

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: DAKOTA ACCESS, LLC	DOCKET NO. HLP-2014-0001
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**ORDER REGARDING APPLICATIONS, MOTIONS, AND REQUESTS
AND TAKING OFFICIAL NOTICE**

(Issued March 31, 2016)

On March 10, 2016, the Utilities Board (Board) issued its “Final Decision and Order” in this docket, granting Dakota Access, LLC (Dakota Access), a permit pursuant to Iowa Code ch. 479B to construct, operate, and maintain approximately 346 miles of 30-inch diameter crude oil pipeline through Iowa. However, the Board did not issue the permit at that time; the permit will not be issued until Dakota Access has made, and the Board has accepted, certain compliance filings.

On March 16, 2016, Dakota Access filed what it described as “pre-permit compliance filings,” a request for expedited treatment, and a motion for confidential treatment of certain information in the filing. On March 17, 2016, Dakota Access filed a revised motion for confidential treatment, correcting an omission in the March 16 filing. On March 18, 2016, the Board issued an “Order Denying Motion to Expedite and Establishing Schedule” so that the parties could review and comment upon the compliance filings. A number of matters have arisen in connection with the “Final Decision and Order” and the compliance filings that the Board will address in this order.

A. Landowner Applications for Clarification or Reconsideration

On March 14, 2016, Barb (Styke) Hudelson and Gary Styke filed a request for clarification or reconsideration of the order with respect to property in Lyon County that would be crossed by the pipeline. On March 17, 2016, Mary E. Goodwin filed a similar motion to reconsider with respect to property in Polk County. Pursuant to Iowa Code § 476.12, the Board must act on these applications within 30 days of the date they were filed.

The Board's "Final Decision and Order" was issued on March 10, 2016. That means the parties have until March 31, 2016, to file applications for rehearing or reconsideration, and the Board will then have 30 days to rule on the applications, pursuant to § 476.12. The Board finds that it will be more efficient to consider and address all of the applications at the same time, as they may raise issues that should be considered together; accordingly, the Board will grant these two applications, so that they can be considered together with any other applications for rehearing.

B. Iowa Tribe Request for Consultation

On March 23, 2016, the Iowa Tribe of Kansas and Nebraska (Iowa Tribe) filed a letter requesting consultation under Section 106 of the National Historic Preservation Act (NHPA). The NHPA, previously found at 16 U.S.C. 470 and now located at 54 U.S.C. 300101, requires that federal agencies undergo a review process for certain federally-funded and permitted projects. That process includes an opportunity for interested persons to comment on the potential impacts the project may have on significant archaeological or historic sites.

The NHPA applies to federal agencies, not state agencies like the Board, so the lead federal agency, the U.S. Army Corps of Engineers, is responsible for consultation under Section 106 of the NHPA. (Exh. Howard Reply at 26.) In its reply brief, Dakota Access commits that it will file its permit from the U.S. Army Corps of Engineers with the Board prior to commencing construction. The Board finds that process, which will include consultation under Section 106, will address the issues associated with this request for consultation.

C. Request for Confidential Treatment

The March 16, 2016, compliance filing by Dakota Access included a request for confidential treatment of the unconditional and irrevocable guarantees of the parent companies of Dakota Access for remediation of damages from a leak or spill (the Parental Guarantees) and the general liability insurance in the amount of at least \$25,000,000 for the same purpose. The request was amended on March 17, 2016, to add two pages to the filing that were omitted from the March 16 filing.

Dakota Access's request included the affidavit of Joey Mahmoud, who stated that the Parental Guarantees and full insurance policies "reflect internal and inter-corporate arrangements, financial terms and conditions, and competitive operational knowledge that Dakota Access and its parent entities consider proprietary and sensitive business information." (Mahmoud Aff. at 1, ¶ 3.) Mahmoud stated that the information for which confidential treatment is sought constitutes trade secrets under Iowa Code § 550.2(4) and is accordingly entitled to protection under Iowa Code § 22.7(3). He also stated that the information represents a report to a governmental agency which, if released, would give advantage to competitors and serve no public

purpose and is therefore entitled to confidential treatment under § 22.7(6). Mahmoud says release would not serve a public purpose because the Board, the Office of Consumer Advocate, and Board staff will all have access to the confidential documents, along with those parties to this docket who have executed an appropriate protective agreement. Finally, Mahmoud says that “Dakota Access believes that the general release of this information would substantially injure its economic and business interests.” (Mahmoud Aff. At 2, ¶ 6.)

On March 23, 2016, the Northwest Iowa Landowners Association (NILA) filed a “Resistance to Motion for Confidential Treatment.” NILA says that Dakota Access has failed to prove that the information represents a trade secret as defined in Iowa law. NILA says the insurance policies are largely composed of form language commonly used in the insurance industry, other than the premium information and other identifying information, which NILA agrees may be redacted. NILA says that apart from the premium and identifying information, there are no trade secrets within the policies.

NILA also argues that Dakota Access has failed to prove the Parental Guaranties are trade secrets because the request for confidential treatment lacks any supporting detail regarding the factors to consider when determining whether information constitutes a trade secret under Iowa law:

- (1) The extent to which the information is known outside of [the] business;
- (2) The extent to which it is known by employees and others involved in [the] business;
- (3) The extent of measures taken ... to guard the secrecy of the information;
- (4) The value of the information [to the business and its competitors];
- (5) The amount of effort or money expended ... in developing the information;
- (6) The ease or difficulty with which the information could be properly acquired or duplicated by others.

Kendall/Hunt Pub'g Co. v. Rowe, 424 N.W.2d 235, 246 (Iowa 1988).

Finally, NILA argues that release of the information would serve a public purpose because the Board required Dakota Access to provide the Parental Guarantees and the insurance policies in order to ensure Dakota Access will have sufficient resources to protect Iowa's assets. Only through transparency, NILA says, can the public verify that protection is adequate and in place. This is also important on a going-forward basis, as Dakota Access must file annual proof of insurance with the Board. NILA asks how that filing will be fact-checked outside the agency if it is kept confidential.

On March 24, 2016, the Sierra Club Iowa Chapter (Sierra Club) filed a joinder in NILA's resistance.

