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STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

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IN RE: :
SUMMIT CARBON SOLUTIONS, : Docket No.
LLC : HLP-2021-001
----- X

ORIGINAL

TRANSCRIPT OF HEARING

VOLUME 3

PUBLIC TRANSCRIPT

Cardiff Event Center at
Fort Frenzy
3232 First Avenue South
Fort Dodge, Iowa 50501
Thursday, August 24, 2023

Met, pursuant to order, at 8:32 a.m.

BEFORE: THE IOWA UTILITIES BOARD

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

(Pages 604 to 901)

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IN RE: SUMMIT CARBON SOLUTIONS
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9	(phonetic) indicates a phonetic spelling.		
10	{sic} indicates the text is as stated.		
11	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 BOARD CHAIR HELLAND: All right. Good
3 morning. It is August 23 {sic}, 2023, at 8:32. The
4 IUB will go back on the record for Docket
5 No. HLP-2021-001, Summit Carbon Solutions' application
6 for a proposed hazardous liquid pipeline.

7 We will be calling our first witness this
8 morning. Mike Beymer.

9 MS. RYON: Your Honor, might I interrupt.
10 If it is appropriate, I have a preliminary matter I
11 would like to address before the first witness takes
12 the stand.

13 BOARD CHAIR HELLAND: If you think it's
14 appropriate.

15 MS. RYON: Thank you, Your Honor. I would
16 like to address an issue that came to -- well, not
17 came to my attention, but that I experienced last
18 night, that I believe is related to the event
19 management staff here. And I think the Board should
20 be aware of how staff that the Board hires and
21 oversees for the performance of this hearing are
22 treating people who are participating in the hearing.

23 Yesterday during the day a member of event
24 management staff approached Jess Mazour and informed
25 her that she was not allowed to sleep in her van in

1 the parking lot overnight. Ms. Mazour does not have a
2 van.

3 When I went out to the parking lot at the
4 end of the day, my van had been towed from the parking
5 lot.

6 My van was lawfully parked in the parking
7 lot designated for public parking for this hearing.
8 There was no reason for it to be towed. The van was
9 not, in fact, left here overnight. Which I can attest
10 to because I drove it away after the hearing last
11 night.

12 Furthermore, the parking lot does not
13 appear to have any signs indicating that unauthorized
14 vehicles will be towed or indicating who the towing
15 company is to contact if your vehicle has been towed.
16 Which should be required under Iowa law if I
17 understand that correctly.

18 Now, part of the reason this is
19 particularly important is because my van is not merely
20 a van. It is a unique vehicle. It is, in fact, a
21 mobile office that I have purchased for the purpose of
22 being able to travel around the state and have
23 confidential client meetings anywhere I have to meet
24 with clients, including venues such as this where
25 there is no meeting room available for me to have

1 confidential meeting rooms with clients.

2 Last night, because my van and my office
3 had been towed, I had to spend hours trying to
4 retrieve my van. I had to spend money on a tow. I
5 had to spend money on a hotel room that I should not
6 have had to spend money on.

7 And, in the meantime, at 8:00 last night I
8 received a phone call from a landowner who was
9 scheduled to testify today who just learned about it
10 yesterday and was seeking legal advice.

11 Because I did not have my van and my mobile
12 office with me, I was unable to contact that landowner
13 last night and provide him the advice he requested.

14 Now, the Board made mention numerous times
15 yesterday about taking into consideration the
16 interests of the landowners and the time and the
17 effort they are making to attend this hearing. And I
18 am concerned that when event management staff does
19 things like towing a vehicle without even bothering to
20 ask if anyone in the hearing room owns that vehicle,
21 the ultimate person who pays the price for that is not
22 me, it's the clients who are calling me.

23 And, unlike all of these other attorneys
24 who are sitting up here in the front two rows who are
25 probably making a nice billable rate on this hearing,

1 I'm not making a penny. Like the landowners here, I
2 am here on my own time, on my own dime.

3 And they call me at night because they know
4 I'm the person who will answer the phone at 8:00 to
5 help them when no one else will. And they know that
6 I'm the person that they can schedule meetings with at
7 7:00 in the morning before the hearing starts to have
8 their last questions answered.

9 There is no one on Board staff available to
10 do that, there is no other attorney who can do that,
11 and certainly no other attorney who is able to do that
12 pro bono for landowners who need assistance.

13 So, when event management staff acts
14 irrationally, it impacts the rights of landowners as
15 it relates to this hearing.

16 It is only thanks to the assistance of some
17 local people, who I want to mention in particular,
18 Fort Dodge Mayor The Honorable Matt Bemrich and Mike
19 Rees and his wife who own Mid-Iowa Towing Company,
20 that I was able to get my van back in time for a 7:00
21 meeting I had scheduled this morning.

22 In fact, if it weren't for their
23 assistance, I wouldn't have been able to make the
24 start of this hearing today because their towing
25 office doesn't open for vehicle retrievals until

1 10 a.m. -- or 8 a.m. I apologize. It is only because
2 one of their employees very generously left her home
3 at 9:30 last night, after putting her children to
4 sleep, to drive me across town and open up their lot
5 at 10 p.m. in order for me to have my van to be able
6 to serve my clients here today.

7 So I just would like the IUB to be aware
8 that actions that are being taken by people who are
9 running these proceedings are directly impacting the
10 rights of the parties. And, since the IUB is
11 responsible for this hearing, the IUB really needs to
12 make sure to oversee any subcontractors so that they
13 are not improperly influencing how these parties are
14 affected by the proceedings.

15 BOARD CHAIR HELLAND: Thank you.

16 I think we're ready to proceed with our
17 witness. Mike Beymer.

18 Mr. Beymer, will you raise your right hand,
19 please.

20 RONALD BEYMER,
21 called as a witness, being first duly sworn by Board
22 Chair Helland, was examined and testified as follows:

23 BOARD CHAIR HELLAND: Please state and
24 spell your name and provide your address for the
25 record.

1 THE WITNESS: Ronald Beymer --

2 BOARD CHAIR HELLAND: Can you speak into
3 the microphone, please. Thank you. Feel free to move
4 it around. Whatever works best for you.

5 THE WITNESS: Ronald Beymer. R-o-n-a-l-d
6 B-e-y-m-e-r. And my home address, 2457 Lark, L-a-r-k,
7 Avenue, A-v-e, Hamlin, Iowa, H-a-m-l-i-n, Iowa 50117.

8 BOARD CHAIR HELLAND: Thank you. And the
9 properties we're talking about are H-SH-023, H-SH-024.
10 Are both of these properties in Shelby
11 County?

12 THE WITNESS: Yes. Shelby County.

13 BOARD CHAIR HELLAND: Is there a different
14 name you use to refer to these properties that's a
15 little easier than 23 and 24?

16 THE WITNESS: No.

17 BOARD CHAIR HELLAND: Okay.

18 THE WITNESS: Well, it's a family farm.

19 BOARD CHAIR HELLAND: Okay. Are they
20 contiguous?

21 THE WITNESS: Yes. It's one unit.

22 BOARD CHAIR HELLAND: Great. Just a quick
23 reminder similar to yesterday, I don't know if you
24 were here or not for yesterday, but, when we're
25 talking about the property and you are describing

1 whatever the feature may be, can you just make sure
2 that you're saying "the waterway begins in the north
3 boundary and runs southeast," whatever it may be.

4 We'll need the words in the record so that
5 later, when we go back and review the record, we can
6 get a better sense of understanding what you're
7 saying. And we'll help you out along the way.

8 THE WITNESS: I don't know what I'm doing.

9 BOARD CHAIR HELLAND: You're going to be
10 just fine. You're going to be just fine.

11 And it's Beymer; correct?

12 THE WITNESS: Beymer, yes.

13 BOARD CHAIR HELLAND: Thank you.

14 Mr. Beymer, can you describe the current
15 use of the property and any plans you may have for a
16 different use in the future.

17 THE WITNESS: At the current time -- it's a
18 family farm. It's actually owned by six of us. It's
19 been in the family -- I can't even tell you exactly
20 how long. I'd have to look at the abstract.
21 Pre-1940. Because we have a picture of it from then.

22 My mother grew up there and -- a lot, you
23 know. It was a big family. So we've had it for a
24 long time.

25 We rent it out. Because we have renters

1 that were renting it. Our uncle was the last owner.
2 He died. We inherited it. And he was renting it and
3 we've kept the same renters. They're good renters.

4 There is a farmstead there that's been
5 there for a long time. My family -- the original
6 family -- or my mom's family, they built the house on
7 it. Had the house built. The buildings have all been
8 there for a long time.

9 I mean, it's just been in the family for a
10 long time.

11 BOARD CHAIR HELLAND: And the buildings.
12 Can you describe where the buildings are? And feel
13 free to use the pointer.

14 THE WITNESS: That's the house. And then
15 there's kind of a garage there that was a shop. A
16 machine shed. The picture is hard to tell. We have a
17 couple of old vintage barns there.

18 BOARD CHAIR HELLAND: And so that farmstead
19 is on the east edge of the parcel abutting a gravel
20 road?

21 THE WITNESS: Yes.

22 BOARD CHAIR HELLAND: Thank you. And the
23 shaded red component of the property on the western
24 edge, where I believe the white line is the proposed
25 route, is that tillage?

1 THE WITNESS: What?

2 BOARD CHAIR HELLAND: Is that tillage?

3 THE WITNESS: Yes. Everything is farmed,
4 cropped, except for the farmstead itself.

5 BOARD CHAIR HELLAND: Thank you.

6 THE WITNESS: And it's all the same
7 tenants.

8 BOARD CHAIR HELLAND: Which crops do you
9 grow?

10 THE WITNESS: They had just corn and beans.

11 BOARD CHAIR HELLAND: Are there any other
12 features in the property? Standing water? Streams?
13 Waterways?

14 THE WITNESS: Some terraces. It's tiled.
15 And we don't have a stream or timber.

16 And I guess one of the things, so I don't
17 forget about it, like the tiling, if they tear that
18 up -- we don't have tile maps because this has been
19 done over so many years. So that's one of the things
20 I'm kind of worried about.

21 I'm the -- my brother is here too. We're
22 trustees. This is a -- a testamentary trust is what
23 it's in now. And we're trustees. I'm the closest one
24 that lives there and I'm 35 miles away. So I can't
25 just, you know, run over and spend every day there

1 keeping an eye on things.

2 So, if they tear something up like our tile
3 lines, we're out. What are we going to do. You know,
4 we can't stand there and guard the work. How are we
5 going to do that.

6 And I'm semi-retired, but I still do work
7 some. And my brother has a business. He had to shut
8 his business down today. So he's going to drop a
9 bunch of money today. He'll pick some of it back up,
10 but he probably won't all of it.

11 But it's hard for us -- if they damage
12 something, how are we going to know it.

13 BOARD CHAIR HELLAND: You said you don't
14 have any tile maps. Do you have a general idea of
15 where the tile is?

16 THE WITNESS: No. No.

17 BOARD CHAIR HELLAND: Are there any
18 other -- is there any other infrastructure buried?
19 Tile -- not tile lines. But gas lines? Water lines?
20 Telephone lines?

21 THE WITNESS: Not that I'm aware of where
22 the pipeline runs. There's probably -- in the road
23 ditch, there's probably phone or something, but I
24 don't know. I mean, we have -- you know, we have a
25 well and all that at the farmstead. But, as far as

1 other lines out there, there is nothing that I'm aware
2 of.

3 BOARD CHAIR HELLAND: And the well is
4 located on the farmstead?

5 THE WITNESS: Yes.

6 BOARD CHAIR HELLAND: Are there any
7 third-party easements that you're aware of?

8 THE WITNESS: No, not that I know of.

9 BOARD CHAIR HELLAND: Are there any other
10 features, terrain, interesting terrain situations, or
11 drainage that are not readily apparent?

12 THE WITNESS: Not that I can think of
13 without actually going out there right now. I mean,
14 we have terraces. And some of it's kind of steep back
15 there too.

16 BOARD CHAIR HELLAND: And when you say
17 "steep" --

18 THE WITNESS: Highly erodible. HEL.

19 BOARD CHAIR HELLAND: And which way does
20 the water drain? West to east? North to south? A
21 little of both?

22 THE WITNESS: Well, I'd have to say
23 probably to the north and the south. Because it's
24 rolling ground.

25 BOARD CHAIR HELLAND: Right. And, in the

1 red shaded area, there are some lines that are
2 actually rather hard to describe. They appear to be
3 terraces, but they're covered in snow.

4 THE WITNESS: That would be terraces.

5 BOARD CHAIR HELLAND: So those are
6 terraces.

7 THE WITNESS: Yes.

8 BOARD CHAIR HELLAND: Okay. Thank you.
9 The proposed line here, and we can have staff measure
10 it, but do you know about how far away the proposed
11 line is from the homestead?

12 Actually, we can just have staff measure
13 it. You don't need to guess. Unless you want to.

14 THE WITNESS: It would be a half mile long.
15 So it's -- looking at that --

16 BOARD CHAIR HELLAND: .37 miles.

17 THE WITNESS: Yeah, that's probably about
18 right. And our homestead is probably the farthest one
19 there. There are three others that are much closer.

20 BOARD CHAIR HELLAND: And you're talking
21 about the farmstead south and east. And then is there
22 one south and west?

23 THE WITNESS: There's that one, that is our
24 renters, and they have ground that the pipeline is
25 going through too. And then, to the left of that, the

1 west, there's another farmstead there. Where you're
2 circling. And then if you would zoom over, it's
3 probably in the next section, but there's another one
4 right there on that T.

5 BOARD CHAIR HELLAND: Due west of the south
6 boundary.

7 THE WITNESS: Right there. And that's an
8 occupied farmstead too. That's another one.

9 So you've got four farmsteads that are
10 pretty close. So, if anything happens there, it's
11 going to really affect everybody badly.

12 BOARD CHAIR HELLAND: Can you describe any
13 specific concerns you may have and any recommendation
14 you may have for Board action to address your
15 concerns.

16 THE WITNESS: Well, as far as that, yeah,
17 no pipeline. I mean, I realize, you know, they're not
18 going to just reroute everything, because then they're
19 going to be in the same boat somewhere else. As far
20 as other properties.

21 BOARD CHAIR HELLAND: Do you recommend an
22 alternative route for the proposed line, and, if so,
23 can you describe that route and its theoretical
24 advantages or disadvantages?

25 THE WITNESS: No, I really can't, because,

1 as far as going through our property, there's no good
2 route. And I guess I don't want to say, "Well, yeah,
3 just move it over and run it through the neighbors,"
4 either. I mean, I'm not going to do that either. No
5 matter where you put it, it's not good.

6 Part of this pipeline, from what I've
7 seen -- there's a small town just north of there
8 called Earling.

9 BOARD CHAIR HELLAND: You said Earling?

10 THE WITNESS: Earling. They're actually
11 running it, the way I understand it, right butting up
12 against the town. There's a baseball field there
13 where kids play. You know, to me, they're not really
14 worrying about where they put it for safety or just
15 simply affecting things.

16 BOARD CHAIR HELLAND: Okay. Thank you. Do
17 the parties have questions for Mr. Beymer?

18 Mr. Taylor.

19 CROSS-EXAMINATION

20 BY MR. TAYLOR:

21 Q. Good morning.

22 A. Hi.

23 Q. I'm Wally Taylor. I represent the Sierra
24 Club, and it's my understanding that the red area on
25 what we call the KMZ map is actually two parcels?

1 A. Yes. I can't tell you where the line is,
2 but it's -- we actually own six total parcels. It's
3 kind of broken up that way legally. But they affect
4 two of the parcels.

5 Q. And, as I understand, the entire two
6 parcels are in row crops?

7 A. Yes. Yeah, it's all row crop. There is no
8 hay. It is grazed in the wintertime. Our tenants
9 have some cattle. So they do graze it in the winter,
10 too, and graze the stubble.

11 Q. Sure. I think I understood, but I want to
12 make it clear that the white curved lines that are
13 within the red area, those are terraces?

14 A. Yes.

15 Q. And it looks like the pipeline would impact
16 at least two of those terraces?

17 A. Yeah, that's what it looks like.

18 Q. What do you perceive as being that impact?

19 A. Well, if you open up those terraces, you're
20 not going to get them put back the way they were. In
21 a few years, it's going to start moving. And then
22 they don't really want us in there fixing stuff. You
23 know, ourself -- they don't want people just in there
24 digging.

25 So, if we hire somebody -- if they say,

1 "Well, just hire somebody and we'll pay you back,"
2 well, is that going to happen? And I don't imagine if
3 we called them and say, "Come fix it," if they'd do
4 it. We've got tenants. They have to have it ready.
5 Are they going to do repairs in a timely manner? And
6 I'll guarantee you those terraces will have to be
7 repaired at some point.

8 We've spent money on -- I went in once --
9 it's been a while ago. Took my own loader over. I
10 had to repair some terraces. A few years after that
11 we had to have a dozer come in and do some repairs.

12 And who is going to get stuck for this bill
13 then when they need repairs. Probably, I would guess,
14 within five years they're probably going to need to be
15 repaired. And that may not fix it. You know, with
16 the ground settling, it may need it again. Who is
17 going to get stuck for that bill? How are we going to
18 get the money out of them?

19 You can't talk to anybody. You can't go
20 into an office.

21 And, if they do this and they sell -- the
22 way I read the contract, they can sell their rights
23 then. They could sell them to China. How are we
24 going to get anything done? You know, our rights will
25 be gone.

1 Q. And is it your understanding, from the
2 easement, that if the pipeline goes in, you cannot put
3 anything on top of the easement?

4 A. That's another thing. Even -- this is an
5 old farm. We had two uncles that farmed it later in
6 life. You know, once everybody was gone. They
7 weren't extravagant. All the fences are shot. So
8 we're going to eventually have to replace that.

9 When we start going and putting fences in,
10 what kind of a hassle is that going to be for us? Are
11 we going to have to wait two years to get permission
12 to put fences in because we have to dig holes? You
13 know, even for a fence post?

14 How many years are we going to be putting
15 up with -- well, I won't say what I'm thinking, but
16 how much crap are we going to have to put up with for
17 years because there won't be anybody around to take
18 care of it?

19 Q. You say the field is tiled?

20 A. Yes. And we don't have -- as far as I'm
21 aware of, we don't have any tile maps.

22 Q. So these are really old tiles before they
23 started mapping them?

24 A. Well -- some of it's newer tiles. But, if
25 they're mapped, we don't have it. As far as I know.

1 If we have it, I have no idea where it's at.

2 Unless -- I doubt if the NRCS office has them. I
3 mean, if they -- like I say, they weren't extravagant.
4 So I'm guessing probably the cheapest tiling guy did
5 the work. Did he have GPS? I don't know.

6 Q. Is that tile a concern that you have if the
7 pipeline is constructed?

8 A. Absolutely.

9 Q. Why is that?

10 A. Because if you tear those tiles up and plug
11 those tiles, then you start getting wet spots.

12 We're getting fairly reasonable rent for
13 this ground. You know, you can't expect them to keep
14 paying that if it's going to be flooded. Or wet.

15 You know, everything now, as everybody
16 knows, is big equipment. You can't -- you can't just
17 drive around a little wet spot now. You've got to go
18 through everything.

19 And, believe me, tiling is expensive. I
20 have a small farm where I live. I don't do a whole
21 lot with it myself anymore, but a few years ago I felt
22 sorry for my renter. I did a little bit of tiling.
23 And I mean a very little bit. They were there about a
24 half a day and I dropped about \$4,000, and this was
25 probably close to ten years ago and I think tiling is

1 probably double now.

2 So, if they tear that up and you can't get
3 that fixed and you have to retile everything, you
4 could be looking at \$30,000, \$40,000 to fix their
5 screw-up. Easily.

6 And, like I say, I'm 35 miles away. I
7 can't -- I don't know how long they would be in there,
8 that that's expected to take. I don't know, are
9 they -- like to do ours, are they talking a week,
10 weeks, months? We can't have somebody there
11 babysitting them all day long to make sure something
12 doesn't get damaged.

13 Q. So who lives on that farmstead just to the
14 east?

15 A. The east one, that is ours. We don't have
16 anybody living there.

17 Q. That's not where you live.

18 A. No. No, I'm 35 miles away. But we may
19 have somebody -- you know, it's possible we're going
20 to have a family member live there or something. So,
21 you know, you've got -- like I said, you've got four
22 real close there.

23 One of my concerns, too, on this pipeline
24 is -- some of ours is highly erodible land. If it
25 goes through a waterway, and I can't tell you off the

1 top of my head if it does there, because, for one
2 thing, I haven't -- you know, it's not marked out or
3 anything yet.

4 Waterways, if you get -- now we've been in
5 a drought. Well, if you hit a few years in a row
6 where you get some downpours, all of a sudden in a
7 waterway you could lose two feet of dirt.

8 And what they told me when they -- one of
9 the people, and I've had so many different stories
10 from people I've talked to, that the pipeline was only
11 going to be, the way I took it, just a very few feet
12 down. The top of it.

13 If you run it through a waterway and you
14 lose two or three feet of soil over a few years or
15 five to ten years, you're not even going to know that.
16 And if the renter is running a tillage tool through
17 there, you're going to hook it. Or you've got a good
18 chance of it.

19 Q. So are there waterways on the property?

20 A. There are some. And I can't honestly tell
21 you exactly what. You know, it's rented out. We
22 don't -- and it's cropped. So we're not out there
23 running around and looking at this and that.

24 Honestly, we almost kind of grew up on it
25 so it's not like we need to view it constantly. We

1 don't go driving around on it a lot.

2 Q. But, if there were waterways, you'd be
3 concerned about the impact of the pipeline on those?

4 A. Absolutely. And, you know, it's not smooth
5 ground. There's hills. So any place the water
6 runs -- and I guess when you say "waterway," my
7 thinking is a grass strip. But you're just thinking
8 where the water runs. So, yeah, there are waterways
9 then where the water runs.

10 Q. That's what I call a classical gully, I
11 think, is the technical term.

12 A. Yeah. Exactly, yeah. Since I do farm a
13 little, when I think "waterway," it's grassy waterway
14 through the field. A different view.

15 Q. Do you have any ephemeral gullies?

16 A. Any what?

17 Q. Ephemeral gullies. Those are low areas
18 that have water maybe in the spring when it rains --

19 A. That hold water? No, we don't have
20 anything like that. It's all croppable. And it's a
21 good farm. And this isn't with that, but they
22 recently sold a farm -- the west farmstead, they sold
23 that. On the south side. They sold the ground there.
24 And it's the same ground. And it brought pretty good
25 money. And for what Summit Carbon has offered us, the

1 last offer I don't even think they're close to that.

2 And, you know, we don't plan to sell ours,
3 but stuff happens. How much value are we going to
4 lose on our ground because this is in there? Because
5 I don't think very few -- nobody is going to pay top
6 dollar anymore to buy a property with this through it.
7 How much money are we going to lose if -- like I say,
8 we don't plan on it, but we have kids, grandkids.

9 Eventually it will go to them. If they sell it, how
10 much money is this going to cost them if they sell it.

11 Another one of my concerns -- and this is
12 off your subject, but I don't want to forget anything.
13 What about our property taxes? If this lowers our
14 value, is the state going to make all the counties
15 lower our property taxes. Because it's going to do
16 that.

17 I'm sorry, I got off your topic.

18 Q. That's okay.

19 A. If I get something in my head sometimes, I
20 don't want to forget it.

21 Q. So you believe that the pipeline being on
22 the property would lower the value of the property?

23 A. Absolutely. It's going to make a big
24 difference.

25 Q. If the pipeline is constructed, do you

1 think that that impacts the fertility of the soil and
2 the crop yield?

3 A. It's going to. Which -- like I say, we
4 have tenants, so that would kind of be their problem
5 in a way. But it's going to cut it, and it might be
6 for quite a few years, because I don't think there's
7 any way they're going to keep all that soil separate
8 like they say they're going to. It's going to be
9 compacted a lot from all the equipment.

10 And how is anybody going to prove what you
11 lost? You know, like there, you're looking at a thin
12 strip on the edge. Okay. Are they going to say,
13 "Well, you're going to have to combine that in
14 ten-foot rows to prove you lost on your production"?
15 How is that going to work?

16 Because they claim they're going to give
17 the farmer, you know, so much a year. And, if it
18 continues for, say, another year or two, they're going
19 to make it up. How are you going to prove it? Can
20 you expect a farmer -- there's -- you've got like a
21 half a mile long pipeline there. Are you going to
22 expect him to combine all those rows separately? And
23 what if it's all ten-foot rows? Just say it was ten
24 foot from that fence. How is anybody going to prove
25 any of that?

1 Q. And, if it's your burden to prove it, you
2 think you'd have trouble doing that.

3 A. Yeah. Extremely. You know, they're
4 supposed -- yeah, they're promising all this. You
5 know, like I say, the crop isn't our deal, but I still
6 like to look out for my tenants.

7 Q. And is it your understanding that Summit
8 would only have to pay crop damages for three years?

9 A. Three years was what was in their
10 paperwork. I believe it said that if there was
11 continued, they would do it or do something, but how
12 would you prove it?

13 There's just too many vague things in a lot
14 of this to me. You know, all the burden of proof and
15 everything would be on us. Or we'd have to be hiring
16 lawyers to prove anything. Say it's a \$10,000 claim
17 and you spend \$30,000 fighting it. How do you do
18 that? Where does that pay?

19 I'm just afraid we're all going to come out
20 on the short end of the stick.

21 Q. Is there anything about the particular soil
22 type that you have there that causes you concern about
23 the impact of the pipeline?

24 A. That I can't answer. I can't tell you what
25 soil type there is there at all. I'm no expert on

1 that anyway.

2 Q. Some of the witnesses have talked about
3 that. That's why I asked.

4 A. Some people are. There's a neighbor down
5 the road, he could tell you probably what every
6 particle of soil is on his, but I can't.

7 Q. You mentioned a well, I think. Where is
8 that?

9 A. That's on the farmstead itself. I could
10 probably show you pretty close. The actual well would
11 be about in that area probably. About right in there,
12 I believe. Give or take a little.

13 Q. Okay.

14 A. And that's not what you'd call a new well,
15 but it's not one that's been there from when the
16 farmstead was, you know, started. I mean, it's a good
17 well. I'm 67. I remember it being put in.

18 Q. But it's a working well.

19 A. It's a good working well. It's tiled.
20 Yes, there's plenty of water. If they messed up the
21 water table somehow, that would not be good.

22 Q. Are you concerned about the impact of a
23 leak or a rupture from the pipeline?

24 A. Absolutely.

25 Q. How so?

1 A. Well, I'm pretty worried about it. You
2 could have -- I'm no expert on this, of course, but,
3 if you had a small leak, that could go, I imagine, for
4 a long time. And bleed for a long ways and possibly
5 do a lot of soil damage.

6 And of course if it ruptured like that one
7 that happened -- was it Mississippi, I believe, or
8 somewhere, you could have a lot of damage and how are
9 you ever going to put everything back. You never
10 could. You could never make it right.

11 And, if it does rupture, from what I've
12 seen, you don't want to be anywheres close because
13 you're dead. And, from what they told me, if it's
14 only a few feet down, which shocked me, it wouldn't
15 take much accidental soil removal and you could run
16 something into that pipeline.

17 And, if you're looking at some of this huge
18 farm equipment pulling a tillage tool into that,
19 that's a lot of pressure. And I don't know how thick
20 their actual pipe is. I don't believe they ever owned
21 up to that. If it's a quarter-inch thick pipe, a
22 half-inch, one-inch, I don't know.

23 Q. You mean the thickness of the pipe.

24 A. The pipe wall.

25 Q. Do you know how big of diameter pipe they

1 plan to put in your property?

2 A. That was one of the things on my list. I
3 went to the meeting in Shelby County in '22. And that
4 was -- I don't know if it was the first -- it was one
5 of the earlier meetings. And, at that time, they told
6 us it would be a 6-inch line. They said, at the most,
7 it would be an 8-inch line. That would be the biggest
8 pipeline they would put in. That was their promise
9 that day. One of their promises.

10 And, when we got an offer on paper through
11 the mail and their contract, all of a sudden it had
12 jumped to 12 inches is what they were putting in.

13 What is the plan now? I watched a little
14 bit of this yesterday, and, if I heard it right -- and
15 I was listening on a little phone with poor volume. I
16 don't have good internet. I thought something was
17 said about a 24-inch pipeline now. Did I hear that
18 right? I don't know. I may have heard it wrong.
19 Something about -- or possibly they could go up to 24.

20 Is that true?

21 Q. They can go up to 24, yeah.

22 A. But, like I say, they promised us at that
23 meeting that it would not be over 8 inches, and they
24 immediately -- and, when you go from 6 to 12, you're
25 not doubling it when you're talking volume in a tube.

1 You're multiplying it. So if you go up to 24, you're
2 really -- if that's what I -- if they would do that,
3 and if they're allowed to, and I imagine they'll do
4 that. You're looking at really a big -- if something
5 happens, a really bad accident.

6 Q. Will you expect any economic damages that
7 you would incur if the pipeline is put in?

8 A. Well, one of the things -- like fencing.
9 How much more is that going to cost us? Just being
10 delayed. If we have somebody -- if we had to have
11 somebody come in and do some rework. Well, it could
12 be at our expense. Because, like I say, I don't think
13 they're going to stand behind their promises.

14 If we hire a dozer to come in, is he going
15 to charge us double for his extra risk and time?
16 Because he's got to be really careful with his dozer.
17 It might take him twice as long to do the work.

18 And, like I say, they may say, "Well,
19 you've got a hazardous pipeline here. We're going to
20 have to have a lot more people here, we're going to
21 charge you three times as much." So we've got that.

22 And economically, too, like I said, if we
23 sell it, how much money are we going to lose? The
24 ground across the road catty-corner that sold this
25 summer, they had two sections, roughly the same total

1 acreage as ours, it brought 15,000 and 15,500. And I
2 really thought it was going to push 20,000.

3 But I honestly suspect that that price took
4 a little hit because it's across the road -- it's
5 still right by the pipeline. And I kind of think that
6 those people took a hit because of that just because
7 of the threatened pipeline.

8 Because this section through here is
9 extremely good farmland. And the way prices have been
10 going, they should have either hit 20,000 or just
11 bumped it.

12 Q. Did you say you had talked to some Summit
13 representatives about a proposed easement?

14 A. Of what?

15 Q. Did you say you had talked to some Summit
16 representatives about a proposed easement?

17 A. Well, they have talked to me. I had one
18 person call me from Texas early. That's in my notes
19 here. That's a sore spot. He threatened. That was
20 when they wanted to survey. And I said no. I said,
21 "I don't want them on the property."

22 He threatened me. Immediately he said,
23 "I'm going to send you" -- something he called a
24 ten-day letter. He said, "We're going to send that
25 out and we can do whatever we want." And that's

1 exactly how he threatened me. Right off the bat he
2 said, "We're just going to send you this letter and
3 we'll just do whatever we want."

4 We did get that letter eventually. I don't
5 believe they surveyed. To my knowledge. The renters
6 never said anything and I've never noticed any flags.

7 This same man also said -- he was telling
8 me about all this money we'd get. Crop damage was
9 part of it.

10 And I explained to him, "Well, we have
11 tenants." I said, "That's not our money.

12 "Yeah, but you don't have to give it to
13 them. You can keep it."

14 If they're going to tell us to screw over
15 our tenants, what are they going to do to me?

16 And I believe, I'm not going to swear to
17 it, but I believe I had -- yes, I had two people tell
18 me that. Because I mentioned that to another one.
19 I've had people call, I've had people stop. So I
20 can't tell you exactly which one said it. I had
21 another one tell me that we didn't really have to give
22 our tenants their crop damage money. How honest is
23 that right up front? Doing that.

24 And that's just kind of -- I guess for a
25 deal like this, that would be a minor thing. If

1 you're going to tell people to cheat somebody on that,
2 what are you going to do? That's one thing that's
3 really bothering me. They're telling us to cheat our
4 tenants. So are they going to do the same thing to
5 us?

6 Q. Were there other things that some
7 representatives told you?

8 A. Well, one of them was at the meeting that I
9 went to. That early meeting. After they said how
10 good it was and that they would give us offers, that
11 person immediately threatened if we didn't sign, they
12 were just going to eminent domain us and take it
13 anyway. I mean, at the first meeting, they threatened
14 and said, "If you don't sign, we're just going to take
15 it with eminent domain."

16 I mean, I don't -- I don't like being
17 threatened like that. You know, just -- it just
18 didn't set well.

19 Q. Did you ever talk terms with Summit
20 representatives at all?

21 A. On what?

22 Q. Did you ever talk terms --

23 A. No. No -- well, yes and no. The last
24 representative that came to my house -- and that was
25 earlier this summer. She was there twice. She was --

1 we'd had two offers. Of course the second one was
2 higher. I don't remember how much higher, but it was
3 higher. She was punching numbers up on her phone for
4 me, and it just seemed like it was awfully high.

5 But I didn't have my paperwork out there,
6 we were just out in the yard, and she just clicked it
7 up acting like it was really high, but then nothing
8 ever came on paper. That was the only possible terms,
9 I guess, that I talked about. But there was never
10 anything written.

11 And my understanding is that those people
12 aren't with Summit now either anymore.

13 Q. Do you know why that offer wasn't followed
14 up with something in writing?

15 A. Yeah, that's what -- that's bothering me
16 too. Because -- I didn't have my paperwork out there.
17 It just seemed off -- what she was punching up was
18 awfully high. And she -- just as quick as she could
19 go and it was done.

20 And I thought, "Okay, that's what it is, I
21 should be getting something in the mail." And this
22 has been at least two months ago, I would say. And
23 nothing ever came of it. So she was making verbal
24 offers, but no follow-up, nothing on paper.

25 Q. So why have you not signed an easement?

1 A. Well, we don't want it. We don't want the
2 damages. We don't want the future problems. The
3 future problems is what's really bothered us.
4 Because, according to the way the paperwork reads, if
5 they decide to sell that easement, we have no say on
6 it. I don't particularly want our property rights
7 sold to somebody in China that can do whatever they
8 want.

9 And, you know, a lot of the information in
10 there is kind of vague. You know, it says what they
11 want to do now, but what are they going to do later?
12 Are they going to put something else on our property
13 then because they have an easement? Are they going to
14 come in and put a bunch of buildings there to service
15 their stuff because they have our easement?

16 Q. Is the easement kind of one-sided in favor
17 of Summit would you say?

18 A. Just a little bit. Pretty much.

19 MR. TAYLOR: Thank you. That's all the
20 questions I have.

21 BOARD CHAIR HELLAND: Ms. Gruenhagen. Farm
22 Bureau.

23

24

25

1 CROSS-EXAMINATION

2 BY MS. GRUENHAGEN:

3 Q. Good morning. My name is Chris Gruenhagen,
4 and I'm representing the Iowa Farm Bureau in these
5 proceedings. And I have some follow-up questions to
6 what Mr. Taylor asked you. I know he got into a few
7 areas, but I just had some follow-up with that.

8 You mentioned that you rent out these
9 farms?

10 A. Yes.

11 Q. Did you tell Summit who your farm tenants
12 were?

13 A. Yes, I did. They didn't seem to be too
14 interested. They didn't really care.

15 Q. Did you tell --

16 BOARD CHAIR HELLAND: Mr. Beymer, can you
17 make sure you're speaking into the mic.

18 THE WITNESS: Sorry.

19 BOARD CHAIR HELLAND: That's okay.

20 Position it wherever it works for you.

21 A. Yes, I told them. I told them more than
22 once. That was one of the sore subjects, too, which
23 I'm glad you mentioned that. Because I had a couple
24 of them say, "Well, you can just keep the money," and
25 I told them, "I don't really want to see us getting

1 paid for that and then having to give it to the
2 tenants."

3 Which technically shouldn't be a problem,
4 but we're in the middle of something with the IRS on
5 some improperly filed taxes from a lawyer, and I don't
6 want to get into more of that. Because you cannot get
7 the IRS to do anything. So I'm trying to avoid
8 problems like that.

9 Yeah, they did not -- they were not
10 concerned about who, what, where our tenants were,
11 they could care less.

12 BY MS. GRUENHAGEN:

13 Q. So did you tell the land agent -- or who
14 did you tell with Summit?

15 A. I believe I told everybody that I talked
16 to. I had the two women that came to my property.
17 Where I live. And then I talked to a man in Texas.
18 He was the one who originally told me that we could
19 just steal the money. And then I believe I had
20 somebody else call me on the phone that might have
21 been stationed in Des Moines. I mean, I've had
22 multiple people contact me.

23 Q. So do you believe that if there's crop
24 damages, the compensation for that crop loss ought to
25 go to the tenant?

