

**pBEFORE 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	HP14-002 PRE-FILED TESTIMONY OF Devona B. Smith
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STATE OF SOUTH DAKOTA)

:SS

COUNTY OF Lincoln)

1 Devona B. Smith, being first duly sworn on his/her oath, deposes and states as follows:

2 **Please state your name and address.**

3 Devona B. Smith

4 5702 S. Logan St. Apt. A

5 Centennial, Colorado 80121

6 **How are you involved with the Dakota Access Pipeline project?**

7 I am a landowner in Lincoln County, South Dakota affected by the proposed Dakota
8 Access Pipeline.

9 **Please describe the history of your family's land ownership, and whether farming
10 will be continued by younger generations.**

11 My grandfather, Henry Andreessen, homesteaded this land in 1883. He filed on the land
12 (a half section – 320 acres) in 1882 and then moved onto it in 1883. Henry farmed it for
13 44 years. My parents, Martin and Elsie Andreessen, inherited the farm in 1927. They
14 retired from farming in 1948, but continued to own the land. My parents rented the land
15 to a farmer, Richard Gores. My sisters Delores Assid and Margaret Hilt, and I inherited

16 the farm in 1988, when my mother passed away. We continue to rent the farmland to a
17 farmer, Doug Vanderwerff, who grows corn and soybeans on it. My two nieces and my
18 two nephews will someday inherit the farm from my sisters and me. They plan on
19 continuing to own the land and rent it out. My niece Laurie Kunzelman, has been
20 thinking about building a home on the farm.

21 **Please describe your current farming operations.**

22 We rent out the farm for cash rent. The tenant farmer, Doug Vanderwerff, grows corn
23 and soybeans, and has a little hay land on the half section. This man has been farming
24 our land for about 30 years and plans to continue to do so.

25 **To the best of your knowledge, what area(s) of your property will the Dakota Access**
26 **Pipeline cross?**

27 The pipeline would cross the east quarter section (160 acres) of the farm from the
28 northwest corner to the southeast corner, effectively cutting that quarter section in half.

29 **How close is the pipeline to any building, bin or pen, water source, or farming**
30 **facilities (i.e., storage area, feedlot, grazing area, etc.)?**

31 The pipeline would run approximately 50 feet from the land surrounding the farm
32 buildings and the windmill, which provides water for the house.

33 **Please describe any special characteristics of your property and farmland, and/or**
34 **whether you plan to build any houses, outbuildings, shelter belts, or other structures**
35 **on your property.**

36 The land has cement tile going from a pond north of the house to the road ditch south of
37 the house. The proposed pipeline **would** cross this tile. There is also tile a short distance
38 west of this tile. I'm not sure if the pipeline would cross that tile or not.

39 My niece , Laurie Kunzelman, has been considering building a home on the southeast
40 corner of the farm, but the pipeline would prevent that. My sisters and I have also
41 considered selling one acreage on the northeast corner of the farm.

42 **Please describe which of your farming operations or other land uses will be**
43 **impaired by the Dakota Access Pipeline and how they will be impaired.**

44 Corn and soybeans are both grown yearly in alternating areas in that quarter section of
45 the farm. The pipeline would severely cut down on crop production of each of them.

46 The tenant would lose acres to plant, receive much less income from that quarter section,
47 and it would inconvenience him when trying to farm the land, with the pipeline cutting
48 that quarter section in half. Consequently, he would be unwilling to pay as much rent per
49 acre, so we would be losing income. No one else would be willing to farm it either, with
50 that pipeline running through there. Also, if we did try to sell any acreages, people would
51 not want to buy and build on the land with that pipeline under it. Dakota Access would
52 not allow any buildings on the easement, either.

53 **Has your farmland been improved with drain tile? If so, please describe whether**
54 **you are concerned that pipeline construction may damage and impair the drain tile**
55 **performance and investment.**

56 Yes, this quarter has two areas of drain tile. The pipeline would cross at least one of
57 them. The tile is cement and quite old. I am very much afraid that the tile would be
58 damaged. Then the water would not drain out of the low area and could reach the house
59 and other buildings. It would be very costly to replace the drain tiles if they were
60 damaged. I'm also afraid oil could get into the tiles and into the water if the tiles were
61 broken.

