

PUBLIC SCOPING MEETING
FOR THE
KINDER MORGAN LOBOS CO2 PIPELINE
ENVIRONMENTAL IMPACT STATEMENT

December 11, 2013
6:12
Belen Community Center
305 Eagle Lane
Belen, New Mexico 87002

REPORTED BY: KATHERINE L. GORDON, NM P-400
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P R E S E N T E R S

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H. Trevor Loveday, Edge Engineering & Science
Danita Burns, Bureau of Land Management
Mark Mackiewicz, Bureau of Land Management
Bobby Curbow III, Kinder Morgan

1 MR. LOVEDAY: Good evening, and thank you for
2 coming. We appreciate you coming out tonight, and welcome
3 to the Bureau of Land Management's public scoping meeting
4 for the proposed Kinder Morgan Lobos carbon dioxide
5 pipeline.

6 Some kind of preliminary housekeeping things to be
7 aware of. Restrooms are across the hall. Exits, we have
8 two up here at the front and at the back, or these two doors
9 here to exit the building if we should need to.

10 Tonight, like I said, this is the Bureau of Land
11 Management's meeting, the BLM's meeting for public scoping
12 that we've entered into for the National Environmental
13 Policy Act, NEPA. So tonight, we're really here to hear
14 from the public, to hear your concerns and to provide you
15 with as much information as we can here tonight.

16 We have the space until 8:00, and we're available
17 to you. And to let you know who is available to you
18 tonight, we have several members from the BLM here tonight.
19 The national project manager, Mark Mackiewicz, up here at
20 the front. And the authorized officer for the project,
21 Danita Burns, in the front. And then several other BLM
22 staff in the audience. If you all could raise your hand or
23 stand up so everyone sees who is here from the Bureau. So
24 those folks are here, as well, if you have questions for
25 them.

1 And then the proponent for the pipeline project,
2 Kinder Morgan, they have some folks here, as well. They're
3 sitting at the back table in the corner. So their staff,
4 they have three or four of them here. And in the back as
5 well, both Kinder Morgan and the BLM, they have their
6 computer systems with GIS that they can zero in on, say, a
7 particular piece of land. If you would like to see that,
8 then they can help you with that.

9 So everyone, we want to get as much answered for
10 you as we can tonight. As well, we want to hear from you.

11 My name is Trevor Loveday. I'm a contractor to
12 the BLM, I'm a third-party contractor. I work for Edge
13 Engineering & Science. I'm based in Houston. And part of
14 our team is here back at the sign-up table when you came in.
15 We're partnered with another firm called Merjent. They're
16 based out of Minneapolis. Our companies team together, and
17 our role in this is to prepare the Environmental Impact
18 Statement for this project. And I'll get into more of those
19 details a little later.

20 Those are our roles, so we're here as part of this
21 team because we're going to take the information, the
22 comments that you provide and other public provides in these
23 meetings and in e-mails or written comments, and we're going
24 to take that information and we're going to categorize them
25 by topic and we're going to make sure that they get

1 addressed in the Environmental Impact Statement.

2 So your input is important. We rely on it. We
3 need it. So that's what the purpose of the meeting is
4 tonight.

5 I think with that, I just want to turn it over to
6 Danita and let her say a few words.

7 MS. BURNS: Hello, everybody. Thank you for
8 coming out. I really appreciate that. As the authorized
9 officer, I just wanted to welcome you to this proposal.
10 What we're doing here is having a meeting, a scoping
11 meeting. And that information that you give to me helps me
12 make a decision. I can make a decision without any help;
13 however, I would prefer not to. I need your help to get the
14 information to make a sound decision.

15 So what I'd like to do, again, is thank you for
16 that. And please -- you know, we had a meeting yesterday,
17 and I just want everybody here to know, because I think
18 maybe they didn't get the entire picture, this is a
19 proposal. It is not set in stone. And you'll hear me say
20 that a couple of times during this entire process because I
21 want you to understand that.

22 These are lines drawn on a map. This is what
23 Kinder Morgan has come up with. Okay? It is not set in
24 stone. I need you to give me comments to help me take back
25 to my people who will then analyze and take a look at the

1 these routes, this route that's here, and look for something
2 else, perhaps. Or say, "Hey, we have some issues with
3 this." We're going over, and we'll tell you more about
4 this, we're going over public lands, we're going over
5 tribal, state and private. It's very important. I take my
6 job very seriously. And I'm glad you came out because I can
7 tell you're taking this seriously, as well.

8 So I'm going to sit down over here and I'm going
9 to listen to your comments. Please, any comment is okay.
10 I'm looking for anything and everything. Don't be afraid.
11 If you don't like to come up there, I totally understand. I
12 get it another way. But thank you for coming, and we'll
13 talk a little bit more during the process.

14 MR. LOVEDAY. Thanks, Danita. First, I'd
15 like to just kind of go over some of the general proponent's
16 proposal project, just kind of how they've laid it out.
17 Again, as Danita said, this is how Kinder Morgan has
18 proposed it to date. So some of the fact, and maybe you've
19 seen some of these in the brochure and up here, but right
20 now we're looking at what they provided is. A project that
21 would start in the St. Johns field in Apache County,
22 Arizona, approximately seven miles across the border. And
23 the pipe would traverse from there, in an eastward
24 direction, as you can see on the map, across Catron County
25 and Socorro County and Torrance County, for about the 207,

1 208 miles once it crosses into New Mexico, to where it
2 connects with an existing carbon dioxide pipeline that is
3 operated by Kinder Morgan, that's called the Cortez
4 pipeline.

5 So that connect with that pipeline southeast of
6 Albuquerque, as they propose now, it would be at one of
7 their main line valves. Because of this increased capacity
8 that would come across and join their existing pipeline,
9 that requires them to be able to handle that capacity at
10 that pressure, to build a 40-mile pipeline loop in Chaves
11 County near Roswell. And that would be the Cortez loop.

12 And a loop is not a circular pipe. It is
13 basically a parallel pipe, parallel to their existing
14 Cortez, and connects to it to allow them to have adequate
15 passage that they would be bringing across.

16 As proposed right now, they're looking at -- so
17 this would all be buried pipeline. The only above-ground
18 features would be pumping stations or any valves. Pumping
19 stations, right now I think there's three proposed for this.
20 And then modifications on the existing Cortez -- pumping
21 station on the existing Cortez line. Pumping stations, as
22 they proposed them right now, they have locations. However,
23 pumping stations are a factor of distance and topography.
24 So since the route is not in stone, those locations will not
25 in stone, as well. So right now they have some proposed

1 locations for pumping stations based on the route that they
2 proposed at this point. So those would be the only
3 above-ground features for the pipeline.

4 Typically -- and this has come up every night, so
5 I'll bring it up now -- the pipe, they have to meet and
6 follow standards from the Department of Transportation for
7 the certain operation of the pipeline. So minimum depth for
8 the pipe would be three feet to the top of the pipe. So
9 that's a minimum. And then in places such as road crossings
10 or agriculture fields, those would be deeper. So minimum is
11 three feet to the top of the pipe.

12 It is operated under pressure. I don't want to
13 say the incorrect pressure off the top of my head, but it is
14 pressurized. So the carbon dioxide running through the
15 pipe, it will not be in a gas state, but it's more in a
16 liquid slurry state, and it is pressurized.

17 So those are the general basics of what they've
18 proposed. And if you have questions later tonight, they
19 have folks. Their project manager is an engineer, he is
20 here, and perhaps he can help with some of those questions.

21 So, again, we're here. This is public scoping to
22 hear from you. The BLM, the Bureau of Land Management, is
23 the lead federal agency. As Danita said, the project, as
24 proposed, crosses federal lands, so BLM lands, and so they
25 are designated as the lead federal agency on this action.

1 So on October 31st, it was entered into the
2 Federal Register, a notice of intent to prepare an
3 Environmental Impact Statement. That opened a 90-day public
4 comment period, which we are in the middle of right now,
5 that ends on January 29th, 2014. So during that time, we've
6 gone to these meetings the last couple of weeks to hear from
7 the public to provide us comments. But that's not the only
8 way to provide your comment.

9 You can actually get comment cards in the back.
10 When you came in, you should have received them. You can
11 write out a comment and hand it to us tonight before you
12 leave, or you can take it home, think about it and mail it
13 in. There's ways through the project Web site, on the BLM's
14 Web site, to submit comments through e-mail. So there are
15 many ways to submit your comments. No way is weighted more
16 than another. However you provide that comment, it's
17 analyzed and reviewed by us equally.

18 And so that's what we're here to do, to hear from
19 you. Because as I said, my job is to prepare the
20 Environmental Impact Statement. So that document is a piece
21 of the puzzle that Danita needs in order to make a decision,
22 an informed decision. So that document we will prepare, we
23 will look at impacts from the project, both from
24 construction of that project and from operations. And we
25 will look at how it impacts various resource areas of the

1 environment.

2 So examples would be the areas of thing --
3 resource areas that we will analyze for impacts from
4 construction and operation would be air and noise quality,
5 soils and geology. So soils, we would look at erosion
6 potential in particular areas and how those can be mitigated
7 or minimized. We'll look at water resources, including
8 groundwater, surface water, we had wetlands, floodplains,
9 riparian habitat. Again, same thing, on all these resource
10 areas, we're looking at how these impacts can be avoided,
11 minimized or mitigated for.

12 And we'll look at vegetation. That will include
13 noxious weeds and invasive species. We will look at
14 wildlife and aquatics resources, fisheries, threatened and
15 endangered species, special status species, wildlife. Land
16 use, recreation and visual or aesthetics. So we'll look
17 into -- range land management would come into play under a
18 land use section, and we'll address those issues there.

19 Any recreational areas that could potentially be
20 crossed, we would look at the impact to those areas, as
21 well. And then just the visual or aesthetic. Most of it
22 is, of course, buried, but there are some above-ground areas
23 that we would look at those impacts to the surrounding
24 environment.

25 And a large one here in this area, cultural,

1 archeological resources, Native American concerns. And then
2 we would also look at socioeconomic impacts. Those are the
3 environmental parts of the Environmental Impact Statement.
4 We also will address the purpose and need for the project,
5 and we will have an exhaustive discussion on alternatives.

6 And so, as Danita said, nothing is in stone. What
7 you see up right there is their proposed project and some
8 alternatives. We will analyze those, but we will also take
9 alternatives and route variations that we receive during
10 scoping, and we'll look at that, as well. So nothing is in
11 stone. Alternatives are obviously a large part of the
12 document. So that's kind of the document.

13 Currently, a timeline, kind of broad timeline, you
14 have it in your handout and on the poster here, but I'll go
15 over it. We don't have hard and fast dates on a lot of
16 this. Things are subject to change. But I'll just give you
17 kind of a general time frame of what we think we're looking
18 at right now for something typical of a project such as
19 this.

20 So right now, as I said, we are in the scoping
21 period, and that ends January 29th, 2014. Following that,
22 the next large milestone would be to issue the draft
23 Environmental Impact Statement. So we would prepare,
24 starting the first of the year, we will start preparing this
25 document. And we will issue that draft sometime, probably,

1 say, summer 2014. And at that time we will issue it. That
2 will open a 90-day public comment period on the draft EIS.
3 So the public has an opportunity to review that document and
4 let us know what you still -- what you don't like about it.
5 Let us know what you like about it. Again, it's to hear
6 from the public, what are your concerns at that stage of the
7 process.

8 Again, this is for us, for the BLM, this is a NEPA
9 process that we're following. We're not proponents for the
10 project. We're the ones who go through this process.

11 So we'll have a comment period on the draft, and
12 that will be sometime summer, fall of 2014.

13 Then we would have those meetings, and we would
14 take that information, and then we would revise that
15 document into a final Environmental Impact Statement. And
16 that would be maybe summer of 2015. And then that document,
17 that final document, would then be used by Danita in her
18 decision-making as to whether or not to grant the
19 right-of-way. And then they would -- BLM would issue a
20 Record of Decision, or you may have heard of that referred
21 to as a ROD. So those are kind of the major milestones for
22 the process. And we're at that very first point in this
23 whole process, very early on.

