

b. In paragraph b, the second paragraph assumes facts not in evidence and expresses an opinion which Ms. Myers is not qualified to render and for which there is no foundation.

c. In paragraph c, the first paragraph expresses opinions for which there are no foundation.

4. Page 3, under subtopic “Waterways”, the third paragraph assumes facts not in evidence and the expression of information from newspaper articles is hearsay.

5. Page 4, under subtopic “Impact Assessment”, the entire narrative is an attempt to impeach the Commission’s 2010 permit and is argumentative.

6. Page 4, under subtopic “Medical Preparedness”, the second paragraph is hearsay, the third paragraph is argumentative, the fifth paragraph expresses an opinion for which there is no foundation and which Ms. Myers is not qualified to render, and the seventh and eighth paragraphs purporting to quote Kevin Schlosser, are hearsay.

7. Page 6, under subtopic “Are Water Treatment Plants Prepared in South Dakota” the entirety of the paragraph is hearsay.

8. Page 6, under subtopic “Dr. Madden Testimony”, is an effort to impeach the 2010 permit.

Objections to Hearing Testimony

Ms. Myers gave narrative testimony commencing on page 1654 of the hearing transcript.

Applicant makes the following objections to her narrative:

1. Page 1659, lines 6 through page 1660, line 13, quotes from Kevin Schlosser are hearsay.

2. Page 1660, line 25 and page 1661, lines 1 through 14, lacks foundation.

3. Page 1661, lines 15 through 19, are hearsay.
4. Page 1662, lines 10 through 15, the references to the Agency for Toxic Substances and Disease Registry are hearsay.
5. Page 1662, lines 19 through 25, and page 1663, line 1, references to the ATSDR are hearsay.
6. Page 1663, lines 2 through 7, purporting to quote Dr. John Stansbury, are hearsay.
7. Page 1663, lines 11 through 20, purporting to quote the Iowa Department of Natural Resources, are hearsay.
8. Page 1665, lines 2 through 10, purporting to quote Carol Moyer, are hearsay.
9. Page 1666, lines 4 through 8, purporting to quote Paul Seamans, are hearsay.
10. Page 1666, lines 20 through 25, and page 1667, lines 1 through 12, purporting to quote Dr. Arden Davis are hearsay.
11. Page 1673, lines 8 through 11, purporting to quote the ATSDR, are hearsay.

Objections to Ms. Myers' exhibits

Ms. Myers pre-filed 52 exhibits under the headings "Cindy 1" through "Cindy 52" and added six exhibits on July 23 and July 29. Ms. Myers said at the hearing she had re-numbered the exhibits per the hearing Chair's directive, but the re-numbered exhibits do not appear on the Commission's website. Subsequent to the hearing, Ms. Myers forwarded counsel many of her original exhibits, but not all, renumbered. For clarity, Applicant has adopted her original numbering, and where possible, noted the number assigned in her re-numbering.

A number of Ms. Myers exhibits are newspaper articles and articles taken from the Internet. On page 1668, lines 14 and 15, Ms. Myers said that she did not propose to offer the news articles from the newspapers, but she never formally withdrew the exhibits. Exhibits Cindy

9, Cindy 12 through Cindy 29, Cindy 34 through Cindy 39, Cindy 46, and Cindy 7-23-15 Edmonton Journal were not re-numbered and are newspaper-Internet articles and were not offered or admitted and should be stricken from the record.

With respect to the remainder of Ms. Myers' exhibits, Applicant makes the following objections:

1. Cindy 2, (6001) hearsay.
2. Cindy 4, (6003, 6004, and 6005) hearsay and no foundation.
3. Cindy 30, (6024) hearsay and no proper foundation.
4. Cindy 40, (not renumbered?) hearsay, no foundation, and irrelevant.
5. Cindy 41, (not re-numbered?) hearsay, no foundation, and irrelevant.
6. Cindy 43, (not re-numbered?) hearsay.
7. Cindy 47 through 49, (not re-numbered?) hearsay.
8. Cindy 50 (6031), hearsay.
9. Cindy 51 (not renumbered?), hearsay.
10. Cindy 52, (6022), hearsay.
11. Referred to as Cindy, filed 7-23-15, (6027 and 6028) purporting to quote Kevin Schlosser and Carol Moyer, hearsay.
12. 7-29-15 entitled 6015 in the pre-filed index but later apparently not re-numbered, purporting to summarize phone visits with South Dakota water treatment plants, hearsay.
13. 6032, 6034 through 6037 in Ms. Myers re-numbered list as hearsay and lacking foundation.

Finally, Applicant objects to Ms. Myers attempts to offer her Power Point presentation and the Iowa DEQ materials as not timely, the Power Point as a purported summary of her testimony and the Iowa DEQ materials as hearsay.

Applicant respectfully moves the Commission to enter its order striking the foregoing testimony and exhibits from the record for the reasons and on the grounds stated herein.

Dated this 21st day of September, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of September, 2015, I sent by United States first-class mail, postage prepaid, or e-mail transmission, a true and correct copy of Applicant's Motion to Strike Testimony and Exhibits of Cindy Myers, to the following:

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