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September 28, 2015

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Patricia Van Gerpen  
Executive Director  
Public Utilities Commission  
500 East Capitol Avenue  
Pierre, South Dakota 57501

**RE: In the Matter of the Application of Dakota Access, LLC for an Energy  
Facility Permit to Construct the Dakota Access Pipeline; HP14-002  
Our file: 0300**

Dear Ms. Van Gerpen:

Enclosed for filing, please find a Motion to Strike Rosebud Sioux Tribe's Exhibit List Filing, and Preclude Introduction of Undisclosed Exhibits. Dakota Access requests the Commission hear this Motion as a preliminary matter prior to hearing witnesses on Tuesday, September 29, 2015.

Very truly yours,

MAY, ADAM, GERDES & THOMPSON LLP



KARA C. SEMMLER

KCS/mnf

Enclosure

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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

HP14-002

MOTION TO:  
STRIKE ROSEBUD SIOUX TRIBE'S  
EXHIBIT LIST FILING, AND  
PRECLUDE INTRODUCTION OF  
UNDISCLOSED EXHIBITS

Applicant respectfully moves the South Dakota Public Utilities Commission to enter an Order, prior to hearing, to strike portions of Rosebud Sioux Tribe's Exhibit List filing and prohibit the Rosebud Sioux Tribe from introducing proposed exhibits which were not disclosed during the course of discovery. In support of its Motion, the Applicant states as follows:

1. The Applicant served four Discovery requests on the Rosebud Sioux Tribe. Three of those requests inquired regarding Rosebud's opposition and position in this docket and further requested production of documents in Rosebud's possession which support its position.
2. In its first discovery request dated April 1, 2015, the Applicant requested, "Objections, if any, which Rosebud Sioux Tribe...has to the Dakota Access Project." In Rosebud's response, it stated it was in the process of "determining the specific objections that it has for the Dakota Access Project." Later, that answer was generally supplemented with a statement that the Rosebud Sioux Tribe does not believe the Applicant can satisfy statutory and other legal requirements.

See Exhibit A.

3. Again, in its second discovery request dated May 29, 2015, the Applicant inquired whether the Rosebud Sioux Tribe has a formal position regarding the Dakota Access Pipeline. The Rosebud Sioux Tribe objected, stating the answer is irrelevant. Within that second discovery request, the Applicant requested a copy of all documents which support answers to Interrogatories. The Rosebud Sioux Tribe again objected, stating the material is irrelevant.

See Exhibit B.

4. In its third discovery request dated July 24, 2015, the Applicant requested the Rosebud Sioux Tribe share any knowledge of cultural resources along the route, requested information regarding Aboriginal land rights along the route, asked for the Rosebud Sioux Tribe's opinion regarding any legal violations made by the Applicant, questioned whether the pipeline will cause serious injury to the environment within the reservation and outside the reservation, questioned how the Rosebud Sioux Tribe is directly impacted in case of a leak, requested information regarding all plants located along the route which have significance to the tribe, requested information regarding all animals located along the route which have significance to the tribe, questioned what social economic conditions of the tribe will be impacted by the proposed pipeline, and how the health and safety or welfare of members of the Rosebud Sioux Tribe will be impacted by the proposed pipeline.

The tribe objected to all inquiries. The Applicant also requested a copy of all documents referenced in, or in support of, all answers. Rosebud Sioux Tribe did not provide any documents.

See Exhibit C.

5. On September 23, 2015, Rosebud Sioux Tribe listed 29 Exhibits it proposes to use at trial. The listed exhibits amount to hundreds of pages of previously undisclosed information. It is reasonable to assume the exhibits support the Rosebud Sioux Tribe position. However, none of the proposed exhibits were produced by the Rosebud Sioux Tribe in discovery.
6. Aside from the fact that no documents were provided by the Rosebud Sioux Tribe in discovery, Rosebud Sioux Tribe has provided any detail regarding its position. Thus, it is impossible for the Applicant to anticipate or understand how the Rosebud Sioux Tribe plans to use the hundreds of pages of exhibits provided on September 23, 2015.
7. The Applicant followed the Commission's Order and Rules of Civil Procedure in an attempt to obtain information and an understanding regarding the Rosebud Sioux Tribe's position in this docket. However, the Rosebud Sioux Tribe did not provide the requested information.

