

December 31, 2018

HAND DELIVERED

Mr. Patrick Fahn
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

**RE: Settlement Agreement
Dakota Access, LLC
Case No. PU-14-842**

Dear Mr. Fahn:

This letter responds to your November 1, 2018 letter and my recent correspondence with representatives of the North Dakota Public Service Commission (“Commission”) regarding the Settlement Agreement dated September 20, 2017 (the “Agreement”), entered in Case No. PU-14-842 before the North Dakota Public Service Commission (“Commission”). Specifically, representatives of the Commission have alleged that Dakota Access, LLC (“Dakota Access”) has failed to meet certain requirements set forth in the Agreement. I am disappointed to hear of allegations that Dakota Access has not complied with the Agreement without anyone setting forth the reasons for such a determination or specifically pointing out what provisions of the Agreement the Commission believes Dakota Access has not complied with. Nevertheless, this letter will attempt to address the concerns set forth in your November 1, 2018 letter.

Item #1: On May 8, 2018, Dakota Access filed with the Commission its second draft of the Energy Transmission Facilities Handbook. Is that document the final draft of the Handbook? If not, please file a copy of the final version of the Handbook with the Commission.

RESPONSE: On December 19, 2018, Dakota Access filed an original and ten (10) copies of the final version of the Energy Transmission Facilities Handbook with the Commission (Docket #407).

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Response to 1 Nov. 2018 request for compliance documents
Dakota Access, LLC
Lawrence Bender, Fredrikson&Byron, P.A.

Item #2:

- a. Confirm that a training program on unanticipated discoveries and the Commission's route change process was conducted at the 2018 Williston Basin Petroleum Conference.
- b. List at least one other key industry function where training programs on unanticipated discoveries and the Commission's route change process were conducted.
- c. Provide a list of registered pipeline companies in North Dakota that received the manual.

RESPONSE:

- a. Lawrence Bender, on behalf of Dakota Access, conducted training on unanticipated discoveries and the Commission's route change process at the 2018 Williston Basin Petroleum Conference on May 22, 2018, in accordance with Section 10.b. of the Agreement. An original and ten (10) copies of the informational flyer which was distributed prior to and displayed at the conference were filed with the Commission on December 19, 2018 (Docket #407).
- b. Lawrence Bender, on behalf of Dakota Access, conducted training on unanticipated discoveries and the Commission's route change process at the 2018 Annual Meeting of the North Dakota Petroleum Council on September 25, 2018, in accordance with Section 10.b. of the Agreement. An original and ten (10) copies of the informational flyer which was distributed prior to the meeting were filed with the Commission on December 19, 2018 (Docket #407). Although not required by the terms of the Agreement, Lawrence Bender, on behalf of Dakota Access, conducted one (1) additional training event on unanticipated discoveries and the Commission's route change process at the 24th Annual Meeting of the Colorado Oil & Gas Association on November 13, 2018. This training was not part of the scheduled programming for the meeting, but was presented to invited members of the Colorado Oil & Gas Association as a separate, additional learning opportunity. An original and ten (10) copies of the informational flyer which was distributed prior to the training were filed with the Commission on December 19, 2018 (Docket #407).
- c. Attached hereto and marked as Exhibit A, please find an affidavit of mailing reflecting the mailing of approximately fifty-nine (59) Energy Transmission Facilities Handbooks to registered pipeline companies in North Dakota.

Item #3: Provide the date, the name of the speaker, and a description of the topic that was presented to SHPO staff in Bismarck.

RESPONSE: Lawrence Bender, on behalf of Dakota Access, and in coordination with the National Preservation Institute, hosted Luke J. Pecoraro, Ph.D., to present to employees of the North Dakota State Historic Preservation Office ("SHPO") on December 5, 2018, in

accordance with Section 10.c. of the Agreement. The seminar, entitled Emerging Technologies for Cultural Resources, was selected by employees of SHPO and presented over the course of one (1) day at a SHPO training office. An original and ten (10) copies of the materials distributed at the seminar and the electronic invitation and informational flyer for the seminar were filed with the Commission on December 19, 2018 (Docket #407).

Item #5 (No Item #4 was listed in the November 1, 2018 letter):

- a. Confirm that Dakota Access has provided for a 3:1 replacement ration for those trees and shrubs cleared in excess of 85 feet at 83 sites identified in Advocacy Staff's July 21, 2017 Memorandum.
- b. After quick review, it did not appear the October 1, 2018 and October 3, 2018 tree and shrub planting survival reports, filed by Dakota Access with the Commission, provided information for those areas. Update the two reports to account for the 3:1 replacement plantings.

RESPONSE: On December 4, 2018, an updated First Annual Monitoring Report of Tree and Shrub Survival was filed with the Commission (Docket #406). The report was updated on November 8, 2018 to include specific discussion regarding the 3:1 replacement plantings identified in the July 21, 2017 Memorandum.

Item #6: Confirm that Dakota Access has provided and planted, or paid for the planting, of 20,000 additional trees that are at least two-year saplings.

RESPONSE: Dakota Access filed its Tree Replacement Effort 2018 report with the Commission on December 19, 2018 (Docket #407). Said report details the tree replacement effort in 2018 and explains the need for such effort to continue into 2019 in order to meet the 20,000 additional tree requirement.

Enclosed for filing in the above-referenced matter an original and ten (10) copies of this letter regarding the Settlement Agreement and Exhibit A – Affidavit of Mailing submitted on behalf of Dakota Access, LLC. Also enclosed is a disk containing these documents in PDF format.

Should have any questions, please advise.

Sincerely,


LAWRENCE BENDER