

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

DAKOTA ACCESS, LLC)	
)	Docket No. 14-0754
)	
APPLICATION PURSUANT TO SECTION 15-401)	
OF THE COMMON CARRIER)	
BY PIPELINE LAW AND SECTIONS 8-503)	
AND 8-509 OF THE PUBLIC UTILITIES ACT)	
AND FOR A CERTIFICATE IN GOOD STANDING)	
AND RELATED AUTHORITY TO CONSTRUCT AND)	
OPERATE A PETROLEUM PIPELINE AS A COMMON)	
CARRIER PIPELINE AND WHEN)	
NECESSARY TO TAKE PRIVATE PROPERTY AS)	
PROVIDED BY THE LAW OF EMINENT DOMAIN)	

REBUTTAL TESTIMONY OF

BRYAN MCGREGOR

ON BEHALF OF

DAKOTA ACCESS, LLC

DAKOTA ACCESS EXHIBIT 5.6

JUNE 24, 2015

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1 **I. WITNESS INTRODUCTION AND PURPOSE OF TESTIMONY**

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

3 A. My name is Bryan McGregor. I am the project Right-of Way Manager-IL of Contract
4 Land Staff, LLC (“CLS”). CLS is the contracted land service company of Dakota
5 Access, LLC (“Dakota Access”), the Applicant in this proceeding. My business address
6 is 2245 Texas Drive, Suite 200, Sugar Land, TX 77479.

7 **Q. Have you previously submitted prepared testimony and exhibits in this proceeding?**

8 A. Yes, I have previously submitted prepared direct testimony, dated January 21, 2015,
9 which is identified as Dakota Access Exhibit 5.0, and accompanying exhibits identified
10 as Dakota Access Exhibits 5.1 through 5.5.

11 **Q. What is the purpose of your rebuttal testimony?**

12 A. The purpose of my rebuttal testimony is to (1) present updated information, as of June 23,
13 2015, regarding Dakota Access’s communications and negotiations with landowners, and
14 efforts to acquire easements through the negotiation process; (2) respond to the direct
15 testimony of the Hancock / Adams County Property Owners (“HAPO”) intervenors; and
16 (3) respond to the direct testimony of William J. Klingele (“Klingele”). My rebuttal
17 testimony will demonstrate that Dakota Access has engaged in extensive, reasonable
18 efforts to acquire the necessary easements through good-faith negotiations and voluntary
19 agreements. This information further supports the recommendation of Commission Staff
20 witness Mark Maple that Dakota Access should be granted eminent domain authority.

21 **Q. In addition to your prepared rebuttal testimony, which is identified as Dakota**
22 **Access Exhibit 5.6, are you presenting other rebuttal exhibits?**

23 A. Yes, I am also sponsoring the exhibits identified as Dakota Access Exhibits 5.7 and 5.8.
24 These exhibits were prepared by me or under my supervision and direction, or I have
25 direct and firsthand knowledge of their contents.

26 **II. LANDOWNER CONTACTS AND NEGOTIATIONS AND EASEMENTS ACQUIRED**

27 **Q. What is the current status of Dakota Access's negotiations for easements with**
28 **landowners whose property is on the proposed Dakota Access pipeline route?**

29 A. As of June 23, 2015, there are 875 parcels of property in total that will be crossed by the
30 Dakota Access proposed pipeline route. Dakota Access has successfully entered into
31 contracts for easements with the owners of 339 of the parcels, which is 38.74% of the
32 total. Dakota Access has made offers to the owners of 528 additional parcels (60.03% of
33 the total), with whom Dakota Access is still negotiating and the easement has not yet
34 been finalized. This means that Dakota Access either has entered into an easement
35 agreement, or has an offer outstanding, to the owners of 98.77% of the parcels on the
36 proposed route. Dakota Access has met with the owners of 3 additional parcels but not
37 yet made an offer. There are 5 parcels for which the landowners have not yet been
38 contacted or Dakota Access's attempts to contact have been unsuccessful.

39 **Q. Are there any landowners whose responses to date indicate that they may be**
40 **unwilling to negotiate with Dakota Access in good faith for an easement agreement**
41 **on reasonable terms?**

42 A. Yes, there are 25 parcels for which the landowners' responses have indicated that they
43 may be unwilling to negotiate with Dakota Access in good faith for easement agreements
44 on reasonable terms. Dakota Access has made offers for easements to the owners of

45 these 25 parcels. In addition, as I noted, there are a total of 5 parcels for which Dakota
46 Access has not yet been able to make contact with the landowner.

47 **Q. What is Dakota Access Exhibit 5.7?**

48 A. Dakota Access Exhibit 5.7 is a table showing the status, as of June 23, 2015, of Dakota
49 Access's contacts and negotiations with all landowners of properties that will be crossed
50 by the proposed route of the Dakota Access Pipeline. Dakota Access Exhibit 5.7 is in the
51 form that has been submitted to the parties in this proceeding on a monthly basis as
52 Dakota Access's response to Staff Data Request ENG 1.21. Dakota Access Exhibit 5.7
53 shows whether Dakota Access has made an offer for an easement for each parcel and
54 whether an easement agreement has been entered into for each parcel, and the dates of the
55 easement agreements. The exhibit also shows the numbers and dates of contacts that
56 Dakota Access has had with the owner of each parcel and/or the owner's representative.

