

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

**Dakota Access, LLC
Dakota Access Pipeline Pump Station – Emmons County
Siting Application**

CASE NO. PU-19-204

DIRECT TESTIMONY OF DENNIS WOODS

ON BEHALF OF

DAKOTA ACCESS, LLC

NOVEMBER 13, 2019

1 **I. WITNESS INTRODUCTION**

2 **Q. Please state your name, business address, and present position.**

3 A. My name is Dennis Woods. My business address is 13100 Northwest Freeway, Suite 150,
4 Houston, Texas 77040. I am the President of Perennial Environmental Services, LLC
5 (“Perennial”).

6 **Q. What are your duties and responsibilities in your present position?**

7 A. As President, I am responsible for the day to day operations of Perennial. In addition to
8 my operational and management duties, I oversee work with several of our clients,
9 including Dakota Access, LLC (“Dakota Access”).

10 **Q. Please describe your educational and professional background.**

11 A. I have a Bachelor of Science in Biology from the University of Texas in Austin, a Master
12 of Science in Environmental Management, and a Master in Business Administration from
13 the University of Houston-Clear Lake. I have over 20 years of experience in the
14 environmental field working as a consultant and for operating companies.

15 **Q. Have you previously provided testimony before the North Dakota Public Service
16 Commission?**

17 A. No.

18 **Q. Have you been retained by Dakota Access to assist in acquiring authority from the
19 North Dakota Public Service Commission (“Commission”) for the construction of a
20 new pump station to be located in Emmons County, North Dakota?**

21 A. Yes.

22 **Q. Was Perennial involved in the preparation of the application submitted by Dakota
23 Access to the PSC?**

1 A. Yes.

2 **Q. What was your involvement?**

3 A. I provided technical oversight and managed Perennial’s staff in the completion of
4 environmental surveys and the associated reporting, including the environmental
5 information included in the application submitted by Dakota Access in this proceeding.

6 **Q. What is the purpose of your direct testimony in this proceeding?**

7 A. I am testifying in support of the request by Dakota Access for an order amending its
8 current Certificate of Corridor Compatibility and Route Permit (“Corridor Certificate and
9 Route Permit”) in connection with the proposed construction and operation of a new
10 pumping station and related facilities for the Dakota Access Pipeline to be located in
11 Emmons County, North Dakota (the “Emmons County Pump Station”), as described in
12 the Application. Specifically, I will describe the environmental, cultural and natural
13 resource studies conducted in connection with the proposed Emmons County Pump
14 Station. In addition, I will discuss the siting criteria applicable to the Emmons County
15 Pump Station as set forth in Section 69-06-08-02 of the North Dakota Administrative
16 Code. Finally, I will discuss the consultations by Dakota Access with governmental
17 agencies and entities prior to filing its Application in this proceeding and the measures
18 put in place by Dakota Access to minimize potential impacts on the environment during
19 construction and operation of the Emmons County Pump Station.

20 **II. ENVIRONMENTAL SITE ANALYSIS OVERVIEW**

21 **Q. Please provide a general overview of the Emmons County Pump Station site from**
22 **an environmental perspective.**

1 A. The Emmons County Pump Station falls within the 1-mile wide study area analyzed in
2 Dakota Access' original pipeline application in Case No. PU-14-842. A map showing
3 the previously surveyed portion of the proposed site for the Emmons County Pump
4 Station site is included in the application filed with the Commission as Exhibit "C" to the
5 Application, and is attached hereto and marked as Exhibit A. As set forth in the Second
6 Supplemental Findings of Fact, Conclusions of Law and Order issued in Case No. PU-
7 14-842 before the Commission, the Commission concluded that the location,
8 construction, and operation of the now fully operational Dakota Access Pipeline would
9 produce only minimal adverse effects on the environment and the same are compatible
10 with environmental preservation and the efficient use of resources. As I will explain in
11 greater detail, the location, construction, and operation of the new Emmons County Pump
12 Station will also produce only minimal adverse effects on the environment and the same
13 are compatible with environmental preservation and the efficient use of resources.

