

**South Dakota Public Utilities Commission  
Frequently Asked Questions about the Dakota Access Pipeline**

May 12, 2017

This document primarily addresses questions about the Dakota Access crude oil pipeline project in eastern South Dakota.

**GENERAL**

**What information is available from the PUC about the Dakota Access Pipeline?**

Dakota Access, LLC filed an application with the PUC on Dec. 15, 2014, to construct the Dakota Access Pipeline in eastern South Dakota. The PUC approved a construction permit with conditions on Nov. 30, 2015. The final order with conditions was issued on Dec. 14, 2015. The full docket, HP14-002, is accessible from the PUC's website, [www.puc.sd.gov](http://www.puc.sd.gov), select "Commission Actions," "Commission Dockets," "Hydrocarbon Pipeline Dockets," "2014 Hydrocarbon Pipeline Dockets," and select HP14-002.

The Yankton Sioux Tribe appealed the PUC's decision to the South Dakota 6th Judicial Circuit Court. The Court dismissed the appeal. Documents related to the appeal can be found on the PUC website, [www.puc.sd.gov](http://www.puc.sd.gov), select "Commission Actions," "Commission Dockets," "Civil Dockets," "2016 Civil Dockets" and select Civ16-20.

**What is the length of the Dakota Access Pipeline and what South Dakota counties will it cross?**

The Dakota Access Pipeline stretches 1,134 miles, from the Bakken and Three Forks production areas in North Dakota to existing infrastructure in Illinois. The South Dakota portion of the project is approximately 272 miles and extends from North Dakota to Iowa, crossing the South Dakota counties of Campbell, McPherson, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, Lake, McCook, Minnehaha, Turner and Lincoln. One pump station is located seven miles southeast of Redfield in Spink County.

**When was the Dakota Access Pipeline constructed?**

Construction of the South Dakota portion of the pipeline was completed in March of 2017.

**When will the Dakota Access Pipeline become operational?**

Company officials have stated that the Dakota Access Pipeline is expected to be put into service by May 15, 2017.

**As a landowner along the route, who can I contact if I have specific concerns about the reclamation of my property along the Dakota Access Pipeline?**

Dakota Access has established, at the order of the PUC, a public liaison officer to promptly resolve problems and complaints that may arise as a result of the project. The officer, Eric Munz, may be contacted by e-mail at [dapliaisonsd@gmail.com](mailto:dapliaisonsd@gmail.com) or by calling, toll-free, 1-800-665-5763.

**PUC ROLE**

**What is the role of the PUC in the construction of the Dakota Access crude oil pipeline?**

The South Dakota Energy Facility Permit Act gives the PUC authority to grant, deny, or grant with conditions a permit to construct the crude oil pipeline in South Dakota. See [SDCL Chapter 49-41B](#) and [ARSD 20:10:22](#)

In its Dec. 14, 2015, order granting the permit to construct, the commission included a condition that requires Dakota Access to contract with an independent third-party, to be approved by the commission, for monitoring compliance with the permit to construct and permit conditions. The independent third-party

reports directly to the commission. Their main focus is to ensure the construction processes described in the permit and conditions are followed to allow for proper reclamation of property disturbed during construction. Compliance monitoring reports can be viewed [online](#).

**What is the PUC's authority relative to the decision to grant or deny the Dakota Access Pipeline construction permit?**

State law provides the PUC with responsibility to determine whether to grant, deny, or grant with terms, conditions or modifications a permit for the construction of a transmission facility, such as the Dakota Access crude oil pipeline. The PUC does not have authority over the actual route of the pipeline. A permit to construct a pipeline may be granted if the PUC determines the pipeline will produce minimal adverse effects on the environment and the citizens of South Dakota. State law further describes that the applicant, Dakota Access LLC, must prove the project will comply with laws and rules; pose no threat of serious injury to the environment and current or future inhabitants; not substantially impair the health, safety or welfare of inhabitants; and not interfere with the orderly development of the region. See [SDCL 49-41B-22](#) for the details of these four elements of proof the applicant must meet.