At this stage in the process, it is impossible to conduct additional discovery or take depositions to understand what Rosebud Sioux Tribe's position is, and how it intends to use the exhibits filed on September 23, 2015. The Rules of Civil Procedure are designed to provide all parties an equal opportunity to learn of other parties' positions and prepare one's own case. The Applicant will experience prejudice if the Rosebud Sioux Tribe is permitted to utilize documents which were subject to discovery requests and were not produced.


Wherefore, the Applicant respectfully requests an Order from the South Dakota Public Utilities Commission to strike the following undisclosed exhibits from Rosebud Sioux Tribe's September

23, 2015 filing and to further prohibit Rosebud Sioux Tribe from utilizing the listed exhibits at hearing.

RST #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, and 29

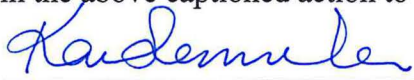
Dated this 28 day of September, 2015.

MAY, ADAM, GERDES & THOMPSON LLP

BY:   
BRETT KOENECKE  
KARA C. SEMMLER  
Attorneys for Defendant  
503 South Pierre Street  
PO Box 160  
Pierre, SD 57501-0160  
(605) 224-8803

#### CERTIFICATE OF SERVICE

28 Kara C. Semmler of May, Adam, Gerdes & Thompson LLP hereby certifies that on the day of September, 2015, she either electronically served or mailed via US Mail a true and correct copy of the foregoing in the above captioned action to the Service List in HP 14-002.

  
KARA C. SEMMLER

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

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)

**INTERROGATORIES OF  
DAKOTA ACCESS LLC TO  
ROSEBUD SIOUX TRIBE, SICANGU  
OYATE LAND OFFICE**

- b. Witness contact information;
- c. Whether the witness is expert or fact;
- d. A general statement descriptive of the matters to which each witness will testify;
- e. Whether the witness will submit sworn pre-filed written testimony; and,
- f. For each expert provide a resume or CV.

ANSWER: At this time the RST SOLO has not identified fact or expert witnesses that it intends to call at the evidentiary hearing on this matter. To the extent that these interrogatories are subject to supplementation consistent with the Rules of Civil Procedure, these answers will be supplemented as that information becomes known and available.

INTERROGATORY NO. 4: Please state with specificity the objections, if any, which Rosebud Sioux Tribe, Sicangu Oyate Land Office has to the Dakota Access project. For each such objection:

- a. Outline a complete factual basis, any relevant law, rule or regulation applicable thereto and an expected or desired outcome if any.
- b. For each such objection, state the decision maker responsible for deciding said objection.

ANSWER: At this early stage of the proceedings the RST SOLO is in the process of determining the specific objections that it has with the Dakota Access project. To the extent upon which this interrogatory is deemed to be continuing in nature, this Interrogatory will be supplemented as the information sought becomes available.

Dated this 29<sup>th</sup> day of April, 2015.

#### OBJECTIONS

The objections stated to Dakota Access Interrogatories were made by Matthew L. Rappold, attorney for the Rosebud Sioux Tribe, Sicangu Oyate Land Office for the reasons and upon the grounds stated.

Dated this 29<sup>th</sup> day of April, 2015.