24 Immediately, kind of the near-term future schedule
25 of what we're looking at right now, we're going through this

1 process. Scoping will end at the end of January. We will
2 take all that, all the scoping comments, and we will prepare
3 a scoping matrix. We'll break down all the comments by
4 topic. We will then prepare a scoping report that will be
5 available to be reviewed.

6 And then we'll start on an alternative -- our
7 formulation of alternatives and doing some alternatives
8 analysis. And we will start preparing the draft
9 Environmental Impact Statement. That's what we're doing.

10 To that, at the same time, Kinder Morgan is out
11 conducting field surveys to collect data on environmental
12 topics, cultural resources to provide to us so that we can
13 look at what they're seeing in the field. So we will take
14 that information along with the other sources of information
15 to start the draft Environmental Impact Statement.

16 So I think with that, that's a brief overview of
17 our process, where we're at in the processes, very early,
18 critical part to hear from the public to hear what your
19 concerns are. It's your land. You know it better than
20 anyone else. So that's what we want to hear. That's the
21 type of information we want to hear. So that's why we're
22 here tonight.

23 So I'll turn it over to Mark Mackiewicz. He is
24 the project -- the national project manager for the BLM.

25 MR. MACKIEWICZ: Thanks, Trevor. Again, we

1 welcome everybody tonight. Again, my name is Mark
2 Mackiewicz. I'm a national project manager with BLM's
3 Washington offices. However, I don't live in Washington
4 D.C., I live in Utah.

5 Anyways, we do welcome you today. What I want to
6 point out and reiterate at this point, Kinder Morgan is a
7 privately owned company. They came to us with an
8 application. They requested the use of federal lands to
9 build their pipeline. So we, in response to that, have to
10 write this Environmental Impact Statement under the National
11 Environmental Policy Act. But you guys get some good out of
12 this, too. They're also analyzing all the lands for all the
13 resources that were just discussed.

14 Another point, I know it's been brought up by some
15 folks that it's not -- these alternatives on this map, once
16 more, are Kinder Morgan's idea. We don't -- we haven't said
17 anything whether those are good, bad or indifferent. They
18 came to us with those ideas. They've come up with some
19 alternatives right over here, some small alternatives that
20 preliminary resource studies have proven that there's some
21 -- maybe some issues over there that need -- that provide a
22 reason for us to look at other alternatives. So that's why
23 some of those alternatives are there.

24 Again, we need your input. If -- I was talking to
25 this gentleman up in front over here a second ago. He has

1 some property over here. He indicated that he doesn't like
2 where it comes through his property. There are ways that if
3 you -- perhaps, if you want to, you can work and make things
4 work. We are not, again, an advocate for Kinder Morgan's
5 pipeline. We are under the federal law required to analyze
6 it. We're an advocate of the process, and that's the
7 process we're going through right here today.

8 All right. We have received an application
9 right-of-way application, just to take you back, about
10 September of 2012. Along with that application, some folks
11 have seen a document that's called a plan of development
12 they gave us. It's a very, very large, large document. It
13 would probably be several thousand pages long.

14 Kinder Morgan is required to submit that plan of
15 development to us, and they tell us in minute detail how
16 they're going to build this project. Everything from how
17 much topsoil they're going to remove, to the amount of -- to
18 the vegetation that they're going to plant, to weed control
19 plans, to -- you name it, it will have to be in that plan.

20 It's a work in progress. We're going to use a lot
21 of the information out of that plan of development to write
22 the Environmental Impact Statement that we are starting to
23 work on right now.

24 Again, the purpose, they're transporting a
25 product, carbon dioxide, from a field in eastern Arizona.

1 This particular field in eastern Arizona is being developed
2 at this time. It's what we call a connected action. So we
3 are having to analyze direct and indirect cumulative impacts
4 from that field over there in eastern Arizona.

5 One other thing, we mentioned it's 214 miles long.
6 Can everybody hear me back there? I'm pretty loud.

7 The right-of-way that we are -- we may grant, if
8 this project is approved, will be 50 feet wide. It's a
9 50-foot permanent right-of-way. In addition, it will
10 require space to construct the pipelines. So if we approve
11 the project, there'll be a total of 100 feet that will be
12 utilized. They need the additional space because of the
13 material that's going through there, the trenching. They
14 have large trucks. They have welding machines, you name it.
15 So it takes a minimum of that amount of space.

16 In areas -- there'll be some tougher areas,
17 riparian areas and others that they're going to say to
18 Kinder Morgan, perhaps, neck that thing down as narrow as
19 you can put it. It may cost you extra money, whatever, but
20 we have resources to protect. And that may happen on parts
21 of the project.

22 With that, again, Danita had mentioned about what
23 we're looking for. Any concern at all you may have. Don't
24 be bashful. Looking back at the crowd we had in Mountainair
25 last night, they were not bashful.

1 Anyway, any other concerns you have, and, again, I
2 must say, alternatives, and then one other one. If you have
3 suggestions of how we could lessen the impacts of this
4 pipeline, we want to hear about that. How can you give
5 those comments? Tonight, you can talk to us. We have a
6 court reporter here. I've got a facilitator here. Shannon
7 Driscoll is going to come up and help us run this show
8 smoothly tonight. We're going to have a Web site. A Web
9 site will go up. You can submit comments on the entire
10 process.

11 Now, Trevor mentioned that our comment period is
12 closing the 29th. If, for some reason, after the 29th you
13 have a question or concern, whatever, give us a call, put it
14 on the Web site. All right? Or if something happens and
15 you have to run to Hawaii or Tahiti or something for
16 vacation and you missed the 29th, come on and send us a note
17 anyway. Okay? So mail, 48 cents or whatever it costs to
18 mail, you can do that, you can do it on the Web site, or
19 tonight during the presentation period over here.

20 If you're bashful, don't want to talk into the
21 mic, after the meeting is over with, come on and sit down
22 with us and we'll talk. Okay? We'll hear your comments.
23 With that, we're really happy to hear your comment and we'll
24 get this show on the road. So who's -- Trevor.

25 MR. LOVEDAY: So as Mark said, now we are at

1 the time when we want to hear from you. And we have, it
2 looks like, five or so people signed up already to speak.
3 So what we'll do, typically I'll call these folks, they'll
4 be called up. And when you come up to speak, please state
5 your name and spell it for the record. Again, we have a
6 court reporter here, so we want to make sure that your name
7 is exactly correct for the transcript.

8 We will limit comments to -- we'll start off, say,
9 five minutes, limit it to five minutes, so that everyone has
10 a chance to speak. And then once everyone on the list has
11 spoken, if you have more that you wanted to say and five
12 minutes wasn't enough, you'll have an opportunity to come
13 back and finish your comment. If you didn't sign up and you
14 still would like to speak, that's fine, too. Once these
15 folks have all spoken and provided us with their comments,
16 then we'll open it up for anyone else that would like to
17 speak, as well.

18 So, I think, Dovey, are you going to handle the
19 rest of the instructions?

20 MS. DRISCOLL: Yes. Okay. Hi. My name is
21 Shannon or my name is Dovey, either one is fine. I just
22 want to say a couple sentences real quick about my role. As
23 Mark mentioned, I will be facilitating, so I am just here to
24 try to make sure that we can really understand your comments
25 so that we are getting the best comments we can. So I might

1 have a follow-up question or two, and I'm also just going to
2 try to paraphrase what I'm hearing so that we can really
3 make sure we're understanding what you're saying. So that's
4 going to be my role.

5 If you have a lot to say, I might just jot down
6 some notes just so that I can keep track of it, but that's
7 all I'm doing. And then the last thing I want to do is just
8 very quickly take a look at the ground rules. We have them
9 posted over here. Really, the biggest one is that it's very
10 important to us to hear what everyone has to say, so we
11 really ask that only one person speaks at a time. We are
12 going to do our best to make sure everybody who wants to
13 come up and say something in the time we have is able to do
14 that. So if you can please limit conversations amongst
15 yourselves when someone is up here, and if you have a
16 comment or a question or whatever, you can raise your hand
17 and we can come get to you next.

18 So I don't know if anyone said this, if you can
19 all please silence your cell phones, if you haven't done
20 that already, we would very much appreciate it.

21 And we're just going to go through the list, and
22 then if anybody else realizes they have something to say
23 that didn't sign up for the list, we'll just take volunteers
24 at that point. And I apologize if I pronounce your names
25 wrong. The first person is Howard Snell.

1 MR. SNELL: I didn't realize I was going to
2 be first.

3 MS. DRISCOLL: And if you could just, when
4 you come up, restate your name and spell your last name for
5 the court reporter.

6 MR. SNELL: My name is Howard Snell,
7 S-n-e-l-l. I'm here as a member of the board of the Tierra
8 Grande Improvement Association, which is an organization of
9 several thousand property owners on the west side of the
10 Manzano Mountains. And most important for this discussion
11 tonight is that we administer an 14,000-acre open space,
12 which many of our colleagues who, I think, are here tonight,
13 predominantly belong to the Tierra Grande because of that
14 14,000-acre open space. So I want to address that in a
15 little bit.

16 The first thing I'd like to say is that I'm happy
17 to hear that this is not a done decision. The reason I say
18 that is that when I look at your timeline in the document,
19 it, of course, has a Record of Decision and then start of
20 construction a week after that, so it doesn't really look
21 like there's any chance to say no.

22 So I'm curious, is there a chance to say no?

23 MS. BURNS: There is a chance to say no.

24 MR. SNELL: And what would it take to say no?

25 MS. BURNS: Why? Are you --

1 MR. SNELL: I'm just curious.

2 MS. BURNS: -- asking for?

3

4 MR. SNELL: I'm just curious.

5 MS. BURNS: What will it take to say no? If
6 I see something that I cannot mitigate and it is a fatal
7 occurrence, then I would have to say no.

8 MR. SNELL: Okay. To start, then, I'd like
9 to mention that the expectation, I think, of many people
10 about right-of-way on public land is that if it happens, it
11 ought to be for the general public good. And that would
12 include the entire public, and not just shareholders of a
13 particular organization.

14 At the very outside of this -- you mentioned
15 cumulative effects -- at the very outside of this project is
16 somewhat flawed in that we're taking sequestered CO2 out of
17 the ground, moving it, and putting it into the ground again.
18 Now, if we wanted to do this for the public good, we would
19 want to reduce atmospheric CO2, which we could do by getting
20 CO2 out of the atmosphere and using that as a way to enhance
21 the removal of petrolatum, which is proposed, and there's
22 technologies to do that. It's much more expensive. There's
23 no question about it. But it's much better for the public
24 good. So I'd like you to consider that, of course.

25 And then specifically, for the Tierra Grande

1 Improvement Association and Abo Arroyo area, which has been
2 heavily impacted -- there's at least two gas pipelines
3 through there now. I think there's actually more, but I'm
4 not sure, so I'll say two. I know there's at least two.
5 The SunZia power line plans to go through there. The
6 railroad recently double-tracked and went through there.
7 And I know that some of our colleagues were against that, I
8 was, because of the impacts on the bighorn sheep population.

9 And because of the impacts on the bighorn sheep
10 population, we now have to do predator control on mountain
11 lions, which are also in low numbers there. Because, of
12 course, with fewer bighorn sheep, they can take fewer
13 predation by mountain lions. And while these projects are
14 underground, they severely alter the ground cover. Not in
15 terms of grasses, but in terms of large juniper trees and
16 plants that take 50 to 60, 70 to 100 years to grow and
17 mature, and cannot be replanted. So there's no way to
18 mitigate the removal of some of this ground cover that will
19 happen in this project.

20 Finally -- actually, not finally, but next, one of
21 the recent maps that we got from Kinder Morgan, which is not
22 demonstrated anywhere here, illustrates a proposed
23 alternative that would go through the mountains, actually
24 right smack dab in the middle of our 14,000-acre open space,
25 and cross a place called Sand Canyon, which is where the

1 Department of Game and Fish right now has repatriated the
2 bighorn sheep population, which they're requiring us to
3 allow them to trap our mountain lions so that they can't eat
4 their sheep.