14 **Q. Was a cultural resource inventory conducted of the 20.8 acres which comprise the**
15 **Emmons County Pump Station Site?**

16 A. Yes. On behalf of Dakota Access, Perennial conducted a Class I investigation, and
17 subcontracted to have a Class II/III cultural resources inventory completed on the
18 approximately 20.8-acre Emmons County Pump Station site. Perennial's Class I
19 investigation determined that roughly 62 percent of the Emmons County Pump Station
20 site was surveyed during three previous cultural resource investigations (011690, 015348,
21 and 132077), one of which was conducted in connection with the permitting of the
22 Dakota Access Pipeline in Case No. PU-14-842 before the Commission. No cultural
23 resources were documented within the Emmons County Pump Station site during these

1 previous survey efforts. Additionally, the Class I investigation determined that three
2 previously recorded archeological sites are mapped within the broader review radius.
3 The closest of these previously recorded sites is approximately 4,413 ft from the nearest
4 proposed pump station boundary and no impact is foreseeable by this action.

5 To complete an evaluation of entire 20.8 acre site, Perennial subcontracted with
6 Gray & Pape, Inc. (“Gray & Pape”) to conduct an additional Class II/III cultural
7 resources inventory on the property. All field work associated with the inventory was
8 performed in accordance with the State Historical Society of North Dakota (“SHPO”)
9 guidelines and was completed on April 25, 2019. Gray & Pape determined that the
10 Emmons County Pump Station would have no impact on historic properties, and that no
11 further archaeological investigations are required. A copy of the concurrence request
12 letter submitted to the SHPO is provided as Exhibit D.1 to the Application and attached
13 hereto and marked as Exhibit B.

14 The Class II/III Cultural Resources Inventory Report was submitted to the State
15 Historical Society of North Dakota along with the concurrence request. The Class II/III
16 Cultural Resources Inventory Report contains privileged and confidential information,
17 and for that reason, it has not been filed with the Application or included with my written
18 testimony.

19 **Q. Did the SHPO concur with the “No significant archaeological or architectural sites
20 affected” determination for the proposed site of the Emmons County Pump Station?**

21 **A.** Yes, the SHPO concurred with the “No significant archaeological or architectural sites
22 affected” determination in its letter dated July 1, 2019.

1 **Q. Did Perennial conduct an environmental survey of the entire 20.8 acres which**
2 **comprise the proposed Emmons County Pump Station site?**

3 A. Yes. On behalf of Dakota Access, Perennial also conducted an environmental survey of
4 the approximately 20.8-acre Emmons County Pump Station site on April 4, 2019. The
5 purpose of the survey was to assess the Emmons County Pump Station site for the
6 following natural resources: (1) Wetlands; (2) Waterbodies; (3) Threatened and
7 Endangered Species (“T&E”) protected under Section 7 of the Endangered Species Act
8 (“ESA”); (4) Bald and golden eagles; (5) Trees and shrubs that would require mitigation
9 per the Commission's Tree and Shrub Mitigation Specifications; and (6) Noxious weeds.
10 Prior to visiting the Emmons County Pump Station site, a resource review was conducted
11 using available background information including: historic aerial photography, U.S. Fish
12 and Wildlife Service (“FWS”) National Wetland Inventory (“NWI”) data, FWS
13 Information for Planning and Consultations (“IPaC”) system, and U.S. Geological Survey
14 (“USGS”) topographic quadrangle maps.

