



DOMINALAW Group pc llc

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**Trial Exhibit - NE PSC
TransCanada KXL Trial
August 7-11, 2017**

- **Intervenors / Plaintiffs**
- **Clients**
- **Activists**
- **NEAT Members**
- **Upset/Confused/Hopeless**

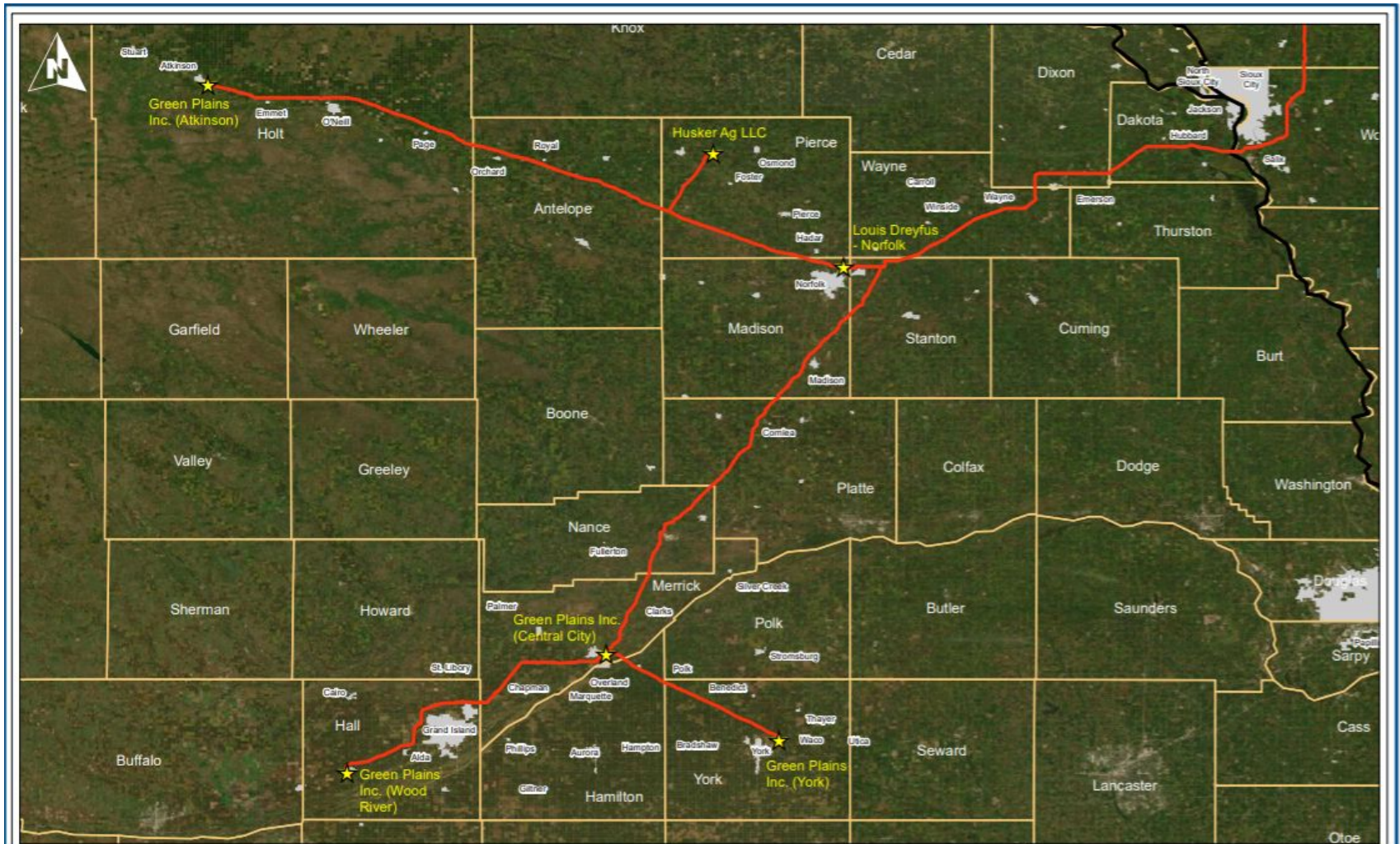
**1st Informational Mtg.
Early 2010**

EXHIBIT

LO-255

exhibitsticker.com

Nebraska: Summit CO2



- ★ Participating Ethanol Plant
- Route
- ▭ State Boundary
- ▭ County Boundary
- ▭ Highly Populated Areas

