

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board February 3, 2021
Rough Draft

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HUGHES: [RECORDER MALFUNCTION] Board Committee. I am Senator Dan Hughes. I am from the Venango, Nebraska, and I represent the 44th Legislative District and I serve as Chair of this committee. The committee will take up the bill that is posted. Our hearing today is your public part of the legislative process that is your opportunity to express your position on proposed legislation before us today. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in process. The bill will be taken up as posted outside. The list will be updated after each hearing. Please utilize-- utilize the identified entrance and exit doors to the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by the Sergeant-at-Arms, who will allow people to enter the hearing room based upon seating availability, persons waiting, and persons waiting to enter a hearing room. Persons waiting to enter a-- enter a hearing room are asked to observe social distancing and wear a face covering while attend-- waiting in the hallway. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Move to the front row when you are ready to testify. The order of testimony is introducer, followed by proponents, opponents, neutral, then closing by the introducing senator. If you are testifying, please fill out a green form found in the back of the room. Hand your green sign-in sheet to a page or the committee clerk when you come up to testify. Spell your first and last name for the record as you begin to testify. Speak clearly into the microphones and be concise. We ask that you keep your testimony to three minutes. We are a over-the-noon-hour committee, so that does limit the amount of testimony that we can take. When you see the yellow light come on, that means you have one minute remaining, and the red light indicates that your time has ended. Questions from the committee may follow. We ask that you eliminate-- you limit or eliminate handouts. If you have handouts, the material will be distributed to the committee members as exhibits only while testimony is being offered. Please make sure you

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have 13 copies. Give them to the page that come up to testify. They will be distributed to the committee staff. The committee members with us today will introduce themselves starting on my immediate left.

VARGAS: Tony Vargas, District 7, downtown and south Omaha, and I serve as Vice Chair.

SLAMA: Julie Slama, District 1, Otoe, Nemaha, Johnson, Pawnee, and Richardson Counties.

McCOLLISTER: John McCollister, District 20, central Omaha.

HUGHES: And on my right?

LOWE: John Lowe, District 37, Kearney, Gibbon, and Shelton.

LATHROP: Steve Lathrop, District 12, which is Ralston and parts of southwest Omaha.

GEIST: Suzanne Geist, District 25, the east side of Lincoln and Lancaster County.

HUGHES: To my right is committee legal counsel Janice Satra, and on the far-left end of the table is our committee clerk, Mandy Mizerski. With that, we will open our hearing today on LB409, Senator Brewer. Welcome, Senator.

BREWER: Thank you, Chairman Hughes, and good afternoon, fellow senators of the Exec Committee. I am Senator Tom Brewer. That's T-o-m B-r-e-w-e-r. I represent the 13 counties of the 43rd Legislative District. I'm here to introduce LB409. This is a bill about a public power organization. NPPD has a very special status in our state law where they are defined as a subdivision of state government. I want everyone to understand that I made the decision to make this my priority bill for a variety of reasons, the primary one being that after two tours of my district on a mule, it didn't matter where I went in the district, I had two issues that burned in folks that they shared with me constantly. One was property taxes, and I think we all probably get that speech, and the other one was the issue of the R-Line. We tried last year to do what we could to fix property tax. LB1107 was a start. But unfortunately, on the other issue, I have not been able to help as much as I would like. The issue of the R-Line has

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been ongoing long before I was elected to this office. The beginnings of it go back to 2011, 2012, and it has been in progress since then, in different states of progress. Today you'll get a chance to hear from a variety of folks, but understand that the folks that are coming up to speak today in support of this bill, they are not being paid to do it. They don't work for anyone. They made the decision to drive hundreds of miles, leave their ranches to come here to share from the heart why this bill is important to them. The district is massive, and it's a long way from Lincoln, so I ask those that couldn't, and to respect Senator Hughes's request not to overwhelm this committee over lunch hour, that's what's being handed out to you. These aren't the ones for written testimony because they couldn't be here this morning to turn it in. What this is, is letters from people of the district. Now maybe I wasted a tree doing that, but if you want to hear from them, that's the only conduit I can do to give you their voice. The top document you see here is two routes, a lower route and an upper route, northern route, southern route, however you want to define it, because over the time-- over time, there had been four routes. The-- the map here, you're just seeing two. And why two? Well, the one in yellow indicates the current route that it's projected to take. There is a southern route that follows roads. The key thing about that is you don't have to take bulldozers and cut roads and take a swath through the Sandhills. You're going to be able to follow existing roads for the most part. Now the issue here today, and I want to stress that, is not whether or not we build the R-Line. I think there probably is a need to have a replication and ability. All I'm saying is we've had two-- we have multiple choices, but we can narrow it to two, a southern route and a northern route. One will dis-- disrupt and disturb the Sandhills like nothing we've done in the Sandhills. And the people that come up here come off the land and-- and it's-- it's in their heart to try and figure out how to stop this before it happens. I'm going to share with you kind of how I got to this point, because when I first came into the job, we looked at options. And NPPD-- NPPD has never wavered from looking at any other option with me. It has always been the route they had, come hell or high water. So through this process, we started to find out what are the issues, because, again, I didn't come in when this started. I was-- I was-- the movie was half to three quarters over when I got there. And so I'm trying to figure out why, because if you're going to go with that route, there should be logic to it. If what you're doing is the most

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disruptive possible to this virgin land that we call the Sandhills and you have other options, then why? Why would you do this? That-- that has never been truly answered. And maybe-- maybe today you'll get a chance to ask and get a good answer on that. You may get the same old story. Well, it's-- it's-- it's going to be the best route for-- for us. But again, this is a-- an agency that is part of our state government. Now they live in a much different world than we know. I mean, I would love for the members of the Legislature to receive the kind of pay that those in NPPD get. I'd love to see us have an airplane. I wish we had a King Air airplane. Let's take a look. From 2006 to 2016, \$9.37 million in operating costs. That ain't the cost of that airplane. They live in a very different world. This is a David and Goliath fight. So as I pursued this, I went to the biologists because they're the ones that should really be the ones that understand the impact. A couple of biologists by the name of Bob [PHONETIC] and Elijah [PHONETIC] that worked out of Wood River, they were the specialists, specialists in a number of areas, but especially with the whooping crane. And so we sat down and talked to them and they explained how the data that was used originally was data from the 1940s and that that wasn't accurate. There was new data where they used GPS tracking and gave them the true route and the possible impact. Now the environmental impact study or supplemental impact study that NPPD used, and did such a poor job that a federal judge decided to stop the project for that and for the historical piece that was disregarded, that is what they used as a criteria to decide whether or not to build this line. That's what they used as a-- a-- a go and com-- completely disregard the whooping crane. Why would you do that? You do that because there's a potential for take. What is take? Take means that there is a pretty good chance you're going to kill some of them. Now what's the downside of killing whooping cranes? Well, they're an endangered species. There isn't very many of them. And if you kill them, there's an incredible fine that comes with that. Now, if you want to play stupid to get permission to build the line and just ask for the burying beetle as the sole endangered issue, you can do that, and they came this close to getting away with it had it not been for a lawsuit from the very people of western Nebraska. Now they're ready to go with more lawsuits and I fully support it. I did an amicus brief for the very lawsuit they set. And if we-- if we just for a moment pause and think about this, OK, we have-- let's-- let's-- let's first off make sure you understand what the R-Line is, or the R

