BEFORE THE STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF DAKOTA ACCESS, LLC CONSOLIDATED APPLICATION
FOR AN AMENDED CERTIFICATE OF CORRIDOR COMPATIBILITY
AND AMENDED ROUTE PERMIT; DAKOTA ACCESS PIPELINE PUMP STATION -
EMMONS COUNTY SITING APPLICATION

CASE. NO. PU-19-204 | OAH FILE. NO. 20190280

PRE-FILED TESTIMONY OF JON EAGLE
ON BEHALF OF INTERVENOR STANDING ROCK SIOUX TRIBE

November 1, 2019
Q: Please state your name and describe your current job and professional background.

A: Hau Mitakuyepi, anpetu ki le, cante waste nape ciyuzapelo. Hehaka Ska le miyelo. Hunkpapa hemaca na Canka Ohan Tiospaye ematahan, na Wangli Koyag Mani Tiwahe ematahan. Hello my relatives, today I greet you with a good hearted handshake. My Lakota name is White Elk. I am Hunkpapa and come from the Sore Back extended family and am descendent of Walks Dressed in Eagle whom our family gets our last name from.

My English name is Jon Eagle Sr. I am the Tribal Historic Preservation Officer (“THPO”) for the Standing Rock Sioux Tribe (“SRST”), and an enrolled member of the Tribe. The Standing Rock THPO is a regulatory office that manages and protects cultural resources, sacred areas, and sites within the exterior boundaries of the Standing Rock Sioux Tribe to include the original boundaries of the Fort Laramie Treaties of 1851 and 1868, and the aboriginal homelands of the Oceti Sakonwin, also known as the Great Sioux Nation.

I have lived on or near the Standing Rock Reservation nearly my entire life. I speak the Lakota language and am a fortunate and wealthy man. Not in terms of material wealth but in terms of the people I have had in my life who made sure I knew our Lakol Wicohan, Lakota way of life. I have thirty years of experience working with children, families and communities and twenty-one years of
experience consulting with tribal, state and federal agencies. I am also a veteran of the United States Army.

Q: **Who is the Standing Rock Sioux Tribe?**

A: The Standing Rock Sioux Tribe is a sovereign Indian nation recognized under federal law and located in both North Dakota and South Dakota. We are a member tribe of the Oceti Sakonwin, the Seven Council Fires. The Oceti Sakonwin consists of the four Ospaye of the Isanti, Bdewakantuwon, Sisseton, Wahpeton na Wahpekute, the two Osyape of the Wiciyena, Ihunktuwona na Ihunktuwon, and the Teton which consists of the Hunkpapa, Itazipco, Mnikwoju, Oohenumpa, Sihasapa, Sicangu na Oglala.

Those four words however, Standing Rock Sioux Tribe, do not accurately reflect who we really are. That’s who the United States Government says we are. At one time in our history we referred to ourselves as Pte Oyate, Buffalo People. Wherever the buffalo roamed, my ancestors left evidence of their existence on the land. My ancestors followed the buffalo and the buffalo followed the stars. Our cultural affiliation goes back to a place and time when only one people were here.
Q: Can you briefly describe the historical context for the siting of the Dakota Access pipeline where it crosses Lake Oahe.

A: In 1851, The United States invited tribal nations from the Great Plains to convene for a Treaty Council at the mouth of Horse Creek near Fort Laramie in present day Wyoming. The resulting document is referred to as the Horse Creek Treaty of 1851.

Article 3 of the Horse Creek Treaty reads: *In consideration of the rights and privileges acknowledged in the preceding article, the United States bind themselves to protect the aforesaid Indian nations against the commission of all depredations by the people of the said United States, after the ratification of this treaty.*

The Dakota Access Pipeline crossing Mni Sose, also known as the Missouri River was an act of depredation to the people of Standing Rock.

In 1868 another Treaty Council was held that resulted in the signing of the Fort Laramie Treaty.

Article 2 of the Fort Laramie Treaty reads: *The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri River where the forty-sixth parallel of north latitude crosses the same,*
thence along low-water mark down said east bank to a point opposite where the
northern line of the State of Nebraska strikes the river, thence west across said
river, and along the northern line of Nebraska to the one hundred and fourth
degree of longitude west from Greenwich, thence north on said meridian to a point
where the forty-sixth parallel of north latitude intercepts the same, thence due east
along said parallel to the place of beginning; and in addition thereto, all existing
reservations on the east bank of said river shall be, and the same is, set apart for
the absolute and undisturbed use and occupation of the Indians herein named, and
for such other friendly tribes or individual Indians as from time to time they may be
willing, with the consent of the United States, to admit amongst them; and the
United States now solemnly agrees that no persons except those herein
designated and authorized so to do, and except such officers, agents, and
employees of the Government as may be authorized to enter upon Indian
reservations in discharge of duties enjoined by law, shall ever be permitted to pass
over, settle upon, or reside in the territory described in this article, or in such
territory as may be added to this reservation for the use of said Indians, and
henceforth they will and do hereby relinquish all claims or right in and to any
portion of the United States or Territories, except such as is embraced within the
limits aforesaid, and except as hereinafter provided.