5 So consequently, going right through -- you know,
6 if you know anything about bighorn sheep, you know they
7 simply don't take construction, don't take human activity
8 well at all. So consequently, that is an absurd proposal.
9 I'll be frank.

10 Secondly, Kinder Morgan, as I understand it, owns
11 Santa Fe -- El Paso Natural Gas Company. El Paso Natural
12 Gas is one of the easements that we already have through
13 this area here. So if, in fact, it's unavoidable that this
14 pipeline has to go through the Abo Arroyo, we would
15 certainly propose that Kinder Morgan simply use their
16 existing right-of-way with the El Paso Natural Gas line. I
17 realize that would cause construction issues because, of
18 course, you don't want to put one pipeline -- don't want to
19 drive bulldozers on one pipeline while you're inspecting
20 another -- but it can be done.

21 And consequently, it would reduce the impact of
22 the pipeline through the Abo Arroyo area simply because you
23 wouldn't be destroying those junipers and those trees and
24 plants and whatnot.

25 The final thing I'd like you to consider is that

1 among the thousands of people that own property out there
2 and are a part of the Tierra Grande, many of them are very
3 upset that they don't understand how they can say no as
4 private individuals. You know, they're being asked to allow
5 Kinder Morgan to survey on their property. They want to say
6 no. They say no, but then Kinder Morgan, you know, uses
7 adjacent properties.

8 I'm not trying to plant Kinder Morgan as the bad
9 person here, but the point is, the private landowner needs
10 to say no. It's his land. If he doesn't want -- or her
11 land. If she doesn't want it to be used for this, we would
12 hope that this would certainly be respected. And that's it.
13 Thank you.

14 MS. DRISCOLL: Thank you, sir. Can I just
15 actually ask you to stay there for a second. I want to
16 summarize what I have heard you say and make sure we're
17 getting it.

18 MR. SNELL: Okay.

19 MS. DRISCOLL: So the first thing that you
20 brought up is the idea that the public good should include
21 all of the public, and not just --

22 MR. SNELL: It should be the public.

23 MS. DRISCOLL: Right. It should not just be,
24 you know, portions of the public that make the CO2
25 pipelines. The alternative you proposed was atmospheric CO2

1 instead of a pipeline to --

2 MR. SNELL: Yes. Because if you remove
3 sequestered CO2 -- in other words, CO2 is a greenhouse gas,
4 which adds to the problem with global warming, whether you
5 believe in global warming or not. And consequently, if you
6 remove CO2 from the atmosphere and sequester it underground,
7 you're doing a positive thing. You're reducing the amount
8 of atmospheric CO2. If you take sequestered CO2 out of the
9 ground and simply then pipe it 200 miles and put it back in
10 the ground, you're having no net positive effect. And maybe
11 no negative effect, probably, because there's going to be
12 some leakage.

13 But anyway, if you take that CO2 out of the
14 atmosphere, pump it into the ground to help you recover your
15 oil, then, in fact, you're having a positive effect and
16 you're removing CO2s from the atmosphere.

17 MS. DRISCOLL: Okay. So kind of like killing
18 two birds with one stone, we get the CO2 and it does
19 something good?

20 MR. SNELL: Yes.

21 MS. DRISCOLL: And then I also heard a
22 serious concern about the bighorn sheep population, that
23 construction will have an impact on them and that will also
24 have an impact on the mountain lion population, as well.

25 MR. SNELL: Yes. Because as soon as that

1 bighorn sheep population goes down, the Game and Fish
2 Department, I can guarantee you, will be at our next board
3 meeting saying we need to trap more mountain lions because
4 we need to protect these sheep. And we need to protect them
5 because some of them fell in the hole that was being dug, et
6 cetera, et cetera.

7 I didn't mention, also, that there are endangered
8 species there that the surveys will not show. There are
9 golden eagles that nest in Sand Canyon. But you see them
10 extremely rarely. And so consequently, you won't find them
11 on a survey. You simply won't see them.

12 MS. DRISCOLL: Okay.

13 MR. SNELL: But they do occur.

14 MS. DRISCOLL: You've seen them and you know
15 they're there --

16 MR. SNELL: Oh, yeah.

17 MS. DRISCOLL: -- even if they're not on the
18 surveys.

19 MR. SNELL: Because we've seen them nesting.

20 MS. DRISCOLL: And the construction would
21 also have an impact on the golden eagle?

22 MR. SNELL: Oh, you can do your own research
23 on impacts of construction activities on nesting and bald
24 eagles.

25 MS. DRISCOLL: But your concern would be that

1 it might have an impact, at least.

2 MR. SNELL: It will have an impact.

3 MS. DRISCOLL: It will have an impact. Okay.

4 And then the final thing I heard, that people in the area
5 who are private landowners want to understand how they can
6 have a determination of what happens to the pipeline. How
7 do they say --

8 MR. SNELL: Especially on their property,
9 their private land.

10 MS. DRISCOLL: And how do we say no if we
11 want to say no, and how do we --

12 MR. SNELL: If they don't want the pipeline
13 across their land, will Kinder Morgan respect their wishes
14 and simply not do it and not pressure them to do it. Number
15 one, be respectful -- or number two, I guess, will Kinder
16 Morgan be respectful.

17 MS. DRISCOLL: And I don't know if anybody --
18 I think that some of that really was a question. I don't
19 know if anybody wants to address that now.

20 MS. BURNS: Actually, what I'd like to do is
21 hear all the other comments so I can --

22 MR. SNELL: Thank you.

23 MS. DRISCOLL: Thank you. And the next
24 person I have on the list is James Smith.

25 MR. SMITH: James Smith. I have Number 5 Torino

1 Loop. And just east of me is the government land, BLM land,
2 and that's for -- my driveway is on BLM land. My land is
3 fenced and gated, and I have received requests for
4 surveying. I don't want anybody on my land without me being
5 there. Now, how do I arrange that, for one thing?

6 The other thing is, if I choose not to have
7 anybody on my land, again, how do I arrange that? There's
8 five arroyos going through my land, and I've accounted for
9 that with my fences. I'm not sure I'm receptive to messing
10 all of this stuff up. So that's my question.

11 Also, in the event that I do give permission for
12 surveying, I want to make sure people contact me so that I
13 can open the gates. I don't want them going through my
14 fence, I want them going through the gates.

15 And you say it takes 100 feet. Well, if it takes
16 100 feet to put the line in, do you still retain the 100
17 feet?

18 MR. MACKIEWICZ: No. On federal lands --
19 and, again, that's what we'd be doing is 50 feet. And I
20 understand from Kinder Morgan they would request a 50-foot
21 permanent easement from you at this point. And any
22 questions that you have regarding issues like asking for
23 permission and that you want to be there, we have a
24 gentleman back there, Kevin Winner, and he'll be able to
25 answer those questions for you. He can give you his card,

1 also.

2 MR. SMITH: I have another question. If they
3 take 100 feet, does that mean I permanently lose it?

4 MR. MACKIEWICZ: No. What I'm saying,
5 typically they'll issue -- they'll request a 50-foot, and
6 then they'll ask for a temporary use just for the --

7 MR. SMITH: Machines. I understand that.
8 But when it's all said and done and just the line is there,
9 will my fences be put back up and will my property line be
10 the same?

11 MR. MACKIEWICZ: Okay. With federal lands,
12 we typically will require everything to be put back exactly
13 as it was. And on private land, you are able to work what
14 we call a landowner agreement that's attached to your -- an
15 easement, if you should grant it. And then you can dictate
16 and negotiate with Kinder Morgan whatever you want that you
17 both are agreeable to.

18 MR. SMITH: I'm pretty possessive, so I'm not
19 sure how that will work. Okay. I was paying attention to
20 your dating. So if I give permission for survey, I sent it
21 to the -- and I talked to the guy in Albuquerque, and so I
22 can send that permission with, I guess, notes about calling
23 me to open the gates and I guess I'll have to make
24 arrangements with him as to when.

25 MR. MACKIEWICZ: Right.

1 MR. SMITH: And if he gives me a date and I'm
2 there and there's a no-show, I want some kind of a recourse.
3 Okay. Thank you.

4 MR. MACKIEWICZ: Thank you. I appreciate it.

5 MS. DRISCOLL: So I just want to sum up real
6 quick. My understanding is that your biggest concern is
7 having people on your land, even for surveys, when you're
8 not there. And then also all the fencing and everything
9 else that might be disrupted by the pipeline itself and what
10 happens with that.

11 So I also just want to quickly summarize what Mark
12 has said, which is that the best thing for private
13 landowners to do with those questions is to discuss them
14 with Kinder Morgan, and Kinder Morgan will be -- you know,
15 the BLM will do that with the public land to say this is
16 what you're going to have to do to put things back or
17 whatever to use this land, so the private landowners would
18 do the same thing.

19 MR. SMITH: So the arroyos would also be
20 included with that.

21 MS. DRISCOLL: Right.

22 MR. SMITH: Because I'm sure BLM is going to
23 raise hell with that because they don't want to change the
24 water flow.

25 MR. MACKIEWICZ: We will.

1 MS. DRISCOLL: The next person on the list is
2 Pat Fritz.

3 MS. FRITZ: I signed the wrong list. I have
4 no comment. I thought I was signing in.

5 MS. DRISCOLL: The next person is Heather
6 Simpson.

7 MS. SIMPSON: Thank you. Heather Simpson,
8 S-i-m-p-s-o-n. And thank you, everyone, for coming, and
9 welcome all of you who are out of town. I know a lot of
10 Kinder Morgan people are from out of state, so welcome to
11 our state.

12 I have more questions than comments. Is that
13 okay?

14 MR. MACKIEWICZ: That's fine. Yes.

15 MS. SIMPSON: As for -- Ms. Burns? Is that
16 correct?

17 MS. BURNS: Yes, that's correct.

18 MS. SIMPSON: What is the BLM's mission
19 statement? What is your general purpose?

20 MS. BURNS: My general purpose is to enhance
21 the productivity and enhance recreation purposes for future
22 generations for now, yes.

23 MS. SIMPSON: And how does this pipeline fit
24 in with that mission?

25 MR. MACKIEWICZ: One of her other mandates is

1 to manage land on a multiple use basis. That's another one
2 of -- under the Federal Land Policy Management Act, that is
3 our guiding document, it's to manage lands for those
4 purposes for multiple use.

5 MS. BURNS: Multiple uses are mandated.

6 MS. SIMPSON: How many times has the BLM
7 rejected a pipeline overall, like completely? Or have you
8 always just found the best possible route?

9 MS. BURNS: You know, I can't talk about
10 every pipeline because I've only worked on this one, and
11 I've been -- yeah, this is my first pipeline. I've worked
12 with another one in Albuquerque, but this is the first one
13 I've actually looked at from start to finish, so I can't
14 really give you that answer.

15 MS. SIMPSON: Thank you. And as far as what
16 I heard from Mark, you collect most of your data from the
17 surveys that Kinder Morgan -- the data they give you, or do
18 you have outside --

19 MR. MACKIEWICZ: The process -- okay. The
20 process is, Kinder Morgan has hired a firm, AMEC, to collect
21 this recent data. All of this data comes into our field
22 offices and we independently verify that this data meets our
23 standards and is good. So we have -- we don't just take
24 this data and say, okay, throw it -- and then we get it
25 analyzed. Our specialists will be looking at all that data

1 that comes in.

2 MS. SIMPSON: Okay. So you verify that --

3 MR. MACKIEWICZ: We verify. Independent
4 verification of all of that data.

5 MS. SIMPSON: Okay. Do you accept
6 landowners, if they get their own surveys conducted on their
7 own land, will you accept that information also from outside
8 groups?

9 MR. MACKIEWICZ: Typically we do not. And I
10 would suspect most landowners would not want to pay all the
11 money involved because it's very, very expensive to gather
12 all this resource data. If landowners have information that
13 we can utilize to assess the impacts, we'll certainly take
14 that data and use it.

15 And let me just back up. If they've got some data
16 that we can independently verify, we'll look at it and
17 perhaps utilize it.

18 MS. SIMPSON: And as I heard you say earlier,
19 they're asking for a permanent right-of-way or a permanent
20 easement?