1 A. Well, absolutely. Because they're paying
2 us for the right to farm it and -- you know, you can't
3 really -- how are you going to split that little, what
4 is it, 100-, 200-foot or whatever, strip off for a
5 while so that they don't farm it, and then you take
6 it -- you know, you can't just do that because it's
7 not practical. So they're going to have to keep
8 farming it. So they deserve that.

9 And I don't feel like if they keep having
10 problems with production, say, past the three years,
11 okay, are we going to be expected to cut our rental
12 rates for that bit because production stays down for
13 another five years?

14 Q. So would you want Summit to pay the crop
15 damages to your tenant if there were crop yield
16 reductions past that three years?

17 A. Well, absolutely. And I think it's going
18 to happen. Because you're just not going to do that
19 much -- you know, yeah, they say, "Well, it's just a
20 little strip." Well, all that heavy equipment, you're
21 moving all that dirt, you're supposedly pushing the
22 topsoil away off to the side, you're going to have a
23 lot of trips over there with big bulldozers. You're
24 going to pack the hell out of that ground. And I
25 don't care what you do, it's going to take a lot to

1 bring it back.

2 You're also going to have settling problems
3 in that trench for years. And that will absolutely
4 happen. Especially with that big a trench. It's not
5 going to settle down in two, three years. You're
6 probably going to have settling for, I imagine, five
7 to ten years. Who is going to take care of that?

8 And what if they drop a tractor wheel in
9 there? They flip a tractor over and somebody gets
10 hurt. It's our property. Who is going to take it in
11 the shorts for that? Who is going to repair their
12 equipment?

13 You know, like those big high-wheel
14 sprayers. They've got a pretty high balance. I'm
15 sure everybody knows what they are. The wheels aren't
16 overly wide. If you're spraying that and you're
17 running north to south, that sprayer, if those wheels
18 drop in that trench and it falls out from under them,
19 what's going to happen?

20 You're going to have a sprayer tipped over.
21 You're going to have a bunch of chemical dumped on
22 your ground. Then you're going to have the DNR and
23 the EPA in there after your butt. And I don't think
24 Summit's going to come deal with that for us.

25 You've just got so many potential accidents

1 or problems waiting to happen. I'm not saying it's
2 all going to happen, but it can.

3 MS. GRUENHAGEN: Could the IUB staff pull
4 up Exhibit N to the permit. To the pipeline permit.
5 Would that be possible? And if we can zoom in to that
6 so we can see the colors.

7 BY MS. GRUENHAGEN:

8 Q. This is an exhibit that Summit Carbon
9 Solutions filed with their permit application. And,
10 if you see the key on the right side there, it says
11 "Pipe Size." Do you see that by color?

12 A. Okay. Yes.

13 Q. And then, for Shelby County, do you see
14 what color that line --

15 A. And right now it's showing 8-inch there?

16 Q. Yes.

17 A. But, once you sign, then they're going to
18 have the option to change that.

19 Q. So would you like the Board in their order
20 to limit them to an 8-inch pipe on your property?

21 A. Well, I think they need to -- whatever it
22 is, they need to define it so that -- if it does go
23 through, so that they can't sign you into a contract
24 and then just change it later. Yes, I think they
25 should specify absolutely what the maximum is or get

1 a -- however you want to put it, yeah. If they say 8,
2 that they can't change it.

3 MS. GRUENHAGEN: You can switch back to the
4 KMZ file.

5 A. Now, these contracts -- we're normal
6 people. There's some, you know, of course a lot
7 smarter than I am and into this stuff more, but we're
8 just normal people. We don't understand all these
9 legally written contracts. You know, you've got very
10 expensive lawyers writing these contracts. They're
11 not doing it for our benefit. And we don't have much
12 recourse to even understand them.

13 Like I say, our total is 200 acres. We're
14 renting this out. We're not making a ton of money
15 every year by the time we pay taxes and expenses. We
16 can't afford to go hire a lawyer to walk us through
17 all this to protect our rights.

18 So we're kind of stuck with you guys. And,
19 if you don't back us up or protect us, what are we
20 supposed to do?

21 Some farms, you know, are huge. They can
22 afford to hire the people to protect them. We can't.
23 We can't do that.

24 BY MS. GRUENHAGEN:

25 Q. So, Mr. Beymer, have you looked at the

1 Exhibit H that's been filed for your properties?

2 A. I don't know what Exhibit H is.

3 Q. The document that -- I don't know, maybe we
4 can pull that up too. It's the piece of paper that
5 was filed regarding your property.

6 Have you seen that?

7 A. I'm sure I have, but the "H" doesn't mean
8 anything to me.

9 Q. All right. Have you seen the eminent
10 domain request for your property?

11 A. Okay.

12 Q. Does that look familiar at all? Have you
13 seen that?

14 A. I probably have. But, like I say, I'm not
15 into the legal stuff so much, so I probably just kind
16 of blew through it.

17 Q. You're doing just fine.

18 A. Okay. Now, where you say the easement
19 things, there would be water lines, because there is
20 rural water going through. When you asked about
21 easements earlier. We do have rural water going
22 through there. That was one thing I'd forgotten
23 about.

24 We don't use it. We used to have it hooked
25 up, and, for our use, it just wasn't worth it. So we

1 do have rural water going through there. I forgot
2 about that.

3 Q. When we get back to the KMZ, help me
4 remember to show where you think that is. Okay? On
5 the property. When we go back to that.

6 MS. GRUENHAGEN: Can you scroll to the next
7 page.

8 A. It did say in their thing there "no known
9 tenants on the property." I have told them multiple
10 times we have tenants. Which they totally decided to
11 ignore, I guess.

12 BY MS. GRUENHAGEN:

13 Q. That's why I was asking about that.

14 MS. GRUENHAGEN: I think it starts on
15 page 3 is what I'm looking for.

16 BY MS. GRUENHAGEN:

17 Q. So, as a part of that, Summit is proposing
18 some easement language as a part -- if the permit is
19 approved and if you would go to eminent domain,
20 they're proposing some easement language.

21 Have you seen that?

22 A. I probably have. I got served a whole
23 bunch of papers a few weeks ago that they were filing
24 eminent domain. Which kind of floored me. Because I
25 thought they couldn't go eminent domain unless the

1 Utilities Board approved it, and I got papers saying
2 they have filed eminent domain on us.

3 Q. The Utilities Board does need to approve
4 the permit application before they could do that. I
5 know that's a legal conclusion. But just to clarify
6 that. Because I think the code is pretty clear about
7 that.

8 A. Yeah, I had a whole pile of these that said
9 they had declared eminent domain on us, and my
10 understanding was they couldn't do that unless they
11 had a permit.

12 So why are they sending out eminent domain
13 papers saying they filed on us if it hasn't been
14 approved.

15 Q. So, if the permit application gets
16 approved, would you like the opportunity to still
17 negotiate an easement with them --

18 A. Yeah.

19 Q. -- before going to eminent domain?

20 A. Yes. But, so far, nobody has been real,
21 Summit, up front on even talking. It's kind of like,
22 "This is what we're giving you, take it or leave it,
23 or we're just going to take it."

24 Q. And I'm going to ask you some questions
25 about things that you might want in the easement. So

1 I'll just ask you a few questions. We covered a
2 couple of those things already, but we'll talk about a
3 few more if that's okay with you?

4 A. Yeah.

5 Q. If Summit has to go in there and repair
6 part of the pipeline -- this is assuming if the permit
7 application is approved and --

8 A. Yeah, that it goes through.

9 Q. If they have to go in and repair the
10 pipeline, would you want them to follow some ag land
11 restoration standards when they do that? Separating
12 the topsoil, repairing tile lines, those kind of
13 things.

14 A. You've got to. Otherwise you bring up a
15 bunch of clay and your crop ground is ruined.

16 Q. Would you want that easement to specify
17 where that easement is at on the property? Like the
18 location of the pipeline on the property?

19 A. You mean exactly?

20 Q. Exactly.

21 A. Yes.

22 Q. Where it's supposed to be.

23 A. So they can't just move it.

24 Q. Correct.

25 A. Yeah.

1 Q. And, if they wanted to move it to another
2 part of the property, would you want them to ask for a
3 separate easement?

4 A. Yes.

5 Q. Would you want to be able to access that
6 easement area when it's not in active construction?

7 A. Yes.

8 Q. Because I believe there's a two-year period
9 that that construction easement lasts. And so would
10 you like to be able to go ahead and use that easement
11 if they're not constructing?

12 A. Yeah.

13 Q. Would you want the easement language to
14 specify how they can access the property? Or where
15 they could access the easement?

16 A. Absolutely. Because if they access it --
17 say like right now and -- where it's running through
18 there, there isn't a gate. I'm pretty sure there
19 isn't a gate. The gate would be farther east.

20 Are they going to run over -- if they're
21 going to want to drive in and look at it, are they
22 going to drive in over a quarter mile of our renter's
23 crops so they could go in and look at something? If
24 you can't control their access? Otherwise they could
25 go to the closest gate and do a lot of possible

1 damage.

2 Q. Would you want Summit to put a gate there
3 so that they wouldn't have to go across other parts of
4 the property?

5 A. Well, they should, yes.

6 Q. And, if they had to change the grade of the
7 land when they're constructing it, would you want them
8 to talk to you and consult with you about changing the
9 grade of the land?

10 A. Yes, and really they would -- they
11 shouldn't just talk to us, they need to talk to the
12 county NRCS. Because all this stuff is in farm
13 programs. And, if you go start just changing a bunch
14 of grading, you might kind of mess up your farm
15 program payments. Because you have to meet their
16 specifications. You know, you can't just go start --
17 you don't want to go make a bunch of changes like
18 that.

19 Our tenants get -- we don't get any money
20 from it, but our tenants, of course, get government
21 subsidies, whatever. There's a lot of government
22 money that goes to the person farming it.

23 If Summit Carbon went in there and made it
24 more erodible, or something like that, they could lose
25 some of their subsidies. So they actually need to be

1 working with all the county NRCSs, which I'm sure
2 they're not planning on doing.

3 But when you start changing grade on
4 ground, you can mess some stuff -- you can mess some
5 things up.

6 Q. So can we talk about the farm program
7 participation a little bit? Do you mind talking about
8 that?

9 A. Yeah.

10 Q. So are you enrolled in the federal farm
11 programs or is it your tenants?

12 A. The farm is enrolled and the tenants are
13 responsible for it. Because they get the benefits.
14 They do all the signing. I mean, they're totally
15 responsible for their part in it. Neither my brother
16 or I -- originally I had to go and sign once in a
17 while. I don't even have to do that now. They
18 totally take care of it. So they would actually have
19 to be working through our tenants on that.

20 Q. Do you know what farm programs they're
21 enrolled in?

22 A. I can't tell you. I don't -- even my farm
23 isn't. I can't -- I'm not up on the farm programs,
24 because what I do doesn't really amount to anything.

25 Q. The folks in the NRCS office tend to help

1 out with that, don't they. Or FSA office.

2 A. Yes, they're good at that, but you've got
3 to go to them. And I doubt if Summit Carbon is going
4 to want to go to the county NRCSs and say, "Well,
5 should we do this or this." They're just going to do
6 it, and then it's going to be, "Well, too bad."
7 You've messed up your ground. You've messed up the
8 NRCS program. "Deal with it."

9 Q. So I assume your farm tenants have crop
10 insurance on the property?

11 A. I'm sure they probably do, but I can't say
12 for sure. That's a personal choice. You know, it's
13 your crop. If you feel -- you know, it's a risk
14 management thing. Some of the farm programs you have
15 to have crop insurance to be in. And some you don't.
16 For my little bit where I live, I don't have any crop
17 insurance on anything.

18 Q. So you mentioned earlier this is kind of
19 rolling hills in here?

20 A. Uh-huh.

21 Q. And so is it highly erodible land as FSA
22 determines it?

23 A. It should be considered that. I honestly
24 haven't looked at any of the soil maps for a long
25 time, because, like I say, it's not -- the tenants

1 take care of it. But I know some of it is pretty darn
2 steep.

3 When I was young, I literally almost
4 flipped a tractor over backwards on myself. Some of
5 it was pretty steep. And if you mess with that -- I
6 about killed two of us.

7 Q. Well, I'm glad you didn't.

8 A. Yeah. It's steep. Some of it. And some
9 of it isn't. But it still -- if it's rolling, there's
10 very little to me that they don't consider highly
11 erodible, and I'm saying that not so much from -- just
12 from my own property that I own where I live, it's not
13 that steep. But, on the map, it's HEL. It's highly
14 erodible. It doesn't take much.

15 Q. So is highly erodible land required to be
16 in conservation compliance?

17 A. If you want to get your farm program money,
18 yes. You know, like no till, strip-till, minimum
19 tillage. You know, whatever. They don't want you out
20 there plowing, of course, and stuff. You have to sign
21 a contract on what you're going to do. And, if you
22 start breaking those rules, you can lose your
23 contract.

24 And we know there's a lot of farm money
25 available, and, if you lose it, that could be your

1 profit for the year. If this company goes in and
2 messes up somebody's tillage and the government says,
3 "Sorry, you broke your contract," you're going to lose
4 a half a million dollars this year, next year.

5 Q. And is a part of that conservation
6 compliance those terraces?

7 A. That's part of it, yes. It's terraces.
8 It's grass waterways. You know, it's kind of
9 farm-specific because everybody is not the same.
10 And I'm just saying this from my
11 observation. I don't even think every county follows
12 the same rules. Because the county I live in, you see
13 a lot of grass waterways, everybody's pretty fussy.

14 Some of it you get up in here in this --
15 from Shelby County, like up in Crawford County, I
16 travel through there once in a while, and I can't
17 believe they're even farming it. But they may not
18 have to meet some of those rules.

19 But that's just my observation. I don't
20 think every county is the same. You just don't want
21 to go break -- you don't want to break the contract.

22 Q. So does that proposed pipeline route cross
23 the terraces?

24 A. Well, it looks like it's going to catch a
25 couple of them. The one, it looks like it's going to

1 catch the end. And the one, definitely.

2 Q. And so would you need Summit to put those
3 back in the same condition or better in order for that
4 farm to maintain conservation compliance?

5 A. Yes, you don't want to lose your terraces.
6 And it's not just compliance, you're taking care of
7 your farm. You're not letting it wash away. You
8 know, you don't want that dirt washing into the
9 ditches or the streams. Or your chemicals. And
10 that's what affects that.

11 So, if they mess the terraces up and don't
12 put them back -- and, you know, there's maybe some
13 farms that are kind of low end. If they tear the
14 terraces up and they don't put them back and they fall
15 apart later, can the landowners afford to fix them and
16 put them right.

17 Q. Do your terraces have tile stand pipes in
18 them? Do you know what those are?

19 A. I'm not going to give you a guaranteed
20 answer on that. I'm thinking one of them does, but
21 I'm not going to say for sure.

22 Q. So would it be possible that the tile line
23 you talked about earlier may be in conjunction with
24 the terraces functioning properly?

25 A. It probably is. I didn't personally see

1 the terraces put in. They're just -- they're there.
2 And that's why we don't -- you know, we can't even say
3 for sure where they're at. If there's a tile map, we
4 haven't found it in the house. And I have no idea who
5 did the tiling. You know, they may have a map. But
6 we don't have access to maps.

7 Q. So, if Summit's contractor cuts a tile in
8 one of those terraces during construction but maybe
9 you didn't find out about it because we're having a
10 dry spell and you didn't find out about it for five
11 years, would you still want Summit to be required to
12 fix that tile line?

13 A. Yes, but I don't think they'll come in and
14 do it. Because who is the burden of proof on.

15 Q. Would you want the Board to require them to
16 fix it?

17 A. Yeah, absolutely. I think they should be
18 responsible forever for anything that -- any residual
19 damage that comes from anything they might do. Like I
20 say, some of this stuff, some of that trench, may not
21 settle for ten years. And I'm sure they're not
22 planning on fixing it after ten years.

23 Q. You mentioned just a little while ago that
24 you think there's rural water going through the
25 property?

1 A. There is. I forgot about.

2 Q. Could you describe where that might be on
3 the property?

4 A. I can't say on the south part of that if
5 there's a rural water line through there. There is on
6 the east side. Because our farmstead was hooked up to
7 it. We had it disconnected because we weren't using
8 it enough and the cost -- it wasn't cost -- it wasn't
9 paying for itself.

10 Q. So, when you say "east side," it would be
11 off of the red parcels and it would be more by the
12 farmstead?

13 A. Yeah, I know it's on there, because the
14 rural water comes into the farmstead. Or did. And I
15 would assume that they put it -- you know, usually
16 when they run rural water like that, while they're
17 there they try to cover everybody that might want it.

18 I don't know if our tenants right there
19 have rural water or if the other two places over there
20 do. I just don't have any idea. But I would assume
21 it's optional to them.

22 And, plus, also -- where would it be at.
23 Over here where the house is -- right there. This
24 happens to be a paved road. This runs through that
25 little town of Earling -- which would be up here where

1 they're running it right by the town and the ball
2 field where the kids play. That's a paved road that
3 runs for a long distance. So I would assume that they
4 would run it down that. But I don't know.

5 Q. So it's your best judgment that there's
6 probably rural water running along the south side of
7 the property. Of the southern parcel.

8 A. I would assume that may be where our
9 farmstead is pulling from, but I really honestly
10 cannot give you an honest answer on that.

11 Q. I just have one more question. Did you
12 file any comments or objections in the docket?

13 A. No, I didn't. We didn't. I'm not much for
14 doing stuff in writing like that. I'm not the best --

15 Q. No, that's fine.

16 A. -- person for putting stuff into writing.

17 Q. Because some of them get filed differently.
18 And so I'm just making sure that we're aware of any
19 comments that might have been filed.

20 A. We weren't crazy, honestly, about having to
21 come to this, but I said I'd rather do this where I
22 can say it in person. For me, it's hard for me to get
23 all my thoughts on paper. I just don't write well.

24 MS. GRUENHAGEN: Well, thank you for the
25 opportunity to visit with you. I don't have any more

1 questions right now.

2 BOARD CHAIR HELLAND: Thank you.

3 Mr. Williams.

4 MR. WILLIAMS: I'm happy to go, but I

5 believe the placard behind me was first.

6 BOARD CHAIR HELLAND: Was it? I apologize.

7 Ms. Ryon.

8 MS. RYON: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. RYON:

11 Q. Good morning. I'd like to follow up on
12 some comments that you made earlier when you discussed
13 how difficult it is for landowners who can't afford an
14 attorney to understand all the documents. And you
15 stated that you rely on the Utilities Board to protect
16 the rights of landowners who don't have their own
17 attorney.

18 A. Well, I'm hoping they do, yes.

19 Q. I'd like to ask you a few more questions
20 about that specifically.

21 Can you tell me when you first -- if you
22 recall, when is the first time you heard from the
23 Utilities Board about this proceeding?

24 A. Oh -- honestly, I'm not sure. I mean, we
25 have the paperwork about this meeting. I think we had

1 something last year, but it really didn't -- I think
2 it was just that -- I think all I've had until this
3 meeting was just a notice that Summit was -- it was
4 probably about the time that Summit was sending out
5 information or putting notices out. I think we might
6 have had something from the Utility Board on them
7 asking for permission, but I'm not going to guarantee
8 my memory on that.

9 Q. Do you recall getting a large sort of -- I
10 think it might have been a tri-fold document from the
11 Utilities Board in July asking you how you wanted to
12 participate?

13 A. Yes. That's the one that we got for this
14 meeting.

15 Q. Do you feel like that document gave you the
16 information you needed in order to understand what
17 this hearing was about?

18 A. Honestly, no. I had -- we -- the only
19 reason I even halfway -- you know, we had no idea what
20 we were to do here. I'm -- my wife and I watched a
21 little bit on our phones yesterday. Some of the
22 testimony. That really helped watching that, but I
23 had no idea that this is what it was going to be.

24 Honestly, I thought -- when the paperwork
25 came, I thought we were coming to negotiate. I

1 thought that this was a deal with Summit. That was
2 the impression I got from that paperwork. I didn't
3 realize this was just hearings.

4 I mean, I'm glad you're having these and
5 I'm glad we came. But, no, from the paperwork, I
6 really thought it was going to be hashing it out
7 between -- because it said do we want mediators here
8 or not. That's why I assumed that we were actually
9 coming to meet face-to-face with Summit and we had to
10 say yes or no or whatever. That was my impression of
11 the paperwork.

12 Q. With respect to easement documents, do you
13 know whether or not the Utilities Board reviews the
14 proposed easements to confirm that they're fair to
15 landowners?

16 A. No, I have no idea. I mean, we haven't --
17 honestly, I haven't heard much from the Utilities
18 Board.

19 Q. With respect to timing of the hearing -- I
20 know there are a lot of different factors that go into
21 trying to schedule something for farmers. Is it
22 easier for you to attend a hearing in August than it
23 would be to attend a hearing in November?

24 A. Well, for me, as far as farming, no,
25 because -- like this farm, we rent it out. My little

1 farm -- I only have 40 acres, and it's more of a
2 hobby. It doesn't affect me what is the roughest
3 for -- I'm semiretired. It doesn't affect me so much.

4 My brother is sitting back there. Like I
5 say, he had to shut his business down today. It's
6 going to cost him some money.

7 You know, during the week, a lot of farmers
8 work. Some might not get off work, some of them
9 they're going to lose whatever -- you know, a lot of
10 farmers are running side businesses. They've got
11 trucks, they're trucking, they're going to -- it's
12 tough. You know, if you had some stuff on the
13 weekends, you know -- but it's too late for that now.

14 Q. Would an ability to attend a hearing
15 virtually instead of in person be helpful?

16 A. Not for me. Because I have crappy
17 internet. I live in the country.

18 Q. Would a satellite location where you could
19 testify without having to drive all the way to Fort
20 Dodge be helpful?

21 A. Honestly, from my view, no, I'd rather look
22 you in the eye. Doing it on a screen is not -- you
23 know, it doesn't bother some people. I'm not a tech
24 person.

25 Q. Do you recall if you ever got anything from

1 the Utilities Board asking you if you had any
2 preferences as to the timing of the hearing? Like
3 what time of year, for example.

4 A. I don't think we had any choices on what
5 time we wanted to come. I didn't send that in, my
6 brother sent that in, and he's dealt with that. I
7 haven't personally talked to anybody on that. He's
8 talked to somebody on the phone, I don't know, once or
9 maybe twice.

10 And like when we had to show up today, we
11 really didn't know until last night when we were even
12 supposed to show up. And it didn't matter to me. We
13 got lucky. We got early. And that worked better.
14 But, you know, it was -- the time that we had to be
15 here, to me, is kind of last minute.

16 You know, I don't have any little kids, but
17 what if I had five little kids at home and somebody
18 had to take care of them. I mean, your timing on
19 telling us when to be there, yeah, it could be a
20 problem.

21 Q. Do you think it's fair to make landowners
22 like yourself who don't have an attorney testify
23 before the pipeline does?

24 A. Well, we're kind of at a disadvantage.
25 Because -- I don't know how many Summit lawyers are

1 here. But, you know, that's their job, they're
2 getting well paid, they've got the education, we
3 don't. And, like I say, we can't afford to hire
4 expensive lawyers.

5 Q. Do you think there are any actions that the
6 Utilities Board could take that could help landowners
7 like you who don't have attorneys?

8 A. Well, I guess, you know, you could have
9 a -- I don't know what you'd call it. A legal pool or
10 something to help people. But nothing like that's
11 been offered.

12 This is really the only thing we've
13 actually had from the Utilities Board that really
14 explained much or really gave us any opportunity to
15 really do anything.

16 Like I say, sending a letter in saying,
17 well, we -- you know, that's not an answer. You've
18 got to do stuff in person. You've got to have some
19 knowledgeable people to help yourself. And it's
20 not -- as far as I can see, it's not there. We're
21 just kind of dumped along the side of the road and
22 we're on our own. We don't have billions of dollars
23 in our billfolds to take care of our interests.

24 Q. On the whole, do you feel like this
25 proceeding is fair?

1 A. You mean as far as the interviews and
2 stuff?

3 Q. For landowners in particular.

4 A. I think it's -- I don't know if it's going
5 to be fair. I don't -- I can't answer that. I mean,
6 you're running it okay here. I'm happy with that.
7 Nobody's trying to answer misleading questions -- or
8 ask, so far any way, misleading questions. Which I
9 don't like.

10 My worry is the Utilities Board is governed
11 by the State. I'm afraid the State is looking at lots
12 of money, supposedly some jobs. They're going to
13 shove this down our throats no matter what the
14 Utilities Board does.

15 I mean, if you guys say no, I'm afraid the
16 State is going to ram it through one way or another.
17 I mean, that's my honest opinion. I don't think -- I
18 don't think it's going to get stopped because the
19 Utilities Board doesn't give them a permit. I think
20 they're going to shove it through -- it might take
21 longer, but I think the State is going to ram it down
22 us anyway.

23 MS. RYON: Thank you. That's all my
24 questions.

25 BOARD CHAIR HELLAND: Mr. Williams.

1 MR. WILLIAMS: Thank you.

2 CROSS-EXAMINATION

3 BY MR. WILLIAMS:

4 Q. Good morning, sir. My name is Christian
5 Williams. I represent some landowners in the area.
6 I'm not going to take as long on my question session
7 since a lot of the questions I normally ask have
8 already been posed to you.

9 Have you seen a map, at any point during
10 this process, indicating why Shelby County, and
11 particularly your property, needs to be part of this
12 pipeline route?

13 A. No. You mean an actual explanation of why?

14 Q. Yes.

15 A. No.

16 Q. Would it surprise you to know that your
17 property is part of a seven-county-in-length pipeline
18 that is reaching all the way down to Fremont County to
19 serve a single ethanol plant?

20 A. I know it goes down in there. And maybe --
21 is it Council Bluffs they're supposed to go to too?

22 Q. Well, yes, that's one of them.

23 A. Down that way. I'm aware that none of the
24 counties down there want it.

25 Q. But does it surprise you to know that

1 Fremont County is the end connection for the route in
2 which your property lays on? Or that --

3 A. No --

4 Q. I'll rephrase that. That Fremont County is
5 the end destination for a single ethanol plant and
6 your property is the pipeline route to get it there?

7 A. Okay. So they're not planning on picking
8 up Atlantic then?

9 Q. Well, there's only one connection point in
10 Fremont County for an ethanol plant down there.

11 Were you aware of that?

12 A. No.

13 MR. DUBLINSKE: Objection, Your Honor. I'm
14 pretty sure this is the exact --

15 BOARD CHAIR HELLAND: State your objection.

16 MR. DUBLINSKE: I'm pretty sure this is the
17 exact objection you sustained at the end of
18 yesterday's session.

19 BOARD CHAIR HELLAND: Mr. Williams.

20 MR. WILLIAMS: The point of this is, Your
21 Honor, is to demonstrate that this particular
22 landowner, as the one yesterday who I was able to
23 question, is being asked to take on all the risks of a
24 pipeline that's going all the way to Fremont County
25 spanning seven counties.

1 And so I think that's particularly relevant
2 if I'm permitted to continue with my questioning on
3 this line.

4 BOARD CHAIR HELLAND: Thank you.

5 Mr. Long. Go ahead.

6 MR. LONG: I think if questions continue
7 about aspects of the route, I think it would be
8 helpful for the witness if the attorney would have --
9 I believe there's numerous exhibits that have the
10 route plotted on a map of Iowa and the counties and
11 maybe that should be shown to the witness.

12 BOARD CHAIR HELLAND: Thank you.

13 Mr. Dublinske.

14 MR. DUBLINSKE: Your Honor, if the Jorde
15 Landowners want to argue about broader routing
16 questions, you know, the number of counties between
17 ethanol plants, they certainly have every ability to
18 do that during their own case. But our discussion
19 yesterday was the purpose of this was to address
20 individual landowners' specific features of their
21 parcel. And when the question starts talking about
22 "are you aware of seven counties," we're clearly way
23 beyond that scope.

24 BOARD CHAIR HELLAND: Okay. Thank you.

25 The objection is sustained.

1 I'm a little disappointed the attorneys
2 have already ventured well outside of the scope. We
3 had a conversation about this yesterday. We can have
4 another conversation about it now.

5 I think it's unfortunate that we have
6 landowners traveling from all over the state to come
7 and have their side of the story told about their
8 parcel. And we have attorneys who will have ample
9 time later with their witnesses to present all of
10 their cases.

11 And so I'm going to ask once more and
12 remind you all that the non-intervening landowner
13 witnesses are being heard solely as a matter of Board
14 discretion and courtesy. They are not parties and
15 they are not party witnesses.

16 If anyone else wants the opportunity to
17 rehabilitate these landowners, they should have
18 intervened and identified them as witnesses.

19 You're going to proceed, and I'm going to
20 ask again -- go ahead, Ms. Ryon.

21 MS. RYON: Thank you. I would just like to
22 note on behalf of the Republican Legislator
23 Intervenors for Justice disagreement with the Board's
24 statement that landowners who are Exhibit H landowners
25 are not parties to the case.

1 They are parties of right because they were
2 dragged into this case without their permission by
3 Summit's request to seize their land through eminent
4 domain.

5 BOARD CHAIR HELLAND: Okay.

6 Mr. Dublinske, your card is still up.

7 Mr. Williams, please proceed with your next
8 question on scope, I hope.

9 BY MR. WILLIAMS:

10 Q. Let's start with the easement agreement.
11 We'll try it this way.

12 The easement agreement, you've received a
13 copy that you were asked to sign; correct?

14 A. Yes. I actually received two.

15 Q. And I assume the difference between the two
16 was the amount of the offer?

17 A. Yes. I think that's the only difference.

18 Q. All right. So you've pointed out, if I
19 recall correctly, that you were concerned about
20 compaction affecting your property or something of
21 that nature; is that correct?

22 A. Yes.

23 Q. Obviously, the risk of leaks and ruptures.
24 Whether that is by virtue of the pipeline's own
25 failure or the fact I think you pointed out --

1 A. Yeah. Accidents.

2 Q. Accidents.

3 A. Stuff happens.

4 Q. Equipment going over it, the ground being
5 weak over the pipeline, et cetera.

6 A. Some of this equipment is extremely heavy
7 and it's damaging. Or can be.

8 Q. And obviously -- I don't think this was
9 discussed, but does compaction affect the fertility of
10 your land either on a microorganism level or some
11 other method?

12 A. Uh-huh.

13 Q. Is that a yes?

14 A. Yes.

15 Q. And how so?

16 A. Well, if you get compaction, it's hard for
17 crops to grow. They need good, loose soil. They need
18 their nutrients and everything. You know, if you're
19 planting a garden, you'll till it up, you want it
20 soft. Then if you go out there and take the tamper
21 and tamp it down rock hard and then plant your seeds,
22 where are you going to be? I mean, it's the same
23 thing.

24 You've got to have good soil. And, if you
25 tear it up and don't put it back right -- and you're

1 going to have compaction with all that heavy
2 equipment. I don't care what you do.

3 Q. Witnesses from yesterday indicated that
4 that would take years. It was basically a range of
5 testimony from years to never that issues with
6 compaction would never be fully resolved.

7 A. That's probably true. And some of that
8 would depend upon your soil types. If you've got a
9 lot of clay in your soil, that's -- you're going to --
10 you're going to fight it for a long time because
11 you're not going to get it back.

12 Q. And so, as a result, your mention of the
13 fact that Summit may or may not, pursuant to the
14 easement, compensate for crop damage loss for a period
15 of three years, do you judge that to be an adequate
16 remedy?

17 A. No.

18 Q. Given the fact that it might take years to
19 resolve the compaction issue?

20 A. Yeah, three years isn't enough. And how
21 would anybody prove it after that? You know, even if
22 they said they would pay for it after three years, and
23 I think maybe it said in there they would, but who is
24 the burden of proof on? It's on the poor soul that's,
25 say, getting ten bushels an acre less, but it's going

1 to be so much more work to prove it than you're ever
2 going to get so Summit is going to get out of it.

3 Q. And, based on your dealings with Summit up
4 to this point regarding things like pipeline diameter,
5 things of that nature, the representations made to
6 you, threats that they made to you about eminent
7 domain, do you trust that they would be a willing
8 partner in paying for even just crop loss? Not just
9 any other things --

10 A. No.

11 Q. -- that they caused for damage on your
12 property?

13 A. No. There's been too many things -- just
14 like, "Well, you don't need to give your renter that
15 money, just keep it." You know, stuff like that.
16 There's just been too many things they either wouldn't
17 answer, wouldn't volunteer. Too hard to get
18 information.

19 Can I say something?

20 Q. Sure.

21 A. One thing I thought of I had down here I
22 kind of forgot about. When I was at that meeting,
23 they let us stand up and ask questions. I asked a
24 question. Mine was, "Okay, this money that you say
25 you're going to give us" -- part of it is -- on the

1 easement. Part of it was permanent easement, part of
2 it was temporary easement for the extended width for
3 working, and of course the crop damage.

4 My question was, "What's taxable? Are we
5 taxed on this?" Because, I said, "To me, this is
6 damages.

7 "Well, we don't know."

8 Bull. They knew. That's a big thing.
9 That's -- you know, you're looking at all this money
10 and you don't know what's taxable and if you have to
11 send 1099s. And they promised to get back to me.

12 Guess what. I never heard anything.

13 Finally -- all these people that kept
14 calling me, I kept asking and asking. Finally,
15 somebody finally admitted, "Well, yeah, some of it
16 you're going to have to pay income tax on."

17 So you give us this easement money. Well,
18 you're in a higher tax bracket. There goes your
19 easement money back to the government again to pay the
20 carbon company for their carbon credits. You're just
21 giving it right back.

22 Q. Would it be fair to say that if the
23 easement terms made up ultimately what would be
24 imposed upon you in these proceedings, and subsequent
25 condemnation proceedings, that you would essentially

1 be asked to sacrifice a significant portion of your
2 land and be willing to assume all sorts of risks that
3 you've just identified in exchange for minimal if no
4 benefit to your property?

5 A. Yeah, really that's about what it amounts
6 to. In the long run, you've got probably a lot more
7 to lose if something goes wrong than you're ever going
8 to gain. You know, and it's -- that onetime payment.
9 That's forever.

10 You know, at least the windmills, whether
11 you like them or not, they get paid every year. You
12 get some kind of residual payment.

13 This -- and what if -- how far can they go
14 on this easement? Okay, they put the pipeline in.
15 The way I read it then they can do anything else
16 later. What if they decide to run an aboveground line
17 or something through. Can they do that? Can they run
18 a power line through on us then? Can Summit get into
19 power lines? Is that easement good for a power line
20 to run through or anything like that?

21 It really doesn't say how far they can go
22 with this easement. They just have the use of our
23 land forever. We get paid one time. What if they
24 decide to run a road through there? Well, they own
25 the easement, they can do whatever they want; right?

1 Can they do that? Can they do stuff like that?

2 Q. Let me ask you this question: You are
3 aware, or at least it's been made aware to you at this
4 hearing, that it currently is a proposed 8-inch
5 diameter pipeline.

6 A. Yes.

7 Q. Would it surprise you to know that if a
8 rupture or release occurred on your property, that it
9 could cause a plume to extend around 2,600 feet or
10 more from the pipeline rupture?

11 A. I knew it was a long distance.

12 Q. Would that more than encompass the
13 homestead to the east of your property?

14 A. That would take care of all four of those
15 there.

16 Q. Thank you. That's where I was going.

17 A. Because 2,600 foot -- yeah.

18 Q. What's the emergency services around your
19 area like? Is Harlan the closest of any population
20 that has a fire department?

21 A. Well, as far as -- everything around us is
22 small. Or around this farm. You're only -- of course
23 you've got Omaha and Des Moines. You've got big-city
24 services there. Well, they're over an hour. That's a
25 long distance away.

1 Denison and Harlan would be the closest to
2 me, a bigger town, but you're still not even
3 looking -- you're still looking at less than 10,000
4 people. So no you don't have much for emergency
5 services. They're not set up for catastrophes.

6 We've got two fire departments close to us.
7 Our farm is, I'd say, one mile from the small German
8 town of Westphalia. They've got a fire department.
9 And it's a volunteer fire department.

10 Q. Are you aware of any surrounding community
11 that is preparing for a possible eventuality of a
12 pipeline being installed in Shelby County?

13 A. Well, I've seen in the news discussions of
14 it, but there isn't a town around any of this that can
15 afford to do what they probably need to do.

16 What kind of equipment are you looking at
17 to cover this? You know, they've got fire trucks. If
18 you need emergency service, you're looking at going to
19 Harlan. I mean rescue services. Well, you're looking
20 at a town that's -- I don't know how big Harlan is.
21 Five, six, seven thousand people. I don't think it's
22 over five.

23 How much emergency medical service are you
24 going to get in a big catastrophe like this?
25 Everybody is going to have to come a long distance,

1 you're not going to have much available. It's really
2 small hospitals. They're not set up to take it.

