

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

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| IN THE MATTER OF THE APPLICATION OF DAKOTA ACCESS, LLC FOR AN ENERGY FACILITY PERMIT TO CONSTRUCT THE DAKOTA ACCESS PIPELINE | HP14-002<br><br><b>PRE-FILED TESTIMONY OF<br/>Nancy J. Stofferahn</b> |
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STATE OF SOUTH DAKOTA )  
  :SS  
COUNTY OF MINNEHAHA  )

Nancy J. Stofferahn, being first duly sworn on his/her oath, deposes and states as follows:

**Please state your name and address.**

Nancy J. Stofferahn  
45938 SD Hwy 38  
Humboldt, SD 57035

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

I am a landowner in Minnehaha County, South Dakota affected by the proposed Dakota Access Pipeline. My husband and I have been married for 40 years and even though my name might not be as owner on all parcels of land or businesses involved I have contributed in all decisions and financial obligations in regard to the land and businesses.

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

My husband, Tom Stofferahn, and myself built our home on an acreage on Highway 38 in 1980. I have been part of the farm operation for 40 years and the seed business, Nortec Seeds for 17 years. Estate plans have been made by my husband and myself for our two

sons to inherit ownership in both businesses. Estate plans have been made that my husband will inherit my ownership in our home and land.

**Please describe your current farming operations.**

Stofferahn Farms Partnership is owned by four family members and conducts the farming operations. This partnership farms approximately 2800 acres in Minnehaha, McCook and Turner counties in South Dakota. Stofferahn Farms grows soybeans for Nortec Seeds, Inc. to use as seed. I have done the accounting for the farming operation for 30 years and the seed business for 17 years and am very knowledgeable about all aspects of both businesses.

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

From verbal conversations with Dakota Access contract easement employee, Edwina Scroggins, the pipeline easement will run from north to south through the 118.36 acre land parcel owned by my husband and my brother in law that runs along Highway 38 utilizing approximately 4 acres of tillable crop land. She stated it will run right behind our 3.8 acre acreage where my home is situated and behind the seed business, Nortec Seeds, Inc. where I am an employee.

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

I do not know the exact yardage.

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

**Nortec Seeds, Inc.**

In South Dakota the Stofferahn family has been in the seed business for over 40 years that began with my father in law. In 1998 when my husband purchased 50% of the business from his father the location was moved next to our home on Highway 38 in a 60x120 Morton shed that was built. Later the shed became a part of Stofferahn Farms Partnership and 3.96 acres was deeded to the partnership named Tract 1 where the shed sits today. Nortec Seeds, Inc. rents this shed to conduct its business. Beginning in the summer of 2014 before any knowledge of Dakota Access pipeline we began making plans for an expansion. The only available expansion is to the north because the land only goes 30 feet east, to the west there is a slough and to the south Highway 38. The expansion includes a new 60x152 Morton storage shed and another structure to house a soybean cleaning and treatment center with 6 bulk hopper bins. The expansion will include new offices and parking for semis and trucks. To the North of these new structures Nortec plans to have all research and test plots for customer and public viewing. Since we have a unique situation where my husband owns both the land and business more land can be deeded to Tract 1 to expand the business location when needed. Without this expansion Nortec cannot be competitive in the seed industry and

would have to move to a new location. To find this same excellent location would be costly along with constructing a whole new warehouse facility. At the present time expansion has not begun because of now knowing that the pipeline will be behind the business. If my two sons who plan to continue the business do not have the opportunity to expand in 10-30 years then there is no use wasting capital on a South Dakota business that cannot grow. Without expansion Nortec Seeds could possibly lose millions of dollars in sales over the life of the easement and to relocate would cost hundreds of thousands of dollars.

### **118.36 Acre Parcel of Land**

This land was purchased by my husband and his brother in 1975. It is my husband's present intention that this land will be passed on to me. In 45 years of farming they have picked rock and made improvements so that it is a highly productive parcel of agriculture land. It is along Highway 38 where there is continued growth and in the future has the potential for development property. There is one housing eligibility on the land. My son had plans this year to use the housing eligibility to build a home on an acreage near where the pipeline is entering the land to the north. Of course that will no longer be a possibility. Because of the liability of the pipeline I believe it will reduce the property value of the land and the housing eligibility.

### **3.8 Acreage with Home, 66x99 Morton Shed and Shelter Belt**

My husband and I built this home on the acreage in 1980 on Highway 38. In July, 2014, we started a renovation of the home before any knowledge of the pipeline. We put in a large amount of our retirement money for this project treating it as an investment. The renovation included new roof, steel shingles, new siding and windows, and brick-stone front with pillars. The inside was completely gutted and redone with solid wood floors, larger rooms, granite counters, stone archway to the kitchen. It has a two tier landscaping to the east and north, stamped concrete patios and there is a 66x99 Morton shed behind the house. Because of the good location we believed this would be a good investment. Now common sense is telling us who would ever want to buy a high-end home and acreage with a pipeline behind it and we are afraid that our retirement money will be lost.

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

The main concern I have is for the liability issues in regard to farming the land, compaction of the soil and whether the land will ever produce. If Stofferahn Farms hits the pipeline while doing normal farming practices is it liable for damages to neighbors or other landowners? Our insurance agent has told me that there is no insurance that we can obtain to cover this liability. The land in question has a mortgage on it for the purchase of other land. Our lending bank has said they will not sign off on the easement. From what I have learned in the proposed easement by Dakota Access there is nothing that addresses their liability for an oil event. From what I heard about the easement from other landowners is that the entire 118.36 acre parcel legal description is used in the easement not the 50 foot pipeline description. Dakota Access does not sign the easement. Dakota Access has the right to amend the easement to install more 30 inch pipelines on the 50 foot easement.

