

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE: :  
SUMMIT CARBON SOLUTIONS, LLC, : Docket No. HLP-2021-0001  
- - - - -X

Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa  
Tuesday, June 6, 2023

Met, pursuant to order, at 10 a.m.

BEFORE: THE IOWA UTILITIES BOARD

ERIK M. HELLAND, Chairperson (Presiding)  
JOSHUA J. BYRNES, Board Member  
SARAH M. MARTZ, Board Member

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P R O C E E D I N G S

CHAIRPERSON HELLAND: Go ahead and get started on the status conference for HLP-2021-0001, Summit Carbon Solutions, LLC.

I am Board Chair Erik Helland. With me today are Board Members Josh Byrnes and Sarah Martz.

On May 19th, 2023, the Board issued an order setting a partial procedural schedule requiring filing and granting of interventions. The order set the status conference as part of the partial procedural schedule.

Also included in the May 19 order was a proposal about potentially using mediators to assist voluntary landowners with the easement negotiation process. The Board stated it was exploring this idea and would seek input from the parties at this meeting.

Before getting into our discussion, I will take appearances.

For Summit Carbon?

MR. DUBLINSKE: Thank you, Your Honor. Appearing for Summit Carbon, Bret Dublinske of the law firm of Fredrikson & Byron, and Jess Vilsack, the general counsel of Summit Carbon Solutions.

CHAIRPERSON HELLAND: Office of Consumer

1 Advocate?

2 MR. ZIEMAN: Consumer Advocate Lanny Zieman.  
3 With me is John Long.

4 CHAIRPERSON HELLAND: Farm Bureau?

5 MS. GRUENHAGEN: Christina Gruenhagen with  
6 Wickham and Geadelmann, and also with me is David  
7 Meyers.

8 CHAIRPERSON HELLAND: Thank you.

9 Shelby, Kossuth, Emmet, Dickinson, and  
10 Wright Counties Board of Supervisors.

11 MR. WHIPPLE: It's crowded at this table,  
12 Your Honor, with all these counties. Tim Whipple for  
13 all seven of those counties.

14 CHAIRPERSON HELLAND: Thank you.

15 Sierra Club?

16 MR. TAYLOR: Wallace Taylor, Your Honor.

17 CHAIRPERSON HELLAND: Thank you.

18 For the Jorde landowners?

19 MR. WILLIAMS: Good morning. Christian  
20 Williams of Domina Law Group.

21 CHAIRPERSON HELLAND: Thank you.

22 And who appears for--I'm going to blow this  
23 up--LSCP, LLC, and PLCP, LLLP?

24 MR. WHITE: Attorney Patrick White from  
25 Schultheis White, LLC.

1 CHAIRPERSON HELLAND: Thank you. And just  
2 for my sake, can you enlighten us on the acronyms?

3 MR. WHITE: Yes, sir, Your Honor. Little  
4 Sioux Corn Processors and Pine Lake Corn Processors.

5 CHAIRPERSON HELLAND: Thank you. It's not  
6 written here in front of me so I appreciate that.

7 Iowans for a Growing Agricultural Economy?

8 MR. OSTERGREN: Good morning. Alan  
9 Ostergren.

10 CHAIRPERSON HELLAND: Thank you.

11 And do we have anyone here for Mary Moser,  
12 Jamie Moser, and Carmen Moser?

13 (No response.)

14 CHAIRPERSON HELLAND: No? Okay. And Great  
15 Plains Laborers District?

16 (No response.)

17 CHAIRPERSON HELLAND: Okay. Do we have  
18 anyone else here that I have missed that we need to  
19 name?

20 (No response.)

21 CHAIRPERSON HELLAND: All right. In the May  
22 19, 2023, order the Board proposed an idea of the  
23 Board hiring third-party mediators to assist  
24 landowners with the easement negotiation process if  
25 the landowners desired. We want to clarify this

1 service would be completely voluntary on an  
2 individual basis and would be offered free of charge  
3 to the landowners who elect to do it.

4 I might also offer and add--and, Jon, please  
5 step in if I misstate this--costs for this process  
6 are not attributed back to taxpayers. Costs are  
7 ultimately attributed back through the Board on an  
8 hourly basis to the utility. This will not cost the  
9 taxpayers or come from the General Assembly. We, as  
10 a Board, do not receive a general appropriation from  
11 the General Assembly.

12 In addition, the order also proposed the  
13 idea of using presiding officers to hear the evidence  
14 regarding Exhibit H, but then having the whole Board  
15 review the entire record and issue a decision based  
16 on the record as a whole.

17 Having a hearing which lasts six, eight, or  
18 ten-plus weeks places a burden on everyone involved.  
19 And I might also note, when we say everyone, we mean  
20 the thousands that aren't here. I understand some of  
21 us have the time to come and some of us are paid to  
22 come. There are thousands of Iowans out there that  
23 aren't here today but also must be considered and  
24 must also be considered when we seek a way to allow  
25 them to participate.

1           Creating more alternatives available, the  
2 gathering of evidence, the Board making the ultimate  
3 decision, can reduce the overall burden and can allow  
4 for a more efficient and less time-consuming process  
5 while at the same time facilitating greater landowner  
6 access through a timely proceeding that is open,  
7 orderly, and fair.

8           I would elaborate just a little bit on the  
9 mediation before we open this up. The mediation  
10 would be a flat fee for a facilitated mediation. So  
11 for those of you who have not participated in  
12 mediation before, and in a facilitated mediation  
13 there is no evaluation whatsoever of the position.  
14 They are simply there to help frame questions from  
15 both sides. They are 100 percent neutral and they  
16 would not be paid on the outcome. They would solely  
17 be paid for a fixed time, no matter how long it took,  
18 and the time would be capped probably at two to three  
19 hours, whatever it may be. If it doesn't settle,  
20 they proceed to hearing. It is simply an opportunity  
21 for the hundreds of landowners to have a neutral  
22 playing ground, if they would like it. They in no  
23 way need to have it.

24           Okay. With that clarification, we would  
25 like some input on the issues and we will discuss



1 them in turn.

2 Do we have an order we prefer? Okay.

3 MR. TACK: No. I would suggest probably  
4 just the order of appearances would make the most  
5 sense.

6 CHAIRPERSON HELLAND: Mr. Dublinske, that  
7 puts you first.

8 MR. DUBLINSKE: Thank you, Your Honor, and  
9 there were several issues there and I know that that  
10 partial scheduling order and the discussion of this  
11 status conference had also stated that parties should  
12 alert the Board if there were issues that they wanted  
13 for the agenda and we had submitted that we do want  
14 to take up the rest of the agenda--the rest of the  
15 schedule, since the schedule that was issued was  
16 partial, and hopefully there will be an opportunity  
17 to come back to that issue in a bit. But I wanted to  
18 raise that because it's relevant to, I think, our  
19 position on both the mediations and on the use of  
20 presiding officers.

21 So let me start by saying that Summit  
22 appreciates the Board's willingness to look at this  
23 with fresh eyes, willingness to think outside the box  
24 and to consider creative ways to try and effectively  
25 and efficiently move the docket forward. In the end

1 that is ultimately our objective, as I'll talk more  
2 about later as--the efficiency of the schedule at  
3 large.

4           With regard to mediations specifically, we  
5 have no position for or against. It obviously is a  
6 bit of an experiment that hasn't been done in prior  
7 proceedings. If the Board believes that that is a  
8 worthwhile endeavor and the Board believes that that  
9 will be helpful, we are certainly happy to  
10 participate and, you know, to make ourselves  
11 available as necessary for those.

12           On the presiding officer and it splitting up  
13 and taking whether it's satellite or other means to  
14 take testimony from individual landowners, that we do  
15 think is a good idea. We think that will be much  
16 more effective, much more efficient. My only concern  
17 is that there is some nuance to what we call the  
18 person that takes that testimony. I don't know that  
19 it is necessarily more efficient if it ends up being  
20 a presiding officer because normally that implies  
21 that there will be some sort of a Report &  
22 Recommendation, or what have you.

23           Obviously there are many times that there is  
24 less than the full Board present for parts of  
25 testimony, particularly in long hearings where Board

1 Members have other conflicts. It may be as simple as  
2 just saying, you know, we're going to have one or two  
3 Board Members taking that information.

4           And I do think with regard to, you know,  
5 facts regarding specific parcels, obviously those  
6 parcels aren't likely to change a lot and I think  
7 most of those landowners are pretty well-versed in  
8 what their positions are. And at that--and I know  
9 the Board traditionally has used a bit of a script  
10 with individual landowners, you know, what are the  
11 features of your property, do you have other  
12 utilities on your property, those sorts of things.  
13 Again, that script is relatively well-known from  
14 prior dockets and there's no reason that that process  
15 couldn't start literally almost anytime.

16           So we would favor that but we take no  
17 position on mediation other than, you know, whatever  
18 the Board believes is appropriate, we will support  
19 and participate in.

20           And if I've missed any of your questions,  
21 let me know.

22           CHAIRPERSON HELLAND: I don't believe any of  
23 the direct questions. Do you want to expand on the  
24 other--

25           MR. DUBLINSKE: On the schedule--the broader

1 schedule issue? Sure. If we want to get everything  
2 out on the table right upfront, I'm happy to do that.

3 Again, we are pleased that the Board was  
4 willing to take a fresh look and we understand that  
5 that necessitated putting out a partial schedule for  
6 now. Summit does believe that it is important to  
7 build the rest of that schedule out as soon as  
8 possible, that more notice, frankly, is better for  
9 everybody, we think, whether you're for the project,  
10 against the project. Knowing what is happening and  
11 when is beneficial.

12 We know that this will be tight but we would  
13 ask that the schedule resolve this docket by the end  
14 of the year. We think that that would be roughly two  
15 years from when it was filed, which is much longer  
16 than most Board cases.