3 And they don't have the money -- you know,
4 these small fire departments, they're having a heck of
5 a time supporting what they have. They don't get
6 enough tax money, they're having, say, bingos or
7 gambling -- casino nights to pay their expenses. How
8 are they going to buy new equipment that's probably
9 going to be required -- I'm sure the government is
10 going to require that they have equipment to handle
11 this. Where are they going to get the money?

12 And say they have to have a special
13 emergency vehicle. Okay? The government buys it. In
14 five years, that vehicle is obsolete. Then what. Is
15 Summit going to come in and pay again?

16 These small departments cannot handle
17 this -- if there is a bad catastrophe, they can't
18 handle it. They absolutely cannot handle it. I mean,
19 they have a hard time handling anything -- my wife and
20 I have a scanner. We're kind of nosy that way. So we
21 hear, like, emergency calls.

22 We live near the small town of Exira. Five
23 miles away. They have an emergency call. It's a
24 volunteer department. They might have to page three,
25 four, five times to get an ambulance to go help

1 somebody that's having a heart attack. And that's
2 your normal local stuff. You're not going to have
3 emergency medical to take care of this or anything.

4 Q. And so, with that in mind, in your view
5 does the pipeline going across your property serve any
6 public necessity or convenience?

7 A. No. It's for profit. It's a company
8 trying to make money. There's no public -- one of the
9 things that really irks me is this is all based on
10 public money. Yeah, it's public money, we're paying
11 for it. It's carbon credits or whatever you call it.

12 Okay. Every four years the political
13 environment changes. Right? Every time there's a
14 national election. Okay? Say the next one, or four
15 years later, they decide, you know, "We're not going
16 to keep paying for these carbon credits. These
17 ethanol plants are making money, they can handle it
18 themselves." What's going to happen to the pipeline
19 then? The government money is gone. Who is going to
20 care for it?

21 MR. WILLIAMS: Thank you for your time. No
22 additional questions.

23 BOARD CHAIR HELLAND: Thank you.

24 Does the Board have any additional
25 questions?

1 (No response.)

2 BOARD CHAIR HELLAND: Thank you.

3 Appreciate it. You're excused.

4 THE WITNESS: Thank you.

5 (Applause.)

6 BOARD CHAIR HELLAND: The Board would like
7 to call Kathryn Josephine Byars for parcels H-SH-029,
8 H-SH-035, and H-SH-063.

9 Just to clarify. Ms. Byars? Ms. Josephine
10 Byars?

11 MS. BYARS: Kathryn, or Kathy if you
12 prefer, Byars.

13 BOARD CHAIR HELLAND: Ms. Byars, do you
14 mind raising your right hand?

15 KATHRYN JOSEPHINE BYARS,
16 called as a witness, being first duly sworn by Board
17 Chair Helland, was examined and testified as follows:

18 BOARD CHAIR HELLAND: Thank you. Please
19 state your name and spell your name for the court
20 reporter and list your address.

21 THE WITNESS: Okay. My name Kathryn
22 Josephine Byars.

23 Kathryn Josephine Byars. Is that better?
24 K-a-t-h-r-y-n J-o-s-e-p-h-i-n-e, last name is
25 B-for-boy-y-a-r-s.

1 BOARD CHAIR HELLAND: Thank you.

2 Ms. Byars, we have three properties today to visit
3 about with you. Are they all located in Shelby
4 County?

5 THE WITNESS: Yes, they are.

6 BOARD CHAIR HELLAND: And I've got them
7 listed as H-SH-029, 035, and 063. Is there an easier
8 way to refer to them for you?

9 THE WITNESS: Not really. I'd say north of
10 Highway 44, south of Highway 44. Two of them look to
11 be south of Highway 44.

12 BOARD CHAIR HELLAND: Which two are south?
13 I guess let's make it easier. Which one is north?

14 Maybe staff can blow that font up for all
15 of us a little bit.

16 THE WITNESS: I'm sorry?

17 BOARD CHAIR HELLAND: I said maybe staff
18 can blow that font up a little bit for all of us.

19 THE WITNESS: I have different numbers for
20 those same things.

21 BOARD CHAIR HELLAND: No, they can't. All
22 right. So H-SH-035 is north of the highway there.

23 THE WITNESS: Correct.

24 BOARD CHAIR HELLAND: Thank you. And, as
25 with the last witness, when we're talking about your

1 parcels, we want to make sure that we're giving also
2 word descriptions, not just saying "here" and "there,"
3 so that later when we go back to the record it will be
4 easier to refer to your parcel.

5 THE WITNESS: Okay.

6 BOARD CHAIR HELLAND: Can you give us a
7 general description of the property usage now and any
8 potential usage in the future?

9 THE WITNESS: Okay. I do want to start
10 with some opening remarks maybe to explain why I can
11 say things.

12 My background in education is a bachelor of
13 science in chemical engineering from Iowa State. I
14 have a master of arts in teaching, in chemistry, from
15 Drake University. And I have an adult learning and
16 organizational performance specialist degree also from
17 Drake University. So, if I start trending into
18 science, I have the background for it.

19 The farm that we are discussing, or the
20 sections of it, it's over a hundred years in my
21 family. Technically, five generations that I know of.

22 Unfortunately, my father, who spent his
23 entire life on that property -- back when he got
24 married he moved across the highway. He passed away
25 last year. So he was the expert on the farm. But

1 I'll do my best to answer the questions that you have
2 for us.

3 I'm one of four family members now owning
4 the Rolling R Farms. Which is what my dad always
5 called it. And I was also the fastest of my siblings
6 to submit the application to be here.

7 Okay. So back to your questions.

8 BOARD CHAIR HELLAND: So the property
9 itself. Its current usage and then any potential
10 future usage.

11 THE WITNESS: Its current usage is
12 agricultural exclusively. We have a renter who has
13 rented the property for over 20 years. He does beans
14 and corn. In the wintertime, we have cattle that will
15 roam all of the lands -- all of our rental ground.

16 All of it is fenced in. In fact, that
17 93-year-old father that I mentioned, he was finishing
18 those fences probably when he was 91. And they're
19 military-style fences in that you stand at one end of
20 the fence and all you see is a fence post. Everything
21 is lined up precisely.

22 There's two -- I'll call them acreages now
23 on our property, and those are in the process of being
24 remodeled. Ultimately, two of my sisters will be
25 living in them. And they aren't in the red zone, but

1 they can be reached by anything that leaks in the red
2 zone.

3 BOARD CHAIR HELLAND: So those acreages
4 appear to be on the east side abutting that road. Do
5 you happen to know that road's name?

6 THE WITNESS: Hazel Road.

7 BOARD CHAIR HELLAND: Hazel Road. So one
8 is up in the northeast corner north of the highway?

9 THE WITNESS: That is the main farmhouse.
10 That is the one that my father lived in once he got
11 married.

12 BOARD CHAIR HELLAND: And then the other
13 one appears to be in the southeast corner-ish?

14 THE WITNESS: Well -- let's see if I can
15 hit that. That is the actual farmhouse. And then
16 there is the old homestead here. It no longer has a
17 barn or a house there. It just has machine sheds.
18 And one of my sisters does a truck garden there.

19 BOARD CHAIR HELLAND: So the parcel just
20 north of that one and on the west side -- was it
21 Hazelton {sic} Road? That's where the house is.

22 THE WITNESS: That one --

23 BOARD CHAIR HELLAND: East. East. I'm
24 sorry.

25 THE WITNESS: Okay. That one is the

1 primary farmhouse. That was the one that my dad lived
2 in. That's the one we grew up in.

3 BOARD CHAIR HELLAND: So the other
4 buildings and structures on the parcels that we're
5 speaking about today about the road and that there's no
6 house on there, but there are machine sheds and
7 outbuildings. Is that what you said?

8 THE WITNESS: Right. And the truck farm.

9 BOARD CHAIR HELLAND: And the truck farm.
10 Thank you.

11 THE WITNESS: One comment I should make is
12 to the west of us, also outside the red area, is an
13 acreage off of Highway 44.

14 BOARD CHAIR HELLAND: So due west.

15 THE WITNESS: So it would be right there.
16 That is partway up a hill. It is approximately a
17 thousand feet from the proposed pipeline. So it's not
18 on our property, but, since we are Iowa and we take
19 care of our neighbors, yes, that's a house of concern
20 as well.

21 BOARD CHAIR HELLAND: If we can go ahead
22 and have staff draw that line between the proposed
23 route and both structures.

24 So the neighbors to the west are just under
25 a half mile. And the other structure in the northeast

1 there? Okay. About .41. So almost directly in the
2 middle. Okay.

3 And the well for that house, is that on
4 that farmstead?

5 THE WITNESS: The wells?

6 BOARD CHAIR HELLAND: Yeah.

7 THE WITNESS: There is, I believe, four
8 different wells.

9 BOARD CHAIR HELLAND: Can you tell us where
10 they're located?

11 THE WITNESS: The well on the north
12 farmhouse, that one, the well is just to the south of
13 the house. And then, on the acreage for the one
14 that's on the east side of Hazel Road, that one I'm
15 not entirely sure. I want to say it's north of the
16 house.

17 BOARD CHAIR HELLAND: But on the acreage
18 still.

19 THE WITNESS: It's on the acreage. And
20 then on the south where you have the machine sheds and
21 the truck farm, to my knowledge there were two wells
22 there. One is close to the truck farm itself, and I
23 believe there's a much older well south and just a
24 little bit west of that arrow.

25 BOARD CHAIR HELLAND: And, just for

1 clarification, the property east of the highway is not
2 actually on the parcels that we're talking about today
3 but still obviously of concern to you.

4 THE WITNESS: Right.

5 BOARD CHAIR HELLAND: Thank you. Can you
6 describe -- we talked about the buildings and the
7 acreages. And I appreciate that. Can you describe
8 the other terrain features. Standing water?
9 Waterways?

10 THE WITNESS: Okay. As you can see,
11 there's a lot of terraces. Literally, there's
12 approximately 25 terraces on the red area to my
13 knowledge. So some of those will be impacted
14 depending on where they put the pipeline.

15 And these are terraces that were in place
16 for approximately 40 years. My dad was very vigilant
17 with those terraces. You will not find a bush or a
18 tree on them. Bromegrass was planted to keep down
19 soil erosion. And that was something the renter knew
20 was important, so he maintains them as well.

21 There are tile lines. We do not have maps
22 for the tile lines. Because, again, they were put in
23 probably 40 years ago. Back when there was a push for
24 soil conservation and trying to be good stewards,
25 et cetera. And where there was government programs to

1 promote you to have a plan and then to implement your
2 plan regarding conservation. My dad had his plan done
3 before his neighbors even completed their plans.

4 BOARD CHAIR HELLAND: Do you have a general
5 idea of where the tile may be?

6 THE WITNESS: My guess would be running
7 perpendicular to the tile line --

8 BOARD CHAIR HELLAND: To the proposed line?

9 THE WITNESS: I'm sorry?

10 BOARD CHAIR HELLAND: To the proposed line
11 you mean?

12 THE WITNESS: To the proposed line, yes.

13 And the reason why I say that is where the
14 proposed line is, that's a low point amongst rolling
15 hills. Which is why we have all the terraces to try
16 to keep the water from rushing down from those hills
17 or, more importantly, eroding things.

18 And, again, I'm not sure how many there
19 are, but I know that he was hypervigilant about that.
20 Okay. Anal. So he put in as many as the
21 recommendation was and probably three more.

22 BOARD CHAIR HELLAND: The water. Does it
23 generally drain from east to west and north to south?
24 Is that what you're saying? That the property
25 generally trends towards the proposed line?

1 THE WITNESS: I want to say one of the
2 major water routes would be draining more south.
3 Because we have a few tile lines to the property to
4 the north. So then he had hooked into those.

5 And, at one point, there was -- we called
6 it the creek, but it ran the length of this red area.
7 And then he either tiled it or he may have put
8 culverts there so that he no longer had to farm around
9 it.

10 But, toward Highway 44, there is a green
11 space that he put in probably very close to where the
12 tile line is. It matches up with a culvert that runs
13 underneath Highway 44. But there's oftentimes water
14 in that space. There's grass or brome grass around it.
15 So that would be a source for wildlife.

16 I do know that on the far south border of
17 this red area, this is south of Highway 44, to the
18 south edge there's a green space as well. Because
19 that tended to be swampy. And so that was put into
20 the wetlands CRP. So that's the farm program it's in.
21 There's 1.5 acres involved.

22 BOARD CHAIR HELLAND: Are there any
23 easements held by third parties?

24 THE WITNESS: My guess would be the highway
25 commission. Because it runs right between -- you

1 know, right through our property literally. So they
2 would have easements, I would presume.

3 BOARD CHAIR HELLAND: But no private,
4 third-party easements that you know of?

5 THE WITNESS: Not that we're aware of, no.

6 BOARD CHAIR HELLAND: Is there any other
7 buried infrastructure; pipelines, water lines,
8 telephone lines, fiber, anything that you can think
9 of?

10 THE WITNESS: If there are, they would be
11 in the easements out by the highways and the roads.
12 Not through the property itself.

13 BOARD CHAIR HELLAND: In the right-of-way.

14 THE WITNESS: Correct.

15 BOARD CHAIR HELLAND: That is three parcels
16 with a lot of character. So are there any other
17 features or conditions that might not be readily
18 apparent and that might affect, or be affected, by the
19 proposed project?

20 THE WITNESS: Other than breaking up the
21 stewardship of our land, no. Every generation made a
22 point of making improvements with the land. When I
23 was a kid on the hay wagon and Grandpa was driving
24 through the fields, we frequently hit washouts. And,
25 in my dad's time, there were no washouts and it wasn't

1 nearly as dangerous being on that wagon.

2 BOARD CHAIR HELLAND: Well, I hope your
3 grandpa drove slower than my grandpa drove.

4 THE WITNESS: He hit those washouts pretty
5 good.

6 BOARD CHAIR HELLAND: Can you describe any
7 specific concerns you may have or any recommendation
8 you have for the Board.

9 THE WITNESS: I have a list.

10 First of all, we are stewards of the land
11 for over a hundred years. Every generation has done
12 their best to protect and improve the land through
13 conservation, green spaces, crop rotation, tiling, no
14 till where possible.

15 My dad had in place with the renter that he
16 was not to remove any cornstalks or any plants once
17 harvest was complete so that that roughage could hold
18 the soil in place, break down, and put nutrients back
19 in the soil.

20 Eminent domain. We have a private,
21 for-profit, out-of-state company that's forcing people
22 to relinquish their property. Quite literally.

23 We've been on that property longer than
24 Summit has probably been in existence. And many of
25 the other farmers can say the same thing. The land is

1 our livelihood and it is a part of our family.

2 Financial incentive is currently being
3 offered at a federal level for both Summit and the
4 chemical plants. Those carbon credits. What happens
5 when those incentives go away? What happens to the
6 land? Who is responsible for the pipeline if
7 something happens in 10 years, 20 years, 30 years in
8 the future?

9 As a chemical engineer and a chemistry
10 teacher, I have a problem with proposing to take
11 carbon dioxide -- which is deemed as a waste. Just
12 for the record, the market for carbon dioxide has been
13 increasing. They are anticipating a 7 to 8 percent
14 increase in demand for carbon dioxide because --

15 BOARD CHAIR HELLAND: Can you make sure
16 you're speaking into the mic. And feel free to
17 position the mic if it's easier. You can look
18 wherever you'd like and put it wherever you like.

19 THE WITNESS: Is that better?

20 BOARD CHAIR HELLAND: Whatever works for
21 you. As long as we can hear you.

22 THE WITNESS: Okay.

23 So we're trying to dump a useful product
24 down a hole that has to be maintained for the next
25 millennium. Because I don't think you can just put a

1 little cap on a pressurized gas, or a pressurized
2 liquid, and walk away. This would be comparable to
3 when we discharge sewage into rivers and oceans or
4 when we dumped garbage into the ocean. It came back
5 to bite us. And I think this will as well.

6 The powers that be seem to think that if we
7 drop carbon dioxide into a hole, then our greenhouse
8 gases will decrease. I'm thinking that's like
9 swatting a mosquito and saying no more yellow fever.
10 It's not that easy. It's a simplistic solution and
11 yet it's going to cost a lot of people their
12 livelihoods. Their property. It's impacting how they
13 can take care of themselves financially so that
14 companies can make money.

15 I did a rough search, and there was over 30
16 chemical plants in Iowa. Only 12 signed on. I'd like
17 to see the names of those 12 companies to see if they
18 are real. Because, here again, we're -- you know,
19 we're anticipating this is 12 chemical companies.
20 There's 12 fertilizer companies within Harlan --
21 60 miles of Harlan. There's six of them that they
22 aren't signing on. And these would be in Shelby
23 County and the nearby areas.

24 Another concern I have is the safety plan.
25 I haven't seen that presented. You guys touched on

1 it, and, just for the record -- because I was in one
2 of those Shelby County Board meetings. They were
3 talking to the first responders. In order to, yeah,
4 prevent or protect, the responders would need
5 self-contained breathing apparatus. In other words,
6 oxygen tanks in order to get into a carbon
7 dioxide-rich area.

8 More importantly, they would need a vehicle
9 that isn't a combustion engine. Because combustion
10 needs oxygen. So, if you tried to drive a car or a
11 truck into a carbon dioxide-rich area; i.e., where
12 there's a leak, it will die. And probably so will the
13 people driving those cars. Or the people trying to
14 escape those areas. Combustion engines will not run.

15 And that would probably be the only
16 argument I'd have for an electric car. Because they
17 would survive.

18 But I know, for Harlan, they don't have
19 those tools at their disposal at this time.

20 And, if somebody is exposed to a lot of
21 carbon dioxide, when we start looking at life and
22 death, they're going to need a hyperbaric chamber.

23 By the way, I also was a medical assistant.
24 So I understand that one too.

25 So a hyperbaric chamber. So now we're

1 looking at Des Moines, Omaha, Sioux City, Life Flight.
2 In order to get their oxygen levels restored. So that
3 is a concern.

4 Many of the requests for information have
5 been refused or redacted by Summit. There's no
6 transparency. It's almost like they're making up the
7 rules.

8 If I was designing a chemical plant, I
9 would need to get permission for where I was going to
10 buy the land, it would have to be rezoned, I'd have to
11 have a blueprint in place to show to the county
12 supervisors to get approval, I would have to have a
13 safety plan in place as well as pollution
14 containments.

15 And I already found out for one chemical
16 plant -- well, actually, it was a fertilizer -- not so
17 much a plant but a provider, designed a dike to go
18 around their tank. So that, if they had a leak, it
19 would be contained within those walls. Twenty years
20 later they still have the plan. They did not put it
21 in place. So, even if you have a safety plan, it has
22 to be implemented.

23 For a visual -- you guys talked about a
24 plume. If I had 1 liter of carbon dioxide at
25 1,200 psi just in gaseous state, just to make life

1 easy -- I'm using high school chemistry, by the way.

2 If I took that 1 liter of 1,200 psi and
3 then released it literally to atmospheric pressure,
4 which is 15 psi, it would expand to 80 liters. And,
5 if you think about that, 1 liter, or a drinking
6 bottle, going to 80 liters. And we have a flow going.
7 So it's not just 1 liter escaping, it's a constant
8 flow. So that's where your plume is coming in.

9 The 1,200 psi, for comparison, your tire
10 pressure is between 30 and 45 psi. A sandblaster uses
11 107 psi or greater. A gas station air pump is 110 to
12 120 psi. That means that we have some
13 super-pressurized gas that we can't take lightly.

14 We did not -- yeah, I got the impression
15 that Summit didn't take people seriously. Because, in
16 the documentation I had, it commented about there was
17 no houses on the parcel involved. Which is true.
18 There are no houses in that red area. But we've also
19 proven there are houses within a half mile. And for
20 that carbon dioxide to get there? Very easy.

21 Summit is ignoring the rules of the
22 counties for placement of specific businesses within
23 certain distances. You can't build a hog confinement
24 within 1,800 feet of a neighbor -- you know, you can
25 do it on your property, but, if you were buying the

1 property to put that in place, you had to have
2 specific spacing. That's true for wind generators.
3 Even solar cell farms.

4 But yet a pipeline carrying poisonous gas,
5 200 feet from the playgrounds at Earling. Playgrounds
6 and their baseball field. That came from the Shelby
7 County board as well.

8 Carbon dioxide is odorless, colorless, and
9 heavier than air. In the event of the leak, the gas
10 will go to the lowest level of ground. So where it's
11 positioned on our property, it would appear to be on
12 the lower portion of that area. Not only will it kill
13 the people, but I mentioned the internal combustion
14 engines won't work.

15 I haven't heard any guarantees for Summit
16 how to guarantee that the dumping site in North
17 Dakota, which hasn't been approved yet, how it's going
18 to be maintained. And it has to be maintained
19 literally forever.

20 There's energy required to maintain the
21 pressure in the dumping site. Because it's supposed
22 to stay liquefied. And there's also energy that's
23 going to be needed along the pipeline because you
24 can't just throw gas in one end and expect the
25 pressure to be maintained as it travels the, what,

1 700 miles to the dumping site. Where are the pumping
2 stations? Because that would take up more of the land
3 that we don't want to give up anyway.

4 And I have a problem with disrupting the
5 conservation measures put in place. They were put in
6 place for a reason. Soil conservation. That's our
7 money. That's also our heritage of the family farms.
8 If we let it erode -- you know, it's just like the
9 concerns 50 years ago. We'd be losing even more
10 topsoil, polluting more streams, or putting more
11 sediment in the streams.

12 From what I've heard about eminent domain,
13 the rules, such as they are, favor Summit without the
14 responsibilities or liabilities. They seem to be
15 making up the rules as they go along.

16 You know, we talked about 6-inch pipes,
17 then it became 8-inch pipes, and then it can come up
18 to 24-inch pipes. And these aren't seamless pipes.
19 So anywhere there's a joint, anywhere there's a weld,
20 there's a potential for leakage.

21 And, once those pipes are no longer used,
22 once Summit decides it's not going to -- yeah, once
23 it's no longer going to be pumping the pressurized
24 carbon dioxide anymore, is this land going to be
25 restored or are they going to walk away?

1 One of the chemical plants I used to work
2 at I revisited 10, 20, 30 years after. Ten years
3 after I left, it was functioning. Twenty years ago --
4 or 20 years after I left it, it was shut down. And 30
5 years ago -- or 30 years after the fact, it's a
6 rusting hulk. It's an eyesore. And yet we don't know
7 the long-term plans of this piping.

8 My dad had the nickname of "Clean Them Up
9 Louie" and he earned it. There is no rusting farm
10 equipment on his property. If the equipment was not
11 used, it was fixed so it could be used, it was sold,
12 it was taken to the metal scrap yard. You can't find
13 anything rusting on the property. If there are dead
14 trees, he was still taking down the trees when he was
15 in his eighties to clean it up.

16 But, yeah, I would say that he would be
17 rolling around in his grave, such as it is, at even
18 the concept that somebody else is going to destroy
19 what he built. And it is a destruction. It's an
20 insult to all his life work as a farmer and a
21 conservationist.

22 Okay.

23 BOARD CHAIR HELLAND: Thank you.

24 Do the parties have questions.

25 Mr. Taylor.

1 CROSS-EXAMINATION

2 BY MR. TAYLOR:

3 Q. Good morning. I'm Wally Taylor, and I
4 represent the Sierra Club.

5 It looks like your property -- there are
6 three parcels; is that correct?

7 A. Correct.

8 Q. And it looks like -- and I think you
9 mentioned this. That there are a number of terraces
10 on the property?

11 A. You can tell the difference between my
12 father's property, or now ours, and the neighbors
13 around. He has the most terraces. He has them in
14 effective places. You don't find wash areas anymore.
15 Because he studied his land and put in the terraces to
16 keep the water from washing things out.

17 I couldn't handle a hay wagon these days,
18 but it would be a whole lot smoother.

19 And, for the record, because of this
20 eminent domain, he joined the Sierra Club two years
21 ago.

22 Q. Well, thank you. So is this designated
23 highly erodible land?

24 A. I'm sorry?

25 Q. Is this designated highly erodible land?

1 A. No, it's not. It was a matter of his
2 stewardship that he put in the terraces.

3 Q. So there are no conservation measures
4 required by the NRCS on the land?

5 A. I don't know if the wetlands CRP was a
6 requirement or not. That was on the south border. At
7 the very bottom of that. South of the highway
8 section. But that tended to be wet. So that's why
9 1.5 acres of it went into wetlands CRP.

10 Q. Can you point out the CRP land on the map
11 with your pointer?

12 A. Right in this neighborhood right here.
13 Literally the whole property. There's a strip.

14 Q. So there's a strip all across the south end
15 of that red area; correct?

16 A. Correct.

17 Q. That's CRP.

18 A. That's what the renter told us, yes.

19 Q. And so the pipeline would cross that CRP
20 land.

21 A. Correct.

22 Q. Do you know whether the pipeline, if it's
23 installed, would adversely affect the property's
24 status as CRP?

25 A. Honestly, I'm not aware of the rules. The

1 renter might know, but it's not something I've come
2 across yet.

3 Q. Has the renter been notified about Summit's
4 plans, do you know?

5 A. Yes. He was the one that was providing us
6 with some of the information. And he's uneasy about
7 that pipeline just like we are.

8 Q. But was he notified officially by either
9 Summit or the IUB?

10 A. Not that I'm aware of. And, for the
11 record, I got five notifications from IUB about a
12 month ago. None of the rest of the siblings that own
13 the property got anything for that. Okay.

14 Q. So what do you believe would be the impact,
15 if any, to those terraces if the pipeline is
16 constructed?

17 A. The terraces would be compromised. They
18 are set up to wrap around the hills and they're
19 reinforced so they don't wash out. There's a little
20 bit of curve inside the terrace to contain the water,
21 or at least slow it down, and, if they went through
22 the terraces, then the water goes through as well. So
23 they're going to compromise their own setup as well.

24 Q. What would it take, do you think, to repair
25 those terraces, if anything, if the pipeline would go

1 through them?

2 A. They would have to rebuild them. And it
3 would take years to reestablish the amount of packing
4 needed for the terrace below and for the horizontal
5 portion of it to be able to farm. And to get the
6 bromegrass reestablished and to try to keep the weeds
7 away.

8 So it's not an easy fix. It wasn't when it
9 was first set up, but it was a labor of love as far as
10 my dad was concerned. He did part of the work, and he
11 had a contractor that came in and did part of the
12 work.

13 Q. You mentioned that there are some low areas
14 on your property and that that was a concern because
15 carbon dioxide is heavier than air.

16 A. Right.

17 Q. So where would those low spots be?

18 A. Where the pipeline looks to be, I would say
19 that's going to be like the low area per se. And so
20 it would -- if you think about a U-shaped chute, if
21 you will, that's surrounded by the rolling hills. So
22 the carbon dioxide would be in that U-shaped area.

23 Which, coincidentally, the house on the west,
24 that would be at risk. Because it's only halfway up
25 the hill. Otherwise, it's kind of a dish, if you

1 will.

2 So, if any carbon dioxide leaks occurred in
3 that area, they would be the first ones to go.

4 Q. Have you been provided with or are you
5 aware of any dispersion modeling that would indicate
6 how far the carbon dioxide would disperse if there
7 were a break or a rupture in the pipe?

8 A. I don't have any of that information.

9 Q. Is that something you'd like to have?

10 A. Yes. Because the chemist in me will look
11 at it and come up with an argument.

12 Q. In looking at the map, down toward the
13 southern portion of the red area and then kind of
14 going up diagonally northeasterly, there's a curvy
15 area --

16 A. Right there.

17 Q. No, the south part. Farther south. There
18 you go. Right there. It goes up into the green area,
19 kind of curves up to the northeast. It looks like it
20 might be a waterway or something?

21 A. It could well be. I'm thinking there's
22 some grass strips in that area as well to try and
23 buffer some of the waterway so that it will run off.
24 I know that he has gotten stuck more than a few times
25 in that area. Which is part of the reason why that

1 wetland buffer strip was put into place.

2 Can you go back? And then scroll up -- no,
3 I'm sorry, wrong direction. Let's go down.

4 The house right there, they frequently had
5 boggy areas right here as well. But that's not our --
6 I don't believe that's our property at that point.
7 He's gotten more than a few vehicles stuck in that
8 neighborhood when he was doing help.

9 Q. So there are a number of grass waterways on
10 the property?

11 A. In that area, I believe so.

12 Q. Do you believe that those would be
13 adversely impacted by the pipeline if it's installed?

14 A. If you're losing the drainage tile, that
15 would be a yes. Because, if they're breaking through
16 it, they're not going to put them back together. Not
17 when there's a pipe in the way.

18 Drainage is critical. And there was a
19 mention about restructuring some of the killage {sic},
20 if you will. That will impact the soil conservation.
21 The plans to make -- to lessen the effects of Iowa
22 weather on the cropland.

23 Q. So there is drainage tile on the property?

24 A. I'm sorry?

25 Q. So there is drainage tile on the property.

1 A. All over the place, yeah. Especially -- I
2 know north of 44 along that northern parcel, right
3 there, in that area. It's a low area. The property
4 to the north of it has a hill that's draining into our
5 property.

6 There was some discussion, shall we say, to
7 try and get the people on the northern property to put
8 in tiles and hook into our tile lines so that we can
9 keep the water from washing the hill away. More
10 specifically, our hill away. So, yeah, there was
11 concerns. And there's tile lines.

12 Q. The soil on your property, do you know what
13 kind of soil it is?

14 A. Some of the richest in Iowa. I don't know
15 the specific type. I do know that it has a very high
16 yield. It's been maintained or improved on for years.
17 But I don't know if there's a classification. It's
18 black dirt.

19 I don't know how good the topsoil is, but I
20 know that my dad has done his darnedest, and so has
21 the renter, to try and maintain the active life in the
22 topsoil. Here again, the ground cover, the no
23 tillage.

24 So, yeah, we have never had problems
25 getting a renter. And we've been blessed with the

1 renter that we have. Because he's a steward -- he
2 believes in stewardship of the land as well. And he
3 believes in leaving the land in at least as good if
4 not better shape than he got it.

5 Q. So, if the renter uses no till, would
6 digging through that land to bury a pipeline adversely
7 impact that no-till process?

8 A. Yes. Because you're going to be compacting
9 the soil. Somebody had talked about a garden. And,
10 if you till the soil and you plant your seeds, the
11 garden grows well. If you stomp down the rows between
12 the plants, things do not grow nearly as well.

13 So, to compact the soil, that would cause
14 problems with the planting. And, if the planter has
15 to -- or the renter now has to try and offset this
16 compaction, he's going to have to put a lot of work
17 into it.

18 And, if ground is being removed, what comes
19 back isn't going to end up being the best on the top.
20 So that would impact what you have to grow with.

21 Q. Do you believe that if the pipeline were
22 installed, that that would diminish the fertility of
23 the land and the crop production?

24 A. It would adversely impact it. If nothing
25 else, just upsetting the topsoil would affect the

1 fertility. Compacting it will affect the fertility.

2 And, yeah, trying to farm around it,
3 because it isn't necessarily against our border, I
4 don't believe, would be a challenge. And do you
5 really want to drive a tractor -- and he uses big
6 tractors. Big new ones. I don't know what color.
7 But he'll go over the pipeline, he would have to, in
8 order to farm the other part of the strip.

9 Q. So do you think that if the pipeline were
10 installed, that you would incur economic damages?

11 A. Yes.

12 Q. Can you enumerate those?

13 A. If the fertility is being -- well, for
14 starters, can you farm on the eminent domain area? If
15 not, that would decrease the amount of rental area for
16 our renter.

17 Even if you can't -- even if you can farm
18 over it, now you're going over a pipe that has
19 poisonous gas on it with a big tractor. How many
20 concerns do you have to have there? Yeah. Do you go
21 across it perpendicular to the pipeline? Do you try
22 and parallel it?

23 Yeah, it's not a good situation. It's
24 meant to be farmed. Not have a useless pipe through
25 it.

1 Q. It looks like there's an east/west highway
2 that goes right through your property; is that
3 correct?

4 A. Highway 44, yep. If I remember right, one
5 description had called it 100th Street. Which that
6 would imply not a lot of traffic. Highway 44 has a
7 lot of traffic. It's one of our main -- well, we
8 don't have a lot of streets to work with. So that's a
9 major highway to get from point A to point B.

10 Q. Has Summit indicated to you how they're
11 going to cross that highway?

12 A. No. They have not.

13 Q. Is that a concern you have?

14 A. At the moment, we haven't agreed to the
15 eminent domain. I'm going to fight that, my family is
16 going to fight that tooth and nail. But it is not
17 what is needed. Iowa ground should be used for
18 agriculture.

19 Does it concern me they don't have a plan?
20 Yes. It's just one of the many things they haven't
21 told us what their plan is. Mainly -- it would be a
22 concern. It would be a major hassle for the people in
23 Shelby County if Highway 44 ended up being shut down.
24 I don't know that they would be allowed to use the
25 culvert underneath the highway. Which I believe is

1 somewhere in that area of the pipeline.

2 Q. Well, if there were a pipeline rupture or a
3 break, where would the emergency personnel have to
4 come from?

5 A. Harlan or Portsmouth would be the closest
6 ones. Both of those have volunteer rescue squads and
7 ambulances. But I think I mentioned earlier they
8 would have to have self-contained breathing apparatus
9 to even go in the area. And combustion engines will
10 fail as soon as they get into a carbon dioxide-rich
11 area.

12 So I would be very concerned for anybody
13 living in that area. Because carbon dioxide is denser
14 than air. It's going to be in the low areas.

15 I've been exposed to poisonous gas three
16 times in my life. It has not been pleasant any of
17 those times and I wouldn't wish it on anybody.

18 And carbon dioxide is probably going to be
19 the most challenging. You suffocate in it. And the
20 rescue people are crippled because they don't have
21 their usual means of transportation available.

22 Q. So how would they get in if their vehicles
23 don't work?

24 A. That's a good question. That would need to
25 be addressed by safety plans. Or looking at it and

1 saying it's not worth the risk.

2 When I worked at a chemical plant, we made
3 ammonia, ammonia nitrate products, nitric acid, and,
4 importantly, urea, which uses carbon dioxide in the
5 chemical process. We also sold liquid carbon dioxide.
6 It wasn't a waste, it was a by-product, but it was a
7 marketable by-product. Hence why the pipeline does
8 not make sense.

9 Q. What conversations or dealings have you had
10 with any Summit representatives about signing an
11 easement?

12 A. Actually, I haven't spoken to a Summit
13 representative. They initially were contacting my
14 father. And the one person he talked to he pretty
15 much -- as soon as he found out she was from Summit,
16 he shut the door in her face. And then he started
17 posting signs about no solicitation, especially
18 Summit, and he has a sign at Hazel Road and Highway 44
19 that probably will not come down in gale force winds
20 he put it up that well. But pretty much saying Summit
21 is not welcome. No eminent domain.

22 My siblings have not talked to Summit
23 agents with the exception of my little brother. He
24 was an over-the-road trucker and he was bored and he
25 wanted to yank their chain. But, as soon as they

1 found out he didn't have any deciding votes, then they
2 left him alone.

3 But my dad was getting calls several times
4 a week. He learned to use voicemail, and every week
5 one of us would block the calls. Because he did not
6 want to have anything to do with Summit. Nor do we.

7 Q. So you've not had any conversations with a
8 Summit representative at all yourself.

9 A. Correct.

10 Q. And you've kind of covered it, but why have
11 you not signed an easement? Or why have you and your
12 siblings not signed an easement?

13 A. Because that is our property. It's been in
14 our family over a hundred years. The easement would
15 be a detriment to the farmland, to our heritage. It
16 will impact our -- yeah, it will impact our profits.
17 Quite literally. Because I don't see us gaining
18 anything. And the rules are all slated to Summit, and
19 Summit has not presented a clear enough picture.
20 There's a lack of transparency. And I don't trust
21 companies that aren't open with what they're about.

22 MR. TAYLOR: Thank you. That's all the
23 questions I have.

24 THE WITNESS: Thank you.

25 BOARD CHAIR HELLAND: Thank you.

1 Ms. Gruenhagen.

2 MS. GRUENHAGEN: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. GRUENHAGEN:

5 Q. Kathy, I'm in this direction. But you can
6 still face the Board. It's fine.

7 BOARD CHAIR HELLAND: Either way.

8 BY MS. GRUENHAGEN:

9 Q. Whatever works best for you. My name is
10 Chris Gruenhagen, and I represent the Iowa Farm
11 Bureau. So I have a few questions for you as well
12 regarding your property as well as Summit's proposal
13 here.

14 Did you file any comments or objections in
15 the docket?

16 A. My little sister Margaret did. And it's
17 here. So I can give you that. But it's Margaret
18 Rosman. And the date would be August 16th.