15 **Q. Please describe the survey with respect to wetlands located within the Emmons**
16 **County Pump Station site and any conclusions with respect to the same.**

17 A. A wetland delineation, which included the identification and recording of physical
18 features that may be considered "waters of the United States" as defined by the U.S.
19 Army Corps of Engineers (COE), was performed by Perennial to ascertain conditions
20 within the entire 20.8-acre Emmons County Pump Station site. Waters of the United
21 States include most wetlands, rivers, creeks, streams, lakes, tributaries, etc. The
22 delineation was conducted in accordance with the Regional Supplement to the Corps of

1 Engineers Wetland Delineation Manual: Great Plains Region (Version 2.0)¹ and the
2 routine determination guidelines provided in the COE Wetland Delineation Manual
3 (Technical Report Y-87-1).²

4 No wetlands meeting the three COE wetland criteria were identified within the
5 Emmons County Pump Station site area. However, Perennial biologists did identify one
6 ephemeral drainage that encompasses approximately 0.02 acre of the approximately 20.8-
7 acre Emmons County Pump Station site. A detailed summary of the wetland delineation
8 is provided in the Wetland Delineation Report which is Exhibit D.2 of the Application.

9 **Q. Will the Emmons County Pump Station site be constructed in a manner which will**
10 **minimize the impacts to the ephemeral drainage located within the project site?**

11 A. Yes. Dakota Access has designed the Emmons County Pump Station so that construction
12 will avoid all impacts to the ephemeral drainage located within the site. Therefore, it has
13 been determined that the Emmons County Pump Station does not require a Clean Water
14 Act Section 404 permit from the United States Army Corps of Engineers prior to the start
15 of construction.

16 **Q. Are there any threatened and endangered species that will be impacted by the**
17 **Emmons County Pump Station?**

18 A. No. Based on the results of the desktop review and site visit conducted by Perennial
19 biologists, and the September 3, 2019 concurrence letter from the United States Fish and
20 Wildlife Service (US FWS”), we do not foresee impacts to any Endangered Species Act

¹ U.S. Army Corps of Engineers. 2010. Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Great Plains Region. Version 2.0. U.S. Army Engineers Research and Development Center, Vicksburg, MS.

² U.S. Army Corps of Engineers Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual. Technical Report Y-87-1, U.S. Army Engineers Waterways Experiment Station, Vicksburg, MS.

1 listed species resulting from the Emmons County Pump Station. Therefore, further
2 consultation with the US FWS is not required for the Emmons County Pump Station.

3 **Q. Will construction of the Emmons County Pump Station affect any Birds of**
4 **Conservation Concern as identified by the U.S. Fish and Wildlife Service?**

5 A. No. Dakota Access intends to complete clearing efforts prior to the migratory bird
6 nesting season. Should clearing be delayed and need to occur during the nesting season,
7 Dakota Access will develop a Migratory Bird Conservation and Compliance Plan to
8 outline measures it will implement to avoid, minimize, and reduce possible impacts on
9 migratory birds.

10 **Q. Do bald or golden eagles inhabit the Emmons County Pump Station site?**

11 A. No. Perennial queried the North Dakota Game and Fish Department's eagle nest
12 database to determine if any known nests were located in the vicinity of the Emmons
13 County Pump Station site. Perennial also conducted a site visit to the Emmons County
14 Pump Station site on April 4, 2019 to determine the potential presence of bald and golden
15 eagles and/or their nests. No primary or secondary signs of bald or golden eagles or
16 active nests were observed within the Emmons County Pump Station site vicinity.
17 Further, there is no suitable nesting habitat located within the Emmons County Pump
18 Station site and the nearest documented nest location was greater than 10 miles from the
19 property based on information provided by the North Dakota Game and Fish Department.

20 **Q. What were the results of the tree, sapling and shrub survey conducted at the**
21 **Emmons County Pump Station site?**

22 A. The survey conducted on April 4, 2019 confirmed that no trees, saplings, or shrubs are
23 present within the Emmons County Pump Station site footprint.

1 **Q. Will Dakota Access take proper measures to control the introduction and spread of**
2 **noxious weeds within the Emmons County Pump Station site?**

3 A. Yes. It is the intent of Dakota Access to minimize the potential introduction and/or
4 spread of undesirable species (i.e., invasive species and noxious weeds) within the
5 Emmons County Pump Station site during construction activities and operations.