Also on March 24, 2016, Dakota Access filed a response to NILA's resistance, saying that the Parental Guarantees and insurance policies are confidential business records of Dakota Access. Dakota Access asserts that the sworn statements in the Mahmoud affidavit set forth facts sufficient to meet Iowa's definition of a trade secret and no evidence has been presented to the contrary. Further, Dakota Access says that the Board has already determined the information is entitled to confidential treatment, citing pages 1758-59 of the hearing transcript and the Board's rulings on certain pre-hearing discovery motions. Finally, Dakota Access argues that no public purpose would be served by release of the documents because every party that has signed a confidentiality agreement in this proceeding, including NILA and Sierra Club, has received a copy of the insurance policies and the Parental Guarantees. Dakota Access argues this is sufficient to accomplish the Board's purpose of allowing

the parties to comment on the compliance filings; permitting non-parties to review the documents would not further the Board's purpose, particularly as non-parties could not file comments on the documents.

First, while the Board may have made preliminary determinations regarding the confidentiality of this information at earlier stages of this proceeding, under the Board's rules any member of the public may ask to see agency records at any reasonable time and each such request will be considered at the time it is made, on its own merits. 199 Iowa Admin. Code 1.9. The Board's prior determinations do not alter the availability of this process under the rules.

Second, as NILA has described them, the insurance policies appear to be standard insurance industry forms. Dakota Access has not explained how the forms have independent economic value, actual or potential, from not being generally known to or readily accessible to some other person who would be able to obtain economic value from its disclosure or use. (Iowa Code § 550.2(4)(a).) Instead, it appears the forms are generally available, at least within the insurance industry. Moreover, Dakota Access has not offered any specific evidence that some other person could obtain economic value from the disclosure or use of the information; it has only offered the conclusory statement that if the information is released, "other competitors could more readily follow or strategize regarding Dakota Access' business model..." (Mahmoud Aff. at 2, ¶ 7(b).) Without some explanation about how competitors could do this and how they would be advantaged (or how Dakota Access would be disadvantaged), this statement is insufficient to survive a challenge.

Mahmoud's affidavit also makes a conclusory statement that Dakota Access has made reasonable efforts to maintain the secrecy of the policies by limiting internal access to a need-to-know basis, marking the documents "Confidential," and not making them available to third parties absent confidentiality agreements. "While such concealment may make [these insurance policies] 'secrets,' [the Board does] not think they are *trade secrets*." *Kendall/Hunt* at 246, emphasis in original.

The Board concludes that the insurance policies, other than the premiums and identifying information, are not entitled to confidential treatment pursuant to Iowa Code § 22.7(3) as trade secrets.

The Board's analysis of the Parental Guarantees is similar. Dakota Access again offers conclusory statements to the effect that release of the information would improve the ability of unidentified competitors to "strategize regarding Dakota Access' business model..." (Mahmoud Aff. at 2, ¶ 7), but the company offers no explanation of the type of useful information the competitor might extract, the uses to which that information could be put, or the manner in which those uses would disadvantage Dakota Access. Without this information, Dakota Access's claim that the Parental Guarantees are trade secrets is without adequate support in the record.

The remaining question is whether the insurance policies and Parental Guarantees are entitled to confidential treatment as reports to a government agency which, if released, would give advantage to competitors and serve no public purpose. (Iowa Code § 22.7(6).) Again, Dakota Access has not offered any evidence as to how the release of the information would give any advantage to competitors, so the

Board concludes that the information is not entitled to protection under § 22.7(6), either.

Pursuant to the Board's rules at 199 IAC 1.9(8)(b)(3), the Board will notify Dakota Access that its request for confidential treatment of the insurance policies (other than premium amounts and identifying information) and the Parental Guarantees is denied. The Board will continue to withhold the documents from public inspection for 14 days from the date of this order to allow Dakota Access an opportunity to seek injunctive relief. If Dakota Access does not request injunctive relief from a court with jurisdiction of the matter within that time period, then within 14 days of the date of this order Dakota Access shall file in this docket public copies of the insurance policies (with only the premium amounts and identifying information redacted) and the existing copies of the Parental Guarantees will be moved to the public record.

D. Dakota Access's Motion for Clarification

On March 24, 2016, Dakota Access filed a "Motion for Clarification of March 18 Order," asking the Board to clarify that there is no need for the company to file revised Exhibit H documents for those properties where the Board ordered route changes prior to issuance of the permit. Dakota Access says that the submission of revised condemnation documents is only required prior to the company's filing of an application for condemnation with respect to those specific parcels. Dakota Access says that this requirement gives the affected landowners, who have objected to the project, the unilateral ability to delay the project by refusing to cooperate with the

company. While only one landowner is alleged to have refused to cooperate, Dakota Access is concerned there could be others.

On March 25, 2016, the MAIN Coalition filed a statement in support of Dakota Access. On the same date, Sierra Club filed a response to the motion for clarification, arguing that construction cannot begin until the project has received the necessary permits and authorizations from the U.S. Army Corps of Engineers. Because those permits and authorizations have not yet been issued, Sierra Club concludes, the requirement for revised Exhibit H documents is not the cause of any construction delays.

On March 29, 2016, Dakota Access filed a reply to the Sierra Club's resistance, saying that the Corps of Engineers has publicly stated that its approval should be granted in due course for those parts of the pipeline within the Corps' jurisdiction and that the company can go ahead and construct the remainder of the pipeline without the Corps' approval.

On March 30, 2016, NILA filed a notice stating that the Lenharts, owners of one of the parcels in question, have cooperated with Dakota Access regarding any required surveys for an updated legal description of the new pipeline easement and the new temporary construction easement. NILA says the Lenharts have been very open to communication with Dakota Access and look forward to working with the company in regard to the revised location of the pipeline.

Also on March 30, 2016, the Iowa Farmland Owners Association, Inc., and LaVerne Johnson (collectively, IFOA) filed a response to Dakota Access's request for clarification. IFOA says that under Iowa Code § 479B.16, when a permit is granted,

the pipeline company is vested with the right of eminent domain, “to the extent necessary and as prescribed and approved by the board....” IFOA says this supports the Board’s earlier statement that a permit cannot be issued until revised Exhibit H documents are filed; otherwise the precise extent of the right of eminent domain vested in the company would be, at a minimum, unclear.

IFOA also questions the need for another survey on the Johnson property. The only change to the easement on that parcel that the Board ordered was to bore the pipeline under a large drainage line on the property. IFOA does not understand why another survey is required to modify the Exhibit H documents to reflect that condition.

The Board finds that the revised Exhibit H documents must be filed and accepted by the Board before a permit can be issued using the revised routes the Board has identified. Pursuant to Iowa Code § 479B.16, the permit includes the right of eminent domain, and in this case the Board will not grant that right for a route that is not clear in the record before the agency. That means that the Exhibit H documents must be updated to reflect the changes that the Board has ordered if those changes are to be approved.

