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

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IN THE MATTER OF THE PETITION OF  
DAKOTA ACCESS, LLC PIPELINE, LP FOR  
A PERMIT TO CONSTRUCT THE DAKOTA  
ACCESS PIPELINE

**YANKTON SIOUX TRIBE'S  
MOTION TO COMPEL**

**HP14-002**

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The Yankton Sioux Tribe (hereinafter "the Tribe"), pursuant to SDCL §15-6-37(a), moves to compel Dakota Access, LLC Pipeline, LP ("Dakota Access"), to provide answers to interrogatories and requests for production of documents for the reasons stated below.

**DISCUSSION OF FACTS**

On March 11, 2015, the Public Utilities Commission ("PUC") entered an order establishing a procedural schedule.

On April 1, 2015, Dakota Access was served with the Yankton Sioux Tribe's First Interrogatories and Requests for Production of Documents in accordance with the procedural schedule. Exhibit 1 – Yankton Sioux Tribe's First Interrogatories and Requests for Production of Documents.

Pursuant to the procedural schedule, responses to the first round of discovery requests were due on May 1, 2015. However, Dakota Access failed to serve its responses to the Tribe's requests by that deadline. Exhibit 2 – Email from Brett Koenecke to Thomasina Real Bird dated May 1, 2015. On May 1, 2015, the Tribe sent a letter to Dakota Access offering to refrain from filing a motion to compel production with the Commission if Dakota Access would stipulate to providing its late responses no later than May 8, 2015, and to amending the scheduling order because Dakota Access itself is clearly having difficulty complying with the compressed schedule currently in

place. Rather than respond to the Tribe's offer, Dakota Access served the Tribe with its incomplete and deficient responses described below.

On May 2, 2015, Dakota Access submitted partial, incomplete, and deficient responses to the Tribe's First Interrogatories and Request for Production of Documents. Exhibit 3 – Preliminary Answers to Yankton Sioux Tribe's First Interrogatories and Requests for Production of Documents to Dakota Access, LLC. The deficiencies in Dakota Access's Answers to Yankton Sioux Tribe's First Interrogatories and Requests for Production of Documents are as follows:

- Dakota Access responded with only the word “**PENDING**” to Interrogatory Nos. 20, 25, and 26.
- Dakota Access answered Interrogatory No. 10, which requested information regarding persons responsible for conducting surveys, with the word “**PENDING**” and the following:

2014 – present.  
Names

All % of Kara Semmler and Brett Koenecke  
May, Adam, Gerdes & Thompson LLP  
503 S. Pierre St.  
PO Box 160  
Pierre, SD 57501  
605-224-8803  
[brett@mayadam.net](mailto:brett@mayadam.net)  
[kcs@mayadam.net](mailto:kcs@mayadam.net)

Counsel for the Tribe has no knowledge of the meaning of “All % of Kara Semmler and Brett Koenecke” and finds it highly unlikely that the contact information for Dakota Access's attorneys is responsive to Interrogatory No. 10.

- With respect to Interrogatory No. 11, Dakota Access provide a statement in its answer but that statement is not responsive to the question asked.

- Dakota Access refused to answer Interrogatory No. 19 and refused to provide documents requested in Request No. 3 on the grounds that the information sought is confidential. However, there is no legal authority cited for this assertion of confidentiality and the information sought is in fact not required by law to be treated as confidential by Dakota Access or the Commission.
- Dakota Access's answer to Interrogatory No. 40 appears to directly contradict its answer to Interrogatory No. 18, thus it is unclear which answer is correct and which answer is incorrect.
- Finally, Dakota Access objected rather than responding to Request Nos. 4 and 7 on the grounds that the Requests were overly broad, burdensome, and outside the scope of discovery. Request No. 4 sought documents relating to permits and permit applications for the Dakota Access Pipeline Project and for any other project constructed by Dakota Access since 2010. Due to the nature of these projects, the number of permits sought over the last 4 ½ years is not likely to be very significant and such documentation is reasonably likely to lead to the discovery of admissible evidence regarding safety, risks, performance, and other aspects of Dakota Access's operations. This information is well within the scope of discovery and is adequately narrow in scope so that it places no undue burden on Dakota Access. Request No. 7 sought all documents related to Interrogatory No. 30 as well as a table to show breeding times of sensitive SD species and a map to show migration pathways of sensitive SD species. Dakota Access clearly did not find Interrogatory No. 30 to be overly broad or outside the scope of discovery, thus it is illogical for Dakota Access to claim, falsely, that documents related to that question are overly broad or outside the scope of discovery. With respect to the table

and map requested, these items contain very narrow sets of information and are in no way broad. They are within the scope of discovery because assessing the impact of projects on South Dakota's sensitive species is within the purview of the Commission and the requested documents are likely to lead to admissible evidence relevant to that issue.

On May 6, 2015, the Tribe sent a letter to Dakota Access noting that Dakota Access provided insufficient or deficient responses to the Tribe's First Interrogatories and Requests for Production of Documents, describing the specific deficiencies in the respective requests, and requesting that Dakota Access provide full and complete responses no later than 9:00 am CDT on May 7, 2015, due to the delay caused by Dakota Access's failure once again to comply with the scheduling order issued by the Commission. Exhibit 4 – Letter from Thomasina Real Bird to Brett Koenecke dated May 6, 2015.

As of the time of this filing on May 7, 2015, Counsel for Dakota Access has neither complied with the Tribe's request to provide complete discovery nor contacted Counsel for the Tribe to further discuss this matter. As indicated previously, time is of the essence as Dakota Access's delay is cutting into the Tribe's ability to review and make use of the fruits of its discovery requests.

The Yankton Sioux Tribe certifies that it has in good faith conferred or attempted to confer with the Applicant in an effort to secure the information and material sought through discovery without court action. Notwithstanding the Tribe's good faith effort, the impasse remains.

### **DISCUSSION OF LAW**

#### **I. Dakota Access must be compelled to produce overdue answers to interrogatories and requests for production.**

Under Public Utilities Commission Administrative Rule 20:10:01:22.01, an order to



compel may be granted by the Commission upon the showing of good cause by a party to the proceeding. Additionally, this rule sets forth that discovery is to proceed “in the same manner as in the circuit courts of this state.” A.R.S.D. 20:10:01:22.01.

In South Dakota circuit court discovery is governed by SDCL §15-6-26(b):

Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

- (1) In general. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The discovery rules are to be accorded a “broad and liberal treatment.” *Kaarup v. St. Paul Fire and Marine Insurance Co.*, 436 N.W.2d 17, 21 (S.D. 1989). “A broad construction of the discovery rules is necessary to satisfy the three distinct purposes of discovery (1) narrow the issues; (2) obtain evidence for use at trial; (3) secure information that may lead to admissible evidence at trial.” *Id.* at 19 (citing 8 C. Wright and A Miller, *Federal Practice and Procedure*, §2001 (1970)).

Dakota Access was served with interrogatories and requests for production on April 1, 2015, but its responses were late and have been insufficient and deficient as explained above. Under SDCL Section 15-6-37(a), the PUC must enter an order to compel responses and production.

The Yankton Sioux Tribe requests the Commission enter an order:

1. To compel discovery pursuant to SDCL 15-6-37(a)(2) and ARSD 20:10:01:22.01;
- and

2. Awarding reasonable attorneys' fees and expenses with bringing this motion pursuant to SDCL 15-6-37(a)(4)(A).

Respectfully submitted this 7th day of May, 2015.