17 We think that, you know, Iowa was the first  
18 state in which an application was filed. Even with  
19 an end-of-the-year schedule, Iowa will still likely  
20 be the last state to issue an order and I think that  
21 is not the look that Iowa wants in terms of signals  
22 to the investment community about how processes move  
23 in Iowa for investments for large projects, that  
24 other states can move those and get to resolution  
25 quite a bit faster. North Dakota has already

1 completed its hearing and we expect that South  
2 Dakota's order will be out prior to Iowa's.

3           The other thing about the end of the year,  
4 and we talk a lot about farmers, there's been a lot  
5 of talk in the docket, a lot of comments in the  
6 docket about farmers and growing seasons and what  
7 have you. And the first thing I would remind the  
8 Board is that we are at 70 percent voluntary  
9 acquisition right now in Iowa and that majority of  
10 landowners and farmers on the route also have  
11 legitimate interests in this case. And I don't mean  
12 to downplay the objectors, but I think it's easy to  
13 forget that they are not the majority, that the  
14 majority, 70 percent, have signed voluntary  
15 easements. That is getting very close to where  
16 Dakota Access was at the time of its hearing.

17           And for farmers, if we can get a ruling by  
18 the end of the year, that gives us a real--a very  
19 good shot of being able to complete the construction  
20 in a single growing season. It avoids winter  
21 construction the next winter, at least gives the best  
22 shot of that, it avoids having this span over two  
23 different farm seasons, if you will, two cycles which  
24 is, again, beneficial for farmers whether or not you  
25 support the project, whether you oppose the project.

1 And, you know, for farmers the ability to plan and  
2 know when we're going to be out there, so to be able  
3 to rough out a schedule, work with us on timing, is  
4 beneficial as well.

5 And, again, that's what serves that 70  
6 percent of voluntary. We don't expect them to admit  
7 it, but we think that also serves, frankly, the 30  
8 percent that are not currently voluntary and we hope  
9 to keep getting that number favoring the voluntary  
10 more and more all the time.

11 But the ability to get this done in a single  
12 growing season would be very beneficial if we want to  
13 talk about what's good for farmers, and that would  
14 require getting a ruling by the end of the year.

15 Finally, obviously we've started to put  
16 evidence in the record of economic benefits and  
17 environmental benefits. The nature of those is that  
18 the sooner Iowa gets those, the better. That's  
19 generally the case with benefits.

20 And so this case has gone on very long,  
21 there was some commentary this morning about, you  
22 know, we should do things just like DAPL. That would  
23 have been great. DAPL took 14 months from filing to  
24 order.

25 The issues are not that new. There are tens

1 of thousands of miles of pipeline in Iowa. The law  
2 is the same for carbon dioxide as it is for DAPL, and  
3 so this is something that has been refreshed on a  
4 large project relatively recently.

5 We think that the two-year timeline,  
6 roughly, the end of the year represents should be  
7 adequate and we would ask the Board to consider that,  
8 to adopt that, and, again, I think that framework  
9 also sort of goes along with, look, it may be that  
10 one good way to get there is having--is splitting the  
11 Board up to take landowner information, it may be the  
12 mediations. If the Board thinks that is more  
13 efficient, we're happy to try it.

14 I also think some things that could speed  
15 things up and help make that more possible, right now  
16 the schedule contemplates what's called  
17 cross-rebuttal, which is relatively rarely used. It  
18 is not--certainly not a feature of every case. We  
19 think that in this case what matters really is  
20 Summit's application. People can be for it, we know  
21 that there are some people that are against it, but  
22 that's what the cross and the rebuttal need to be  
23 directed at, that the cross-rebuttal among  
24 nonapplicants is not an efficient use of time.

25 You know, we also think that efficient and

1 sort of brisk spacing between deadlines, you know--  
2 already in the deadline the intervenors get an ample  
3 amount of time for their testimony. In most cases in  
4 front of the Board it's about 30 days. Here it's  
5 close to two months. And we're not suggesting  
6 necessarily that change, but we're saying that, you  
7 know, that's an example of a pretty generous  
8 deadline. The Board, in a lot of cases, has been  
9 shortening the periods for briefs, for reply rounds  
10 of testimony. We think that that would be  
11 appropriate here. Again, I don't think that the  
12 issues are particularly mysterious at this point.

13           So, again, we think there's a lot of value  
14 to a lot of people in getting this wrapped up. We  
15 think two years is ample and we would ask the Board  
16 to consider a schedule that roughly fits that  
17 parameter and that, you know, the other things with  
18 regard to mediation and splitting up to take Exhibit  
19 H testimony, to the extent that they facilitate that,  
20 we're supportive.

21           BOARD MEMBER BYRNES: One quick question.

22           CHAIRPERSON HELLAND: Thank you. Board  
23 Member Byrnes has a question and I believe chief  
24 counsel has a question, too.

25           BOARD MEMBER BYRNES: Just a quick recap.



1 So South Dakota status?

2 MR. DUBLINSKE: South Dakota hearing is set  
3 for mid-September, yeah, and their order will be due  
4 by operation of law by November 15th.

5 BOARD MEMBER BYRNES: And you said North  
6 Dakota's already had the hearing?

7 MR. DUBLINSKE: North Dakota hearing wrapped  
8 up on June 2nd.

9 BOARD MEMBER BYRNES: And then I know  
10 there's a little bit that goes through Minnesota.  
11 What's the status in Minnesota?

12 MR. DUBLINSKE: So Minnesota and Nebraska  
13 have processes that are sort of apples to oranges.  
14 With the--so the three that are similar are Iowa and  
15 the two Dakotas. Minnesota and Nebraska are  
16 difficult to sort of compare because it's just a very  
17 different process.

18 CHAIRPERSON HELLAND: Mr. Tack, did you have  
19 a question or comment?

20 MR. TACK: Well, I just had something I  
21 wanted to clarify and the Board can certainly correct  
22 me if I misstate it. But on the issue of having a  
23 Board Member conduct the evidentiary hearing, I  
24 believe what the proposal is is not to appoint a  
25 presiding officer, similar to an administrative law

1 judge that would issue their own independent decision  
2 for review--potential review by the Board, it would  
3 be to have a Board Member conduct the evidentiary  
4 hearing and then create the record for all three  
5 Board Members to review in its entirety and make one  
6 decision together as a Board.

7 So in regard to comments from the parties,  
8 as I understand it, that's what the proposal would  
9 be.

10 MR. DUBLINSKE: And I appreciate that  
11 clarification and I was mainly just noting, sir, that  
12 the semantics here can make a difference because  
13 presiding officer implies certain things, you know,  
14 whether it's a hearing officer or whether it's an  
15 individual Board Member, you know, and then you build  
16 that record that everyone can either, you know, watch  
17 remotely or read the transcript, or what have you.  
18 That is, to my mind, a little different than a  
19 presiding officer.

20 So I appreciate the clarification, I just  
21 mainly wanted to make sure we were all on the same  
22 page. The latter of those, the hearing officer or  
23 the individual Board Member, add some efficiencies.  
24 I think it's less clear that a traditional presiding  
25 officer arrangement would.

1           CHAIRPERSON HELLAND: Okay. Anything else,  
2 Mr. Dublinske?

3           MR. DUBLINSKE: Not at this time, Your  
4 Honor.

5           CHAIRPERSON HELLAND: Thank you.

6           All right. Consumer Advocate Ziemann?

7           MR. ZIEMAN: Good morning, Your Honor.  
8 First of all, for the mediation aspect of the order,  
9 OCA doesn't oppose it nor support it as long as the  
10 process is purely voluntary as represented. And we  
11 do not intend to participate in that process.

12           The second area was kind of about the fact  
13 finder in this case. OCA's preference would be that  
14 the fact finder be the full board or an ALJ that  
15 hears the whole case and then makes a recommendation  
16 to the Board, and that would be all aspects of the  
17 case.

18           We support the satellite locations for  
19 remote participation.

20           And then as to the broader procedural  
21 schedule, we don't have an objection to it as it's  
22 currently drafted. We would share--our preference  
23 would be that the main part of the hearing not be in  
24 the prime part of the harvest, but that would just be  
25 a preference.

1           That's all from OCA.

2           CHAIRPERSON HELLAND: So just to clarify on  
3 the hearing officer component, you would prefer  
4 either the whole Board or a designated ALJ, not an  
5 individual Board Member?

6           MR. ZIEMAN: That's correct.

7           CHAIRPERSON HELLAND: Okay. Okay. Thank  
8 you. And mute my mic if I'm getting out over my  
9 skis, Jon--he gets nervous when I say that. You  
10 know, when we discuss a voluntary mediation program,  
11 in our mind, you know, because obviously, you know,  
12 we can't discuss, you know, outside the presence of  
13 other parties, I don't think there's a logical role  
14 for OCA as a party to the case as a whole. I mean,  
15 we certainly--internally we're not opposed, we just  
16 didn't see--because realistically there's just  
17 probably not a role in that mediation, correct,  
18 between two other parties?

19          MR. ZIEMAN: Correct.

20          CHAIRPERSON HELLAND: Okay. Thank you.  
21 Anything else to add?

22          MR. ZIEMAN: Nope.

23          CHAIRPERSON HELLAND: Thank you. Any  
24 questions from the Board?

25          (No response.)

1 CHAIRPERSON HELLAND: All right. And Farm  
2 Bureau?

3 MS. GRUENHAGEN: Thank you, Your Honor, and  
4 I'll just go through the, I guess, the list and where  
5 we are at on those.

6 CHAIRPERSON HELLAND: Sure.

7 MS. GRUENHAGEN: With the mediation, as long  
8 as it's voluntary and there is no solicitation of  
9 landowners for the mediation, we have no objection  
10 to--to utilizing mediation as an option for  
11 landowners, if that's something that they would like  
12 to do.