**314.71 MILES
OF ANTICIPATED
PIPELINE ROUTES IN NEBRASKA**

Nebraska Pipeline Mileage Overview

COUNTRY: MULTIPLE	SHOWN: CHN
STATE: NEBRASKA	CHANGED: 2019
REV. NO.: 000000	2019
2	ISSUED FOR REVIEW 2021-09-18
PRELIMINARY ROUTE SUBJECT TO CHANGE	



Nebraska: Navigator CO2

Proposed routes through Nebraska, Iowa

— Summit Carbon Solutions — Navigator Ventures





What Do They Want?

- Profit
- Control
- Limit Risks
- No Taxes
- “Its Way”
- Power to Sell/Transfer
- Your Land

Wants to Take Your Land w/ E.D.

- Federal Framework:

- 5th Amendment:

- “[N]or shall private property be taken for public use without just compensation.”

- Supreme Court Cases – “public purpose / **benefit**”

- *Kelo* (2005) – Econ Growth benefits from private development = “public use”

- “public use” interpreted as “public benefit”



- NE Constitution:

- The property of no person shall be taken or damaged for public use without just compensation therefor.

HOW TO PROTECT YOURSELF?





Landowner Rights

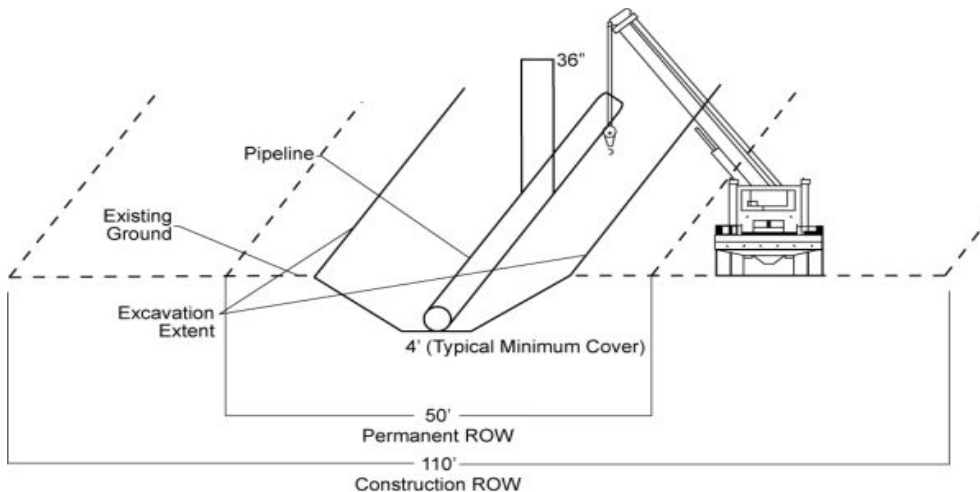
- If purchase land, you will most likely have the following rights:
 - **Surface Rights** - right to occupy the surface of land.
 - **Vegetation Rights** - right to plant trees, crops, and other vegetation on land.
 - **Improvement Rights** - right to improve and place fixtures on land (pivot)
 - **Subterranean Rights** - right to oil, minerals, etc. found beneath the surface.
 - **Air Rights** - right to air above his/her property.
 - **Right to Be Free Of Public Or Private Nuisances** - right to request stop of non-consented interferences with enjoyment of the land. (i.e. - pollution, noxious odors, and excessive noise)
- Limits To How A Landowner May Exercise These Rights?
 - Yes. May not exercise rights in a way that will interfere with another landowner's/Easement Holder's rights.



What's an Easement?