*Thomasina Real Bird*

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Thomasina Real Bird, SD Bar No. 4415  
FREDERICKS PEBBLES & MORGAN LLP  
1900 Plaza Drive  
Louisville, Colorado 80027  
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*Attorney for Yankton Sioux Tribe*

# EXHIBIT 1

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**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

**YANKTON SIOUX TRIBE'S FIRST  
INTERROGATORIES  
AND REQUESTS FOR  
PRODUCTION  
OF DOCUMENTS TO DAKOTA  
ACCESS, LLC**

**HP14-002**

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**TO: Dakota Access, LLC**

PLEASE TAKE NOTICE that, the Yankton Sioux Tribe (hereinafter "Yankton") hereby requests that the Applicant Dakota Access, LLC (hereinafter "Dakota Access") answer fully, in writing and under oath, the interrogatories set forth herein within the time provided by the South Dakota Public Utilities Commission ("PUC") Prehearing Scheduling Order dated March 11, 2015. These Interrogatories shall be construed to include any supplemental information, knowledge, or data responsive hereto which is later discovered or obtained by you.

Yankton requests that Dakota Access respond in writing to the Requests for Production of Documents below and produce all responsive documents for inspection and copying at the offices of the undersigned counsel within the time frame set forth by the PUC Prehearing Scheduling Order dated March 11, 2015.

**DEFINITIONS**

These Interrogatories ("Interrogatories") and Requests for Production ("Document Requests") incorporate the following definitions:

1. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.
2. "Any" and "all" shall each be understood to mean "any and all."
3. "Communication" means the oral, written, or electronic transmittal of information in the form of facts, statements, ideas, inquiries or otherwise.
4. "Concerning" means relating to, referring to, describing, regarding, evidencing, or constituting.
5. "Dakota Access" shall mean Dakota Access, LLC.

6. "Dakota Access Pipeline Project" shall mean the proposed 1,134 mile 12-inch to 30-inch diameter pipeline proposed by Dakota Access by an Application for Facility Permit dated December 15, 2014.

7. "Document" shall be given the broadest reading possible under the Commission's rules and shall include, without limitation, the original and any copy, regardless of its origin or location, of any hard copy or electronic book, pamphlet, periodical, letter, memorandum, telegram, minutes, chart, tabulation, manual, guide, outline, abstract, history and/or record of meetings, conferences, and telephone or other conversations or communications, report, study, handwritten note, diary, desk calendar, work paper sheet, spreadsheet, paper, graph, index, tape, disk, audio or video recording, electronic data, magnetically and optically recorded document, electronically created or recorded document, archival copy of magnetically or optically recorded documents, document that has been logically deleted but not physically erased, computer hard drive, computer memory, network drive, floppy disk, CD ROM, backup tape, other archival media, email, instant message, intranet, extranet, voicemail, microfiche, recording sheet, Microsoft Word or other word processing file, Microsoft Excel or other spreadsheet file, Microsoft Outlook or other email, task, contact, or calendar file, Microsoft PowerPoint or other slide file, Microsoft Access or other database file, PDF or other image file, or data processing card, program or any other written, recorded, transcribed, punched, taped, filmed, or other graphic matter, however produced or reproduced, to which you or any of your agents, including, but not limited to, your attorneys, accountants, and all other representatives, have or have had. A true copy will suffice so long as you waive any objection to authenticity and will have the original available for inspection upon request. The terms "document," "documents," "record," or "records" also include copies of drafts and other documents that are not identical duplicates of the originals, as well as copies of documents of which the originals are not in the possession, custody, or control of the responding party.

8. "Identify" when referring to a person means to state the person's full name, present or last known address, telephone number, present or former employer and job title, and, if the person is deceased, his or her date of death. In addition, if the person is your current or former employee, state all job titles held by the person while employed by you and the dates that each job title was held. When referring to a document, "identify" means to give a reasonable description thereof, its date, author(s), recipient(s), media document is stored on if not stored in hard copy, and the full name and the present or last known address of the person, firm or corporation having possession, custody or control thereof.

9. The term "objective metadata" means the custodian of the document, the author of the document, all recipients, including "cc" and "bcc" recipients, of the document, the document title, the document creation date, the document modification date(s), the document type, and parent/attachment Bates-range information.

10. "Parties" shall mean the parties to this proceeding before the South Dakota Public Utilities Commission.



11. "Person" is defined as any natural person or any business, legal, or governmental entity or association.
12. The "Tribe" means the Yankton Sioux Tribe.
13. "Trust land(s)" means any land held in trust by the United States on behalf of an Indian tribe or an individual Indian.
14. The terms "you" and "your" means Dakota Access, its agents, executors, administrators, assigns, attorneys, solicitors, servants, employees, and representatives.

### **INTERROGATORIES INSTRUCTIONS**

15. Each Interrogatory shall be answered separately and fully in writing under oath.
16. Each Interrogatory should be answered upon Dakota Access' entire knowledge and based upon all information that is available to Dakota Access or subject to reasonable inquiry by Dakota Access. This includes all information in Dakota Access' possession or the possession of Dakota Access' attorneys, advisers, employees, agents, or other persons directly or indirectly employed by or connected with the Dakota Access or its attorneys and anyone else otherwise subject to Dakota Access' control.
17. If any answer is qualified, state specifically the terms of each qualification and the reasons for it. If you are unable to answer any Interrogatory fully and completely after exercising due diligence to secure the information necessary to make a full and complete answer, state the part that can be answered and answer the same in full to the extent possible. State further and specifically the reason(s) why the remainder cannot be answered, and state whatever information or knowledge you may have concerning the unanswered portions.
18. If Dakota Access does not have adequate knowledge to fully answer an Interrogatory, say so, but make a reasonable and good faith effort to obtain the information by asking other persons or organizations, unless the information is equally available to the asking party.
19. Whenever an Interrogatory may be answered by referring to a document, Dakota Access may specify the document, in sufficient detail to enable the asking party to locate and identify it as readily as you could, and attach such document as an exhibit to the response.
20. In responses to these discovery requests, Dakota Access should use all such defined terms with the same meaning or definition adopted by the Tribe. If Dakota Access uses any of terms differently than the Tribe, please indicate the particular definition or meaning that you are ascribing to any defined, collective, or unspecific term or phrase in the response to each discovery request.
21. Where a claim of privilege is asserted in responding or objecting to any discovery requested in these Interrogatories and information is not provided on the basis of such assertion, Dakota Access shall, in its response or objection, identify the nature of the privilege (including work product) that is being claimed. When any privilege is claimed, Dakota Access shall indicate, as to

the information requested, whether (a) any documents exist, or (b) any communications took place, and (c) also provide the following information for each such document in a “privilege log”:

- A. the type of document;
- B. the general subject matter of the document;
- C. the date of the document;
- D. the author(s) of the document;
- E. the addressee(s) and any other recipient(s) of the document; and
- F. the custodian of the document, where applicable.

22. If Dakota Access objects or otherwise declines to answer any of the following Interrogatories fully and completely, set forth the grounds upon which Dakota Access relies with specificity so as to permit the Commission to determine the legal sufficiency of the objection, and provide the most responsive information you are willing to provide without an order to produce.

23. If, in answering the Interrogatories, Dakota Access claims any ambiguity in either the Interrogatories or in an applicable definition or instruction, identify in your response the language Dakota Access considers ambiguous and state the interpretation Dakota Access is using in responding.