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project power line. It's a 225-mile long, 345 KV high-voltage power line project planned by NPPD. It runs north out a Sutherland to Thedford and then straight across to Holt County, generally, if it goes on the route proposed. It is needed for load balancing, not-- I don't have a problem with being able to balance the load or to provide redundancy. What I'm saying is we have seen them pick the most dangerous, destructive route that they could pick for their convenience. As we looked at the options, I sat down with a biologist and said, OK, what-- what was discussed originally back in the day? And-- and you had all the organizations, the Audubon Society, the Sierra Club, all these folks, to include Nebraska Game and Parks and U.S. Fish and Wildlife, recommended the southern route and NPPD went with a different route. So I said, well, let's-- let's figure out how we can work this issue. So we went to Denver. I took Tony Baker with me. We drove out there. We met with the mountain division director. And it was obvious that at this point they just wanted to get it over with. And I will tell you that I think NPPD has paid lobbyists both in Denver and in Washington, D.C. They're very effective. And we went on to Washington, D.C., and met with the undersecretary for Interior. And that discussion was delayed and by the time we had it, they had permission to move forward. So it was a result of that decision to let them move forward that resulted in the lawsuit. And then it wasn't long the judge made the decision to cease and desist with the construction of the R-Line. And again, that was because of both historical and the environmental impact. It did not include whooping crane. And I will tell you that I think that we are being neglectful if we don't include that in part of what we look at. And just because it speeds things up isn't a reason for us to ignore the need to have that as part of it. What we're asking you to make a decision on today is to create a task force essentially. It would be very similar to the-- the LR127 task force that-- that Senator Pansing Brooks and I was on that looked at the prisons. It would let us put things on hold, look at the facts. If what they're saying is correct, then all we're doing is taking a deep breath, putting the facts together, but doing it in-- in a way that's impartial. This task force would consist of three people from Natural Resources and three people from Government and one from your Exec. That panel then could take a look at the facts that have been questionable on both sides, maybe, but I think what we have to do is come to the realization that in the case of the XL pipeline, we had a special session of this Legislature to look at what

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they were doing. That's the scrutiny we put that under. We moved it out of the Sandhills because of the impact. We're purposely taking this through the Sandhills. I do have some hope that I didn't have a while ago, hope maybe that this committee will give this a breather. I do believe that the-- the new Secretary of interior Deb Haaland, who is going to be coming to Nebraska in the fall to help unveil a statue on Centennial Mall, I-- I have a relationship that I'm going to nurture there. And guess what? U.S. Fish and Wildlife-- Wildlife fall under them. And I-- one way or the other, I'm going to get an honest look at this. But we should do it internally. It should be Nebraskans that hold this up and say this is wrong. Let us at least look at it. Don't arbitrarily let enough lawyers figure out a way around what the judge has made a decision on. There will be more lawsuits and this thing will get drug out. But we're a \$100 million-plus in the hole on this project and we haven't built any power lines. That's your money. That's-- that's-- that's the ratepayers of Nebraska that are paying them. And one of the questions you better ask today is, where's the breakpoint? Is it \$200 million, \$300 million? At what point do we stop and say, listen, enough is enough, you're bleeding us over a project that you've run out of your personal passion because you won't admit that it was a bad decision? There's a southern route we can take. We can-- we can start this line and we can build it and we can avoid the destruction of the Sandhills. But today we've got an opportunity to, for one, listen to the people that live there, the people that were there in 2011, '12, '13, '14, '15, have seen the process that went through where they've been illegally trespassed upon and lied to. This is our organization. This is part of Nebraska government that's doing this. And I-- I will tell you that I have not been treated honestly in our conversations, so I understand exactly where they're coming from. And-- and I-- I feel bad they have to come this far to speak. I feel bad that I can't fill this room with-- with landowners, but we can't do that here today because we've got limited time. I will-- I will be more than happy to answer any questions now, or if you want to wait until others have spoken and we'll just do it during closing. With that, Senator Hughes, thank you.

HUGHES: Thank you, Senator Brewer. Are there questions from the committee? Seeing none, we'll see you at closing.

BREWER: Thank you, sir.

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HUGHES: So we will open it up for proponents of LB409. Welcome.

BRENT STEFFEN: Thank you. I'm Dr. Brent Steffen from Kearney, Nebraska, and Thedford, Nebraska. I'm here today as a member of the second house of the Nebraska Legislature.

HUGHES: Would you spell your name, please, Dr. Steffen.

BRENT STEFFEN: Steffen, S-t-e-f-f-e-n.

HUGHES: Thank you.

BRENT STEFFEN: I'm here today as a member of the second house of the Nebraska Legislature in support of LB409, Senator Tom Brewer's priority bill for this legislative session. Nebraska is uniquely positioned as the only state in the union that is wholly engaged with public power. This unique position served Nebraska well when it was a large and largely rural state struggling to achieve rural electrification. Those days are long passed. In the interim since those bygone days, we have seen the Nebraska Public Power District become an energy-producing behemoth that operates with only minimal regulatory oversight by the Power Review-- Review Board and virtually no oversight by the Legislature. Their nonlegislated alliance with the Southwest Power Pool in 2009 has resulted in decision making not focused on what is in Nebraska's best interest but, rather, on what is in the best interest of a 14-state consortium of both public and for-profit utilities. An example of this is the NPPD R-Project. Review of the Southwest Power Pool's 2012 planning documents clearly delineates that this project was conceived as a wind energy project-- project without consideration for our state's most unique, fragile, and environmentally sensitive natural resource, the Nebraska Sandhills. NPPD pursues their narrowly focused agenda-- agenda in unrelenting fashion without regard for the public, using tactics that are misleading and disingenuous, as evidenced by the dozens of public meetings held prior to and after siting of the R-Project in the Sandhills. I'm quite certain that NPPD has never met this level of public opposition with any prior projects, but this certainly has not altered their agenda or focus or, for that matter, that of the Southwest Power Pool, the 14-state consortium pulling the strings. It is my opinion that LB409 appropriately provides an initial opportunity to obtain much-needed legislative oversight of the Nebraska Public

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Power District to ensure that it is providing for, first and foremost, the needs of Nebraska and Nebraskans without undue influence of outside interests that do not focus on Nebraska. I strongly encourage you to move this much-needed bill forward. Thank you.

HUGHES: Thank you. Dr. Steffen. Are there questions from the committee? Senator Lowe.

LOWE: Thank you, Chairman Hughes. Brent, good to see you here today. At-- on your ranch up at Thedford, what happens when vehicles drive over the-- the grass up there?

BRENT STEFFEN: If they drive over it any significant amount, we quickly have bare-- bare dirt, bare sand and-- and ultimately blowouts if we-- if those aren't allowed to heal and protected.

LOWE: And-- and how long does it take to heal some of that ground?

BRENT STEFFEN: You know, if you get an established blowout, when-- when I-- I've owned property in the Sandhills and operated a cow/calf ranch for 30 years, and when I bought that property, we did have a five-- a blowout that was about five acres. And we've protected it religiously for 30 years and-- and you can still see where that blowout was. It's covered, but it's thinly covered. So it takes generations and generations to heal disturbed property in the Sandhills.

LOWE: Thank you.

HUGHES: Any other questions? Seeing none, thank you for your testimony.

BRENT STEFFEN: Thank you.

HUGHES: Next proponent. Welcome.