In its “Final Decision and Order,” the Board adopted changes to the proposed route across certain parcels in order to address certain landowner objections, that is, to reduce the burden of the pipeline on those landowners. If those landowners do not work with the company in good faith to accommodate those changes, then the Board will grant Dakota Access the right of eminent domain for the original proposed route across their property. The Board will give the landowners a reasonable period

of time to work with the company, but if any of the landowners refuses to cooperate in surveying or other activities necessary to preparation of the required documents, then on or after April 8, 2016, Dakota Access can file a statement to that effect and the Board may proceed to act in this matter on the basis of the original proposed route across each such parcel.

Finally, the Board will require that Dakota Access file a status report regarding each parcel where revised Exhibit H documents are required (see Ordering Clause No. 11 in the “Final Decision and Order”) stating whether landowner cooperation is required to prepare the revised documents, why cooperation is required for each parcel and, if so, the status of that cooperation. The status report shall include an explanation of why another survey is required on the Johnson property.

E. Official Notice of Staff Witness Report

On March 25, 2016, one of the Board staff witnesses in this docket, Don Stursma, filed a staff report summarizing his review of the post-decision compliance filings. Pursuant to Iowa Code § 17A.14(4), the Board will take official notice of the report. Parties will be allowed until April 4, 2016, to file comments on the report.

F. Issues Regarding Possible Construction Activity

On March 23, 2016, Linda Murken contacted the Board by email to express her concern that an electrical substation is being constructed in Story County, on land that was purchased by Dakota Access and then deeded to Consumer’s Energy, in order to serve a Dakota Access pumping station to be located nearby. Murken also said that there is tree clearing activity in the area along the route of the pipeline on both sides of Interstate Highway 35, in the vicinity of mile markers 106 and 107. The

Board will take official notice of Murken's email message of March 23, 2016, attached to this order as Attachment 1.

On March 24, 2016, Elaine Tweedy Foley contacted the Board by email to inform the Board that Dakota Access has recently cut timber on two properties located between the Tweedy parcel (H-LE-018) and the Mississippi River. Foley expressed concern that Dakota Access may attempt to cut trees on the Tweedy parcel, as well. The Board will also take official notice of Foley's email message, attached to this order as Attachment 2.

On March 25, 2016, Linda Sorenson, a party to this docket, filed a statement regarding a possible change in the route of the pipeline. According to Sorenson, Dakota Access has approached the person responsible for the Venning property, which is the site where the boring rig is to be placed to cross the Mississippi River, seeking to move the route across that property 125 feet to the north because of environmental issues on the Illinois side of the river. Sorenson also says that Dakota Access has moved the stakes marking the intended location of the pipeline on the Iowa side of the river and someone has been cutting trees on the Venning property and another property belonging to J.D. White.

On March 26, 2016, Sylvia Spaulding sent an email message to Board staff saying that she manages a farm that is on the pipeline route. She also said that Dakota Access appears to have staked out the pipeline route and cut down a tree on an adjoining property where the pipeline is to run. She included photographs of the staking flags and cut-down tree. The Board will take official notice of the email

message, attached hereto as Attachment 3, but will not take notice of the photographs, as the email message is adequate to describe the situation.

The Board's "Final Decision and Order" granted a permit to Dakota Access, but the permit was not issued with the order. Instead, the Board said that "no permit will be issued, **and construction may not commence**, until [the compliance filings] have all been filed with and accepted by the Board." (Order at 152.) These contacts from the public present the question of whether the activities described above, assuming they were, in fact, the activities of Dakota Access or its representatives, constitute "construction."

The Board's rules define "pipeline construction" as "a substantial disturbance to agricultural land associated with installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency." 199 Iowa Admin. Code 9.1(3)(f). Further, the Board's rules require that a land restoration plan must be prepared for each hazardous liquid pipeline project and that plan must include "a description of the sequence of events that will occur during pipeline construction." 199 IAC 9.2(1)(b). In order to comply with these requirements, Dakota Access submitted its proposed Agricultural Impact Mitigation Plan, or AIMP, and the company submitted a revised AIMP as a part of its March 16, 2016, compliance filing. Section 3 of that plan lists the "Sequence of Construction Events" and that list includes "Complete final surveys, stake centerline and workspace; Access road installation; [and] Grubbing and clearing of the construction corridor," among other things. It appears that Dakota Access may have defined "construction" as including staking and tree clearing, in which case the activities

described in the filing and the emails could be found to be a violation of the Board's order.

In a different context, the Board has previously ruled that staking, clearing, and grubbing work is not sufficient to establish that a project has commenced "construction in part." *In re: Iowa Electric Light and Power Co.*, IUB Docket No. DRU-93-5, 1993 WL 559861 (Iowa Utils. Bd.), slip op. at 3-4. That ruling was made in connection with an electric transmission line franchise issued pursuant to Iowa Code ch. 478. Section 478.21 provides that unless the franchised line is "constructed in whole or in part within two years of the granting" of the franchise, the franchise shall be forfeited. The utility in that case requested a declaratory ruling that clearing and grubbing the right of way for a new transmission line was sufficient to satisfy the requirement of "construction ... in part." The Board disagreed, finding that some permanent improvement is required to constitute construction. If the *Iowa Electric* reasoning is applicable to this proceeding, then it is possible that the activities described in the filing and the emails are not prohibited construction activities.

The Board finds that these public allegations of potential violation of the Board's order must be investigated and resolved. If Dakota Access is found to have violated the Board's order, the Board may levy against Dakota Access a civil penalty in an amount not to exceed \$100,000 for each violation. Each day that the violation continues constitutes a separate offense, up to a maximum of \$200,000 for a related series of violations. (Iowa Code § 479B.21.) Accordingly, the Board will establish a schedule for further investigation of these activities.

On or before April 4, 2016, Dakota Access shall file a response to the Sorenson filing and the attached email messages, stating whether Dakota Access or its agents, contractors, or other representatives are responsible for the activities described. Dakota Access shall also file a description of all of the activities it has undertaken on properties in Iowa (other than staking and tree clearing) following issuance of the Board's "Final Decision and Order." Finally, Dakota Access shall file a statement explaining the basis on which the company believes those activities are not prohibited pre-permit construction activities.