24. The use of the singular form of any word includes the plural and vice versa; and the use of any tense of any verb shall also include within its meaning all other tenses of that verb.

#### **REQUESTS FOR PRODUCTION OF DOCUMENTS INSTRUCTIONS**

25. These Document Requests include and are applicable to electronically-stored information, including any documents in electronic format. The term “electronically-stored information” refers to any original and any non-identical copies (whether non-identical because of notes made on copies or embedded or attached comments, annotations, transmissions, notations, or highlighting of any kind), of electronically- or digitally-stored information, including but not limited to, programming notes or instructions, activity listings of electronic mail receipts or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines, electronic mail or email, operating systems, source code of all types, programming languages, linkers and compilers, peripheral devices, external drives, PDF files, PRF files, PST files, batch files, ASCII files, crosswalks, code keys, pull down tables, logs, file layouts or any miscellaneous files or file fragments, regardless of the media on which they reside and regardless of whether said electronic data consists of an active file, backup file, deleted file or file fragment. Electronically-stored information also includes data stored on computer memory or memories, hard disks, floppy disks, zip drives, CD-ROM discs, Blackberry or other handheld devices, Instant Messenger programs, Bernoulli Boxes or their equivalents, magnetic tapes, microfiche, punched cards, punched tape, computer chips (including, without limitation, EPROM, PROM, ROM or RAM of any kind) or media cards on or in any other vehicle for electronic or digital data storage or transmittal.

26. All responsive and/or relevant electronically-stored information is to be preserved in native format with all corresponding metadata and embedded data intact. Adequate preservation of



electronically-stored information requires intervention to prevent loss due to routine operations. Continued use of your computers and other devices may cause electronically-stored information to be altered or erased. Consequently, alteration and erasure may result from your failure to act diligently to prevent loss or corruption of electronically-stored information. Therefore, to the extent you have not already done so, you must act affirmatively to properly segregate relevant information, as well as applicable hardware and software, to prevent loss or corruption.

27. If any document which you are requested to produce or identify herein was at one time in existence, but has been lost, discarded or destroyed, identify in writing each document and provide the following information:

- A. the date or approximate date it was lost, discarded or destroyed;
- B. the circumstances and manner in which it was lost, discarded or destroyed;
- C. the reason or reasons for disposing of the document (if discarded or destroyed);
- D. the identity of all persons having knowledge of the document;
- E. the identity of the person(s) who lost, discarded, or destroyed the document;
- F. the identity of all persons having knowledge of the contents thereof; and
- G. a detailed summary of the nature and contents of the document.

28. If any request for documents is deemed to call for the production of privileged or work product materials, and such privilege or work product protection is asserted, provide the following information, unless the parties have entered into an agreement providing otherwise:

- A. the reason for withholding the document;
- B. a statement of the basis for the claim of privilege, work product or other ground of non-disclosure;
- C. a brief description of the document, including:
  - i. the date of the document;
  - ii. number of pages, attachments and appendices of this documents;
  - iii. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
  - iv. the name of each person who was sent, shown, or received a blind or carbon copy of the document, together with an identification of each such person's employer and job title;
  - v. the present custodian of the document;
  - vi. the subject matter of the document; and
  - vii. the type or nature of the document.

29. In responding to each Document Request, produce all documents that are in your possession, custody, or control, including, but not limited to, those maintained or stored by attorneys and all other persons acting or purporting to act on your behalf.

30. If you know of any documents responsive to a particular Document Request but cannot produce them, so indicate in your response, produce all documents responsive to that Document

Request which are in your possession, custody, or control, and identify each person who you believe has additional documents responsive to that Document Request.

31. If Dakota Access objects to any part of a Document Request, produce all documents responsive to those parts of the Document Request to which Dakota Access does not object.

32. Each of the following Document Requests is continuing in nature. Accordingly, if, after serving a response to any Document Request or producing any documents responsive thereto, or any part thereof, Dakota Access obtains or becomes aware of additional documents responsive to such Document Request, or become aware that in some material respect to a previous response or document production is incomplete or incorrect, Dakota Access is required to supplement its response and/or your document production.

33. Documents are to be produced in full. If any requested Document cannot be produced in full, produce it to the extent possible, indicating which Document, or portion of that Document, is being withheld, and the reason that Document is being withheld.

34. Documents attached to each other should not be separated. To the extent documents have been separated, links to relevant attachments or identification, in list form, of corresponding attachment information shall be produced.

35. Dakota Access must produce the original of each Document requested together with all non-identical copies and drafts of that Document. If the original of any Document cannot be located, provide a copy in lieu thereof, which shall be legible and bound or stapled in the same manner as the original.

36. Documents which are maintained in the usual course of business in hardcopy form are to be produced in hardcopy form, unless otherwise agreed upon by the parties. To the extent such documents have been copied and converted to electronic form, you are instructed to so advise the requesting party prior to actual production to permit the parties to assess and discuss the extent to which such documents should be produced in electronic form, and, if so, the requested characteristics of such a production.

37. Electronically-stored information shall be produced in such fashion as to identify the location (i.e., the network file folder, hard drive, back-up tape or other location) where it is stored and, where applicable, the natural person in whose possession it was found (or on whose hardware device they reside or are stored) and the business address of each respective custodian. In addition, a separate list identifying all custodians for whom electronically-stored information is being produced and the corresponding bates range(s) of documents/information for each respective custodian is hereby requested.

38. Unless otherwise provided or agreed upon by the parties, databases and spreadsheets are to be produced in native format, with all corresponding metadata and embedded data intact and all cells of information accessible, including, but not limited to notes, comments, embedded formulas, headings, column titles and hidden cells.



39. Unless otherwise provided or agreed upon by the parties, PowerPoint or other similar electronic presentation files shall be produced in native format with all objective metadata, and other metadata, including, but not limited to notes, comments, presentations scripts and embedded formulas.

40. In the event that documents originally maintained in hard copy form are converted to electronic form such documents are to be produced in a searchable format, to be discussed and agreed upon by the parties, and with any compiled objective coding information and/or objective metadata intact and/or linked.

41. If you produce an electronically-stored or converted document which has attachments, enclosures, and/or exhibits, such attachments, enclosures, and/or exhibits should also be produced and proximately linked to the document containing the attachments, enclosures, and/or exhibits.

42. The fact that a document has been or will be produced by another party (or non-party) does not relieve you of the obligation to produce your copy of the same document, even if the two documents are identical in all respects.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

State the name, current address, and telephone number of the person answering these interrogatories.

### **INTERROGATORY NO. 2:**

State the name, current address, and telephone number of any person, other than legal counsel, who Dakota Access talked with about answering these interrogatories, who assisted Dakota Access in answering these interrogatories, or who provided information that Dakota Access relied on in answering these interrogatories.

### **INTERROGATORY NO. 3:**

Identify each witness that you will or may call as a fact witness or expert witness in any evidentiary hearing or trial of this matter. For each individual, identify and provide the name, business address, and business telephone and the name of his or her employer and/or other organization(s) with which he or she is associated in any professional capacity; the substance of the facts to which he or she is expected to testify and the substance of the opinions to which he or she is expected to testify; the individual's profession or occupation, educational background, specialized training, and employment history relevant to the proposed testimony; and the individual's previous publications within the preceding 10 years; and all other cases or proceedings in which the witness has testified as an expert within the preceding four years.

### **INTERROGATORY NO. 4:**

Identify any other names that Dakota Access conducts business under, in the United States and internationally.