13 We don't, you know, with the public comment  
14 this morning and things, while there are some people  
15 that have hardened their positions, we're not in the  
16 position to say that all of the landowners for the  
17 thousand parcels here, that they all have hardened  
18 their positions and that they're not willing to  
19 negotiate. So, therefore, we would not object to  
20 that being an option for landowners.

21 Regarding the presiding officer/ALJ process,  
22 it is Farm Bureau's position that all three Board  
23 Members hear the testimony for the integrity of this  
24 process. I think it's very important that the  
25 landowners feel like they're being heard by the

1 decision makers in it because you've heard--just from  
2 the public relations standpoint and also from  
3 gathering the evidence, hearing evidence in person is  
4 a lot different than getting notes from somebody or  
5 hearing from somebody in past--past experience in  
6 going to hearings.

7           And so we would support the full--the full  
8 Board as the decision making--decision maker hearing  
9 all of the evidence with that.

10           Regarding the satellite locations  
11 themselves, we do support livestreaming the  
12 proceedings. The collecting remote testimony  
13 probably is not optimal for the landowners that wish  
14 to testify to the Board, but if it's provided as an  
15 option and it's what works the best for a landowner,  
16 we would not object to that either.

17           And then I think we got into the schedule a  
18 little bit. Would you like me to address that as  
19 well?

20           CHAIRPERSON HELLAND: Sure.

21           MS. GRUENHAGEN: Okay. So back in--there's  
22 been several filings regarding the schedule and the  
23 hearing date in the past. And so I'll just kind of  
24 summarize where we have been on that.

25           We would like to avoid the busiest time of

1 the year for farmers, even though as Summit relates,  
2 70 percent have been--have voluntarily signed an  
3 easement, that 30 percent is still over a thousand  
4 parcels. And so you have hundreds of landowners that  
5 are still involved.

6 90 percent of this project goes over  
7 agricultural land. It is the largest project that  
8 this Board has considered, I believe, historically.  
9 And so looking at accelerating things, it's not  
10 something that needs to be done. It needs to be done  
11 properly and I think the Board indicated that this  
12 morning in the meeting.

13 So as we filed in--back in December, the two  
14 prime months--October is the busiest time for  
15 harvest. Whether it is an early harvest or a late  
16 harvest, that is--that is the busiest month and that  
17 is the month that was previously set for the hearing  
18 date. And so we would prefer not having the hearing  
19 in October.

20 And then in planting time, May is the  
21 busiest month. And so if the Board can--understanding,  
22 because of the length of the hearing, and things,  
23 that you can't avoid the entire season, of course,  
24 but if the Board can avoid May and October, because  
25 those are the very busiest months for the people that

1 are going to be impacted by this pipeline in the  
2 proceeding.

3 Is there anything else that I haven't--

4 CHAIRPERSON HELLAND: Board Members, do you  
5 have a question?

6 BOARD MEMBER BYRNES: No.

7 CHAIRPERSON HELLAND: I guess my only  
8 question, and if anyone has the answer readily, what  
9 I would be interested to know, you know, we talk a  
10 thousand parcels. Do we know the exact or a close  
11 percentage how many are being operated by the  
12 landowner in an agricultural capacity? So we have a  
13 thousand and 800--or 80 percent are tillable, what  
14 percent are being operated? How many--what we have  
15 to try to balance as a Board is the hundreds, if not  
16 thousands of Iowans that aren't here and the stress  
17 that manifests on them, as well, as this process  
18 continues.

19 I come from a family farm myself. We in no  
20 way want to displace anyone. But we also need to  
21 understand how many we really are displacing to make  
22 an appropriate decision.

23 So does anybody have--

24 MS. GRUENHAGEN: Well, all of the farms are  
25 being operated. And so whether they're a farm tenant



1 or an owner, they are--that farm is still being  
2 operated and they are still affected persons in this  
3 proceeding.

4 CHAIRPERSON HELLAND: But we don't know how  
5 many are being operated by the landowner?

6 MS. GRUENHAGEN: We're still working through  
7 the Exhibit Hs. Perhaps Summit would know because  
8 they keep being revised and refiled, and so we're  
9 still working through that process.

10 CHAIRPERSON HELLAND: Okay. Just curious.  
11 Thank you.

12 Do you have anything else? Thank you.

13 MS. GRUENHAGEN: Not unless you have  
14 questions.

15 CHAIRPERSON HELLAND: I don't.

16 MS. GRUENHAGEN: Thank you.

17 CHAIRPERSON HELLAND: All right. Shelby,  
18 Kossuth, Emmet, Dickinson, Wright Board of  
19 Supervisors. Mr. Whipple?

20 MR. WHIPPLE: Thank you, Your Honor. Like  
21 the others, I'll try to go down in the order of your  
22 questions and if I don't get to anything, please ask  
23 our opinion.

24 As far as the mediations, our comments in  
25 the motion for reconsideration addressed our position

1 on that. We're not necessarily opposed to parties  
2 working out disputes. I'm not necessarily saying  
3 it's a bad idea, but we do think the statutory  
4 framework in 479B doesn't really address it or  
5 address your authority over voluntary easements. And  
6 so we think it would just be better to stick with a  
7 traditional contested case hearing, grant of eminent  
8 domain type process.

9 That being said, we're not a direct party to  
10 those negotiations. Those are our thoughts, but  
11 we're not going to participate in any way, wouldn't  
12 have a role.

13 As far as presiding officers, we really  
14 support the appointment of a presiding officer. In  
15 fact, we prefer it be a traditional ALJ. We think  
16 the ALJ process would be beneficial in terms of  
17 hearing evidence, making rulings, and even producing  
18 a proposed decision. And so we do not oppose in any  
19 way the use of an ALJ.

20 CHAIRPERSON HELLAND: For the entire  
21 proceeding, not--

22 MR. WHIPPLE: Correct.

23 CHAIRPERSON HELLAND: Okay.

24 MR. WHIPPLE: We think the ALJ would be a  
25 good process. The Board's attention and bandwidth is

1 drawn to many cases. There will be a lot of evidence  
2 and testimony to sift through and someone dedicated  
3 to it is a process we would support.

4 Satellite testimony, we're not opposed to  
5 that. We think that could be beneficial and support  
6 that.

7 On the broader schedule--now, the counties  
8 asked for reconsideration in March and were mooted  
9 out earlier in this process. And after the May 19th  
10 order came out, we promptly renewed our motions for  
11 reconsideration.

12 In our view, and most of this case has been  
13 made by the Sierra Club, but we support it, the time  
14 is tight between the filing of Summit's testimony and  
15 when Intervenor testimony would be due and we think  
16 more time would be useful to litigate the case and  
17 are sensitive to the demands of landowners who don't  
18 want it at the busiest time of the year.

19 So we would support moving it to May 2024,  
20 but if that's not acceptable, maybe January 2024 in  
21 order to provide some additional time for depositions  
22 and interrogatories, which we're now exchanging based  
23 on the direct testimony that's been filed. We think  
24 it would be helpful to have more time.

25 Thank you.

1 CHAIRPERSON HELLAND: Thank you. Anything  
2 else, Mr. Whipple?

3 MR. WHIPPLE: Unless I missed something.

4 CHAIRPERSON HELLAND: I don't think so.  
5 Questions?

6 (No response.)

7 CHAIRPERSON HELLAND: No? Okay.

8 Mr. Taylor, Sierra Club.

9 MR. TAYLOR: Thank you. First of all, with  
10 respect to the schedule, we have asked since the very  
11 beginning of the Board's efforts to find a schedule,  
12 that we need sufficient time between the filing of  
13 Summit's direct testimony and the filing of  
14 Intervenors' direct testimony.

15 You've heard it said, and I think it is  
16 true, this is an unprecedented case for Iowa. This  
17 is a massive project, there's a lot of issues that we  
18 haven't seen before, and it's going to take some time  
19 to dig through that, to do discovery.

20 Summit has 11 witnesses that they have  
21 submitted testimony from. We--by "we" I mean all of  
22 the Intervenors--propose to take depositions of those  
23 witnesses and that will take time to schedule those,  
24 to schedule the court reporter, get transcripts, and  
25 it really isn't fair, I don't think, for the

1 Intervenor to have to file our prepared testimony  
2 before we finish discovery.

3           You know, in a regular court proceeding you  
4 don't file a motion for summary judgment, for  
5 example, until after the discovery is complete. And,  
6 in fact, if one party does file a motion for summary  
7 judgment before discovery's complete, the opposing  
8 party can ask for a continuance to respond to that  
9 motion for summary judgment. So I don't think it's  
10 inappropriate or unusual to allow time for discovery  
11 before we file our prepared testimony.

12           We already have one discovery dispute with  
13 Summit and there may be more and that's going to take  
14 time to resolve.

15           The Board at the March 15th status  
16 conference suggested perhaps having discovery  
17 conferences along the way to help the parties resolve  
18 discovery disputes and I think that's a good idea.  
19 But still that involves more time than the current  
20 schedule allows.

21           And I don't think that this extension of  
22 time would be inappropriate, particularly if the  
23 Board grants other suggestions to postpone the  
24 hearing until after October sometime. So that makes  
25 plenty of time for us to do the discovery and to file

1 our direct testimony.

2 The idea of the mediation, although I'm sure  
3 the Board intended it to be completely voluntary, not  
4 forcing anything on the landowners, it appears that  
5 way. And you heard landowners this morning express  
6 that perception, that somehow the Board is saying  
7 that they have to or at least should engage in  
8 mediation. And Summit's had over a year-and-a-half  
9 now to get voluntary easements and they've been at  
10 about 70 percent now for six months, I think.

11 So the landowners have made it clear. The  
12 ones who signed easements, have signed easements.  
13 The ones who aren't going to sign easements, have not  
14 signed easements. I think the mediation idea just  
15 gives the landowners the wrong impression.