/s/ Matthew L. Rappold  
Matthew L. Rappold  
Rappold Law Office  
PO Box 873  
Rapid City, SD 57709  
(605) 828-1680  
Matt.rappold01@gmail.com

### **CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on the 29<sup>th</sup> day of April, 2015, he sent a true and correct copy of the following responses to Dakota Access Interrogatories by electronic transmission; to-wit:

MAY, ADAM, GERDES & THOMPSON LLP  
BRETT KOENECKE  
503 South Pierre Street  
P.O. Box 160  
Pierre, SD 57501  
(605) 224-8803  
[brett@mayadam.net](mailto:brett@mayadam.net)

/s/ Matthew L. Rappold  
Matthew L. Rappold



IN THE MATTER OF THE	)	
APPLICATION OF DAKOTA	)	HP14-002
ACCESS, LLC FOR AN ENERGY	)	
FACILITY PERMIT TO	)	ROSEBUD SIOUX TRIBE'S
CONSTRUCT THE DAKOTA	)	SUPPLEMENTED RESPONSES TO
ACCESS PIPELINE PROJECT	)	FIRST SET OF INTERROGATORIES
	)	



- a. Outline a complete factual basis, any relevant law, rule or regulation applicable thereto and an expected or desired outcome if any.
- b. For each such objection, state the decision maker responsible for deciding said objection.

ANSWER AND OBJECTION: The Rosebud Sioux Tribe objects to Dakota Access's application for the construction of the Dakota Access pipeline on the grounds, not limited to, by way of this answer, that the Applicant will be unable to satisfy the statutory requirements of SDCL 49-41B and other relevant laws, including but not limited to the Pipeline Safety Act, its associated implementing regulations, application of the PUC Administrative rules, compliance with which is necessary in order to obtain a permit for the construction of an interstate pipeline facility of this nature. Rosebud Objects to subsections (a) and (b) on the grounds that the questions seeks answers that are beyond the scope of the requirements of discovery statutes.

Dated this 15<sup>th</sup> day of June, 2015.

/s/ Matthew L. Rappold  
Matthew L. Rappold  
Rappold Law Office  
PO Box 873  
Rapid City, SD 57709

### CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on the 15<sup>th</sup> day of June, 2015, he caused a true and correct copy of the original of the foregoing Rosebud Sioux Tribe's Supplemented Responses to Dakota Accesses First Set of Interrogatories and Request for Production of Documents, by electronic transmission to the following:

BRETT KOENECKE  
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(605) 224-8803  
[kcs@mayadam.net](mailto:kcs@mayadam.net)

/s/ Matthew L. Rappold

IN THE MATTER OF THE	)	
APPLICATION OF DAKOTA	)	HP14-002
ACCESS, LLC FOR AN ENERGY	)	
FACILITY PERMIT TO	)	ROSEBUD SIOUX TRIBE'S
CONSTRUCT THE DAKOTA	)	ANSWERS TO DAKOTA ACCESS
ACCESS PIPELINE PROJECT	)	(SECOND SET) OF INTERROGATORIES
	)	

The Rosebud Sioux Tribe, (Sicangu Oyate Land Office and Sicangu Lakota Treaty Office) hereby submits the following Answers and Objections to Dakota Access Second Set of Interrogatories.

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the grounds that the Interrogatory call for an answer that is not relevant to the scope of the proceedings and the applicants burden of proof under SDCL 49-41B. These proceedings are governed by SDCL 49-41B. The lineal utility infrastructure located within the Rosebud Sioux Indian Reservation is not relevant to the applicants burden of proof or information that the PUC would consider in making a determination if the Applicant has complied with SDCL 49-41B.

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1.

INTERROGATORY NO. 3: What property rights does the Rosebud Sioux Tribe have or claim within one half mile of the Dakota Access pipeline's current proposed route?

ANSWER AND OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1. Without waiving the objection the Rosebud Sioux Tribe may have traditional cultural property sites, as that term is defined by the National Historic Preservation Act, that are located within the Pipeline's proposed current route. The Rosebud Sioux Tribe has aboriginal rights associated with their status as a federally recognized Indian Tribe as those terms are defined by federal law. The Rosebud Sioux Tribe owns land located in the State of Iowa which may be located within one-half mile of the proposed pipeline route.

