

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

IN THE MATTER OF THE)
APPLICATION OF DAKOTA)
ACCESS, LLC FOR AN ENERGY) HP14-002
FACILITY PERMIT TO CONSTRUCT)
DAKOTA ACCESS PIPELINE)
PROJECT)

PREFILED REBUTTAL TESTIMONY
OF
LISA DEVILLE

ON BEHALF OF INDIGENOUS ENVIRONMENTAL NETWORK
AND DAKOTA RURAL ACTION

AUGUST 14, 2015

1. Please state your name and address for the record:

My name is Lisa Finley-DeVile, P.O. Box 501, Mandaree, ND 58757
Phone (701) 421-8020, email lisadeville2013@gmail.com

2. What is your occupation and educational background?

Currently I serve on the Vision West ND Project Consortium. I also serve on the MHA Nation Tomorrow Consortium. I serve on the Citizens for Change group. I assisted in creating grassroots group and vice president to Fort Berthold Protectors of Water and Earth Rights (POWER) and a member of the Dakota Resource Council (DRC). I have been nominated to the National Environmental Justice Advisory Council and the North Dakota 2015 Human Rights Award. I discovered my passion for helping the Mandan, Hidatsa, and Arikara Nation communities and its enrolled members in 1999 with housing by taken part in creating in Native American Country homeownership programs. It was through this work that I realized the impact the oil and gas development has taken on Mandaree and the other Mandan, Hidatsa, and Arikara communities.

I hold a Master of Management, a Master of Business Administration and a Bachelor of Science in Management from the University of Mary. I also hold a Bachelor of Science in Environmental Science, Associate of Arts in Business Administration/Accounting, an Associate of Applied Science in Information Management Specialist, an Associate of Science in Environmental Science, and an Associated of Science in Science from the Fort Berthold Community College.

3. Why are you making the personal effort to give your rebuttal testimony to the South Dakota PUC?

I am making the effort to testify because the testimony presented in support of the Dakota Access Pipeline paints too optimistic of a picture. I know this, because my community has been changed so drastically for the worse as a result of the oil and gas development in North Dakota.

The Bakken oil and gas development has brought severe environmental impacts and has changed our way of life. I am working to protect our water, land, air that is life but am also working to educate people about the harm that this oil and gas development has caused. The Dakota Access Pipeline could affect my land and community, and I know this first-hand from living in Mandaree and seeing all of the changes brought about by the oil and gas development in the Bakken region.

I am enrolled member of the Mandan, Hidatsa, and Arikara Nation also known as Three Affiliated Tribes on Fort Berthold Reservation. I have lived my whole life in Mandaree with my husband, five children and two grandbabies. My maternal grandparents are the late Julia (Charging-Mandan) White Eagle and the late Thomas White Eagle. My paternal grandparents are the late Evan & Louise (Black Hawk-Huber) Finley Sr.

We must create and enforce environmental laws. We need more research and studies. The pace of this oil and gas development is too fast. Dakota Access Pipeline is part of that. It takes about three months to extract the oil, destroying the land that Creator gave us millions of years ago. There is only one Earth and we need to protect it and our waters.

Our drinking water for our small rural tribal community, Mandaree, has already been contaminated by nearby toxic pipeline spills. There have been five major pipeline spills that have occurred in 2014 and 2015 that have polluted and damaged our lands and our drinking water.

- First, there was a one million gallon brine spill discovered July 8, 2014. There was never a proper clean up of the spill. Even now there is standing brine and dead vegetation. The soil has young crystals you can see in the sun. Arrow Pipeline, a subsidiary of Crestwood, took the dead vegetation shredded it and spread it over of area where the spill is. Near the standing brine a natural spring flows into Bear Den Bay that flows into Lake Sakakawea, our main source drinking water right next to it.
- Next, there was a 3,000-gallon pipeline spill, again of brine, near the XTO Energy Well Site. This is also a Crestwood pipeline, located near Independence East of Mandaree, ND. This spill was discovered August 22, 2014. Lake Sakakawea is located below the hill from this site. This brine is a by-product of the frocking taking place to get at the Bakken oil.
- Then in January 2015, another spill, this time three million gallon toxic oil and gas by product, also upstream from the Mandaree water intake system on the Missouri River flows into Lake Sakakawea, occurred.
- Also that month, a ruptured oil pipeline leaked up to 50,000 gallons of crude into the Yellowstone River in Montana contaminating the drinking water for the nearby town of Glendive. According to news reports, residents reported oozy-black liquid coming from their taps. The Yellowstone River flows into the Missouri River near Buford, North Dakota just upstream from Lake Sakakawea.
- Most recently, In May 2015, another 220,000-gallon brine spill occurred east of Mandaree killing the plants and contaminating the land.

This is what faces South Dakota unless the permitting process demands strict compliance with all environmental laws. I am making the effort to testify to share the experience of your neighboring Native communities, who have experienced the effects of oil and gas development.

4. Have you read the testimony of Tom Kirschenmann?

Yes, I have. I agree with Mr. Kirschenmann's statement that the construction of the Dakota Access pipeline triggers NEPA since three of the four USFWS sites along the Missouri River are Federal Aid acquired properties and according to him, "would require additional actions (NEPA driven) in order to grant any necessary easements that affect title."

I am rebutting other parts of Mr. Kirschenmann's testimony that this project can be sufficiently mitigated to protect the Native grasses, wetlands, endangered species and wildlife.

The Dakota Access Pipeline does not comply with Section 106 of the National Historic Preservation Act (NHPA) and the National Environmental Protection Act (NEPA) with regards to protecting our cultural resources, natural resources, and water. A full-blown NEPA environmental assessment must be completed in order for the pipeline to cross over the Missouri River and through sensitive USFWS lands.

There have already been several significant spills in the Great Plains region that have devastated the lands and water. The most recent spill was in the Yellowstone River, which is source of drinking water for the people of Glendive, MT. Many poisonous toxins also spilled into the river including benzene.

These toxins will get into the plants that provide many useful medicine/drugs. Some of these plants have been used by Native Americans as medicines for hundreds of years. Plants play the most important part in the cycle of nature. Without plants, there could be no life on Earth. They are the primary producers that sustain all other life forms. This is so because plants are the only organisms that can make their own food. Animals, incapable of making their own food, depend directly or indirectly on plants for their supply of food. All animals and the foods they eat can be traced back to plants.

Grasslands are important habitats for over 200 plant and animal species, including many that have become rare or extinct because of loss of this habitat. They are the natural habitat of and provide shelter, food and breeding grounds for--many species of wildlife and insects. Indigenous vegetation including shrubs and forbs, flowering herbaceous plants, as well as grasses help trap precipitation, regulating ground seepage, percolation and water supply filtration and replenishment. Further, grasslands reduce soil erosion caused by weather forces.

The oxygen we breathe comes from plants. Through photosynthesis, plants take energy from the sun, carbon dioxide from the air, and water and minerals from the soil. They then give off water and oxygen. Animals and other non-producers take part in this cycle through respiration. Respiration is the process where oxygen is used by organisms to release energy from food, and carbon dioxide is given off. The cycles of photosynthesis and respiration help maintain the earth's natural balance of oxygen, carbon dioxide, and water.

5. Do you consider federally recognized Tribes to be "local units of government?"

Yes, I do.

6. Does this conclude your prepared testimony?

Yes.

Dated this 14th nd Day of August 2015.

/s/Lisa DeVille

Lisa DeVille