MERRIAL RHOADES: Good morning, Executive Committee. My name is Merrial Rhoades; that is spelled M-e-r-r-i-a-l R-h-o-a-d-e-s. I live at East Calf Creek Road, Thedford, Nebraska. I am here to testify and support LB409 for a moratorium to do studies on all electrical transmission lines. How many of you have actually been to a site of a transmission line being constructed or proposed? I actually-- the near-- live near

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the R-Project and it is very disturbing and heartbreaking. These high-voltage power-- power lines are going to ruin the Sandhills. We, the ranchers, care for our fragile land. It will take years and the land may never recover from a project like this. The past five years, Nebraska Public Power District and contractors have bullied and keep coming on the private ranch land, making new trail roads, putting stakes in the ground. Some areas are covered with a pallet looking cover for a storage site and helicopter pads, all for an unnecessary high-voltage power line, the R-Project, for 225 miles. Some ranchers have signed easements to allow NPPD on their ground after being bullied by NPPD. NPPD will say, your neighbors have signed, so if you don't, we will take your action-- take action and come across you anyway, we will pay you good money if you sign the easement. My neighbor has a heart condition and he told NPPD he wouldn't be able to work under the power lines by instructions from his doctor. NPPD, Mr. "K" replied, we all die sometime, sorry, you'll have to move. The state of Nebraska has enough electricity to supply our state with these high-voltage transmission lines. We have-- ranchers have done research and done studies on the transmission lines for years. We have found these lines are killing our wildlife, such as the deer, the birds, the whooping cranes, the Sandhill cranes, the eagles, the American burying beetles. These lines are a danger to the horses, the cattle. Studies show cattle will have reproductive problems from being around these high-voltage lines. If we, the ranchers, don't produce the beef, where are you going to purchase your steaks and hamburgers? Also, remember, we have the purest water. We don't want to taint the aquifer. Please let this moratorium get more studies done to see how harmful a transmission line is. This is all about big-money entities and how they want to take over us little people. Please keep America beautiful with the good life by voting for this bill.

HUGHES: Thank you, Ms. Rhoades. Are there questions from the committee? Seeing none, thank you for your testimony. Next proponent. Welcome.

MELANIE COFFMAN: Thank you. My name is Melanie Coffman, M-e-l-a-n-i-e C-o-f-f-m-a-n. I'm from Halsey, Nebraska. I'm testing-- testifying today in favor of LB409. Place a mor-- a moratorium on a large-scale high voltage transmission line to allow studies is simply a good thing to do. Taking time to educate and study before acting is always a good idea. And don't we as Nebraskans deserve that? At this time, I as a

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Nebraska electric consumer of Custer Public Power, who gets power through NPPD, I'm definitely questioning the need of this 225-mile R-Project that's located in the heart of one of the most untouched areas in Nebraska. This will- how will this affect my electric bill, as many others? Along with all Nebraskans, hey, I want the lights to go on when I hit the switch. We all deserve that. But is there one place in Nebraska that you can honestly tell me that when you hit the switch, the lights don't come on? What we don't deserve is a continuing smoke-and-mirror tactics. I guess that's what you guys like to call it. I like to call it downright lies that we have put up with from Tom Kent and NPPD. They've been shoving these lies down our poor, ignorant, uneducated and simple cowboys' throats for about the past five years or more. Well, thank God for Senator Brewer, who will listen to us and stay awake when we talk to him and take time and care because he knows how we as ranchers care for our ground. My light's on. Does that mean I'm done or I got a little bit more?

HUGHES: You-- you have one more light, one more--

MELANIE COFFMAN: OK. Wouldn't it be better for Nebraskans to have local control over our public versus an entity out of Arkansas? Now let's get this-- you guys have to do your part, too, because we've gone around everywhere we can locally. We get the-- shoved the same-- the same reply: Our hands are tied, we can't do anything. Where else can we go? We vote you all in here. Now, by George, you guys do your job and help us out a little bit here. You represent us. So let's get this passed. Let's get this on the committee floor. And guess what? I'll be up in the balcony. I'll be cheering all you guys on. Every time I've come in and-- and testified, I write down my phone number, my address. I'm sorry to say I haven't heard from one of you. If you'd like to give me-- if you want me to give you my phone number, hey, I'll be glad to give you. And we urged you. We asked you a long time ago if you would come out to our area and visit. Hey, I got food stocked in the refrigerator and I got extra beds. If you want to come out, I'd be glad to show you all around.

HUGHES: Ms. Coffman, your light is on.

MELANIE COFFMAN: Thank you.

HUGHES: Thank you. Are there questions from the committee?

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MELANIE COFFMAN: Please, are there any questions?

HUGHES: Seeing none, thank you. Senator Lowe.

LOWE: Thank you. Chairman Hughes. Ms. Coffman--

MELANIE COFFMAN: Yes.

LOWE: --you traveled here today?

MELANIE COFFMAN: Yes, I did.

LOWE: How far is it?

MELANIE COFFMAN: Takes me a good four hours to get here.

LOWE: Thank you for coming down and testifying.

MELANIE COFFMAN: Thank you. I appreciate. Three minutes is a long time for four hours, but I think it's definitely worth it. And I really hope you take time to listen to what we're saying. Thank you.

HUGHES: Thank you. Any additional questions?

MELANIE COFFMAN: Oh, I'm sorry.

HUGHES: That's fine. Seeing none, next proponent. Welcome.

AMY BALLAGH: Thank you. Senator Hughes and members of the Executive Committee, I am Amy Ballagh, A-m-y B-a-l-l-a-g-h, and I'm coming to you today to show my support for LB409 and ask for your support as well. I come from a ranch north of Burwell, Nebraska. My family-- husband's family homesteaded there in 1885. So my grandkids are the sixth generation and we love the Sandhills. I feel like NPPD can put communication out to the public that can influence the perception that the public sees of this project without the truth really being known, except by those who live there. At every twist and turn of the ongoing R-Project process, our family has found NPPD to be less than honest with the public. And I'll just share a quick example. In 2015, then-CEO Pat Pope had an interview with Custer Public Power on Broken Bow radio, and he said, I'll quote: This line is being built for Nebraskans by Nebraskans. It will benefit Nebraskans. This is about as

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"Go Big Red Nebraskan" as you can really get. Well, this statement-- end quote. This statement is extremely frustrating to those Nebraskans from the Sandhills who love this region and we've had generations of their families taking care of the land and supporting the agricultural economy from the use of it. We know that Nebraska's history, our wildlife, the unfragmented landscape, and the ranching operations are going to be sacrificed for-- for other entities that are really going to be benefiting. This line is not really just built for Nebraskans. It's built for the Southwest Power Pool so we can handle more energy. And it might be necessary, but it's not being built by Nebraskans either. It's-- we are using a Canadian instruction-- construction company, an Idaho-- Idaho engineering company. There was an Oklahoma firm that helped procure the easements. And it's not really going to benefit Nebraskans if it destroys the one thing that Nebraska has, no one else has, and that's the Nebraska Sandhills. When I first came-- I'm going to go away from my talk because when I first came to the very first open house that NPPD had, we were-- we were taken into a room to watch a video and it showed a crop field with poles going up, how that would be constructed, how they'd make little culverts so that we could approach from the existing roadway into the easement. They talked about a little tractor came along and moved trees that were out of the way. And right away I thought, whoa, there's a disconnect; that probably works in farm ground, but we're talking about the Sandhills and that does not where-- where we are. Our half-mile of trees that's a windbreak will have to be destroyed so that it can go through. There's never been a chance to do the cultural surveys because the water, when the-- when the people that came to do it went out there, the water got above their knees and they said, we quit. The water still stands where these are going to be. There's no poles. They're going to be giant towers that go through these hills. And, well, for us, it's mostly wet meadows. We have two miles of it on our property. It comes right through the middle of-- of ranches. And so it-- it's-- it's something that we tried to get help to look at. And we went to the Power Review Board and said, before you make that approval, would you consider, you know, give us a break so we can show some-- some information? And they said, we still approve the project-- project, we see your concerns, but we don't do routes. So we said, OK, they told us to go to the board of directors of NPPD, so we went there. None of those came out to look, and they're often afraid, so they didn't go either.

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HUGHES: Ms. Ballagh--

AMY BALLAGH: We went to Fish and Wildlife Service and we've-- now coming to senators. And I will close my talk, but thank you for taking time to listen.

HUGHES: OK.

AMY BALLAGH: I do feel like since NPPD was created by the Legislature, it's going to take some legislative overview. I apologize for going [INAUDIBLE] over.

HUGHES: Thanks. No-- no problem there. Lots of people like to talk--

AMY BALLAGH: I-- I understand.