21 MR. MACKIEWICZ: On private lands, it would
22 be an easement. On public lands, it would be considered a
23 right-of-way.

24 MS. SIMPSON: And the word "permanent"
25 meaning how long is this well supposed to last? What is the

1 life span of this CO2 well?

2 MR. MACKIEWICZ: We -- I guess I'd have to
3 ask Kinder Morgan on this. I would imagine it's at least 30
4 years. Our right-of-way would be issued for a term -- if we
5 issue it, would be for 30 years with the right of renewal.

6 MS. SIMPSON: So will the private landowners
7 have that same option?

8 MR. MACKIEWICZ: I have to defer that to
9 Kinder Morgan.

10 MS. SIMPSON: Kinder Morgan, can you answer
11 that?

12 MR. CURBOW: That would be part of the
13 landowner agreement that you negotiate with Kinder Morgan.

14 MS. SIMPSON: Thank you. And for BLM, I know
15 this is the critical issue of if this is for the public
16 good. And so since it is a publicly held company, they are
17 making tremendous profits from this pipeline. Tremendous.
18 I believe the CEO is the second highest paid CEO, and his
19 net worth is somewhere around \$10 billion. How is this for
20 the public good?

21 MS. BURNS: That's what we have to find out.
22 We have to take a look at it. I'm looking at this process
23 all the way through, from beginning to end. As we said,
24 this is just the beginning. We're going to take a look at
25 it and see does it meet all of those criteria? Does it meet

1 the public good? But I can't just say I don't like this
2 project so we can't do anything.

3 MS. SIMPSON: Right.

4 MS. BURNS: They've obviously come forward
5 with a good project, a good application, and we'll take a
6 look at it.

7 MS. SIMPSON: And see if it is for the public
8 good?

9 MS. BURNS: That is right.

10 MS. SIMPSON: Mark, do you have any comments
11 on that?

12 MR. MACKIEWICZ: No, I don't.

13 MS. SIMPSON: No? And so with the
14 Environmental Impact Study, how is it scaled? How is it
15 proportioned? What weights more than the other? Basically,
16 I'm a teacher. What's your rubric? How do you scale the
17 different impacts? How do you decide -- because obviously
18 construction is going to cause an impact on the environment.
19 I mean, obviously. So how do you scale it? When does it
20 pass where it's too much of a risk to the environment or for
21 the public good?

22 MS. BURNS: Let's see. Actually, I don't
23 have a scale for you. I have specialists who take a look at
24 certain areas and, as I say, if it is a fatal flaw, if we
25 cannot mitigate something, I cannot, in good conscious, have

1 it go forward. We have to look for mitigation or we have to
2 say this is denied.

3 MS. SIMPSON: And your decision is -- are you
4 the sole decider once you get all the information?

5 MS. BURNS: I am the authorized officer, that
6 is correct. I will sign the Record of Decision. Correct.
7 I don't make that in a vacuum. I want you to know that. So
8 it's not, "What do I feel like today." It's getting all the
9 information from all of my specialists, and I also go from
10 the outside. I talk to the state office, as well, and all
11 of the programs.

12 MS. SIMPSON: And have there been any studies
13 on CO2 that might leak into aquifers and the impacts on the
14 quality of our water?

15 MS. BURNS: None that I know of right now,
16 but we need to take a look at that. Kinder, do you have any
17 studies that you are looking for in that area?

18 MR. CURBOW. We are not doing any specific
19 studies with regard to that. The CO2 -- the nature of CO2,
20 it's not like your crudes, although we're transporting it in
21 the liquid. As soon as it's released, in the unlikely event
22 it's released out of the pipeline, it turns into a gaseous
23 state and it doesn't travel very far.

24 I actually talked to my operator in regard to this
25 question, and what -- the nature of what it does, it

1 actually will just start freezing the ground around it and
2 it'll stay in that area, and it wants to go up.

3 MS. SIMPSON: Is it pure CO2, or do you have
4 additives to allow it to flow more quickly and not corrode
5 your pipes? Are you adding any other chemicals to this?

6 MR. CURBOW: No, ma'am. This is 99 percent
7 pure CO2. There are no additives.

8 MS. SIMPSON: What's the .1 percent.

9 MR. CURBOW: It's methane and nitrogen. And
10 it's just naturally occurring. It's from the earth, and so
11 we just can't extract every single particle from it. But
12 nitrogen and methane are standard gasses.

13 MS. SIMPSON: Would the BLM or other agencies
14 be willing to conduct studies on what it could possibly do
15 to our vulnerable water system, especially people who are on
16 their own personal wells?

17 MR. MACKIEWICZ: We are going to be looking
18 at -- you know, we've got our contractors that will be
19 looking at all issues. And I'm glad you bring this up. We
20 have it recorded. We will be looking at that. And if it
21 warrants additional studies, certainly we will study it.

22 MS. SIMPSON: Then with the reseeding, we
23 have ranch properties, so we have graze lands. I know with
24 our New Mexico drought situation, our soil is fragile. Our
25 grasses are fragile. Tearing them up, they're extremely

1 difficult to reestablish. We've been trying to do it on our
2 property just to keep habitats and things nice, and it's
3 extremely difficult, extremely expensive, and we rely on
4 rain, and that's a problem here. So how is that going to be
5 addressed?

6 MR. MACKIEWICZ: We will require that, for
7 the most part, they reclaim it with Native vegetation,
8 grasses, forbes and shrubs native to the area. We haven't
9 gone through all the detail yet. Our goal many times is to
10 collect seeds as close to where the impact occurs to allow
11 better success.

12 They'll be required to save -- salvage topsoil and
13 not mix subsoil with topsoil. They'll be required to seed,
14 again, with Native vegetation to the extent we can. To
15 insure that the public land is brought back, we have
16 long-term monitoring requirements, a minimum of five years,
17 perhaps longer, to insure that Kinder Morgan doesn't go to
18 Korea or someplace and leave us in the -- without anything.

19 We'll require a bond, a compliance bond. And that
20 bond will be in place until we're satisfied that the
21 reclamation meets our standards. And we have some pretty
22 high standards when it comes to reclamation.

23 MS. SIMPSON: Thank you. I'll just end with
24 a comment. One thing that you asked us to do is to offer
25 suggestions on how it might lessen the impact, and my

1 suggestion is that you deny the proposed pipeline, please.

2 MR. MACKIEWICZ: Thank you.

3 MS. KNIGHT: I just wanted to add a comment.

4 One of the things that you were asking, with the public
5 good, one of the things we do do is we actually charge them
6 rent on public lands. And so we actually do take in rents
7 for every acre that they cover across public lands. And so
8 that money comes into our office and into the BLM, and we
9 turn that money back around and we enrich public lands, we
10 put it towards monuments, that helps to do other things on
11 public lands. So that is part of the benefit. So that is
12 part of the public good any time we issue rights-of-way for
13 on public lands. So it's not -- it may not be --

14 MS. SIMPSON: Is it on top of my BLM leases
15 that I currently have?

16 MS. KNIGHT: I'm sorry?

17 MS. SIMPSON: Is it on top of the money I pay
18 for my BLM leases?

19 MR. MACKIEWICZ: Yes, it is. It is.

20 MS. SIMPSON: It is? So it's on top of that?

21 MR. MACKIEWICZ: Yes.

22 MS. SIMPSON: Thank you.

23 MS. KNIGHT: So just so you know, there's a
24 little bit. But it may not be exactly what you want to
25 hear, but a little bit.

1 MS. SIMPSON: Thank you.

2 MS. DRISCOLL: Ms. Simpson, you had several
3 questions, so I'm going to -- and it sounds like you got
4 answers for most of them, but I just want to try to
5 summarize a couple points that seemed like very good
6 comments and what we're looking for. So, obviously, that
7 this really be in the public good was one of your concerns.

8 That the -- it sounds like the idea that the BLM
9 and Danita are careful while making sure that they verify
10 the data that they have and that they really are looking at
11 all of the experts and all of the data that they collect to
12 make that decision. Specifically that the water in this
13 area, and presumably all along the pipeline, that we really
14 understand what the potential impacts are to the groundwater
15 before doing anything.

16 And then the idea that reseeding is potentially a
17 very difficult thing here. Because of the lack of rain, it
18 can be expensive, it can just be difficult to get native
19 plants to grow. So that's something else that should also
20 be taken into consideration.

21 The next person on the list is Joslyn Torres.

22 MS. TORRES: I'm Joslyn Torres, and I'm here
23 on behalf of myself and my parents, Florentino and Sophie
24 Torres. They own ranch land. They grow alfalfa. They pay
25 very, very high conservancy taxes.

1 I'm an attorney. The reason I became an attorney
2 was because somebody tried to close our road to the land. I
3 had never read a case in my life. I thought I could do
4 better standing still than those people going full blast.
5 Since I've been an attorney for 32 years, I've represented
6 my parents with every aspect of that land. My dad is 82.
7 My mom is going on 80. This has been their livelihood.
8 This is their legacy, not only for themselves, of what they
9 have built in their lifetime on this land, but for their
10 children.

11 On June 6th, there was a letter from Kinder Morgan
12 to my parents telling them that they wanted permission to
13 survey the land. I assisted my parent with the response.
14 We sent it by certified mail, and we said no. No, you do
15 not have permission. If you'd like to make it part of the
16 record, I've got a copy here. I would like to make it part
17 of the record. In my opinion, no means no. Okay?

18 And then, October 7th, another certified letter.
19 Not just the letter, but a threat in that letter, "Should a
20 landowner fail to allow access for surveyors and other
21 necessary consultants in connection with this pipeline or
22 fail to come to terms concerning acquisition of
23 right-of-way, and should your property be in a finalized
24 pipeline route, Kinder Morgan may choose to exercise its
25 eminent domain authority under New Mexico law."

1 Does that sound like a threat to anybody here? It
2 sounds to me, as an attorney for 32 years, it sounds to me
3 like a threat. And I would like to make this part of the
4 record.

5 And then my question here tonight, is it in the
6 public interest to devastate this land where they have grown
7 alfalfa since at least the 1930s continuously, until now,
8 where they have maintained the water rights by paying these
9 conservancy taxes all these years throughout my dad's
10 lifetime and beyond, his father before him. Is it in the
11 public interest to devastate, like the prior speaker said,
12 the water in the area where there's always a drought, and
13 potentially devastate that water. Is Kinder Morgan going to
14 replant alfalfa and find us new cattle to graze on that
15 alfalfa? Is that what they plan to do?

16 My mom has prepared a statement, which I would
17 like to read. There was a flood in 1941. It was very
18 difficult to produce on the land after that. Mr. A.G.
19 Torres, which was my grandfather, my dad's dad, spent a lot
20 of time and money trying to get crops to produce. He had
21 very little luck. Florentino Torres, who is my father, also
22 has been working the land topsoil, and last year we had a
23 very good crop of alfalfa, our very best. Actually, just as
24 a side note, the year before that, I had to represent my
25 parents because the Conservancy flooded our land, and they

1 did not replenish the land. Okay? That land had to stay
2 foul. We had to just allow grass to grow on that land.

3 This company should not be putting this pipeline
4 on our land. A prior speaker said there's an existing
5 easement. There's an existing pipeline. You know, this \$10
6 million CEO can put their pipeline there. But why are you
7 going to devastate the livelihood of the people that have
8 lived on the land over 100 years and are still cultivating
9 that land, still raising cattle? Why devastate the land?
10 That is not in the public interest of New Mexico citizens.
11 That's what I have to say. Thank you.

12 MS. DRISCOLL: Ms. Torres, I just have a
13 follow-up question, if that's okay.

14 MS. TORRES: Sure.

15 MS. DRISCOLL: I'm wondering if you could
16 give some more detail. I know you've said this is really
17 going to be destructive to alfalfa and cattle and would
18 endanger the livelihood of your parents. Can you talk a
19 little bit more about the specifics of that? Just because I
20 don't know anything about alfalfa growing. But just so that
21 we really have a good understanding of what kind of impact
22 that's going to have. Is there anything specific with the
23 construction?