The other parties to the proceeding will be given until April 8, 2016, to respond to the Dakota Access filing, and Dakota Access will be allowed to respond to those filings on or before April 12, 2016.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The request for clarification filed on March 14, 2016, by Barb (Styke) Hudelson and Gary Styke, and the motion to reconsider filed on March 17, 2016, by Mary E. Goodwin are granted solely for purposes of further consideration. The merits of the request and the motion will be addressed in a future order.
2. The request for consultation pursuant to Section 106 of the National Historic Preservation Act filed on March 23, 2016, by the Iowa Tribe of Kansas and Nebraska is moot, as the lead agency for the consultation process is the U.S. Army Corps of Engineers, not the Board.
3. The request for confidential treatment filed by Dakota Access on March 16, 2016, is granted with respect to the premium amounts and identifying

information in the insurance policies, pursuant to Iowa Code § 22.7(3). The request for confidential treatment is denied with respect to the remainder of the insurance policies and with respect to the Parental Guarantees. Pursuant to 199 Iowa Admin. Code 1.9(8)(b)(3), the Board is hereby notifying Dakota Access that its request for confidential treatment of the Parental Guarantees and the insurance policies (other than premium amounts and identifying information) is denied. The Board will continue to withhold the documents from public inspection for 14 days from the date of this order to allow Dakota Access an opportunity to seek injunctive relief. If Dakota Access does not request injunctive relief from a court with jurisdiction of the matter within that time period, then within 14 days of the date of this order Dakota Access shall file in this docket public copies of the insurance policies with only the premium amounts and identifying information redacted and, at the same time, the Board will make the Public Guarantees available to the public.

4. The “Motion for Clarification of March 18 Order” filed by Dakota Access on March 24, 2016, is denied. However, the final paragraph on page 2 of the Board’s “Order Denying Motion to Expedite and Establishing Schedule” is modified to read as follows:

Further, the Board notes that a permit cannot be issued until revised Exhibit H documents are filed and approved for parcels where the Board ordered parcel-specific changes to the company’s condemnation request. If, however, the landowner of one or more of those parcels refuses to cooperate with any additional surveying or other activities necessary to preparation of revised Exhibit H documents, then on April 8, 2016, Dakota Access can file a statement to that effect and the Board may proceed in this matter on the basis of the original proposed route across such property.

5. On or before April 5, 2016, Dakota Access shall file a status report regarding each parcel where revised Exhibit H documents are required (see Ordering Clause No. 11 in the “Final Decision and Order”) stating whether landowner cooperation is required to prepare the revised documents, why cooperation is required for each parcel and, if so, the status of that cooperation. The status report shall include an explanation of why another survey is required on the Johnson property.

6. Pursuant to Iowa Code § 17A.14(4), the Board is taking official notice of the staff report filed in this docket on March 25, 2016. Parties may file comments on the staff report on or before April 1, 2016.

7. Pursuant to Iowa Code § 17A.14(4), the Board is taking official notice of Attachments 1, 2, and 3 to this order, consisting of the March 23, 2016, email message from Linda Murken to Board staff (Attachment 1), the March 24, 2016, email message from Elaine Tweedy Foley to Board staff (Attachment 2), and the March 26, 2016, email message from Sylvia Spaulding to Board staff (Attachment 3).

8. On or before April 4, 2016, Dakota Access shall file a response as described in this order, stating whether Dakota Access or its agents, contractors, or representatives are responsible for the activities described in Attachments 1, 2, and 3, and in the filing made by Sorenson on March 25, 2016. Dakota Access shall also file a description of all of the activities it has undertaken on properties in Iowa (other than staking and tree clearing) following issuance of the Board’s “Final Decision and Order.” Finally, Dakota Access shall file a statement explaining the basis on which

the company believes those activities are not prohibited pre-permit construction activities.

9. On or before April 8, 2016, the other parties to this proceeding may file responses to the Dakota Access filing of April 4, 2016.

10. On or before April 12, 2016, Dakota Access may file a reply to the filings of April 8, 2016.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 31st day of March 2016.

being done on both sides of I-35. How does this fit with the fact that all of the permits necessary have not yet been obtained? Can we talk sometime soon? I will be available by phone much of today and tomorrow. Please leave a message and phone number if you get sent to voice mail. Know you are in a meeting today.

Linda Murken
[REDACTED]

Sent from my iPhone

Begin forwarded message:

From: Kathe Breheny <kathe.breheny@cipco.net>
Date: March 18, 2016 at 8:38:32 PM CDT
To: Linda Murken <lindamurken@gmail.com>
Subject: RE: CIPCO
[REDACTED]

Linda,
Both CIPCO and Consumers Energy will own substations at the location.
Kathe

From: Linda Murken [<mailto:lindamurken@gmail.com>]
Sent: Thursday, March 17, 2016 4:47 PM
To: Kathe Breheny <kathe.breheny@cipco.net>
Subject: Re: CIPCO

Kathe,
Thank you for all of the information. One more question, and maybe you told me. Is CIPCO or Consumers' Energy constructing the sub-station, and who will own it?
Linda
[REDACTED]

On Mar 17, 2016, at 4:37 PM, Kathe Breheny <kathe.breheny@cipco.net> wrote:

Linda,

Thank you for your call regarding the construction in Story County. The 2.76 acres of land was purchased by Dakota Access, deeded to Consumer's Energy with CIPCO receiving an easement. Dakota Access will have their contractors constructing the pumping station so we are not able to provide the exact location. Normally a pumping station would be located somewhere in the range of 50-100 feet of the substation fence. Dakota Access' contribution to the project is confidential as they are a private corporation.

If there is anything else we can provide you, please let us know.