19 Q. No, I think, if it's in the docket, we'll
20 have that. So thank you.

21 A. Okay.

22 Q. And, when you were describing your
23 property, you talked about some green space.

24 See, they have it. That's wonderful.

25 Is that the document that your sister

1 Marjorie --

2 A. Margaret.

3 Q. Margaret. Sorry.

4 A. I don't think her name is on it. But, yes,
5 it's Margaret Rosman.

6 Q. Great. When you were describing your
7 property, you talked about some green space that was
8 on your property?

9 A. We have lots of windbreaks, but there is a
10 small green space --

11 Q. I was wondering if you could identify where
12 it was exactly.

13 A. Okay. One of them would be against
14 Highway 44 in this neighborhood here. My dad had
15 tiled a lot of the drainage, but there's open water
16 there. Unless it's a drought. And he's got
17 grasslands around it.

18 And so it would be open for the deer that
19 he keeps saying he detests, the fox that keep digging
20 his terraces, and pheasants and whatever else might be
21 there.

22 There's also on the -- in this vicinity
23 here, that's where the wet --

24 Q. The CRP is?

25 A. Right, the wet CRP is. And there's about

1 1.5 acres committed. And I'm told that there's water
2 there when there's not a drought.

3 Q. So with the green space that's around
4 Highway 44, is that north or south of Highway 44?

5 A. North.

6 Q. So the CRP ground that you have in the
7 south part of the south parcel, do you have a contract
8 with FSA? Or did your dad have a contract with FSA
9 for that CRP?

10 A. I believe my dad has a contract. He gets a
11 payment every year. I believe that's meaning a
12 contract. He maintains it and they pay him a stipend
13 for it.

14 Q. Is some of that CRP, is that in the
15 vicinity of the proposed route or is it more on the
16 east side of the parcel?

17 A. It's going to be in the proposed route.

18 Q. And so, if that ground is disturbed and the
19 grass comes off of it, are you concerned about that
20 not meeting the requirements of that contract?

21 A. That would be a concern. We would have to
22 talk to the powers that be that make the rules. But,
23 yes, that is a concern. That's an income for our
24 farm.

25 Q. So, if FSA decided there was a violation of

1 those contract terms, would you want to be compensated
2 by Summit for any penalties FSA might assess?

3 A. Yes. Because we didn't change the rules.
4 They did.

5 Q. I understand. You mentioned you have farm
6 tenants, or your dad had farm tenants, probably both,
7 on all three of those properties?

8 A. He has one renter for all three of those
9 properties.

10 Q. And how long has the renter rented those
11 properties?

12 A. Twenty-plus years he's been there. And we
13 have no problems with him being there another
14 twenty-plus years. And his next generation.

15 Q. Did your dad, or have you, let Summit know
16 that there was a farm tenant on those properties?

17 A. Again, we haven't talked to anybody with
18 Summit.

19 Q. So Summit wouldn't know that there was a
20 farm tenant then because you didn't disclose it.

21 A. Correct.

22 Q. You mentioned there was drainage tile in
23 all three of the properties?

24 A. I believe he has drainage tile anywhere it
25 was needed. So any of the low spaces. I know, for

1 sure, that it was north of Highway 44. Right probably
2 where the Summit pipeline is proposed. But it's been
3 there probably over 40 years. So we don't have any
4 maps.

5 Q. I was going to ask you if your dad kept
6 even a hand drawn map of where those tile lines might
7 be located?

8 A. We've looked. And we did not find
9 anything.

10 Q. If you do find a tile map, would you be
11 willing to share that with Summit so that they can
12 make sure that those tiles are repaired?

13 A. I'm hoping we won't have that discussion.

14 Q. You also mentioned when you were talking to
15 Chair Helland that you have fences all around these
16 properties.

17 A. Yes. In the wintertime, we have a cow-calf
18 herd that roam the different fields picking up the
19 dropped corn and dropping fertilizer. So, yeah, all
20 of those fences are intact. And, here again, soldier
21 straight.

22 He maintained those fences late eighties.
23 I don't know that -- I think, when he was 91, he put a
24 plank fence together for someone that was having
25 calves on his property. And plank fences are working

1 with hundred-pound boards, I want to say. He could do
2 miracles with Uni-Loaders.

3 And he was very proud and anal about those
4 fences. He's received requests for making fences for
5 others, but he goes, "Eighties? No, I'm going to make
6 my own fences."

7 Q. So he was very particular about his fences.

8 A. Very particular.

9 Q. Are all three of the parcels fenced off
10 separately?

11 A. Yes.

12 Q. Or are they fenced together?

13 A. They're fenced separately. Clearly, where
14 Highway 44 is, that separates the north section to
15 itself. But he has a series of fences, if I remember
16 correctly.

17 Q. So, if Summit was given approval to build
18 the pipeline, I assume you would want those fences to
19 be repaired or replaced?

20 A. Yes, to the same standards.

21 Q. Would you want a gate there so they can
22 access the easement without going onto another part of
23 the property?

24 A. I'm hoping they would never be on our
25 property, but, yes, they would need to put in their

1 own gate to minimize the area that they have access
2 for.

3 Here again, we've got active farmers. You
4 know, an active farmer. We have cow-calves in the
5 wintertime. And they need to respect boundaries.

6 Q. Is this land enrolled in any federal farm
7 programs? Other than the CRP in the southern portion?

8 A. That is the only one we're aware of at this
9 time.

10 Q. Do you know if your tenant has enrolled the
11 farms in crop insurance? In the crop insurance
12 program?

13 A. He has crop insurance.

14 Q. So, as a part of crop insurance, they would
15 be required to be in conservation compliance with your
16 properties as well as not swampbusting?

17 A. I'm not familiar with the terms, but I also
18 know the renter respected my dad. And he maintained
19 the same standards as my dad.

20 Q. Sounds like you have a good tenant.

21 A. We can't find a better one.

22 Q. Have you reviewed the Exhibit H? The
23 exhibit that talks about your properties?

24 A. Actually, I didn't receive one.

25 Q. Would someone else in your family have

1 received that?

2 A. Not that we're aware of, no.

3 Q. Did you receive a mailing of notice of this
4 meeting?

5 A. The tri-fold blue? Yes. I received every
6 copy of that meeting and then I distributed them to
7 two of my sisters that are local.

8 Q. So the black and white tri-fold, is that
9 what you're talking about?

10 A. It had blue covers and then inside it was
11 black print on white.

12 Q. So would this (indicating) have been
13 included in there? Did you review those papers?

14 A. I have seen that. And, for the record, my
15 little brother hasn't lived in Harlan for almost 30
16 years. And my sister Jean hasn't lived in Arlington,
17 Nebraska, for five.

18 Q. So the addresses are wrong.

19 A. Yes, they are.

20 Q. So James is your brother?

21 A. James is my brother. He's the
22 over-the-road trucker.

23 MS. GRUENHAGEN: Go ahead and scroll down,
24 I think, to page 3.

25

1 BY MS. GRUENHAGEN:

2 Q. Have you read through the proposed easement
3 that Summit is requesting if the property were to go
4 to eminent domain?

5 A. Skimmed through it. I also reviewed it
6 during part of these proceedings. What scares me is
7 that I don't trust any of it.

8 Q. So do you have some concerns about the
9 easement?

10 A. Well, you've got a pipeline that can vary
11 in size not to exceed 24 inches in normal diameter. A
12 quick review, I'm not -- okay. An easement of 50 feet
13 in width in, over, and across. Okay. Is that 50 feet
14 written in stone? I've heard that just because the
15 pipeline is sketched a certain way on a map that
16 doesn't mean that's the actual route. It can change.

17 Q. So would you want the easement to
18 specifically refer to where that easement will be
19 located on your property?

20 A. I don't want the easement on my property --

21 Q. I understand.

22 A. -- but it should be written in stone. So
23 that we can make plans. Yeah, if I'm going to plant a
24 garden, my husband expects me to map out where it's
25 going to go. These guys are going to do a lot more

1 damage. And they're going to need to figure out how
2 to fix my terraces and tiling. So they can't be
3 willy-nilly about where they're going to put the
4 pipeline.

5 Q. So, if this permit application is approved,
6 would you want the opportunity to discuss a volunteer
7 easement with Summit prior to going to eminent domain
8 procedures?

9 A. I would -- we would probably be in a
10 lawsuit at that point. We really do not want eminent
11 domain. And there are so many violations in this it's
12 not funny.

13 Q. I'm going to ask you a few questions
14 regarding what you might like to see in the easement.
15 This is something that the Board is going to be
16 reviewing as a part of their consideration of the
17 application.

18 Would you want Summit to follow ag land
19 restoration rules if they ever have to go in to repair
20 or replace a pipe?

21 A. As in returning it back to what it was?

22 Q. Yes.

23 A. Yes.

24 Q. If they wanted to move the easement to a
25 different part of your property, would you want them

1 to be required to get a new easement?

2 A. Yes.

3 Q. Do you want to be able to enter into the
4 easement area when Summit is not in active
5 construction at that property? If the project is
6 approved?

7 A. Yes. But, here again, I don't want them on
8 the property.

9 Q. I understand.

10 A. And if/when that pipeline is no longer in
11 use, I want the land to be restored to what it was.

12 Q. So you would want the option to have Summit
13 remove the pipe?

14 A. Remove the pipe and restore it to what it
15 was. If -- well, we had a building in Harlan where
16 one tenant moved out, and they were required to
17 restore that building or return it to its original
18 dimensions, design, et cetera.

19 I don't think that's too much to ask for
20 the pipeline to do the same. Here again, we're
21 talking about a property that does not have rusty
22 equipment sitting around. If a pipeline is left there
23 unattended, it breaks down, that's an accident waiting
24 to happen.

25 And -- yeah, they can take the pipeline out

1 and sell it for scrap, I don't care, but they need to
2 restore the property to its original intention.

3 Q. Did you research what size pipe -- or do
4 you know what size pipe Summit is proposing for the
5 proposed route across your properties?

6 A. I believe it's 8 inches.

7 Q. Would you want the Board in its order to
8 limit that size pipe in your easement to the 8 inches?

9 A. Yes.

10 Q. And, if they wanted to increase the size,
11 would you want them to be allowed to do that within
12 that easement or be restricted?

13 A. If it's already limited, how can they
14 increase it.

15 Q. And would you like Summit to consult with
16 you if they need to change the grade of the land
17 during or after construction?

18 A. They shouldn't be messing with the grade of
19 the land. They're already messing with the terraces.
20 Depending on where they're at, they're going to have a
21 fairly flat area to work with for what we got. That
22 ground has been set up for maximizing soil
23 conservation.

24 So now we're going to let somebody who
25 doesn't care about the land change the grade? That's

1 obscene.

2 MS. GRUENHAGEN: I think that's all the
3 questions I have.

4 THE WITNESS: Thank you.

5 BOARD CHAIR HELLAND: Thank you.

6 Ms. Ryon.

7 MS. RYON: Thank you.

8 CROSS-EXAMINATION

9 BY MS. RYON:

10 Q. Good morning, Ms. Byars. I'll be very
11 quick so you can get done with this.

12 You've talked a few times about the tenant
13 who farms the land. Do you think that tenant has
14 information that would be helpful for the Utilities
15 Board to have when it makes a decision?

16 A. Actually, he gave us a lot of information.
17 So I would say that we're good. He doesn't have
18 anything else to offer.

19 MS. RYON: All right. Well, I appreciate
20 that. Thank you.

21 THE WITNESS: And we tried to find out if
22 he knew anything about the tiling lines, and it was a
23 no. They were put in before he started renting. He's
24 been renting over 20 years.

25 MS. RYON: Thank you. That's all I had for

1 you.

2 BOARD CHAIR HELLAND: Mr. Williams.

3 MR. WILLIAMS: Thank you.

4 CROSS-EXAMINATION

5 BY MR. WILLIAMS:

6 Q. With the easement agreement, is there any
7 terms that you find acceptable in terms of the scope
8 that they can vary from their original proposal to
9 you?

10 A. Summit hasn't proven that there's a need to
11 dump carbon dioxide in a hole. Not as far as I'm
12 concerned. And that's from a chemical engineering
13 standpoint and a chemistry standpoint.

14 Carbon dioxide is not a waste. And I don't
15 think Summit has made any promises about how they are
16 going to keep that liquid carbon dioxide that has to
17 be maintained by high pressures intact for 20, 30, 40,
18 50 years.

19 Q. Thank you. That testimony, combined with
20 the fact that they seek to impose restrictions on the
21 use of your land as well as give them the rights to
22 perform certain tasks on your land when it comes to
23 installing a pipeline to further their ends, do you
24 find that to be putting a lot of risk on you with
25 little to no benefit?

1 A. Yes. Because if something happens to the
2 pipeline, let's say there's a leak, God forbid,
3 everybody's at risk. We don't know if the first
4 responders can rescue the people at risk, we don't
5 know how fast the response time is for Summit to
6 figure out there is a problem, we don't know where the
7 valves are to shut things off.

8 And, even if you shut off the valve, you're
9 still going to have carbon dioxide streaming through
10 that leak until the pressure equalizes inside the pipe
11 and outside the pipe.

12 So, yes, there's concerns.

13 And, even if they stop using the pipe 10,
14 20 years from now, they have a lifetime as what are
15 they going to do with it. And maybe that's what I'm
16 fearful of. What are they going to do with it.

17 So, yes, they have all the gain and a lot
18 less liabilities than we do. And financially we're
19 going to be impacted.

20 Q. As you sit here today, is there anything
21 that Summit could offer you in terms of easement terms
22 that would shift the balance more in your favor and
23 against theirs?

24 A. No.

25 Q. And, in reality, whatever damage they may

1 cause to your property, that could potentially extend
2 beyond whatever they've agreed to in their easement to
3 provide for coverage in terms of financial
4 compensation; correct?

5 A. Correct. And it's -- like crop damage.
6 You know, three years. Does that three years start
7 after the pipeline is done or when the construction
8 starts?

9 Q. I've heard testimony from a couple of
10 individuals, one of which yesterday evening was from
11 Shelby County, and there were others, that said
12 several years to potentially forever you're never
13 going to be able to have the land be the same way.

14 Are you somewhere along that range?

15 A. I'm somewhere along that range. If you
16 start to think about they dig a strip to put the
17 pipeline in. Where does the topsoil go? Are they
18 having a separate pile? Or are they going to have a
19 pile that also includes the clay on the bottom?

20 And then they're going to put it back over
21 the pipeline. Are they putting the richest part of
22 the soil over the top so that it's farmable? My guess
23 is not. Because most contractors are not worried
24 about growing crops. They're worried about making
25 sure everything is compacted around the pipe for

1 stability. They're going to put however many layers
2 of dirt they need to on top for safety or to make sure
3 things can drive over it. But, again, they're
4 compacting it. And less worries about the farmers,
5 less worry about crop raising.

6 Q. Thank you. And you touched on this a
7 little bit in regards to your comments on emergency
8 services, but, given your knowledge about CO2, that
9 it's an odorless substance, lays low to the ground,
10 based on the map, and I believe the measurements that
11 you provided very early on, or that the Board provided
12 very early on, do you think you and your neighbors
13 have any chance of escaping a plume from a rupture?

14 A. That --

15 BOARD CHAIR HELLAND: Excuse me.

16 Mr. Williams, I believe while you were gone
17 she answered that question or an extremely close
18 derivative. Let's try to come up with unique
19 questions within the scope that are helpful to the
20 purpose of bringing the landowners in today, please.

21 You're welcome to go ahead and answer that,
22 Ms. Byars.

23 A. I was going to say it can't be emphasized
24 enough about safety. So the house, that acreage to
25 the west that's only partway up the hill, they would

1 be the first ones at risk on our immediate area.

2 The two houses that we own, the farmhouse
3 and then -- we call it the 80, but it's the house
4 south of 44, they aren't quite as at risk just because
5 they're more on the high level of the ground. But how
6 much carbon dioxide does it take to blanket areas?
7 So, yeah, there's a risk there.

8 And I haven't seen anything of how they're
9 going to mitigate it, monitor pressure in the piping,
10 how fast is the response time again. And, even if you
11 flip a switch, the carbon dioxide is going to be
12 draining out of that pipe until the pressure inside
13 the pipe matches the pressure outside the pipe.

14 For 1 liter of the carbon dioxide at 1,200
15 psi, that expands to 80 liters at 15 psi. Which would
16 be atmospheric pressure. So that's a concern.

17 BY MR. WILLIAMS:

18 Q. And, based on your testimony today and your
19 personal knowledge regarding CO2, do you believe that
20 this pipeline route, as it relates to your property
21 and the seven counties that it covers between the two
22 connection points, is a public necessity or a public
23 convenience?

24 A. It is not a public necessity nor a
25 convenience. It puts everybody at risk.

1 MR. WILLIAMS: Thank you. No further
2 questions.

3 BOARD CHAIR HELLAND: Thank you.

4 Are there questions from the Board?

5 BOARD MEMBER MARTZ: I have a statement.
6 We've heard a lot of the same questions multiple times
7 from the attorneys. I'd really like to keep it more
8 efficient and use everybody's time efficiently. So,
9 if there's a question that's already been asked,
10 please refrain from asking it again.

11 BOARD CHAIR HELLAND: Okay. Ms. Byars,
12 thank you. I'm sure you have a long drive home today.
13 We appreciate you taking the time and wish you well.

14 THE WITNESS: I've got one sister that
15 texted me at 3:20 this morning. "Here are some more
16 comments." Thank you.

17 BOARD CHAIR HELLAND: We're going to take a
18 15-minute break. We will be back at 11:46 sharp to
19 begin testimony from Amiee or Brian Krogh. So we'll
20 figure out which one. And we'll address lunch as soon
21 as we're back in 15 minutes.

22 We'll go off the record.

23 (Recess taken at 11:31 a.m.)

24 (Hearing resumed at 11:48 a.m.)

25 BOARD CHAIR HELLAND: Okay. We will go

1 ahead and go back on the record.

2 We will be calling Amiee or Brian Krogh
3 first.

4 Krogh? Thank you. Come on up.

5 While she's walking up here, just some
6 housekeeping. We will go through this witness, we
7 will take a short 45-minute lunch. It's unfortunate,
8 but it needs to be 45 minutes. We have a hard stop at
9 5 today. We don't have this building after 5.
10 There's an event this weekend. They have to tear down
11 and have an event.

12 It would be exceptionally frustrating if
13 the landowners who traveled here today had to travel
14 back because of redundant, out-of-scope questions.

15 So, once again, we're going to ask the
16 attorneys to rein it in and use your time later in the
17 hearing to make your arguments.

18 MS. RYON: Your Honor?

19 BOARD CHAIR HELLAND: If you must.

20 MS. RYON: Thank you. Before we begin with
21 Ms. Krogh, I wanted to inform you that Ms. Krogh has
22 engaged me for the limited purpose of representing her
23 and preserving her rights during her testimony here
24 today.

25 BOARD CHAIR HELLAND: Thank you. And I

1 might add it's noticed that your questions are narrow
2 and in scope and appreciated.

3 Good morning.

4 MS. KROGH: Good morning.

5 BOARD CHAIR HELLAND: Are you ready?

6 MS. KROGH: Yep.

7 AMIEE KROGH,

8 called as a witness, being first duly sworn by Board
9 Chair Helland, was examined and testified as follows:

10 BOARD CHAIR HELLAND: I'm sorry. Let's do
11 that over. Because I did it wrong. We'll get it
12 down.

13 Go ahead and raise your right hand.

14 AMIEE KROGH,

15 called as a witness, being first duly sworn by Board
16 Chair Helland, was examined and testified as follows:

17 BOARD CHAIR HELLAND: Thank you. Please
18 state and spell your name and provide your address for
19 the record.

20 THE WITNESS: Sure. My name is Amiee
21 Krogh. And it's A-m-i-e-e K-r-o-g-h. And my address
22 is 2381 Port Neal Road, Sergeant Bluff, Iowa 51054.

23 BOARD CHAIR HELLAND: Okay. And are the
24 properties that we're addressing today in Woodbury?

25 THE WITNESS: Yes.

1 BOARD CHAIR HELLAND: Thank you. And we
2 labeled them H-WO-030 and 044. Would you prefer us
3 refer to them as something else that would be easier
4 for you?

5 THE WITNESS: I think that's as good as
6 anything. We call it the Baker farm, but that's just
7 because of the heritage of it.

8 BOARD CHAIR HELLAND: I get it. We can
9 call it the Baker farm.

10 Can you please describe the current usage
11 and potential future usage of the Baker farm.

12 THE WITNESS: The entire farm is farmed by
13 my husband and our family. It's been farmed by our
14 family for over 150 years. It is currently the oldest
15 heritage farm in Woodbury County. We've farmed it
16 since 1864.

17 So that's, I guess, the piece -- if you're
18 looking at the map, it would be on the west side. All
19 of that -- yeah, that area right there.

20 That, like I said, has been contiguous
21 since 1864. Along with this other triangular section.
22 I have no idea why way back in 1864 they took that
23 side. Obviously the road must have came in
24 afterwards, but it's been that section since 1864.

25 And, as far as what its purpose is, it is

1 row crop. That is what it is. It is corn and
2 soybean.

3 We do run a cow-calf operation, so we do
4 graze it off in the fall. But it is not like a -- it
5 is not an alfalfa or hay ground or anything like that.
6 It is strictly a row crop.

7 To the east of 75, that triangular piece,
8 the future part of it -- I'm actually in the process
9 of working with the SBA to file paperwork to make part
10 of that triangular -- right where the pipeline goes on
11 the corner of 235th and Highway 75, to put in a
12 storage facility. That's --

13 BOARD CHAIR HELLAND: Hold on real quick.

14 Is she going too --

15 THE WITNESS: Am I going too fast?

16 BOARD CHAIR HELLAND: Maybe slow down just
17 a touch.

18 THE WITNESS: Okay. I can do that.

19 BOARD CHAIR HELLAND: I got scolded the
20 first day.

21 THE WITNESS: So the corner where 235th and
22 Highway 75 -- that area in particular right there, I'm
23 in the process of filing paperwork for a 701(c) loan
24 through the SBA to actually put in a
25 climate-controlled storage facility. If this pipeline

1 goes through, I can't do that.

2 BOARD CHAIR HELLAND: Focusing on the
3 storage facility real quickly. Beyond the 701(c)
4 loan, have you procured equipment or signed contracts
5 or --

6 THE WITNESS: I have not. I have met and
7 spoken with the county supervisors, because I will
8 have to do some zoning for that. Because it's zoned
9 agricultural right now. So, to put something into
10 there, I would have to change the zoning.

11 BOARD CHAIR HELLAND: Have you begun the
12 zoning process?

13 THE WITNESS: I have not. I have only had
14 preliminary discussions with the county supervisors
15 about the process to do so.

16 BOARD CHAIR HELLAND: Can you just
17 quickly -- not quickly, take your time, describe the
18 business, the goal.

19 THE WITNESS: The goal is -- that corner
20 of -- like I said, that portion of the 18 acres -- I
21 told my husband, "It's my turn. I'm going to take
22 part of the farm and do what I want with it."

23 So that corner of the farm, the plan in the
24 future is to put storage facilities for like RVs,
25 motor homes. Climate-controlled ones. You know, to

1 put two or three buildings in that space. That's my
2 retirement plan. Is storage facilities.

3 BOARD CHAIR HELLAND: And how big would the
4 storage facility parcel be? The entire corner?

5 THE WITNESS: Well, that whole piece is
6 18 acres on the east side of 75. And, potentially,
7 he's told me that I can fill the whole thing. That's
8 basically mine to play with.

9 BOARD CHAIR HELLAND: Great. So I just
10 wanted to clarify. It's a --

11 THE WITNESS: My goal -- potentially, it
12 could be that whole side of 75.

13 BOARD CHAIR HELLAND: So when you said
14 "triangle," you meant the whole property, not the
15 triangle --

16 THE WITNESS: No.

17 BOARD CHAIR HELLAND: -- that is created by
18 the proposed pipeline.

19 THE WITNESS: No. The whole property.

20 BOARD CHAIR HELLAND: Thank you. That's
21 helpful.

22 The two lines that slash from due north to
23 southeast, you said one is a road. What's the
24 structure right next to it?

25 THE WITNESS: That's railroad. That's a

1 railroad. So, in order for the pipeline to go
2 through, they've -- we had a situation where they came
3 out and unlawfully went out and drove through our
4 field and did bore testing on our property.

5 BOARD CHAIR HELLAND: I'm sorry. "They"?

6 THE WITNESS: Carbon Summit.

7 BOARD CHAIR HELLAND: Summit. Okay. I
8 didn't know if you meant them or the railroad. I was
9 just clarifying.

10 THE WITNESS: Summit came out and did this.

11 And so the people that came out there that
12 did the core drilling, when my husband and the sheriff
13 met them out there, they said that they had full plans
14 that they were going to bore underneath of the
15 railroad, they're going to have to bore under
16 Highway 75.

17 And then, again, that street that is
18 just -- on the triangular piece up to the north, you
19 see a county road that heads back east that crosses
20 over there. They're going to have to bore underneath
21 that road. That's 235th Street.

22 That's what they told us their plans were.

23 BOARD CHAIR HELLAND: In terms of the SBA
24 loan, the 701(c), you said you've begun that process.

25 THE WITNESS: Uh-huh.

1 BOARD CHAIR HELLAND: Is the property
2 ineligible for a 701(c) if there is a pipeline beneath
3 it?

4 THE WITNESS: I've been told that if
5 there's a pipeline underneath it, I can't build a
6 structure on it. Right? So I would have to obviously
7 avoid wherever they put the pipeline to put it on.

8 They have not told me -- the SBA has not
9 disqualified my loan because of that, but I honestly
10 haven't disclosed that there's going to be a pipeline
11 going through it because I don't want a pipeline going
12 through it.

13 BOARD CHAIR HELLAND: Sure. So it's the
14 presence of the structure above and the easement --
15 that's not making you ineligible for a 701(c).

16 THE WITNESS: Not at this time, no. If
17 there is an easement put in place, I'm sure that
18 that's going to have a different output.

19 The other thing I would note is to the
20 north of 235th -- it's not my property, but that
21 little jaunt of where the pipeline is going through,
22 and then you see it going further north, that's the
23 Ivener farm, and they're currently in the process of
24 subdividing that for residential development. So
25 that's happening now.

1 BOARD CHAIR HELLAND: Okay. Thank you.

2 And I appreciate that information absolutely. We'll
3 focus on your parcel right now. But that's good to
4 know.

5 So, on your parcel, other than the railroad
6 right-of-way, are there any other transmission lines,
7 gas lines, tile, buried infrastructure?

8 THE WITNESS: There's not tile, but there
9 are four easements on the property. Throughout there,
10 there is one with U.S. Sprint Communications, AT&T,
11 Lumen Technologies, which used to be Northwestern
12 Bell, and then MidAmerican Energy. It was originally
13 filed as Iowa Public Power back in the day, but now
14 it's MidAmerican Energy. Because there's power
15 transmission lines that go over the area.

16 Where they're talking about putting the
17 white line of the pipeline, they're going to be
18 interfering with MidAmerican power poles. So I don't
19 know who is moving those.

20 BOARD CHAIR HELLAND: It doesn't appear at
21 this point there are buildings and structures on the
22 property?

23 THE WITNESS: No. There is not. But
24 within -- I was just going over it. Within the half
25 mile from here, or less than a mile to the north, my

1 mother-in-law is there. You can see that, like -- I
2 dont know if I can make this thing work. Yeah,
3 like -- I'm not good with the pointer. But up to the
4 left -- go down further. Down further. Right there.
5 That's my mother-in-law's house. Right there.

6 And then you can see in another red area,
7 that's Godbersens' property. They live there.

8 So we don't have structures, but, within
9 half a mile, there are structures.

10 BOARD CHAIR HELLAND: It looks like at
11 least six, seven, eight acreages within a half mile?

12 Okay. So, other than the railroad and
13 MidAm, unless MidAm is in the right-of-way, are there
14 any other third-party easements on the property?

15 THE WITNESS: Telecommunications. Like I
16 said, U.S. Sprint and AT&T. They're on the east side
17 of 75. The triangular piece, as I call it. There is
18 fiber lines.

19 BOARD CHAIR HELLAND: Are there any other
20 features or conditions that might not be readily
21 apparent and that might affect, or be affected, by the
22 proposed project?

23 THE WITNESS: Other than it's just farm
24 ground. You know, it's loam soil. It's some of the
25 best soil in Woodbury County. It has a 200-bushel

1 rating. It's some of the best in the county.

2 So, when they go to disturb this, we're
3 going to have a mess. It's going to take at least ten
4 years for it to be put back to its -- you know, the
5 compaction. You've heard it from multiple other
6 people here this morning.

7 But structures, there's no -- we don't have
8 tiling or there's not a waterway or no CRP on it.
9 It's farm ground.

10 BOARD CHAIR HELLAND: Can you describe any
11 specific concerns you may have or any recommendation
12 to the Board to address your concerns?

13 THE WITNESS: It's the same concerns that
14 everybody has had here this morning. I mean, it's
15 farm ground. It's been in our family for over 150
16 years. It's literally the oldest farm in Woodbury
17 County, documented, that's still family owned. It's
18 our ground.

19 I was a little concerned earlier when you
20 spoke and you said that non-intervenor landowners
21 necessarily were just witnesses, that we didn't really
22 have rights. I have rights to this. My family has
23 owned this for 150 years.

24 So that's my problem with this. We don't
25 want -- my son is in college right now for ag business

1 and animal science so that he can come home and farm
2 this ground. He's going to be the sixth generation
3 farming this ground.

4 You take that farm ground away, you give
5 this easement to them, that's a problem. It's not
6 theirs to take. It's not yours to let them take.
7 It's ours. It's been there for 150 years. I
8 shouldn't be here today fighting -- or having this
9 discussion with you. It's our ground.

10 How would you guys feel if we came to you
11 and said, "We're going to take your house." Or we're
12 going to condemn it. Or we're going to take away your
13 livelihood. That's my concern.

14 It's my home. It's my farm. Five
15 generations back I've farmed this ground. That's a
16 problem.

17 BOARD CHAIR HELLAND: Do you recommend an
18 alternative route for the proposed line, and, if so,
19 can you describe that route and the theoretical
20 advantages or disadvantages?

21 THE WITNESS: No. I don't have an
22 alternative for them.

23 BOARD CHAIR HELLAND: Thank you.

24 Do the parties have questions for
25 Ms. Krogh?

1 Wally. Go ahead. Sorry. Mr. Taylor.

2 MR. TAYLOR: That's fine. We'll know each
3 other pretty well by the time this is over.

4 BOARD CHAIR HELLAND: Yes, we will.

5 CROSS-EXAMINATION

6 BY MR. TAYLOR:

7 Q. Ma'am, my name is Wally Taylor. I
8 represent the Sierra Club.

9 This SBA loan, I wasn't quite sure how far
10 along you were with that process.

11 A. We've just started the application process.

12 Q. But you do absolutely intend --

13 A. Absolutely.

14 Q. -- to do this.

15 A. Yes. For this section.

16 Q. So it's not just kind of a hypothetical
17 "maybe sometime in the future" thing.

18 A. No.

19 Q. The farm ground. You grow corn and beans
20 on there.

21 A. Uh-huh.

22 Q. And what do you believe would be the impact
23 of that farm ground if the pipeline is installed?

24 A. I'm not the farmer in the family, my
25 husband is the farmer in the family, but I will tell

1 you he believes that once this is compacted, once the
2 damage is done, at a minimum it is 10 to 12 years
3 before it is in the usable state that it is today.
4 And more than likely it will never be the same.

5 You're talking about erosion, you're
6 talking about ruts. My family, my husband, does a
7 minimal tilling operation. We don't do a full-on
8 till, chop it up every -- he's not out there chisel
9 plowing it every -- he just doesn't do that. And
10 that's why we have some of the best crops in the area.

11 And so now this section, going straight
12 across the heart of the farm, is basically going to be
13 at a loss for us. And like what you've heard
14 everybody else say, they have the right to sell it to
15 whoever. It's not theirs to have.

16 Q. And the pipeline does go right across the
17 middle --

18 A. Right through the center of it. And we
19 own -- it's not in the pipeline, but we own all the
20 way to the north and we own to the south. So it's
21 literally just going through a section. I mean,
22 it's --

23 Q. Sorry. Go ahead.

24 A. The green areas that's not affected up
25 there to the north of them, that's our farm too. You

1 see up there? Those are our farms.

2 Q. And you say you use no till?

3 A. Yes.

4 Q. Does that present any special problems in
5 terms of the pipeline going through there?

6 A. My husband would obviously have to -- you
7 know, that particular area, it's going to be
8 compacted. So now he's going to have to do things
9 like tillage. Heavy tillage.

10 It's not that he does a completely no till.
11 It's minimal. He does not go out in the fall and rip
12 it and chisel it up. You know, you obviously disk it
13 up before you plant it. Those kinds of minimal
14 things.

15 But, in that particular area, now he's
16 going to have to implement other measures for it to be
17 usable.

18 Q. You said there were MidAmerican power lines
19 through there?

20 A. Yes. There's MidAmerican power lines.
21 They run parallel to the railway that they're going to
22 have to cross by Highway 75. And there are power
23 poles -- I don't know exactly where they're located,
24 but there are large utility power poles also.

25 Q. So are they transmission lines rather than

1 distribution lines or do you know?

2 A. They're the very large transmission -- like
3 huge ones. Because it leads back into CF Industries.
4 Which is further west towards the river.

5 Q. So how far are you from CF Industries?

6 A. I would say less than four or five miles.
7 It's on the other side of the interstate. This is on
8 the -- what would be the east side of the interstate.
9 On the west side of the interstate is CF Industries
10 close to the Missouri River.

11 Q. That's Interstate 29?

12 A. Yes.

13 Q. And the power poles are on that triangular
14 area; is that correct?

15 A. No, they're -- there's power lines -- the
16 main power lines are on what would be the west side of
17 Highway 75. They run parallel by the railroad.
18 That's the railroad there. That two lines that run
19 parallel to each other.

20 Q. Did you indicate that you thought the
21 pipeline might impact those power lines or vice versa?

22 A. I'm not sure. They're going to have to go
23 underneath where they are. I mean, obviously
24 MidAmerican has an easement for a reason for those
25 power poles there.

1 I know they're definitely going to have to
2 deal with the railroad. Because they're going to bore
3 right under the railroad. And they're going to bore
4 right under Highway 75. So they're going to have to
5 deal with both of those areas.

6 If anybody knows the railroad, that's not
7 fun to deal with them.

8 Q. Are you concerned about a breakage or a
9 rupture in the pipeline?

10 A. Absolutely. You saw where my mother-in-law
11 lives. We live -- this property is one mile from
12 Sergeant Bluff city limits. They don't have a regular
13 fire department. They have a volunteer fire
14 department. Same as everybody else has talked up
15 here.

16 We would depend on Sergeant Bluff and
17 Salix, which, again, is a volunteer fire
18 department/rescue service, to come up and help.

19 There's five houses -- when you zoom out,
20 you're going to see various houses in that area.
21 There's five acreages in that area. You see
22 Godbersens up there, my mother-in-law is up there, you
23 see the other Godbersen farm to the south. My
24 sister-in-law lives just to the north of this on the
25 east side. That triangular piece, that's

1 sister-in-law.

2 So, yeah, if this thing goes, we're going
3 to have a problem. Honestly, I'm a little worried
4 about -- if this thing were to go and where it heads
5 back west across I-29, on the other side -- it doesn't
6 have anything to do with this part where I am, but
7 head back west where it comes in, it's going right by
8 CF Industries. If this thing blows, that thing blows,
9 you can say good-bye to Sergeant Bluff. The whole
10 town.

11 Q. Has Summit given you any information about
12 the zone of risk, so to speak?

13 A. I find it very interesting that when the
14 folks that approached us, their agents that came out
15 and started giving us offers over the last two years,
16 it was wonderful, it was not going to hurt anything,
17 it was going to be buried.

18 We've had anything from 8-inch pipe,
19 12-inch pipe, 16-inch pipe. I think on that map you
20 showed earlier that flashed up, it said Woodbury
21 County, in our area, it was a 12-inch pipe. The
22 paperwork that I have from them says 16. Started off
23 at 8, went to 16, what have you.

24 So, yeah, there's problems all over this.

25 Q. You talked about your conversations with

1 some land agents.

2 A. Uh-huh.

3 Q. How often have you talked to any Summit
4 land agents?

5 A. We've talked to three. They've switched.
6 We're now on the third one. The last one we talked to
7 was in September of 2022.

8 Q. Can you describe those conversations?

9 A. The first conversations that we had with
10 them probably back in 2021 were not, I guess,
11 fruitful, as you would say. My husband met them at
12 the entrance to our place and asked them to leave.

13 We ended up having conversations with them
14 over -- the last two, over the last two years. Every
15 time they come it's a different story. It's more
16 money, less money. Like I said, we've had three
17 different sizes of pipe.

18 I will tell you that when I received the
19 paperwork of these proceedings, which was in July of
20 this year, I reached back out to the latest agent and
21 I said, "What gives?"