24 MS. TORRES: Their entire livelihood. My dad
25 is retired from the City of Albuquerque since about 1986.

1 Since then, he's been a rancher full time. He grows the
2 alfalfa, he grazes the cattle 24/7, 365 days a year. He has
3 done that his entire life, but full-time since at least
4 1986.

5 My parents have made plans for their children to
6 inherit the land when they pass away. Their plan is that we
7 will not sell it. We will not devastate it ourselves. We
8 will not tear it up. We will not do anything with the land
9 but cultivate it and raise the cattle the way that my
10 parents and grandparents have done.

11 The income is minimal. From agriculture, there's
12 not much income to be found, but it's a livelihood. It's a
13 way of life for these people. We almost got blocked on the
14 south when I was about, I think, in 5th grade, something
15 like that, 8th grade, by another lawsuit. My grandfather
16 won that lawsuit. My dad paid the legal bills.

17 Like I said, when I was 19, then we almost got
18 blocked from the north, we have had battles with Conservancy
19 throughout. The whole 32 years that I've been a lawyer, I
20 have represented my parents in one battle or the other with
21 the Conservancy, and they pay very steep taxes to maintain
22 those water rights that they've got. Okay?

23 It would devastate everything. Every aspect of
24 their lives. Their livelihood and their legacy would be
25 devastated. This is not just a 50-foot easement, and let's

1 just put it wherever we want. This is taking away a
2 livelihood and a lifetime dream of people that have worked
3 very hard to achieve that dream, and it should not be done.

4 MS. DRISCOLL: So I just want to summarize
5 and make sure I got that. So any construction through this
6 land for the pipeline is going to have such an impact that
7 it will --

8 MS. TORRES: Stop the operation.

9 MS. DRISCOLL: -- stop -- it will stop the
10 operation of the land completely?

11 MS. TORRES: It will stop the operation
12 completely.

13 MS. DRISCOLL: And I wanted to just pull out,
14 very quickly, a couple of other things that you said.

15 MS. TORRES: Sure. Okay.

16 MS. DRISCOLL: You offered, again, the
17 suggestion of putting it where there's an existing pipeline
18 as a possible alternative.

19 MS. TORRES: They already have a pipeline
20 established, and they've gone through whatever it took to
21 get that one established with that one. Why not?

22 MS. DRISCOLL: And you also mentioned the
23 importance of the public good, of making sure that water is
24 protected here. And you specifically mentioned alfalfa and
25 cattle, which I'm going to assume is probably an issue for

1 more people than just you, but certainly specifically with
2 your parents' land.

3 And then the final thing, the letters that you
4 gave us were of some concern to you because of the manner in
5 which they stated what they stated.

6 MS. TORRES: It looks like a threat to me.
7 If a person has already said no and they sent you that
8 letter by certified mail to make sure you got it, and then
9 you come back and you say, "Well, we're going to take your
10 land anyway. We're going to claim eminent domain." It
11 looks like a threat to me. It looked like a threat to my
12 parents and to a lot of the neighbors that they have been
13 talking to.

14 MS. DRISCOLL: So that is also a concern to
15 you with this project?

16 MS. TORRES: That's a huge concern to me.
17 Huge. What is this company doing? Are they strong-arming
18 their way to make the people that don't have a daughter as
19 an attorney think that they can claim eminent domain and
20 take their land so go ahead and sign it over? That's what
21 I'm wondering.

22 MS. DRISCOLL: So it's something that's a
23 concern for you on behalf of your parents, but also just in
24 general, any of the private landowners along the pipeline?

25 MS. TORRES: Public policy, yes. Eminent

1 domain.

2 MS. DRISCOLL: But it affects more people
3 than just that.

4 MS. TORRES: The public policy of New Mexico,
5 that's what I'm worried about. Because we're all from New
6 Mexico. You know, what is the state turning into? More
7 money for Kinder Morgan and El Paso Natural Gas? Where will
8 we ever see the benefit as a state?

9 They'll never reclaim the alfalfa, though; is that
10 correct?

11 MS. DRISCOLL: I'm sorry. Can you say that
12 again?

13 MS. TORRES: I think the other prior speaker
14 had asked the question, will Kinder Morgan reclaim the
15 natural soil or whatever, then natural seeds. Would they
16 reclaim the cows and the alfalfa? I'd like to know that
17 part.

18 MR. MACKIEWICZ: Yes. It would be a
19 landowner agreement between you -- if you were to grant them
20 an easement, it would be a landowner agreement where you
21 would say, yes, Kinder Morgan, in order for me to grant you
22 an easement, would be for you to plant this alfalfa back
23 exactly as it is. And in between times, they would most
24 likely pay you, if that's the agreement that you worked out,
25 for the loss of that alfalfa during the years it took to get

1 back, to grow back.

2 MS. TORRES: And then how well does
3 reclamation work? I mean, I have my master's in public
4 administration and energy management. My thesis was on
5 coal. Okay? And the theory, in 1978, a long time ago, was
6 that they were going to strip mine and they were going to
7 reclaim the land. And my understanding, most of that land
8 was never reclaimed.

9 MR. MACKIEWICZ: Okay. We have had generally
10 some good success with reclamation. And it's been pointed
11 out today by the first speaker, it does take a long time.
12 It really does take a long time.

13 MS. TORRES: Are there any failures with
14 reclamation?

15 MR. MACKIEWICZ: We have had failures.
16 However, we've required the companies that have put projects
17 on federal lands to come back and redo it. And we've had
18 them redo it two or three times, until they get it right.

19 Now, standards that they have to meet -- and,
20 again, the private landowners agreed -- grants easements or
21 whatever, they can put standards like that also.

22 Oftentimes private landowners like to use our
23 standards because we have got quite a group of resource
24 specialists that lay out these requirements and standards
25 and review them. And so private landowners will oftentimes

1 say, whatever you did on the federal lands, do it on our
2 private lands also, all the requirements.

3 MS. TORRES: So my response is it's my
4 understanding that a lot of times people have had high hopes
5 for reclamation, and all of those efforts have failed. And
6 that's historical in the United States.

7 MR. MACKIEWICZ: Exactly. Yes, that's true.

8 MS. TORRES: Okay. Thank you.

9 MS. DRISCOLL: So just to summarize those up,
10 real quick. Another concern and comment for the record is
11 that even if we put reclamation into the plan, if it goes
12 forward, that it's important that that actually is able to
13 happen and that the decision-makers recognize that it has
14 some chance of not working out.

15 MS. TORRES: Pretty good chance of not
16 working out, right. Thank you.

17 MR. MACKIEWICZ: We appreciate it. Thank
18 you.

19 MS. DRISCOLL: So that's all of the people on
20 the list. I know that, ma'am, you had your hand raised,
21 actually, earlier. Did you want to comment?

22 MS. SAWYER-ROSAS: Oh, I would love to
23 comment, yes. Absolutely. We, too, have received -- and I
24 see the rest of you with hands raised --

25 MS. DRISCOLL: Could you just state your name

1 for the court reporter?

2 MS. SAWYER-ROSAS: Jean Sawyer-Rosas.

3 S-a-w-y-e-r R-o-s-a-s. We own a ranch. We own land in
4 Tierra Grande. We also own a ranch up on Highway 60 after
5 you go through the pass, 7,000 acres, roughly. Ten square
6 miles for those of you who don't understand acreage.

7 We have the pleasure of having El Paso Pipeline
8 through our ranch. We have another, Transwestern Pipeline,
9 through our ranch. I can tell you that the construction
10 that you're concerned about and that you're speaking about
11 tonight is only the beginning. It opens the door for the
12 rest of the nightmare that comes along with having an
13 easement on your land.

14 As an attorney, me to -- as an attorney, since
15 1993 owning this ranch, I spend an awful lot of my time
16 working on easements, as we have other easements on the
17 property, as well. I think what you all need to understand
18 is you, as BLM, have a lot of power. You, as BLM, have the
19 authority to say this and that for what will be your
20 requirements for someone to use public land. You also get
21 paid for it over and over again in the form of a lease, from
22 what I understood you to say -- or someone else over here
23 said.

24 You don't live on the land. You don't live near
25 the land. You come from faraway places and live in Utah or

1 Washington D.C. or wherever. We live on our ranch, as these
2 folks live on their properties. I think some of the things
3 that none of you are -- or had an opportunity to think
4 through yet is the fact that the servicing and care of a
5 pipeline is like taking care of a baby in diapers. It goes
6 on and on and on.

7 You wake up in the morning and realize somebody is
8 in my pasture on the far side of the ranch. You have to
9 stop what you're doing and you have to go over there to find
10 out what's going on. You then find that you have a crew of
11 people in there working, or they're going to be doing
12 something or they've sent somebody out to check on
13 something. And now they may stay on your dirt road, but
14 they may decide it's easier to drive across country. And as
15 they mentioned, the land is fragile, so now you have a new
16 road. Even one time passing with a vehicle can cause a new
17 road to stay there.

18 For years, you see those tracks. And someone else
19 sees them, and they use them. And now you have a road for
20 sure. In addition, if they pull off of your single-lane
21 dirt road, which we all use to cross our properties, you've
22 got a hot engine. Now, you have a grass fire. Another
23 issue to consider, because we are the firemen out here. All
24 of us are. No fireman will come when you call. We have had
25 the problems in the past where we've called for fire help,

1 and the volunteers take two or three hours to show up.
2 Well, by that time, it's either burned down or you've put it
3 out yourself.

4 The constant entries into the land that are
5 required for the servicing or maintenance of the pipeline,
6 it's everything from now we have to dig it up -- they give
7 you notice ahead of time, but it's not always easy for us as
8 ranchers or landowners to go out there and shepherd over
9 what they're doing, being sure that they're not peeing and
10 pooping in your bushes, in addition to leaving their trash
11 or not, or their cigarette butts, which we have had to deal
12 with in the past. We run cattle. That's not so great for
13 cows to eat.

14 You have problems with a crew that goes in to do
15 work. It's going to be a week long, but then it's going to
16 take a little longer. So you have to be present. You have
17 to have your ranch hand continually check. We have to
18 continually go and check.

19 Once that is done, then you have the revegetation
20 issues all over again, which never work. They have to block
21 your cows out of certain areas while they do the work. They
22 have to go in repeatedly as they continue to go in and out.
23 Pretty soon, they're leaving your gates unlocked because
24 they're going to come back after lunch or they're going to
25 come back tomorrow when it's more convenient. Or they send

1 someone out who doesn't have the keys, so the next thing you
2 know, they cut your lock. They cut your fence in order to
3 access.

4 I'm amazed at the things that have happened over
5 the 20 years that we have had easements on our land. We,
6 too, met with Kinder Morgan once. We, too, have received
7 the threatening letter saying -- first they say you don't
8 have to agree to have this survey done because we can go
9 around you. Then you get a letter in the mail that says --
10 the threatening letter that was read. It is disconcerting
11 to receive. And pretty soon it becomes very clear that
12 although you, as BLM, have power and authority here, we, as
13 individual landowners, end up with nothing.

14 How can you negotiate at a table with a company
15 who has eminent domain in their pockets and they can slam it
16 down on the table and go, "We don't like what you're saying.
17 We don't like how you're trying to negotiate. We don't like
18 your silly little lists or requests. So, boom, your land is
19 condemned. Boom, you've got nothing more to say. Take it
20 and eat it."

21 That's pretty much what has happened to us in the
22 past in some other situations. And I'd like to go on record
23 saying I don't want to go through that again.

24 So we would like for you very heavily to consider
25 the fact that you are the ones that hold all the cards here.

1 And those of us who are private landowners, as much as you
2 freely tell us we can negotiate these things in, we can tell
3 them that we only want a 30-year deal or we only want this
4 or we only want that or we will only permit this, you're
5 laughing up your sleeve at us because in reality, those
6 things are no longer available to us. Once they have sent
7 out the letter of threatening condemnation to us, we have no
8 way to further negotiate. There is no opportunity to
9 negotiate.

10 Then they tell you, in addition, how little they
11 plan to pay you because they don't want to set a precedent.
12 They don't want to pay to enter for the survey. And they
13 sure as heck don't want to pay more than a buck a rod or ten
14 bucks a rod for any crossing of your land.