INTERROGATORY NO. 4: How far in feet or miles is the proposed pipeline located from the Rosebud Sioux Reservation exterior boundary?

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1.

INTERROGATORY NO. 5: What water or other rights does the Rosebud Sioux Tribe claim could or will be impacted by the proposed pipeline?

ANSWER: The Rosebud Sioux Tribe possesses water rights consistent with the *Winters Doctrine*, a judicially created doctrine established in the case of *Winters v. United States*, 207 U.S. 564 (1908) that may be impacted by the proposed pipeline. Under this doctrine, tribal water rights are reserved from the date of the establishment of the tribe's reservation. Under federal law the Rosebud Sioux Tribe has protected rights to water from the Missouri River and its tributaries that are necessary to fulfill the purpose of the creation of the Rosebud Indian Reservation. Rosebud may have rights associated with the requirements of the National Historic

Preservation Act for potential properties located along the route. The Rosebud Sioux Tribe has other rights that are protected under federal and state law related to the safe development of energy resources, environmental and human rights protections, and all other rights that parties to contested cases have that are consistent with the Constitution and laws of the state of South Dakota and the United States. The response to this interrogatory is not intended to be an exhaustive list.

INTERROGATORY NO. 6: Provide all facts to support your answer to Interrogatory No 5 above.

ANSWER AND OBJECTION: Rosebud objects to the Interrogatory on the grounds that at this time it is impossible to assert all facts that support the answer to Interrogatory 5. Rosebud will provide some of the identified facts in support of the answer to Interrogatory 5 and 6; accordingly;

- a) The Rosebud Sioux Tribe is a federally recognized Indian Tribe as that term is defined by applicable federal laws and U.S. Supreme Court opinions.
- b) That the case of *Winters v. United States*, 207 U.S. 564 (1908) is a United States Supreme Court opinion that established the tribal water rights doctrine commonly known as the Winter's Doctrine.
- c) South Dakota codified laws, constitution, court opinions provide for parties in contested cases such as this to have rights that are consistent with due process requirements of the state and federal constitutions.
- d) It is a fact that there is no indication in the application that the applicant considered the Winter's doctrine and its applicability to water use for the project.
- e) There is no indication in the application that the applicant considered what impact the project's construction and operation may have on tribal reserved water rights.
- f) There is no information contained in the application that indicates that these concerns were properly considered and evaluated in consideration of the application.

- g) Water used from the Missouri River and its tributaries for the construction and operation of the pipeline may threaten availability of water from the Missouri River and its tributaries.

INTERROGATORY NO. 7: Does the Rosebud Sioux Tribe disagree with or oppose the construction of crude oil transportation pipelines in the State of South Dakota, regardless of where situated within the state?

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1. Whether or not the Rosebud Sioux Tribe disagrees with or opposes the construction of crude oil pipelines in the State of South Dakota is not relevant to the PUC's considerations and the applicants burden of proof as required by law.

INTERROGATORY NO. 8: Does the Rosebud Sioux Tribe have a formal position regarding the construction of crude oil pipelines on its Reservation land? If so, what is it and how was that position developed.

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1.

INTERROGATORY NO. 9: Does the Rosebud Sioux Tribe have a formal position regarding the construction of crude oil pipelines in the State of South Dakota? If so, what is it and how was that position developed.

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1.

INTERROGATORY NO. 10: Does the Rosebud Sioux Tribe have a formal position regarding the proposed Dakota Access pipeline? If so, what is it and how was that position developed.

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1.

INTERROGATORY NO. 10: If the answer to No. 7 above is “no,” generally state what it is about the proposed Dakota Access pipeline that the Rosebud Sioux Tribe finds objectionable.

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1.

INTERROGATORY NO. 11: If the answer to No. 7 above is “yes,” generally state the Tribe’s objections to the construction of crude oil transportation pipelines in the State of South Dakota.

OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the ground cited in support of the Objection raised in response to Interrogatory 1.

REQUEST FOR PRODUCTION OF DOCUMENTS 1: Provide a copy of all documents referenced in any answer above or which supports any answer above.

OBJECTION: The Rosebud Sioux Tribe objects to Request for Production of Documents No.1 on the ground cited in support of the Objection raised in response to Interrogatory 1. Rosebud refers Dakota Access to its application, amended application and its other supporting documents currently on file with the Public Utilities public website and in the possession of the applicant.

Dated this 15<sup>th</sup> day of June, 2015.

RAPPOLD LAW OFFICE

By: /s/ Matthew L. Rappold  
Matthew L. Rappold



Rappold Law Office  
PO Box 873  
Rapid City, SD 57709

### **CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on the 15<sup>th</sup> day of June, 2015, he caused a true and correct copy of the original of the foregoing Rosebud Sioux Tribe's Responses to Dakota Accesses Second Set of Interrogatories and Request for Production of Documents, by electronic transmission to the following:

BRETT KOENECKE  
503 South Pierre Street  
P.O. Box 160  
Pierre, SD 57501  
(605) 224-8803  
[brett@mayadam.net](mailto:brett@mayadam.net)

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Pierre, SD 57501  
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[kcs@mayadam.net](mailto:kcs@mayadam.net)

/s/ Matthew L. Rappold

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

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

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**HP14-002**

**INTERROGATORIES OF  
DAKOTA ACCESS LLC TO  
ROSEBUD SIOUX TRIBE  
(THIRD SET)**

**TO: ROSEBUD SIOUX TRIBE AND ITS ATTORNEY, MATTHEW L. RAPPOLD**

YOU ARE HEREBY REQUESTED to answer the following written interrogatories  
which are to be answered by you within the time and in the manner required by SDCL § 15-6-33.

These interrogatories are directed to you, but are intended to likewise obtain any  
information with respect thereto now known by any other agents or representatives you may  
have in this matter. These interrogatories are to be deemed continuing and if you or said agents  
or representatives obtain any information with respect to them after making original answers, it  
is required that supplemental answers be made.

INTERROGATORY NO. 1: List the name, address, phone number and e-mail address  
of all those who provided information or contributed to your responses to these Discovery  
Requests.

ANSWER: Matthew L. Rappold; PO Box 873 Rapid City, SD 57709 (605) 828-1680.

INTERROGATORY NO. 2: Does the Tribe or any witness or potential witness have  
knowledge of cultural resources along the proposed route which are unknown to the State  
Historical Preservation Office or other authorities? If so, state locations or likely location.

ANSWER AND OBJECTION: The Tribe objects to the sought information on the grounds that there is insufficient foundational knowledge provided by Dakota Access to establish the extent of the State Historical Preservation Officer's knowledge of cultural resources located along the proposed route so as to answer the question as presented. Without this information it is impossible to answer the question. Additionally, the Tribe does not know what Dakota Access means by "other authorities" as that term is not defined by the question. It is equally impossible to respond to this question without the term "other authorities" being defined by Dakota Access and also providing the base level of subject matter knowledge for any possible "other authorities."

INTERROGATORY NO. 3: Where along the proposed pipeline route does the Tribe claim aboriginal land rights? Please provide the locations with legal descriptions, a map and provide documentation or a basis for the claim.

ANSWER: Answer is still being prepared for this interrogatory and will be prepared upon completion.

The sought information is being prepared and may be provided when completed.

INTERROGATORY NO. 4: Does the Tribe hold land which have been adjudicated at any point along the proposed pipeline route? If so, identify the result of such adjudication and describe the location of the land along the proposed route affected by the adjudication.

ANSWER AND OBJECTION: The Tribe objects to the sought information on the grounds that Dakota Access has not defined what it means by the term "adjudication" in the context of the question? Without such a definition it is not possible to answer the question.