**INTERROGATORY NO. 5:**

Has Dakota Access received any communications from any regulatory body or agency that may have jurisdiction over the project which alleges that Dakota Access has failed to comply with any applicable permits, law, or regulation?

**INTERROGATORY NO. 6:**

Has a permit by any regulatory body or agency that may have jurisdiction over the construction, maintenance, or operation of any Dakota Access pipeline located in the United States or internationally ever been denied, revoked, or suspended by the regulatory body or agency?

**INTERROGATORY NO. 7:**

Has Dakota Access been given notice by any regulatory body or agency that may have jurisdiction over the construction, maintenance or operation of any pipeline located in the United States or internationally alleging that Dakota Access has failed to comply with any applicable permits for the construction, operation or maintenance of any pipeline located in the United States?

**INTERROGATORY NO. 8:**

Please identify all required permits that Dakota Access has applied for within the State of South Dakota regarding the use of public water for construction, testing, drilling, or temporary discharges to waters of the state and temporary discharges of water from construction dewatering and hydrostatic testing.

**INTERROGATORY NO. 9:**

Identify the most recent depiction of the Dakota Access Pipeline Project route and facility locations as they currently exist as compared to the information previously disclosed in Dakota Access' Application.

**INTERROGATORY NO. 10:**

Identify the dates, addresses, phone numbers, emails, and names of person(s) responsible for conducting surveys, addressing property specific issues and civil survey information.

**INTERROGATORY NO. 11:**

Does Dakota Access recognize the Yankton Sioux Tribe, a federally recognized sovereign Indian Nation, as a "local governmental unit?"

**INTERROGATORY NO. 12:**

Has Dakota Access appointed a public liaison officer?

1. If so, please provide such officer's:
  - a. Name;
  - b. Address;
  - c. Phone number; and
  - d. Email address.
2. Has Dakota Access directed such public liaison officer to contact and or consult with the Yankton Sioux Tribe?



**INTERROGATORY NO. 13:**

Has Dakota Access ever been found non-compliant with any other permits, from any state regarding the Dakota Access Pipeline Project or any other pipeline?

**INTERROGATORY NO. 14:**

Have any contractors hired by Dakota Access to construct any pipeline owned or operated by Dakota Access or any of its affiliates received any communication from any agency or regulatory body having jurisdiction over each pipeline regarding alleged safety concerns or safety violations regarding the construction, maintenance or operation of any pipeline in the United States?

**INTERROGATORY NO. 15:**

Have any contractors hired by Dakota Access to construct any pipeline owned or operated by Dakota Access or any of its affiliates received any communication from any agency or regulatory body having jurisdiction over each pipeline regarding alleged safety concerns or safety violations regarding the construction, maintenance or operation of any pipeline internationally?

**INTERROGATORY NO. 16:**

What steps has Dakota Access or any of its affiliates taken to ensure that the cultural and historic resources of the Yankton Sioux Tribe are protected?

**INTERROGATORY NO. 17:**

How many times has Dakota Access contacted the Yankton Sioux Tribe?

1. If Dakota Access did make such contact please provide the following:
  - a. Name(s) of the person(s) notified;
  - b. Title of the person(s) notified;
  - c. The physical address of the person(s) notified;
  - d. The telephone number(s) of the person(s) notified; and
  - e. The means by which Dakota Access made notification, i.e. written, oral, electronic, etc.;

**INTERROGATORY NO. 18:**

Has Dakota Access made any cultural and/or historic surveys along the route of the Project?

**INTERROGATORY NO. 19:**

Has Dakota Access uncovered any cultural or historic sites by the surveys? Please provide a detailed description of these sites, including locations of the same.

**INTERROGATORY NO. 20:**

Please provide the name, address, phone number, and email of all persons involved in any cultural or historic survey conducted by Dakota Access. In addition, please provide a detailed description of all pertinent professional training that qualifies the surveyor as a professional who meets the standards of the Secretary of the Interior's Historic Preservation Professional Qualification Standards (48 FR 44716, September 29, 1983).

**INTERROGATORY NO. 21:**

Has Dakota Access made any attempt to contact the Yankton Sioux Tribe Business and Claims Committee, its officers, or its Tribal Historic Preservation Office? If so, please provide the following:

- a. Name(s) of the person(s) contacted;
- b. Title of the person(s) contacted;
- c. The physical address of the person(s) contacted;
- d. The telephone number(s) of the person(s) contacted; and
- e. The means by which Dakota Access made contact, i.e. written, oral, electronic, etc.;

**INTERROGATORY NO. 22:**

Provide a detailed description of cultural and historic training that Dakota Access provides to its construction personnel.

**INTERROGATORY NO. 23:**

Does Dakota Access or any of its affiliates recognize that if approved and constructed, the Dakota Access Pipeline Project will travel through the identified Indian Country territory from the Treaties of 1851 and 1858, and as such will likely encounter undiscovered cultural and/or historic sites?

**INTERROGATORY NO. 24:**

Does Dakota Access plan to consult with the Yankton Sioux Tribe and its General Council, Business and Claims Committee, and its Tribal Historic Preservation Office regarding the Dakota Access Pipeline Project in the future?

**INTERROGATORY NO. 25:**

Does Dakota Access recognize and acknowledge that the Yankton Sioux Tribe has federally protected Winters Doctrine water rights and that these rights apply to any permit application to use water for the construction, operation or maintenance of the Dakota Access Pipeline Project?

**INTERROGATORY NO. 26:**

What steps, if any, has Dakota Access or any of its affiliates taken to ensure that the Yankton Sioux Tribe's federally-protected Winters Doctrine water rights are be protected?

**INTERROGATORY NO. 27:**

Are any waterways situated on or near the Dakota Access Pipeline Project route in South Dakota subject to designation under the Wild and Scenic River Act of 1968? If so, identify each of the waterways.

**INTERROGATORY NO. 28:**

Are there any land areas along or near the Dakota Access Pipeline Project route in South Dakota that have been designated as critical habitat under the Endangered Species Act? If so identify each of the land areas.



**INTERROGATORY NO. 29:**

Are there any land areas along or nearby the Dakota Access Pipeline Project route in South Dakota that have any endangered species located in that area? If so, identify the land areas and the endangered species.

**INTERROGATORY NO. 30:**

Are there any sensitive SD species located along or nearby the Dakota Access Pipeline Project route in South Dakota? If so, identify the land areas and the sensitive SD species.

**INTERROGATORY NO. 31:**

Will Dakota Access enter the Yankton Sioux Reservation during construction of the Dakota Access Pipeline Project?

**INTERROGATORY NO. 32:**

Identify the location of all equipment staging areas, construction staging areas, construction camps, and housing camps in South Dakota for emergency response, construction, and temporary housing that Dakota Access intends to utilize for the Dakota Access Pipeline Project.

**INTERROGATORY NO. 33:**

Identify the contractor or company that is responsible for emergency response for the Dakota Access Pipeline Project.

**INTERROGATORY NO. 34:**

Identify the crime statistics or data relied on by Dakota Access for analysis of crimes before and after the establishment of a temporary housing camp in South Dakota for the Dakota Access Pipeline Project.

**INTERROGATORY NO. 35:**

Identify the precautionary measures Dakota Access has or will implement at the temporary housing camps in South Dakota to protect the surrounding area from crime related to the temporary housing camp.

**INTERROGATORY NO. 36:**

Identify the protocols and guidelines that will be utilized to respond to reports of crime in or near the temporary housing camps in South Dakota.