15 And then when they come back in again, they don't
16 want -- it's very difficult to get them to pay you for
17 damages or time and consideration on your part. My husband
18 has to stop what he's doing and shepherd over them when they
19 come to do work and to repair.

20 So these are things that you are not speaking
21 of that are really alarming us, because we spend more than
22 half our year, every year, servicing people who don't pay us
23 a dime. And as private landowners, as someone mentioned,
24 we're trying to go eke out a living here, and running cattle
25 ain't a way to get rich.

1 MS. DRISCOLL: So, again, I just want to make
2 sure I've got all that. So based on your experience with
3 this kind of easement, your concern is not only the
4 construction itself, but what happens after the construction
5 and the servicing of the pipeline afterwards.

6 MS. SAWYER-ROSAS: Precisely. Construction
7 opens the gate, and then comes the tsunami every year after.
8 Any time they need work, any time they need in, they just
9 expect you're going let them in and open the door and give
10 them a key or whatever else.

11 MS. DRISCOLL: So specifically, some of the
12 particular concerns with that is having people on your land
13 without your permission. And giving a for instance, a fire
14 or hazard with having people out on the land with vehicles
15 where there's not a road. Having -- not being able to
16 supervise any work if they need to come in and do repairs.
17 And so the difficulty of having someone who lives on the
18 land actually there to kind of make sure that things are
19 okay while the crew is there.

20 And then the difficulty of -- sorry, I lost the
21 word I wanted to -- replenishing the vegetation if they need
22 to do any kind of repair work. And then, obviously, moving
23 cattle or whatever, the impacts that it would have outside
24 of just the repair.

25 MS. SAWYER-ROSAS: Yes. I mean, it's great

1 to wake up at two o'clock in the morning when the ranch hand
2 calls from his place and says, "I can see headlights in the
3 pasture." And I go over there, and it's because some work
4 crew has left the gate unlocked. Someone has gotten in.
5 They don't want to drive all the way back, how they got in,
6 so now they just take out their pliers and they drop it on
7 the ground and you've got cattle on the road in the middle
8 of the night.

9 Or my husband has to get up and drives around and
10 finds out who in the heck is out there in the pasture
11 because no one is supposed to be there.

12 So it becomes a nightmare 24/7. And it's just --
13 I'm alarmed at how easy it is for everybody to simply say,
14 "Well, gee, it's public good because we get paid a little
15 money for this."

16 So we're going to have -- we pay grazing leases,
17 as do these other folks here, to the BLM. So we are your
18 clients, and we would like some extra heavy consideration on
19 this because, as a private landowner, we have nothing. We
20 have no way to negotiate with these guys. Only you have
21 power. We have no power because of that eminent domain
22 letter that we all received.

23 It's very clear what will happen. And I can tell
24 you all from past experience, I tried to fight one of the
25 these situations before. They come up your driveway and

1 they hand it to you out the window of a truck, meet you in
2 court. It's swell. We don't want to go there. Please,
3 don't do this.

4 MS. DRISCOLL: So then just to quickly
5 summarize that final point, that you would like the BLM to
6 consider the fact that the BLM is in a better position to
7 negotiate that than any individual landowners.

8 MS. SAWYER-ROSAS: You are the only ones that
9 have any nuts to negotiate with. They just cut all of ours
10 off.

11 MS. DRISCOLL: And the eminent domain,
12 obviously, is of great concern as well.

13 MS. SAWYER-ROSAS: That's what I'm talking
14 about. I can negotiate with a regular company that comes in
15 and sits down and wants to do business with me. I can
16 negotiate with them. But in this situation with an eminent
17 domain or condemnation scenario, there's no way we can --
18 there is no way to negotiate this. So it's easy for people
19 to say you can put this in your agreement and this in your
20 agreement because as a landowner you can negotiate these
21 things. And I'm telling you, you're not going to be able
22 to. That's the big concern here.

23 Because many of us have BLM land, and we pay
24 grazing leases to you all. We really are a client of yours,
25 and I think we have a special standing with you that perhaps

1 the world at large does not have because we have contracts
2 with you. So we have to honor our contract and live up to
3 our side, so we would like you to honor the contract and
4 live up to your side to perhaps protect the land so that we
5 might continue to use it for what we have been leasing it
6 for. And I know a lot of you are on leases in here. So I
7 would like you to consider that. Thank you.

8 MS. BURNS: I appreciate that.

9 MS. DRISCOLL: This gentleman right here.
10 And then I saw a hand back there and over there. We will
11 get to you next. Please state your name.

12 MR. DONNER: My name is Jack Donner, and I
13 live in Tierra Grande.

14 MS. DRISCOLL: Spell your last name, please.

15 MR. DONNER: And I have a little different
16 attitude than what I've been hearing here.

17 MS. BURNS: I'm sorry, sir, your last name?

18 MR. DONNER: Donner, D-o-n-n-e-r. I started
19 my career -- I'm 75 years old -- when I was 15 up in
20 Farmington, the Four Corners area, around a lot of
21 pipelines. I go up there now, and I can't even see where
22 they were because it all grew over. I hear a lot of smoke
23 blowing around here and in the Cuba area. And I had a
24 plumbing company, dug a lot of ditches everywhere across the
25 mesas and stuff there. Of course, eventually the housing

1 came over.

2 But the private landowner thing, I have nothing.
3 But being a taxpayer since I was 15 years old and BLM land,
4 I feel like I own some of it, too. Because just I don't
5 have a bunch of cows running around on it. And the jobs
6 that something like this brings to a depressed area like
7 we've got -- and don't think we don't have a depressed area
8 in this state.

9 When they put the Cortez line in, the railroad
10 unloaded them pipes down there in Albuquerque, thousands of
11 people went to work. Thousands -- a thousand, maybe. And
12 they trucked in three joints at a time all the way to
13 Cortez, and it came down. The welders and the diggers and
14 the equipment and the jobs that that produced was
15 unbelievable, and the impact is great.

16 And the CO2 they take from Cortez and take it down
17 there by Midland, and it brings that oil back up cheaper.
18 You can't beat it. I'm tired of \$4 diesel, 3.85 right now.
19 And I had to quit my motor home vacation or retirement
20 because it started out at 98 cents a gallon in '95, and when
21 we sold it a few years ago, it was -- well, you all know, it
22 was near \$4 a gallon.

23 And I'm for producing this stuff cheaper so we
24 don't have to pay as much. And the jobs that this stuff
25 brings in is unbelievable. But that's my attitude. And I'm

1 all for it, and I think a whole lot of other people are,
2 too.

3 And these pipelines, the guys I'm meeting them up
4 there at the restaurant at Mountainair all the time, they're
5 not out there deliberately -- that maintain that line for
6 Transwestern and stuff, they're not out there deliberately
7 trying to destroy fences and stuff like that. They're very,
8 very careful. Very -- so I just want you to know my
9 attitude on it. Thank you.

10 MS. DRISCOLL: So in your experience, then,
11 the pipelines that -- where you've seen pipelines go in,
12 there has been regrowth over them so you can't tell, just
13 looking, where they were. But the Cortez pipeline brought
14 in jobs and economically was good for the area.

15 MR. DONNER: Oh, man, it was -- for a year
16 there, it was great. And through the Pipefitters Union
17 there in Albuquerque, the welders that were hired out, it
18 was unbelievable. And then the restaurants and motels and
19 -- because a lot of these guys are boomers that come
20 through, and the economic impact is great.

21 They aren't like the movie studios that come into
22 Belen and bring their own lunch wagon with them, and they
23 don't go into a restaurant hardly. These guys support the
24 community when they're working in the area.

25 MS. DRISCOLL: And then I think you also

1 mentioned that your experience has been that these crews are
2 also trying to protect the land and are not intentionally --

3 MR. DONNER: Yeah. They were born and raised
4 on ranches up there. They're personal friends of mine. And
5 they're not out to destroy somebody or make things hard for
6 people and things like that. It might happen, don't get me
7 wrong, but they're not doing stuff like that with the
8 attitude that I've been hearing around here.

9 MS. DRISCOLL: So the gentleman in the back
10 with the hat, come up and tell us your name and spell it for
11 our court reporter.

12 MR. MECHEMBRIER: Good evening. My name is
13 Mike Mechenbrier, M-e-c-h-e-n-b-r-i-e-r. Myself and my
14 family own Four Daughters Ranch west of Belen here, a rather
15 large ranch, and we own this pecan grove just south of Belen
16 here. And I'm met with Kinder Morgan originally to go over
17 the survey, one thing and another. And we actually went to
18 the ranch and looked around.

19 Once we did, I asked him to stop the survey until
20 after the first of the year because we have a benefit elk
21 hunt at the ranch that supports an orphanage, and I didn't
22 want a bunch of people running around while we were trying
23 to raise \$20,000 for this orphanage. And they were very
24 polite; they agreed to do that.

25 After I met with them, I've started doing a little

1 bit of research, trying to understand what this means.
2 They're going to come through our ranch to avoid Indian
3 lands because it's much more troublesome. So I kind of
4 understood that, but I didn't understand that they had the
5 eminent domain rights. So I got to studying on that, and
6 found out it's pretty damn tough to stop them.

7 In the meantime, on both the Four Daughters Ranch
8 and Ms. McKinley's, sitting here, who recently purchased the
9 Lovelace Romero, there's two pipelines. It's El Paso
10 Natural Gas and Transwestern. There's two pipelines
11 transverse across there and then come down across the pecan
12 farm down here. And just a couple of examples of what it
13 will cost you, we had some very horrible rains back in --
14 and both these lines were well maintained, you know, a few
15 years back.

16 Unbeknownst to me, in 2012, Kinder Morgan bought
17 El Paso gas line. With the unseasonable and heavy rains
18 that we had in September, it turned both these right-of-ways
19 and easements into nothing but arroyos, not only washing and
20 exposing the pipelines, but washing out the roads.

21 I went down one of the roads one morning, and the
22 water -- I ended up -- the entire easement for El Paso
23 Natural Gas had turned into an arroyo, and my pickup rolled
24 off, and I end up walking out about six miles. The next day
25 we came and got the pickup out.

1 I contacted both Transwestern and Kinder Morgan,
2 and Kinder Morgan employees showed up out there, said, "We'd
3 like to do something about it. Our maintenance costs have
4 been cut so much, we used to take good care, but we don't
5 think we can do anything."

6 I contacted Transwestern, and they're out there
7 -- they've been out there maintaining, putting in checks,
8 trying to keep it from being just an erosion.

9 Over here at the Byrd's farm, we have pecans,
10 we're trying to put in some water conservation
11 microsprinklers. And we are in the process right now of
12 running one of them lines. And it comes across one of your
13 easements. Everybody says you're real friendly to
14 agriculture and you won't have a problem. It's like an act
15 of God to get that line across there, which you'll probably
16 do -- put on us today. Your line is 14 foot deep. They
17 want us to bring in a vac truck to vacuum all the way down
18 to the top of that line, when there only needs to be two
19 feet of separation between your line and this PVC line.

20 And I totally understand the safety in these
21 easements. We're a mechanical and utility contractor in
22 Albuquerque and work around these gas lines and everything.
23 But to require -- not allow us to dig four foot deep to make
24 sure your gas line is there, when it's been located and it's
25 14 feet deep, and the cost, the expense of a \$280-an-hour

1 vac truck come in is ridiculous. So it is going to affect
2 agriculture.

3 I saw Tom Gow walk in. I've worked with Tom 25
4 years. He's the head of the BLM up in Albuquerque. We've
5 had a great relationship. And I understand being a steward
6 of the BLM land leases, but I think Tom could verify that we
7 take impeccable care of the BLM lands. We respect them, the
8 public lands. We don't overgraze them. It's been hell for
9 ten years of drought.

10 But I haven't seen the same respect out of these
11 gas lines coming across there at all. When I started
12 digging through, trying to learn as much as I could what
13 type of freight train we're facing, I came across an
14 article. And it's put out -- and I'd encourage any of you
15 guys that are in a position to get this -- it's Kevin
16 Kaiser, he's a senior analyst for a hedge fund. And they
17 financially dissected Kinder Morgan. The returns on their
18 stocks are 22 percent a year. And it's not from pumping gas
19 and CO2 all the time.

