

16 A. Yes.

17 Q. Okay. How is that the case?

18 A. Well, again, I'm not familiar with the
19 business model that they presented, and that was one
20 of the risks of the -- I believe you said the
21 prospectus they sent out or whatever. So I'm not
22 familiar with the logic that was put forward in that.

23 I'll just use simple logic. Our number-one
24 cost is corn. If corn goes too high and ethanol
25 doesn't sell for enough of a price, you have to shut

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1 down. So that puts that at risk.

2 Q. So it's a long-term thing and not an
3 immediate?

4 A. I don't know if it's long-term, short-term.
5 I don't know that.

6 Q. And as I recall your testimony, your
7 ethanol plant is at or near capacity right now?

8 A. Yes.

9 Q. So if there were a pipeline and you got
10 your 45Z tax credit, you really couldn't produce much
11 more ethanol anyway; correct?

12 A. Not with the current equipment I have, no.
13 I'm there.

14 Q. So are you saying you would expand your
15 operation?

16 A. It's no -- I have no way to predict what we
17 would do in the future because, you know, things
18 change. Things change each month on the focus you
19 have.

20 Am I going to sit here and say we're never
21 going to expand? No. Am I going to sit here and say
22 we're going to expand? No. Is there a possibility?
23 Yes.

24 Q. I think you said at one point that you were
25 looking at places that have CO2 pipelines right now.

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1 Do you recall that testimony?

2 A. Give me some context on that.

3 Q. You were talking about the effect of the
4 CO2 pipelines on businesses, and you said there were
5 places right now that have CO2 pipelines.

6 A. Oh --

7 MR. LEONARD: Objection. Misstates prior
8 testimony.

9 Go ahead.

10 A. I didn't say that. I said I thought there
11 was a plant sequestering CO2 in North Dakota. I said
12 "I think." I don't know that to be a fact.

13 BY MR. TAYLOR:

14 Q. Do you know of any places anywhere in the
15 country where ethanol plants right now, other than
16 that one in North Dakota, perhaps, are capturing
17 carbon and putting it in a pipeline?

18 A. Not that I know of.

19 Q. Given what you told Ms. Gruenhagen, that
20 Iowa is the epicenter of the ethanol industry because
21 we have the most corn here, it's available, it's
22 handy, less expensive because we aren't transporting
23 it, don't you think that the ethanol industry is going
24 to stay in Iowa because of those factors no matter
25 what?

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1 A. No.

2 Q. Why not?

3 A. The incentive of \$1.80 per bushel will
4 outweigh that.

5 Q. But that would assume that there would be
6 carbon capture and pipelines in these other states
7 around Iowa; correct?

8 A. Yes.

9 Q. Okay. Do you think there are enough
10 ethanol facilities in those other states around Iowa
11 that it would support a pipeline like Summit's?

12 MR. LEONARD: Objection. Calls for
13 speculation.

14 Go ahead.

15 A. I have no idea. I have no idea.

16 BY MR. TAYLOR:

17 Q. Would you agree that, as you understand
18 Summit's proposal, the primary part of the pipeline,
19 the major part of the pipeline is in Iowa because
20 that's where the ethanol plants are?

21 A. I --

22 MR. LEONARD: Same objection.

23 Go ahead.

24 A. I can't speak for Summit. I'm not -- I
25 wouldn't know -- I can't speak for them, so I guess

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1 I'm not -- I feel like I can't answer that question.

2 BY MR. TAYLOR:

3 Q. I guess what I was asking is: Based on
4 your knowledge of the Summit project, is it correct
5 that the main part of the project is in Iowa?

6 A. I can look at the map like you can.

7 Q. Okay. Would you agree? That doesn't show
8 the other states, though, does it?

9 A. I know. It doesn't. I guess I don't know.

10 MR. TAYLOR: Okay. That's all I have.

11 Thanks.

12 MR. WHIPPLE: I just have a couple more
13 questions for you.

14 FURTHER EXAMINATION

15 BY MR. WHIPPLE:

16 Q. Have you looked at any other method of
17 sequestering carbon, or have you only looked at a
18 pipeline project?

19 A. I don't know of any other technologies that
20 are viable and operational today, so I haven't looked
21 at any because I don't know of any that are viable.

22 Q. Okay. And so based on your knowledge of
23 other ethanol plants and the same technologies
24 available to them as to you, there aren't a lot of
25 options for sequestering carbon, are there, other than

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1 a project like this? Would you agree?

2 A. I believe so.

3 Q. And so there would be no way to sequester
4 carbon in other states without pipelines in those
5 other states; correct?

6 MR. LEONARD: Objection. Calls for
7 speculation.

8 Go ahead.

9 A. I don't know. Plants that can sequester
10 CO2 will have an advantage, as outlined in the IRA.

11 BY MR. WHIPPLE:

12 Q. Sure. How would they sequester it without
13 a pipeline?

14 MR. LEONARD: Same objection.

15 Go ahead.

16 A. Possibly eject it themselves.

17 BY MR. WHIPPLE:

18 Q. Where would they eject it?

19 MR. LEONARD: Objection.

20 Go ahead.

21 A. I don't know. I'm speculating again, so I
22 don't know.

23 BY MR. WHIPPLE:

24 Q. I want to pull this apart, because in your
25 testimony you're saying you'll go out of business

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1 without \$1.80 per bushel; correct?

2 A. What I'm saying is if ethanol plants are
3 getting \$1.80, for example, in South Dakota,
4 North Dakota, Nebraska and Minnesota and we're not,
5 the Iowa ethanol business will crater. That's what
6 I'm saying.