**INTERROGATORY NO. 37:**

Will any of Dakota Access' construction equipment or crew access the Dakota Access Pipeline Project from trust land? If so, has Dakota Access received the necessary consent of the United States government to access trust land on the Yankton Sioux Reservation or the affected Reservation?

**INTERROGATORY NO. 38:**

Has Dakota Access made contact with or otherwise taken any action to plan for road closures which may affect the Yankton Sioux Tribe? If so, does Dakota Access plan to notify, coordinate or otherwise consult with the Yankton Sioux Tribe?



**INTERROGATORY NO. 39:**

Has Dakota Access made contact with or otherwise taken any action to plan for emergency response which may affect the Yankton Sioux Tribe? If so, does Dakota Access plan to notify, coordinate, or otherwise consult with the Yankton Sioux Tribe?

**INTERROGATORY NO. 40:**

How much land along the Dakota Access Pipeline Project proposed route for the Project has yet to be TCP surveyed. If any, identify the land.

**INTERROGATORY NO. 41:**

How many other state permits and federal permits are pending or not yet received by Dakota Access for the Dakota Access Pipeline Project.

**INTERROGATORY NO. 42:**

Have any tribes surveyed the land along the proposed route for the Dakota Access Pipeline Project? If so, which tribes?

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

**DOCUMENT REQUEST NO. 1:**

All documents that Dakota Access intends to offer as exhibits at the evidentiary hearing in this matter.

**DOCUMENT REQUEST NO. 2:**

All documents relating to environmental and hydrological surveys for the Dakota Access Pipeline Project.

**DOCUMENT REQUEST NO. 3:**

All documents relating to cultural and historic surveys, training, and response plans for the Dakota Access Pipeline Project.

**DOCUMENT REQUEST NO. 4:**

All documents relating to required permits, both in South Dakota and outside South Dakota, including permit applications which were denied, revoked, or suspended for the Dakota Access Pipeline Project or any other project constructed by Dakota Access since 2010.

**DOCUMENT REQUEST NO. 5:**

All documents related to Interrogatory No. 40.

**DOCUMENT REQUEST NO. 6:**

All documents constituting Dakota Access' Emergency Response Plan.

**DOCUMENT REQUEST NO. 7:**

All documents related to Interrogatory No. 30 as well as a table to show breeding times of sensitive SD species and a map to show migration pathways of sensitive SD species.

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

*Thina Real Bird*

---

Thomasina Real Bird, SD Bar No. 4415  
FREDERICKS PEEBLES & MORGAN LLP  
1900 Plaza Drive  
Louisville, Colorado 80027  
Telephone: (303) 673-9600  
Facsimile: (303) 673-9155  
Email: [trealbird@ndnlaw.com](mailto:trealbird@ndnlaw.com)  
*Attorney for Yankton Sioux Tribe*

**CERTIFICATE OF SERVICE**

I certify that on this 1<sup>st</sup> day of April, 2015 I sent by email a true and correct copy of **YANKTON SIOUX TRIBE'S FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DAKOTA ACCESS, LLC** to the following:

Mr. Brett Koenecke  
May, Adam, Gerdes and Thompson, LLP  
P.O. Box 160  
Pierre, SD 57501  
Email: [Brett@mayadam.net](mailto:Brett@mayadam.net)  
*Attorney for Dakota Access, LLC*

Ms. Kara Semmler  
May, Adam, Gerdes and Thompson, LLP  
P.O. Box 160  
Pierre, SD 57501  
Email: [kcs@magt.com](mailto:kcs@magt.com)  
*Attorney for Dakota Access, LLC*



---

Patricia Krakowski  
Legal Assistant

# EXHIBIT 2

## Thomasina Real Bird

---

**From:** Brett Koenecke <Brett@magt.com>  
**Sent:** Friday, May 1, 2015 12:54 PM  
**To:** glenn@breitlawpc.com; kimecraven@gmail.com; Thomasina Real Bird  
**Cc:** Kara C. Semmler; Edwards, Kristen  
**Subject:** HP14-002 Dakota Access

Counsel,

Each of you propounded a host of interrogatories in this matter and we have been working diligently to respond to your questions. We also had a number of questions from staff to answer this week as well. I had hoped to have answers to at least some if not most of your questions today. I can see that it probably isn't going to happen. There has been a lot of work done, so I may yet be surprised but at this point, it's looking like next week. Please do let me know your thoughts. Thank you.

BK

# EXHIBIT 3

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**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

**ANSWERS TO  
YANKTON SIOUX TRIBE'S FIRST  
INTERROGATORIES  
AND REQUESTS FOR  
PRODUCTION  
OF DOCUMENTS TO DAKOTA  
ACCESS, LLC**

**HP14-002**

---

Answering Yankton Sioux Tribe's First Interrogatories and Requests for Production of Documents to Dakota Access, LLC, Dakota Access, LLC states and alleges as follows:

**INTERROGATORIES**

**INTERROGATORY NO. 1:**

State the name, current address, and telephone number of the person answering these interrogatories.

**ANSWER:** See below.

Joey Mahmoud  
Vice President - Engineering  
1300 Main Street  
Houston, TX 77002

Chuck Frey  
Vice President - Engineering  
1300 Main Street  
Houston, TX 77002

Keegan Pieper  
Associate General Counsel  
1300 Main Street  
Houston, TX 77002

Monica Howard  
Director – Environmental Science  
1300 Main Street  
Houston, TX 77002



Jack Edwards  
Project Manager  
11103 Aurora Ave.  
Urbandale, IA 50322

Damon Daniels  
Vice President – Commercial Operations  
1300 Main Street  
Houston, TX 77002

Micah Rorie  
Senior Manager – ROW  
1300 Main Street  
Houston, TX 77002

Jennifer Fontenot  
Senior Manager – Business Development  
One Flour Daniel Drive  
Sugar Land, TX 77478

Chad Arey  
Senior Manager – Integration  
1820 Highway 80 West  
Longview, TX 75604

Chris Srubar  
Associate Engineer  
1300 Main Street  
Houston, TX 77002

Stephen Veatch  
Senior Director – Certificates  
1300 Main Street  
Houston, TX 77002

INTERROGATORY NO. 2:

State the name, current address, and telephone number of any person, other than legal counsel, who Dakota Access talked with about answering these interrogatories, who assisted Dakota Access in answering these interrogatories, or who provided information that Dakota Access relied on in answering these interrogatories.

**ANSWER:** See below.

Dennis Woods  
Perennial Environmental Services  
13100 Northwest Freeway #160  
Houston, TX 77040

Ashley Thompson  
Perennial Environmental Services  
13100 Northwest Freeway #160  
Houston, TX 77040

INTERROGATORY NO. 3:

Identify each witness that you will or may call as a fact witness or expert witness in any evidentiary hearing or trial of this matter. For each individual, identify and provide the name, business address, and business telephone and the name of his or her employer and/or other organization(s) with which he or she is associated in any professional capacity; the substance of the facts to which he or she is expected to testify and the substance of the opinions to which he or she is expected to testify; the individual's profession or occupation, educational background, specialized training, and employment history relevant to the proposed testimony; and the individual's previous publications within the preceding 10 years; and all other cases or proceedings in which the witness has testified as an expert within the preceding four years.

**ANSWER:** Expert and fact witnesses have not yet been selected. All those providing direct testimony for Dakota Access, LLC will pre-file testimony pursuant to the PUC scheduling order. Pre-filed testimony will address the requests listed above.