HUGHES: --like to testify, excuse me.

AMY BALLAGH: I understand.

HUGHES: Are there questions from the committee? Seeing none, thank you for coming today.

AMY BALLAGH: Thank you, sir.

HUGHES: How many more proponents do we have? OK, very good. Next proponent.

LINDA TACEY: Good afternoon.

HUGHES: Welcome.

LINDA TACEY: My name is Linda Tacey, L-i-n-d-a T-a-c-e-y. I am here from Sutherland. I provide boots-on-the-ground tours of our area and I want to share with you how the impact of the R-Project line would affect Sutherland and the historic areas there. Section 106 process tasked NPPD with avoidance, minimization, and mitigation of cultural and historic sites. I want to address the Birdwood, the Mormon, and the Oregon Trails. The Birdwood is a warm-water spring-fed creek that runs year-round. It supports the whooping crane, the trumpeter swans, which are both endangered species. The swans nest in winter, along with bald eagles, in this area. The power line would clear trees used

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by these eagles to train and to feed their young from. This area also provides substance for thousands of migrating birds. On top of the bluff overlooking this creek, the power company wants to place a tower in the middle of a pasture where 10,000-year-old Native American artifacts have been found on top of the ground. There was a cultural assessment done in about a three-foot-by-three-foot section that found many, many more artifacts in just one small area. I want to address the Mormon Trail. I don't know of any other place in Nebraska where the Mormon Trail is as evident as it is in this area. The ruts are 12 foot deep and there are at least four swales, and these areas have still not healed over at the bottom of them. They are still-- have bare sand in them that you can walk in today. All these areas that I'm talking about are pristine. They've never been plowed. They've been very protected by the landowners for over 175 years. When you stand with a tour in the exact same spot that these rugged, courageous families trudged through to make the ultimate American spirit present, we know the sacrifices that they made to come across our land. In the Oregon Trail area, we have 14 swales that are evident from aerial photos, and I have shown those to you in the pages that were handed out.

HUGHES: Ms. Tacey--

LINDA TACEY: If you have any questions about those, I would be more than happy to answer them.

HUGHES: Thank you. Are there questions from-- Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for coming today. Sorry, I was trying to find your name. Sorry. Anyway-- oh, Ms. Tacey?

LINDA TACEY: Yes.

PANSING BROOKS: Could you explain the-- the burrows picture, what-- what-- you were going to explain it and I don't-- I want you to tell us what--

LINDA TACEY: Which picture is that?

PANSING BROOKS: You talked about the swales.

LINDA TACEY: Yes, we have--

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PANSING BROOKS: And there's a picture and I don't know what I'm looking at.

LINDA TACEY: OK, the swales in the picture with the Mormon Trail display are at the top of the hill where the hill is cut out. Those are the 12-foot-deep swales. That's where the handcarts came through with the Mormons, over 70,000 of them, when they came through that area. And then they came down the hill and this would cut perpendicular, the line would, right over these ruts and swales. This is also evident in this picture. It would do the same thing here in this picture. This is of the Oregon Trail. This shows the ruts and swales that are still there today. To stand in those without any visual impairments is quite a-- it's-- it's an awe moment. This is where my ancestors traveled, and you can still see it, you can still walk it. If you were to drive the heavy equipment needed to build this line over those, those ruts would be crushed. And there was a cultural assessment done on this area, a very minimal one. They did not measure and gauge all of the ruts, and they did not especially measure the depth. So any of the matting that would be used, it would not stop the damage to these.

PANSING BROOKS: So-- OK, thank you for that. I also-- I don't know what I'm looking at with this final--

LINDA TACEY: OK, that final picture is another one that shows the relationship of the east-bound rest area here in the middle. And it shows a summertime snapshot that NPPD has provided and shows the swales and ruts that go across here in the light yellow area on the left-hand page. That is-- that's the same as this. It's just a little bit different view in the summer and one's in the winter.

PANSING BROOKS: Thank you. And also, what are we seeing on the-- but I see the ruts on the third picture and the first picture. What's the second picture with the--

LINDA TACEY: OK.

PANSING BROOKS: --gray sky and the lake?

LINDA TACEY: OK, the top picture shows the fog that is over this Birdwood Creek so many mornings during the year because it's a warm,

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fed Creek out of the hills. And if the power line was put in bird diverters put on it, the bird diverters are only 50 percent guaranteed to work. So we know that we're going to have loss of whoopers, trumpeter cranes, migratory birds. And probably, if you want to get right down to it, these whooping cranes and the other birds that will be killed by this line will never be found because the coyotes will come in, take them for their breakfast, and the bodies will be hauled off so they won't be in on a count. The middle picture is a picture of the trumpeter swans. It shows how the lake that ultimately goes into the creek is fed by a spring. It keeps that lake open so the birds have that area to nest in and winter in. And the bottom picture shows the same pond with the migratory birds, and you can see the thousands of birds that use this area each and every day, especially more in the migratory season.

PANSING BROOKS: Thank you. And I may be confused, but-- and I should have asked Senator Brewer this question. Are you aware of this picture? I'm asking you because I was trying to figure out who might know about this area. Since you give tours, have you seen the alternate route?

LINDA TACEY: I have seen the alternate routes.

PANSING BROOKS: And what--

LINDA TACEY: My portion that I have boots on the ground for is on the very left side of your page--

PANSING BROOKS: OK.

LINDA TACEY: --where the line comes north right out of the power station, and it will cross three historic treasures, not just one, two, but three: the Oregon Trail, the Mormon Trail, and the Birdwood Trail. And on each of these areas, they want to cut a 240-foot strip through the South Platte River, the North Platte River, and the Birdwood to make a path for this line to go through. And that's going to take out all the cover. It's going to ruin some lakes that we have for the migratory birds to feed and winter on. So it has detrimental effects not only into the trails, but also to the wildlife in all three areas.

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PANSING BROOKS: Thank you, Ms. Tacey.

HUGHES: Any-- Senator Lowe.

LOWE: Thank you, Chairman Hughes. Thank you for coming here today.

LINDA TACEY: Yes. Thank you all.

LOWE: You may not know the answer to this because you're from Sutherland, but you have the Loess Hills behind you.

LINDA TACEY: Yes.

LOWE: And do you know how much topsoil is on top of the ground going up through the Sandhills where this may cover?

LINDA TACEY: About a foot.

LOWE: Is there?

LINDA TACEY: Yeah, if we're lucky, in some places.

LOWE: Is it good growing topsoil?

LINDA TACEY: For natural prairie grass?

LOWE: For prairie grass.

LINDA TACEY: Yes. Yes. And once disturbed, it takes a very long time. And--

LOWE: So--

LINDA TACEY: And as my indication in-- with the Mormon Trails, 175 years and over--

LOWE: Yeah.

LINDA TACEY: --it hasn't healed.

LOWE: Right. Thank you very much.

LINDA TACEY: You're very welcome. Thank you all.

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HUGHES: Any additional questions? Thank you for your testimony. Additional proponents? OK, we have-- then we will switch to opponents, so make your way up. We have several position letters as proponents: Doug Kagan; Twyla Gallino; Carolyn and LeRoy Semin; Glenda and Gary Phipps; Gary [SIC] and Carol Moreland; Tom and Twyla Witt; Bob Stetter; Tracy Bradley; Jackie Sevier; Judith Rath; Eostarra Ostermann; Lester Olsen; Wanda and Pat Simonson; Merrial Rhoades; Melanie Coffman; Craig Anderson; Rod and Ann Warren; Marylin Erickson; Donna Haugland; Bruce Kennedy; Lisa Burke; Jan Hart; Nat Warren; Amanda Connick; Lynn Mundorf-- Mundorf; Jarrod McCartney; and John Winner. So with that, welcome.