KATHE BREHENY

Vice President, Corporate Communications

Central Iowa Power Cooperative

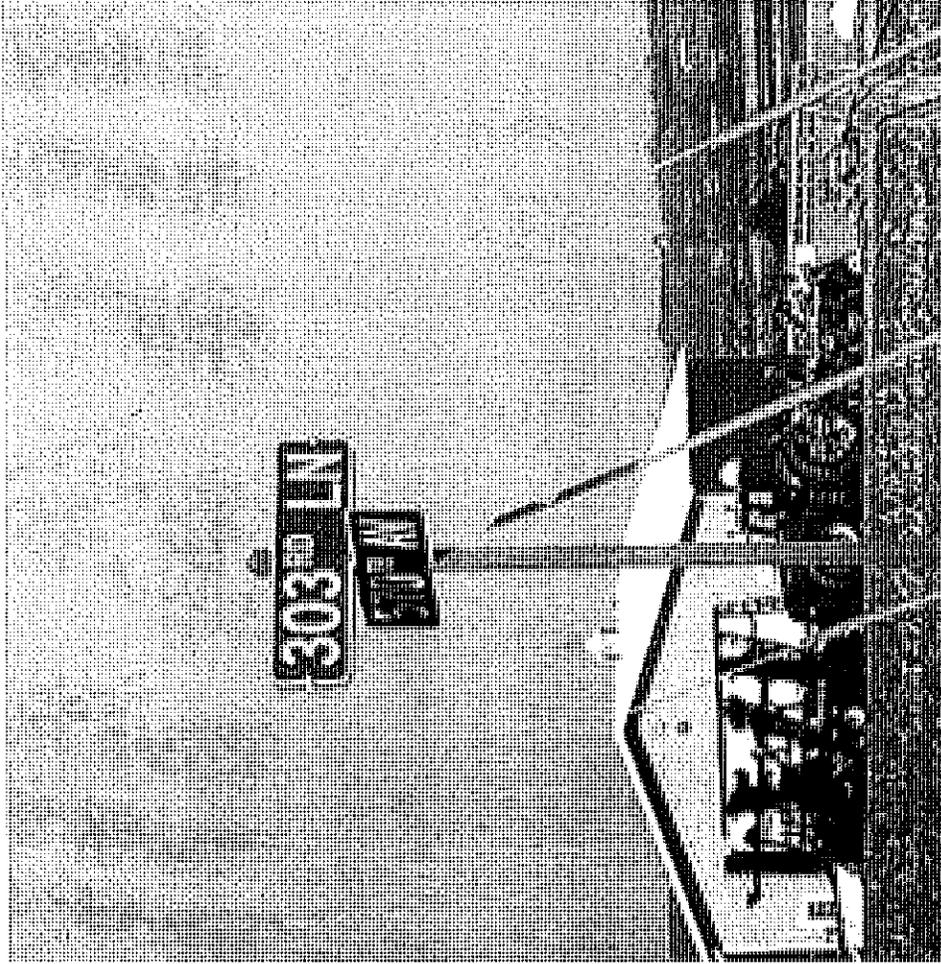
2600 Grand Ave. Suite 300

Des Moines, IA 50312

Phone: 515-323-3195 Cell: 515-802-1174

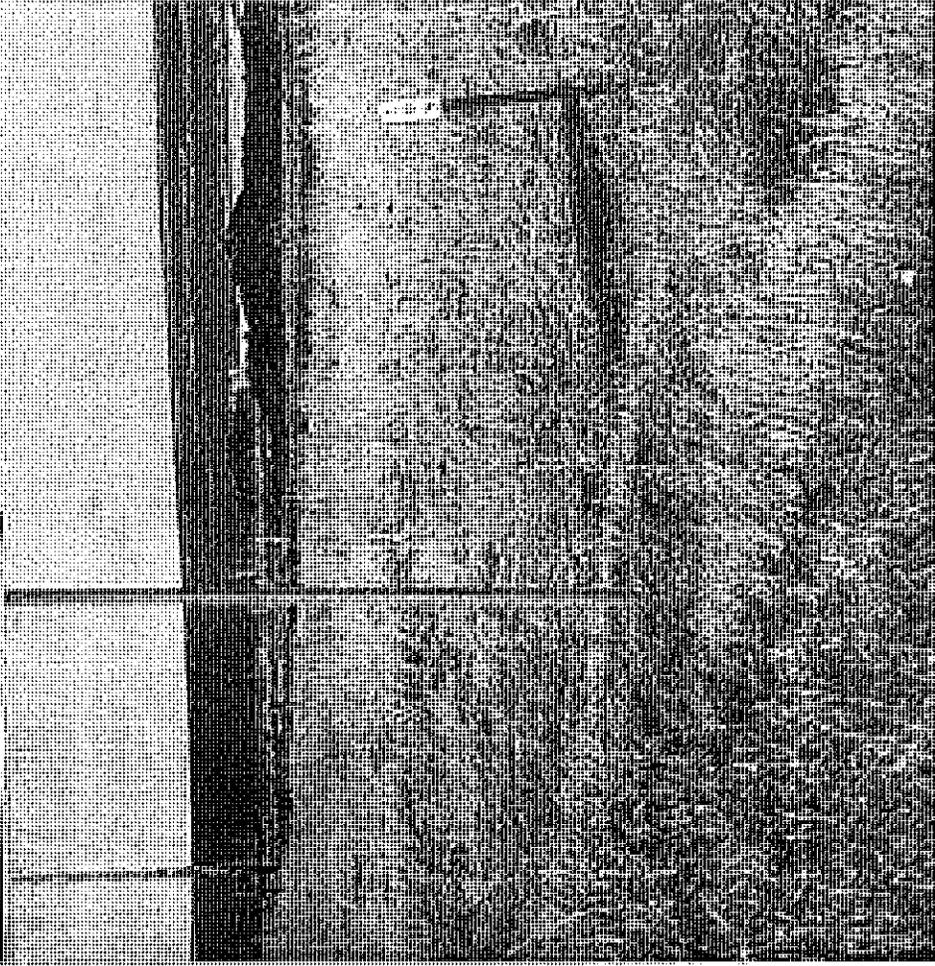
Kathe.breheny@cipco.net

www.cipco.net



The road signs at the Class B Story County road (303rd LN) just west of I-35 that gives access to the construction site.