I have invested in ethanol plants with my husband to help with our nation's energy concerns and establish better corn prices. As far as I know the pipeline has no plans to

transport ethanol. In fact the oil industry has lobbied for less blending of ethanol which in turn lowers corn prices and hurts Stofferahn Farms economically.

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

Yes. There are two tiles. At the present time I do not believe the pipeline path will cross the tiles.

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

Yes. If there is a leak or oil event it will naturally run through the drainage tiles and tributaries that go into West Skunk Creek, Skunk Creek, Sioux River and could affect water aquifers for Sioux Falls and Minnehaha County communities. Bakken oil has been found to be one of the most explosive oils. It has exploded in rail cars and I believe it can do the same in a pipeline. I do not feel comfortable with the pipeline close to my home and place of work. I would not want my children and grandchildren living by a pipeline.

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

Yes. 570,000 barrels a day, 1440 psi, welded together segments so it is only the matter of where and when the oil events will happen. Will it be in the James River, Sioux River, Missouri River, Mississippi River or next to my home, working place or land? The land would never be able to be put back to the original natural resource it once was and could not probably be farmed. Five Stofferahn families depend on the income from Nortec Seeds so if we were unable to conduct day to day business it would greatly affect the welfare of all the families.

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

No.

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

Yes. I attended the Hartford Chamber of Commerce meeting where Chuck Frye, Vice-President of Energy Transfer, made a presentation to the chamber on May 21, 2015. He stated that Dakota Access was a public common carrier. I asked him if they were public and not private and he stated that South Dakota recognizes them as a public common carrier. Several times during the presentation he referred to Dakota Access as a public common carrier.

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

Yes. At the same Hartford Chamber meeting described in the previous question.

Mr. Frye was asked why they were taking this route for the pipeline being so close to Sioux Falls, a high population area, and not going farther west. His answer was that there would be more landowners to sign easements farther west. From my experience working in the seed business I do not believe this is true.

Mr. Frye was asked where the 4000 jobs for South Dakota would come from. He stated that they were reviewing contracts with different firms to put in the pipeline and the jobs are specialized and unionized. He stated that they would go to the local union places in South Dakota to pick up union workers from there. I do not believe there are many union places in the small towns of South Dakota to fill the temporary jobs quoted.

Mr. Frye was asked about if there was an oil event and oil in drainage tiles going to West Skunk Creek, Skunk Creek and the Sioux River. Mr. Frye stated that they would be able to stop oil in drainage tiles by finding the drainage tile and digging it up. I do not believe that Mr. Frye understands how farm drainage tiles work. Many drainage tiles are connected together to flow to an outlet point. I am not sure how oil could be found in them, how much land would have to be dug up or if they would ever have a plan to replace them if they were dug up before water damage would be done to the land.

Mr. Frye stated that a pipeline will not explode. I do not believe that to be factual.

Mr. Frye stated that the oil pipeline will not affect any property values because there are pipelines in Texas and it hasn't affected their values. I have talked to an auctioneer and three bankers/loan officers which have told me it is a complete unknown at this time. These bankers told me that their institutions are trying to decide if they will want to give a loan to someone who wanted to purchase land with the pipeline on it. Fewer bidders would affect the value of the land. South Dakota in this area has high productive agriculture land while Texas has more rangeland and wasteland.

Dakota Access has been running an advertisement. It states:

“Benefits for South Dakota’s Economy

DAPL will bring \$189 million in direct payments to landowners”

The \$189 million estimate is for North Dakota, South Dakota, Iowa and Illinois combined not just South Dakota. In Energy Transfer’s own presentation brochure it states income to South Dakota landowners for permanent easements and damages at approximately \$47 million. I believe this is misleading to the citizens of South Dakota.

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

Dakota Access says it is a necessity that the land is needed so they can conduct their business on it. In 30 years they could conceivably make \$25 Billion dollars from this

pipeline over the land yet their offer to us is a minimal one- time payment. There is an argument to be made that our land is a natural resource just like oil so why are we not obtaining a royalty for our land.

I am a life-long resident of South Dakota and have worked along side my husband to grow our family businesses for our children and grandchildren. I am concerned that our land will be taken by eminent domain. I think about what damages and health risks that will be left to my children and grandchildren years from now. Public opinions and reactions can change very quickly on issues. Recently Pope Francis and world leaders are trying to lead us for a better environment. I believe when there is an oil event in South Dakota it will be the future legacy of the present South Dakota government.

SDCL 49-41B-22 Applicant's burden of proof.

(2) The facility will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area;

This paragraph in the above-named statute protects myself and my family from the economic harm that will be caused by Dakota Access pipeline to Nortec Seeds, Inc., and the retirement investment that has been made in our home.

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

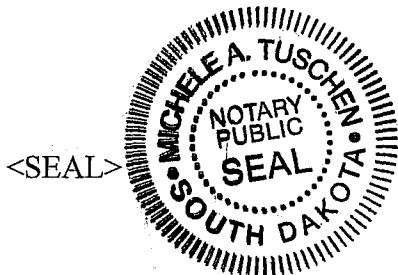
Yes.

**Does that conclude your testimony?**

Yes.

Nancy J. Stofferahn

Subscribed and sworn before me this 29<sup>th</sup> day of June, 2015.



Michele A. Tuschen  
Notary Public – South Dakota  
My Commission Expires: 10-15-17