What are you unwillingly Selling?

- A grant of property rights to another
 - “on, under, across, through...”
- You still “own” the land – **Property taxes & Liability**
- Company gets at will Access & Use
- Permanent & Forever - **One Payment \$**
- **By Agreement or Condemnation**





**Nebraska Easement Action Team, Inc.
Landowner Rights Organization
501(c)(3)**

- ✓ **CO2 Companies are NOT your Neighbor**
- ✓ **Education & Empowerment**
- ✓ **Coalition of Landowners - One Strong Voice**
- ✓ **Don't build an Army AFTER the Invasion**
- ✓ **Force better **Easement Terms** !**

www.NebraskaEasement.org





THE FINE PRINT MATTERS





- **Don't Worry – Pipeline Company will pay for all damages to your land and to you in case of a rupture, spill or leak.**

DOMINALAW Group pc llo

Trial Practice. Not Just Talk.™

Landowner Damages Pipeline

AUBURN, NEBRASKA -- **Thousands of gallons of fuel from two ruptured pipelines flowed downhill through a farm field and into a creek**, contaminating soil and water, the Nebraska Department of Environmental Quality.

Landowner's son apparently was removing a hedgerow with a bulldozer on his father's land when he hit the buried pipelines.

This one **spill of 6,000 barrels (252K gallons)** is larger than the total amount of 4,069 barrels spilled during the 70 pipeline incidents recorded in the state from 2001 to 2010, according to statistics from the Pipeline and Hazardous Materials Safety Administration.



Spokesperson said he did not know if Landowner's son would face any penalty or if there was a sign in the area warning people about the buried pipelines.

REALITY – 1/18/2014

Name: D T

Phone: 660XXXXXXX

EmailAddress: dXXXXXXXXX@yahoo.com

Message: Hello, we have the Manitoba Pipe line coming through our area here in NE Missouri. I am a renter not a land owner. Embridge is the company we are working/dealing with. The issues myself as well as others are dealing with are as follows: 1.They destroyed or crops and didn't plan ahead with us in how we would be compensated. In early December we were told we would be paid for 175 bu corn at \$8. Now we are in Mid January and they are saying we need to produce records to show our production history before we can be paid. The problem is our production history doesn't keep records by farm but by county. 2. Were the crop was destroyed we also fall graze cattle. We couldn't fall graze because of the seeded down area as well as it still being under Embridge right away. There for we had to dry lot our cattle and buy hay. Embridge says this isn't their problem. Any thoughts from you folks? Best regards, D T



Search Phrase: pipe line lawyer help

Referring Website: www.google.com

WHAT YOU DON'T KNOW...





Q: What does NEAT do for affected Landowners?

- ✓ Deal with all future communications
- ✓ Compile information from/for all Landowners
- ✓ Communicate the latest information and tips
- ✓ Legal Actions to defend Property Rights
- ✓ If/when – Negotiate all Easement Terms & Protections for All (other than \$ Price)
 - ✓ Force better **Easement Terms** !

www.NebraskaEasement.org



N.E.A.T.

Terms of Taking? Impacts?

EASEMENT AGREEMENT

This easement agreement ("Agreement") is made as of the date of the last Landowner signature to the Agreement (the "Effective Date") by and between _____ whose mailing address is set forth below, (hereinafter referred to as "Landowner", whether one or more), and **Summit Carbon Solutions, LLC**, an Iowa limited liability company, whose mailing address is 1805 Collaboration Place, Suite 1200, Ames, IA 50010, and its successors and assigns (such entity and its successors and assigns are collectively referred to as the "Company"). For the consideration of TEN AND No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- Who is the LLC?
- Easement Assignable
- Why Perpetual
 - 50-yr life?
- Abandon in Place?
 - Pay Now!
- Liability?
 - **Negligence**
 - Insurance
 - Who Pays?
- Property Values?
 - Future Buyer
- Convert Use – no \$
- Why not Lease?
 - Periodic Payments
 - Renewal Fees

