
**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF
DAKOTA ACCESS, LLC PIPELINE, LP FOR
A PERMIT TO CONSTRUCT THE DAKOTA
ACCESS PIPELINE

**YANKTON SIOUX TRIBE'S
MOTION FOR LEAVE TO FILE
OUT OF TIME**

HP14-002

The Yankton Sioux Tribe (hereinafter “the Tribe”) respectfully seeks leave to file pre-filed rebuttal testimony of Jason Cooke. Pursuant to the Prehearing Scheduling Order issued by the Public Utilities Commission (hereinafter, “the Commission”) on March 11, 2015, pre-filed rebuttal testimony in this matter was due on August 14, 2015. The Tribe wishes to submit pre-filed rebuttal testimony of Yankton Sioux Tribe Business and Claims Committee Member Jason Cooke in this matter. However, immediately prior to the deadline, Mr. Cooke became unavailable due to his duties as an elected Tribal official and was unable to finalize and submit his testimony at that time. The Yankton Sioux Tribe now seeks to submit his testimony on the grounds that it is necessary for the Commission to have the full facts available for its consideration in this matter, and the Applicant will not be prejudiced by this one-day (business day) delay in filing.

WHEREFORE, the Tribe respectfully requests this Commission enter an Order permitting the Tribe to file pre-filed rebuttal testimony of Jason Cooke in the form attached hereto as **Exhibit “A.”**

Respectfully submitted this 17th day of August, 2015.

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EXHIBIT A

PREFILED REBUTTAL TESTIMONY
OF
YANKTON SIOUX TRIBE BUSINESS & CLAIMS COMMITTEE
MEMBER JASON COOKE

Docket No. HP14-002

**IN THE MATTER OF THE APPLICATION OF DAKOTA ACCESS, LLC FOR AN ENERGY
FACILITY PERMIT TO CONSTRUCT THE DAKOTA ACCESS PIPELINE PROJECT**

1. What is your name and business address?

A. My name is Jason Cooke and my business address is Yankton Sioux Tribe P.O. Box 1153, Wagner, South Dakota 58380.

2. Are you a member of the Yankton Sioux Tribe or any other tribe?

A. I am an enrolled member of the Yankton Sioux Tribe.

3. What is your occupation or what kinds of work do you do?

A. I am an elected member of the Yankton Sioux Tribe Business and Claims Committee.

4. On whose behalf was this testimony prepared?

A. This testimony was prepared on behalf of the Yankton Sioux Tribe.

5. Under what authority are you providing this testimony?

A. Pursuant to Article IV of the Amended Bylaws of the Yankton Sioux Tribal Business and Claims Committee, the Business and Claims Committee shall act as liaison between the Tribe and state governments.

6. Please state the purpose of your testimony.

A. The purpose of my testimony is to rebut the testimony provided by Dakota Access and Public Utility Commission witnesses Monica Howard, Joey Mahmoud, Todd Stamm, Paige Olson, DeAnn Thyse, and David Nickel, as well as the Dakota Access Pipeline Project Application prepared by Perennial Environmental Services, LLC.

7. The pre-filed direct testimony of Monica Howard states that the Project conducted archaeological investigations from August through November 2014 and March through July of 2015, to your knowledge was the Yankton Sioux Tribe notified or consulted during the archaeological investigation process?

A. To my knowledge, no, the Yankton Sioux Tribe was neither notified nor consulted.

8. Ms. Howard also states in her pre-filed direct testimony that reports detailing the results of the comprehensive field investigations were prepared in accordance with the SHPO guidelines and submitted to the SHPO in June 2015 for review, to your knowledge, was the Yankton Sioux Tribe provided with these reports?

A. To my knowledge, the Yankton Sioux Tribe was not provided with copies of these reports.

9. Ms. Howard also states in her pre-filed direct testimony that an Unanticipated Discovery Plan was submitted to the SHPO, to your knowledge, was the Yankton Sioux Tribe consulted or provided a copy of the Unanticipated Discovery Plan.

A. To my knowledge, the Yankton Sioux Tribe was not provided with copies of these reports. We were also not consulted during the development of the Unanticipated Discovery Plan.