TOM KENT: Good afternoon, Chairman Hughes, members of the Executive Board. My name is Tom Kent, T-o-m K-e-n-t. I'm the president and chief executive officer of Nebraska Public Power District. I'm testifying today in opposition to LB409 for NPPD and also for the Nebraska Power Association. NPPD is the state's largest generator and transmission operator. We serve customers in all parts of 86 counties, either retail or wholesale. We operate thousands of miles of transmission all across Nebraska, including somewhere in the neighborhood of 500 miles of existing transmission in the Sandhills. It's give-- it's difficult to give you a multiyear history of the transmission project that's been so thoroughly studied, designed, and vetted in the short time we have here today. I've brought with me some handouts to help you see all that has gone into making the-- the project, get it to the point where it is today. I'm going to cover some of those highlights during my three minutes of testimony. We'd be happy to answer any questions you may have now or after the hearing. I do want to mention the current state of the project. As mentioned by Senator Brewer, this summer, the U.S. District Court in Colorado issued an order on a lawsuit that was filed against the U.S. Fish and Wildlife Service by opponents in terms of whether they properly issued the permit for this project. And in that lawsuit, the court upheld most of the district, most of the U.S. Fish and Wildlife Service's work related to endangered species. They did find three arrow-- three narrow areas of focus that they thought the Fish and Wildlife hadn't done what they needed to, to comply with the law, and they remanded that permit back to the service. And that's where we are today, working with the service to determine the appropriate path forward to address those issues. We went through a very difficult, thorough process with

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experts internal to our organization, external, to determine the need and routing for this critical infrastructure process. It's a similar process to what we've used to site other large transmission projects across the state. And to answer a question from previous, we actually have had a lot of history doing this, working on these projects, and we do this very thoroughly with a lot of public input. And we have seen other projects with public opposition. Whenever you're doing long, linear projects where you're impacting people's property, they're going to be opposed and we try to find our best way forward to minimize those impacts. I want to talk about the need for the project, the way in which routing was determined, and then we'll go from there to answer any questions. Our transmission system is essential to providing service to the customers of Nebraska. The three-- 345,000-volt transmission line is part of the backbone of our volt transmission system. We worked with several organizations to determine the need for this project. First, the Southwest Power Pool is charged by the Federal Energy Regulatory Commission and then NERC, the National Energy Regulatory Corporation, for ensuring reliability of the system and to plan transmission across a 14-state footprint, of which Nebraska is part of. Through their processes, they determined that the grid needed to be strengthened in order to ensure ongoing reliability and reduce congestion for the transmission system, and that was the driver for that need. And they issued a notice to construct to NPPD in the spring of 2012. Our board-- I'll stop if you'd like me to.

HUGHES: OK, yes, I-- you have a lot of information, but I'm assuming there's more people and--

TOM KENT: Yes, that's fine.

HUGHES: --we're already [INAUDIBLE] through half our time. Are there other questions? Senator Lowe.

LOWE: Thank you, Chairman Hughes. And thank you, Mr. Kent, for coming to testify today. A simple question: Why does this power line not follow a road system where there wouldn't be any damage to the Sandhills that it may be easier to do, more efficient, and cost less money?

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TOM KENT: So that's a great question. And for this project, we do try and file-- follow existing roads as much as possible. And that's why the route that we finalized after over two years of study with a lot of public input follows roads where we can in areas where there are existing roads, for example, Highway 83 going north out of North Platte. The need for this project was really to address a couple of primary issues, one related to the reliability of the transmission system. And I'll go back to 2012. The summer of 2012 was a very hot, dry summer, and we actually had an issue that summer where we had to interrupt people's loads in north central Nebraska. We had to shut the lights off in the middle of the night, not because we didn't have enough generation, but because we didn't have enough transmission capability to move the energy into north-central Nebraska. So that's the primary driver for this project. And if you look at our system in Nebraska, we serve all the rural utilities and our communities in north-central Nebraska off of a transmission ring, 115,000-volt transmission ring that runs roughly north from the North Platte area, Thedford area, Ainsworth, follows Highway 20 over, down around the Columbus area and makes the loop back down to North Platte. That ring is served by interconnections to the higher voltage system and what happened in 2012 is there weren't enough interconnections to move that energy in, so we had to shut the lights off in order to protect a wider-spread outage. We implemented several projects as a result of that. On the east side of the state, we built a new transmission line in the Norfolk to Neligh area and created a new interconnection with that ring that provides new electrical service on the east side of the state to help get energy into north-central Nebraska. This project is doing the same thing on the west side of the state at Thedford. OK, so there's an existing substation at Thedford where this transmission line will interconnect and that is-- will strengthen the ring and-- and finish the issues with that. So if you think east has been done, we're taking care of west with this project. So we need to go to Thedford. That's where this project needs to go to interconnect. So as you look at all the different routing criteria, and we're required to follow section and half-section mines, we want to use existing access and existing roads where practical. That all factors into the over 50-plus criteria we looked at to find a route that minimized impact as much as possible. So we certainly did, to get back to your question, try and follow roads where they exist. But as we all know, there's significant areas of the Nebraska Sandhills where there aren't

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existing roads. So in those cases, we've developed construction methods to minimize impact as much as we can to landowners' property. This line is in the air, right, so where we-- where we have to worry about impact is where we're doing construction work, which is where the structures are. So in the areas where we didn't have good road access, we selected a construction method that wouldn't require heavy equipment. That's why we're using the towers, as referred to, one of the previous testifiers, because we can build those towers in a way and fly them in using helicopters and-- and build the foundations in a way that doesn't need the heavy equipment. The matting that was referred to by one of the previous testifiers, again, is being employed as a way to minimize impact and damage to the ground as much as we can as we go through this process. So we're trying to not only find a route that minimizes impacts, but also use construction methods that minimize impacts. And we've spent almost a decade working on this project at this point. And in your handout material, there is a pretty lengthy presentation that has all the history of how we've gone through the routing process, the public meetings, the public involvement, the hearings that are required under Nebraska Statutes, in order to find a route that minimized impact.

LOWE: OK. You-- you stated that you needed to get to Thedford.

TOM KENT: Yes.

LOWE: Highway 83 runs to Thedford.

TOM KENT: Yes.

LOWE: Can you follow Highway 83?

TOM KENT: Not the entire way in terms of-- in terms of minimizing impact for the route. We do follow it where we can.

LOWE: It's pretty much a direct route from North Platte up to Thedford. I mean, it's-- it's the main highway, so why would you not be able to follow that route?

TOM KENT: So we have to get to Highway 83 to begin with. And so when we leave the substation at Sutherland, we have to look at the ways that we can get out of that substation, again, that minimizes impact. We have to look at the ways that we can cross the North and South

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Platte River valleys, that we can address the issues with the Mor-- Oregon and Mormon Trails, and we can address issues in a-- with wildlife in a way that minimizes impact. We looked at over 800 different mile segment combinations to find a route that minimized impact, accounting for environmental impacts, land use impacts, what landowners were maybe wanting to do, other existing infrastructure, like interstate highways and railroads and airports and those kinds of things. As you balance that and look at all those things and look at all those different combinations and opportunities, the route that we selected after that long process goes generally north out of the substation Gerald Gentleman Station, north through the North and South Platte River Valleys, and then somewhere-- I don't have the route right in front of me, but you've got a picture, I'm sure-- somewhere north of there, moves over north of North Platte, and that's where it picks up Highway 83.

LOWE: OK, and the-- so you need to get to Thedford, but then coming back over toward the-- just south of Orchard where the other substation is, is where the route needs to terminate on the east end?

TOM KENT: OK, so Orchard's not part of the route so--

LOWE: For the [INAUDIBLE]

TOM KENT: OK.

LOWE: It-- it terminates just south of Orchard or north of Grand Island.

TOM KENT: Yeah, the route terminates somewhere close to the corners of Holt and Wheeler County.