REST AREA
NEXT RIGHT
PARKING ONLY



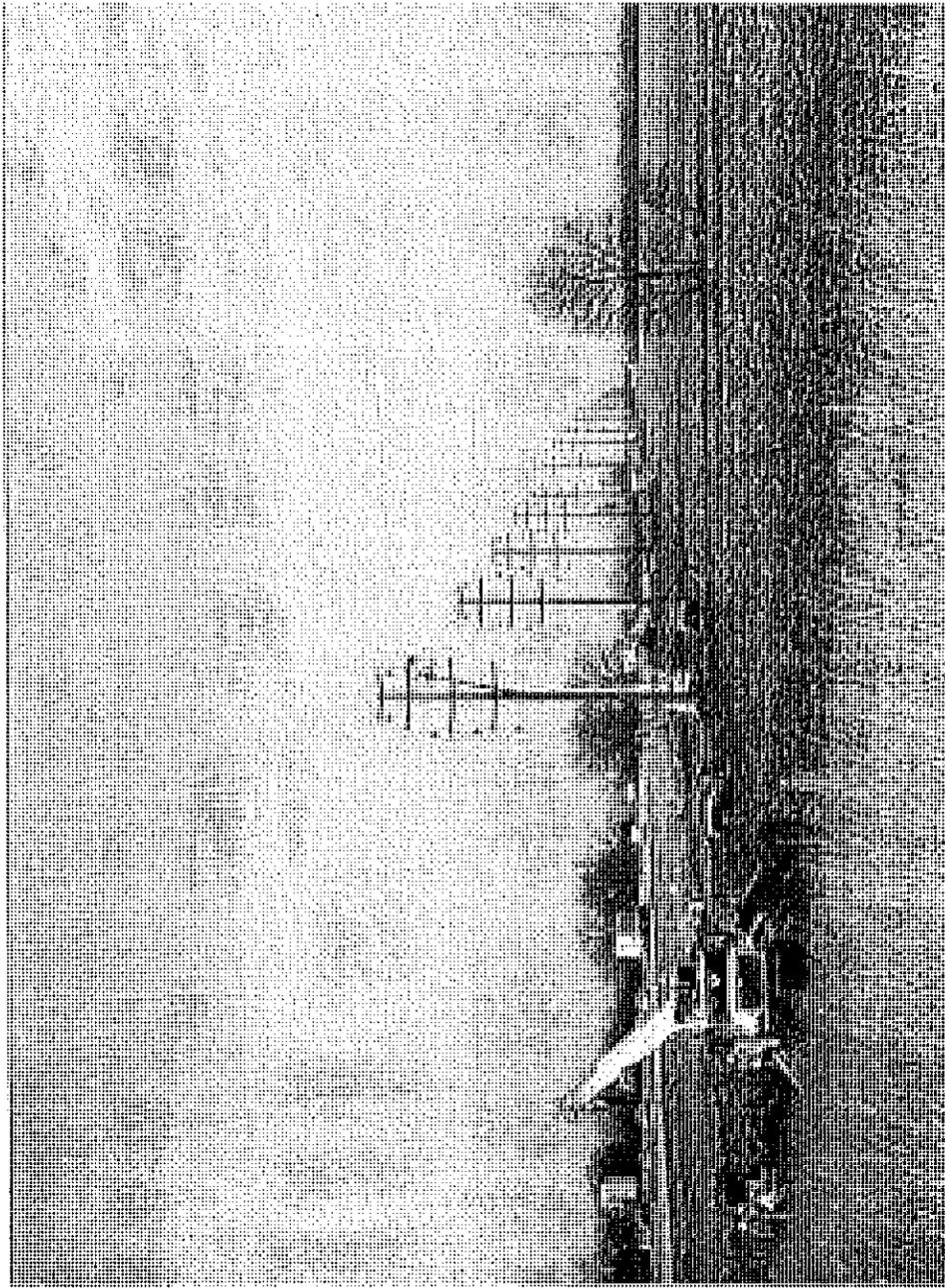
Heading north on I-35, signs just after the construction site.

Tormey, Donald [IUB]

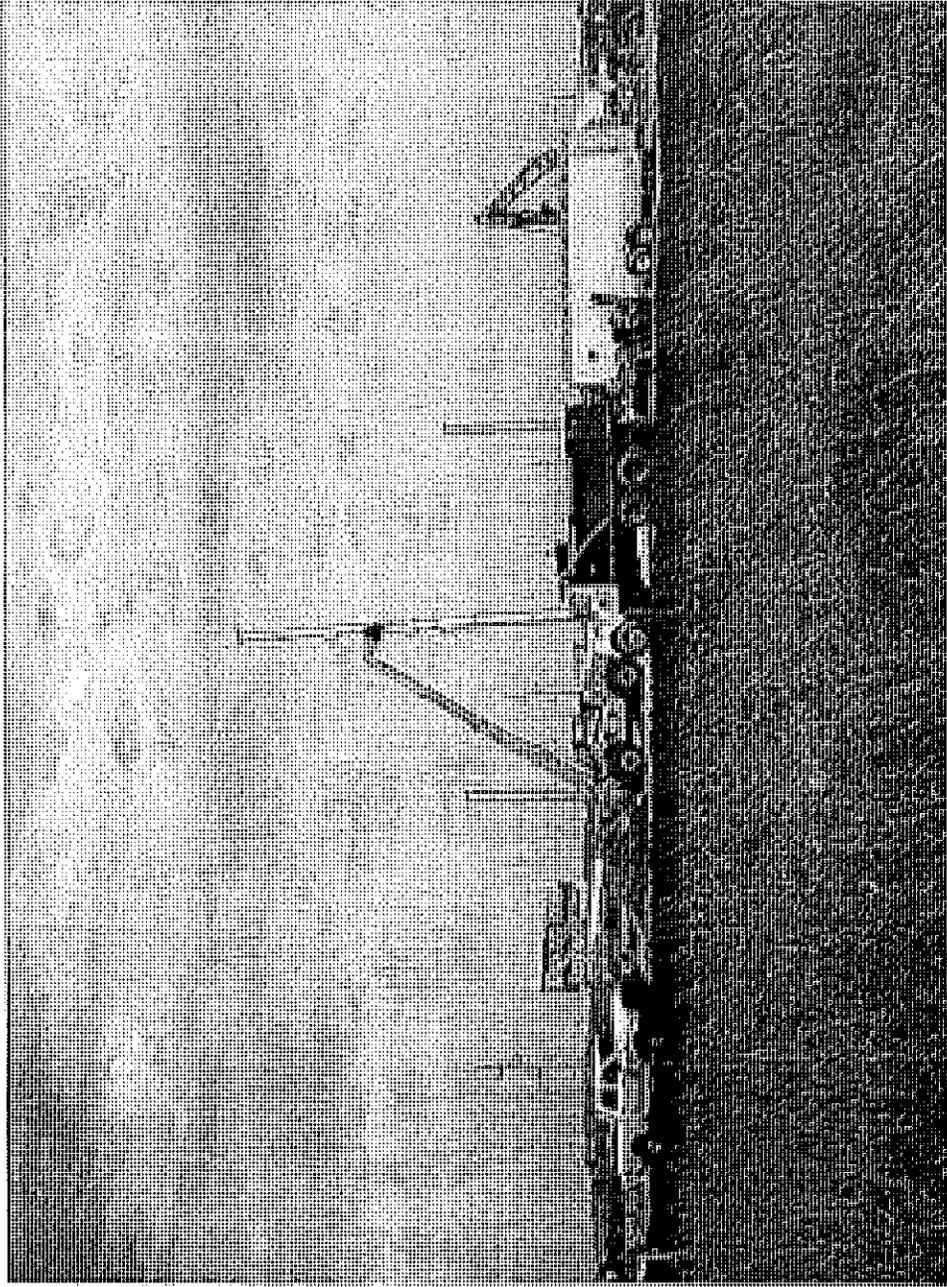
From: Linda Murken <lindamurken@gmail.com>
Sent: Wednesday, March 23, 2016 10:35 AM
To: Tormey, Donald [IUB]
Subject: Sub-Station Construction Photos