INTERROGATORY NO. 4:

Identify any other names that Dakota Access conducts business under, in the United States and internationally.

**ANSWER:** None.

INTERROGATORY NO. 5:

Has Dakota Access received any communications from any regulatory body or agency that may have jurisdiction over the project which alleges that Dakota Access has failed to comply with any applicable permits, law, or regulation?

**ANSWER:** No.

INTERROGATORY NO. 6:

Has a permit by any regulatory body or agency that may have jurisdiction over the construction, maintenance, or operation of any Dakota Access pipeline located in the United States or internationally ever been denied, revoked, or suspended by the regulatory body or agency?

**ANSWER:** No.

**INTERROGATORY NO. 7:**

Has Dakota Access been given notice by any regulatory body or agency that may have jurisdiction over the construction, maintenance or operation of any pipeline located in the United States or internationally alleging that Dakota Access has failed to comply with any applicable permits for the construction, operation or maintenance of any pipeline located in the United States?

**ANSWER: No.**

**INTERROGATORY NO. 8:**

Please identify all required permits that Dakota Access has applied for within the State of South Dakota regarding the use of public water for construction, testing, drilling, or temporary discharges to waters of the state and temporary discharges of water from construction dewatering and hydrostatic testing.

**ANSWER:** Dakota Access has not applied for any water use permits to date. When appropriate, Dakota Access will apply to the appropriate state agency for any water update/withdrawal or discharge permits.

**INTERROGATORY NO. 9:**

Identify the most recent depiction of the Dakota Access Pipeline Project route and facility locations as they currently exist as compared to the information previously disclosed in Dakota Access' Application.

**ANSWER:** The most recent route and associated documents were filed with the PUC and are available on the PUC website.

**INTERROGATORY NO. 10:**

Identify the dates, addresses, phone numbers, emails, and names of person(s) responsible for conducting surveys, addressing property specific issues and civil survey information.

**ANSWER: PENDING.**

2014 – present.

Names

All % of Kara Semmler and Brett Koenecke  
May, Adam, Gerdes & Thompson LLP  
503 S. Pierre St.  
PO Box 160  
Pierre, SD 57501  
605-224-8803  
[brett@mayadam.net](mailto:brett@mayadam.net)  
[kcs@mayadam.net](mailto:kcs@mayadam.net)

INTERROGATORY NO. 11:

Does Dakota Access recognize the Yankton Sioux Tribe, a federally recognized sovereign Indian Nation, as a “local governmental unit?”

**ANSWER:** Dakota Access considers the Yankton Sioux Tribe to be a Federally recognized tribe.

INTERROGATORY NO. 12:

Has Dakota Access appointed a public liaison officer?

1. If so, please provide such officer’s:
  - a. Name;
  - b. Address;
  - c. Phone number; and
  - d. Email address.
2. Has Dakota Access directed such public liaison officer to contact and or consult with the Yankton Sioux Tribe?

**ANSWER:** A public liaison officer has not been appointed or selected at this time and since we are not impacting any Yankton tribal land, a liaison officer is not proposed to be assigned. Any correspondence or communications can be directed to:

All % of Kara Semmler and Brett Koenecke  
May, Adam, Gerdes & Thompson LLP  
503 S. Pierre St.  
PO Box 160  
Pierre, SD 57501  
605-224-8803  
[brett@mayadam.net](mailto:brett@mayadam.net)  
[kcs@mayadam.net](mailto:kcs@mayadam.net)

INTERROGATORY NO. 13:

Has Dakota Access ever been found non-compliant with any other permits, from any state regarding the Dakota Access Pipeline Project or any other pipeline?

**ANSWER: No.**

INTERROGATORY NO. 14:

Have any contractors hired by Dakota Access to construct any pipeline owned or operated by Dakota Access or any of its affiliates received any communication from any agency or regulatory body having jurisdiction over each pipeline regarding alleged safety concerns or safety violations regarding the construction, maintenance or operation of any pipeline in the United States?

**ANSWER:** Dakota Access, LLC has not yet “hired” contractors to construct the pipeline.

INTERROGATORY NO. 15:



Have any contractors hired by Dakota Access to construct any pipeline owned or operated by Dakota Access or any of its affiliates received any communication from any agency or regulatory body having jurisdiction over each pipeline regarding alleged safety concerns or safety violations regarding the construction, maintenance or operation of any pipeline internationally?

**ANSWER:** Dakota Access, LLC has not yet “hired” contractors to construct the pipeline.

INTERROGATORY NO. 16:

What steps has Dakota Access or any of its affiliates taken to ensure that the cultural and historic resources of the Yankton Sioux Tribe are protected?

**ANSWER:** See Section 23.6 of the filed Application.

INTERROGATORY NO. 17:

How many times has Dakota Access contacted the Yankton Sioux Tribe?

1. If Dakota Access did make such contact please provide the following:
  - a. Name(s) of the person(s) notified;
  - b. Title of the person(s) notified;
  - c. The physical address of the person(s) notified;
  - d. The telephone number(s) of the person(s) notified; and
  - e. The means by which Dakota Access made notification, i.e. written, oral, electronic, etc.;

**ANSWER:** Dakota Access has not contacted the Yankton tribe to date as the proposed pipeline does not cross any lands under tribal jurisdiction. Therefore, Dakota Access has not identified a need to contact the tribe to date.

INTERROGATORY NO. 18:

Has Dakota Access made any cultural and/or historic surveys along the route of the Project?

**ANSWER:** See Section 23.6 of the filed Application. Yes, cultural surveys have been completed everywhere landowners have voluntarily granted access, approximately 96% of the route to date.

INTERROGATORY NO. 19:

Has Dakota Access uncovered any cultural or historic sites by the surveys? Please provide a detailed description of these sites, including locations of the same.

**ANSWER:** See Section 23.6 of the filed Application. The descriptions and locations of such findings are privileged and confidential. All sites that were previously documented or discovered by Dakota Access Surveys and determined to be unevaluated, possible eligible or eligible for inclusion in the National Register of Historic Places have been avoided by the layout of the project. For detailed information or the results of the surveys, Dakota Access recommends that the Tribe contact the South Dakota State Historic Preservation office for any information.

INTERROGATORY NO. 20:

Please provide the name, address, phone number, and email of all persons involved in any cultural or historic survey conducted by Dakota Access. In addition, please provide a detailed description of all pertinent professional training that qualifies the surveyor as a professional who meets the standards of the Secretary of the Interior's Historic Preservation Professional Qualification Standards (48 FR 44716, September 29, 1983).

**ANSWER: PENDING**

INTERROGATORY NO. 21:

Has Dakota Access made any attempt to contact the Yankton Sioux Tribe Business and Claims Committee, its officers, or its Tribal Historic Preservation Office? If so, please provide the following:

- a. Name(s) of the person(s) contacted;
- b. Title of the person(s) contacted;
- c. The physical address of the person(s) contacted;
- d. The telephone number(s) of the person(s) contacted; and
- e. The means by which Dakota Access made contact, i.e. written, oral, electronic, etc.;

**ANSWER: No.**

INTERROGATORY NO. 22:

Provide a detailed description of cultural and historic training that Dakota Access provides to its construction personnel.

**ANSWER:** All inspectors and contractors on the project right-of-way will receive environmental training specific to the project. This will include a general description of cultural and historical resources, identification of "exclusion zones" along or adjacent to the right-of-way should any occur, review the Unanticipated Discovery Plan, reinforcement of the requirement to stay on the project right-of-way, and details of enforcement actions by the company and law enforcement that would happen if any looting occurs.