1. **Grant.** Landowner owns the real property described on the attached Exhibit A ("Landowner's Property") and hereby grants, sells and conveys unto Company, for use by Company and its agents, employees, designees, contractors, guests, invitees, successors and assigns, and all those acting by or on behalf of it, the following easements in, over, through, across, under, and along Landowner's Property, in the approximate locations shown on the attached and incorporated Exhibit B, except as noted below:

- a. **Pipeline Easement.** A free and unobstructed permanent, non-exclusive pipeline easement fifty feet (50') in width ("Pipeline Easement"), for the purposes of owning, accessing, surveying, establishing, laying, constructing, reconstructing, installing, realigning, modifying, replacing, improving, substituting, operating, inspecting, maintaining, repairing, patrolling, protecting, changing slopes of cuts and fills to ensure proper lateral and subjacent support for and drainage for, changing the size of, relocating and changing the route or routes of, abandoning in place and removing at will, in whole or in part, one pipeline not to exceed twenty-four inches (24") in nominal diameter for the transportation of carbon dioxide and its naturally occurring constituents and associated substances and any appurtenant facilities above or below ground, including aerial markers, power drops, telecommunications, cathodic protection, and such other equipment as is used or useful for the foregoing purposes, (collectively, the "Pipeline Facilities").
- b. **Temporary Easement.** For the period beginning on the Effective Date and terminating on the Company's delivery to Landowner of written notice of termination, which Company shall deliver within a reasonable time after completion of construction on the Landowner's Property, a free and unobstructed non-exclusive temporary construction easement (the "Temporary Construction Easement") for the purpose of accessing, surveying,





Why NEAT?

501(c)(3)

- Legislature & Gov. & Atty Gen. Failed
- Pipeline Co. is NOT your Neighbor
- **Legal Action – Protect Your Rights**
- United Coalition – One Strong Voice
- **Focus & Force better Easement TERMS – FINE PRINT**
 - Best Deal for you & neighbors
 - Push Liability on Pipeline Co.
 - Indemnity for injuries or damages arise from easement use
 - Remove after useful life
- Effects - Resale Value? Financing? Insurance?
- Pipeline Co. doesn't want to go to Court across NE
- Holdouts have more leverage & higher \$ Offers





Join NEAT

info@NebraskaEasement.org



- **Phase I**
 - Landowner Outreach/Education
- **Phase II**
 - Legal Actions to Protect Your Constitutional Rights
- **Phase III**
 - Collective Easement Negotiation – Force Better Terms

**EVERYBODY WANTS
TO CHANGE THE WORLD
BUT NOBODY WANTS
TO CHANGE**

NEAT SUPPORT COMMITMENT FORM

■ JOIN NEAT – www.NebraskaEasement.org

- Fill out 1-page Form
- Tell TC you are represented by NEAT
- They will leave you alone
- We handle all communications
- Information Sharing
- Meetings & Updates
- Legal Efforts re Routing
- All Negotiations other than \$

Support Commitment Form

Mail To: Nebraska Easement Action Team, Inc.
c/o Dunlap Law Group pc llc
N.E.A.T. Litigation Counsel
2425 S. 144th Street, Omaha, NE 68144-3267

or via Email: Info@NebraskaEasement.org
www.NebraskaEasement.org

Name: _____, 2013

Company: _____

Mailing Address: _____ Address of Land Affected (If Different): _____

Number of Quarters Affected: _____

Phone: _____ Email: _____

On behalf of the persons and/or company or entity named above, I express these commitments:

1. I want to be a part of a substantial effort, by concerned Nebraska landowners who face dealings with TransCanada, to join efforts to:
 - 1.1 Develop standard easement terms and conditions;
 - 1.2 Procure group legal services to negotiate standard easement terms and conditions; and
 - 1.3 Develop a body of expertise of legal, appraisal, and geological or other specialties to support landowner negotiations and possible litigation with TransCanada concerning its desire to obtain easements for its pipeline.
2. I understand the group will be organized as Nebraska Easement Action Team, Inc. ("N.E.A.T."), a not-for-profit, non-member corporation. Its directors will be authorized to receive, account for, and expend funds solely to advance the objectives of N.E.A.T. I am aware that I am not becoming a member or owner of N.E.A.T. by executing this Commitment.
3. I will pay a reasonable proportional charge based on a formula multiplying the assessed value of my affected land by the number of acres affected, divided by the total of the assessed value times the total number of all N.E.A.T. Supporters acres involved in N.E.A.T.'s rendition of services. Maximum fee not to exceed \$2500 per affected quarter-section of crop land and \$2000 per affected quarter-section pasture land. Non-landowner supporters are encouraged to donate \$100 to N.E.A.T.'s efforts.
4. I will encourage others to cooperate with N.E.A.T. to form a coalition. I will not enter into any confidentiality agreements prohibiting me from sharing information about TransCanada with my neighbors, but I will not divulge information learned from N.E.A.T., or persons associated with or hired by it, concerning TransCanada or any other matter, to anyone who is not a verified participant in the efforts of N.E.A.T.

(Sign) _____
(Print) _____
Individually, and for the Persons & Entities Named Above

YOU CAN BE PROACTIVE!!



"Here's to missing the big picture."

- **Chp 57 – NE Statutes:**
 - **“Public Use”** re CO2 Pipelines?

57-1101. Acquisition of property by eminent domain;

Any ... company ... created for the purpose of, transporting or conveying ~~crude oil, petroleum,~~ **gases, or other products thereof** in interstate commerce through or across the State of Nebraska or intrastate within the State of Nebraska, and desiring or requiring a right-of-way or other interest in real estate and being unable to agree with the owner or lessee ... shall have the right to acquire the same for such purpose through the exercise of the power of eminent domain,

except that for any major oil pipeline...

The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Steps of Condemnation Case

- Prerequisite – “Good Faith Negotiation”
- TC files Petition for Condemnation in Co. Crt
 - Identifies ED Property; Purpose & use of easement
 - Evidence of “good faith” attempts (Letters w/ Offer)
 - Request appointment of Appraisers
 - **Attach Easement & ROW Agreement**
- Judge Picks 3 Appraisers / Award \$ FMV
 - Value of Taking – Value of Impact on Rest of Land
- TC pays Award to County Court* (Writ of Assistance)
- 30 Days to Appeal & Post Appeal Bond
- Case moves to District Court – Jury Sets Price
- 15%+ Verdict = Recover Legal Fees, Costs, 2 Experts

* TransCanada Can Begin Construction

Pricing by Neighbors Not Company

It's YOUR Courthouse



Damages & Valuation

- Direct Damages:
 - Fair Market Value on date Petition Filed
 - Jury must reach its determination of damages “intelligently.”
 - *the relevant fair market values by definition reflect a market estimation of future profits and development costs with respect to the particular property at issue.*
- Severance Damages:
 - *Decrease in FMV of remaining property*



Excavation Near Pipelines/Buried Facilities

No excavation, including hand digging, is permitted on TransCanada pipeline rights-of-way without prior approval from TransCanada. **TransCanada personnel must be present during any construction or excavation activities on or around its facilities or rights-of-way unless otherwise permitted by TransCanada. Excavation on TransCanada's right-of-way is strictly forbidden without a TransCanada representative on site.** Within 24 inches of the outer edge of the pipe (on all sides), only hand excavation, air cutting, vacuum excavation, or potholing techniques are permitted.

Crossing Pipelines With Heavy Equipment

TransCanada may require heavy equipment operators to install mats, steel plates, dirt pads or other approved protective materials to adequately protect TransCanada pipelines from potential damage by heavy equipment crossing the right-of-way before crossing can begin or during the course of such crossing activity. All proposed road crossings of buried facilities must be evaluated by TransCanada. Any overburden or materials installed for crossing the pipeline must be removed after construction, unless otherwise directed by TransCanada.

<https://www.transcanada.com/globalassets/pdfs/commitment/landowners/transcanada-minimum-guidelines-for-construction-near-pipeline-facilities-factsheet.pdf>