16 I would also comment Mr. Dublinske talked  
17 about having to think about Summit's rights and the  
18 investment community. But Section 479B.1 clearly  
19 says the Board's priority is the rights of the  
20 landowners and that's what we need to be concerned  
21 about.

22 CHAIRPERSON HELLAND: Mr. Taylor, can I ask  
23 a quick question?

24 MR. TAYLOR: Yeah.

25 CHAIRPERSON HELLAND: So, you know, one

1 thing that we can't hear in public comment is  
2 procedural issues. Obviously we can't take--

3 MR. TAYLOR: Sure.

4 CHAIRPERSON HELLAND: --into the record or--

5 MR. TAYLOR: Sure.

6 CHAIRPERSON HELLAND: --you know,  
7 information that's actually factual. But one thing  
8 we did hear pretty consistently is that landowners  
9 don't need help. They don't--they're strong enough  
10 on their own. But yet you just told us that they  
11 would feel pressured if a by law neutral body offers  
12 to mediate at no cost, that is facilitative.

13 So can you reconcile why some landowners  
14 feel like they absolutely don't need our help, but  
15 yet you feel like us offering a neutral platform to  
16 articulate and maybe level the power discrepancy  
17 would be pressure?

18 MR. TAYLOR: "Pressure" I think is the wrong  
19 word. What I said was they would have the perception  
20 that the Board is telling them that they must or at  
21 least should engage in the mediation.

22 Certainly we Iowans tend to respect  
23 authority and when the Board tells the landowners,  
24 "We have mediation and we want you to take part in  
25 it, you don't have to, but we would like you to do

1 that," I think they're seeing that as the voice of  
2 authority telling them that they have to take part in  
3 mediation.

4 CHAIRPERSON HELLAND: And just to clarify,  
5 it has never been phrased as a preference. It's been  
6 phrased from the get-go as voluntary and an offer.  
7 It has been an ask "Is this something you'd be  
8 interested in?"

9 MR. TAYLOR: I understand that's the Board's  
10 intention. I'm just telling you how the landowners  
11 may perceive it.

12 CHAIRPERSON HELLAND: All of them?

13 MR. TAYLOR: Yeah. I mean--

14 CHAIRPERSON HELLAND: So you're opposed--  
15 you're opposed to the Board asking landowners "Are  
16 you interested in a neutral platform?"

17 MR. TAYLOR: I can't speak for the  
18 landowners, I don't represent them.

19 CHAIRPERSON HELLAND: Okay, but Sierra  
20 Club--

21 MR. TAYLOR: So hearing that, I think it's a  
22 real concern and I would love to hear from the  
23 attorneys representing the landowners on that,  
24 frankly.

25 CHAIRPERSON HELLAND: But generally



1 speaking, Sierra Club is opposed to the Board asking  
2 landowners if they would like a neutral mediator?

3 MR. TAYLOR: Yes. I think that it sends the  
4 wrong message.

5 CHAIRPERSON HELLAND: Okay. I appreciate  
6 that. Go ahead. I didn't mean to interrupt.

7 MR. TAYLOR: That's fine.

8 Regarding how the proceeding should be  
9 conducted, I was not sure exactly what the Board had  
10 in mind with the presiding officer idea or splitting  
11 the taking of the testimony. It just didn't ring  
12 true for me from my prior experience with Board  
13 proceedings.

14 But I think--I agree with Mr. Whipple that  
15 perhaps an administrative law judge hearing the  
16 entire proceeding might be a good idea. The Board  
17 used to do that years ago when you had an  
18 administrative law judge on staff. It's been several  
19 years, at least, since you've done that, but either  
20 that or the entire Board listening to the landowners  
21 because I think that it's important to have one body,  
22 or at least one person, listen to all the landowners  
23 and all the evidence. And that would certainly free  
24 the Board up to do the other many things you have to  
25 do if you had an administrative law judge hearing the

1 whole procedure.

2 I think that's all I have. The main concern  
3 I had is with the tight schedule for the Intervenors  
4 submitting their direct testimony. So if there's any  
5 other questions, I'll be happy to answer them.

6 CHAIRPERSON HELLAND: Thank you. I think  
7 Board Member Byrnes has one.

8 BOARD MEMBER BYRNES: Mr. Taylor, I don't  
9 know--I'm trying to keep a little checklist here. I  
10 don't know that you addressed satellite locations--

11 MR. TAYLOR: Oh.

12 BOARD MEMBER BYRNES: --what your viewpoint  
13 is on that.

14 MR. TAYLOR: I have no objection to that.

15 BOARD MEMBER BYRNES: Okay. Thank you.

16 CHAIRPERSON HELLAND: Did you?

17 BOARD MEMBER MARTZ: Same question.

18 CHAIRPERSON HELLAND: Okay.

19 Mr. Tack, I believe you had a couple  
20 questions?

21 MR. TACK: Yeah, I just wanted some  
22 clarification.

23 You talked about discovery and a time period  
24 for discovery and compared it to District Court  
25 cases. But if I'm remembering my experiences right

1 from both back as a young man in private practice in  
2 Cedar Rapids and having cases with you and up to  
3 having a case with you last year, isn't your normal  
4 procedure to start discovery at the time the petition  
5 is filed? I mean, haven't we had basically 17, 18  
6 months already of discovery period?

7 MR. TAYLOR: I think that--what I was  
8 comparing it to was not necessarily the way that  
9 regular lawsuits are scheduled. I was comparing it  
10 to a motion for summary judgment, that you can't  
11 present your affidavits and evidence in support of  
12 the summary judgment until you've done all of your  
13 discovery. And I think that's what we have here, is  
14 that we can't--

15 You know, we had no idea who Summit was  
16 going to call as witnesses. In fact, I did do some  
17 discovery a year ago. I didn't just sit back and not  
18 do any discovery. But in taking depositions, you  
19 have to know who the witnesses are going to be before  
20 you can take the depositions, and that's my point.

21 CHAIRPERSON HELLAND: Mr. Tack, any other  
22 questions?

23 MR. TACK: No. Thank you.

24 CHAIRPERSON HELLAND: Okay. Thank you.

25 I believe Mr. Williams with the Jorde

1 landowners.

2 MR. WILLIAMS: Thank you. Addressing the  
3 smaller issues first, the landowners would not be  
4 opposed to the use of an ALJ, so just get that out of  
5 the way right away.

6 Remote participation we also do not object  
7 to. But from our perspective, remote participation  
8 doesn't solve a problem unless the Board reconsiders  
9 its proposed scheduling order here because, as others  
10 have pointed out, the way that this is going on a  
11 trajectory, this is headed toward the middle of  
12 harvest, from our perspective, and that was made  
13 clear to us at the technical conference last year.

14 And I understand that the recent order  
15 modified some of the deadlines, but the bottom line  
16 is the farmers that would even remotely participate  
17 either in person or by remote means are going to be  
18 faced with the choice of do we farm that day or do we  
19 show up in person or attempt to, you know, do a  
20 remote session while they're on a combine or at their  
21 home, and try to figure that out.

22 So you're placing an unnecessary burden on  
23 the landowners who are farming, the tenants who are  
24 farming, as to giving them a hard choice as to  
25 whether they get to participate at all.

1           As to the medi--the schedule suffers from  
2 the same defects as it was pointed out in the  
3 technical conference of which we--I personally lodged  
4 numerous objections to. We have proposed a minimum  
5 five months of discovery. That's not unreasonable.  
6 That's pretty typical in standard cases that our firm  
7 deals with. I understand that this is a different  
8 animal and it's different in the way that in this  
9 particular case, approximately ten days ago we got  
10 the direct testimony.

11           There was a question about why not start  
12 when the application or the petition is filed? Well,  
13 it's not the burden on us to expend--expend  
14 unnecessary time and expenses to try to anticipate  
15 what the direct testimony or what the key evidence is  
16 going to be. Now that we have the direct testimony,  
17 we can tailor our discovery, but we still need time  
18 for that to occur and we've proposed previously five  
19 months minimum for that to occur.

20           And we've also previously proposed, given  
21 the number of outstanding parcels, the likely number  
22 of participants in the evidentiary process, and the  
23 lack, from our perspective, of a valid reason as to  
24 why this has to happen before the end of the year, we  
25 propose that to be pushed out to May 2024.

1           We also don't think that this Board should  
2 feel pressured by the fact that North Dakota and  
3 South Dakota are--have, you know, reached the end of  
4 their process because one thing that was omitted from  
5 Mr. Dublinske's commentary on that fact is both of  
6 those states have statutory deadlines to complete  
7 their reviews. So there was a deadline that had to  
8 be complied with. And even in North Dakota there's  
9 still issues going on there on the issue of plume  
10 modelling and there's hearings scheduled for that I  
11 believe either later this month or in July.

12           So this Board is under no such similar  
13 constraint. Its hands are not tied by a statutory  
14 deadline by which to complete this. It has ample  
15 time to give its staff to review the individual  
16 parcels, as it's required to do, and hear the--and  
17 give an opportunity for everybody to participate  
18 because the schedule as it's currently set starts to  
19 depress landowner turnout, for them to have a voice  
20 in this proceeding, from our perspective.

21           The mediation issue, we just--as Farm Bureau  
22 pointed out, there is a thousand parcels. Even with  
23 that nice statistic of 70 percent of voluntary  
24 acquisition, there's still a thousand parcels still  
25 sitting out there that haven't been resolved. We

1 don't think, as the Board pointed out, that the way  
2 to solve the burden of the evidentiary proceedings is  
3 to help Summit out, from landowners' perspective, to  
4 help Summit out, try to get those landowners to  
5 be--feel incentivized to try to resolve this early.