20 This article goes on, and they're specific
21 examples of it, the first asset Kinder Morgan bought -- let
22 me get to it here. I believe Kinder Morgan was established
23 in '97. And they bought the first pipeline out of
24 California, if I'm not mistaken, with -- was it Santa Fe
25 Pacific? Is there any Kinder Morgan expert here?

1 MS. BURNS: Yes, there is.

2 MR. MECHENBRIER: They bought that and the
3 company was established in '97. They closed on Santa Fe
4 Pacific pipeline, partners in early '98. They went on, and
5 the first year Kinder Morgan operated them, they cut the
6 maintenance costs by 56 percent. By 2002, it was almost 100
7 percent. That tells you what kind of stewards they are.

8 The other thing that's very striking in this
9 article was the mishaps that had happened and the findings
10 -- and the fatalities on that gas line over the next four or
11 five years. There was five fatalities. And I really
12 encourage everybody to do the research and find out.

13 We're living a nightmare with these easements
14 already on. And to allow them to come in and put in over 12
15 miles of pipeline across the ranch that has topography
16 differentials in there -- it's one thing to run it straight
17 across on a piece of property on a level property when you
18 don't have the erosion factors. We have Chicken Mountain on
19 our ranch, and it's going to come right over the top. And
20 if they can't maintain it on a practically flat surface,
21 what type of scar is it going to put?

22 And at the end of the day, I hope this isn't just
23 lip service, asking us in here to give our comments and then
24 have eminent domain shoved down our throat. Give us the
25 same deal that you're going to give the enemies going across

1 their lands. Those are limited in time to where Kinder
2 Morgan isn't going to want to say and do what they want to
3 do, but there's remedies. I mean, just treat us the same as
4 the Indian reservations and the sovereign nations, or give
5 us a fair thing.

6 But to come in here and say, oh, we take care of
7 everything, we revegetate, we do all that, excuse my
8 language, that's bullshit. We've living it. And come to
9 either of those farms. I invite everybody there to come and
10 see the scars and the maintenance and even their own
11 employees saying our maintenance fund has been stripped, and
12 there's nothing that we can do.

13 I was very cooperative at the very beginning of
14 this thing until I started doing my homework. And I didn't
15 come in here to speak blind. So that's where we're at.

16 MS. DRISCOLL: So if I can just summarize.
17 The very initial experience you had with Kinder Morgan when
18 you asked them to hold off on the surveys was positive and
19 they were respectful. And since then, you've done research
20 and --

21 MR. MECHENBRIER: Right. I couldn't -- and I
22 know in this type of processes, they're not going to come
23 out and be disrespectful.

24 MS. DRISCOLL: So the specific things that
25 you mentioned that you're concerned about was of some other

1 pipelines in the area that had washed out --

2 MR. MECHENBRIER: No. El Paso Gas line, El
3 Paso pipeline is one that they own, and there is no
4 maintenance, other than when it's an imminent danger. It's
5 been washed out. It's exposed. So they come throw some
6 dirt on it. The road has turned into an arroyo, and is not
7 maintained, nor is the right-of-way with the gas line
8 maintained.

9 MS. DRISCOLL: So that primarily comes back
10 to you're concerned that there's not enough funding put into
11 the maintenance.

12 MR. MECHENBRIER: There's no maintenance.

13 MS. DRISCOLL: And that is leading to these
14 kinds of problems?

15 MR. MECHENBRIER: Or restoration.

16 MS. DRISCOLL: So restoration. So maybe some
17 of the pipeline and the land around it and then also
18 restoring it. I think you mentioned that there are scars on
19 the land, so you can see clearly where it is. Can you tell
20 me what you mean by that specifically?

21 MR. MECHENBRIER: You know what an arroyo
22 looks like?

23 MS. DRISCOLL: Uh-huh.

24 MR. MECHENBRIER: It's become a arroyo.

25 MS. DRISCOLL: Okay. So it's actually

1 changed the topography of the land.

2 MR. MECHENBRIER: Yes. And washed out all
3 the vegetation and topsoil.

4 MS. DRISCOLL: I think the final thing that I
5 have on here that I noted is that your understanding is that
6 they are potentially trying to go through private land to
7 avoid having to deal with tribal land --

8 MR. MECHENBRIER: Yes.

9 MS. DRISCOLL: -- and that you would want to
10 have the same protection that the tribe would have if tribal
11 land was used.

12 MR. MECHENBRIER: If it's going to be shoved
13 down our throat, we should be treated equally with the
14 tribal lands.

15 MS. DRISCOLL: So you would want to be able
16 to have recourse if something -- if it goes through and you
17 need to have maintenance or you need to have reclamation or
18 whatever.

19 MR. MECHENBRIER: With time limits on it.

20 MS. DRISCOLL: I'm sorry.

21 MR. MECHENBRIER: With time limits on it to
22 where we don't have to live with the nightmare for eternity.

23 MS. DRISCOLL: So time limits, as well.

24 MR. MECHENBRIER: Yes, ma'am.

25 MS. DRISCOLL: Okay. Did that cover it?

1 MR. MECHENBRIER? That's it.

2 MS. DRISCOLL: There's a hand up back there.
3 Come on up.

4 MR. SCOTT: I'll come up there if Mr. Kinder
5 Morgan will come up there and answer some questions. Or are
6 you just going to sit back. Okay, that's fine. I'll just
7 stand right here, then, since he doesn't have the courage to
8 actually face us.

9 MR. MACKIEWICZ: Why don't you come up here
10 and then --

11 MR. SCOTT: Can you hear me, sir?

12 MR. MACKIEWICZ: No. Just if you -- if we --

13 MR. SCOTT: Is this a procedural thing of
14 some kind that I have to be by the microphone, or --

15 MS. DRISCOLL: Actually, if I can, before
16 anything else happens, ask you to state your name and spell
17 it for the court reporter.

18 MR. SCOTT: Well, I'll state that if you
19 allow me to stay here. Is that okay?

20 MS. DRISCOLL: I think as long as -- can you
21 hear him from there?

22 THE COURT REPORTER: I can only hear him when
23 other people stop talking.

24 MS. DRISCOLL: So if I can ask just -- it's
25 perfectly fine if you want to speak from there. I just want

1 to make sure everybody can hear. So if everyone else can
2 please not have any side conversations going on.

3 MR. SCOTT: This is like a dog and pony show,
4 sir, and I hate to play the part. So I'm playing the dog
5 and pony part. I'm sorry. I don't have my school clothes
6 on. I didn't realize this was a --

7 My name is Mike Scott, two "T's." I didn't
8 realize this was an official thing.

9 My questions to you, sir, are what is the pH of
10 that CO2 going through the pipeline? What is the CO2 p.H?

11 MR. CURBOW: The pH on the CO2?

12 MS. SCOTT: Yes, sir. Simple question. A
13 simple answer, if you know it.

14 MR. CURBOW: I don't know the answer to that.

15 MR. SCOTT: And what is your capacity in the
16 company? Is there an expert here of some kind, or --

17 MR. CURBOW: No. I'm the project manager for
18 the project.

19 MR. SCOTT: You're the project manager, but
20 you can't answer a simple spec question.

21 MS. DRISCOLL: I don't know the pH level, no.

22 MR. SCOTT: Can you tell me what the pressure
23 is, sir, per square inch on that pipe?

24 MR. CURBOW: 2160 is the maximum operating
25 pressure.

1 MR. SCOTT: 2160 per cubic inch? Is that
2 correct, sir?

3 MR. CURBOW: No. Pounds per square inch,
4 2160 pounds per square inch.

5 Mr. SCOTT: Pounds per square inch. Okay.
6 Now, when you were in front of the board at the board
7 meeting at Tierra Grande Improvement Association, your
8 company, somehow it was mentioned, there was this,
9 quote/unquote -- that's for you -- highly acidic CO2 gas
10 going through this pipeline, and you can't tell us what the
11 pH is. But somehow it inadvertently slipped out in this
12 board meeting, and has never been mentioned since then.

13 MS. DRISCOLL: So can I -- I just want to
14 make sure that --

15 MR. SCOTT: I'm just saying, I mean, he can't
16 answer the tech questions.

17 MS. DRISCOLL: So your concern is that at
18 some point someone said that the CO2 itself is highly
19 acidic?

20 MR. SCOTT: Did you want to summarize when
21 I'm finished like everybody else, or do you want to
22 interrupt me?

23 MS. DRISCOLL: I actually wanted to make sure
24 that I understand the -- I'm trying to help Bobby answer the
25 question, actually. I want to --

1 MR. SCOTT: Because I'm not quite sure of
2 your capacity here in this meeting. You don't seem quite
3 fair and balanced in your responses. That's just my
4 opinion. So go ahead and ask me my qualification questions
5 here.

6 MS. DRISCOLL: I don't need to if --

7 MR. SCOTT: You're qualifying my answers or
8 my questions. Go ahead.

9 MS. DRISCOLL: That was my question. That
10 was the only one, that your concern is that it's acidic,
11 that the CO2 is acidic?

12 MR. SCOTT: That's just the beginning.

13 MS. DRISCOLL: Okay.

14 MR. SCOTT: And I can't get an answer to a
15 very simple, you know, one, two, three, four, five, seven,
16 eight, nine, ten, twelve. That's pathetic. All right.

17 MR. CURBOW: Can I answer the question before
18 he moves on? Is that okay? Because CO2 is not acidic.
19 It's an inert gas. It's a naturally occurring inert gas.

20 MR. SCOTT: It's not acidic, but you don't
21 know the pH?

22 MR. CURBOW: I don't. I don't know the pH.

23 MR. SCOTT: That's a non sequitur, sir.
24 You're saying two things out of the same mouth.

25 MR. CURBOW: No. I don't have that answer,

1 sir. I don't know the --

2 MR. SCOTT: Then how you can say it's not
3 acidic if you don't know the pH, sir?

4 MR. CURBOW: Because CO2 is nonacidic. And
5 the CO2 that's going through the pipeline --

6 MR. SCOTT: So what you're saying is -- 7.0,
7 is that what you're telling me here?

8 MR. CURBOW: I'm not going to answer that
9 because I do not have --

10 MR. SCOTT: That would unusual for you, sir.

11 MR. CURBOW: I understand that, but I do not
12 have that answer and I don't want to -- I do not want to
13 provide the public an answer that I do not have. That is
14 why we are here. We take that question and I can do some
15 research and find out. But I can tell you that CO2 is a
16 nonacidic, inert gas, the product that flows through the
17 line.

18 MR. SCOTT: With this methane and a little
19 nitrogen in there that you can't somehow magically take out
20 because we're in the 21st century and it's impossible to
21 parse out gas.

22 MR. CURBOW: Do I have to entertain him
23 anymore?

24 MR. SCOTT: I actually have another specific
25 question here for you, sir. I'd like to know why -- how

1 many of these eminent domain letters you've sent out to
2 people? Is that not a fair question, ma'am?

3 MS. DRISCOLL: I'm not going to force anybody
4 to speak. It sounds to me like Bobby is not comfortable
5 answering questions. I --

6 MR. SCOTT: Well, Mr. Curbow III, I met him
7 out at Tierra Grande, and he was extremely arrogant -- this
8 is my opinions, okay, just an opinion. He would not answer
9 my questions as to who he was or what they were doing there.
10 Until finally I think he realized I wasn't going anywhere
11 until I got my answers. Then suddenly out comes the
12 business card.

13 And, sir, I think your attitude with me that day
14 is right on -- pardon the pun -- right down the pipeline, as
15 how you've treated this whole thing. And Mr. Mechenbrier, I
16 think, is parroting what I'm saying.

17 I'd like to know, sir, how much are you
18 compensating these folks over here for your pipeline?

19 MS. DRISCOLL: Are you asking for --

20 MR. SCOTT: I was asking Mr. Kinder Morgan,
21 Mr. Bobby Curbow III, but maybe he doesn't have that
22 information either since he's the company representative.