22 And he said that he had been instructed by
23 Carbon Summit to no longer talk to us, they were being
24 called back into their field office, and that he
25 couldn't talk to me anymore.

1 And that's the last communications I've had
2 with them.

3 Q. And that was how long ago?

4 A. That was a matter of about three weeks ago.

5 Q. But you tried to reach out to Summit.

6 A. I tried to reach out to their agent. Not
7 to Summit. Right. They have third-party agents that
8 come out. It's not actually Summit Carbon people that
9 come out.

10 Q. Sure. So how did you feel about the
11 efforts that Summit made to either talk to you or not
12 talk to you?

13 A. Well, quite honestly, it ticked us off when
14 they came out and were doing core samples without
15 permission. They literally drove through our farm.

16 I want to say, for the record, that after
17 we involved the authorities, they did pay us for
18 damages for what they did. They literally drove
19 through our cornfield and went out there and did
20 sampling.

21 So we did receive -- I can't remember the
22 exact amount. It was less than \$10,000 for the damage
23 they did.

24 So the communication really kind of sucks.
25 Honestly.

1 Q. What kind of damage did they do when they
2 surveyed?

3 A. They took ATVs and drove out through the
4 cornfield. And they cut a fence, and they drove
5 through the fence.

6 Q. Was there any corn in the field at that
7 time?

8 A. Yes. There was.

9 Q. What did it do to the corn?

10 A. They drove over it.

11 Q. I assume that corn was --

12 A. It was in June. It was well before harvest
13 time. They literally drove over the field. Cut the
14 fence, took their ATVs and drove in and did core
15 samples.

16 Q. And then who did you contact to try to get
17 damages?

18 A. The land agent. That would have been --
19 his name was Bob Bess. He was one of their land
20 agents. It was two land agents ago.

21 Q. So why have you not signed an easement?

22 A. It's pretty clear. It's pretty clear.
23 This is my property. This is my family's property.
24 We farm this ground. We don't want it sold -- we
25 don't want it sold off to anyone.

1 Six generations have farmed this ground.
2 We've been stewards of this ground. It's our
3 livelihood. It's our occupation. We absolutely do
4 not want to sell. We do not want anything else
5 running through it.

6 You know, it's one thing that we have
7 MidAmerican or UP -- you know, the railroad running
8 through -- you know, the easement area. I mean, the
9 railroad was there for probably close to a hundred
10 years. MidAmerican brings power. Utility power.

11 This is a for-profit operation that wants
12 to run through my family's farm ground for their own
13 benefit. It's not theirs to do. It's ours. We don't
14 want them there. We want to continue farming it. We
15 don't want our livelihood disturbed because they want
16 to profit by putting a pipeline through it.

17 MR. TAYLOR: Thank you. That's all the
18 questions I have.

19 BOARD CHAIR HELLAND: Thank you,
20 Mr. Taylor. Appreciate it.

21 Mr. Williams.

22 MR. WILLIAMS: Thank you.

23

24

25

1 CROSS-EXAMINATION

2 BY MR. WILLIAMS:

3 Q. I'd like to get into just a few more
4 specifics about the easement and why you won't sign
5 it.

6 You highlighted some things that were
7 consistent with earlier testimony where you just felt
8 that this land essentially was yours, you didn't want
9 it taken from you. My questions are more directed at
10 the easement language.

11 Were you presented with easement language
12 at some point?

13 A. Yes.

14 Q. Other than just general dollar amounts?

15 A. Yes, we were presented with an offer that
16 talked about, you know, that they could go up to
17 50 feet on either side and how deep that they could
18 bury the pipeline. The same as we've had from other
19 witnesses. The same boilerplate easement that they've
20 sent to all of us.

21 Q. Did that easement language strike you as
22 something that created risk for this property as
23 opposed to providing some benefit to you?

24 A. There's no benefit.

25 Q. But specifically as to risk. Did you see a

1 risk of potential -- you mentioned compaction risk,
2 for example.

3 A. Yes, there's compaction risk. And,
4 honestly, the letter that we received to come here
5 today, the first paragraph says that they've filed for
6 eminent domain to bury a hazardous pipeline. What
7 does the word "hazardous" mean to you? Risk.

8 Q. With the compaction, have you had personal
9 experience, or your husband had personal experience,
10 with dealing with compaction issues on property?

11 A. Yes.

12 Q. How long does it take to resolve compaction
13 issues?

14 BOARD MEMBER MARTZ: Mr. Williams, this
15 question has already been asked and answered by
16 Mr. Taylor.

17 MR. WILLIAMS: No, it hasn't. It has not.
18 I mean, is that --

19 BOARD CHAIR HELLAND: Board Member Byrnes
20 {sic} has as much authority to make a decision on what
21 has and hasn't been answered as I do. So you don't
22 need to look at me.

23 MR. WILLIAMS: I don't know what -- I
24 understand the commentary, but there's no objection,
25 so what is the -- is the Board ruling a sustainment?

1 Is she objecting? What is she doing?

2 BOARD CHAIR HELLAND: I think we're simply
3 asking you to keep the questions to a very tight scope
4 as it relates to where the proposed project could be
5 placed theoretically, if it's approved, on her
6 property. And that's it. So go ahead and confine it
7 to exactly what the testimony was intended for by the
8 Board.

9 Obviously, with landowners, we're going to
10 let landowners go. But, in terms of our attorney
11 friends in the room, we're going to ask that you
12 confine your questions, comments, statements to the
13 original Board order. Which was the actual siting on
14 the property.

15 A. There has been -- I'll try it this way.
16 There has been compaction in corners of the
17 property -- when MidAmerican comes in, as an example,
18 they have to service those power poles. Right? So
19 they drive trucks in there to service those power
20 poles.

21 You can very obviously see that the crop
22 grows less where that compaction happens. And it has
23 been like that for years. Where they drive in there
24 to change a transmission line or something like that,
25 there's compaction from those vehicles. The crop

1 suffers in those vehicles -- or in that space.

2 BY MR. WILLIAMS:

3 Q. And, in your easement agreement that was
4 proposed to you for the pipeline running across your
5 property, do you believe that it addresses the
6 concerns that compaction could cause on your property
7 by virtue of a pipeline of this magnitude being
8 present?

9 A. No.

10 Q. Why?

11 A. They're only -- in the easement that they
12 have given us, they're only talking about what's going
13 to happen for three years. And this compaction of the
14 level that they're going to do -- they're going to
15 totally rip up the ground, put a pipeline in it, and
16 then bury it back up.

17 That is going to take 10, 20 years for it
18 to be in the state that it is in today. And it's
19 never going to be in the state that it is in today.
20 And all they put in the easement is that they're going
21 to just pay for things for up to three years. That's
22 what's in writing.

23 Q. You mentioned also -- obviously, you have a
24 railroad on there, and the pipeline is going to run
25 under that at some point.

1 Do you have any concerns that you might be
2 unnecessarily entangled in a dispute between the
3 pipeline company and the railroad company regarding --

4 A. Have you ever dealt with the railroad?
5 Because I have. And they suck. So, yes, this is
6 going to be a mess to deal with them.

7 Q. Specifically I'm directing my question
8 towards if a dispute arises between those two
9 entities. By virtue of you being the landowner where
10 the pipeline and the railroad company are
11 intersecting, do you feel like you'll become
12 unnecessarily entangled as a result?

13 A. I absolutely do. And the next question
14 I'll be asked is does the railroad now -- because of
15 where this is going to go, do they want to move some
16 kind of an entrance into the property, does -- yeah,
17 I'm going to be impacted for sure.

18 Q. And what you mean by that, I think, and you
19 can correct me if I'm wrong, but the railroad company
20 will come back to you to potentially try to
21 renegotiate the terms of the easement that they have
22 over your property.

23 A. Absolutely.

24 Q. And, as a result, you might be further
25 entangled in additional litigation that might cost

1 money for you.

2 A. Absolutely.

3 Q. And do you have any indication from what
4 Summit is attempting to do that Summit would cover the
5 costs of that issue?

6 A. No.

7 MR. DUBLINSKE: Objection.

8 A. I don't believe there's anything in that
9 easement --

10 BOARD CHAIR HELLAND: Hold on real quick.

11 MR. WILLIAMS: You've got to wait on the
12 objection.

13 BOARD CHAIR HELLAND: Go ahead and state
14 your objection.

15 MR. DUBLINSKE: And I probably should have
16 objected even sooner. But, I mean, this is so
17 speculative and there's just no facts in evidence that
18 we won't be able to agree with UP, that any
19 disagreement will end up in litigation, that the
20 landowner will somehow be dragged into that
21 litigation.

22 We are now three, four levels removed from
23 anything that is a reasonable factual basis for this
24 line of questioning.

25 MR. WILLIAMS: These are risks associated

1 with the land. I'm sticking to the land as the Board
2 instructed. This is a risk that she will have to deal
3 with down the line. And it relates -- and I tied it
4 into the easement agreement as well.

5 BOARD CHAIR HELLAND: Hold on.

6 Ms. Ryon.

7 MS. RYON: Thank you. Yes, if we're
8 discussing the easement and the agreements, all of
9 those impacts are things that the witness should be
10 able to testify about. And what fears and questions
11 she has are issues that are very relevant to how this
12 is going to impact her land.

13 BOARD CHAIR HELLAND: Did you have a reply,
14 Mr. Dublinske?

15 MR. DUBLINSKE: I do, Your Honor. The
16 problem is that the lawyer is putting the risks out
17 there, not the witness, and there's nothing in the
18 easement about our relationship with Union Pacific.

19 BOARD CHAIR HELLAND: Thank you.

20 THE WITNESS: Can I speak?

21 BOARD CHAIR HELLAND: Not yet. But I'm
22 going to let you answer the question because you're a
23 landowner.

24 THE WITNESS: Right.

25 BOARD CHAIR HELLAND: But we are getting

1 pretty speculative here. Okay? I appreciate that
2 you've reined it in and are talking about the land and
3 the easement. Okay? But we're getting pretty
4 creative with our scenarios and getting a little bit
5 beyond likely foreseeable scenarios.

6 So I'm going to go ahead and let her answer
7 this question and then let's try to keep this tight.

8 So, Ms. Krogh, if you want to go ahead.

9 A. I want to make sure I have your question,
10 because now everybody --

11 BOARD CHAIR HELLAND: Why don't you go
12 ahead and repeat your question. And don't worry about
13 rephrasing it. Just go with the question you had and
14 we'll roll.

15 BY MR. WILLIAMS:

16 Q. So, obviously, we're talking about the
17 railroad on your property.

18 A. Right.

19 Q. And, obviously, the pipeline wants to go
20 underneath that railroad line. As shown in the
21 picture that's right in front of you.

22 Do you have concerns that you might be
23 unnecessarily entangled in a dispute by virtue of the
24 fact that you're a landowner where both these
25 easements would be intersecting with one another?

1 A. Yes.

2 Q. How so?

3 A. I feel that the rail may come back to us
4 and ask to move one way or the other. I feel that
5 there's going to be a fight. And, if anybody deals
6 with the railroad, they don't move very often. The
7 rail seems to win everything.

8 I'm on our local school board. We fought
9 for two years just to get an extra entrance into the
10 town across the railroad. So I know how it is to deal
11 with the railroad.

12 And so, if the railroad is not going to
13 give up, odds are that Summit might have to move the
14 pipeline and then we've got to go through this whole
15 mess all over again. Absolutely.

16 Q. With these risks in mind that are unique to
17 your particular property, as opposed to the ones that
18 we've discussed here earlier with other witnesses that
19 I'm sure you've heard, do you see the easement
20 agreement and its terms contained within to be nothing
21 other than a complete benefit to Summit and no upside
22 to you?

23 A. There is absolutely no benefit for us.
24 Absolutely none.

25 Q. And, as a result, would it be your opinion

1 that this project does not serve the public necessity
2 or convenience?

3 A. It is absolutely a private entity trying to
4 profit. There's no benefit for any of us.

5 MR. WILLIAMS: Thank you. No further
6 questions.

7 BOARD CHAIR HELLAND: Thank you.

8 Ms. Ryon.

9 MS. RYON: Just a quick point of
10 clarification. I do have some additional issues for
11 Ms. Krogh, but, as part of the conversations that
12 we've had over the last couple of days, one issue that
13 has arisen has been the rights of attorneys to
14 question witnesses following any additional questions
15 by other Board members.

16 And, since this witness is represented by
17 an attorney, I wanted to clarify that I would be able
18 to ask her questions following any additional
19 questions from the Board.

20 BOARD CHAIR HELLAND: I thought you might
21 ask that. So we're in a bit of an uncharted territory
22 in this situation. And so what I would prefer to do,
23 after you've stated it -- if you'd like to follow up
24 to this before we go to lunch, that would be great,
25 but what I would like to do is discuss that with the

1 Board, let you know as soon as we know what's going to
2 happen, and then we will come back on the record and
3 explain right after lunch what our decision is.

4 And so, if you'd like to make a statement
5 prior to breaking for lunch, I think that's perfectly
6 acceptable.

7 MS. RYON: Okay. Well, again, I recognize
8 this is uncharted territory, and I just wanted to make
9 sure that everybody was clear about how the procedure
10 was going to go. I will follow up with the additional
11 questions and issues I have whenever the Board tells
12 me it's appropriate to do so.

13 BOARD CHAIR HELLAND: Thank you. I
14 appreciate that.

15 We will take a 45 -- oh. I'm sorry. Board
16 Member Byrnes.

17 (Brief pause.)

18 BOARD CHAIR HELLAND: That's why we're
19 taking lunch. Okay. So we will take a quick
20 45-minute lunch. I wish it was an hour lunch. Maybe
21 in the future, when we're running a little more on
22 track, we'll be able to do that.

23 I do appreciate what is a very clear effort
24 from the attorneys with the last witness to tighten it
25 up. And I think we can probably do just a little bit

1 better.

2 Ms. Krogh, you are still under oath. So
3 we're going to go to lunch, and we will be back here
4 in 45 minutes and we will finish up.

5 THE WITNESS: Okay.

6 BOARD CHAIR HELLAND: Thank you.
7 Appreciate it.

8 THE WITNESS: Thank you.

9 (Noon recess taken at 12:27 p.m.)

10 (Hearing resumed at 1:15 p.m.)

11 BOARD CHAIR HELLAND: Okay. It is 1:15.
12 We will go back on the record. We're circling back to
13 Ms. Ryon's request.

14 Ms. Ryon, after consulting with the Board,
15 because you are in this case effectively standing --
16 oh. I'm so sorry.

17 THE WITNESS: I'm coming.

18 BOARD CHAIR HELLAND: We'll take our time.
19 We'll wait.

20 Good? Okay.

21 Since you're assisting Ms. Krogh in, I
22 assume, an attorney capacity, in that sense we're
23 going to provide you latitude in terms of scope.
24 Because we have provided the landowners significant
25 latitude in terms of scope.

1 I'll still remind you that we have some
2 time constraints today, but you've been respectful,
3 and that's appreciated.

4 But we are still going to refrain from
5 rehabilitation after the Board has spoken. I'm not
6 sure it will be necessary. I think we have one minor
7 question anyway. So --

8 MS. RYON: Understood. Thank you.

9 BOARD CHAIR HELLAND: Proceed.

10 CROSS-EXAMINATION

11 BY MS. RYON:

12 Q. All right. Welcome back, Ms. Krogh. I
13 just have a few questions to ask you and get some
14 additional information from you.

15 What kind of notice did you get about this
16 proceeding from the Utilities Board?

17 A. The black flier that everybody else has
18 talked about. And it looks like the date on it was
19 July of 2023.

20 Q. Did it provide you with all the necessary
21 information that you felt you needed to participate in
22 this proceeding?

23 A. No. It was literally this (indicating). I
24 had really no idea what to expect until I got here.

25 Q. If you had to choose between testifying now

1 or in, say, November or December, would it make a
2 difference to you when you testified?

3 A. No. It really wouldn't. This is our farm
4 ground. I'm going to come anytime, any place.

5 Q. And when you make arrangements to come to
6 testify, what are the factors that you have to arrange
7 in your life in order to be here?

8 A. I work for a company. I have to arrange
9 coverage at my company where I work. I have a
10 daughter who is in high school. So I have to
11 rearrange to make sure that she's adequately taken
12 care of. And I have to drive two hours and five
13 minutes to get here.

14 Q. Did the Utilities Board ever send you
15 anything requesting your opinion as to the scheduling
16 of this proceeding?

17 A. I got the flier. And then I got the
18 certified letters that they were filing for eminent
19 domain. That's what I received. We received.

20 Q. Is there any other information that no one
21 has asked about that you think the Board should know
22 about your land before making a decision?

23 A. I think I've been pretty clear. It's our
24 ground.

25 MS. RYON: Your Honor, that concludes my

1 questions, but I would like to lodge a few objections
2 for the record on behalf of Ms. Krogh.

3 BOARD CHAIR HELLAND: Okay. Proceed.

4 MS. RYON: Based on Ms. Krogh's testimony,
5 I would like to object to the Board's procedure in
6 scheduling Exhibit H landowners who are not
7 intervenors at the end of August. That inadequate
8 notice was provided to the landowners.

9 I would also like to have the objection
10 noted that it's a violation of Ms. Krogh's due process
11 rights by forcing her to testify before Summit.
12 Summit being the party with the burden of proof. That
13 denied Ms. Krogh the opportunity to have a meaningful
14 opportunity to be heard because she did not have full
15 facts from the party who has the burden of proof.

16 I would also like to object that the
17 Board's change in the procedural schedule that was
18 issued on June 16, 2023, is inconsistent with Iowa
19 Code Section 17A because it prejudices the substantial
20 rights of landowners. In this case, those substantial
21 rights are the landowners' property rights under both
22 the Iowa and U.S. Constitutions as well as their due
23 process rights.

24 That schedule change is specifically
25 inconsistent with respect to subsection 17A.10(k)

1 because the schedule change is not required by law,
2 and its negative impact on landowners' constitutional
3 property and due process rights is so grossly
4 disproportionate to the benefits accruing to any
5 potential public interest from the schedule change
6 that it necessarily lacks any foundation in rational
7 agency policy.

8 And that concludes the objections I would
9 like noted.

10 BOARD CHAIR HELLAND: Okay. Thank you.

11 Board Member Byrnes. I believe you have a
12 question.

13 BOARD MEMBER BYRNES: Excuse me. Somehow
14 in the last 24 hours I've acquired a nasty cold. So I
15 apologize if I'm sniffing over here.

16 A quick question just for clarity on the
17 record. The railroad track portion on the land there.
18 So when you went through in the beginning when Chair
19 Helland was talking about easements and things on the
20 property, does the railroad own that property through
21 there where the railroad is or is that an easement?

22 THE WITNESS: The way I understand it, we
23 own actually to the middle of Highway 75 and they have
24 an easement on the property.

25 BOARD MEMBER BYRNES: And then I don't know

1 if our staff can zoom in a lot more on this. On the
2 triangular portion there where the power lines are.

3 THE WITNESS: Yes.

4 BOARD MEMBER BYRNES: So I noticed on the
5 map -- it's kind of hard to see, but I noticed on the
6 map one of the things you mentioned was the power
7 lines and compaction and things like that.

8 On the map that I'm looking at here on my
9 computer, I can see a set of like -- it almost looks
10 like a trail that would be going along that western
11 portion of the triangle piece that you're going to put
12 the storage unit on.

13 THE WITNESS: Uh-huh.

14 BOARD MEMBER BYRNES: Is that trail
15 marking, is that from the company checking power lines
16 or is that something else?

17 THE WITNESS: It would have to be from
18 something -- it would either them being checking power
19 lines -- I'm not honestly sure what that is from.
20 Honestly.

21 BOARD MEMBER BYRNES: Mr. Milewski, if
22 you'd just go up to that intersection just a little
23 bit.

24 And maybe I have a different version of
25 Google Earth that's got different markings. I was

1 just curious because you had mentioned those tracks.

2 THE WITNESS: Yeah, they come out and they
3 check them, but I don't know what causes the tracks.

4 BOARD MEMBER BYRNES: Gotcha. That's all I
5 had. Thank you.

6 BOARD CHAIR HELLAND: Thank you, Ms. Krogh.
7 You're excused. Appreciate it. Thank you.

8 THE WITNESS: Thank you.

9 BOARD CHAIR HELLAND: The Board would like
10 to call Mark Oehlerking in regards to properties
11 H-WO-031, WO-022, and WO-041.

12 Ready?

13 MR. OEHLERKING: I'm ready.

14 BOARD CHAIR HELLAND: And it's Oehlerking.
15 Am I saying it correctly?

16 MR. OEHLERKING: Correct.

17 BOARD CHAIR HELLAND: Thank you.

18 Mr. Oehlerking, if you would please raise
19 your right hand.

20 MARK OEHLERKING,
21 called as a witness, being first duly sworn by Board
22 Chair Helland, was examined and testified as follows:

23 BOARD CHAIR HELLAND: Please state and
24 spell your name and provide your address for the
25 record.

1 THE WITNESS: My name is Mark Oehlerking.
2 That's M-a-r-k O-e-h-l-e-r-k-i-n-g. Address is
3 4390 Northwest 169th Street in Clive, Iowa 50325.

4 BOARD CHAIR HELLAND: And the properties we
5 are talking about today are all in Woodbury County?

6 THE WITNESS: Correct.

7 BOARD CHAIR HELLAND: Thank you. And I
8 gave them numbers. Are they all contiguous?

9 THE WITNESS: It's all contiguous. It's
10 one plot.

11 BOARD CHAIR HELLAND: Then I think we can
12 probably just call it the parcel and get away with
13 that.

14 Mr. Oehlerking, can you describe the
15 current usage and any potential future changes to that
16 usage of your property?

17 THE WITNESS: Sure. There's approximately
18 80 acres here between two ownerships. Part of it's in
19 my dad's name as a revocable trust. The western 15
20 acres. The balance is 65 acres on the eastern
21 two-thirds of it and is under CoBar, Inc., which is
22 owned by my brother and sister and I.

23 Today it's farmed. It's corn and soybeans.
24 As you can tell from the picture, there's two circles
25 there. It's irrigated. Irrigated ground.

1 We also own the land to the northwest
2 there. And that also is irrigated from the same well
3 that supports these two pivots.

4 So the irrigation systems are tied
5 together, and the pipeline will mess those up while
6 they're in process for all three parcels.

7 We've owned this land for about 44 years.
8 Thereabouts. And it's been in our family all that
9 time trying to use it for agricultural purposes.

10 We also knew, when we bought it, that it's
11 likely to be developed at some point in time. This
12 area is part of the Southbridge Business Park. It's
13 the area of Sioux City that they are designating for
14 future industrial growth, and they're putting together
15 1,000 to 2,000 acres of ground for a potential
16 megasite, depending on what may be needed in the
17 future.

18 That may be one very large business, it
19 could be 10, 15, 20, who knows how many, smaller ones
20 that take over over time.

21 If you take a look at the road on the north
22 there, that is really becoming the city limits of
23 Sioux City. Right there about -- on the east side of
24 our piece, right in there. That's in process of being
25 voluntarily annexed into the city as we speak. It's

1 in the final stages. So that will be accepted. So
2 the city limits are right there.

3 If you were to zoom out on this KMZ file,
4 you can see -- maybe a little farther. Just to give
5 you a flavor where we're at.

6 We're right on the south edge of
7 Sioux City. So our farm that we're talking about is
8 about half a mile from the property line on the
9 south -- or half a mile from our south property line
10 to CF Industries' property line. So the big
11 fertilizer plant is right there in our backyard
12 basically.

13 If you go to the north a little over a
14 mile, you're on the Sioux City airport. Or right
15 close to it.

16 The City of Sioux City has a water
17 treatment plant. The white building. Sioux City has
18 a water treatment plant to the north of our parcel.

19 There is a new cold storage building that's
20 just gone in that -- for storing meats and cheese and
21 whatever else they want to store that's cold. It just
22 opened in the last few months. It has already
23 announced expansion from what I understand. So it's
24 developing into an industrial area very quickly.

25 A little farther north up in here, about a

1 mile and a half up I guess, is Sabre Industries. They
2 make the big, tall power poles you see. The
3 galvanized steel ones. Manufacturing there. A big
4 investment of that.

5 And just above them is the Sioux City
6 airport.

7 So we're really in a metropolitan area even
8 though it's farm ground today. So we expect it, and
9 we consider it, industrial ground. It's currently
10 zoned as general industrial.

11 BOARD CHAIR HELLAND: Say that again. It's
12 zoned --

13 THE WITNESS: It's zoned as general
14 industrial. So that means it can be factories,
15 warehouses, data centers, big factories, little
16 factories, whatever it may be.

17 It's not going to be apartments and houses
18 and schools. It's going to be something industrial in
19 that area.

20 And that's what we're expecting and what we
21 want to invest -- or our ground to be turned into at
22 some point in time. Is an industrial purpose that's
23 obviously higher value than farmland.

24 We know that that may happen tomorrow. We
25 could get a call and say, "Hey, we want it." It could

1 happen 5 years, 10 years, 20 years from now. But
2 we've got time. Our family has been farming this area
3 for about 140 or 150 years. We expect to be here for
4 another 140 or 150 years and beyond. So, if it takes
5 20 years to develop, that's fine. We've got time.

6 And that's where the pipeline comes in to
7 be a detriment to us is an impact on the future
8 industrial growth as well as our farming in the
9 meantime.

10 As you take a look at the parcels -- like I
11 said, we've got the two center pivots there and the
12 third one to the north. There's a common well that's
13 about in the center between the two circles up along
14 the north road. Kind of where the circles come
15 together. On the south side of the road. So it will
16 be impacted by this pipeline.

17 And right -- really right there. We have a
18 water line that goes to the west and then to the north
19 to the other pivot.

20 There's buried water lines out to the
21 center of each of those circles and buried electric
22 wires of our own.

23 There's no other third-party easements on
24 the property other than the right-of-way for power
25 lines and that type of thing.

1 So, as they come in and take a portion of
2 our land, there really is a great detriment to us for
3 our future purposes.

4 As this line is drawn, they're not going to
5 be able to do that, because right where that well
6 is -- Woodbury County requires a 100-foot setback from
7 that.

8 I presented a list of questions to Summit
9 about three, four weeks ago, and we got response back
10 last week to about half my questions. I sent them
11 five pages of questions.

12 One of the questions I had is what are the
13 setbacks required as part of this pipeline. Their
14 response was the only setback required is 50-foot from
15 a dwelling. From a house. No other setbacks
16 required.

17 So the way they responded, they said that
18 they could put the pipeline basically on top of the
19 well. The county is telling us no, it's got to be 100
20 foot away. We don't know who to believe. But it will
21 cause a friction of some sort.

22 So, if it goes right through there, it's
23 going to have to move. That impacts more of our
24 ground.

25 As we look at it from an industrial

1 purpose, it's like all things with real estate.

2 Location, location, location is very important.

3 We've got the frontage of this piece on the
4 north side that will be certainly hampered, if not
5 destroyed, by this pipeline. Because, if you're
6 putting in a factory or a warehouse or whatever,
7 you've got to cross it. You're not going to pay big
8 bucks for the frontage if you can't use it.

9 I asked if we could -- after they put the
10 pipeline, if the next owner wanted to put a parking
11 lot on there. To park trucks or pallets or whatever.
12 The answer was, "Well, maybe. And, if you do, and if
13 you pave it and we have to tear it up, we'll charge
14 you to tear it out and you have to pay to put it
15 back." On the easement. Well, that's not real
16 exciting for somebody wanting to buy it.

17 So it's taken a great value off of
18 certainly the frontage for us as well as the balance
19 of it. Because, if you're trying to sell this for an
20 industrial purpose, and you take off the top
21 10 percent, you kind of take big dollars off the
22 balance as well. That's not been addressed in any of
23 their proposals. How to compensate us for that.

24 From the very first discussion that we had
25 with Summit, we said, "We don't have any farmland for

1 sale. We do have commercial ground for sale." And,
2 of course, they just don't pay attention to that part.
3 So that's a significant issue for us as we look at
4 this.

5 Our ground, it's flat, it doesn't vary
6 probably a foot from one end to the other. And so
7 it's easy to farm, easy to develop.

8 The other kicker is Navigator is going to
9 cross the same field. And their maps are basically on
10 top of this one. So now we've got both pipelines
11 going across us for half a mile.

12 And the question to Summit was, "Well, how
13 close can two CO2 pipelines be?"

14 They come back, the answer, no regulation
15 from PHMSA. The only thing is 50 feet from a house.

16 So, if you take that literally, I suppose
17 you could throw them in the same trench. It wouldn't
18 be very smart.

19 They did say that their intent would be
20 that if Navigator and Summit are parallel, they would
21 butt the two permanent easements up to each other. So
22 that means we now have two pipelines 50-foot apart.
23 If that's true. We don't know the answer.

24 So, if Navigator happens, that takes
25 another chunk off this piece.

1 So, from our perspective, it's a
2 significant detriment to us. No value. All the risks
3 and stuff -- I mean, everybody else has talked about
4 that. I'm not going to reiterate those issues and
5 concerns. Our is really the impact it has on the
6 value of our properties today and into tomorrow.

7 We asked the question what happens -- we
8 talked about damage for the crops today, the three
9 years and the damage and all the things that have been
10 discussed several times this morning. Not enough, of
11 course.

12 But, to us, just as big an issue, maybe
13 bigger, is for the next owner. If I'm the person
14 putting a factory in there, or a warehouse or whatever
15 it may be, and Summit has to come in and do something
16 to the pipeline or there's a rupture or whatever issue
17 that might come up 10 years from now, 20 years from
18 now, how are damages figured then?

19 It's one thing to mess up a corn crop. You
20 may have millions of dollars of inventory or a
21 building or trucks or people that are on that property
22 at that point in time. You could have hundreds of
23 people employed on there at some point. How is that
24 going to be addressed?

25 And that's not addressed at all, to our

1 satisfaction at least, in the easement or any
2 discussions that we've had.

3 So it really all boils down to location,
4 location, location again. We don't want it is the
5 real answer. But it really -- the location of it is a
6 detriment to anything we want to do in the future on
7 this property.

8 BOARD CHAIR HELLAND: Sorry. I have a lot
9 of questions. And I was taking notes. So, if I ask
10 you something you've already said, I apologize.

11 You said -- did I hear you correctly the
12 center pivots, do they have their own wells?

13 THE WITNESS: There's one well.

14 BOARD CHAIR HELLAND: One well. And where
15 is the well?

16 THE WITNESS: So in the center, east to
17 west, about halfway across. So right about in there.
18 In fact, I've got an exhibit that I submitted last
19 night that will show it if somebody can bring it up
20 for us.

21 BOARD CHAIR HELLAND: That would be great.
22 That was my next question is would you like us to --

23 THE WITNESS: So the south two circles, of
24 course, are the ones we're talking about. Where that
25 red circle is there in the center is the well. The

1 blue lines go out to the center point of each center
2 pivot. So those lines are pressurized, all three of
3 them at the same time.

4 So, when they're putting in their pipeline
5 on the south, they're not going to be able to use any
6 of those three circles. Because the water's got to be
7 to all three of them at the same time.

8 There's also an electric line that runs
9 with each of those water lines out to the center
10 pivots. To drive the pivots.

11 So, at any point in time when they've got
12 the trench open and we can't utilize those two
13 pipelines to the south, or the one to the north that's
14 parallel to the road, the irrigation can't work. And
15 so that's a very significant issue.

16 This year we probably have pumped eight to
17 ten inches of water on this ground trying to make it
18 highly productive ground.

19 BOARD CHAIR HELLAND: To clarify -- and I
20 apologize if I missed it. That north property, that
21 northernmost circle, that's your property as well?

22 THE WITNESS: That's ours as well. The
23 yellow circle is. The one right to the north there to
24 the right of that one is the one I talked about that's
25 just in the process of being annexed into the city.

1 BOARD CHAIR HELLAND: So, hypothetically,
2 moving it across the road really wouldn't help --

3 THE WITNESS: Not there, no.

4 BOARD CHAIR HELLAND: -- with the lower
5 center pivot's operation anyway.

6 THE WITNESS: Right.

7 BOARD CHAIR HELLAND: You mentioned
8 megasites. We're familiar, but, for the record, and
9 for the sake of everyone else, can you explain
10 megasites, the importance of being designated a
11 megasite, what that means. And then I think it would
12 be important for us to understand, too, where you're
13 at in that process.

14 THE WITNESS: Okay. So the megasite is
15 more from the City's designation, not ours. Okay?
16 So, as I understand it, it's really trying to have a
17 thousand acres or more put together so that if a very
18 large business comes in and wants that many acres to
19 develop, they could say, "We're the place for you to
20 develop."

21 Because they're out knocking on doors,
22 answering requests from various companies around the
23 country or around the world. Sioux City wants to be
24 the host of those future industries. They want to
25 have big spaces many times.

1 For example, our family farm is just on the
2 north side of the Sioux City airport. And currently
3 the Seaboard Triumph pork plant is on what used to be
4 part of our land. And that was taking a couple
5 hundred acres.

6 So they're looking for that type of
7 business that they want to bring in. That size. Not
8 necessarily some other packing plant, but some other
9 large business.

10 BOARD CHAIR HELLAND: So, to be designated
11 a megasite, do you voluntarily work with the City --

12 THE WITNESS: I don't know that we have to
13 do anything. It's more them. They're trying to
14 accumulate land. They're buying land, the City is,
15 and they gather from us that we have an interest in
16 being part of it, I guess. There's no sign-up for it
17 that I know of.

18 BOARD CHAIR HELLAND: By being designated a
19 megasite, or being a component of it, are you then
20 limited? In other words, if you're part of a
21 megasite, can you not rezone your property?

22 THE WITNESS: I don't think it has anything
23 to do with the zoning per se. I'm not sure that it
24 does or doesn't. There's nothing that we've been
25 involved with that we've signed or that we have been

1 asked to sign or anything of that nature.

2 It's more of as the development people are
3 working -- they've got I don't know how many acres
4 now, a couple hundred acres they own, or more, in the
5 area. That the City does. And, if they know that
6 we've got another 80 acres that we'd be willing to
7 have turned into industrial ground, they can say, "We
8 have the ability to pull it together." Basically.

9 BOARD CHAIR HELLAND: I appreciate your
10 very thorough description. No buildings or
11 structures, it appears, other than the center pivots.

12 THE WITNESS: Right.

13 BOARD CHAIR HELLAND: And no easements and
14 no other underground installation or infrastructure.

15 THE WITNESS: Not other than what we showed
16 up there.

17 BOARD CHAIR HELLAND: Okay. We briefly
18 flashed your exhibit. Did you want to pull that up
19 and explain anything else on your exhibit?

20 THE WITNESS: I was really just bringing
21 that up to show where the pivots were and the pumps
22 and our buried line. So it's fine.

23 BOARD CHAIR HELLAND: And did you want to
24 submit that as evidence?

25 THE WITNESS: Yes, please.

1 BOARD CHAIR HELLAND: Do any of the parties
2 have any objection?

3 (No response.)

4 BOARD CHAIR HELLAND: Thank you. We will
5 admit that exhibit as Oehlerking Hearing Exhibit 1.

6 You say it's very flat. So it doesn't
7 appear to have any bodies of water or noteworthy
8 terrain features.

9 THE WITNESS: No.

10 BOARD CHAIR HELLAND: No timber or forest
11 it appears. No easements. I'm very curious, though,
12 because we haven't run into this yet. You do have two
13 properties -- actually three properties, all with
14 center pivots on them, and we don't see as many center
15 pivots at least in the part of Iowa I live in.

16 And so why are you utilizing -- what's
17 going on with your soil that requires the use of
18 center pivots?

19 THE WITNESS: Well, we're trying to
20 maximize the yield, first of all. And it's sandier
21 soil. We don't get the rains as much as you do here
22 in Central Iowa. So it makes a difference. And we're
23 trying to maximize our production there.

24 Our family has been irrigating since 1955,
25 I think. There's only one year we haven't pumped

1 water. So we find that, even in the good years, it
2 helps us as well.

3 BOARD CHAIR HELLAND: Can you describe
4 any -- and, actually, I think most of the landowner
5 intervenors have used this as an opportunity to really
6 express their feelings and their opinions. And I know
7 you said earlier it's been repeated. We don't have
8 any problem with landowners being repetitive. That's
9 why we're doing this.

10 THE WITNESS: Okay.

11 BOARD CHAIR HELLAND: So we want to make
12 sure that you get a chance to describe any specific
13 concerns you may have and any recommendation you may
14 have for the Board to address your concerns. And
15 while, when we printed this, that may have been very
16 much directed at siting, every other landowner has and
17 you should feel free to expand.

18 THE WITNESS: Okay. I guess our objection
19 to the pipeline certainly is as I mentioned earlier.
20 It decreases the value of our land for its true
21 purpose for us.