Linda

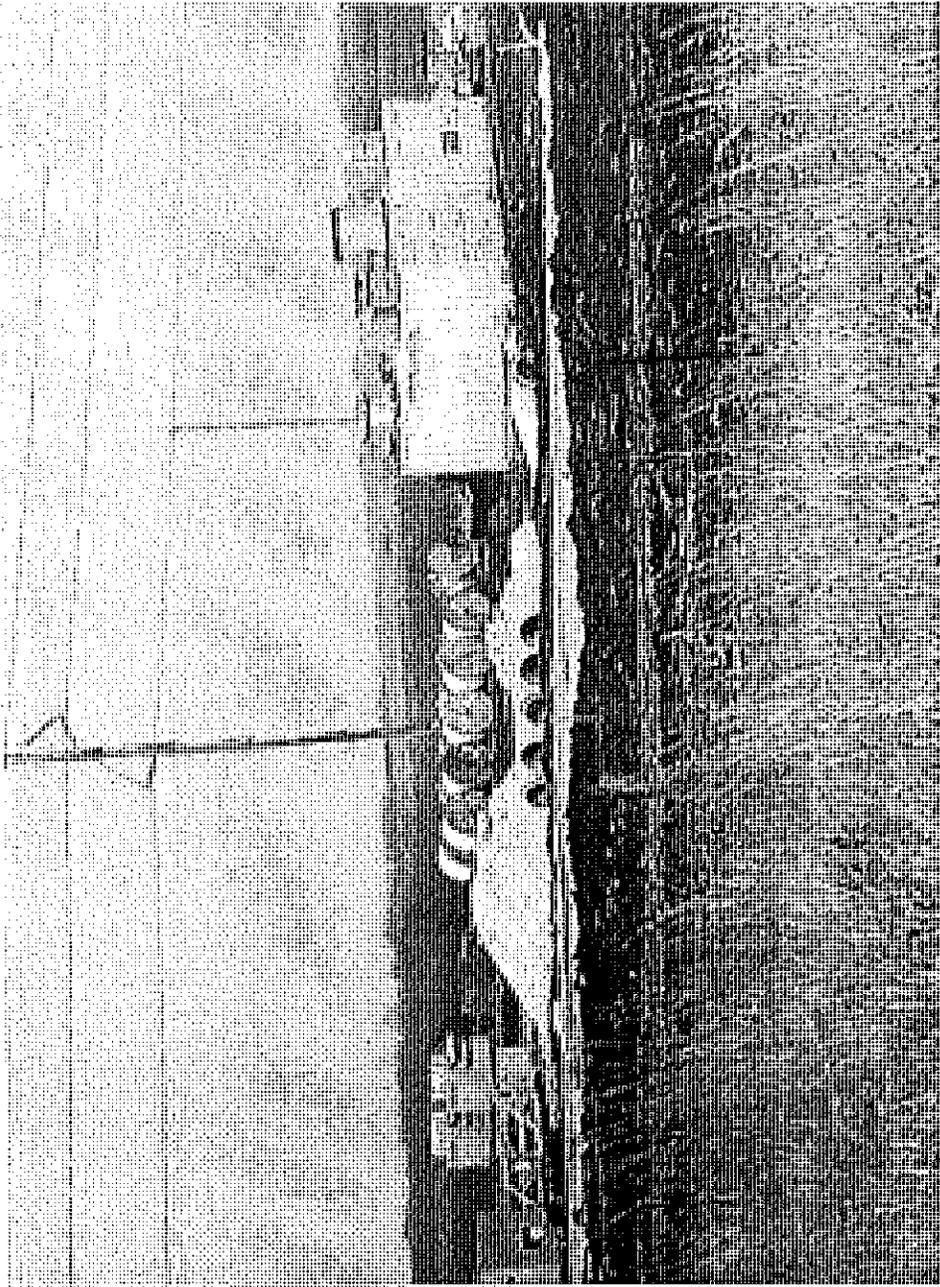




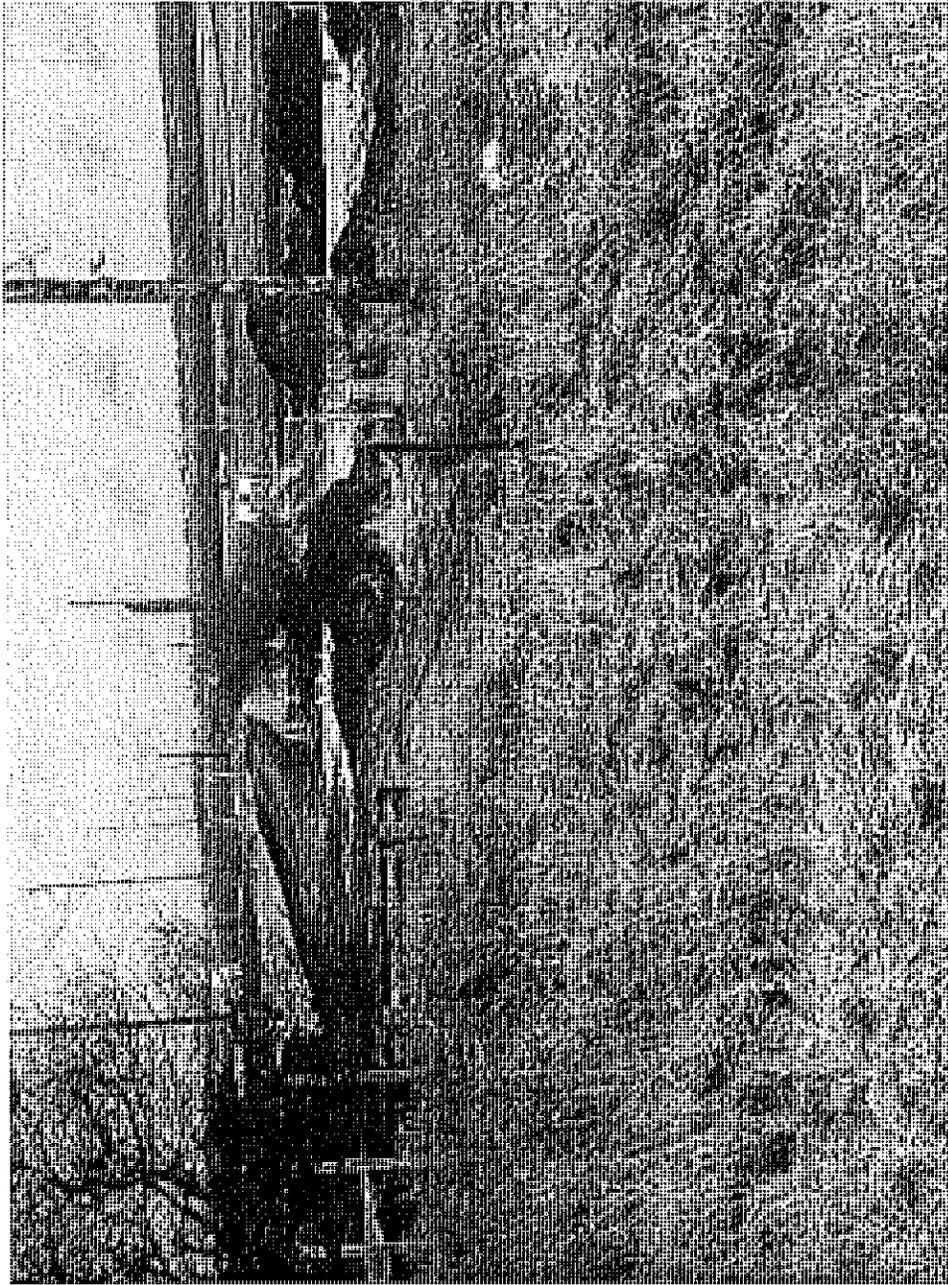
Looking north from Hwy. 210 interchange.