62 **Do you believe that the Dakota Access Pipeline will pose a threat of serious injury to**
63 **the environment or the inhabitants within the siting area? If so, why?**

64 Yes, I definitely believe the pipeline would pose a threat to the environment and the
65 inhabitants of this farm. The oil could leak onto the land and into the water as it has often
66 done in many other areas. The oil could flow into Little Beaver Creek which runs through
67 the farm. Then it could get into Beaver Creek, and subsequently into the Sioux River and
68 the aquifer. The oil in this pipeline is a highly volatile substance. Pipelines explode,
69 rupture, and leak. Even with shut-off valves, a great deal of oil would escape into the
70 environment. If the pipeline exploded, it could definitely hurt or kill people and animals
71 in the area. Also, the oil could be poisonous and carcinogenic to the people and animals
72 in contact with it. I have designated wetlands on my farm which could be threatened by
73 the pipeline.

74 **Do you believe that the Dakota Access Pipeline will substantially impair the health,**
75 **safety and welfare of the inhabitants of the siting area? If so, why?**

76 Yes, it will most definitely impair the financial welfare of the tenant farmer and the
77 landowners (us), due to the amount of land that will be dug up all the way across that
78 quarter section. Crops will not be as good. This could happen again and again, anytime
79 the pipeline company would decide to go back in and dig it up to put more pipes in, or to
80 work on them for some reason. Yet the pipeline company is only offering a onetime
81 lump sum payment. I am also concerned that stray voltage could affect the health, safety,
82 and welfare of the tenant farmer, the residents, and anyone else near the pipeline. As I
83 stated before, the oil itself could affect the health, safety, and welfare of everyone in the
84 area because of the volatility of the oil and the chemicals that the oil contains. Dakota

85 Access cannot guarantee the safety of the pipeline. There have been more pipeline
86 accidents than train accidents involving oil.

87 **Have you been sued by Dakota Access Pipeline to compel court ordered access to**
88 **your land? If so, (1) Has Dakota Access Pipeline provided you any legal authority**
89 **(i.e., state statute) supporting its claim that you have no right to exclude Dakota**
90 **Access from your land at the time of said lawsuit? and (2) Have you incurred legal**
91 **fees in defending against said lawsuit?**

92 Yes, Dakota Access has filed a lawsuit against us to allow them to enter our farm to
93 survey it. My sister Delores Assid told them "NO" two different times that they could
94 not enter our land.

95 Yes, we have hired a lawyer, Glenn Boomsma, to represent us in this matter. This is
96 costing us a great deal of money.

97 **Has Dakota Access Pipeline made any statements to you that it is a "common**
98 **carrier" under South Dakota law? If so, please describe.**

99 No, they did not.

100 **Has any representative of Dakota Access Pipeline made any statements to you or**
101 **others that you believe are not true? If so, please explain.**

102 Yes, first of all they told my sister Delores Assid that she should allow them on her
103 land. If she doesn't they will just take it by eminent domain, anyway.. However, they do
104 not have the right of eminent domain as of yet.

105 Secondly, they told Rhonda Nielsen, who lives in the house on that quarter section, that
106 my sisters and I had agreed to let Dakota Access enter my land, survey it, and build the
107 pipeline there. They also told her there was nothing she could do about it. Rhonda was

108 very upset that we would do this. We never gave them permission to enter our land,
109 survey it, or build the pipeline there.

110 **Please state any other concerns you have regarding the Dakota Access Pipeline.**

111 South Dakota and Iowa both grow large amounts of corn. Ethanol producers in South
112 pDakota use much of this corn to produce ethanol, which greatly helps the economy of
113 South Dakota. The oil pipeline will benefit the economy of North Dakota and Texas, but
114 will be of only a small benefit to the economy of South Dakota. That oil is a non-
115 renewable source of fuel and produces greenhouse gases. Corn is a renewable source of
116 fuel. South Dakota should be putting all of its effort into increasing the supply and
117 demand for ethanol. This would be much more beneficial to the farmers and to the state.

118 **Would you be available to present testimony and respond to questions during the**
119 **formal hearing scheduled for September 29 through October 8, 2015?**

120 No. I am 86 years old and do not drive and would not be able to come for the hearing.

121 I give my permission for my niece, Laurie Kunzelman, to speak on my behalf during the
122 formal hearing. Her address is 3604 East Woodsedge St., Sioux Falls, SD 57108.

123 **Does that conclude your testimony?**

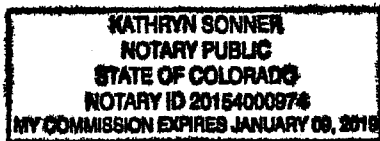
124 Yes.

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Levona B Smith

130 Subscribed and sworn before me this 20 day of June, 2015.

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[Signature]
Notary Public – South Dakota
My Commission Expires: 01-09-2019

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