22 If this was just farmland and we had other
23 farm ground 20 miles farther south out where we know
24 it's never going to be developed, yeah, we might have
25 a different opinion. But where this is the future, we

1 have concern.

2 We have concern certainly from the safety
3 aspect. If there was a rupture or damage to the
4 pipeline of some sort, what that would do -- certainly
5 to the houses that are around it. Because, obviously,
6 there's a house on each corner. Not ours, but
7 somebody lives there. We wouldn't want people to have
8 ill effects or death as a result of any problem there.
9 And so that's a big issue to us.

10 So, as we take a look at this whole thing,
11 the whole idea of the eminent domain is really
12 important to us.

13 We've had the dubious honor of having about
14 four eminent domain situations we've been in over the
15 last several decades. And, as a result, my brother
16 and sister and I have heard the story about when my
17 grandfather had a knock on the door "from the
18 government," as they say, to come in and take
19 350 acres from us that became part of what's now Sioux
20 Gateway Airport.

21 And that was in 1941 or '2, and obviously
22 there was a war going and they were expanding the base
23 for training bomber pilots, but they still came in and
24 took 350-plus acres from us and basically paid about
25 the value of the crop that was standing at that point

1 in time.

2 So that was a true taking at that point in
3 time.

4 They've been back multiple times. Took
5 additional parcels to add to the airport. And 10, 12,
6 15 years ago they were back and took another 80 acres.

7 So we've had experience with eminent domain
8 multiple times. Every one of them, every single one
9 of them, was a negative for us as the owner. The
10 payments that were made were nowhere near close to
11 what it's worth.

12 And it creates a generational ill will, if
13 you will. It's something that is part of our
14 heritage, I guess. Because it's something that my
15 grandfather -- it just tore him up. My dad, 94 years
16 old, home listening to us today because he couldn't
17 travel, and it's something that he's talked about
18 many, many times.

19 And I'm sure that my brother and sister and
20 I will as well. And, if we have to go through this
21 one, our kids will talk about it as well.

22 It's one of those things where it just is
23 ripping part of your body away from you when somebody
24 comes in and takes something from you as opposed to
25 selling a piece of property and getting a fair price

1 for it. That forcing it upon you is just the thing
2 that you can't imagine.

3 As we take a look at it further -- and I
4 think I'd ask the three of you as a board to think
5 about it. If somebody came up to you and knocked on
6 your door today and said, "You know what, I want 15,
7 20 feet out of your yard. I want to go where I want
8 to. I'm going to move diagonal. I'm going to take a
9 couple trees out of your backyard."

10 And you might have a nice patio. "I'm
11 going to go through that, and I'm going to circle
12 around and maybe -- you know, we may have to knock
13 down your garage because I want to go through there."
14 For whatever purpose.

15 You'd be mad. You'd probably say, "No
16 way."

17 And that's kind of the way we are. You're
18 coming in, Summit is, and taking a slice of our
19 property where they want it, when they want it, and
20 really for their price is what they want to do. And
21 that's not fair.

22 If we're selling this entire property,
23 we're going to sell 80 acres at a time probably.

24 It's kind of like going next door for
25 lunch. You can buy a pizza one piece at a time or you

1 can buy a whole pizza. You know that if you buy one
2 piece, you're going to pay more than if you bought the
3 whole pizza.

4 Here they're wanting to take the average of
5 the county price per acre and apply it to just a
6 little sliver off of this one and say, "Boy, that's a
7 good deal for you."

8 And that's what tears us up is the coming
9 in, taking the land, and not treating us fairly in our
10 mind certainly, as well as destroying the value of the
11 rest of the property.

12 We can debate whether the project makes
13 sense or not. We choose to think it doesn't. We can
14 debate the safety of the pipeline. And there's
15 certainly issues that we believe are out there. Is it
16 safer than hauling it on trucks and rail cars? Yeah,
17 probably, but it doesn't make it right when we're all
18 said and done. It is still a questionable use of our
19 land.

20 Because especially this line, we're
21 bringing in imported, discarded product from Nebraska.
22 Because about a mile and a half west of here is where
23 it crosses the Missouri River. So everything that's
24 going to go through this pipeline is from Nebraska.
25 And all we're doing in Iowa is hosting their trash and

1 hauling it to South Dakota and to North Dakota. That
2 doesn't seem to make a whole lot of sense.

3 And I go back -- I looked at the Board's
4 mission statement and vision statement and those type
5 of things. And it doesn't really seem to fit with
6 what I read there. I look at your vision statement
7 and it says "The Iowa Utilities Board is valued as a
8 regulatory expert and solution oriented partner
9 regarding utility issues."

10 We haven't seen a whole lot of solution
11 provided to us. And maybe that's not the purpose of
12 it. Maybe it's all to be a solution for Summit and
13 their counterparts.

14 But, as far as providing solutions to us
15 and to give us insight and guidance to help us, it
16 seems like it's lacking. And I think that's a concern
17 for us.

18 So -- and I could go on for a long time,
19 but I won't. So I think one of the key things I'd
20 like to share, and then we can go on to other
21 questions, is the three of you, as I suspect every day
22 when you go home from these things, the first thing
23 you say is, "Boy, that's a long day, learned a lot."

24 But probably at the end of the night as
25 you're laying down thinking about what happened that

1 day and what's going on the next day, I'd like you to
2 sit down and think about the impacts of what the
3 decisions are that you're making.

4 Because, ultimately, the three of you get
5 to decide the future for us. And several hundred
6 other people.

7 And, as you lay there in bed thinking about
8 how things went today and tomorrow and the next day
9 and all the rest of the hearings, why don't you think
10 about down the road 20, 30 years after this thing has
11 been in place. Assuming it goes forward.

12 Are you going to be proud of your decision
13 when you talk to your grandkids or your kids or just
14 think about your legacy. Are you going to be proud to
15 be the one to stand up and say, "Yep, I was the final
16 vote on that one to make it happen." For the whole
17 pipeline. "I impacted a thousand people in Iowa." As
18 far as landowners. Whatever the number is. And
19 impacted them forever for the short-term gain of a
20 for-profit company that, as I understand it, is
21 getting about a 25-year license to use the pipeline.
22 But you're taking it away from us forever.

23 And I really challenge the three of you to
24 think about that type of thing each day as you end
25 these hearings and as you go on through the rest of it

1 and say, "Is this the decision I really want to make."

2 And then think about the same question if
3 there happens to be some sort of failure in the
4 pipeline, whether it's on our property or somebody
5 else's, that causes a significant issue. And see how
6 you'd answer that question to yourself at that point
7 in time.

8 I really mean that. I'd like you guys to
9 do that for your own conscience as you look at it and
10 think about if you were in our seat, for all the
11 landowners, how you'd react to it.

12 BOARD CHAIR HELLAND: I don't have any
13 questions. I'd feel ashamed to ask a question
14 following that. So I'm going to turn it over to the
15 parties.

16 Mr. Taylor, you're always first.

17 And then, Ms. Gruenhagen, I see your name
18 placard already up.

19 MR. TAYLOR: And I'm never ashamed.

20 CROSS-EXAMINATION

21 BY MR. TAYLOR:

22 Q. I'm Wally Taylor, and I represent the
23 Sierra Club.

24 First of all, did you, on behalf of the
25 Charles Oehlerking Revocable Trust, actually intervene

1 at one point?

2 A. I did.

3 Q. And then what happened?

4 A. I basically ran out of time to get ready
5 and said, "I'm not sure what I'm going to do as an
6 intervenor." So we took it off.

7 Q. Did you prepare some written prefiled
8 testimony as an intervenor?

9 A. I did. I submitted that.

10 Q. Do you have that with you, by the way?

11 A. I do.

12 Q. Would you like to have that offered as an
13 exhibit?

14 A. Absolutely. That would be great.

15 BOARD CHAIR HELLAND: Do you have copies?
16 Do you have it electronic for us?

17 THE WITNESS: I don't. It was submitted --

18 BOARD CHAIR HELLAND: You've already got it
19 filed. So we're going to get it pulled up.

20 THE WITNESS: Okay. As far as adding that
21 in as an exhibit if that's possible, that would be
22 good.

23 BOARD CHAIR HELLAND: One second. One
24 second.

25 (Brief pause.)

1 BOARD CHAIR HELLAND: Before we admit it,
2 we need to allow the parties a chance to object or
3 not.

4 Are there any objections?

5 MR. DUBLINSKE: Your Honor, I hesitate to
6 object, but, as a matter of process, normally prefiled
7 testimony comes with the expectation and the
8 opportunity to cross-examine. It was our
9 understanding that the intervention was withdrawn.

10 You know, if this is a one-off, I guess I
11 don't have a big objection, but I do want to note for
12 the record that there are some procedural
13 irregularities with that and that it does create some
14 problems. I would hate to see it become a trend or a
15 repeated thing.

16 But, having made that record, I will note
17 that it is a mild objection.

18 BOARD CHAIR HELLAND: I appreciate the mild
19 objection. Hold on real quick.

20 (Brief pause.)

21 BOARD CHAIR HELLAND: Mr. Dublinske, I
22 appreciate your mild objection. It is overruled. In
23 this situation where an intervenor has withdrawn and
24 had already -- we don't anticipate to see this
25 situation very frequently. And I think it's an

1 opportunity, and I appreciate Mr. Dublinske's mild
2 objection, but we will admit this as Oehlerking
3 Hearing Exhibit 2.

4 THE WITNESS: Okay.

5 MR. TAYLOR: Thank you.

6 BY MR. TAYLOR:

7 Q. I won't go through the whole thing, but is
8 that prefiled testimony still your testimony?

9 A. Yes, it is.

10 MR. TAYLOR: Can we go back to the KMZ map?
11 Thank you.

12 BY MR. TAYLOR:

13 Q. Does the red area here encompass all three
14 of your parcels?

15 A. Yes, it does.

16 Q. And it's all in cropland right now?

17 A. It's all in cropland.

18 Q. I wasn't quite clear whether or not --

19 MS. GRUENHAGEN: Your Honor, just for
20 clarification, I believe in an earlier map you had
21 indicated all of your property includes the parcel to
22 the north that's not in the red area?

23 THE WITNESS: Of what we own is on the
24 north side as well, but it's not part of the pipeline,
25 yes.

1 BOARD CHAIR HELLAND: So you're just
2 clarifying that he's --

3 MS. GRUENHAGEN: I'm clarifying, yes.

4 BOARD CHAIR HELLAND: Okay. We're good.
5 Go ahead.

6 BY MR. TAYLOR:

7 Q. So the area in red on the KMZ map is in the
8 business park now or is it proposed to be in a
9 business park?

10 A. It's a business park area. It's not a
11 prescribed start and stop borderline per se.

12 Q. I guess I'm not sure what a prescribed
13 business park area is.

14 A. That's my term. It's just overall they're
15 trying to get as much as 3,000 acres put together, as
16 I understand it.

17 Q. I think what we're trying to get at, and
18 perhaps the Chair was trying to get at it, too, is
19 what likelihood is there that there would be
20 industrial development on your land?

21 A. Well, I think there's a pretty high
22 likelihood.

23 First of all, I'd like to identify there's
24 several to the north that are already there that are
25 industrial. If you go to the east about a mile and a

1 half, the Iowa DOT is in the process of putting in a
2 new interchange on Interstate 29. And it's heavily
3 driven by developing this area as well as additional
4 growth in the Port Neal area.

5 And, if you go another mile or so farther
6 east, we're back to Amiee Krogh's property that was
7 ahead of me. Her area.

8 So all that area is going to be serviced by
9 a new interchange on I-29 that's really designed to be
10 able to handle the truck traffic and those type of
11 things for growth.

12 So that's part of the reason we think it's
13 going to happen.

14 Q. And so this new interchange would be near
15 your property?

16 A. It's a mile and a half east of this.
17 Straight east.

18 Q. And how would that direct traffic toward
19 your property?

20 A. Excuse me?

21 Q. And how would that direct traffic toward
22 your property?

23 A. Well, it would service the traffic. It
24 wouldn't generate traffic in its own right, but, as
25 you put in a business here, it would then have access

1 to the interstate to come and go wherever it needed
2 to.

3 It's not like it's drive by, just happening
4 to stop in. It's when there's a development here, it
5 makes it very accessible for a warehouse, for example,
6 to hit the road and get going.

7 Q. And did you say the city limits with
8 Sioux City come right down to your property?

9 A. There's a voluntary easement -- or
10 voluntary annexation going on as we speak right there
11 on the north side of ours. So right -- this property
12 right in here.

13 Q. Okay. And has the City of Sioux City
14 indicated what they want to do with that annexed
15 property?

16 A. No. Not to my knowledge anyhow.

17 Q. Is there any indication that the City would
18 annex your property?

19 A. They would voluntarily let us in as well,
20 I'm sure.

21 Q. Is it your understanding that if the
22 pipeline went through your property, nothing could be
23 built on top of it?

24 A. Yep. We very much are aware of that.

25 Q. Is that a concern?

1 A. A big concern. And that's part of what I
2 was talking about earlier. If you're coming in there
3 as an industrial property to buy that, that first
4 hundred feet or so is going to have pretty minimal
5 value to you. About like you could just grow a lawn
6 on it at that point in time.

7 And that's ground that you're going to talk
8 forty, fifty, sixty thousand dollars an acre on, you
9 know, in the not too distant future. And so that has
10 a big impact.

11 Q. Right now you're growing corn and beans on
12 that land.

13 A. Correct.

14 Q. And, at least for now, for the foreseeable
15 future, that would be the use of that land?

16 A. Correct.

17 Q. Do you have any concerns about how the
18 pipeline would impact the soil and the fertility of
19 the land?

20 A. As far as the installation of it? Yes, we
21 do. This is an area that doesn't have real deep
22 topsoil like some parts of Iowa. So what little
23 topsoil we've got we've got to make do with.

24 So the separation of the soil is going to
25 be very, very important to us. We know that, after

1 they put it back, it's not going to be the same.

2 Certainly we've got other farms where we've
3 had trails through the field for various things or
4 different driveways at different times, and decades
5 later you can still see where they're at. And that
6 was back before we had as heavy equipment going across
7 and what we are going to see here.

8 We've got other farms that have pipelines
9 on them that were put in maybe 30, 40, 50 years ago.
10 And the methods were different, but the pipelines were
11 a lot smaller and didn't do as much disruption. We
12 can still see where those pipelines are today. When
13 we take a look at satellite images and those type of
14 things of our crops, you can see where some of those
15 lines. And they may be 40, 50 years ago that they
16 were put in.

17 So we expect to have crop loss in here for
18 many years.

19 Q. Are there any tiles on your property?

20 A. No, there's no tiles at all in this area.

21 Q. In fact, you have to irrigate; right?

22 A. That's right.

23 Q. Well, you're almost in Nebraska. So I
24 guess that makes sense.

25 A. That's right.

1 Q. And I wasn't quite clear what your concerns
2 were about the irrigation. Do you have that exhibit?

3 A. Okay. So the irrigation system, if you're
4 not familiar, you pump water to the center point of it
5 and it walks in a circle to irrigate. We have one
6 well that services three center pivots. So there's a
7 water line going from the well to each of the center
8 pivots.

9 So, if you take a look at this diagram, the
10 blue line is a water line. Our well is there in the
11 center where the red circle is. So if you take a look
12 at the farthest one to the west on the south end, that
13 water line comes out to the center, there's an
14 electric wire that we bury with it, and so the
15 electric wire powers the center pivots, it's got
16 electric motors on it, and it moves around in a circle
17 and the water sprinkles out on it.

18 We run one of those three at a time, but
19 all those blue water lines are pressurized when the
20 well is running. So, if you cut any one of those
21 lines, you can't run any of them. You've got a geyser
22 at that point in time.

23 So that's why the installation is very
24 critical to us. That it be done after season, after
25 the crop is harvested, or we're not going to be able

1 to irrigate. And, for that crop year, it's going to
2 make a significant difference in our yields.

3 Q. So, looking at Exhibit 1, which is on the
4 screen now, where would the pipeline be located?

5 A. Right up on the north -- right along the
6 road basically.

7 Q. So very near the well.

8 A. Right up -- as they've drawn it, it's right
9 on the well. And that's where I said earlier the
10 county has told us, "Nope, you can't do that. You
11 have to be 100 foot from the well."

12 Summit is saying, "No, we don't."

13 So we don't know who is right. There's a
14 conflict there.

15 So, if they have to move the whole pipeline
16 south a hundred feet, then we've got a bigger
17 argument. If they jog around it, we've got more
18 argument than to start with. Because you're just
19 eating up our valuable property every time you move
20 south.

21 And, if Summit has to move south, when
22 we're here a few months from now talking about
23 Navigator, it's going to have to be farther south yet.
24 And that eats up even more.

25 Q. So, just briefly, where would the Navigator

1 pipeline be in relation to Summit --

2 A. Their drawing is basically right on top of
3 Summit's right now. There's no communication between
4 the two of them that we can tell of. And so they're
5 essentially going in the same area.

6 We're assuming they would have to move --
7 if Summit is there first, we're assuming Navigator
8 would have to move south 50 or 100 feet. We don't
9 know, but that's our assumption.

10 Q. Are you concerned about the safety risks of
11 the pipeline?

12 A. Yeah, we are. Unlike the other people that
13 have been talking, we don't live close to it, so it's
14 not our safety as to our homes, but there's four homes
15 around it and several others in the area. So we
16 certainly are concerned for them and for the overall
17 community.

18 Like I was showing earlier, we reach out
19 close to the Sioux City airport, the city of
20 Sergeant Bluff. On the edge of the airport is where
21 the Air National Guard has their fuel tankers that fly
22 all over the world supplying fuel to military planes.

23 So, if you had a real terrible event, it
24 could reach up to there. Or it could reach south to
25 CF Industries, a large fertilizer/urea plant, and

1 impact that as well. As well as the houses around.

2 Q. Where would the nearest emergency personnel
3 come from?

4 A. The nearest ones would be Sergeant Bluff.
5 A volunteer group. Depending on the situation, they
6 might come from the Sioux City Airport or the City of
7 Sioux City, but the official ones would be Sergeant
8 Bluff. It's about three miles. Two or three miles.
9 It's a volunteer group.

10 Q. And how far is Sioux City?

11 A. To the fire department, it's probably five
12 miles, six miles.

13 Q. You said that you had had some conversation
14 with Summit representatives?

15 A. We have.

16 Q. Do you know how many times?

17 A. Well, not near as many as they recorded on
18 their document. There's a lot of those that I don't
19 think we had conversations. But we've probably talked
20 to them live and in person sitting down with a meeting
21 three times, four times. There's been a number of
22 phone calls, emails.

23 We haven't been chasing them off the
24 property, that type of thing. We've been trying to be
25 business-like as we approach it.

1 We told them from day one we don't want it.
2 And, like I said earlier, we've got commercial ground
3 to sell, not farm ground.

4 We've had conversations with them in the
5 last three months, I suppose. One of the
6 representatives came and knocked on my door, my house
7 in Clive, and talked to us for a little bit.

8 And then I submitted a series of questions
9 to them, and they really didn't answer them for the
10 most part.

11 Q. So they weren't very helpful?

12 A. I would say they were pretty evasive.

13 Q. Did you have any meaningful discussions
14 with them at all?

15 A. Well, we talked through their easement at a
16 high level. You know, we sat down and went through
17 it. And looked at their proposal and what they would
18 pay. And told them, "No, go back to the drawing
19 board. Nowhere close to enough."

20 And that's about as far as we got.

21 Q. Is any of your property in any kind of a
22 government program or conservation program?

23 A. No conservation programs. It's in the
24 normal commodity programs and crop insurance, but
25 that's it.

1 Q. So why have you not signed an easement?

2 A. Well, first of all, we don't really want
3 them on the property is the main thing. And, second
4 of all, if the price was right, we probably would
5 ultimately sign. But, again, at commercial rates.
6 Not at farm rates.

7 We know it's going to be sold. If they
8 want to be the owners of 80 acres, we'd sell them
9 80 acres. We don't want to sell them four or five.

10 Q. And Summit never came up with the money
11 that you thought was appropriate.

12 A. No. No, they're using county average for
13 all of Woodbury County for value of the land. And, of
14 course, that was -- they first gave us that proposal
15 18 months, two years ago, whenever this started. So
16 that data is probably four years old now from when it
17 was created.

18 Farmland in Woodbury County certainly has
19 gone up a lot. And their average, as always, is the
20 best of the worst and the worst of the best. So their
21 average price is a quarter or less of probably what
22 you'd take to buy farmland in this area. Maybe a
23 third. For commercial land it's maybe, you know, a
24 fifth of what it should be. Or more -- a greater
25 difference anyhow.

1 As we take a look at it, I'd mention that
2 the zoning that's in place on this area here allows
3 solar farms. We've been approached by three or four
4 organizations wanting to put solar farms in.

5 One of the things we've learned from
6 that is -- there's multiple things. First of all,
7 there's an easement that you give them. It has an end
8 date. It may be 40 years down the road, but at least
9 it's got an end date. When they're done, they pick up
10 all their stuff and leave. You don't have any sign of
11 it left.

12 In the interim, they're paying you every
13 year. A much better rate than what this is proposed
14 to be. And it goes up every year as well.

15 Q. What does?

16 A. The payment that they make as a solar farm
17 goes up every year.

18 Additionally, what we learned is that if
19 you have an easement just like this one -- say we want
20 to put that 80 acres in a solar farm. Where that
21 easement is, they don't pay as much. They pay about
22 15 or 20 percent of what they would if it didn't have
23 an easement there.

24 So anytime there's a pipeline or telephone
25 line or hazardous pipeline underneath a solar farm,

1 for that area they pay you less. And so that's about
2 our best estimate of the impact of what this pipeline
3 is going to have to us. You get about -- on an annual
4 basis, about six times as much from a solar farm where
5 they can put the glass in and be generating income
6 versus an area that has somebody else's easement on
7 it. Because they can't use it, they can't build on
8 it. And so that gives us a good proxy for the impact
9 that a pipeline easement has to us in a negative
10 sense. If that makes sense to you.

11 MR. TAYLOR: Thank you. That's all the
12 questions I have.

13 BOARD CHAIR HELLAND: Thank you.

14 Ms. Gruenhagen.

15 CROSS-EXAMINATION

16 BY MS. GRUENHAGEN:

17 Q. My name is Chris Gruenhagen. I'm here
18 representing the Iowa Farm Bureau in the proceedings
19 today. So I have a few questions for you.

20 I see you filed, like, four or five
21 comments in the record?

22 A. Correct.

23 Q. Did you file any more than that?

24 A. I think there was some more in there that
25 didn't show up for some reason. I tried searching

1 last night and the old ones didn't come up.

2 Q. Are Charles and Barbara your parents?

3 A. They are.

4 Q. So the comments they filed would also be
5 part of the family properties.

6 A. Right.

7 Q. And I think there's at least one on CoBar?

8 A. Right.

9 Q. That would be related to your property as
10 well?

11 A. Right.

12 Q. One item that I think was mentioned in your
13 father's comment that you haven't discussed today is
14 he mentions something that he would like a bonding
15 requirement?

16 A. Correct.

17 Q. Have you talked with them about that?
18 Could you explain that a little bit?

19 A. Really what we want to make sure is that
20 whoever owns the easement -- Summit's going to start
21 with it and we don't expect them to keep it forever.
22 To make sure that whoever owns it has the strength to
23 follow through on what the commitments are within the
24 easement.

25 We don't know who Summit is. You know, in

1 my prior life, I was in a business where we did lots
2 of retail financing and leasing. If I was going to
3 lease you a lawn mower or a tractor, we wanted to know
4 who you were to make sure you could pay us back and
5 you could fulfill your obligations.

6 We would like to see the same thing on the
7 pipeline. We have no clue if Summit can live up to
8 their promises. We have no clue what the next owner
9 can do.

10 And that's where the bonding or whatever
11 methodology to assure that the leaseholder lives up to
12 their obligations to keep us whole from liability but
13 also as far as the ongoing commitments to maintain the
14 property and the pipeline and all those sorts of
15 things.

16 We think it's only fair that we, as
17 landowners, know who it is that we're dealing with.
18 And not just, okay, it's Summit, LLC, based out of
19 Delaware, but who is the owners?

20 Again, if I was leasing you a \$500,000
21 tractor, I'm going to want to know who was behind
22 CoBar, Inc., if it was us buying it.

23 We get nothing on that of course.

24 As we look down the road, one of my fears
25 is end of the life of the pipeline. They say, "Well,

1 we can just abandon it in place." Or if there's a
2 problem. They could sell it to any kid walking down
3 the street with 20 bucks in his pocket and now he's
4 the owner. He's got nothing behind him, no ability to
5 fulfill the obligations. There's nothing to prevent
6 it.

7 And so we're taking all the risk in the
8 long run is our concern. That's what Dad was putting
9 in his comments.

10 Q. So you talked a little bit about abandoning
11 in place. Would you like the option of asking -- if
12 it was not used any longer, would you like the option
13 of asking them to remove the pipe?

14 A. Yeah, we very definitely want that option,
15 at our option, to take it out.

16 And we also believe that it should not be a
17 forever easement. This pipeline has got a finite
18 life. And certainly, from what I understand, the
19 permit to operate it has a finite life.

20 If, as it's been proposed to us or
21 explained to us, it is only for a CO2 pipeline and
22 nothing else ever can go in there, is what we've been
23 told by Summit reps, and the fiber-optic is only tied
24 to the pipeline, in my mind if 20 years from now
25 they're no longer using the pipe, the easement should

1 come back to us automatically right then and there.
2 They don't need to keep it for another hundred years,
3 it's not going to do them any good. And that's
4 whether the pipe comes out or not. If it's not in
5 use, the land should come back to us and the various
6 rights that go with it.

7 Q. Is there a farm tenant on the property or
8 do one of your siblings --

9 A. My brother farms it.

10 Q. Your brother farms it.

11 A. With his son.

12 Q. Is he leasing it then?

13 A. Yeah, there's a lease to him.

14 Q. When you were talking to Mr. Taylor, you
15 mentioned that you expected crop loss for many years.

16 A. Uh-huh.

17 Q. If that crop loss continued on past that
18 three-year or five-year period, would you want Summit
19 to compensate you for that crop loss reduction?

20 A. Yes, I would. And I think it's vaguely in
21 there that they would if you request it, but it's not
22 very clear or definitive.

23 Q. And then did you receive the packet of
24 information in the notice for the hearing?

25 A. The big postcard-type thing?

1 Q. Not the postcard. There would have been a
2 mailer talking about eminent domain and --

3 A. I think we did, yes.

4 MS. GRUENHAGEN: Would staff mind pulling
5 up one of the Exhibit Hs.

6 A. Yes, we got the Exhibit H.

7 BY MS. GRUENHAGEN:

8 Q. You did get it?

9 MS. GRUENHAGEN: You don't need to pull it
10 up.

11 BY MS. GRUENHAGEN:

12 Q. So you've seen the Exhibit H?

13 A. Yes.

14 Q. Have you read through that?

15 A. Right.

16 Q. Are you familiar with where the Exhibit H
17 says that they want to route the pipeline?

18 A. Yeah, anywhere they want basically is what
19 it says. And that's one of the issues we have as well
20 is that within the easement itself and then the
21 Exhibit H it appears they're given rights to the whole
22 80 acres between the two ownerships.

23 The one -- I forget which letter it is, but
24 one of the exhibits with the lease -- or the easement
25 does talk about, you know, the 50 foot and that type

1 of thing. But it's not absolute or clear where
2 they're going to go.

3 When I asked the question of Summit in my
4 list of questions I referenced earlier whether that
5 would be defined in the final lease document, the
6 response was, yes, that it would be. And I also asked
7 about their access to it, and he assured me that they
8 would, in our case, require in it that they could only
9 access it from the two roads on the east and west and
10 not come in crossways.

11 And that's the type of definition we need.
12 That's not what we get from the field reps who don't
13 seem to know a whole lot or just reading the easement
14 raw and cold.

15 Q. So if the Board decides to grant the
16 permit, would you want to make sure those provisions
17 were in there?

18 A. Oh, definitely. We've got lots more
19 questions that we've accumulated as it goes to the
20 easement before we sign it that have to be addressed
21 with our attorney and the Summit people.

22 Q. So would you like the opportunity to
23 negotiate an easement if the pipeline permit is
24 granted?

25 A. Yeah. If it's granted, we're going to have

1 to find a solution.

2 Q. And would you want Summit to offer the best
3 terms and compensation that they had offered to other
4 landowners at the time?

5 A. We want the best out of the whole 2,000
6 miles.

7 Q. And you've already talked about access. Do
8 you know what size pipe that Summit is proposing to
9 put into your property?

10 A. It's called "Let's Make a Deal" by the
11 looks of things. The lease says up to 24 inches. The
12 Exhibit H, I think, says 12. And the -- one of the
13 exhibits that we've got says 16.

14 So pick a number, I think, is the answer.
15 We really don't know what's really going to be there.

16 Q. Would you like the easement to be specific
17 about what size pipe?

18 A. Absolutely. Before we sign it, it's got to
19 be very specific that it's one and only pipe and that
20 this is the size.

21 Q. And, if Summit wanted to move the pipeline
22 to another part of your property, would you expect
23 them to acquire a different easement from you?

24 A. Absolutely. The second one costs more.

25 Q. And, if they needed to change the grade of

1 your property during or after construction, would you
2 want them to consult with you before doing that?

3 A. Very definitely. And, in our case, it's
4 flat. About like this tabletop. So there better not
5 be much grade change.

6 MS. GRUENHAGEN: That's all the questions I
7 have.

8 THE WITNESS: Thank you.

9 BOARD CHAIR HELLAND: Thank you.

10 Mr. Williams.

11 MR. WILLIAMS: Thank you.

12 CROSS-EXAMINATION

13 BY MR. WILLIAMS:

14 Q. One of your earlier comments you pivoted
15 away from. So I'd like to expand on it.

16 You made a comment that three years is not
17 enough. I assume that's a reference to the
18 compensation that's potentially been offered by Summit
19 to cover crop loss; correct?

20 A. Correct.

21 Q. Why is that not enough?

22 A. Well, we believe that the damage will last
23 longer than that. From our experience and other times
24 when things have been dug up, we look around at other
25 farms, whether it's been an old building site where

1 something was dug up or a trail or whatever, it takes
2 more than three years to recover from digging a hole.

3 And we see -- in our own work where we bury
4 irrigation pipe, we can see where that is for several
5 years beyond that. Much smaller, a lot lighter -- you
6 know, that's just a trench, no heavy equipment. And
7 you can still tell it for years. And there's settling
8 and those type of things.

9 We expect this one with heavy equipment to
10 be a bigger impact.

11 Q. I think you mentioned that you had looked
12 at aerials at one point and could see past historical
13 lines from disruption of soil that had dated back to
14 about 40, 50 years ago.

15 Did I hear that right?

16 A. Right.

17 Q. We've had testimony over the last two days
18 that basically people have mentioned it could be
19 several years to forever where disruptions to your
20 soil won't be resolved.

21 Are you somewhere closer to the never be
22 resolved end?

23 A. It's hard to tell for sure. We've never
24 experienced this type of disruption of our soil. You
25 know, where they're going to push the topsoil off.

1 And, what they told us, it will take 160, 180 days on
2 our property to complete the project. So it's going
3 to be moved and removed and worked on in the mud and
4 the rain and the snow and put back together. We don't
5 know what that will be.

6 We know -- like I mentioned earlier, we
7 don't have a lot of topsoil to lose here. So the more
8 you mess it up, the more you compact it below, sift
9 out the topsoil we got and put it back, it's going to
10 be an impact for a long time. I don't know whether
11 that's 5 years or 25 years.

12 Q. You had also mentioned that you -- I think
13 I heard it correctly. That you hoped that if this
14 pipeline was to be put on your property that they
15 would do it in the fall.

16 A. Certainly when we're not growing a crop.

17 Q. Right. And you understand, from the
18 easement agreement that you've seen to this point
19 that's been offered you, that you don't really have
20 any say on that.

21 A. That's right. They're going to go when
22 they want to.

23 One of the questions that we haven't got an
24 answer to is let's say they start tomorrow. They're
25 not going to be done in this crop year. A cold hard

1 winter, they may not finish up until the next crop
2 year. When does year one of the three years start?
3 That's not defined.

4 In that scenario, let's say they did start
5 in August. Destroy this year's crop. Prevent next
6 year's crop from being planted in a timely manner. We
7 expect two year ones in that case and then start the
8 counting.

9 Q. "Two year ones." What does that mean?

10 A. That means a hundred percent payout of what
11 the value of the crop is.

12 Q. Thank you. So coupled with the fact you
13 don't really have any discretion over when they start
14 the project combined with everything else, I won't go
15 through it all, of course, because you laid it pretty
16 much all out with the questions I was planning to ask
17 you, would it be true that there really isn't a
18 resolution to those problems when it concerns your
19 land and an easement with addressing some of the
20 things that Farm Bureau brought up? That just doesn't
21 work for you.

22 Is that fair?

23 A. If I -- try that again to make sure I
24 understand you.

25 Q. Sure. Maybe it wasn't a great question.

1 So, with all the risks and everything that
2 you understand of the burdens placed on you by the
3 easement agreement, would it be fair to say that there
4 really isn't a remedy for an easement agreement to
5 satisfy you?

6 A. It would be very difficult, yes.

7 MR. WILLIAMS: That's all the questions I
8 have. Thank you.

9 BOARD CHAIR HELLAND: Thank you.

10 Board Member Byrnes.

11 BOARD MEMBER BYRNES: Mr. Oehlerking, just
12 a few things that I want to ask about.

13 And if I could get -- that map we have up
14 right now, if you could just zoom out.

15 I'm just curious on some other things in
16 the area. It looks like there is an enormous amount
17 of activity in this region.

18 THE WITNESS: Yep, there is.

19 BOARD MEMBER BYRNES: I'm just curious what
20 a couple things are.

21 So if we go to the south and we go to the
22 east and there's a -- I'm not sure what that says.
23 Something "USA."

24 THE WITNESS: I'm not sure what you're
25 looking at.

1 BOARD MEMBER BYRNES: If -- yeah, right
2 there. What is that facility?

3 THE WITNESS: Gelita. That's an outfit
4 that takes -- as I understand it, it's a manufacturing
5 plant that takes offal from packing plants and turns
6 it into gelatin and those type of things. It's a
7 pretty sizeable operation.

8 BOARD MEMBER BYRNES: And then if we
9 continue to go to the south and we just stop at the
10 first facility here.

11 THE WITNESS: So that's CF Industries.
12 That large building that runs east and west there, as
13 I understand it that's where they store urea. Pretty
14 explosive stuff in the wrong combination. And I think
15 that building -- don't quote me. I think it's around
16 a quarter of a mile long. It's a big building.

17 BOARD MEMBER BYRNES: And then if we keep
18 going south --

19 THE WITNESS: Farther south is the
20 mothballed Port Neal power plant right there next to
21 it.

22 BOARD MEMBER BYRNES: So a coal-powered
23 facility?

24 THE WITNESS: Coal plant. Farther south --
25 I can't tell you exact order, but there's AGP soybean

1 processing down there, Koch Industries, another power
2 plant that is active, and there's other stuff I can't
3 remember what all is down there.

4 BOARD MEMBER BYRNES: So it's active.

5 THE WITNESS: It's active. And it's right
6 along the Missouri River. All along there.

7 BOARD MEMBER BYRNES: And then if we can go
8 back up to -- I believe it was Highway 29. So is the
9 interchange already under construction?

10 THE WITNESS: No.

11 BOARD MEMBER BYRNES: It's not.

12 THE WITNESS: It's proposed to start, I
13 think, in '26.

14 BOARD MEMBER BYRNES: So, with our hand
15 here, or the pointer, can you show me where that
16 proposed interchange is going to happen?

17 THE WITNESS: Well, Amiee Krogh that was
18 here could probably better explain it because it's
19 going right by her house. My understanding is it's
20 coming across right in between those two houses and
21 going over this way to Highway 75.

22 So there will be an interchange right here
23 south of 235th Street. In that area. It will go
24 across this field and over in there somewhere. And
25 then go on Highway 75, and there will be an

1 interchange onto Interstate 29 right there.

2 BOARD MEMBER BYRNES: And then to the west
3 side approximately -- it's a slanted road right there.

4 THE WITNESS: Yeah, I think it gets here at
5 Port Neal Road and then jogs north a little bit to
6 235th. I think.

7 BOARD MEMBER BYRNES: Gotcha. But in that
8 vicinity anyway.

9 THE WITNESS: In that general area.

10 BOARD MEMBER BYRNES: Okay. Thank you.
11 And maybe you mentioned this and I just didn't catch
12 it. I'm taking a lot of notes here.

13 How deep are your irrigation lines?

14 THE WITNESS: I think they're five feet.
15 I'm not sure.

16 BOARD MEMBER BYRNES: To get below the
17 frost line?

18 THE WITNESS: Oh, yeah. They're in that
19 five- to six-foot range. So we'd expect this to be
20 below that. Is what we would want.