CIPCO Construction Site



Closer view of construction site



End of 303rd Lane as viewed from I-35, right by construction site

Tormey, Donald [IUB]

From: Linda Murken <lindamurken@gmail.com>
Sent: Wednesday, March 23, 2016 10:25 AM
To: Tormey, Donald [IUB]
Subject: Supervisors deny request to upgrade road for CIPCO | Ames Tribune

<http://amestrib.com/news/supervisors-deny-request-upgrade-road-cipco>

Linda



Supervisors deny request to upgrade road for CIPCO

By Austin Harrington, Staff Writer aharrington@amestrib.com

March 22, 2016 - 10:33pm

A county road that has recently seen increased traffic due to construction in the area was a source of concern for the Story County Board of Supervisors during its Tuesday meeting.

The dirt road, 303rd Lane, was relatively untraveled, due to its status as a dead-end street, until lately when Central Iowa Power Cooperative received an easement for the land adjacent to the road to build an electrical substation. The land is owned by Dakota Access, the Texas-based company that plans on building a pumping station on the property for the Bakken pipeline.

With the increased construction in the area, the dirt road has sustained a significant amount of damage, which has made it difficult for large vehicles to drive on the section of road.

Representatives from CIPCO, which has partnered with Consumer Energy for the project, asked the board on Tuesday to consider a resolution that would upgrade 303rd Lane to a type of road that receives more maintenance from the county, including laying down gravel to make the road more driveable, which CIPCO offered to pay for.

Story County Supervisor Paul Toot said he believed that was a conversation CIPCO should have had with the county before the company purchased the land.

"I can't fathom anybody buying property and to spend hundreds of thousands, if not millions, of dollars on a facility that's on an unimproved county gravel road and not enter into any kind of discussion with the county before the purchase of that property," Toot said. "The county currently has an ordinance in place that prohibits us from improving that road and from allowing private individuals to improve that road and so, at this point, it's kind of backwards."

Supervisor Wayne Clinton said he agreed with Toot because he didn't see why the county should spend taxpayer dollars to upgrade a road when a company purchased the land knowing that the road was underdeveloped. Clinton added that he was willing to find another solution that didn't require residents to foot the bill.

Following that discussion, the supervisors directed county staff to see if it would be possible for the county to abandon the road and effectively turn the street into a private drive for the company and local farmers to use as they see fit. Staff will return at a future meeting to discuss their findings with the supervisors.

In other business Tuesday, the board approved a resolution to enter into a purchase agreement with Optimae Life Services Inc., for county owned property at 104 S. Hazel Ave. in Ames. The purchase price for the property is expected to be \$900,000.

Also during the meeting, the board set a date and time for a public hearing to discuss refunding general obligation bonds in an amount not to exceed \$2.45 million. The bonds were issued by the county as road improvement bonds in 2008 and 2009. The public hearing will be at 10 a.m. on April 5 at the Story County Administration building.

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Mailguest [IUB]

From: Elaine Foley <tweedy.bird@windstream.net>
Sent: Thursday, March 24, 2016 5:22 PM
To: Mailguest [IUB]
Subject: HLP-2014-0001 public comment

Re: Docket No. HLP-2014-0001, Hughie Tweedy property in Lee County.

Timber has been cut recently by Dakota Access LLC on two properties between Tweedy (parcel H-LE-028) and the Mississippi River.

I want a guarantee from Dakota Access LLC that they will follow the IUB's comment on page 141 of the March 10 decision: "The Board is not persuaded that granting the right of eminent domain to clear a 30-foot wide path across parcel H-LE-028 is necessary."

Will Dakota Access LLC follow the IUB's recommendation that no trees will be cut on the Hughie Tweedy property, and that monitoring will be done on foot?

Elaine Tweedy Foley

[REDACTED]
[REDACTED]
[REDACTED]

tweedy.bird@windstream.net

Tormey, Donald [IUB]

From: Sylvia <feetrodgers@gmail.com>
Sent: Saturday, March 26, 2016 8:45 PM
To: Tormey, Donald [IUB]
Subject: Dakota access work underway in Mahaska county
Attachments: IMG_5202.JPG; ATT00001.txt; IMG_5203.JPG; ATT00002.txt; IMG_5205.JPG; ATT00003.txt; IMG_5103.JPG; ATT00004.txt; IMG_5214.JPG; ATT00005.txt

Greetings Mr Tormey.

I wanted to notify you that work on the Bakken pipeline is underway in Mahaska county even though Dakota access does not yet have permits to do so. I manage my parents farm along the south skunk river. The pipeline is scheduled to cross the river at the border of our property line. Attached are photos taken this week showing the view from our property including a fence post that separates our property from the neighbor's property where the pipeline will be laid. You can see in that photo the flags showing the path of the pipeline in the property across the river to the north. In another photo you can see where a tree has been cut down in the pipeline path on the south side of the river on our neighbor's property. In the other photo you can see how the brush has been cut and the flags placed where the pipeline is to run on our neighbors property. Our family opposes the pipeline, and I am dismayed to say the least to see this work done when the permits to begin work have not been yet issued.

Sylvia Spalding
Daughter of Earl D Rodgers and manager of the family farm in his name

Sent from my iPhone