6 **III. COMPLIANCE WITH SITING RULES**

7 **Q. Are you familiar with the exclusion areas, avoidance areas, selection criteria, and**
8 **policy criteria identified in Section 69-06-08-02 of the North Dakota Administrative**
9 **Code?**

10 A. Yes.

11 **Q. Was the Emmons County Pump Station site evaluated for the existence of any**
12 **exclusion areas, avoidance areas, and selection criteria?**

13 A. Yes. Dakota Access evaluated the location of the Emmons County Pump Station site in
14 relation to the Commission's exclusion areas, avoidance areas, and selection criteria.

15 **Q. Are any exclusion areas located within the study area or the Emmons County Pump**
16 **Station site?**

17 A. No exclusions areas are located within the study area or the Emmons County Pump
18 Station site. Section 5.1, Table 5.1-1 of the Application provides the findings with
19 respect to the exclusion areas identified in Section 69-06-08-02(1) of the North Dakota
20 Administrative Code.

21 **Q. Are any avoidance areas located within the study area or the Emmons County**
22 **Pump Station site?**

1 A. No avoidance areas are located within the study area or the Emmons County Pump
2 Station site. Section 5.2, Table 5.2-1 of the Application provides the findings with
3 respect to the exclusion areas identified in Section 69-06-08-02(2) of the North Dakota
4 Administrative Code.

5 **Q. Will there be any significant adverse effects resulting from the location,
6 construction, and operation of the Emmons County Pump Station as they relate to
7 the selection criteria set forth in Section 69-06-08-02(3) of the North Dakota
8 Administrative Code?**

9 A. No. Dakota Access has concluded that the proposed Emmons County Pump Station does
10 not alter the conclusion that minimal adverse impacts will result from the location,
11 construction, and operation of the new pump station and related facilities. Section 5.3,
12 Table 5.3-1 of the Application provides a detailed review under the selection criteria set
13 forth in Section 69-06-08-02(3) of the North Dakota Administrative Code.

14 **Q. Was the Emmons County Pump Station site evaluated with respect to the policy
15 criteria set forth in Section 69-06-08-02(4) of the North Dakota Administrative
16 Code?**

17 A. Yes. Dakota Access has analyzed the Emmons County Pump Station site and has
18 concluded that the proposed site will not alter any of Dakota Access's commitments with
19 respect to the policy criteria as set forth in Section 69-06-08-02(4) of the North Dakota
20 Administrative Code or with respect to the Commission's findings in the Second
21 Supplemental Findings of Fact, Conclusions of Law and Order issued by the Commission
22 in Case No. PU-14-842.

23 **IV. COORDINATION WITH GOVERNMENTAL AGENCIES**

1 **Q. In connection with its Application and the proposed Emmons County Pump Station,**
2 **has Dakota Access consulted with local, state, and federal government agencies and**
3 **entities, including the entities identified in Section 69-06-01-05 of the North Dakota**
4 **Administrative Code?**

5 A. Yes. Dakota Access maintains relationships with and has been in recent contact with
6 federal, state, and local agencies and organizations that have an interest in the area
7 surrounding the Emmons County Pump Station site. Per the Commission's regulations,
8 Dakota Access has noticed each of the agencies identified in Table 4.0-1 of the
9 Application regarding the proposed Emmons County Pump Station.

10 **Q. Are representative sample letters provided to the agencies and other entities, as well**
11 **as any responses, provided in the Application?**

12 A. Yes, a representative sample letter, as well as all responses received prior to November 1,
13 2019 have been filed with the Commission.

14 **Q. Please discuss any agency consultation that has occurred since the Application was**
15 **filed.**

16 A. As of November 1, 2019, Dakota Access has received responses from and/or completed
17 consultation with nine agencies. Responses have been received by the North Dakota
18 Aeronautics Commission, North Dakota Department of Transportation, North Dakota
19 Game and Fish Department, North Dakota State Water Commission, Historical Society
20 of North Dakota (SHPO), US Department of Defense, US Fish and Wildlife Service, and
21 the North Dakota Department of Environmental Quality. It is noted that two separate
22 responses were received from the North Dakota Department of Environmental Quality,
23 one from the Director and another from the air quality group. Dakota Access will

1 continue to provide the Commission with all relevant agency correspondence received.