LOWE: OK. And why does it not take the southern route where-- where--

TOM KENT: Well, there's several different southern routes that have been looked at over the nine or ten years. I'm going to make an assumption that the southern route that you're referring to and Senator Brewer referred to was the one that was studied by the Fish and Wildlife Service as part of their environmental impact statement drafting process, and we did provide feedback to the Service in terms of that process. There were several issues with what they had looked at. One is it did not go to Thedford. Two, it didn't terminate at the

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substation site that had already been selected and evaluated on the eastern end. And then there's other issues around did they-- because they did-- they basically did a desktop review. They get on the desktop, look at maps and those kinds of things. And to really understand the best way to route, you have to spend time with the public, you have to spend time with the landowners, and it takes time. Two years it took us to go through that process. In that desktop review, we have no way of knowing, without going through that public process, of what other issues there might be with the landowners on that route that was proposed. There's environmental issues that are yet to be determined because they weren't looked at in any detail. So it wasn't an alternative that-- that made sense. And as we looked at it at a high level, it didn't provide us any benefits that were better than the routes that we had already looked at, and in fact, it didn't meet the project need because it didn't go to Thedford.

LOWE: Can-- I assume there are power lines running up to Thedford now.

TOM KENT: Yes.

LOWE: Can those not be replaced with a little higher-voltage or a larger power line simply by following that route?

TOM KENT: So two things: We can't-- you can't just replace the line at a higher voltage without disrupting service. Again, this is the backbone of the transmission system that moves electricity from power plants across the United States to consumers across the United States. And in order to raise the voltage of that line, you effectively have to replace it. All the structures would have to be replaced with bigger structures, heavier things. And you couldn't take one line out of service and keep the lights on reliably and put a new line in its place, one.

LOWE: Don't I see that happening all the time, where they're putting a new structure next to an old structure and then maybe--

TOM KENT: Yes.

LOWE: --maybe it takes a half a day to connect?

TOM KENT: We do, do that all the time. What we're doing is replacing structures on an existing line at that voltage. We're not changing the

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voltage. When you change the voltage from 115,000 volts to 345,000 volts, the structures have to be bigger; the wire is heavier; the insulators that you use to hang the wire from the structures all have to be bigger. And so it's a complete different design and you can't just trade out structure A for structure B like you can when you're doing repair work on-- on a 115 KV line or a 345 KV line, because it's a complete different design. Everything is scaled up two to three times bigger.

LOWE: But we're already talking about creating structures across the Sandhills. Correct? There are no large structures going across the Sandhills now that you will be using--

TOM KENT: Actually-- actually, there are today large structures going across the Sandhills.

LOWE: But you will be using those for the R-Line?

TOM KENT: No, different-- different voltage.

LOWE: OK, so you will be creating new structures anyway.

TOM KENT: Yes, we will be putting new structures in.

LOWE: So creating structures from the North Platte to Thedford, you're doing the same thing.

TOM KENT: We're doing the same thing while we're keeping the lights on. My point is I can't remove the existing system in order to replace it with a new system if I want to keep the lights on for the people of Nebraska. I have to continue to run the existing system, right, and add to it and grow that system in order to meet the growing needs of the people of Nebraska.

LOWE: I-- I fail to see why you can't put both up at the same time, but that's-- I'm-- I'm-- I'm not in the business.

TOM KENT: Under-- understood. I'm trying my best to answer your questions.

LOWE: I-- I-- and I--

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TOM KENT: I would be happy anytime to talk to you further.

LOWE: I'm-- I'm-- yeah. And-- and this southern route that follows, looks like, Highway 92 and then moves up from-- up into Wheeler County, would that not be easier to do and-- and-- and--

TOM KENT: Not nec--

LOWE: --in a-- in a-- in a briefer period of time because this R-Line project now-- how long overdue is this R-Line pro-- when was it scheduled to be completed?

TOM KENT: This project was originally scheduled to be in service in 2018.

LOWE: OK. And so you're looking at two more years probably that--

TOM KENT: Well, we hope we can actually get it less than two more years.

LOWE: OK. And by taking the southern route, where there's already easements, would that--

TOM KENT: There aren't already easements on the southern route. We would have to go through a process to determine an appropriate route to address all the issues before we could go and talk to landowners about acquiring easement rights, much the-- the same process we used for this project.

LOWE: OK. I've-- I've used up a lot of your time, but thank you.

TOM KENT: No, no. I'm here for you today, so.

LOWE: Well, I want other testifiers and other--

HUGHES: Senator Vargas.

VARGAS: Thank you very much, Chairman. Thank you for coming. So you just-- you-- one thing that you described were the existing structures in the Sandhills. Can you talk about what existing structures already are there? I-- I didn't-- yeah, just wanted to give you an opportunity to--

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TOM KENT: So the-- the line I referred to, that 115000-volt ring, much of that goes through the Sandhills, and that, in most places, are what we would call H-frame structures, which is two pole wood structures maybe 8 to 11 per mile, and that's generally what that is. The-- certainly all the utilities, like Custer Power District and others and ourselves, have other lower voltage structures in the Sandhills. We have some 345,000-volt structures on the edge of the Sandhills in some areas. So the difference is, is the structures for this project in the areas where we don't have good access, they're lattice towers, so they have four legs. We can assemble them with helicop-- with people and then fly them in with helicopters and they screw into-- they use an anchor system that doesn't require concrete, basically, and there's about 4 per mile instead of 10, 11, 12 per mile, so there's less structures, so there's less-- less, you know, construction work around a structure, though the construction work around a given structure is more than you would see for a 115 KV line.

VARGAS: So is it safer to say that one of the reasons why you're at least pursuing the-- this-- the current route is because there's existing structures that are already there? Is that why? I'm trying to get an understanding, as kind of similar to Senator Lowe, why the south alternative is not, I guess, not the route--

TOM KENT: So--

VARGAS: --you're pursuing?

TOM KENT: OK, I understand your question. When we start this process, at the very beginning-- and again, there's some good information in this book-- we start with-- we know where we need to start, where we have to go to in the middle, and where we need to end. All right? And then we start to apply environmental kind of tabletop reviews, biological tabletop reviews, land use tabletop reviews, and we-- and we develop what's called a study area to look at as possible locations within to put a route. And that's-- this study area was massive. I mean, it was 30, 40 miles wide from roughly the Sutherland area up to the Thedford area, north of the Thedford area and 20, 30 miles wide from there over to the termination. That's where we start the public process with. We bring in experts on EMF, in electromagnetic fields, on land use, on environmental engineering, design. All those kinds of experts come together. We-- we work with the public and have open

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houses, referred to by some of the opponents, and talk about the project and the need. We take all the input from that and move down to corridors, and then from corridors to alternate routes, then from alternate routes to the route that we finally approve, getting public input that entire time. So some key things that are important when we do this to minimize impact: One, we-- we have to follow and half-section lines in general, and that's a state statute. That statute was passed in the '70s because at that time we were routing lines diagonally across people's property and it was impacting ag use. It was a good-- good change. Two, if we make the line straighter and shorter, it generally has less impact. We'd certainly want to keep the line as short as we can to accomplish the needs of the project, because the more line there is, the more landowners are impacted, the more lines in the air, the more potential for environmental impact, etcetera. We need to avoid areas that are particularly environ-- environmentally sensitive if we can. So there's some-- if you look at some of the maps in here that were put together by the Game and Parks Commission where it has our-- our study area overlaid on that, you can see in general it avoids those areas that were identified early on by the environmental experts as particularly sensitive. It doesn't mean that we don't have to deal with endangered species and-- and sensitive things in the Sandhills, because we do. It's a very sensitive ecological area and we're trying our best to work through those issues with all the different types of things that we've discussed through this process. So we look at that, those kinds of things, and start that process with those-- those basic criteria: shorter, better; straighter is better; avoids particularly sensitive areas; generally follows section and half-section lines to kind of lay out that path and start. The key comes back to we got to be in Thedford. In order to solve the reliability issue for the people of Nebraska and for our customers, we have to have that interconnection in Thedford. How do we get there?