**What role did the PUC have in the easement acquisition process that occurred between Dakota Access and landowners?**

The PUC was not involved in the easement acquisition process. Likewise, the PUC did not have a role in the eminent domain process, which is handled in the circuit court system. Landowners with concerns about these issues should seek advice from their personal attorney.

**What is the role of the PUC in monitoring the operation, maintenance and safety of the pipelines during operation?**

The PUC's authority over crude oil pipelines is limited to the issuance or denial of a permit to construct the pipeline in South Dakota. The PUC will monitor compliance with the conditions of the permit. The PUC will assist with the resolution of complaints and concerns by residents during the construction process. Many of the other activities surrounding the pipeline that occur during the construction, operation and maintenance of the pipeline are under the jurisdiction of other state and federal agencies.

## **PUBLIC INVOLVEMENT**

**What avenues were available for public involvement in the PUC's Dakota Access Pipeline construction docket?**

The PUC held a series of public input hearings on the application on Jan. 21, 2015, in Bowdle and Redfield and on Jan. 22, 2015, in Iroquois and Sioux Falls at which comments were offered to the commission. Audio recordings of these public input hearings can be accessed on the [HP14-002](#) docket page under the "Hearing" heading.

Parties that wished to actively participate in the case through legal motions, discovery, and the written preparation and presentation of actual evidence had the opportunity to apply for intervenor status by Feb. 13, 2015. The formal evidentiary hearing was held in Pierre on Sept. 29-Oct. 2 and Oct. 6-9, 2015. Audio recordings of the hearing are accessible from the [HP14-002](#) docket page under the heading, "Evidentiary Hearing. See the PUC's [Info Guide to Siting Pipelines](#) for more information about the processing of siting permit requests.

**Who can I contact for more information about the PUC process related to the Dakota Access Pipeline?**

Contact the PUC by emailing [puc@state.sd.us](mailto:puc@state.sd.us) or calling 605-773-3201 to speak with a staff member regarding the project. Written questions or comments should include the docket number, HP14-002, the commenter's full name and mailing address as well as email address and phone number. Questions should be directed to staff and not commissioners since commissioners have a decision-making role in docket matters. Though the commission has made a decision about the construction permit, the docket remains open until conditions described in the order are met. Any communication with a commissioner about an open docket must take place in an open forum, such as a public meeting with notice given to all

parties, and written communication is posted in the online docket and becomes part of the record, for all parties and interested individuals to read.

## **TAXES**

### **What taxes is Dakota Access expected to pay?**

Four percent (4%) state sales or use tax is due on all materials, equipment, supplies and services purchased by Dakota Access and its subcontractors in South Dakota.

City sales tax will also be due on any purchases made or deliveries received within a city that has a city sales tax. The city tax is in addition to the state sales tax.

Two percent (2%) contractors' excise tax is due by contractors on any construction work done for the initial construction, repairs and any changes made to the pipeline. The contractors' excise tax is a state tax reported and paid by the contractor.

Sales, use and contractors' excise taxes are due at time of sale regardless of a pipeline being in operation.

There is no tax on the product moving through the pipeline.

### **How will property taxes for the Dakota Access Pipeline be calculated once the pipeline is in service?**

Property taxes are calculated the same as they are for other commercial property. The difference is who assesses the property. While most commercial property is assessed by the county director of equalization, the property of a pipeline company is assessed by the State. The company submits a report to the Department of Revenue that states the location of their property. It is reported by county, township and school district. The Department of Revenue certifies the taxable value to the county auditors of the counties where the pipeline property is located. The county auditors then apply the appropriate tax levies against the taxable value of the pipeline property. The county auditors send the tax bills and the county treasurers collect the property tax.

### **Where will the tax revenue go?**

State sales and use tax and contractors' excise tax are deposited into the State of South Dakota general fund.

Municipal sales and use tax is collected by the State and distributed to the applicable city.

All tax revenue from the pipeline property goes to the appropriate county, township, school district and other taxing districts who are levying a property tax in the taxing district where the pipeline property is located. None of the property tax revenue from the pipeline property is collected or used by the State.