INTERROGATORY NO. 23:

Does Dakota Access or any of its affiliates recognize that if approved and constructed, the Dakota Access Pipeline Project will travel through the identified Indian Country territory from the Treaties of 1851 and 1858, and as such will likely encounter undiscovered cultural and/or historic sites?

**ANSWER:** Dakota Access acknowledges that it is feasible to encounter cultural and/or historic sites. In such situation, Dakota Access would implement its Cultural Resources Unanticipated Discovery Plan.

INTERROGATORY NO. 24:



Does Dakota Access plan to consult with the Yankton Sioux Tribe and its General Council, Business and Claims Committee, and its Tribal Historic Preservation Office regarding the Dakota Access Pipeline Project in the future?

**ANSWER:** At this time and since the proposed pipeline does not cross any tribal lands subject to Yankton governance, Dakota Access does not have any plans to consult directly with the tribe. However, as part of the U.S. Army Corps of Engineers (“USACE”) review process under the Clean Water Act, nationwide Permit Program, the USACE is consulting with the Tribe.

INTERROGATORY NO. 25:

Does Dakota Access recognize and acknowledge that the Yankton Sioux Tribe has federally protected Winters Doctrine water rights and that these rights apply to any permit application to use water for the construction, operation or maintenance of the Dakota Access Pipeline Project?

**ANSWER: Pending.**

INTERROGATORY NO. 26:

What steps, if any, has Dakota Access or any of its affiliates taken to ensure that the Yankton Sioux Tribe’s federally-protected Winters Doctrine water rights are be protected?

**ANSWER: Pending**

INTERROGATORY NO. 27:

Are any waterways situated on or near the Dakota Access Pipeline Project route in South Dakota subject to designation under the Wild and Scenic River Act of 1968? If so, identify each of the waterways.

**ANSWER: No.**

INTERROGATORY NO. 28:

Are there any land areas along or near the Dakota Access Pipeline Project route in South Dakota that have been designated as critical habitat under the Endangered Species Act? If so identify each of the land areas.

**ANSWER: No.**

INTERROGATORY NO. 29:

Are there any land areas along or nearby the Dakota Access Pipeline Project route in South Dakota that have any endangered species located in that area? If so, identify the land areas and the endangered species.

**ANSWER:** See Exhibit C to the filed application, “Federal and State Listed Threatened and Endangered species in South Dakota.”

INTERROGATORY NO. 30:



Are there any sensitive SD species located along or nearby the Dakota Access Pipeline Project route in South Dakota? If so, identify the land areas and the sensitive SD species.

**ANSWER:** See Exhibit C to the filed application, "Federal and State Listed Threatened and Endangered species in South Dakota."

**INTERROGATORY NO. 31:**

Will Dakota Access enter the Yankton Sioux Reservation during construction of the Dakota Access Pipeline Project?

**ANSWER:** No. Dakota Access does not expect to enter the reservation during construction of the project.

**INTERROGATORY NO. 32:**

Identify the location of all equipment staging areas, construction staging areas, construction camps, and housing camps in South Dakota for emergency response, construction, and temporary housing that Dakota Access intends to utilize for the Dakota Access Pipeline Project.

**ANSWER:** None have been identified at this time and no construction camps are anticipated to be required.

**INTERROGATORY NO. 33:**

Identify the contractor or company that is responsible for emergency response for the Dakota Access Pipeline Project.

**ANSWER:** We are currently evaluating Emergency response companies along the pipeline corridor. The Dakota Access Pipeline Project team has met with every county emergency response team along the corridor and will apply the knowledge they gained from these meetings to finalize an Emergency Response Plan. The Emergency Response plan will be filed as required by state and federal law.

**INTERROGATORY NO. 34:**

Identify the crime statistics or data relied on by Dakota Access for analysis of crimes before and after the establishment of a temporary housing camp in South Dakota for the Dakota Access Pipeline Project.

**ANSWER:** No construction camps are anticipated to be required.

**INTERROGATORY NO. 35:**

Identify the precautionary measures Dakota Access has or will implement at the temporary housing camps in South Dakota to protect the surrounding area from crime related to the temporary housing camp.

**ANSWER:** No construction camps are anticipated to be required.

**INTERROGATORY NO. 36:**

Identify the protocols and guidelines that will be utilized to respond to reports of crime in or near the temporary housing camps in South Dakota.

**ANSWER:** No construction camps are anticipated to be required.

INTERROGATORY NO. 37:

Will any of Dakota Access' construction equipment or crew access the Dakota Access Pipeline Project from trust land? If so, has Dakota Access received the necessary consent of the United States government to access trust land on the Yankton Sioux Reservation or the affected Reservation?

**ANSWER:** No.

INTERROGATORY NO. 38:

Has Dakota Access made contact with or otherwise taken any action to plan for road closures which may affect the Yankton Sioux Tribe? If so, does Dakota Access plan to notify, coordinate or otherwise consult with the Yankton Sioux Tribe?

**ANSWER:** No.

INTERROGATORY NO. 39:

Has Dakota Access made contact with or otherwise taken any action to plan for emergency response which may affect the Yankton Sioux Tribe? If so, does Dakota Access plan to notify, coordinate, or otherwise consult with the Yankton Sioux Tribe?

**ANSWER:** The emergency response plan is under development. The plan will be filed as required by state and federal law. Since no Yankton tribal lands will be impacted by the project, Dakota Access has no plans to coordinate with the tribe.

INTERROGATORY NO. 40:

How much land along the Dakota Access Pipeline Project proposed route for the Project has yet to be TCP surveyed. If any, identify the land.

**ANSWER:** None.

INTERROGATORY NO. 41:

How many other state permits and federal permits are pending or not yet received by Dakota Access for the Dakota Access Pipeline Project.

**ANSWER:** See application.

INTERROGATORY NO. 42:

Have any tribes surveyed the land along the proposed route for the Dakota Access Pipeline Project? If so, which tribes?

**ANSWER:** No.

## REQUESTS FOR PRODUCTION OF DOCUMENTS

### DOCUMENT REQUEST NO. 1:

All documents that Dakota Access intends to offer as exhibits at the evidentiary hearing in this matter.

**RESPONSE:** The application itself, all route changes and all accompanying documents will be offered as evidence. All pre-filed testimony and accompanying documents filed with the PUC pursuant to the Scheduling Order will be offered as evidence. All other documents are unknown at this time and will be determined based on issues presented by Interveners or Commission Staff in pre-filed testimony

### DOCUMENT REQUEST NO. 2:

All documents relating to environmental and hydrological surveys for the Dakota Access Pipeline Project.

**RESPONSE** See Application.

### DOCUMENT REQUEST NO. 3:

All documents relating to cultural and historic surveys, training, and response plans for the Dakota Access Pipeline Project.

**RESPONSE:** See Application. Cultural Resource reports and information is considered confidential information. Dakota Access suggests the tribe contact the South Dakota State Historic Officer for the requested information.

### DOCUMENT REQUEST NO. 4:

All documents relating to required permits, both in South Dakota and outside South Dakota, including permit applications which were denied, revoked, or suspended for the Dakota Access Pipeline Project or any other project constructed by Dakota Access since 2010.

**RESPONSE:** Objection. The request seeks irrelevant information and is overly broad and burdensome. Such matters, if they had occurred out of state are irrelevant, overly burdensome to produce and if any existed, could be located on other state public regulatory body websites. No permits have been denied or revoked relating to Dakota Access.