6           The thousand land--the thousand parcels that  
7 are currently outstanding are outstanding for a  
8 reason. It's either because--well, mainly it's  
9 because they just don't feel that this pipeline is  
10 appropriate to occur or be placed on their property.  
11 And even then Summit is still showing up to court  
12 hearings with their staff members trying to work it  
13 out with individual landowners outside the purview of  
14 their legal counsel.

15           So we don't see that the--we don't see how  
16 mediation factors into this as an effective route  
17 except to serve the benefit of Summit. I understand  
18 what the Board's position is on that, but at this  
19 point the landowners who have wanted to do a deal  
20 with Summit have done so, and if really what the  
21 burden--if the goal is to try to alleviate the burden  
22 and the complexity of this proceeding, if--I would  
23 simply propose that if that is the issue, then the  
24 application should be tabled for a time to give  
25 Summit an opportunity to work up its acquisition

1 number or its percentage so that it's a more  
2 manageable number. Right now it was pointed out that  
3 it was a thousand. It needs to probably go down to  
4 100 to 200 if we're going to talk about alleviating  
5 burdens on this Board and the evidentiary process.

6 And so the way that we see to solve that is  
7 to table the application and essentially put a stay  
8 on this to allow Summit to go out and get more  
9 landowners on board, if that's really what their  
10 objective is.

11 CHAIRPERSON HELLAND: So how many parcels  
12 exactly does your firm represent?

13 MR. WILLIAMS: I believe it's close to 250.

14 CHAIRPERSON HELLAND: 250? All right. And  
15 we have ten landowners here today who said no,  
16 correct?

17 MR. WILLIAMS: I'm sorry?

18 CHAIRPERSON HELLAND: We had ten landowners  
19 today who said they have no interest.

20 MR. WILLIAMS: In resolving through  
21 mediation?

22 CHAIRPERSON HELLAND: Yes.

23 MR. WILLIAMS: Okay.

24 CHAIRPERSON HELLAND: Correct?

25 MR. WILLIAMS: I wasn't partake--



1 CHAIRPERSON HELLAND: So we have 740  
2 landowners. We've already reduced the list who need  
3 to be--that could be asked. So I just want to  
4 clarify, you speak for the 250?

5 MR. WILLIAMS: Correct.

6 CHAIRPERSON HELLAND: Do you speak for the  
7 other 740?

8 MR. WILLIAMS: Currently that is our--the  
9 number of clients--

10 CHAIRPERSON HELLAND: But you don't speak  
11 for the other 740?

12 MR. WILLIAMS: Currently not.

13 CHAIRPERSON HELLAND: Okay. But you also  
14 are opposed to offering the other 740 a voluntary  
15 opportunity?

16 MR. WILLIAMS: Yes. I don't think it serves  
17 the purpose that it's designed for. I think Summit  
18 would stand to benefit from this. And if that's  
19 really what the objective is, is to reduce--again,  
20 reduce the burden on an evidentiary hearing, then  
21 Summit should go out and get those people signed up  
22 on their own.

23 CHAIRPERSON HELLAND: Yeah. And I would  
24 just clarify that as lawyers we spend a lot of time  
25 in law school talking about procedures, talking about

1 policies. But when I grew up on a farm, we spent a  
2 lot of time talking about people. There's a lot of  
3 stress with something weighing on your head and  
4 sometimes all that is needed is a conversation. So  
5 our proposal was simply an offer. I just want to  
6 clarify.

7 MR. WILLIAMS: Understood. And Summit has  
8 attempted to have those discussions with their  
9 individual--with the individual landowners that lay  
10 across the pipeline because they were required to  
11 provide notice, and those people had made decisions  
12 as to whether or not they want to engage.

13 But if Summit's objective, as pointed out  
14 earlier, is to try to get that percentage up, then  
15 they should be permitted to do that. And if the goal  
16 is to reduce the burden on this Board and this  
17 evidentiary hearing, why don't we give Summit the  
18 ability to go do that while we table this whole  
19 application?

20 CHAIRPERSON HELLAND: Oh, no, make no  
21 mistake, the offer, the idea was aimed solely at the  
22 landowners who aren't here as an option and nothing  
23 more. It has nothing to do with a party that's in  
24 this room. It's everything to do with the hundreds  
25 that aren't in this room and simply providing them an

1 opportunity.

2 So do we have--did we touch on anything  
3 else?

4 MR. WILLIAMS: I don't think so. I think  
5 that's it.

6 CHAIRPERSON HELLAND: Okay. I don't  
7 believe--okay. Mr. Ostergren?

8 MR. OSTERGREN: Thank you. I'll be brief.

9 We share the view that this process should  
10 wrap up this year, the sooner the better. Obviously  
11 there is a lot of work ahead of everyone, but it is  
12 manageable to do it this year. And I certainly want  
13 to be sensitive to the concern about having a hearing  
14 in October of this year. That is, you know, a fair  
15 concern that's raised, but having the process done  
16 this year we believe would be quite important.

17 On the mediation proposal, I think, first of  
18 all, it's good that the Board is considering new  
19 things to offer, not just--that's not specific to  
20 this hearing, it's to any contested case. I presume  
21 from what I've heard, that a landowner would have to  
22 do some sort of affirmative act to schedule a  
23 mediation session. And so, you know, nobody can make  
24 a landowner call a phone number or go to a website to  
25 schedule a mediation.

1           And so if the mediation program is offered,  
2 then the proof will be--I mean, if it's a handful, if  
3 it's dozens, whatever it turns out to be, then that  
4 will be the proof as to whether or not those  
5 individuals sought that opportunity.

6           As a lawyer, in general I think those kinds  
7 of alternative dispute resolution processes are a  
8 good thing. I've seen clients and, frankly, other  
9 parties in cases benefit from having the ability to  
10 go through that kind of process and resolve whatever  
11 their dispute is, family law, criminal law, civil  
12 law, property rights, what have you.

13           Alternative dispute resolution is generally  
14 considered to be a very good thing. It's not  
15 specific to Utilities Board or this pipeline or  
16 anything like that. And certainly there's a lot of  
17 people in this room who know more about this specific  
18 thing than I do but, you know, there's other contexts  
19 for farmers that I think--you know, getting mediation  
20 for your farm credit disputes and foreclosures and  
21 things like that, that is a really important thing to  
22 get an opportunity for farmers to have a way to  
23 mediate a dispute rather than just go to court, go to  
24 some sort of tribunal to decide something.

25           So I think the offer is made with good

1 intention and I'm surprised that there's been such a  
2 negative reaction from it. If you don't want to  
3 mediate, it's going to be very, very easy to not go  
4 to a mediation session if you're a landowner. You  
5 just don't have to do anything and you won't go to a  
6 mediation session.

7 I don't have a particularly strong point of  
8 view on whether it should be the whole Board or  
9 presiding officer or an ALJ. I will flag--I'm  
10 confident Mr. Tack and his team knows more about the  
11 Administrative Procedures Act than I do, but under  
12 17A-11.1, there's some findings the Board would have  
13 to make, you know, with a request for an ALJ. You  
14 just need to make sure, I think, that the Board  
15 checks off those boxes whatever decision is made.  
16 And if the Board decides to not use an ALJ as opposed  
17 to a single Board Member, which you can do, that the  
18 Board just make sure you cover that base in whatever  
19 the order is that comes out of this hearing.

20 I don't have any particular view on the  
21 satellite locations as long as the technical end can  
22 be handled to make sure that the record's complete.  
23 You know, we wouldn't want to be in a situation where  
24 something's inaudible or can't be recorded for the  
25 hearing record, but certainly could facilitate

1 individuals participating in the hearing.

2 I'd be happy to answer any questions. Those  
3 are all the points I wanted to make.

4 CHAIRPERSON HELLAND: Any questions?

5 (No response.)

6 CHAIRPERSON HELLAND: Mr. Tack? Jon, any  
7 questions?

8 MR. TACK: Well, one thing that I think we  
9 may need to address or at least seek input on is if  
10 we go the mediation route, the contact information we  
11 currently have would be those who have filed  
12 objections in the docket. We would have the parcel  
13 identification addresses, but I'm not sure we would  
14 have all the information we need to publicize the  
15 opportunity.

16 So if parties have suggestions of how we  
17 obtain the--how we best disseminate the offer to  
18 mediate to those landowners who haven't shown up and  
19 participated, who haven't filed in the docket at this  
20 time.

21 CHAIRPERSON HELLAND: Don't all speak at  
22 once. I see Mr. Dublinske reaching for his mic.

23 MR. DUBLINSKE: I was going to wait until--  
24 I think we have just Mr. White left to go through and  
25 ask--because a lot of the commentary was rebutting

1 our comments on the schedule. As the applicant we  
2 could reply to that, but instead of saving it, I'll  
3 just address Mr. Tack's issue.

4 Because the outstanding parcels all have  
5 Exhibit Hs filed, would that not have enough contact  
6 information for you to be able to reach out?

7 MR. TACK: It would have enough information  
8 to do a mailing--

9 MR. DUBLINSKE: Yeah.

10 MR. TACK: --which isn't typically the best  
11 way to reach everyone, but that would be a fall-back  
12 position we would have.

13 MR. DUBLINSKE: It strikes me as a  
14 relatively large number to try and make, for example,  
15 phone calls to, and I don't know that we necessarily  
16 have email information for all of them, but I suspect  
17 that we could, you know, look at whether we're  
18 willing to provide that, or if you want to, you know,  
19 provide the content we can do a blast email to the  
20 email addresses we have. I think there are ways--  
21 and, obviously, the mailing is ultimately at our  
22 expense anyway.

23 So I think between the contact information  
24 on the Hs, there may be some other information we  
25 have that we may be able to work with the Board to

1 facilitate that, if that's the direction the Board  
2 wants to go.

3 MR. TACK: And I apologize to Mr. White,  
4 that I thought we had completed everyone, otherwise I  
5 wouldn't have raised a new issue.