2 An agency consultation matrix is attached hereto and marked as Exhibit C.

3 **Q. Has Dakota Access consulted with the North Dakota Department of Environmental**
4 **Quality (formerly known as Department of Health) (“DEQ”) regarding any permits**
5 **which may be required in connection with the Emmons County Pump Station?**

6 A. Yes. Dakota Access will be obtaining a construction stormwater permit prior to initiating
7 ground disturbing activities at the site from the DEQ.

8 **Q. Are you aware of any state or federal agency that has indicated an objection to the**
9 **proposed Emmons County Pump Station?**

10 A. To my knowledge, no agency or entity consulted with has objected to the proposed
11 Emmons County Pump Station.

12 **VI. CONCLUSION**

13 **Q. Based on your study and review, the exhibits and testimony you have presented here**
14 **today, and the statutes, rules, and regulations the Commission is charged to**
15 **consider with respect to these types of applications, will the location and operation**
16 **of the proposed Emmons County Pump Station produce minimal adverse effects on**
17 **the environment and upon the welfare of the citizens of North Dakota?**

18 A. Yes. The Emmons County Pump Station will have minimal adverse effects on the
19 environment and upon the welfare of the citizens of North Dakota.

20 **Q. Based on your study and review, the exhibits and testimony you have presented here**
21 **today, and the statutes, rules, and regulations the Commission is charged to**
22 **consider with respect to these types of applications, is the proposed Emmons County**

1 **Pump Station compatible with the environmental preservation and the efficient use**
2 **of resources?**

3 A. Yes. The Emmons County Pump Station is compatible with the environmental
4 preservation and the efficient use of resources.




5 **Q. Does this conclude your prepared direct testimony?**

6 A. Yes, it does.

7

8 68451015 v3



-  Optimization Property Boundary
-  DAPL 400 ft Environmental Survey Corridor
-  DAPL 1 Mile Study Area



DAKOTA ACCESS, LLC

Exhibit C
Dakota Access Optimization
Dakota Access, LLC
Emmons County, North Dakota

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Scale: 1:12,000

NAD83 ND South 3302 Ft

Date: June 2019



13100 Northwest Freeway
Suite 150
Houston, Texas 77040

June 12, 2019

Susan Quinnell
State Historical Society of North Dakota
612 East Boulevard Avenue
Bismark, North Dakota 58505

RE: Notice of Public Services Commission Application
Dakota Access, LLC
Dakota Access Optimization
Emmons County, North Dakota

Dear Ms. Quinnell:

On behalf of Dakota Access, LLC (Dakota Access), Perennial Environmental Services, LLC (Perennial) submits this letter to notify the State Historical Society of North Dakota that Dakota Access is proposing to install a new pump station in Emmons County, North Dakota (herein referred to as the Optimization). The Optimization will allow Dakota Access to add capacity on the existing Dakota Access Pipeline (DAPL; NOW-2014-2177-BIS) in order to meet an increasing demand for the transportation of crude oil from the Willison Basin.

As depicted on the enclosed mapping, the new pump station will be located approximately 5 miles west of Linton in Emmons County. The new pump station will consist of five 6,000 horsepower, electrically driven motors and pumps contained within a building. The fenceline of the new pump station will encompass an approximately 20.8-acre property for which Dakota Access has purchased an option and will ultimately own in fee. Approximately 10.7 acres of the 20.8-acre property is located within the environmental corridor that was previously reviewed for the DAPL.

On April 15, 2019, Gray and Pape, Inc. (Gray & Pape) completed a Class II/III cultural resources inventory within the 20.8-acre property. All field work associated with the inventory was performed in accordance with the State Historical Society of North Dakota guidelines. Gray & Pape determined that the Optimization will not impact any archaeological sites or cultural resources, and that no further archaeological investigations are required. A detailed report documenting the methodology and results of the Class II/III cultural resources inventory is enclosed for your review.