23 MS. DRISCOLL: Are you asking like what rent
24 they would be paying?

25 MR. SCOTT: What is the compensation?

1 MR. MACKIEWICZ: Compensation for what?

2 Okay. Kinder Morgan --

3 MR. SCOTT: Let's start out with point A.
4 What's the compensation for rent on the each the acreages?

5 MR. MACKIEWICZ: We don't have that figure.

6 MR. SCOTT: You don't have that figure?

7 MR. MACKIEWICZ: No.

8 MR. SCOTT: That's pretty good for a scoping
9 meeting, sir.

10 MR. MACKIEWICZ: But we will --

11 MR. SCOTT: Any other -- any other
12 compensation --

13 MR. MACKIEWICZ: -- get that -- we will get
14 that information and we will provide it in the scoping
15 report for you. Every question that we don't have an answer
16 for tonight, we'll get an answer later for you.

17 MR. SCOTT: How are you going to separate
18 that topsoil from the subsoil, sir, when you're pulling it
19 apart with a backhoe? I'd like to know that. That would be
20 interesting.

21 MR. MACKIEWICZ: Typically we don't use a
22 backhoe to do it. It's typically used -- a scraper is used
23 to remove the topsoil. We have -- we go out there and we
24 will have a soil specialist determine what the depth of that
25 topsoil is. We have very proficient operators of this

1 machinery. They will scrape the two inches, three inches,
2 whatever it is, segregate it and then put the subsoil --
3 subsoil below it -- I mean, next to it. They'll be required
4 to put two separate piles so they don't migrate together.

5 MR. SCOTT: So those piles are just little
6 independent nice neat piles on either side of the ditch, is
7 what you're saying?

8 MR. MACKIEWICZ: Most of the time on the same
9 side of the ditch.

10 MR. SCOTT: Okay. All right. I'll believe
11 that when I see it. And you're going to reseed this thing
12 when you're done, correct?

13 MR. MACKIEWICZ: That's right.

14 MR. SCOTT: Now, are you going to put any
15 mycorrhizal fungi on that seed, sir, when you're done?

16 MR. MACKIEWICZ: That could be a possibility,
17 that we would require the mycorrhizals to come in to help
18 fix the nitrogen so we get better success.

19 MR. SCOTT: Well, sir, in my simple
20 experience with an underground power line put in eight years
21 ago, one simple backhoe digging that thing up, not a
22 100-foot-wide swath, sir, but one backhoe digging a trench
23 for that four-and-a-half-foot trench for that power line,
24 eight years later has yet to even come close to reclaiming
25 itself.

1 As a comment. I would highly suggest that you do,
2 in fact, put mycorrhizal fungi. In fact, it is now the
3 state highway requirement for reseeded, sir. I'd like you
4 to include that in your reclamation process.

5 Also, sir, this performance bond you were talking
6 about, I'd like to see that performance bond continued
7 throughout the 30-year period, or whatever this period would
8 be, and I would like it to be limited.

9 Also, I'd like to see that, as you're going
10 through Tierra Grande, I'd like to see an additional, let's
11 say, \$1 million a mile as a bond that's kept in there the
12 entire time that pipeline is crossed for any accidents,
13 because -- and this is just a comment, at large. I don't
14 know how many people have been watching this DP thing since
15 it happened. And typically what a large billion-dollar
16 company does is they just buy off the pertinent people in
17 the judicial process, and then they pass the old -- or the
18 laws on to the customers, i.e., the price of gas in the last
19 five, six years or so.

20 And, sir, being a corporation, there will be no
21 ramifications to you as an individual for what you do to my
22 groundwater. I think your attitude speaks for itself, sir.
23 I think there are no long-term studies on this fracking
24 process, which you have yet to answer.

25 This is just the freeway going from Arizona to

1 Torrance County, sir. Are you planning on fracking our
2 valley with this pipeline, yes or no?

3 Once again, a very disingenuous open scoping
4 meeting here. I think I've made my point. You're pathetic,
5 sir, in both your performance, the way you've approached us,
6 and the way you're sending these threatening letters when
7 you don't get your billion-dollar way.

8 MS. DRISCOLL: I'd like to rephrase what I've
9 heard you say. So the two questions that were not answered
10 that I know at the beginning you had asked, for the pH level
11 of the CO2, and what is the -- what would Kinder Morgan be
12 paying the BLM for the right-of-way lease.

13 MR. SCOTT: I meant all the compensation. I
14 want to know every dime, where it's coming from and where
15 it's going.

16 MS. DRISCOLL: Okay. So everything that
17 Kinder Morgan is paying the BLM including, but not limited
18 to, right?

19 MR. SCOTT: For purposes of this meeting,
20 which is a BLM meeting, yes, your end of it over there.
21 Yes, I'd like to know. I'd like a full transparent -- as if
22 that word is ever properly used anymore -- accounting of
23 what's going on with the money.

24 MS. DRISCOLL: And then the specific concerns
25 about the pipeline project, I heard you mention that you

1 would recommend that mycorrhizals are used.

2 MR. SCOTT: Mycorrhizal fungi.

3 MS. DRISCOLL: Thank you. I didn't catch
4 that word. So you would request that.

5 MR. SCOTT: It's a state requirement now on
6 the highways. I don't see why it can't be extended. It
7 really is the one wing in a prayer that you have to not just
8 grow tumbleweeds.

9 MR. MACKIEWICZ: We typically have been
10 requiring that, sir.

11 MR. SCOTT: Well, then -- okay.

12 MS. DRISCOLL: So you would recommend that
13 because it will help grow things other than tumbleweeds.

14 MR. SCOTT: I would make it adamantly
15 required.

16 MS. DRISCOLL: And then also you mentioned
17 that you would recommend that the BLM require monitoring of
18 the reclamation. Is that -- I might have misunderstood what
19 you were saying -- monitoring throughout the entire --

20 MR. SCOTT: What I was suggesting is that
21 this performance bond is maybe -- is that what you're
22 referring to? I'd like this performance bond to be in
23 place, not just to the point, sir, where you indicated
24 earlier, when we feel it's right with this company to let it
25 go, or something to that effect. I don't want that money

1 ever going. And the entire time that pipeline is being used
2 by any company or its heirs or successors or any other shell
3 company, that bond stays in place. And personally, in the
4 Tierra Grande area, I'd like to see an additional bond put
5 in place for that area specifically.

6 I just finished putting in a \$20,000 well. I have
7 dirt under my fingernails. You know how long it's going to
8 take me to pay that off? And you guys just want to come in
9 there and eminent domain me out.

10 Do you need to parse that out? I think you're
11 getting the sentiment here quite thick. I don't lie.

12 MS. DRISCOLL: So I'm definitely getting that
13 you are very unhappy with your experience with Kinder Morgan
14 themselves, and I believe the pipeline itself as --

15 MR. SCOTT: They can't even answer if they're
16 going to frack after it's in there. Don't you understand
17 the importance of that question? That should be the only
18 question asked here today.

19 MS. DRISCOLL: Can you elaborate on that?
20 What is your concern if there is fracking?

21 MR. SCOTT: There are no studies. Now, 100
22 years ago, old-timers used to take a stick of dynamite and a
23 nonfunctioning water well and throw a stick of dynamite in
24 there. And you're going to pretend, sir, that that's some
25 type of long-term study? Because that's what's going on.

1 And when we asked you about studies, land studies
2 were asked of you earlier, you're like, well, you know,
3 we'll kind of look into those studies. Your study was
4 looking at a couple of linemen. They're experts in the
5 field of environmental damage, sir.

6 Again, the presentation here, the level of
7 expertise and professionalism is severely lacking.

8 MS. DRISCOLL: So your concern with the
9 fracking is that we don't have enough study to understand
10 the possible ramifications?

11 MR. SCOTT: We don't have long-term studies.
12 It hasn't been done long enough in this type of capacity.
13 Unless you can correct me back here, here is the time to
14 just pile on me. Give me some positive feedback on this
15 fracking process and what a wonderful thing this stuff is,
16 this CO2.

17 Show me how we never had an environmental problem
18 with it, or fracking in general. Tell me about people whose
19 anecdotes talk about gas bubbling up in their groundwater.
20 I haven't heard that talked about here today. It's all
21 about money. And I'll just finish one statement here.
22 Short-term greed, Mr. Curbow, equals long-term stupidity.

23 MS. DRISCOLL: So we're going to take just
24 one or two more comments, then we will wrap it up. This
25 gentleman.

1 MR. FRITTS: My name is Tom Fritts,
2 F-r-i-t-t-s. I retired from the U.S. Geological Survey a
3 few years ago. I started out my career with the Fish and
4 Wildlife Service as a wildlife research biologist. I worked
5 later with the National Biological Survey, and then later
6 USGS. All of my career with the government, and it was
7 about 27 years, was working on environment effects of oil
8 and gas or endangered species impacts from other types of
9 development, and so on.

10 The last 15 years of my career was working on an
11 introduced species. So my basic looking at this project is
12 one of a concern of can we recover the environmental
13 impacts. It's not a matter of are they neutral. There's no
14 such thing as a neutral environmental impact from the
15 statement -- or a project like this. It's a matter of how
16 bad are they.

17 You have heard that pipelines can be revegetated
18 and disappear. I can stand out on 47, pretty close to the
19 railroad tracks, and can see the pipeline going clear over
20 the Manzaono Mountains. It's been there a long time. It's
21 not disappearing.

22 I hear about erosion along the pipeline. Any time
23 you disturb that subsoil, if you don't pack it in exactly
24 the way Mother Nature put it there originally, it's going to
25 erode back out.

1 Anybody that goes out into Tierra Grande, many of
2 those roads in Tierra Grande were bulldozed 50 years ago.
3 One pass with the bulldozer, they're still there. And as
4 was pointed out, they're not 100 feet wide, they're just 12
5 feet wide. Yeah. There's occasionally a hunter's truck
6 going down that road. Helps maintain it. Squashes out a
7 yucca plant once in a while. But that's mostly introduced
8 species. Do you want to see where the snakeweed is, it's
9 right along that road.

10 So my point is is basically one of I think you've
11 got to look at the severity of the impact, and especially in
12 areas -- the Manzano Mountains are a very, very steep
13 topography, volcanically active -- or not volcanically
14 active, but geologically active. It's an area of subsidence
15 and uplift. The precambrian rocks on one side and tertiary
16 deposits on the other. There's a lot of stuff going on
17 there. So I want to keep it brief, but just sort of say
18 that many of the points that have been made today are real,
19 they're not just blowing smoke. Okay? Thank you.

20 MS. DRISCOLL: So just to sum up really
21 quickly, you want to reiterate that the comments that have
22 been made about the difficulty of revegetating, the problems
23 with erosion along pipeline, and especially in areas where
24 it's very steep, the vegetation --

25 MS. FRITTS: That's only an example. The

1 real crucial one I'd like to communicate is there's no such
2 thing as a neutral project like this. And, in fact, the
3 severity of this is much greater than -- we can stand here
4 and say we're going to look at the riparian questions.
5 Where's the riparian situation along this project? There
6 isn't any. So why -- let's don't feel good about looking at
7 the riparian situation.

8 Many of the other factors are -- we really need to
9 find out what the real, real negative impacts are and say
10 how important are they, are we willing to live with them,
11 and are we willing to live with them for decades, if not
12 centuries in the future.

13 MS. DRISCOLL: So the real focus should be,
14 in your recommendation, that we understand that there is
15 going to be an impact and we need to really understand what
16 the level of that impact will be.

17 MS. FRITTS: Absolutely. Thank you.

18 MR. MACKIEWICZ: Thank you. Well, I think
19 we're at the end of our meeting. We're a little bit over.
20 We do appreciate everybody coming tonight and the great
21 comments, feedback. I want to just reiterate that we will
22 have the Web site open and we will have it so that you can
23 post comments on there. If you have additional comments
24 tonight, let us know. Mail comments to us.

25 Ma'am, do you have one question?

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MS. SAWYER: Yes. I have one question. I want to say what part of no does this pipeline not understand. The people here are here because they say no to this line. And I know that everybody agrees with me.

(End of scoping meeting at 8:10 p.m.)

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