6 CHAIRPERSON HELLAND: Yeah and I apologize  
7 for that as well, Mr. White. That was my fault.

8 So, Bret, we can obviously circle back to  
9 let you rebut and we'll obviously have some time to  
10 go back and forth but, I'm sorry, Mr. White, go  
11 ahead.

12 MR. WHITE: Thank you very much.

13 On behalf of LSCP and PLCP Intervenors, in  
14 terms of scheduling in general, we also ask that the  
15 matter be scheduled so as to be concluded by the end  
16 of this calendar year. We do not believe that's too  
17 tight. There is not a significant amount of mystery,  
18 as has been stated earlier.

19 In terms of the other issues, mediation,  
20 ADR, as counsel was saying, can certainly be a useful  
21 tool. In this matter, you know, we don't advocate  
22 one way or another, for or against it, if it can be  
23 done, you know, efficiently and workably.

24 In terms of the usage of satellites, if it  
25 could be done productively and efficiently, we don't



1 advocate going one way or another on that.

2 In terms of what was initially referred to  
3 as a presiding officer method, in terms of the  
4 particular procedure involved, I don't know that we  
5 advocate one way or another. We would just be  
6 against any addition of unnecessary procedural layers  
7 that would unduly delay the matter being concluded.  
8 And, again, we think it's paramount that it be  
9 concluded by the end of this year.

10 Thank you.

11 CHAIRPERSON HELLAND: Thank you and, again,  
12 I apologize for stepping over you.

13 So we can, I think, be a little less formal  
14 as we go back through and rebut. Mr. Dublinske and--  
15 raised it first, so we can start there and I'm sure  
16 we'll have a lively and insightful conversation.

17 MR. DUBLINSKE: Thank you, Your Honor. I do  
18 want to respond to some of the comments that came  
19 after we kicked things off here.

20 I think it's interesting that Mr. Williams  
21 characterizes the fact that landowners, including  
22 some of his clients, are still actually reaching  
23 agreements with us. We do continue to sign new  
24 voluntary easements.

25 I think, you know, saying, well, you know,

1 ignore the 70 percent, just look at the raw number,  
2 and I understand that from a workload perspective  
3 that is relevant, but I also think that that is  
4 essentially saying there are projects that are just  
5 too big for Iowa to swallow.

6           You know, Dakota Access had several hundred  
7 Exhibit Hs, several hundred individual landowners  
8 that were still outstanding at the time of the  
9 hearing, you know. What should matter in terms of  
10 measuring how a project seems to be measuring up to  
11 another project is the percentage. And, in fact, I  
12 would argue that given some of the changes in the  
13 landscape and the size of the project, the fact that  
14 we are roughly at the same percentage that Dakota  
15 Access was is actually an even more significant  
16 achievement.

17           The idea of a May 2024 actually results in a  
18 process that takes longer than 30 months. We've  
19 heard people talk about how this is, you know,  
20 unprecedented, hasn't been done before. What hasn't  
21 been done before is for an infrastructure project at  
22 the Board to take more than 30 months.

23           And it doesn't really matter that the  
24 Dakotas have a statutory deadline to do their job.  
25 When you are an investor or a company trying to make

1 an investment decision, the why it went faster in the  
2 Dakotas is just not as important as the fact that it  
3 did, in terms of your investment.

4 A lot of cherry picking about, you know,  
5 "well, in a normal case," but then this isn't a  
6 normal case. You know, the opponents seem to want to  
7 have it both ways on that but I will say this: You  
8 know, the--it is not our fault and shouldn't be our  
9 problem if the Jorde clients and the Jorde attorneys  
10 are unfamiliar with Board practices. It is  
11 absolutely the case that in the overwhelming majority  
12 of Board cases that discovery starts long before the  
13 direct testimony comes out.

14 Part of that is that the Board has extensive  
15 requirements for the petition. There is a lot of  
16 information in there, a lot of technical information,  
17 a lot of exhibits that is fertile ground to get  
18 discovery started on and tells people, you know,  
19 certainly a significant amount of information about  
20 the nature of the project.

21 And similarly, when Mr. Taylor is saying  
22 "Well, normally, you know, we get to do a lot of  
23 discovery before a summary judgment." Well, you  
24 know, first of all, obviously, this isn't a summary  
25 judgment case, but Sierra Club certainly knows that

1 that is not the norm here because Mr. Taylor was  
2 serving me new discovery up until just a few weeks  
3 before the Dakota Access hearing.

4           And so we just do things a little  
5 differently in a board proceeding, that discovery is  
6 ongoing. There is this discussion about, "Well, we  
7 need even more than the eight weeks we currently have  
8 because we have to have time for depositions." You  
9 know, depositions and data requests are a right in  
10 every board hearing--I shouldn't say a right. You  
11 have an opportunity to use that tool in every board  
12 hearing. It is very rarely used, taking depositions.  
13 It certainly could be, but the schedule never  
14 contemplates that, right? It never actually ensures  
15 that someone will have X amount of time to do that.  
16 They can, if they want. It's unusual. It traditionally  
17 has been somewhat disfavored. This schedule actually  
18 provides time for that, eight weeks instead of the  
19 more common four weeks for the intervenors' round of  
20 testimony.

21           So this seems, you know, already an expanded  
22 schedule. I keep hearing people talk about  
23 accelerated schedule. It's difficult for us to  
24 swallow how two years is accelerated, how eight weeks  
25 for discovery, twice the normal time for testimony,

1 twice the normal time is somehow an accelerated  
2 schedule.

3 And, you know, Your Honor, I appreciate your  
4 comment about there are thousands of people that  
5 aren't here, and when Mr. Taylor says, "Look, your  
6 priority is to be the interest of the landowner," as  
7 you noted, there's 70 percent of voluntary  
8 landowners. Their interest is getting this out of  
9 limbo, right? Getting this to a conclusion. Even  
10 though they're voluntary doesn't mean that they don't  
11 still want to be able to figure out when they can  
12 farm, how they can farm.

13 It's been mentioned that there's, you know,  
14 I believe the quote was, "massive issues not seen  
15 before." But that doesn't mean those are massive  
16 relevant issues not seen before.

17 This is a 479B project. There have been  
18 plenty of 479B projects before. The legislature did  
19 not consider carbon dioxide any different than  
20 refined products, crude oil, ammonia, ethylene, any  
21 number of things that fall under that chapter. There  
22 are no special statutory provisions, no special  
23 showings, no special decision criteria.

24 All of this is just another 479B like Dakota  
25 Access, like New Star, like many in the past, and

1 this idea that this is so novel that we just can't  
2 process it in a reasonable amount of time does not  
3 ring true with how the legislature actually wrote the  
4 legislation.

5           So, again, we don't think this is an  
6 accelerated schedule. We think this is already a  
7 schedule that has taken into account and got off to,  
8 I think, a bit of a longer start than usual to  
9 account for the fact that it was large. But it's  
10 time now to get it wrapped up. That's in, I think,  
11 everyone's interest. You'll note that the people  
12 that don't feel that way are also the ones saying,  
13 "But we will never say yes. We're a hard no," and  
14 that's the tell, that at some point the delay is not  
15 about reasonable procedure, it's about burdening the  
16 project and trying to kill the project.

17           And while the Board certainly--you know,  
18 it's been said it's not your problem to try and make  
19 sure that we meet some deadline or that we start  
20 making money. Fair enough, but it's also not your  
21 place to join in with the opposition tactics and try  
22 and kill the project through delay.

23           And so what we're asking for is a schedule  
24 that's already longer than 99 percent of the cases  
25 the Board hears but gets this done by the end of the

1 year. And I've heard nothing other than, you know,  
2 people that are misstating what the usual Board  
3 process is to say that we need some more and special  
4 process here. We've got ample process, it will  
5 survive a due process challenge, and we should get  
6 this wrapped up.

7 I appreciate it. Thank you.

8 CHAIRPERSON HELLAND: Thank you.

9 MR. DUBLINSKE: If I could just add one more  
10 thing because it did come up about the timing for  
11 discovery. I do want to point out we have complied  
12 with all the staff review letters, got our last  
13 response in this morning, two weeks ahead of the  
14 usual 30 days.

15 Mr. Taylor had mentioned depositions. He  
16 requested those right after the testimony came out,  
17 which, you know, I appreciate. We responded that day  
18 to start working on dates. We have sent him dates,  
19 we're having very productive discussions on getting  
20 those set up yet in the next two weeks.

21 So we are doing what we can. We're not just  
22 saying, you know, give us a schedule. We're doing  
23 what we can to make sure that we move quickly on our  
24 end and make it go as quickly and efficiently as we  
25 can.

1 CHAIRPERSON HELLAND: Okay. Thank you.

2 Mr. Tack?

3 MR. TACK: Yeah, I had a question for--I  
4 would welcome anyone to respond to, when they have an  
5 opportunity, but let's start with Mr. Dublinske.

6 It seems unusual to me that a party would  
7 have prefiled written testimony available prior to  
8 the deposition. That seems unique to the Board's  
9 proceedings. How does that change the nature of what  
10 a deposition does and the time needed to conduct a  
11 deposition when you already have the witness's  
12 prefiled testimony?

13 MR. DUBLINSKE: Well, I think it certainly  
14 ought to make it more efficient to prepare for it,  
15 right? So, again, we talk about how much time you  
16 need to prepare for a deposition and as you know  
17 traditionally in Board practice, the discovery often  
18 isn't completed prior to the requesting party's  
19 testimony. Some of that ends up going to prep for  
20 the hearing.

21 I think having that prefiled testimony  
22 should facilitate better and easier preparation for  
23 depositions, and I don't want to sound like I'm down  
24 on depositions, right? It's true we don't normally  
25 do them. In this case it may be the most efficient



1 way to get that discovery taken care of as opposed to  
2 multiple rounds of written discovery from multiple  
3 parties.