21 BOARD MEMBER BYRNES: And, Mr. Oehlerking,
22 I kind of asked -- so yesterday -- I don't know if you
23 watched any of the witnesses yesterday.

24 THE WITNESS: Some of it.

25 BOARD MEMBER BYRNES: We had an individual

1 here from Charles City, from Floyd County, and there's
2 an industrial park. And the proposed pipeline is to
3 go through that industrial park.

4 One of the questions I had for him -- and
5 I've been part of these projects as well where, you
6 know, in our community we try to create a shovel-ready
7 site and whatnot and there's a whole checklist of
8 infrastructure that they would like you to have.

9 And so one of the things I asked that
10 individual yesterday is are these pipelines
11 becoming -- is there a chance it becomes part of the
12 infrastructure. Is it something that, you know, could
13 actually be beneficial to your facility -- or to your
14 land as development occurs.

15 And my question to him yesterday was did
16 you have a conversation with Summit on could there be
17 a potential -- if that pipeline were to go through
18 your land and it's going to be developed for
19 industrial or manufacturing someday, and you have a
20 manufacturer that actually wants to sequester their
21 carbon, is there an opportunity on that facility where
22 you could, or they could, make it so you could inject
23 carbon into the pipeline. Or maybe it's a company
24 that actually needs to use carbon, whether you could
25 withdraw carbon off that pipeline.

1 Has that conversation happened with them at
2 all?

3 THE WITNESS: We've had no conversation on
4 that. And I'm sure the people we've talked to would
5 have no clue.

6 BOARD MEMBER BYRNES: Okay. But it sounds
7 like in your negotiation process you did have a
8 sit-down meeting and some back-and-forth conversation.

9 THE WITNESS: Yeah, we've had two or three
10 with Summit. We've had some with Navigator. So they
11 kind of run together after a while. But we've had
12 multiple sit-downs with them.

13 BOARD MEMBER BYRNES: Did you ever
14 counteroffer back to them then?

15 THE WITNESS: We have not yet.

16 BOARD MEMBER BYRNES: I think that's all I
17 have. Thank you very much.

18 BOARD MEMBER MARTZ: I had one additional
19 question. I don't think we asked if you had any
20 proposed alternative routes for the line if it were to
21 be permitted.

22 THE WITNESS: Well, our simplest
23 alternative is just say no. From location of the
24 pipeline. And I guess I'd add into that if you
25 ultimately can't say no to the whole thing, our

1 request would at least say no to eminent domain. Even
2 if you say, "Okay, go ahead with the pipeline," don't
3 give them eminent domain.

4 If this program is so valuable and so
5 successful and they've got 70 percent of the people
6 that want it, go find the other 30 percent, pay them
7 what they want, and put it somewhere else.

8 If we had to -- we've had some discussion
9 move the line to the south edge of our property.
10 Selfishly, that's a good deal for us, but it puts it
11 right in the backyard of two houses.

12 That's about the only choice you've got
13 here. We don't want it through the middle of the
14 field. So it's got to be on the top or the bottom.

15 BOARD MEMBER MARTZ: Thank you.

16 BOARD CHAIR HELLAND: Okay.

17 Mr. Oehlerking, you're excused. Thank you.
18 Appreciate it.

19 THE WITNESS: Thank you.

20 BOARD CHAIR HELLAND: Okay. The Board will
21 call Tom -- and I'm not sure if it's Konz or Konz. So
22 you're going to have to correct me as soon as you're
23 up here.

24 MR. KONZ: It's Konz.

25 BOARD CHAIR HELLAND: Thank you. Can you

1 go ahead and raise your right hand, please.

2 TOM KONZ,

3 called as a witness, being first duly sworn by Board
4 Chair Helland, was examined and testified as follows:

5 BOARD CHAIR HELLAND: I'd ask you to scoot
6 next to the mic. There you go. Thank you.

7 Can you please go ahead and spell your name
8 and provide your address.

9 THE WITNESS: Tom, T-o-m, Konz, K-o-n-z,
10 4176 Nettle Avenue, Granville, Iowa 51022.

11 BOARD CHAIR HELLAND: Thank you. And it
12 looks like we're talking about two properties today.
13 H-OB-027 and 028.

14 Are those the two contiguous properties
15 right there?

16 THE WITNESS: Correct.

17 BOARD CHAIR HELLAND: How do you refer to
18 those parcels?

19 THE WITNESS: My home place.

20 BOARD CHAIR HELLAND: That's fine. Can you
21 go ahead and provide us a description of its current
22 usage but also any potential future usage?

23 THE WITNESS: Okay. It's a corn/bean crop
24 rotation is what it's used for now. I actually own
25 the acreage there in the picture. I'm represented as

1 a tenant farming the ground. But the person that is
2 also living next to this pipeline coming in, we also
3 have a business on that acreage. An ag repair shop.

4 So it's possible that we'd like to -- or we
5 were always talking about relocating that business off
6 the acreage and moving it north to the north fence
7 line. Which is potentially right where this pipeline
8 is proposed to run.

9 So that does concern me. And it takes away
10 our opportunity to do anything of that sort in the
11 future also.

12 The reason we would move north is we put
13 three-phase electricity in to our place several years
14 ago, and it runs to the south edge of my acreage is as
15 far as it goes. So moving south does not work without
16 more transmission lines and more expense that way. So
17 we always felt if we could work it out with the
18 landowner, that north would be our option at some
19 point.

20 But that has not happened. We are not
21 doing that at this time either yet.

22 BOARD CHAIR HELLAND: I'm sorry. So go
23 ahead and kind of walk me through that again.

24 You live on that acreage?

25 THE WITNESS: Yes.

1 BOARD CHAIR HELLAND: But you don't own the
2 red shaded area. You're the tenant farmer.

3 THE WITNESS: I am the tenant.

4 BOARD CHAIR HELLAND: But you are
5 considering moving at least a portion of either the
6 business or other structures to the north?

7 THE WITNESS: Yes, to the north fence line.

8 BOARD CHAIR HELLAND: And the phase three
9 stops at the fence line?

10 THE WITNESS: No, the phase three stops at
11 the south edge of my acreage. We already have it all
12 the way to our acreage.

13 BOARD CHAIR HELLAND: Gotcha. Gotcha.
14 Okay. Appreciate that.

15 THE WITNESS: Which we paid for to get it
16 there.

17 BOARD CHAIR HELLAND: Thank you. And I
18 apologize for prying, but what was the cost to run the
19 phase three?

20 THE WITNESS: At the time, they put it on a
21 30-year payment. They considered it to be
22 approximately \$40,000, but they just put it on our
23 electricity bill for "x" amount of years and we had to
24 use so much electricity to make the payments.

25 BOARD CHAIR HELLAND: Okay. So, for the

1 red shaded area, can you detail or walk us through a
2 description of the land, including tile, waterways,
3 low-lying areas, other buried infrastructure or
4 overhead infrastructure.

5 THE WITNESS: Okay. So we're going to
6 start with tile. If you look to the west side of the
7 road, you'll see the grass waterway. So all the water
8 is running to that point. So you're --

9 BOARD CHAIR HELLAND: Hold on.

10 THE WITNESS: Did I hit something?

11 BOARD CHAIR HELLAND: I don't think you
12 did.

13 THE WITNESS: Oh. I was going to say...

14 BOARD CHAIR HELLAND: There you go. Go
15 ahead.

16 THE WITNESS: So that's how the water
17 system runs. And that's where all the tile run to is
18 under the road right there.

19 But, as far as the pipeline, there is one
20 tile that will run to the north and up along the north
21 fence line running straight east. And, as you get
22 through the hill, there's a hill there right in the
23 center of the two 40s, it comes back to the south.
24 But that's the only tile line that they will interfere
25 with.

1 BOARD CHAIR HELLAND: And, to clarify, you
2 said the tile "will" run. Is it not in?

3 THE WITNESS: No, there's tile in there.

4 BOARD CHAIR HELLAND: So there is tile
5 there.

6 THE WITNESS: Yes.

7 BOARD CHAIR HELLAND: Thank you. And then
8 the sort of squiggly line that I assume is a waterway,
9 can you confirm for us what that terrain feature is
10 that kind of runs from where the tile leads in on the
11 west and then it runs down to the southeast?

12 THE WITNESS: Yes. So the water comes in
13 up here and it runs down, you can see the black
14 through here, and it all goes this way. But there's a
15 hill through this ground right here. So there's also
16 tile that runs up along here, goes right next to the
17 fence, gets on the other side of that little black
18 there -- because this whole pocket back here has to go
19 this way.

20 And, if you look to my neighbor to the
21 north, you can see that line, that line, and I believe
22 there's another line right up here next to the fence
23 where he's already tiled and brought that to the north
24 that way.

25 So we would only be interrupting one tile

1 line there that is definitely fixable.

2 BOARD CHAIR HELLAND: And how deep is that
3 tile?

4 THE WITNESS: That tile would be
5 approximately four feet deep unless the ground has
6 eroded off of it.

7 BOARD CHAIR HELLAND: And is it clay tile?
8 Modern tile?

9 THE WITNESS: It will be most likely a
10 five- or six-inch cement tile.

11 BOARD CHAIR HELLAND: And you walked us
12 through the aboveground facilities there. I
13 appreciate that.

14 Can you give us an idea how far those
15 facilities are from the proposed line?

16 THE WITNESS: You mean the tile line?

17 BOARD CHAIR HELLAND: No, I'm sorry, from
18 the proposed project line. Not from the tile line.
19 From the proposed route for the pipeline. How far
20 from the properties, from the structures.

21 And we can just draw a line, I guess.
22 That's probably easier.

23 THE WITNESS: I guess I didn't understand
24 what you were asking there.

25 BOARD CHAIR HELLAND: That's okay. I could

1 have rephrased it.

2 THE WITNESS: Okay. The shop is
3 approximately 1,100 feet from the pipeline.

4 BOARD CHAIR HELLAND: And then -- Tom's
5 Repair.

6 THE WITNESS: Correct.

7 BOARD CHAIR HELLAND: What's the general
8 customer -- how many customers per day do you see
9 running through your property? Or month.

10 THE WITNESS: I can't tell you. A lot.
11 We've got eight full-time techs. So we go through 150
12 combines a year. It's really busy.

13 BOARD CHAIR HELLAND: So a lot in the
14 sense that -- I mean, you can't count in the sense
15 that -- or you don't have a number in the sense
16 that -- it's a big number, not -- it's just not very
17 often.

18 THE WITNESS: It's a big number.

19 BOARD CHAIR HELLAND: Are there any other
20 terrain features or anything else on the property, the
21 shaded area in particular, that's not easily
22 noticeable from this particular map?

23 THE WITNESS: Okay. So the fiber-optic
24 line will run in the shoulder of the road and runs up
25 past the -- it just runs in the right-of-way. There's

1 also a rural water line that ends -- Osceola Rural
2 Water ends at our place. It is 20 feet into the field
3 off the right-of-way running north and south.

4 Those would be the only two other easements
5 that are on it.

6 There is a -- on this part where I said
7 that water comes along the fence in the tile, it's
8 hard to see, but right in this area, right where the
9 pipeline will go, that is a spot where all the water
10 comes around this hill and it cuts that out.

11 So there's an erosion issue there that
12 we've -- we've hauled topsoil after building on the
13 home place there. Several times I've hauled extra
14 black dirt down there and just kept putting it in as
15 topsoil over it so it doesn't get so bad.

16 But I am a little concerned about the
17 process of what they're going to do here and what it
18 will do to that ground after that. Because you're
19 going to open that up right where that erosion is at.

20 So I'm a little concerned about how we're
21 going to get that ground firmed back up and get that
22 erosion not to cut way faster than it has over the
23 last 20 years. So that's one concern of ours.

24 I've got many concerns. Probably one of
25 the first ones is going to be safety. How will Summit

1 protect my family, my employees, the customers. How
2 will they guarantee that this won't blow. It's a
3 hazardous pipeline. And we're there working every
4 day.

5 How and why does Summit feel they can use
6 eminent domain to just take our ground. I don't get
7 that. For a private use company.

8 I will say -- and we'll get into this a
9 little more later, but they are willing to negotiate.
10 They will talk to us. We've dealt with them many
11 times. And I'll get into that a little bit more here
12 later.

13 I don't understand why we were served
14 eminent domain papers in July before this process has
15 even started. As a tenant, I did not get that black
16 piece of paper that that lady had up here before, but
17 I had a neighbor bring it to me. So I was able to
18 read it.

19 I didn't do anything with it just because
20 I'm a tenant. But my landlord has told me all along,
21 "You take care of it, you handle it."

22 So we met with Summit, we laid everything
23 out on the line, what we wanted, what we were
24 thinking, knowing that -- and this wasn't the first
25 time we had done this. We had done this a long time

1 ago. We shot for the moon. We asked for -- I mean,
2 to me, the ground is priceless.

3 But, obviously, after doing that nine
4 months ago and no response, no coming back, they kind
5 of knew where we stood. That we weren't interested.
6 But we also -- after getting seven eminent domain
7 papers on a Saturday and signing for them, it's like I
8 don't get this and how does this work like this.

9 So we met with them before that and laid
10 everything out. Got absolutely no response from them
11 at all. That black piece of paper, if you flip it
12 over and you fill it out -- I ended up filling it out
13 two days after the deadline. And I had called in
14 after -- I think it was around August 4th or 5th and
15 asked I think it was Liz from Iowa Utilities Board if
16 there's any way that we could be part of this hearing.

17 And it was absolutely amazing the response
18 we got from Summit after that. I think they've been
19 on my yard just about every day since then.

20 So, to me, that's wrong. They did not want
21 me here, but it shouldn't take coming in front of this
22 Board to get a response from them. And we weren't
23 asking for a lot. But we'll go through some of the
24 things that we were asking.

25 Insurance. Having a business, having

1 employees, having families, who is liable? What if
2 something does happen? I talked to my insurance
3 agents this week. Nobody will comment on any of that.
4 And I don't believe anybody is going to comment on it
5 until there is an accident with this hazardous
6 pipeline.

7 Soil separation. For me, safety and soil
8 separation and compaction are three of the most
9 important things of this. It's not the money on the
10 pipeline. It's not the money for my landlord on the
11 pipeline. She's said all along, "Take care of the
12 ground."

13 So we've been working very hard on the soil
14 separation. And the Summit agent has been out, he's
15 doing -- he's worked very hard also. I've talked to
16 the engineers with him in the pickup. I mean, he's
17 located me, he's found me, I mean -- but we cannot get
18 down to an answer on soil separation.

19 Other people here today also talked about
20 soil separation and how important it is. And, if
21 anybody that knows anything about Granville, Iowa,
22 it's the home of black soil. So it's very good soil.

23 But I went through the Dakota Access
24 pipeline on my wife's family farm. And one thing I
25 learned from it is if it's not in writing -- it don't

1 matter what you say, how you say it, what you talked
2 about, if it's not spelled out in writing, it means
3 nothing.

4 And, when this crew comes in to put this
5 pipeline in, your rights are gone. You have no
6 rights. And they say you do have rights. If it's not
7 spelled out black and white, there are no rights.

8 So soil separation for me is very
9 important. We've been working on this in the last
10 week with Summit. I got back yesterday. On my chair
11 in my office, it says "Organics." That's all it says.
12 That's the first pile.

13 What does that mean? Spell it out. I want
14 to see it in writing. I've told my agent several
15 times, "I will go out there with an excavator, a
16 little excavator, and I will dig four places in the
17 field. I'll tell you exactly how I want it separated.
18 I want it in writing so it's done right. I won't make
19 it difficult, but it's got to be spelled out in
20 writing. I want three layers. I want my topsoil, I
21 want my clay loam, and then you can put the rest of
22 the soil together. I'm fine with that. But it will
23 be spelled out in writing."

24 They are working on that. We just don't
25 have the clarity that it needs to be.

1 Digging on this ground. I said that we
2 went through Dakota Access. That was an absolute
3 nightmare. In one section, I think I've seen seven of
4 the biggest excavators come in and tear that ground
5 up. Which is also in Granville, Iowa. And, to this
6 day, and in my lifetime, that ground will never be the
7 same.

8 These guys are telling me that they're
9 going to come in with a dozer and they're going to
10 take off the topsoil. I can deal with that.

11 Then they're telling me that they're going
12 to come in with two trenchers. One is going to take
13 the first -- the second soil line off, however many
14 inches, which I would say is going to be two feet off,
15 and the third one is going to come in and dig the rest
16 out to the final one and put it on the other side of
17 the trench. But nobody will put that in writing or
18 guarantee that that process is going to work.

19 In my head, all I see is seven excavators
20 compacting the heck out of my ground and tearing
21 everything up. And it don't matter whether it's wet,
22 dry, they're going. They're going to destroy the
23 blacktop when they drive them across the blacktop.
24 The ditches will never be the same.

25 It just -- it is what it is. And I want it

1 in writing, I'd like to see that, but nobody will give
2 me a straight answer on if this is how they're going
3 to do it or not.

4 Everybody up here is talking about
5 compaction. What's the process going to look like?
6 Anybody that can go on Google Earth, go over the
7 Dakota Access line and look at the line. It is very
8 identifiable from the air. You ought to be a farmer
9 that owns that ground. Drive by on the road.

10 The technology we have in our combines
11 today, you can't hide crop loss. It will spell it out
12 on that map unbelievably.

13 I can't argue with Dakota Access, I held
14 out, and I got paid for ten years up front. I'm not
15 going to argue with them. Ten years is not going to
16 cut it. We're on our seventh year. It will red line
17 that combine every time going through there.

18 Not only that, we are along a blacktop
19 there also. The bore hole was a huge hole. They told
20 me then, too, they'll bring me topsoil in to replace
21 my topsoil. I've not seen it yet to this day, and we
22 continue every year to try to get that farm leveled
23 back out and it's not going to happen. Twenty years
24 will not cut it.

25 In our negotiations here, they're paying us

1 for three years. It will be in writing and who we
2 need to talk to to get payment from then on. Because
3 I can't put a ten-year on it. Because I know for a
4 fact now, if we're going to do this process like
5 Dakota did, ten years is not going to cut it.

6 If they come in here with trenchers, it
7 might make a world of difference. I don't know that.
8 I hope we have a better process today than we had
9 then.

10 I think it's very important that people
11 look at the land, how they're going to separate the
12 soil, and every farm is different. The man that was
13 up here before me down by Sioux City, there's a reason
14 there's irrigators on that farm. His soil is
15 different than my farm. I'm dumping tile in the
16 ground. He's dumping water in the ground. So there's
17 nobody that knows that land better than the farmer.

18 The value of this land. For us, as
19 farmers, it's priceless. If you want a private
20 company to put a line in, they need to pay for it.
21 That's what it comes down to. I mean, you've got to
22 be sensible with what you're asking, but they also
23 still need to pay it.

24 The guy up here before me said, "Do you
25 want a line or something running in your backyard?"

1 Put a price." He said, "Sleep on it. Think about
2 it."

3 They're doing the same thing in our land.
4 If you would want something run in your backyard, what
5 kind of value would you put on it?

6 The next thing you need to look at, if it's
7 a hazardous pipeline, you better think about what
8 you're allowing here because it's something that you
9 have to live with forever. For yourself, your family,
10 your kids. Once it's in, you can't change it. And,
11 if something happens, that's when people are going to
12 start looking at what's going on.

13 So the value of the ground is absolutely
14 priceless. The value of the ground don't mean as much
15 to me as if you take the heart of this family farm
16 out. And, if it isn't people owning it from the
17 United States, I sure would not want it owned by a
18 foreign country. There is no guarantee on that
19 either. Nobody will tell me that. You hear a lot of
20 things. What is the truth? Why are we hiding from
21 it?

22 I personally feel back in July, July 17th I
23 believe, when we get five eminent domain envelopes --
24 I even got eminent domain envelopes from people I
25 don't even know on land I don't even know. I'm not

1 even the tenant. And I've got -- and I didn't call
2 them. It's not my job to do their job.

3 But, when you start opening all these
4 envelopes, it's pretty intimidating in what they're
5 doing, and I just don't feel this is the right
6 process.

7 I asked them to -- on this particular piece
8 of ground, on that north fence line -- I've asked them
9 for a lot of things, but we'll get -- one of the
10 things I've asked them for is to flip the easement.
11 They got a 50-foot temporary easement, they got a
12 50-foot work easement, and they've got 10 foot on the
13 other side of the easement.

14 I don't remember exactly how it was, but
15 how it was laid out and the way you see in your
16 picture there with the negotiations we've had over the
17 last two weeks since we filed for this to be here,
18 we've asked them to flip that. I'd prefer them to put
19 it against the fence line so we don't have ground on
20 both sides that isn't in this easement.

21 So now we've got 10 foot along the fence,
22 we've got a 50-foot permanent easement, and then we've
23 got a 50-foot work easement. They did do that. And I
24 appreciate that.

25 One of the other things I asked them to do,

1 after the Dakota Access line and the bore pit, I
2 wanted an explanation and in writing what bore pit
3 means and how big this is.

4 And they were willing to do that. And they
5 did put it in writing.

6 And so everybody knows here, we're along a
7 blacktop, we're boring under the road, the bore pit is
8 10 feet wide, up to 8 feet deep, 15 feet long. That
9 is what is spelled out as a bore pit. I can live with
10 that.

11 On the north line here is where our main
12 driveway is. That's where we come in and out of this
13 field with semis, that's how we get the grain out of
14 the field.

15 I asked them with flipping the pipeline --

16 BOARD CHAIR HELLAND: Sorry, Mr. Konz. The
17 driveway is where again?

18 THE WITNESS: The driveway is right there.

19 BOARD CHAIR HELLAND: Okay. So there is a
20 driveway clear up in the northwest corner.

21 THE WITNESS: That's the main driveway is
22 where it is. You can see it there.

23 BOARD CHAIR HELLAND: Thank you.

24 THE WITNESS: So now, just to get an idea
25 on the pipeline, you've got the white line there, but,

1 with their negotiations, they move this pipeline,
2 there's 10 feet along this fence, a 50-foot permanent
3 easement, so that puts the pipeline 35 feet from the
4 fence.

5 So we have a rural water line running
6 20 feet from the grass in our field. It's 20 feet
7 from the right-of-way. And they're allowing me
8 190 feet from the center of the road. So they're
9 going -- from the center of the road here, they're
10 going 190 feet into my field. And that's where the
11 bore hole starts.

12 And that was done, per our request, to keep
13 that hole away from the driveway so our semis don't
14 drop in that hole. And I appreciate they were willing
15 to work with us on that. And they were willing to do
16 that. I have no complaints there at all on that. I
17 think we can work around that. We know where it's at.

18 The topsoil replacement. First of all, the
19 only place we might have problems is where that bore
20 hole is and where I said our washing problem will be.

21 What I don't understand as a farmer, as a
22 mentor to the land, where they ever think they're
23 going to get topsoil to replace -- because we -- I
24 mean, you're going to have a bore hole on this side,
25 you're going to have a -- where does this topsoil come

1 from to replace this?

2 Because that's what they told us on Dakota
3 Access, too, and we've got nothing but a mess. We
4 keep moving dirt from our farm, from outside the
5 easement in, to get this thing -- after the compaction
6 is done, get it back where it's supposed to be.

7 Seven, eight years later, it's totally identifiable.
8 And I don't have to explain that to you. Go to Google
9 Maps, follow the line, look at every blacktop, you'll
10 see every bore hole. It is crazy.

11 And that is exactly what you're going to
12 see here on a Google Map forever from this point
13 forward once this line is in.

14 Again, for me, they are willing to
15 negotiate. It's not about the money. It's about the
16 land. And I will give them credit that they're trying
17 and they're working on it. So we will get where we
18 need to get with this thing, but, preferably, for
19 myself and my landowner, we don't want the line. But
20 there's just things that need to be in writing for it
21 to work.

22 And I don't know what our choices are. If
23 we can hold out. I don't believe eminent domain
24 should be used. I believe what this company is doing
25 right now is what needs to happen with everybody. Sit

1 down, lay it out, negotiate it, figure it out. And
2 they're not here to destroy the land and we're aren't
3 here to destroy the land. And that's what needs to be
4 worked out on this.

5 So that's all I have.

6 BOARD CHAIR HELLAND: That was fantastic, I
7 appreciate it, and now I have a lot of questions.

8 THE WITNESS: Okay.

9 BOARD CHAIR HELLAND: Specifically, when
10 you spoke about the Dakota Access line, you said your
11 combine red lines.

12 Can you elaborate on what you mean when you
13 say "red lines."

14 THE WITNESS: Well, it depends on how you
15 will have your yield monitor calibrated. But,
16 generally, it will be a for sure 20 bushel across the
17 board to red line it to get it -- and some of them are
18 more than that. But it's identifiably -- if that
19 white line was there, it will red line all the way
20 across it.

21 BOARD CHAIR HELLAND: I wanted to clarify.
22 When you say "red line," you mean there's a yield
23 drop. There's not actually a spike in the rpm's
24 required to go through that area.

25 THE WITNESS: No. But -- it doesn't mean

1 the ground isn't producing. It means it's lacking.

2 BOARD CHAIR HELLAND: I appreciate your
3 description and how you elaborated on your
4 relationship with the landlord. I think that's lost
5 on some people. That, in some cases, landlords and
6 tenants get along very well and share and sometimes
7 they don't.

8 As a lawyer, it still blows my mind how
9 many acres have no contract and just a handshake. But
10 I understand.

11 The tile. The crop loss. Have you
12 discussed that with your landlord? If you were to
13 tile this -- or the tile that is in there. Did you
14 pay for that? Did the landlord pay for that?

15 THE WITNESS: The tile that is in there
16 today, that line was put in long before I was around.
17 All the rest of the tile that's put in that farm I've
18 paid for.

19 BOARD CHAIR HELLAND: So this is, in a lot
20 of ways, more of a partnership than a true
21 tenant-landlord relationship.

22 THE WITNESS: Yes. This is a family farm.
23 Her father got me started farming. And it is a
24 handshake.

25 BOARD CHAIR HELLAND: Gotcha. I know how

1 that works.

2 So -- I guess I should ask that. So the
3 tenant, is that your father-in-law? Or the landlord.
4 Is that your father-in-law?

5 THE WITNESS: No. No. No relation.

6 BOARD CHAIR HELLAND: The driveway in the
7 northwest corner there. I looks like there's a parcel
8 in the red shaded area. Is that the same parcel as
9 this or is that a different farm altogether?

10 THE WITNESS: That's the neighbor's farm.

11 BOARD CHAIR HELLAND: And do you share that
12 driveway?

13 THE WITNESS: Yes.

14 BOARD CHAIR HELLAND: You spoke a lot about
15 the three layers of soil and making sure it's sorted
16 properly and returned properly. And then you touched
17 on soil moisture when executing the project.

18 Have you touched on any type of agreement
19 as to what the soil moisture would be to operate and
20 put the potential project in?

21 THE WITNESS: We have talked that over. We
22 have nothing in writing on that. And that is not
23 Summit's fault. That is our fault. There's some big
24 hurdles we were trying to cross first and then you
25 have all the little ones that you've got to get. To

1 me, that's a little one, and we've got to get through
2 the big ones first.

3 Once we get through them -- I told them
4 that, you know, once we got things where we as the
5 landlord wants it and the tenant wants it, then it
6 needs to go to our lawyers to make sure that
7 there's -- I'm not a lawyer. So that's their job to
8 look at it to make sure I'm not missing anything.

9 BOARD CHAIR HELLAND: That is all the
10 questions I had.

11 It looked like Board Member Martz had one,
12 but we're going to go to the parties and then come
13 back. She did, as an electrical engineer, correct me
14 and make sure that I said three phase -- what's that?

15 (Brief pause.)

16 BOARD CHAIR HELLAND: Let's go ahead and
17 turn it over to the parties.

18 Mr. Taylor.

19 CROSS-EXAMINATION

20 BY MR. TAYLOR:

21 Q. I'm Wally Taylor. I represent the Sierra
22 Club.

23 So how long have you been farming this
24 land?

25 A. 1992.

1 Q. What county is it in?

2 A. O'Brien.

3 Q. And it's my understanding you live in that
4 area of buildings that's on the map.

5 A. That is correct.

6 Q. Are you concerned about the impact on the
7 land from the installation and operation of the
8 pipeline?

9 A. Absolutely. I wouldn't be concerned if
10 they could give me a positive answer of how it was
11 going to be installed. But that's not clear. They
12 will not guarantee anything. They'll tell me these
13 things -- like the trenchers. I'm all for the
14 trenching, but they will not guarantee it. It's a
15 24-inch line.

16 Q. Is it a 24-inch line on that property?

17 A. I believe so.

18 Q. Are you worried about compaction and the
19 topsoil?

20 A. It all has to do with installation.

21 Q. How would they install it to do it right?

22 BOARD CHAIR HELLAND: Mr. Taylor, I
23 appreciate your questions. Respectfully, every
24 question you just asked, except for one, has already
25 been asked and answered. I really want to give you a

1 chance to ask the questions that you deem necessary,
2 but please refrain from asking questions that have
3 already been asked. Thank you.

4 MR. TAYLOR: For the record, I'm just
5 trying to clarify some of the answers that he gave.

6 BY MR. TAYLOR:

7 Q. You said there was a hill in the center of
8 the parcels?

9 A. Yeah, a slight hill, grade, definitely.

10 Q. Is that a concern at all?

11 A. No, it's -- the only concern is the place
12 where the erosion is.

13 Q. Since you live so close to the pipeline,
14 are you concerned about safety?

15 A. Absolutely.

16 Q. What's your concern about that?

17 A. I don't know enough about the pipeline.

18 All you hear is, if something would happen, you won't
19 have a chance. So that concerns me. Especially when
20 you're responsible for the families of all your
21 employees, your own family, your customers. That's
22 why I called the insurance company. The last thing I
23 want is, once this goes through, not to be insurable.
24 They won't tell me anything.

25 Q. Would it be your preference not to have the

1 pipeline there at all?

2 A. I would rather not have it.

3 Q. Do you feel like you have no choice?

4 A. I feel after July, when we got all the
5 eminent domain papers a month before this hearing,
6 that it is being forced upon us to negotiate.

7 Q. Would you rather not negotiate?

8 A. I would rather not negotiate at all. But,
9 after going through Dakota, I understand that if you
10 don't negotiate and get things the way you think is
11 the best it can possibly be, you have no choice later.
12 That is why the eminent domain process is not an
13 option on something that is privately owned.
14 Negotiate it out.

15 Q. You mentioned that the topsoil couldn't be
16 replaced. Why can't you replace it?

17 A. As a farmer, we work every year to build
18 that soil into what it is. You just can't haul that
19 soil in. And, if you do, where are you getting it
20 from. Nobody has ever been able to tell me that. Are
21 you going to my neighbor and take his soil and put it
22 in my field?

23 This is Granville Iowa, home of black soil.
24 I mean, this doesn't happen. And, even if you do haul
25 topsoil back in, do you know how many years it's going

1 to take you to get that soil and that organic matter
2 in that soil to be in the condition that the rest of
3 the soil around it was? That 120 feet or 100 feet or
4 110 feet will never be the same.

5 But right over that pipeline, however they
6 put that pipeline in and install that pipeline, that,
7 in my lifetime, and probably even my son's lifetime,
8 we'll never see it back to where it is today.

9 Q. Do you believe they can separate the
10 topsoil and save it and put it back?

11 A. I believe if you get it in writing of what
12 you want, I think it's doable. I truly believe the
13 crews will do what they said, but, if it is not on
14 that sheet -- they're going to do exactly what that
15 sheet is.

16 Summit wants no differences in any of these
17 negotiations. They want them all the same. They came
18 out to my place two weeks ago on a Saturday and said,
19 "We got what you wanted."

20 I read that segregation, that topsoil
21 segregation, and I said, "That says nothing. That is
22 not even close to what we're asking."

23 And they have worked on it. And I got it
24 back yesterday. And it's closer. We have three piles
25 now. We just don't know the depths. But that's not

1 all their fault because, in order to get the depths,
2 we either have to do soil testing or I need to go out
3 there and dig and tell them what I want. And that's
4 what I told my guy. We need measurements. Pretty
5 simple.

6 Q. But, at this point, you're still not
7 satisfied with what Summit has been telling you.

8 A. It's not correct yet. But they're working
9 on it.

10 MR. TAYLOR: Thank you. That's all the
11 questions I have.

12 BOARD CHAIR HELLAND: Thank you.

13 Mr. Williams.

14 CROSS-EXAMINATION

15 BY MR. WILLIAMS:

16 Q. I know that you talked about the topsoil
17 issue at length in this time that you've been up here.

18 Have you talked about fixating the pipeline
19 in a specific location on your property; i.e.,
20 removing the language in the easement that says that
21 it may differ from whatever they've told you?

22 A. We have moved the pipeline. And they were
23 willing to flip the pipeline.

24 Q. I hear you, but have you -- there's
25 language within the easement that basically indicates

1 that they may deviate from the location that they've
2 proposed to you.

3 So have you addressed that issue in the
4 easement?

5 A. No, but we will.

6 MR. DUBLINSKE: Objection, Your Honor.

7 BOARD CHAIR HELLAND: State your objection.

8 MR. DUBLINSKE: Yeah, and I had hoped that
9 after Mr. Leonard had objected yesterday and someone
10 withdrew their complaint that we had gotten this myth
11 out of the case, but I'm afraid it's taken on a life
12 of its own.

13 That is just a pure misrepresentation of
14 what the easement says. If we could actually move
15 this anywhere, neither we nor Board or staff would
16 spend all the time and all the detail on the
17 Exhibit H. It has a very specific metes and bounds
18 description, it has a surveyed plat map, and we cannot
19 move it.

20 Once the Board issues a permit and approves
21 those Exhibit Hs, that is the easement. That cannot
22 move anywhere. And it's just pure misinformation
23 that's being embedded in this question over and over
24 and over.

25 And we've heard landowners get up and say,

1 "I thought you knew where until I heard this
2 yesterday." Right? And it's actually making the case
3 needlessly complicated because we're getting
4 misinformation as parts of questions.

5 I think the Board knows well from past
6 practice it just isn't true. And the Board's
7 amendment rules would make no sense if we could just
8 pick up the easement and move it wherever we want.

9 So I object to that misinformation as a
10 legal conclusion being embedded in the question.

11 BOARD CHAIR HELLAND: Thank you. Mr. -- go
12 ahead.

13 MR. WILLIAMS: Could I ask a clarifying
14 question before the Board rules on that? In terms of
15 the metes and bounds issue that's raised?

16 (Brief pause.)

17 BOARD CHAIR HELLAND: Go ahead.

18 MR. WILLIAMS: Thank you.

19 BY MR. WILLIAMS:

20 Q. Does your easement agreement that you are
21 dealing with with Summit have specific metes and
22 bounds described in it?

23 A. I can't answer that correctly. Don't know.
24 We will get there. I know what I'm asking for, I know
25 what they have on paper. The lawyers will determine

1 that it's going to tell me exactly what I have been
2 shown.

3 The map is flipped. It's moved against the
4 fence line.

5 I'm not a lawyer. That is going to be
6 their job to tell me that that map represents what I
7 want. And, if it does not, we go back to Summit.

8 Q. Is it your expectation that whatever
9 negotiation process you're entering into will have a
10 specific route laid out for you?

11 A. Absolutely.

12 Q. I get the distinct impression from --

13 MR. WILLIAMS: Oh. Before I move on, does
14 that take care of the objection that's pending?

15 BOARD CHAIR HELLAND: I apologize. I
16 thought you were going to ask us a clarifying question
17 on our rules. Which was awkward.

18 I think we've moved on by now. Although I
19 will note that would have been sustained had we not
20 moved on. So thank you.

21 MR. WILLIAMS: Fair enough.

22 BY MR. WILLIAMS:

23 Q. I get the distinct impression from you,
24 sir, that you see this as a bit of an inevitability,
25 this whole process, and you're just trying to prepare

1 for that in advance as opposed to having the Board
2 dictate to you what will happen with your property.

3 Is that fair?

4 A. That's fair.

5 MR. WILLIAMS: No other questions. Thank
6 you.

7 BOARD CHAIR HELLAND: Thank you. I
8 inadvertently skipped over Farm Bureau. Because I
9 can't see over there.

10 So Mr. Meyers. Farm Bureau.

11 CROSS-EXAMINATION

12 BY MR. MEYERS:

13 Q. Hi, Mr. Konz. My name is David Meyers. I
14 am an attorney with the Iowa Farm Bureau, and I'll
15 have some questions for you.

16 And I'm kind of summarizing, so please
17 correct me if I'm wrong, but getting easement language
18 in writing is very important to you?

19 A. Correct.

20 Q. And you have reviewed -- if I say "the
21 Exhibit H document," you know what I am referring to?
22 The eminent domain outline of the proposed route with
23 easement language?