### DOCUMENT REQUEST NO. 5:

All documents related to Interrogatory No. 40.

**RESPONSE:** None.

### DOCUMENT REQUEST NO. 6:

All documents constituting Dakota Access' Emergency Response Plan.



**RESPONSE:** Reference response to Interrogatory #33. The Emergency Response Plan is under development. The plan will be filed as required by state and federal law.

**DOCUMENT REQUEST NO. 7:**

All documents related to Interrogatory No. 30 as well as a table to show breeding times of sensitive SD species and a map to show migration pathways of sensitive SD species.

**RESPONSE:** Objection. This question is overly broad and outside the scope of discovery

Dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

BY: \_\_\_\_\_

State of South Dakota      )  
  )ss  
County of \_\_\_\_\_ )

On this the \_\_\_\_ day of \_\_\_\_\_, 2015, before me the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_ of Dakota Access, LLC, a corporation, and that he as such \_\_\_\_\_, being authorized so to do, executed the foregoing name of the corporation by himself as \_\_\_\_\_.

IN WITNESS WHEREOF I hereunto set my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2015.

(SEAL)

\_\_\_\_\_  
Notary Public  
Notary Print Name:  
My Commission Expires:

As to the objections, these interrogatory answers are signed by Kara C. Semmler this \_\_\_\_ day of \_\_\_\_\_, 2015.

MAY, ADAM, GERDES & THOMPSON LLP

BY: \_\_\_\_\_  
KARA C SEMMLER  
Attorneys for Dakota Access, LLC  
503 South Pierre Street  
PO Box 160  
Pierre, SD 57501-0160  
[kcs@mayadam.net](mailto:kcs@mayadam.net)

**CERTIFICATE OF SERVICE**

Kara Semmler of May, Adam, Gerdes & Thompson LLP hereby certifies that on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, she mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the foregoing in the above-captioned action to the following at his last known addresses, to-wit:

Thomasina Real Bird, SD Bar No. 4415  
Fredericks Peebles & Morgan LLP  
1900 Plaza Drive  
Louisville, Colorado 80027

\_\_\_\_\_  
KARA C. SEMMLER

# EXHIBIT 4



**FREDERICKS PEEBLES & MORGAN LLP**  
ATTORNEYS AT LAW

**THOMASINA REAL BIRD**

1900 Plaza Drive  
Louisville, CO 80027  
Telephone: (303) 673-9600  
Fax: (303) 673-9155  
E-Mail: [trealbird@ndnlaw.com](mailto:trealbird@ndnlaw.com)  
[www.ndnlaw.com](http://www.ndnlaw.com)

May 6, 2015

**VIA EMAIL**

Brett Koenecke  
May, Adam, Gerdes & Thompson LLP  
P.O. Box 160  
Pierre, SD 57501  
[Brett@magt.com](mailto:Brett@magt.com)

**Re: HP14-002 Dakota Access, LLC**

Mr. Koenecke:

We are writing to notify you that your production in response to the Yankton Sioux Tribe's First Interrogatories and Requests for Production of Documents is deficient. We wish to resolve this matter promptly in light of your already-late responses. Please be advised that we find your answers and production to be deficient as follows:

**Interrogatory No. 10**

You answered Interrogatory No. 10, which requested information regarding persons responsible for conducting surveys, with the word "**PENDING**" and the following:

2014 – present.  
Names

All % of Kara Semmler and Brett Koenecke  
May, Adam, Gerdes & Thompson LLP  
503 S. Pierre St.  
PO Box 160  
Pierre, SD 57501  
605-224-8803  
[brett@mayadam.net](mailto:brett@mayadam.net)  
[kcs@mayadam.net](mailto:kcs@mayadam.net)

Counsel for the Tribe has no knowledge of the meaning of "All % of Kara Semmler and Brett Koenecke" and finds it highly unlikely that the contact information for Dakota Access's

attorneys is responsive to Interrogatory No. 10. Your response to Interrogatory No. 10 appears incomplete and deficient. Please provide a full and complete answer responsive to this Interrogatory.

**Interrogatory No. 11**

With respect to Interrogatory No. 11, we asked whether Dakota Access recognizes the Yankton Sioux Tribe as a "local governmental unit." The statement in the answer you provided is not responsive to the question asked. Please respond to the question asked in this Interrogatory.

**Interrogatory Nos. 18 and 40**

Your answer to Interrogatory No. 40 appears to directly contradict your answer to Interrogatory No. 18, thus it is unclear which answer is correct and which answer is incorrect. Please provide us with the correct answers to each of these Interrogatories. If for some reason both answers already provided are accurate, please provide an explanation for what appears to be a discrepancy.

**Interrogatory No. 19 and Request No. 3**

You refused to answer Interrogatory No. 19 and refused to provide documents requested in Request No. 3 on the grounds that the information sought is confidential. However, there is no legal authority cited for this assertion of confidentiality and the information sought is in fact not required by law to be treated as confidential by Dakota Access or the Commission. Please provide the requested information and documents.

**Interrogatory Nos. 20, 25, 26**

Your answer to each of these Interrogatories contains merely the word "PENDING." You have failed to answer these questions. Please provide full and complete answers responsive to each of these Interrogatories.

**Request Nos. 4 and 7**

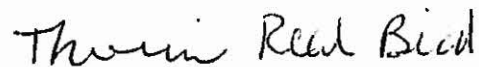
You objected rather than responding to Request Nos. 4 and 7 on the grounds that the Requests were overly broad, burdensome, and outside the scope of discovery. Request No. 4 sought documents relating to permits and permit applications for the Dakota Access Pipeline Project and for any other project constructed by Dakota Access since 2010. Due to the nature of these projects, the number of permits sought over the last 4 ½ years is not likely to be very significant and such documentation is reasonably likely to lead to the discovery of admissible evidence regarding safety, risks, performance, and other aspects of Dakota Access's operations. This information is well within the scope of discovery and is adequately narrow in scope so that it places no undue burden on Dakota Access. Request No. 7 sought all documents related to Interrogatory No. 30 as well as a table to show breeding times of sensitive SD species and a map to show migration pathways of sensitive SD species. You clearly did not find Interrogatory No.



30 to be overly broad or outside the scope of discovery, thus it is illogical for you to claim, that documents related to that question are overly broad or outside the scope of discovery. With respect to the table and map requested, these items contain very narrow sets of information and are in no way broad. They are within the scope of discovery because assessing the impact of projects on South Dakota's sensitive species is within the purview of the Commission and the requested documents are likely to lead to admissible evidence relevant to that issue. Please provide full and complete production responsive to these requests.

As we have already noted in our previous correspondence, your production is late and it is now infringing on our right to review the responses to our discovery requests in preparation of for the remainder of these proceedings. Please remedy the above deficiencies in your production and provide us with your full and complete responses no later than 9:00 am (Central) tomorrow, May 7, 2015. You may contact me at the number listed above if you have any questions or wish to discuss these matters further.

Sincerely,



Thomasina Real Bird  
Attorney

I certify that on this 7<sup>th</sup> day of May, 2015 the **YANKTON SIOUX TRIBE'S MOTION TO COMPEL** in docket number HP14-002 was filed on behalf of the Yankton Sioux Tribe electronically via the South Dakota Public Utilities Commission e-filing website and a true and accurate copy was sent via email or U.S. Mail, first class postage prepaid, to the following:

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