4 So I don't know that it makes a lot of  
5 difference other than, you know, it probably makes it  
6 easier to take the deposition and perhaps a little  
7 harder to defend the deposition.

8 MR. TACK: Wouldn't it be true you're not  
9 really trying to find out the witness's position at  
10 that point, you are just practicing your cross-  
11 examination or preparing your cross-examination?

12 MR. DUBLINSKE: I think that is--

13 MR. TACK: An oversimplification?

14 MR. DUBLINSKE: Well, no, I think that is  
15 possible and I suspect there may be some discovery  
16 disputes about, you know, the timing of when we are  
17 required to put our full case on the table. There's  
18 a lot of case law about, you know, when contention--  
19 how far a contention interrogatory can go when it  
20 steps over into, you know, making someone put on  
21 their case before the scheduling order requires them  
22 to put on their case.

23 At the same time, you know, I think a  
24 deposition can, in part, be a substitute for things  
25 that would normally be asked in written discovery to

1 probe the testimony. Again, I think it's unusual in  
2 part because we don't have some of the same limits on  
3 written discovery that a court does, and so  
4 depositions are often seen as somewhat unnecessary.  
5 We do have the prefiled testimony.

6 But, you know, I am willing to be open-  
7 minded about its potential to expedite things.

8 CHAIRPERSON HELLAND: Jon, did you have a  
9 follow up?

10 MR. TACK: No, I do not. Thank you.

11 CHAIRPERSON HELLAND: Okay. Thank you.

12 Mr. Williams, I assume you have something to  
13 add?

14 MR. WILLIAMS: Yes. Thank you.

15 Starting with the parcels versus percentage.  
16 The reason we focus on the one thousand parcels is  
17 because the percentage is not the metric. The staff  
18 of the IUB is going to have to go through each and  
19 every parcel to determine the appropriateness for the  
20 route. So that's why we're focusing on that number  
21 as opposed to what I would describe a rally cry for  
22 70 percent voluntary acquisition.

23 I'm going to talk about the discovery  
24 exchange that was--that was just indicated here. You  
25 know, I was looking at a case that we have with

1 Summit up in Dickinson County the other day, I was  
2 looking at their discovery responses, and we asked  
3 them a series of interrogatories and requests for  
4 admissions, I believe, on that case. But more  
5 particularly on the interrogatory responses, they're  
6 layered with objections and light on substance. And  
7 as Mr. Taylor has had to experience, he's had to file  
8 various motions to compel, and before you know it,  
9 after all the fight's over, the eight weeks are up.

10 And we need to take depositions in this case  
11 and the focus of depositions is not necessarily a  
12 practice in cross-examination. When you get prefiled  
13 testimony in a case, that is akin, in my mind, to an  
14 affidavit that gets presented, or a pre-prepared  
15 interrogatory response that identifies what that fact  
16 witness actually intends to say sometime down the  
17 road, or their personal factual knowledge.

18 When you take a deposition, it's not just  
19 cross-examination, it's determining whether or not  
20 that statement within a response that's pre-prepared  
21 by a lawyer holds up under questioning, and it  
22 cannot--it doesn't necessarily have to be  
23 cross-examination. It can be are they giving all the  
24 factual information that they provided within that  
25 prefiled testimony? Is there something they left

1 out? Are they correct when, you know, being shown a  
2 document that they presented as to whether their  
3 statement factually holds up when comparing to that  
4 document.

5           It's not necessarily cross-examination.  
6 There's areas to explore to get the full and complete  
7 knowledge of someone who's prepared--you know, served  
8 as a witness for a pre-prepared statement. So I  
9 don't think it's--I don't think it's fair to  
10 characterize it as it's necessarily more efficient  
11 that we have pre-prepared testimony, but it does tell  
12 us what they're planning to come with for trial. So  
13 that saves the landowners time from having to take  
14 what I would call anticipatory discovery requests,  
15 and serve those out, and having to extend the fight  
16 of having to deal with unnecessary or boilerplate  
17 objections, having to bring that up before the Board,  
18 writing briefs, et cetera, extends to the landowners.

19           So from our perspective, really where this  
20 case kicked off is when we found out about ten days  
21 ago what they're planning to present to the ALJ, or  
22 the Board, in terms of what they plan to advocate for  
23 their position. So we still need the time that we've  
24 advocated for, or approximately five months. Has  
25 nothing to do with the application itself.

1           In terms of--there was a comment by  
2 Mr. Dublinske about parsing away the landowners from  
3 the ones who might be considering doing an easement  
4 versus the ones that aren't. It's the landowners  
5 option to say no to any offers that have been put  
6 before it. And early on in this process in cases  
7 that they filed in State Court across multiple  
8 counties, they had--they reached out to these  
9 landowners indicating if there was some interest in  
10 working with Summit, and they continued to do that.

11           So at this point, you know, as I've  
12 indicated before, if the burden is the Board feels  
13 that there is some extremely heavy workload to be  
14 borne by the Board and its staff members by having to  
15 review a thousand on Exhibit H, then the solution is  
16 if Mr. Dublinske is thrilled with this 70 percent  
17 voluntary acquisition and thinks he can get more, why  
18 don't we just stay this whole proceeding and allow  
19 Summit to go get more and reduce the burden on the  
20 Board?

21           That's all I have.

22           CHAIRPERSON HELLAND: All right.  
23 Mr. Taylor, any follow up? I guess I assumed. I  
24 guess you didn't raise your hand. I didn't mean to  
25 be presumptive, so--but I assumed.

1 MR. TAYLOR: Yes. Thank you. I think you  
2 have to understand that, first of all, the petition  
3 that Summit files is not as expansive and as full of  
4 facts as Mr. Dublinske indicates. It's a  
5 fairly--actually a fairly brief document and filled  
6 with generalizations and, frankly, corporate PR to a  
7 great extent. And so that really doesn't tell us a  
8 lot. But even then, I use that to submit data  
9 requests to Mr. Dublinske and, in fact, that's the  
10 basis of our motion to compel that's pending before  
11 the Board, at least one of those data requests.

12 And then the prepared testimony that's  
13 filed, again, it's a lot of generalization, it's a  
14 lot of what may be unsupported opinions, and the  
15 purpose of a deposition is to question a witness to  
16 see where they're really coming from, if they really  
17 have some basis for their prepared testimony.

18 And you can say, "Well, you can do that by  
19 cross-examining at the hearing," but, again, the  
20 purpose of a deposition is so there are no surprises,  
21 so that the cross-examination can go much more  
22 efficiently, so you know exactly what you need to ask  
23 in a better--in a better way and--I don't think the  
24 depositions or any further discovery is out of line  
25 in this particular case.

1           As Board Member Byrnes said in his dissent  
2 in the first scheduling order, this is a complex case  
3 that's going to get into the weeds, it's going to  
4 have a lot of technical testimony, a lot of issues  
5 that in spite of what--in spite of Mr. Dublinske's  
6 statement, the Board has not seen before.

7           And the PHMSA meeting last week I think  
8 really brought that out, that there are a lot of  
9 issues with carbon dioxide pipelines that haven't  
10 been resolved, that really present issues that other  
11 pipeline cases, even the Dakota Access case, did not  
12 present.

13           And so that's why we need to do the  
14 discovery, that's why we need more time in order to  
15 present our direct testimony.

16           CHAIRPERSON HELLAND: Okay. Thank you.

17           Any other comments or additional input from  
18 any of the parties? Farm Bureau?

19           MS. GRUENHAGEN: Just a couple of  
20 suggestions as we've been talking about some of these  
21 issues.

22           First, with regard to mediation and how to  
23 notify the landowners. Some options--additional  
24 options may be the Utility Board's press releases and  
25 identifying that in those because then other

1 organizations and media outlets can pick that up and  
2 so the landowners would see that through various  
3 media outlets.

4 Also just filing something in the docket.  
5 Everybody who's listed to receive information through  
6 the docket on email, they're going to be  
7 getting--they would get that notice through the  
8 docket, and that would be another option to try to  
9 get to landowners. And then also, perhaps, having  
10 information on the home page of the website as well.

11 So there are some additional ways other than  
12 direct mail to the landowners for mediation that may  
13 be an option for the Board.

14 CHAIRPERSON HELLAND: Thank you.

15 MS. GRUENHAGEN: Also talking about the  
16 presiding officer issue, if the Board finds it  
17 appropriate and there becomes quite a few discovery  
18 disputes, it's also an option under your rules to  
19 have a presiding officer to hear the discovery  
20 disputes portion of the case because that is not  
21 direct testimony for the hearing, it's just resolving  
22 discovery disputes, and that may allow for more  
23 frequent--more frequent convening of that, and so  
24 that it's not just at the Board's monthly meetings if  
25 there are--if it does come to have more frequent



1 discovery disputes between the parties, just as an  
2 option for the Board to be thinking about.

3 And then the third thing, I just had a  
4 question. I believe there's also a pending motion to  
5 compel that is on the docket. Is that something that  
6 the Board intends to be addressed today as well, or  
7 is that something they're just handling through  
8 written order?

9 CHAIRPERSON HELLAND: I see Jon reaching for  
10 his microphone.

11 MR. TACK: That will be handled through a  
12 written order.

13 MS. GRUENHAGEN: Okay. I'll just make one  
14 comment. We don't have a position on the motion to  
15 compel. The proposed protective order that was  
16 proposed, we do have some concerns with that and so  
17 we can just do a written filing on that, then.

18 CHAIRPERSON HELLAND: Thank you. We  
19 appreciate that.

20 Mr. Taylor, Mr. Williams, I just wanted to  
21 give you another opportunity in case your exchange--I  
22 just--I didn't want to move on, make sure--if you had  
23 anything else to add. I just want to make sure you  
24 get a chance.