57 **III. DAKOTA ACCESS'S NEGOTIATIONS WITH HAPO LANDOWNERS**

58 **Q. Who are the HAPO landowners who submitted direct testimony in this proceeding?**

59 A. The HAPO landowners are (1) Earl Wendell and Virginia B. Demoss; (2) John Wendell
60 Demoss; (3) Duane G. and Ruth Elaine Fugate; (4) David C. and Judy Hartweg; (5) Paul
61 Hartweg; (6) Harold J. and Ina A. Huls; (7) Sidney J. Huls; (8) Gerald E. and Virginia M.
62 Kearby; (9) John J. Klover and Roma R. Klover-Ewing; (10) Marine Bank & Trust, Alice
63 I. Habben, and Mary Taus; (11) Dorris Paul and Florence Mae Martens; (12) Orland and
64 Patricia J. Redenius; and (13) Marlene J. and Richard S. Souder.

65 **Q. Do all of the HAPO landowners own properties on Dakota Access's proposed**
66 **pipeline route?**

67 A. No. All of the HAPO landowners own properties that are located within Dakota Access's
68 original notification corridor. However, Marlene J. and Richard S. Souder do not own
69 any property that will be crossed by the proposed route or on which Dakota Access needs
70 an easement for temporary work space. Each of the other HAPO landowners owns at
71 least one parcel that is either crossed by the proposed pipeline route or for which Dakota
72 Access will need a temporary work space easement. Some of the other HAPO
73 landowners also own additional parcels that are within the original notification corridor
74 but are not located on the proposed route.

75 **Q. Have the HAPO landowners designated a representative to negotiate on their behalf**
76 **with Dakota Access?**

77 A. Yes, all of the HAPO landowners have retained the same law firm to negotiate on their
78 behalf.

79 **Q. What is Dakota Access Exhibit 5.8?**

80 A. Dakota Access Exhibit 5.8 is a table which lists the properties owned by the HAPO
81 landowners that are located within the original notification corridor, and describes the
82 status of negotiations for each parcel as of June 23, 2015. As I explained earlier, the
83 exhibit shows that some of the parcels are not on the proposed pipeline route.

84 **Q. Has Dakota Access made contact with every one of the HAPO landowners?**

85 A. Yes, Dakota Access has made contact with each of the HAPO landowners who own
86 properties that will be crossed by the proposed pipeline route or for which Dakota Access
87 is seeking to acquire a temporary workspace easement. As Dakota Access Exhibit 5.8
88 shows, Dakota Access has had at least 7 contacts with each of the landowners and/or the
89 landowner's representative.

90 **Q. Has Dakota Access made an offer for an easement for each property owned by the**
91 **HAPO landowners that will be crossed by the proposed pipeline route or for which**
92 **Dakota Access will need a temporary workspace easement?**

93 A. Yes, as shown on Dakota Access Exhibit 5.8, during the period from January 25, 2015 to
94 March 21, 2015, offers were made for permanent and/or temporary easements for each of
95 these parcels.

96 **Q. Have any easement agreements been entered into with the HAPO landowners?**

97 A. Yes, one easement agreement has been entered into, for an easement on the property
98 owned by Gerald E. and Virginia M. Kearby.

99 **Q. For the other properties for which Dakota Access has made offers, have any**
100 **counter-offers been made?**

101 A. Yes, counter-offers were received on March 14, 2015 for easements on the two properties
102 owned by Dorris Paul and Florence Mae Mertens and March 20, 2015 for easements on
103 the two properties owned by Sidney J. Huls. For all the other properties, no counter-offer
104 has been received, even though Dakota Access submitted its original offers at least three
105 months ago or longer.

106 **III. DAKOTA ACCESS'S NEGOTIATIONS WITH MR. KLINGELE**

107 **Q. Is intervenor Mr. Klingele's property crossed by Dakota Access's proposed pipeline**
108 **route?**

109 A. No. Mr. Klingele owns two parcels of property that are located within the original
110 notification corridor, but are adjacent the proposed pipeline route and are not crossed by
111 the route.

112 **Q. Has Dakota Access contacted Mr. Klingele?**

113 A. Yes. Dakota Access contacted Mr. Klingele to obtain permission from him to perform
114 surveys on his property and to invite him to attend the open house meetings that were
115 held for the public to provide information on the Dakota Access Project.

116 **Q. Has Dakota Access made an offer to Mr. Klingele to acquire an easement on either**
117 **of his two parcels?**

118 A. No, because Mr. Klingele's properties are not currently on the proposed pipeline route,
119 nor does Dakota Access need a temporary work space easement on either of his
120 properties. Dakota Access is only attempting to acquire, and making offers for,
121 easements on properties that are crossed by the proposed pipeline route or on which
122 Dakota Access needs a temporary work space easement for construction.

123 **Q. Does this conclude your rebuttal testimony?**

124 A. Yes.