VARGAS: One more question, because I'm sure some other people have other questions, because that's helpful. So I understand the need for efficiency and energy, more energy independence and making sure there's no disruption and-- at least in electricity. And so I understand that. The part that I'm trying to wrap my head around is also the public engagement portion. You know, I looked at the site and it's clear there's been a lot of public meetings, but what I'm trying

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to get a sense of is quantitative response or qualitative response. You know, we're hearing from people here today that are firmly against this. I'm trying to get a sense of how many individuals that provided submitted feedback that this is something they don't want, like what are the numbers based on sort of the general population? And I just-- I think about my time back on the school board. I try to quantify how much does the population that I represent really agree or disagree with this. So do you have some of those metrics from your public input?

TOM KENT: Yeah, I can-- I can give you the-- the total number of comments and those kinds of things. I have that here, so let me just read that off and then we can go from there. So we started this process in November 2014. We had 1,750 individuals attend 73 meetings with county officials and local leaders; 27 meetings with various agencies and other groups; 2,500 public comments mailed in over-- we mailed out 11,000 newsletters; 44 newspaper ads; 8 public hearings. Where we are today, in terms of what I-- what I gauge as the acceptance, not maybe the liking but the acceptance of the project, OK, so we have acquired 81 percent of the easements already today through our negotiation process with the customers. That represents 84 percent of the landowners and 77 percent of the route miles. So as we see with every project, not everyone is happy, right? We work very hard to address their issues. We go through processes with them as we negotiate for easements to find ways to maybe make routing adjustments on their property. For example, one of the previous testifiers discussed their concern about shelter belts. We can certainly, and have certainly, worked with landowners to make minor adjustments to the line route on their property so it doesn't impact their shelter belts so their shelter belts can be retained, or minor adjustments based on what they want to do with their farming and ranching operations. That's all part of that process we go through. And historically, as we do that, we've had very good success. Historically, we've had 2 percent, roughly, of landowners go through condemnation where they didn't agree with this and wanted to have it resolved in the courts. We're not at that point with this project. I would guess this project will have a higher condemnation level than that. And it's-- it's not the only project where we've had that happen. It's-- that's-- that's the thing. You can go through these processes. You can spend this time getting feedback from the public

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and talking to the public and do your best to answer their questions and make adjustments to minimize impact, but you always will have impact. Impact, as long as you're doing these things, don't go away. So is the need there and is the need important? Yes, it is. So how do we minimize impact? How do we create long-term relationships with these customers? And at the end of the day, not everyone is going to be happy. If you move it somewhere else, someone else isn't going to be happy. But how do you go through the process and give them a chance to vet their concerns and understand the process and ask the questions? And we've been doing that for almost a decade on this project.

VARGAS: Thank you.

HUGHES: Senator McCollister.

McCOLLISTER: I know we're running short of time, so I'll-- I'll be quick. In point of fact, isn't the current routing a fait accompli?

TOM KENT: I don't know what you quite mean there, so--

McCOLLISTER: Isn't it a done deal?

TOM KENT: The current routing is the routing that's approved through the process. We made several adjustments to the route as we went through the many-year process. And it is the route that minimizes impact and that's-- it's the route that we submitted to the Fish and Wildlife Service when we made our application. I do-- have not seen any reason to move the route from where it ended up in over nine years of working on this with the customers and--

McCOLLISTER: It has all the approvals, and are you still in court?

TOM KENT: So right now the-- the incidental take permit's been remanded back to the Fish and Wildlife Service. So we're working with the Fish and Wildlife Service to determine the appropriate steps forward.

McCOLLISTER: So you are still in court?

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TOM KENT: It's-- as-- I'm not a lawyer. My-- as far as I'm concerned, we're not in court. But we're-- we're-- we're dealing with the results of the court order.

McCOLLISTER: I see. Thank you. Thank you. Thank you.

HUGHES: Any other questions? Senator Lowe.

McCOLLISTER: Thank you, Chairman Hughes. And again, thank you, Mr. Kent, for coming here today.

TOM KENT: Sure.

LOWE: The XL pipeline was supposed to cut through the Sandhills, correct?

TOM KENT: Way back whenever that was their original route--

LOWE: Origin--

TOM KENT: --as I understand it.

LOWE: And they were-- they moved its pipeline out to the eastern part of the state, outside the Sandhills, because of people's concerns and because of lawsuits. You stated that you need to get power to Thedford, correct?

TOM KENT: We need to make the interconnection at Thedford, yes, that's correct.

LOWE: And you also stated that brownouts or blackouts would occur if this doesn't happen.

TOM KENT: They have occurred.

LOWE: They have occurred?

TOM KENT: Yes, without this line being in service.

LOWE: Without-- with the-- at the line going through Thedford. And so when does that need to be accomplished--

TOM KENT: Well--

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LOWE: --so that it doesn't happen again?

TOM KENT: --according to the engineers studying it and determining the need for the project, 2018. So what are we doing now, is that the question?

LOWE: Well, pretty much--

TOM KENT: OK.

LOWE: --pretty much. It would just seem to me that you could put a smaller line up to Thedford, replacing the old line that runs up there, and run this route, the southern route, and maybe accomplish this a lot sooner, because it sounds like there's going to be more lawsuits coming and more hesitation. So if we need to get this done, I would suggest we do it a quicker way and maybe one way, we could stay out of the courts.

TOM KENT: So the smaller lines won't accomplish what's needed from a reliability standpoint.

LOWE: OK, so-- so you need a large line going from-- basically from Stapleton to Thedford?

TOM KENT: A large line going from the Gerald Gentleman substation outside of Sutherland--

LOWE: Yeah.

TOM KENT: --to Thedford to the substation that's being constructed in Holt County that interconnects with an already-existing 345,000-volt line. That is what's needed for reliability, so--

LOWE: OK. In this map, that line is already going from Sutherland to just south of Stapleton already, and that-- that's what either splits off and goes north or it takes a south route?

TOM KENT: So that's a 115,000-volt line.

LOWE: OK, so really we're--

TOM KENT: We need a 345,000-volt line.

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LOWE: Really we're just talking about south Sutherland to Thedford then, running another-- running the-- the south route.

TOM KENT: So actually, no, from an operations standpoint and from an engineering standpoint, in order to reliably operate the system, we have to be able to ensure that we can deliver energy when any one portion of the system fails. So by building just a line from Sutherland to Thedford, we have gained nothing from a reliability standpoint because we haven't increased our ability to operate the system. If that line fails, then we're in the same spot we are now. So we have to have that link that goes over to the existing line that's coming north out of Grand Island in order to meet-- make the reliability requirements work.

HUGHES: Senator Lowe, if I might--

LOWE: Go ahead.

HUGHES: --I've got a couple of questions--

LOWE: Yeah.

HUGHES: --and our time--

LOWE: I'll yield.

HUGHES: --is getting short, so-- and I know there's other people who would like to-- like to--

LOWE: OK.

HUGHES: Thank you. Just two quick questions, and I'd appreciate quick answers. So what are the concerns about ice taking down power lines with-- in relationship to the routing of this line?

TOM KENT: So this line is routed in an area of the state that we have historical records that show that there's-- the ice storm damage is less significant. Doesn't mean there are-- is an ice storm. So this line is routed in a way that gets us away from that historical heavy, damaging ice that we've seen.

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HUGHES: OK, very good. And my last question, have you done any estimates of what the postconstruction footprint of this line would be compared to any railroad highway town that has been built in the Sandhills?