25 MR. TAYLOR: No. Thank you.

1 CHAIRPERSON HELLAND: Okay.

2 MR. WILLIAMS: All I asked from Mr. Taylor  
3 was how long has that motion to compel been pending.

4 CHAIRPERSON HELLAND: Oh, yeah. No, I  
5 didn't--I wasn't asking, I was just--just wanted to  
6 make sure if you guys had a pithy idea that you  
7 wanted to share, you had an opportunity to do so.

8 MR. WILLIAMS: I guess my--

9 MR. TAYLOR: I wish I did.

10 MR. WILLIAMS: I guess the question I  
11 asked--the reason I asked Mr. Taylor that question is  
12 I was kind of curious to see how long a motion to  
13 compel takes to get resolved before the Board, and he  
14 was saying that it's been on file for a few weeks.  
15 And I think that--therein lies the issue. It's not  
16 necessarily the fault of the Board, and I'm not  
17 blaming the Board for taking time to consider that  
18 motion, but I think that highlights an issue in  
19 having an expedited period for discovery.

20 CHAIRPERSON HELLAND: Okay. Thank you.

21 Anything else? Mr. Dublinske.

22 MR. DUBLINSKE: Your Honor, just a couple of  
23 quick cleanups.

24 Again, the issue of the time that it takes  
25 for the parties to go back and forth on briefing for

1 the motion to compel and rule on it is certainly not  
2 unique to this case. That's true of plenty of cases  
3 that move much, much faster than this one has.

4 I want to make clear, and I don't think that  
5 Mr. Taylor was intending to suggest this, that he was  
6 responding to Mr. Tack, but I want to make very clear  
7 that there's no impression that we are resisting  
8 depositions. We certainly are not. We have engaged  
9 with Mr. Taylor in what I hope he would agree have  
10 been productive discussions so far on getting those  
11 scheduled.

12 Again, the reference to novel issues unique  
13 to CO<sub>2</sub>, that is certainly not the way the statute is  
14 framed. And to the extent that that was brought up  
15 in the context of last week's PHMSA meetings suggests  
16 that a lot of those novel CO<sub>2</sub> issues are PHMSA issues,  
17 not issues for this Board. The issues that are  
18 unique to a particular product, there's very little  
19 in this Board's decision criteria and the scope of  
20 this Board's permit that go to that issue.

21 The last thing I just want to note is I find  
22 it a little bit surprising the resistance to, you  
23 know, finding ways to start taking landowner  
24 testimony by something other than the full Board or  
25 in satellite locations, or on a different schedule

1 than the broader hearing. I don't know necessarily  
2 what the Board's intent was on that, but I looked at  
3 it and thought, "Well, you know, that at least  
4 provides a tool that lets us get away from this  
5 October harvest period that everyone is all concerned  
6 about," right? Because, as I was saying earlier, a  
7 lot of those land issues on particular parcels,  
8 there's not a lot that's going to change between now  
9 and the end of the proceeding, right?

10           The ability to take that testimony in some  
11 other way, some other format, a location that may be  
12 more convenient, in a more flexible way, as opposed  
13 to a formal Board hearing with all the Board members,  
14 that certainly is a way to help move some of those  
15 opportunities, to hear those landowners out of  
16 this--the harvest concern that we keep hearing about.

17           So it certainly strikes us as an idea that  
18 has some merit, as a way of addressing concerns that  
19 people have raised, and I appreciate the Board's  
20 responsiveness to that. And, again, I think that is  
21 a way to address some of the concerns that have been  
22 raised about the type of schedule that we're seeking.  
23 So thank you.

24           CHAIRPERSON HELLAND: Thank you. I  
25 appreciate the input on the schedule.

1 I think--Farm Bureau can chime in--it has  
2 been some time since our farming operation--well, I  
3 shouldn't say "our"--the family operation has allowed  
4 me to be a part of anything. Once you go to law  
5 school, they tend to say, "Stay out of a tractor."

6 But correct me if I'm wrong, harvest, and  
7 then you immediately start buying your inputs, some  
8 of which are not refundable. Then you roll into  
9 planting season. The prep for planting season begins  
10 in March/April. Depending on where you're at, you  
11 plant from mid-April to hopefully early June, and  
12 then you start spraying, cultivating, and then you  
13 start getting ready.

14 The point is, there is no good time. The  
15 Board has to pick the least bad time. And that puts  
16 us in a position where we have to take a lot of  
17 things into consideration. So it is not lost on me  
18 that harvest is a brutal time, but it's also not lost  
19 on me that there is no good time.

20 Before we move on and wrap up, I would like  
21 to get input from the parties on the site, not  
22 necessarily the community where it's going to be. I  
23 think we've all settled on Fort Dodge. I'm not sure  
24 Fort Dodge is ready for all of us, but they will be.  
25 But within Fort Dodge, I'd like to get from the

1 parties some thoughts on locations in terms of what  
2 you will need and what's going to be required.

3 Mr. Dublinske is the first one to reach for  
4 his mic again. Does anyone else want to go first?

5 MR. DUBLINSKE: Please.

6 MR. ZIEMAN: I can go ahead, Board Chair.

7 CHAIRPERSON HELLAND: Thank you.

8 MR. ZIEMAN: Frankly, I don't know what's  
9 all that available up there because that's not  
10 something that OCA typically thinks about, is how to  
11 convene one of these things. But I've tried cases  
12 all over this country. I've tried them in back  
13 rooms, literally, because that's the only space  
14 available, not because they were back-room deals.  
15 All the parties could be there.

16 CHAIRPERSON HELLAND: Thank you for that  
17 clarification.

18 MR. ZIEMAN: But we're rather indifferent as  
19 long as there is audiovisual equipment that's there,  
20 it's somewhat located near where there will be  
21 facilities, and that there's security provided at  
22 those places so all of our staff, all the IUB staff,  
23 all the parties--and I'm pointing to everyone now,  
24 not anyone in particular--are safe and secure for  
25 these hearings. We understand some folks are fired

1 up about this, but we also want all the folks that  
2 are involved to be safe and secure.

3 So that would be my primary concern is just  
4 that they have the audiovisual so that everybody can  
5 participate and that they're safe, secure, open,  
6 transparent.

7 CHAIRPERSON HELLAND: Thank you.

8 Mr. Dublinske?

9 MR. DUBLINSKE: I will preface this by  
10 saying I certainly have not inventoried everything  
11 available in the Fort Dodge community, but generally  
12 I would concur in what the Consumer Advocate said  
13 being the types of facilities.

14 I thought that the fairgrounds up in Boone  
15 worked pretty well for DAPL, right? You have a large  
16 room, you've got facilities that are available for  
17 breakout, if parties want to sort of caucus there are  
18 spaces for that, it's--you know, ample parking,  
19 right? Those are the sort of things we're looking  
20 for.

21 When we first--perhaps the only time in this  
22 proceeding that the parties will all concur, when we  
23 all sort of agreed that Fort Dodge was a good  
24 location, the types of things that occurred to me,  
25 fairgrounds, I know they have a community college up

1 there, so you've got sort of potentially an  
2 auditorium and you've got classrooms for caucuses,  
3 you've got areas for overflow that you may be able to  
4 video into for, you know, people to watch. And, you  
5 know, again, lots of parking, it can be somewhat  
6 access controlled for security reasons. Those are  
7 the kinds of facilities.

8 We had expressed some concern--we were out  
9 voted not only by the other parties, but also the  
10 Board, and I don't want to overstate this, about the  
11 fairgrounds as technically being outside of the city  
12 limits, which is a requirement of the statute, that  
13 it be in the city--you know, the county seat of the  
14 county at the center of the line.

15 So, you know, if there's an equally good  
16 place that is, you know, fully compliant with the  
17 letter, that would be welcomed just to avoid, you  
18 know, sort of silly scuffles about that somewhere  
19 down the road.

20 But, again, fairgrounds make a good place,  
21 community colleges make a good place.

22 CHAIRPERSON HELLAND: Okay. Anything else?

23 (No response.)

24 CHAIRPERSON HELLAND: Okay. Josh, did you  
25 have something? Yeah, I'm sorry. Go ahead.



1           BOARD MEMBER BYRNES: Just to address the  
2 community college, we did look at Iowa Lakes  
3 Community College. I did not--or Iowa Central. My  
4 bad. I have an attorney that's going to be all over  
5 me on that because he went there, but Iowa Central  
6 Community College we did, with the prior Board  
7 makeup, some of the Board Members went up and did  
8 take a look.

9           I believe there was some remodeling or  
10 construction going on that they were concerned about  
11 with that, and I believe just some other--but I do  
12 know that it was--it was vetted and looked at, so--I  
13 think it got crossed off the list, but I'm not sure.  
14 We have a new makeup of Board Members and maybe some  
15 new ideas but just so you know that we did take a  
16 look at that.

17           CHAIRPERSON HELLAND: Okay. Thank you.

18           I want to reiterate there have been no  
19 decisions made from a procedural perspective going  
20 forward. I appreciate the input from all the  
21 parties. Some of it was surprising, some of it was  
22 not, but I do appreciate everyone coming forward with  
23 their ideas, their thoughts, their concerns, and we  
24 will take that to heart as we balance the most  
25 effective way to do our due diligence and deliver a

1 decision as we are charged. So I appreciate you  
2 coming today.

3 We anticipate issuing an order to lay out  
4 these requirements today--not today. The order is  
5 not coming out today. Don't start watching EFS, but  
6 we will--this will be a top priority and we will act  
7 as quickly as we can. So I appreciate it.

8 The meeting is adjourned.

9 (Proceedings concluded.)

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C E R T I F I C A T E

I hereby certify that the foregoing pages represent a true and complete transcript, to the best of my ability to understand the recording, of the captioned proceedings which was electronically recorded and later reduced to typewriting by me.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to this action; and, further, that I am not a relative or an employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

Dated at Des Moines, Iowa, this 14th day of June, 2023.

  
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CERTIFIED SHORTHAND REPORTER

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