INTERROGATORY NO. 5: If the proposed pipeline is constructed as described in the application and attached exhibits, do you contend it will violate current state or federal rules or regulations? If so, provide those rules or regulations and a factual basis for your contentions.

ANSWER AND OBJECTION: The Tribe objects to the question on the grounds that the question asserts a misinterpretation and misapplication of the statutory burden of proof placed on Dakota Access. In order for the PUC to issue the permit, Dakota Access is required to meet the statutory burden under SDCL 49-41B. The interveners do not have to establish that the applicant will violate current state or federal rules or regulations if the project is constructed.

INTERROGATORY NO. 6: Do you believe or contend the proposed facility, if constructed as described in the application and attached exhibits, will pose a threat of serious injury to the environment within or on the Rosebud Sioux Reservation? If so, please describe how you believe the environment within or on the Rosebud Sioux Reservation will be seriously injured.

OBJECTION: The Tribe objects to the question on the grounds that the question asserts a misinterpretation and misapplication of the statutory burden of proof placed on Dakota Access and requires hypotheticals, calls for speculation and requires assumptions that cannot be made.

INTERROGATORY NO. 7: Do you believe or contend the proposed facility, if constructed as described in the application and attached exhibits, will pose a threat of serious injury to the environment outside the Rosebud Sioux Reservation, within the state of South Dakota? If so, please describe how you believe the environment outside the Rosebud Sioux Reservation, within the state of South Dakota will be seriously injured.

ANSWER: The proposed facility, if constructed as described in the application and exhibits will pose a threat of serious injury to the environment in South Dakota for reasons that require speculation and calls for legal conclusions and cannot be answered.

INTERROGATORY NO 8: In the event of a pipeline leak or spill along the current proposed route, how would or might the Rosebud Sioux Tribe Reservation be directly impacted?

ANSWER AND OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the grounds that the Interrogatory call for an answer that is based on hypothetical's and calls for a speculative answer. Without waiving the objection, and not limited to the foregoing, a pipeline spill or leak may contaminate the waters in which the tribe has rights to under the Winter's Doctrine as it relates to reserved water rights and such a leak or break may also damage the land and natural environment along the proposed route. As a sovereign government recognized as such under federal, international and local law, the Rosebud Sioux Tribe has an interest in seeing that all laws relevant to the proceeding are examined, applied and enforced. A leak or spill in this regard directly impacts the Rosebud Sioux Tribe, its Reservation and its interests wherever located.

INTERROGATORY NO. 9: List all plant species which you claim have spiritual or religious significance which occur along the proposed pipeline route. Identify any locations where you claim each plant species currently exists.

OBJECTION: The Rosebud Sioux Tribe objects to the question on the grounds of confidentiality and the necessity to protect and defend cultural identity and property interests. Over the course of living throughout the region known as the Great Plains for numerous years, the people of the Rosebud Sioux Tribes as well as all tribal people and other tribes located in the region have gained unique knowledge and understanding of the plant species within this

geographic area, many of which possess unique spiritual or religious significance and are used for a variety of purposes. As such the Rosebud Sioux Tribe will not divulge this type of information to the applicant in these proceedings.

INTERROGATORY NO. 10: List all animal species which you claim have spiritual or religious significance which occur along the proposed pipeline route.

ANSWER AND OBJECTION: The Rosebud Sioux Tribe objects to the question on the grounds of confidentiality and the necessity to protect and defend cultural identity. Over the course of living throughout the region known as the Great Plains for numerous years the people of the Rosebud Sioux Tribes as well as all tribal people and other tribes located in the region have gained unique knowledge and understanding of the many animal species located within this geographic area, many of which possess unique spiritual or religious significance to many people. As such the Rosebud Sioux Tribe will not divulge this type of information to the applicant in these proceedings.