24 A. Correct.

25 Q. And so just a couple questions there. If

1 Summit were to come -- this is all under the
2 assumption the pipeline is granted. So bear that in
3 mind for these questions.

4 Okay?

5 If Summit were to come back and repair the
6 pipeline, you would want them to follow ag land
7 restoration rules?

8 A. Correct.

9 Q. And, if Summit were to move the pipeline,
10 you would want them to acquire a new easement?

11 A. Correct.

12 Q. In the easement agreement, again if the
13 project is granted, you would want there to be
14 language identifying where Summit can enter and exit
15 your property?

16 A. Correct.

17 Q. I believe you mentioned it earlier, but can
18 you just remind me the size of the pipe that Summit
19 would like to install on your property?

20 A. The proposed pipe is 24 inches.

21 Q. And would you like the Board's order for
22 the easement, again if granted, to identify a specific
23 limit that Summit can only install a 24-inch pipe?

24 A. Yes. That's as big as I'd like to see.
25 That's what they've proposed. So that's what I'm

1 restricting it to.

2 Q. And I know you mentioned there is kind of a
3 hill in about the middle of the two parcels. If
4 Summit were to change the grade when installing the
5 pipeline, would you want Summit to consult with you
6 before changing the grade?

7 A. Correct.

8 Q. And are you enrolled in any crop insurance
9 program?

10 A. We are.

11 Q. And are you enrolled in any other federal
12 farming programs?

13 A. Not on that piece of land.

14 Q. And you mentioned the proposed route is
15 going through one section of tile?

16 A. Correct.

17 Q. And would you expect Summit -- if the
18 permit is granted and they start construction and they
19 damage that tile, they would pay to repair it?

20 A. Yes. I'd want it repaired. We tile
21 ourselves. I'd like to repair it myself. I'll work
22 that out with them.

23 Q. And let's say years down the road we have a
24 few seasons of dryness and it is determined, for
25 example, five years down the road that that tile was

1 damaged, would you want Summit to come in and repair
2 it?

3 A. Correct.

4 Q. Have you filed any objections or comments
5 in this docket?

6 A. I have not.

7 Q. And just one last question. Is the
8 Navigator route crossing either of these two parcels?

9 A. No, it is not.

10 MR. MEYERS: Perfect. Thank you. That's
11 all the questions I have.

12 BOARD CHAIR HELLAND: Thank you.

13 Mr. Dublinske.

14 MR. DUBLINSKE: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. DUBLINSKE:

17 Q. Good afternoon, Mr. --

18 A. Konz.

19 Q. -- Konz. Just a couple things. You had
20 expressed a couple concerns about the land restoration
21 and the topsoil.

22 Are you aware that the Utilities Board has
23 an extensive set of rules that Summit would have to
24 follow in terms of how the soil is separated,
25 segregated, and replaced?

1 A. I am.

2 Q. And do you know that those have been
3 strengthened since Dakota Access went through?

4 A. I would hope so.

5 Q. And those now require a soil survey by an
6 agronomist with multiple test points on easement
7 across your parcel.

8 Are you familiar with that?

9 A. Yes, they offered that.

10 Q. You said it was your in-laws' parcel that
11 had DAPL on it that you were familiar with? Is that
12 correct?

13 A. What was that? My in-laws?

14 Q. The DAPL parcel that you were familiar
15 with.

16 A. It's my wife's home farm.

17 Q. And, since DAPL went in, do you know, has
18 that parcel been able to be insured?

19 A. Yes.

20 MR. DUBLINSKE: No further questions.

21 BOARD CHAIR HELLAND: Thank you.

22 Board Member Byrnes.

23 BOARD MEMBER BYRNES: Just one quick thing.

24 Can you repeat for me again what the size of that bore
25 hole was. I think you said something like 8 by 10

1 by --

2 THE WITNESS: The bore hole is 10 feet
3 wide, up to 8 feet deep, by 15 feet long is what we
4 were guaranteed.

5 BOARD MEMBER BYRNES: Perfect. That's all
6 I had. Thank you, sir.

7 BOARD CHAIR HELLAND: Thank you, Mr. Konz.
8 Appreciate it.

9 Okay. We're going to do a quick ten-minute
10 break and then we will be back. When we return we
11 will call our final witness for the day -- and my list
12 has gone missing.

13 Thank you.

14 Mr. Robert Faber has chosen not to testify.
15 So our final witness will be David or Ladonna Hoffmann
16 on two different properties.

17 So we will be back in ten minutes or eleven
18 minutes at --

19 MR. WILLIAMS: Board Chair, a question if
20 you don't mind?

21 BOARD CHAIR HELLAND: Go ahead.

22 MR. WILLIAMS: I'm curious to know at this
23 stage -- obviously, next week we all know what's going
24 on, it's going to be more of these particular
25 individuals that are testifying next week, I believe.

1 But beyond that, and beyond September 8, does the
2 Board have a sense of who is going next in the process
3 and when?

4 BOARD CHAIR HELLAND: The list is being
5 finalized. However, as soon as we are done with
6 intervenors, Summit will go first.

7 MR. WILLIAMS: How much lead time does the
8 Board anticipate that we'll know the exact date that
9 Summit will go?

10 BOARD CHAIR HELLAND: The Daily or Weekly
11 Digest will keep us all posted.

12 MR. WILLIAMS: So a week pretty much then?

13 BOARD CHAIR HELLAND: Check the Daily and
14 Weekly Digest, Mr. Williams. We'll get it to you as
15 quickly as we can. Thank you.

16 Okay. I guess we'll see everybody at 3:31.
17 (Recess taken at 3:21 p.m.)

18 (Hearing resumed at 3:32 p.m.)

19 BOARD CHAIR HELLAND: It's 3:32. We can go
20 back on the record.

21 All right. David or Ladonna Hoffmann.
22 Come on up.

23 MS. RYON: Your Honor, as Mrs. Hoffmann
24 approaches, I'd like to inform the Board the Hoffmanns
25 have engaged me to represent them during their

1 testimony for the limited purposes of that scope.

2 Thank you.

3 BOARD CHAIR HELLAND: Thank you.

4 MS. HOFFMANN: My name is Ladonna Hoffmann.

5 BOARD CHAIR HELLAND: You're fine. You're
6 all right. If you'd go ahead and raise your right
7 hand.

8 MS. HOFFMANN: Ladonna Hoffmann.

9 BOARD CHAIR HELLAND: Hold on. I'll walk
10 you through it. We'll make it as easy as we can.

11 MS. HOFFMANN: I'm sorry.

12 BOARD CHAIR HELLAND: You'll be fine. Are
13 you ready? Go ahead and raise your right hand.

14 LADONNA HOFFMANN,
15 called as a witness, being first duly sworn by Board
16 Chair Helland, was examined and testified as follows:

17 BOARD CHAIR HELLAND: Now go ahead and
18 provide your name and spell it. And your address as
19 well.

20 THE WITNESS: Okay. Ladonna Hoffmann.
21 L-a-D-o-n-n-a H-o-f-f-m-a-n-n. 1255 120th street,
22 Renwick, Iowa 50577.

23 BOARD CHAIR HELLAND: And we are, once
24 again, dealing with two properties. Are they
25 contiguous here on the screen?

1 THE WITNESS: Yes. Yes.

2 BOARD CHAIR HELLAND: And we call them
3 H-WR-039 and WR-125. Can we call them that or is
4 there a different name you'd like to use?

5 THE WITNESS: That's as good as anything.

6 BOARD CHAIR HELLAND: Okay. Thank you.
7 Can you go ahead and describe the current use of your
8 property and any plans you may have for a different
9 use in the future.

10 THE WITNESS: Okay. It's farmed on a --
11 all tillable on a corn/soybean crop rotation. It's
12 been in our family for over a hundred years. My
13 husband's grandfather purchased the farm in 1907 and
14 farmed it for several years. And then my husband's
15 dad took over and farmed it for over 60 years. And
16 we've farmed it for over 30 years before my husband's
17 stroke in 2008. And our two young sons and I
18 continued to farm it for eight years. And, for the
19 last six years, we've rented it.

20 And we hope to pass this property down to
21 our children and grandchildren. They're interested in
22 farming it at some point too. So we've worked hard to
23 take care of it and preserve it for future
24 generations.

25 BOARD CHAIR HELLAND: You said you're

1 currently renting it?

2 THE WITNESS: Currently. For the last six
3 years, yeah.

4 BOARD CHAIR HELLAND: To someone else
5 within your operation or the farm or just --

6 THE WITNESS: A friend.

7 BOARD CHAIR HELLAND: Another tenant?

8 THE WITNESS: Uh-huh.

9 BOARD CHAIR HELLAND: Thank you. Can you
10 provide a general description of the property and then
11 some of the important landmarks, looks like there's a
12 structure moving through it, and then also any of the
13 other structures that we've kind of talked about
14 throughout the day. Waterways, any other
15 infrastructure that's buried.

16 THE WITNESS: Okay. The legal description?
17 Do you want that?

18 BOARD CHAIR HELLAND: Whatever -- describe
19 it however you would like to. We'll just fill in the
20 details.

21 THE WITNESS: Yeah. It's -- that would be
22 that east half of the southeast quarter of Section 9,
23 Township 93 North, Range 26, West of the 5th p.m.,
24 Wright County, Iowa. No buildings on the proposed
25 area of the pipeline.

1 Our farm acreage is located west of this
2 area. I think you can see it down there in the
3 corner. Right there. Yeah. That's our acreage.
4 Yeah.

5 There is a main tile line and several
6 lateral lines located in the area of the proposed
7 pipeline. The main line there is right along where
8 you kind of see that water flowing there.

9 BOARD CHAIR HELLAND: Running east to west?

10 THE WITNESS: Right. Right. There's a
11 large main tile line there. And then there's several
12 laterals in the south of that.

13 BOARD CHAIR HELLAND: Is the main line your
14 line? Is that a county line?

15 THE WITNESS: No, it's a private line. I
16 mean -- we just had that main line repaired here in
17 the last five years. Because the neighbor to the
18 east, their water comes through there, and it blew out
19 our main tile line. So we've just had new tile put in
20 right there. That's a new tile line actually.

21 BOARD CHAIR HELLAND: And the laterals. Do
22 they extend all the way north and south?

23 THE WITNESS: Yes. Yes. Mostly south.
24 But, I mean, they're all over out there. Those
25 lateral lines.

1 BOARD CHAIR HELLAND: So, in reality, the
2 proposed route would cross multiple lines at multiple
3 occasions.

4 THE WITNESS: Multiple lines, correct.

5 BOARD CHAIR HELLAND: Do you know the depth
6 of your tile?

7 THE WITNESS: Well, my father-in-law put in
8 most of those lateral lines, but the main tile line
9 that we just repaired it's my understanding is four
10 feet deep.

11 BOARD CHAIR HELLAND: And that waterway, or
12 the structure moving through the middle, is that
13 moving water all the time?

14 THE WITNESS: Well -- no. I mean, it's --
15 you mean in the tile? Or do you mean above the
16 ground?

17 BOARD CHAIR HELLAND: Above the ground. It
18 looks like on the west side there that there might be
19 standing water, and the Boone River I see is --

20 THE WITNESS: Well, the Boone River is
21 about a half a mile -- the Boone River is right north
22 of our acreage. And, yeah, those tiles, I think, run
23 into the Boone River.

24 BOARD CHAIR HELLAND: So, needless to say,
25 that particular strip is wet frequently.

1 THE WITNESS: Yeah. I mean -- yeah. Yeah.

2 BOARD CHAIR HELLAND: And, generally
3 speaking then, does the field drain from the eastern
4 corners kind of down towards the Boone River?

5 THE WITNESS: Correct. That's my
6 understanding.

7 BOARD CHAIR HELLAND: Other than the tile
8 lines, is there other infrastructure buried in the
9 field? Gas lines? Telephone lines? Water lines?

10 THE WITNESS: No. Nothing.

11 BOARD CHAIR HELLAND: And you said there
12 are no buildings, but there are definitely buildings
13 just west of the tilled -- the acreage --

14 THE WITNESS: Yeah, that's our farm acreage
15 right there in the corner.

16 BOARD CHAIR HELLAND: And are they actually
17 separate parcels or are they the same parcel and the
18 acreage is just there?

19 THE WITNESS: The acreage is a part of that
20 40, right.

21 BOARD CHAIR HELLAND: There's a significant
22 green area on the west line. The west part of it.

23 Is that your property as well or is that --

24 THE WITNESS: Yes.

25 BOARD CHAIR HELLAND: It is. All the way

1 to the river?

2 THE WITNESS: Yes. Our acreage actually
3 sits on the half section, you know, of that -- on the
4 quarter line there. So, yeah, our acreage is included
5 in that quarter.

6 And, yeah, that -- direct to the north of
7 our acreage, within that quarter, we own that. And
8 it's timber and river land out there. Approximately
9 25 acres.

10 BOARD CHAIR HELLAND: Thank you. Does the
11 Boone River frequently flood and when it does --

12 THE WITNESS: In wet years, it does, and it
13 floods that area. That's why it's not cropped.

14 BOARD CHAIR HELLAND: Does the river ever
15 flood the actual tilled ground?

16 THE WITNESS: No. No, not -- not that I
17 can recall.

18 BOARD CHAIR HELLAND: Any other features,
19 conditions that might not be readily apparent that
20 might affect, or be affected, by the project? The
21 proposed project?

22 THE WITNESS: I'm sorry. Would you repeat
23 that question?

24 BOARD CHAIR HELLAND: Are there any
25 features on the map that we maybe can't see? Knolls

1 or special pockets of a specific soil type, wet areas.
2 We can't see everything on the map. You know your
3 property better than anyone.

4 THE WITNESS: You know, that main tile
5 line, of course -- you know, the water comes through
6 that, but that's just been repaired. So it pretty
7 well takes it -- you know, I mean, it pretty well
8 takes it to the river. Yeah, we just put thousands of
9 dollars into that to repair that pipeline -- or,
10 excuse me, that tile line.

11 BOARD CHAIR HELLAND: When that main line
12 broke, is there standing water in that area and does
13 it back up to the neighbor's as well?

14 THE WITNESS: There was at that time. It
15 really didn't -- somehow it's connected under the
16 river -- or under the road into our tile. Somehow
17 his -- his tile somehow runs into our tile. Because,
18 when that tile was repaired, the tiler said, "Hey,
19 you've got your neighbor on the east there just run
20 under the road and connected into your tile. So
21 you're taking all his water too."

22 BOARD CHAIR HELLAND: I guess that's my
23 question. Does the integrity of particularly that
24 main line also enable the usefulness of your
25 neighbor's tile? And maybe that's a jump. I don't

1 know.

2 THE WITNESS: You know, it would appear
3 that way. It would appear he's benefiting from
4 rolling into our -- you know, being connected to our
5 tile.

6 BOARD CHAIR HELLAND: But, when there was a
7 break and it needed repair, it didn't back --

8 THE WITNESS: It didn't back into him, but
9 water stood along that break. I mean, it got real
10 muddy out there and there was water standing, yes.

11 BOARD CHAIR HELLAND: Wonderful. Describe
12 any specific concerns you may have and any
13 recommendation you may have for the Board to address
14 your concerns. And, as with the previous landowners,
15 please don't feel constrained to just your property.
16 If you'd like to us hear your thoughts and concerns,
17 that's why we're here.

18 THE WITNESS: Okay. I hope that your Board
19 will consider the huge safety risks associated with
20 these pipelines. Not enough is known about the safety
21 connected with the pipeline. If there was ever a
22 leak, this pipeline would pose serious health threats
23 to us and anyone in the area.

24 I hope you'll look at the video of the leak
25 of the pipeline in Satartia, Mississippi. I mean,

1 vehicles wouldn't run. First responders wouldn't even
2 be able to get to us. You know, I just hope that
3 you'd watch that video and see that our lives are at
4 risk here.

5 These pipelines will ruin our farm ground
6 producing lower yields for years as well as disrupting
7 our tiling and drainage.

8 We depend on our farm income to survive.
9 We understand that the proposed pipeline would be
10 located approximately 48 inches underground. Which is
11 the same depth as our tile. Our tiling, which has
12 cost us several thousands of dollars to do, would be
13 permanently damaged and could never be repaired to its
14 original state.

15 We feel that this pipeline would ruin our
16 farmland values forever and possibly be obsolete in a
17 couple years. Or a few years down the road.

18 So that's our concern. Safety and just,
19 you know, the value of our farm ground.

20 BOARD CHAIR HELLAND: Thank you.

21 THE WITNESS: Loss of productivity.

22 BOARD CHAIR HELLAND: You mentioned
23 48 inches underground. Do you know generally the size
24 of the pipeline being proposed on your parcel?

25 THE WITNESS: I don't. When I tried to

1 understand the easements and read it, it looked like
2 it could be anywhere from 6 to 24 inches.

3 BOARD CHAIR HELLAND: Do you have any
4 recommended alternate routes?

5 THE WITNESS: No. We don't want the
6 pipeline. We don't want a poisonous pipeline under
7 our farm ground. We don't want the safety -- you
8 know, the safety risks associated with it. I mean, if
9 it would leak, we're going to be dead, you know.

10 It's just -- no. I -- no pipeline. I
11 mean, we feel it's our ground. That we should be able
12 to say no to a pipeline that we feel is going to risk
13 our lives and ruin our farmland.

14 I think there are better alternatives than
15 a pipeline. I mean, there is -- you know, capture the
16 carbon dioxide at the ethanol plant. Do green
17 methane.

18 You know, I just think there's other ways
19 of doing this besides a dangerous pipeline under our
20 ground.

21 BOARD CHAIR HELLAND: Can you get us the
22 distance from the pipeline to their farmstead?

23 2,297.53 feet. Is that what you were about
24 to guess?

25 THE WITNESS: I'm sorry. Two thousand --

1 there's 2,640 feet in that half a mile. To the half
2 mile where our acreage is. So -- I'm sorry. What was
3 the amount? 2,297 feet from the -- I tried to
4 understand from your -- from the easement -- you know,
5 the proposed easement, how far that is from like the
6 county -- or the gravel road there, but I wasn't able
7 to see any dimension like that on there.

8 BOARD CHAIR HELLAND: But we're talking
9 about a half mile?

10 THE WITNESS: From the proposed pipeline?

11 BOARD CHAIR HELLAND: Yeah.

12 THE WITNESS: Okay.

13 BOARD CHAIR HELLAND: Okay. I do not have
14 any other questions right now.

15 THE WITNESS: I just had one more thing.
16 Are your questions over?

17 BOARD CHAIR HELLAND: Yep. Please do.

18 THE WITNESS: We just wanted to say that we
19 feel this pipeline is for private gain, not for the
20 public good. The pipeline companies are going to make
21 huge profits for themselves at our expense.

22 It doesn't seem fair to a farm owner that a
23 pipeline should be able to come in and put in a
24 dangerous pipeline without our permission all for the
25 private gain of the company.

1 It's all about the money and not for the
2 public good, and we feel that eminent domain should
3 not be allowed because these pipelines don't provide
4 any public benefits.

5 The lifetime easement allows Summit to do
6 whatever they want with our farm ground. It seems
7 like it's trying to take away our rights as farm
8 owners to protect our land and our lives.

9 And, you know, would you want these
10 pipelines on your property. Again, like other
11 witnesses have asked. Would you want something
12 dangerous that you felt could possibly kill you if it
13 had -- and, at some point, there's going to be a leak
14 somewhere. I mean, you know, it happens. And then,
15 you know, people are going to die.

16 Is that what it's going to take to put a
17 stop to these pipelines? I mean, that's my question.
18 I hope you'll consider those things in making your
19 decision.

20 BOARD CHAIR HELLAND: Thank you.

21 THE WITNESS: Thank you.

22 BOARD CHAIR HELLAND: Do the parties have
23 questions?

24 Mr. Taylor.

25

1 CROSS-EXAMINATION

2 BY MR. TAYLOR:

3 Q. I'm Wally Taylor. I represent the Sierra
4 Club.

5 A. Okay.

6 Q. You say you raise corn and beans on this
7 property. Do you have concerns about the impact the
8 pipeline would have on your crops and the soil
9 fertility?

10 A. Definitely. Definitely. I mean, you know,
11 at this point, yeah, you know, the tenant isn't going
12 to want to pay -- you know, pay decent rent if his
13 crop is impacted. And we depend on that rent. We
14 have bills to pay. Tiling repairs to pay for.

15 Q. Why do you think the crops would be
16 impacted?

17 A. Well, I mean, it's been proven that with
18 the compaction issues and -- you know, that it affects
19 the productivity.

20 Q. With respect to that waterway that looks
21 like it goes through the center east to west on your
22 property.

23 A. Uh-huh.

24 Q. Do you have concerns about how the
25 construction of the pipeline would impact that?

1 A. Definitely. That tiling in there has been,
2 you know, just redone to the tune of the thousands of
3 dollars. You know -- I mean, yeah. And the lateral
4 lines out there. I mean -- yeah. Yeah. I certainly
5 wouldn't want that to be messed up.

6 Q. You mentioned the safety risks. Do you
7 have any idea how far a rupture of the pipeline would
8 disperse the CO2?

9 A. I've heard anywhere up to three miles. So
10 we're definitely -- we're less than a half a mile from
11 that pipeline. Because our acreage is right on the
12 half mile line there of that road.

13 Q. Where would be the nearest place where the
14 emergency personnel would come from?

15 A. Renwick.

16 Q. And how far is that?

17 A. Five miles.

18 Q. Is that a small volunteer force?

19 A. A small volunteer fire department.

20 Q. Where would the nearest emergency personnel
21 be that might be more trained to respond to something?

22 A. Maybe Clarion. I mean, it would have the
23 bigger hospital if you had -- Clarion. Which is about
24 25 miles away.

25 Q. How far is that? Twenty-five miles?

1 A. Uh-huh. Humboldt possibly. Thirty miles.

2 Q. What sort of discussions or contacts have
3 you had with Summit representatives about them putting
4 the pipeline on your property and perhaps signing an
5 easement?

6 A. Basically none. We just -- we aren't
7 interested in the easements. I mean, it's our
8 property. We don't want a poisonous pipeline on it.
9 So the mailings we've received. But that's pretty
10 much it. We did get some calls, but haven't --
11 haven't talked to them. We indicated we're not
12 interested.

13 Q. So you haven't had any real discussions
14 with Summit.

15 A. No. No.

16 Q. How do you feel about the eminent domain?

17 A. I think it definitely should not be
18 granted. It's not for the public good. These
19 pipelines don't do any good for the public. They just
20 ruin our farm ground and pose a huge safety threat to
21 us.

22 Q. Do you foresee any economic damage to you
23 if the pipeline is installed?

24 A. Definitely.

25 Q. In what way?

1 A. Monetarily. Safety. For our safety. I
2 mean, it's a dangerous pipeline.

3 MR. TAYLOR: Thank you. That's all the
4 questions I have.

5 BOARD CHAIR HELLAND: Thank you.

6 Mr. Williams. Go ahead.

7 CROSS-EXAMINATION

8 BY MR. WILLIAMS:

9 Q. Good afternoon. My name is Christian
10 Williams. I represent some of the landowners that are
11 interested parties in this action.

12 I want to read to you, because this issue
13 came up with the last witness, an excerpt from an
14 attachment to an Exhibit H that's been filed in this
15 case. This discusses easement rights.

16 And I'm just going to read it out loud to
17 you, ma'am. I'm not going to put it up for you.

18 "So the easement rights being sought are."
19 That's the first line of the paragraph. And then
20 paragraph i, which is represented as a Roman numeral,
21 lowercase i, is "An unencumbered and unobstructed
22 permanent non-exclusive easement 50 feet in width
23 over," and then I'm going to skip ahead here,
24 "relocating and changing the route, or routes of,
25 abandoning in place and removing at will, in whole or

1 in part, all to the extent permitted by Iowa Code
2 Chapter 479B and Iowa Utility Board rules thereunder
3 one pipeline not to exceed 24 inches in nominal
4 diameter."

5 Did you catch all that?

6 A. Uh-huh.

7 Q. So, backing up to the phrase that says
8 "relocating or changing the route, or routes, of," do
9 you take that to --

10 MR. DUBLINSKE: Objection.

11 BOARD CHAIR HELLAND: State your objection.

12 MR. DUBLINSKE: You already ruled on this,
13 Your Honor. This is, again, a misstatement of law
14 worked into the question for disinformation.

15 That relocation is within the easement that
16 is defined in the rest of the Exhibit H. And it's
17 just how this operates. The amendment rule, which
18 used to have a certain amount of wiggle room
19 regardless of the easement which now says that we can
20 change the alignment or make route changes within the
21 permit easement -- that's all this is.

22 This continued suggestion that we can just
23 pick up the easement regardless of what the diagram
24 and the metes and bounds say and put it anywhere on
25 the property is just simply meant to be inflammatory

1 and shouldn't be allowed as part of the question.

2 And, if there's any question about that,
3 then that only shows that it's a legal conclusion
4 that's not appropriate to bring in through a fact
5 witness.

6 BOARD CHAIR HELLAND: Mr. Williams.

7 MR. WILLIAMS: I'm simply asking her to
8 state her understanding of a direct quote from an
9 Exhibit H and the easement rights that are being
10 sought.

11 The provision that I read has no limitation
12 in terms of the route and changing the route thereof
13 of a 24-inch diameter pipe.

14 So -- I mean, I just quoted -- excuse me.
15 I quoted the language directly. So I don't see where
16 my question gets out of bounds there.

17 BOARD CHAIR HELLAND: Okay. Thank you.

18 The objection is sustained. Make your
19 point a different way or move to a different question,
20 please.

21 BY MR. WILLIAMS:

22 Q. Have you been presented an easement
23 agreement before you had to come here today?

24 A. One came in the mail.

25 Q. Did you review it?

1 A. I did.

2 Q. And one of the things that was contained
3 within that easement agreement was a provision that
4 basically said that the pipeline could be relocated.

5 Do you recall seeing language similar to my
6 paraphrase there?

7 A. Yeah. Yeah. I mean, it just -- it seemed
8 like it didn't give the farm owner any protection.
9 You know, it looks like -- I mean, it was Summit. All
10 one-sided there. That they could basically put it
11 wherever they want. You know, move it wherever they
12 wanted. I mean, yeah, I gather that. I mean, it just
13 was grossly, you know, against the farm owner. Not
14 giving them really any rights.

15 Q. And the Exhibit H quotation that I gave to
16 you before the objection was made, did that strike you
17 as vague?

18 A. I'm sorry?

19 Q. Did the quotation that I gave you, that I
20 read out loud to you before the objection was made,
21 did that statement strike you as vague?

22 A. As vague?

23 Q. Yes.

24 A. Very. Very vague.

25 Q. Did it essentially reinforce your concerns

1 about where the pipeline will truly be set?

2 A. Very much so. You said it in a nutshell.

3 Q. All right. Thank you.

4 A. Thank you.

5 Q. You know, a lot of the things that have
6 been said, including during your testimony, your
7 concerns about compaction and things of that nature,
8 risk of ruptures and leaks that I'm sure you've heard
9 as you've been paying attention to this case,
10 obviously compacting affecting production, your
11 microbial balance within your soil, et cetera.

12 As we sit here, is there really a remedy
13 that can be gained that provides you a benefit in this
14 proceeding through an easement agreement --

15 A. No.

16 Q. -- that would satisfy you?

17 A. No.

18 Q. And, in fact, as you sit here today, do you
19 feel that the easement, as proposed, places a lot of
20 risk on you and little risk on the pipeline company?

21 A. Definitely.

22 Q. And, for those reasons, do you view it as a
23 public necessity or convenience?

24 A. No. It's not -- I can't see any public
25 benefit to it. No, it just -- nothing. Except for

1 the benefit of Summit.

2 Q. Do you know who Summit is? Who owns it?
3 What assets they have?

4 A. No.

5 Q. Are you concerned as well, as per the
6 easement agreement that you've seen, that once -- that
7 if there comes a point in time where this pipeline
8 starts to go into place on your property, that you're
9 really not going to have any say over how they go
10 about their business on your property?

11 A. Definitely.

12 MR. WILLIAMS: Thank you. No further
13 questions.

14 BOARD CHAIR HELLAND: Thank you,
15 Mr. Williams.

16 Ms. Ryon. You don't have to put it up now.
17 I just assumed you were waiting till last.

18 MS. RYON: I was. I wanted to make sure
19 everyone else had an opportunity.

20 BOARD CHAIR HELLAND: I think you're up.

21 MS. RYON: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. RYON:

24 Q. I just have a few additional questions to
25 ask you.

1 Do you remember when you first received
2 notice from the Utilities Board about this proceeding?

3 A. About the eminent domain proceeding?

4 Q. Yes.

5 A. I believe it was like June, I think, was
6 the date of the letters. Or was it July that we got
7 the card? Are you talking about the card that came?

8 Q. That tri-fold document that everyone has
9 been talking about.

10 A. Oh. Yeah, that was in July. That was --

11 Q. Is that -- I apologize. I didn't mean to
12 talk over you.

13 A. I'm sorry. Yeah, mid to latter July is
14 when that came. I think it's dated in July sometime.
15 And then I mailed it back within a week or so after
16 that.

17 Q. Did that mailing contain enough information
18 for you to feel like you understood what would be
19 happening at this proceeding?

20 A. No. No. But I wanted to be heard. So I
21 filled in that I would come or I would do it remotely
22 or I would do it -- I think I checked three or four of
23 the boxes just so that, you know, I would have a
24 chance to at least, you know, try to protect our
25 rights, our ground, our lives.

1 BOARD CHAIR HELLAND: Sorry. Ms. Hoffmann,
2 can you speak into the mic and speak a little louder?
3 I think we caught that.

4 Did we catch that?

5 We caught that, but --

6 THE WITNESS: I'm sorry. Yeah, I sent the
7 postcard back.

8 BOARD CHAIR HELLAND: You're fine.

9 BY MS. RYON:

10 Q. Did you ever get anything from the
11 Utilities Board asking your opinion as to what time of
12 year, for example what months, would be the most
13 convenient to hold the hearing?

14 A. No.

15 Q. Would it make a difference to you if the
16 hearing were held in November or December as opposed
17 to now?

18 A. I don't know. Probably not to me, you
19 know.

20 Q. When you make arrangements to attend a
21 hearing like this, what kinds of factors do you have
22 to take into account? Whether it be time off work or
23 those types of issues.

24 A. Yeah, I work part-time. So I have to make
25 arrangements for my -- you know, for my work. And,

1 you know, I have to make arrangements for my husband.
2 He had his stroke. Hasn't been able to talk for 15
3 years since the stroke. So I have to -- although he's
4 very adamant -- his mind is great. And he's very
5 adamantly opposed to this pipeline.

6 Anyway, I just have to see that he has what
7 he needs during the day. His medication, his food,
8 things like that.

9 So, yeah, I mean, you have to work around
10 all those things when you schedule something. I do
11 anyway.

12 Q. Earlier there were some -- you heard some
13 arguments between a couple of the other lawyers
14 relating to the easement contracts.

15 Do you feel like after your testimony today
16 you understand anything any better than you did
17 before?

18 A. Not really. No. It's all very vague in
19 that easement and it's hard to understand. Yeah.

20 Q. Do you think it would have been helpful to
21 have Summit's witnesses to go first in order for you
22 to understand some of the issues with the pipeline?

23 A. I think so.

24 MS. RYON: That's all the questions I have
25 Your Honor. I'd like to lodge some objections into

1 the record.

2 BOARD CHAIR HELLAND: Go ahead.

3 MS. RYON: Thank you, Your Honor. I'd like
4 to make several objections on behalf of the Hoffmanns.

5 First, I'd like to object that the
6 scheduling of the hearing and moving the landowner
7 testimony to the week beginning August 22nd in the
8 Board's June 16th scheduling order provided inadequate
9 notice and violated the due process rights of the
10 Hoffmanns.

11 I'd also like to object that their due
12 process rights were violated by the Board's changing
13 of the schedule and having them testify before Summit
14 testified given that Summit has the burden of proof
15 and has the information necessary for the Hoffmanns to
16 understand and have a meaningful opportunity to
17 express themselves with respect to the facts.

18 I'd also like to note that the Board's
19 change of the hearing schedule that was previously --
20 the standard practice that has previously been used of
21 having the petitioner testify first is inconsistent
22 with Iowa Code Section 17A.10 because it prejudices
23 the substantial rights of the landowners.

24 In this case, those substantial rights are
25 the landowners' property rights under both the Iowa

1 and the U.S. Constitution as well as their due process
2 rights.

3 The schedule change is specifically
4 inconsistent with respect to Subsection 17A.10(k).
5 Because the schedule change is not required by law and
6 its negative impact on landowners' constitutional
7 property and due process rights is so grossly
8 disproportionate to the benefits accruing to any
9 potential public interest from the scheduled change
10 that it necessarily lacks any foundation in rational
11 agency policy.

12 That's all my objections. Thank you.

13 BOARD CHAIR HELLAND: Thank you.

14 Are there any questions from the Board?

15 (No response.)

16 BOARD CHAIR HELLAND: No.

17 Okay. A few housekeeping items before we
18 adjourn.

19 Thank you. You are excused. Appreciate
20 you coming up.

21 That is our final witness for the day.
22 Circling back to Mr. Williams' question on order of
23 parties. We've got some clarification, and I do
24 believe we intend to release that tomorrow on the
25 iub.iowa.gov/summit page. And so it is our goal and

1 it is our intent to release that tomorrow.

2 MR. WILLIAMS: For -- I'm sorry. For what
3 time period are you referencing?

4 BOARD CHAIR HELLAND: For the parties. For
5 the remainder of the parties. The order of the
6 parties following conclusion of the landowners.

7 MR. WILLIAMS: Oh. Do you expect that to
8 have an exact date regarding the order of parties?

9 BOARD CHAIR HELLAND: I expect it to be
10 released tomorrow. And we will get to everyone in a
11 timely and orderly fashion assuming we all work
12 together.

13 Okay. On that note, there was a very
14 noticeable change this afternoon. I appreciate
15 everyone working with one another and being respectful
16 to the landowners and making sure they get a chance to
17 be heard and be here.

18 Yes? Mr. Taylor.

19 MR. TAYLOR: Thank you. I can't be here
20 next week. My wife is having surgery. I wondered if
21 there's a possibility that I could participate
22 virtually?

23 BOARD CHAIR HELLAND: First of all, I hope
24 the surgery goes well.

25 MR. TAYLOR: Thank you.

1 BOARD CHAIR HELLAND: We hadn't anticipated
2 legal counsel needing to participate remotely. We had
3 anticipated it for landowners. So -- it's not a no.
4 We'd like to figure out how we can do it in the
5 particular exigent case and circle back up with you if
6 that's all right.

7 MR. TAYLOR: Sure. Thank you.

8 BOARD CHAIR HELLAND: Good luck to your
9 wife.

10 Again, thank you all --

11 MS. RYON: Thank you, Your Honor. I just
12 have I think what is actually just a question for the
13 Board. And it relates to the fact that this morning
14 my client, former congressman Steve King, was in
15 attendance in the public seating area of this hearing,
16 since he is not a party, and he was using his
17 electronic tablet device while he was here.

18 And he did have all of the sounds turned
19 off, but was asked by someone, I don't know whether it
20 was venue staff or security, to cease using that.

21 And I think there has been some confusion
22 among the people in the public seating area about
23 exactly how the rules of conduct are being applied
24 with people feeling like they're trying to comply with
25 the posted rules and not feeling like there's

1 consistency.

2 So I guess I would just request that when
3 we reconvene next week if the Board could clarify for
4 those members in the public area what the rules will
5 be that will be enforced.

6 BOARD CHAIR HELLAND: The Board will look
7 into it and we can clarify on Monday -- on Tuesday.

8 So, with that -- unless anyone else has
9 anything?

10 (No response.)

11 BOARD CHAIR HELLAND: So, with that, we
12 will recess until 8:00 on Tuesday morning. We did
13 already communicate with the first witness. The first
14 witness is available and would like to testify at
15 8:00. And so we will appease the landowner and be
16 here at 8 a.m.

17 Thank you.

18 (Hearing recessed at 4:10 p.m.,
19 August 24, 2023.)

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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 I acted as the official court reporter at the
5 proceedings in the above-entitled matter at the time
6 and place indicated; that I took in shorthand all of
7 the proceedings had at the said time and place and
8 that said shorthand notes were reduced to typewriting
9 under my direction and supervision, and that the
10 foregoing typewritten pages are a full and complete
11 transcript of the shorthand notes so taken.

12 Dated this 9th day of September, 2023.

13

14

15

Melissa A. Burns

16

CERTIFIED SHORTHAND REPORTER
Melissa A. Burns, Iowa CSR #527

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IN RE: SUMMIT CARBON SOLUTIONS
IUB HEARING 08/24/2023

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