

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

IN THE MATTER OF THE)	DOCKET NO. HP14-002
APPLICATION OF DAKOTA ACCESS,)	
LLC FOR AN ENERGY FACILITY)	SOUTH DAKOTA ASSOCIATION
PERMIT TO CONSTRUCT THE)	OF RURAL WATER SYSTEMS, INC.
DAKOTA ACCESS PIPELINE)	PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter having come on for hearing before the South Dakota Public Utilities Commission on the 29-30 of September, 2015, and 1-2 and 6-9 of October, the South Dakota Association of Rural Water Systems, Inc., appearing personally and by and through its attorney, Margo Northrup of Riter, Rogers, Wattier and Northrup, LL P and the South Dakota Public Utilities Commission having heard the testimony of the parties, received the evidence and having reviewed all records and documents on file herein and exhibits received, now makes and files the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The South Dakota Association of Rural Water Systems, Inc. (SDARWS) is a nonprofit statewide association that is comprised of nonprofit rural water systems, sanitary districts, water user districts and affiliated organizations that provide water to the citizens of South Dakota. SDARWS Exhibit 3.
2. Seven nonprofit rural water systems will be impacted throughout the State of South Dakota by the Dakota Access Pipeline (DAPL). TR 320. Six of the rural water systems have entered into crossing agreements with DAPL. Id. SDARWS Exhibit 3. Lewis and Clark Rural Water System, Inc. (Lewis & Clark) does not have a crossing agreement in place with DAPL. Id.
3. Protecting the waterlines of the rural water systems is imperative to the health and welfare of the citizens of South Dakota. TR 320.
4. Lewis & Clark will provide treated water to its member municipalities and rural water systems. When completed, Lewis & Clark will provide safe, reliable drinking water through its members to over 300,000 people in South Dakota, Iowa, and Minnesota. Lewis & Clark's member systems will use this new source of water to either replace or supplement existing sources of supply. When completed the System will distribute treated water through 337 miles of pipeline to members in a roughly 5,000 square mile area. SDARWS Exhibit 3, TR 1471-1472.
5. Lewis & Clark has 20 members, one of which is the City of Sioux Falls. TR 1484.


6. It is important to Lewis & Clark as well as all of its customers who have worked so hard in making Lewis & Clark the reality it is today, that it maintain the integrity of the rural water system for generations to come. SDARWS Exhibit 3.
7. Lewis & Clark is the sole source of water for Centerville, Beresford, Parker, Tea, Harrisburg, and Lincoln County Rural Water. TR 1476. It may be catastrophic to those communities in the event a breach occurred to the waterline. Id. Generally speaking, Lewis & Clark has one day of reserved capacity of storage in the event of an emergency. TR 1495.
8. The waterline being crossed by the proposed DAPL is the only Lewis & Clark transmission line that serves the City of Sioux Falls. TR 1485. Lewis & Clark delivers an average of 12.5 million gallons of water per day to the City of Sioux Falls. TR 1486; Sioux Falls Exhibit E.
9. Lewis & Clark delivers a little under one-half of Sioux Falls' annual water supply. TR 1487.
10. Lewis & Clark was built for two reasons, quality of life and economic development opportunities. Without the water, communities like Sioux Falls and others simply would not be able to attract the business and industry on a long-term basis like they are doing now. TR 1503.
11. Lewis & Clark will be have two crossings with DAPL, one in Iowa and one in South Dakota. TR 1461; TR 321.
12. The South Dakota crossing is near Parker, South Dakota. TR 1480; Sioux Falls Exhibit D. The crossing is on land owned by Linda and Dennis Kronaizl. TR 1493.
13. The crossing in South Dakota is of the 54-inch treated water pipeline. That line is both the aorta artery and the backbone of the Lewis & Clark System. TR 1462. It is a critical piece of infrastructure for Lewis & Clark. TR 1482.
14. The source of water for Lewis & Clark is the Missouri Elk Point Aquifer. TR 1472.
15. The 54-inch pipe in question is a quarter-inch steel with a half-inch concrete mortar lining. For its relative size, the pipe is fragile and essentially holds the shape of the surrounding bedding material. TR 1466.
16. Heavy machinery on top of the line can change the roundness of the pipeline and break the concrete mortar lining. TR 1466.
17. The water pipeline is coated to ensure it does not corrode. It is important in the engineering to make sure that the coating is in no way damaged. TR 1468.
18. The pipe also is cathodically protected, which means there is a small electrical current that goes through the pipeline that also serves as mechanism to prevent or to delay corrosion. TR 1469.
19. Lewis & Clark holds an exclusive easement in the location where the proposed DAPL crossing shall take place. TR 1463.
20. Lewis & Clark has negotiated in good faith to reach a crossing agreement with DAPL. TR 1465.

21. Lewis & Clark needs to have substantive engineering input into, and the ability to approve all of the final details of how DAPL crosses its water pipeline. TR 1471.
22. A breach of the 54-inch main waterline would be catastrophic to Lewis & Clark and its approximately 200,000 current end users. TR 1476.
23. If the crossing is not engineered properly, there could be significant problems at the crossing. TR 1477.

CONCLUSION OF LAW

1. It is imperative to maintain the integrity of the waterlines of the seven rural water systems impacted by DAPL.
2. The project will substantially impair the health, safety or welfare of the inhabitants of South Dakota if the crossing of waterlines, including the Lewis & Clark waterline, is not designed and constructed properly.
3. The DAPL permit shall be conditioned on DAPL entering into a signed crossing agreement with Lewis & Clark that addresses the various concerns of Lewis & Clark regarding of the crossing.

Dated this 6th day of November, 2015.


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