TOM KENT: So the footprint postconstruction is a 200-foot-wide right-of-way, which the ranchers and farmers can use like they always have because the line is in the air and it's structure locations, and the structure locations are 20 feet by 20 feet, 40 feet by 40 feet. And then where we have steel or concrete pier foundations, where we use that, they're maybe 10-foot diameter.

HUGHES: OK, very good. Are there any other questions for Mr. Kent? Seeing none, thank you for coming today.

TOM KENT: Thank you.

HUGHES: Additional proponents? Welcome.

JAMES DUKESHERER: Thank you. Good afternoon, Chairman Hughes, members of the Executive Board Committee. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I am the interim director of government relations for the Nebraska Rural Electric Association. NREA is testifying today in opposition to LB409. Our association represents 34 rural public power districts and electric cooperatives throughout the state. Together, the more than 1,000 dedicated employees of our system serve 240,000 meters across 87,000 miles of line. As you may know, electric suppliers throughout Nebraska are able-- are able to curtail massive amounts of electric use-- usage through our load control program and electricity shedding program where we ask customers, most-- mostly irrigators, to shut off their usage during peak times and curtail that usage until a time when electricity-- electricity demand goes down. Our members can curtail more than 500 megawatts of electricity through this program, which is more electricity than it takes to-- to run the city of Lincoln. In July of 2012, due to successive days of 100-degree weather, dry weather conditions, and irrigation load growth, our state saw unprecedented electric demands on the generation and transmission system. This surge in demand created overloading conditions in north-- in the north-central part of the state, which ultimately resulted in NPPD taking a drastic step of turning off selected breakers to prevent all electric service lost in

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the whole region. Among our membership, this need for emergency relief affected customers served by Elkhorn Public Power District, Custer Public Power District, North Central Public Power District, and Niobrara Valley Electric Membership Corporation. What is important to understand as it relates to this bill, LB40-- LB409, is not that electric suppliers did not have the generation we needed to supply these customers with electricity. It was the demand on the transmission system that did not allow the electricity to be moved where it was most needed. The transmission system was stressed as there was not enough electric-- not enough capacity in the lines to bring the electricity to the needed area and serve customers. The proposed R-Line Project by NPPD would alleviate this issue. It provides another path for electricity to get to this region of the state. This is a necessary project. It's been studied, scrutinized, reviewed for many years by the Southwest Power Pool, the Nebraska Power Review Board, the public, and many others. The construction of this new line would help preserve reliable electric service and make room for additional electric growth in the area, and it's for these reasons that we oppose the advance-- advancement of LB409. And I thank you for your time, especially over your lunch hour.

HUGHES: Thank you, Mr. Dirk-- Dirkshire-- Dirk-- [PHONETICALLY]

JAMES DUKESHERER: Dukesherer.

HUGHES: Dukesherer, I'm sorry.

JAMES DUKESHERER: Thank you.

HUGHES: My apologies. Any questions for Mr. Dukesherer? Seeing none, thank you for your testimony.

JAMES DUKESHERER: Thank you.

HUGHES: Additional opponents?

JOHN HANSEN: Mr. Chairman, members of the committee, thank you for the opportunity to appear before you today. My name, for the record, is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I'm the president of Nebraska Farmers Union. We have been very much involved in this process since the very beginning. We've had the opportunity to identify-- almost all of the questions that I've heard here today are

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questions that we have already asked and that we feel have been answered. We have been convinced, thanks to the patience of NPPD, that they have to go to Thedford and that, regardless of which route that we take from Thedford to where they need to go, where we are going through environmentally sensitive areas, and that we're-- if we go from one route to the other route, we're simply trading in unhappy campers from one area to the other; and that no matter what you do, you're going to have to still address the environmental sensitivities and the needs of landowners. And so there is no painless route, in my opinion, that fulfills the necessary engineering needs in order to get to reliability and redundancy that we need as a state. We support this for the same reason that-- we support transmissions for the same reasons that we support roads, is because they are infrastructure. They're the basis on which we do commerce. They're the basis on which we're able to operate and do the things that we do in our society and that-- several things that have not been said yet is that the longer that we delay this project, the more that we increase the total cost of the project. There's no question about that. And we also need to bear in mind that Nebraska, since we've joined the Southwest Power Pool, have been paying into the Southwest Power Pool to help build transmission and infrastructure in other states, and that this is the first really major build in Nebraska that has been identified by the Southwest Power Pool and all of those guys who have engineering degrees. And I have four brothers that are engineers, brothers-in-law Law, they're engineers, and these guys have convinced me through a lot of conversations about the need for this line and the need for us to have a viable state system. And so in the interest of the state, we need to find a way forward. And so I realize full well how unhappy the folks are that are in this particular route. But if we were to pick a different route, we would have a new set of landowners who would also be unhappy. And so there is no painless way to get from where we start this process to where we need to end up. And we thank the committee for its patience. And we would also just thank NPPD for theirs.

HUGHES: Are there any questions? Seeing none--

JOHN HANSEN: Thank you very much.

HUGHES: --next opponent. Any additional opponents to LB409? Anyone wishing to testify in the neutral capacity? We do have letters, position letters from opponents: Lu Nielson, Center for Rural Affairs;

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Jeff Clark, Advanced Power Alliance; Kristin Hassebrook, Nebraska Chamber of Commerce; Tim Burke, OPPD; Josh Moenning, New Power Nebraska. And we do have one letter of written submitted testimony in opposition from Jill Becker, Blackpool's Energy. Welcome.

AL DAVIS: Thank you, Senator Hughes. In the interest of time, I'm just going to turn my testimony in and-- and that will give Senator Brewer time to finish his testimony. So I'm here as a registered lobbyist for the Sierra Club, just wanting to say that we are coming in-- in a neutral capacity on the bill. The Sierra Club does agree with Senator Brewer that the southern route would have been a better choice, but we think there are a number of issues within this bill that are somewhat problematic. So you all have my testimony and I appreciate your time.

HUGHES: Thank you, Senator. Are there questions? Seeing none, thank you for coming today. Are there any additional neutral testifiers? Seeing, none, Senator Brewer, you're welcome to close.

BREWER: All right. Real quickly, a couple of things that you have to remember out of this. First off, the judges' issues were that with the impact on the-- on the historical and on the incidental take permit, wasn't an issue of-- of upset landowners, although there are plenty of upset landowners. You take a southern route, you may have, not saying you're not. But the other thing I'll-- I'll ask you to remember, we're a hundred-and-some million in the hole. Why could we not pick a spot along the southern route and improve or build a similar station to what you have in-- in-- in Thedford? Well, obviously, money is not an issue here. If we're going to figure out a route that has at least impact on the environment, we've got a way of doing it. What's happened here is they've decided, come hell or high water, they're going to push that route and that's where it's going to be. They're using Thedford as the reason why and that's false in that you've got other options out there. You can say, well, it takes-- it takes a year to build a-- you'll be in a year of-- of lawsuits, regardless of what comes out of this. You could pick a route that is realistic, could be done. The reason that we need to have this review is that the biologists-- Bob, Elijah [PHONETIC] who-- who had the answers on environmental issues, were not allowed to speak to me and they were put up on charges by U.S. Fish and Wildlife. They had to hire their own attorneys in order to be able to protect their jobs. Eventually, the charges were dropped. They are not going to let this happen.

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They're going to muscle it any way and every way they possibly can. The only way we're going to get an honest look at this is if we have this ability to have a separate look. Again, we're not saying you can't build the line. What we're saying is let's make sure the facts are right, because if you got NPPD engineers and NPD people that are making these decisions and making these slideshows, they might taint things their way. Let's try and get an honest look at this. This is a subelement of a state agency. It's our responsibility, and I would ask you to support this bill. Thank you.

HUGHES: Thank you, Senator Brewer. Are there any questions? Seeing none, that will close our hearing on LB409. Thank you, everyone, for coming.