However, a commonly known bird species that is held in high regard by many people around the world is the eagle. Specifically identified along the route in South Dakota is the bald eagle. It is commonly known that the bald eagle is a bird that has spiritual significance to the people of the Rosebud Sioux Tribe and all other tribes in South Dakota.

INTERROGATORY NO. 11: What if any social and economic conditions within the Rosebud Sioux Reservation will be injured if the proposed project as described in the application and attached exhibits is constructed?

OBJECTION: The Tribe objects to the question on the grounds that the question asserts a misinterpretation and misapplication of the statutory burden of proof placed on Dakota Access.

In order for the PUC to issue the permit, Dakota Access is required to meet the statutory burden under SDCL 49-41B.

INTERROGATORY NO. 12: How will the health, safety or welfare of those residing within the Rosebud Sioux Reservation be impaired if the proposed project as described in the application and attached exhibits is constructed?

OBJECTION: The Tribe objects to the question on the grounds that the question asserts a misinterpretation and misapplication of the statutory burden of proof under SDCL 49-41B which is placed on Dakota Access.

INTERROGATORY NO. 13: Has the Rosebud Sioux Tribe adopted an economic or residential development plan? If so, provide it.

ANSWER AND OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the grounds that the Interrogatory call for an answer that is not relevant to the scope of the proceedings and the applicants burden of proof under SDCL 49-41B. The sought information is not likely to lead to the discovery of admissible evidence. These proceedings are governed by SDCL 49-41B. The sought information is not relevant to a determination as to the applicants burden of proof under SDCL 49-41B.

INTERROGATORY NO. 14: How will the proposed project as described in the application and attached exhibits violate the Tribe's claimed Winters Doctrine water rights?

ANSWER: Unable to respond as the question calls for answers based on facts not yet in evidence and calls for information that cannot be known at this time.

INTERROGATORY NO. 15: Has the Tribe adopted a plan for the "safe development of energy resources?" If so, provide it.



ANSWER AND OBJECTION: The Rosebud Sioux Tribe objects to the Interrogatory on the grounds that the Interrogatory call for an answer that is not relevant to the scope of the proceedings and the applicants burden of proof under SDCL 49-41B. These proceedings are governed by SDCL 49-41B. The sought information is not relevant to a determination as to the applicants burden of proof under SDCL 49-41B.

INTERROGATORY NO. 16: How will Rosebud Sioux Tribal member human rights be violated if the proposed pipeline as described in the application and attached exhibits is built and operated in South Dakota?

ANSWER: Unable to respond as the question calls for answers based on facts not yet in evidence and calls for information that cannot be known at this time.

REQUEST FOR PRODUCTION OF DOCUMENTS 1: Provide a copy of all documents in your possession which are referenced in any answer above or which supports any answer above.

REQUEST FOR PRODUCTION OF DOCUMENTS 2: Provide a map which depicts Rosebud Sioux Tribal land in relationship to the proposed pipeline route.

Responsive documentation to request for production one and two is being prepared and will be produced accordingly.

Dated this 1<sup>st</sup> day of September, 2015.

/s/ Matthew L. Rappold  
Rappold Law Office  
PO Box 873  
Rapid City, SD 57709  
(605) 828-1680  
Matt.rappold01@gmail.com

CERTIFICATE OF SERVICE

I certify that on this 1<sup>st</sup> day of September, 2015, the original Answers and Objections to Dakota Access Third Set of Interrogatories and Request for Production of Documents on behalf of the Rosebud Sioux Tribe was sent to the following persons herein designated via email; to wit:

Brett Koenecke  
Kara Semmler  
Attorneys for Dakota Access, LLC.  
503 South Pierre Street  
P.O. Box 160  
Pierre, SD 57501  
(605) 224-8803  
[brett@mayadam.net](mailto:brett@mayadam.net)  
[Kcs@mayadam.net](mailto:Kcs@mayadam.net)

Dated this 1<sup>st</sup> day of September, 2015.

/s/ Matthew L. Rappold  
Matthew L. Rappold