10. The pre-filed direct testimony of Joey Mahmoud states that construction of the Project may limit access to certain walk-in areas and private lands that are utilized for recreational opportunities, to your knowledge, did Dakota Access consult the Yankton Sioux Tribe or the public, including tribal members regarding the expected impacts to recreational opportunities?

A. To my knowledge, no, and many of our tribal members do participate in recreational activities along the proposed route and will be impacted by the interrupted opportunities for various types of recreation.

11. Mr. Mahmoud also states that Dakota Access will proactively work with emergency response agencies to provide pipeline awareness education and other support, to your knowledge, has Dakota Access engaged the Yankton Sioux Tribe's Law Enforcement to provide such education?

A. No, to my knowledge, Dakota Access has not engaged the Yankton Sioux Tribe Law Enforcement for such purposes.

12. Mr. Mahmoud also states that approximately 1,448 construction personnel are anticipated for the pipeline construction spreads in South Dakota, given the relative proximity of the proposed route to the reservation, do you have concerns about these projected personnel as an elected leader?

A. Yes, first and foremost, my concern is for the safety and well-being of our Tribal members and tribal communities. I am concerned that our law enforcement may not be able to handle this many workers in the area. While I do not believe each worker will require engagement from law enforcement, it is unreasonable to assume that there will be zero impact. In addition, Tribal law enforcement may not have jurisdiction over potential criminal activity on the reservation resulting from the influx of these workers and there has been no coordinated plan initiated by Dakota Access to address law enforcement and jurisdictional concerns.

13. The pre-filed direct testimony of Todd Stamm states that Energy Transfer conducts extensive public education outreach programs, including damage prevention programs, that meet or exceed industry concerning public awareness of pipeline and pipeline safety matters, to your knowledge has Energy Transfer conducted such programs or engaged the Yankton Sioux Tribe to discuss the development of such programs?

A. To my knowledge, no.

14. The pre-filed direct testimony of Paige Olson states that it is unclear if any efforts were made by Dakota Access to identify the concerns of American Indian tribes who have aboriginal lands along the pipeline route, to your knowledge, has Dakota Access contacted the Yankton Sioux Tribe business and Claims Committee to General Council to identify the concerns of the Yankton Sioux Tribe?

A. No, to my knowledge, Dakota Access has not contacted the Yankton Sioux Tribe Business and Claims Committee or General Council to identify the concerns of the Yankton Sioux Tribe.

15. The pre-filed testimony of DeAnn Thyse states that the revised application includes results of archaeological surveys conducted by Dakota Access between August and November 2014, to your knowledge, has Dakota Access reached out to the Yankton Sioux Tribe to provide copies of these surveys and discuss the results?

A. To my knowledge, Dakota Access has not reached out to the Yankton Sioux Tribe to provide copies of these surveys and discuss the results.

16. The pre-filed testimony of David Nickel states that Dakota Access has committed to drafting and implementing a Facility Response Plan and Oil Spill Response Plan, to your knowledge has Dakota Access engaged the Yankton Sioux Tribe to discuss the drafting and implementation of these plans?

A. No, to my knowledge, Dakota Access has not engaged the Yankton Sioux Tribe to discuss the drafting and implementation of these plans.

17. To your knowledge, did Dakota Access or Energy transfer consult the Yankton Sioux Tribe during either the route selection, route evaluation, or proposed route process?

A. No, despite traversing Tribal historic and treaty lands, and being relatively near to our present-day reservation, the Yankton Sioux Tribe was not consulted during either the route selection, route evaluation, or proposed route process.

18. Does this conclude your prefiled testimony?

A. I reserve the right to supplement my prefiled testimony as well as to offer additional testimony during the hearing in this case.

CERTIFICATE OF SERVICE

I certify that on this 17th day of August, 2015 the attached **MOTION FOR LEAVE TO FILE OUT OF TIME** in docket number HP14-002 was filed on behalf of the Yankton Sioux Tribe electronically via the South Dakota Public Utilities Commission e-filing website and a true and accurate copy was sent via email or U.S. Mail, first class postage prepaid, to the following:

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