7 Q. Okay. And the pathway to that \$1.80 is
8 through sequestration of carbon; right?

9 A. Correct.

10 Q. Okay. Just trying to be real clear about
11 these logical steps; right?

12 A. Right.

13 Q. You testified a moment ago, I think -- and
14 I just want to make sure there's no confusion on it --
15 that at your facility you haven't been able to
16 identify any other ways to do that except for the
17 pipeline; right?

18 A. Correct.

19 Q. And you also testified that you thought
20 other plants basically have the same basic choice and
21 technology that you do; right?

22 A. Yes, that's what I believe. Yes.

23 Q. Okay. So I'm just saying: It stands to
24 reason that everyone needs a pipeline to do the
25 sequestration?

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1 MR. LEONARD: Object to form.

2 Go ahead.

3 BY MR. WHIPPLE:

4 Q. Would you agree? That is the question.

5 A. I think I could come to the summary that
6 most companies would need a pipeline with these kinds
7 of incentives.

8 Q. So I'm just wondering: If the pipeline
9 isn't built in Iowa, who gets that \$1.80 a bushel?
10 What other states would grab it, if the pipeline
11 projects aren't built?

12 In your view, do you think Iowa will be in
13 the same competitive position if there are no pipeline
14 projects?

15 A. If there are none?

16 Q. Yes. Say they all fail. The regulators
17 don't approve them for whatever reason. The pipeline
18 projects don't get built.

19 Is anyone able to identify a pathway to
20 that \$1.80 per bushel without pipelines?

21 MR. LEONARD: Objection. Calls for
22 speculation.

23 Go ahead.

24 A. I'm not sure.

25 MR. WHIPPLE: Okay. That's all I have.

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1 MS. GRUENHAGEN: Just one thing I wanted to
2 clarify.

3 FURTHER EXAMINATION

4 BY MS. GRUENHAGEN:

5 Q. So you're CEO of Pine Lake Corn Processors;
6 is that correct?

7 A. Yes.

8 Q. Okay. The acronym PLCP, is that used?

9 A. So we do business as Pine Lake Corn
10 Processors. Our technical name is PLPC, LLLP.

11 We do business as Pine Lake Corn
12 Processors. That is what we call ourselves. The
13 technology is PLPC, LLLP.

14 Q. So that's your legal name with the acronym,
15 and then you do business as Pine Lake Corn Processors?

16 A. Correct.

17 MS. GRUENHAGEN: Okay. Thank you. That
18 was all I had.

19 MR. LEONARD: Brian, do you have any other
20 questions?

21 MR. JORDE: Just a couple.

22 FURTHER EXAMINATION

23 BY MR. JORDE:

24 Q. So, sir, are you saying if this Summit
25 pipeline is built and your company, plant hooks up to

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1 it that that will expand new markets that you can sell
2 into, or is your profit motive here simply the 45Z tax
3 credit?

4 A. Well, here's what I can tell you. The
5 marketplace has been rewarding ethanol that has
6 low-carbon intensity in California. So the
7 marketplace has been rewarding low-carbon intensive
8 fuels.

9 I cannot sit here and make any kind of
10 prediction or speculation or understanding of what
11 that will be in the future. I'm just saying today it
12 does, and in the past it has. How much that's going
13 to be, I don't know.

14 Q. What's your general understanding of what
15 happens to price when supply increases?

16 A. Price goes down.

17 Q. All right. So if these marketplaces that
18 are currently rewarding low-carbon intensity fuels are
19 easier to access by not only Pine Lake but 30 or 40
20 other ethanol plants in the Midwest, wouldn't you
21 suspect the price of ethanol they're paying would go
22 down?

23 A. It's not exactly how I would phrase it, but
24 what I would say is this way the premium at which
25 they're willing to pay for a lower-carbon intensity

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1 fuel will go down. Okay?

2 So if you have 15 billion gallons of
3 ethanol and the marketplace is for 1 billion gallons
4 of low CI, if you make that CI portion 5 billion
5 gallons, the premium for that low CI will -- I mean,
6 right, that's economics. More supply and prices go
7 down; more supply than demand, prices go down.

8 So it would make initially low-carbon fuels
9 less premium.

10 MR. JORDE: Thank you. Nothing further.

11 MR. LEONARD: I don't have any questions.

12 MR. TAYLOR: Thank you.

13 (Deposition concluded at 11:27 a.m.)

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1 C E R T I F I C A T E

2 I, the undersigned, a Certified Shorthand
3 Reporter of the State of Iowa, do hereby certify that
4 there came before me, at the time, date, and place
5 hereinbefore indicated, the witness named on the
6 caption sheet hereof who was by me duly sworn to
7 testify to the truth of said witness's knowledge, that
8 the witness was thereupon examined under oath, the
9 examination taken down by me in shorthand and later
10 reduced to a transcript through the use of a
11 computer-aided transcript device under my supervision
12 and direction, and that the deposition is a true
13 record of the testimony given and of all objections
14 interposed.

15 I further certify that I am neither
16 attorney or counsel for, nor related to or employed by
17 any of the parties to the action in which this
18 deposition is taken, and further that I am not a
19 relative or employee of any attorney or counsel
20 employed by the parties hereto, or financially
21 interested in the action.

22 Dated this 3rd day of July, 2023.

23 
24 CERTIFIED SHORTHAND REPORTER
25 Darcy Kriens, Iowa CSR #988

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