Dakota Access is seeking to amend their current certificate from the North Dakota Public Services Commission (Commission) for the Optimization, and in accordance with North Dakota Administrative Code §69-06-01-05, Dakota Access is required to notify the State Historical Society of North Dakota regarding the Optimization. Dakota Access respectfully requests that you review the proposed scope of work and provide concurrence with Gray & Pape's determination that the proposed Optimization will not impact any cultural resources eligible for listing on the National Register of Historic Places. All correspondence can be submitted via email to molson@perennialenv.com or by mail to the following address:

Attn: Marshall Olson
Perennial Environmental Services, LLC
13100 Northwest Freeway, Suite 150
Houston, Texas 77008

Copies of correspondence received in response to this letter will be provided to the Commission for their records.

We appreciate your assistance with this request and look forward to your timely review and comments on the Optimization. Should you have any questions, please contact me at 713-462-7121 or via email at molson@perennialenv.com.

Sincerely,



Marshall Olson
Perennial Environmental Services, LLC



Enclosures:

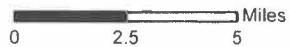
Vicinity Map
Class II/III Cultural Resources Inventory Report



Optimization Location
 Lat: 46.277502
 Long: -100.33743



-  Optimization Location
-  County Boundary



Vicinity Map
Dakota Access Optimization
Dakota Access, LLC
Emmons County, North Dakota

Page 1 of 1	Scale: 1:250,000
NAD83 ND South 3302 Ft	Date: June 2019

Detailed Report Documenting the Methodology and Results of the Class II/III
Cultural Resources Inventory Intentionally Omitted from this Application

DAKOTA ACCESS, LLC - AGENCY CONSULTATION MATRIX

CASE NO. PU-19-204 - EMMONS COUNTY PUMP STATION

<u>Agency Name</u>	<u>Submittal Date</u>	<u>Response Date</u>	<u>Notes</u>
North Dakota Aeronautics Commission	6/12/2019	6/14/2019	
North Dakota Attorney General	6/12/2019		
Emmons County Commission	6/12/2019		
North Dakota Department of Agriculture	6/12/2019		
North Dakota Department of Career and Technical Education	6/12/2019		
North Dakota Department of Commerce	6/12/2019		
North Dakota Department of Human Services	6/12/2019		
North Dakota Department of Transportation	6/12/2019	6/28/2019	
North Dakota Department of Trust Lands	6/12/2019		
North Dakota Energy Development Impact Office	6/12/2019		
Federal Aviation Administration	6/12/2019		
North Dakota Game and Fish Department	6/12/2019	7/9/2019	
North Dakota Office of the Governor	6/12/2019		
North Dakota Indian Affairs Commission	6/12/2019		
North Dakota Industrial Commission	6/12/2019		
Job Service of North Dakota	6/12/2019		
North Dakota Department of Labor and Human Rights	6/12/2019		
North Dakota Pipeline Authority	6/12/2019		
North Dakota Transmission Authority	6/12/2019		
North Dakota Parks and Recreation Department	6/12/2019		
North Dakota State Soil Conservation Committee	6/12/2019		
North Dakota State Department of Health	6/12/2019		
State Historical Society of North Dakota	6/12/2019	7/1/2019	
North Dakota State Water Commission	6/12/2019	7/1/2019	
U.S. Army Corps of Engineers	6/12/2019		
U.S. Department of Defense	6/12/2019	6/24/2019	
U.S. Fish and Wildlife Service	6/12/2019	9/3/2019	Per request, a revised concurrence request letter was submitted to the USFWS on 7/26/2019.
North Dakota Department of Environmental Quality	N/A	6/26/2019	
North Dakota Department of Environmental Quality - Air Quality	N/A	7/3/2019	Cristy Jones (NDDEQ) requested additional information regarding emission generating equipment on 7/3/2019. Information was provided to Cristy on 7/12/2019.