

BEFORE THE  
PUBLIC UTILITIES COMMISSION  
STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF DAKOTA ACCESS, LLC FOR AN  
ENERGY FACILITY PERMIT TO CONSTRUCT THE DAKOTA ACCESS PIPELINE

DOCKET HP14-002

PREFILED TESTIMONY OF BRIAN WALSH  
ON BEHALF OF THE COMMISSION STAFF  
July 6, 2015

1 **Q. State your name.**

2

3 A. Brian Walsh.

4

5 **Q. State your employer.**

6

7 A. State of South Dakota.

8

9 **Q. Specify the department for which you work.**

10

11 A. Department of Environment and Natural Resources (DENR) – Ground Water  
12 Quality Program

13

14 **Q. Explain your role and duties within your department.**

15

16 A. I am an Environmental Scientist III with the Ground Water Quality Program. My  
17 role is to provide technical expertise and departmental oversight while enforcing  
18 the applicable state laws and rules on projects impacting or having the potential  
19 to impact groundwater resources in South Dakota.

20 My duties include serving as the department's coordinator for hazardous material  
21 pipeline projects and staffing the South Dakota Underground Pipeline Task  
22 Force, administering the department's Underground Injection Control Class II

1 program, preparing source water assessment reports, and overseeing the  
2 cleanup of regulated substance releases cases.

3

4 **Q. On whose behalf was this testimony prepared?**

5

6 A. This testimony was prepared on behalf of the Staff of the South Dakota Public  
7 Utilities Commission.

8

9 **Q. Have you reviewed the Application and its amendments?**

10

11 A. Yes, I have reviewed the portions of the Application relevant to my job duties and  
12 responsibilities.

13

14 **Q. When would your agency have jurisdiction of Dakota Access?**

15

16 A. DENR would have regulatory jurisdiction of the Dakota Access Pipeline under the  
17 following situations:

- 18 • Temporary water use permit for construction activities, drilling, or  
19 hydrostatic testing;
- 20 • Temporary discharge permit for dewatering and/or discharge of  
21 hydrostatic test water;
- 22 • In the event temporary construction camps are needed and depending  
23 on the design of the camp, the following areas may be regulated by

1 DENR; surface water discharge, septic systems design, water rights,  
2 or drinking water;

3 • In the event Dakota Access causes the release of a regulated  
4 substance DENR would direct and oversee the cleanup of the release  
5 in accordance with state soil and ground water standards;

6 • Dakota Access must submit a Crude Oil Spill Response Plan to DENR  
7 for review and approval prior to operating the pipeline.

8

9 **Q. What has been your involvement with Dakota Access?**

10

11 A. In general, my involvement with Dakota Access has been to act as DENR's  
12 project coordinator, facilitate communication between Dakota Access and DENR  
13 during project development, follow the Dakota Access permitting process before  
14 the South Dakota Public Utilities Commission (PUC), and respond to public  
15 inquires about the proposed pipeline. Specific examples of my involvement with  
16 the project are described below:

17 • June 2014 – organized and participated in a project kick-off meeting  
18 involving Dakota Access, DENR, South Dakota Game Fish and Parks,  
19 South Dakota State Historical Preservation Office, the US Army Corps of  
20 Engineers, the US Fish and Wildlife;

21 • June 2014 – provided Source Water and Wellhead Protection geographical  
22 information system (GIS) data to a Dakota Access contractor for use in  
23 route development;

- 1 • October 2014 – provided information on Dr. DeBoer’s research on the  
2 impacts of crude oil on plastic waterlines and on crude oil pipeline /  
3 waterline crossings to a Dakota Access contractor for use in route  
4 development and project design;
- 5 • October 2014 – Attended Dakota Access public information meetings in  
6 Ipswich, Huron, Madison and Sioux Falls hosted by Dakota Access;
- 7 • January 2015 – Attended PUC public hearings on the proposed pipeline in  
8 Bowdle, Redfield, Iroquis and Sioux Falls;
- 9 • February 2015 – provided Lincoln County and Minnehaha County Source  
10 Water and Wellhead Protection GIS data to a Dakota Access contractor for  
11 use in route development;
- 12 • May 2015 – provided Zone A and Zone B Wellhead Protection GIS data  
13 within 5-miles of the proposed pipeline route to a Dakota Access contractor  
14 for use in route development;

15

16 **Q. Did you provide any recommendations to Dakota Access during route**  
17 **development? If so, what were those recommendations and did Dakota**  
18 **Access accept your recommendations when developing the currently**  
19 **proposed route?**

20

21 A. Yes, I recommended Dakota Access develop the route to avoid crossing any  
22 Zone A Wellhead or Source Water Protection Areas because they designate  
23 areas that may directly contribute drinking water to public water supplies. Also,

1 because an initial route crossed portions of the Minnehaha County Wellhead  
2 Protection area I recommended Dakota Access alter the route to avoid  
3 intersecting this area. Based on my review, the proposed route does not cross  
4 any Zone A Wellhead or Source Water Protection Areas and the route was  
5 altered to avoid the Minnehaha County Wellhead Protection area.

6 In addition, because DENR is not directly responsible for the development of  
7 local wellhead protection areas, I recommended Dakota Access contact the  
8 affected county governments to ensure they had the most up-to-date information  
9 about the protection areas and any ordinances or restrictions that may apply in  
10 those areas. I do not know if Dakota Access complied with this recommendation.

11  
12 **Q. Are there any geological and/or hydrological sensitive areas crossed by the**  
13 **proposed route? If so, can Dakota Access mitigate or minimize the risks**  
14 **associated with those sensitive areas?**

15  
16 A. Yes, the proposed route crosses approximately 0.8 miles of the Kingsbury  
17 County Zone B Wellhead Protection Area and approximately 1.8 miles of the  
18 Lake County Zone B Wellhead Protection Area. The areas represent portions of  
19 mapped, shallow or surficial aquifers that are outside of the critical Zone A areas  
20 but have still been designated as part of the protection area by the local  
21 authority.

22 Although the proposed route does cross these areas, the crossing distance is  
23 small, therefore, if the pipeline is constructed and operated as designed and in

1 compliance with all applicable laws, regulations and permit conditions the risk to  
2 these areas is minimized.

3

4 **Q. Does this conclude your testimony?**

5 A. Yes.