The Great Sioux Reservation comprised lands within the states of Wyoming, South
Dakota, North Dakota, and Nebraska, including the sacred Black Hills and the life-
giving Missouri River. Under article 11 of the 1868 Fort Laramie Treaty, the Great
Sioux Nation retained off-reservation hunting rights to a much larger area, south to
the Republican and Platte Rivers, and east to the Big Horn Mountains. Under
article 12, no cession of land would be valid unless approved by three-fourths of
the adult males. Nevertheless, the Congress unilaterally passed the Act of
February 28, 1877 (19 stat. 254), removing the Sacred Black Hills from the Great
Sioux Reservation. The United States never obtained the consent of three-fourths
of the Sioux, as required in article 12 of the 1868 Treaty. The U.S. Supreme Court
concluded that "A more ripe and rank case of dishonorable dealings will never, in
all probability, be found in our history." United States v. Sioux Nation of Indians,

In my humble opinion the Dakota Access Pipeline crossing Mni Sosi, also known
as the Missouri River, is another act in a long list of treaty violations against the
Lakota, Dakota and Nakota People. DAPL not only crosses treaty territory, it also
crosses unresolved land claims of the Ihunktuwona, referred to as Docket 74A

In modern times, the federal government acted to take our lands and destroy our
way of life to benefit others. The 1944 Flood Control Act authorized the Pick-Sloan
program, a series of major dams, diversion works and irrigation along the Missouri
River. This program had a terrible impact on the Tribes along the River, including
Standing Rock. In 1958, Congress enacted the Oahe Taking Act, which took away
title to 56,000 acres of land on our Reservation. These were fertile, wooded
bottomlands – the best lands of the Reservation. This is where the people lived,
consistent with our traditions. But the government decided, without consulting with
the Tribe, that the Oahe Dam and Reservoir must go forward – despite its adverse
impacts on the Tribe. These 56,000 acres of Reservation land were permanently
flooded, requiring the forced relocation of 180 Tribal families from the protected
and fertile lowlands to the harsh and windswept uplands. This was a devastating
event in the life of the Tribe, causing vast economic and social hardship that
continues to this day. Every elder from our Reservation who lived through this
terrible event remembers the day the flood came. I have listened to many of these
elders tell their stories of how their families had to leave as the waters flooded their
homes forever. The pain of this loss is felt across the generations.

Throughout history, we have repeatedly seen the development of infrastructure
that benefits others, but at the expense of the Tribe. Railroads were built across
our lands, without regard to their impact on us. For generations, our people lived
in harmony with nature, relying extensively on hunting the buffalo – which were
plentiful on the plains. The transcontinental railroads led to the rapid and
intentional destruction of the buffalo – and by the end of the 19th century, the
buffalo were wiped out. And with the destruction of the buffalo, a major aspect of
our traditional way of life was fundamentally altered forever.

In every era, when the United States responds to demands from those seeking to
advance particular economic interests – for gold in the Black Hills, for land for non-
Indian homesteaders on our Reservation, or for navigation or hydropower – it has
always been the Tribe that has borne the heavy burdens, through the loss of our
lands and harm to our way of life. In every case, the United States has ensured
that the interests of others are advanced, while the interests of the Tribe are
ignored. The siting of the Dakota Access Pipeline, which crossed treaty lands
stolen from us and puts our waters at risk of spills and leaks, is simply another
chapter in this story.

Q: Please describe the site of the pipeline crossing at the Missouri River.

A: The confluence of the Cannon Ball River and the Missouri River is a site of
religious and cultural significance to the Oceti Sakowin. The Cannon Ball River
was known to my ancestors as Inyan Wakan Kagapi Wakpa (River Where the
Sacred Stones Are Made), and the Missouri River was known as Mni Sose
(Turbulent Water). The force of those two rivers coming together formed perfectly
round stones once considered sacred to the Mandan, Arikara, Cheyenne and the
member tribes of the Oceti Sakowin. When the Corps dredged and altered the
course of the Cannon Ball River river, that undertaking had an adverse effect at the
confluence and the rivers quit making the sacred stones. We will never again see
this phenomenon again.

The area within and around the crossing site is considered sacred by many tribes.
At this site, traditional enemy tribes camped within sight of each other and never
fought because of the reverence they had for this Traditional Cultural Landscape.
Over the years, several Sun dances have occurred in the area because of the
sacred nature of the rivers and the land. The member tribes of the Oceti Sakowin
have seven sacred rites given to us by the creator and the Sun dance is held to be
one of the most sacred.

Also in the area is a sacred stone where our ancestors went to pray and ask for
guidance. As a Lakota, I have been fortunate enough to have traveled to this area
with elders who are no longer with us, to pray and leave offerings, asking for good
direction, strength and protection on behalf of our people. In an interview
conducted in the late 1800’s by Colonel A.B. Welch, a warrior spoke of the
sacredness of the area, “It was there when we came across the Missouri. I think it
had been an Arikara stone. I think they found it first. They put things there, too.
No one would strike an enemy around that place. Everyone was safe there. There
were always many presents there. There were weapons and things to eat and
valuable cloth on sticks. There were buffalo heads there, too, for meat to come
around. It is very holy. It is there yet. I do not want to talk much about it.” A.B.
Welch Collection. The site of this stone is confidential and protected by this office.
It must be noted that this is a place of prayer that is still in use today, a place
where people indigenous of this continent continue to go for good direction,
strength, and protection.

Q: Why are the waters of Lake Oahe important to the Tribe culturally?
A: We are descendent of an ancient people who have creation stories that give us
cultural affiliation to the land, water and air going back to the beginning of time.
Our elders taught us that our creator gave us a land and gave us a language to communicate with everything in creation. Water is considered to be sacred. Our word for water is Mni Wiconi, or Water of life, because without water, there can be no life. The rivers, creeks and streams of our ancestral lands were the highways of our past. Our sacred places can be found along waterways.

My elders have taught me to have a deep reverence for the land. We do not look at Unci Maka, Grandmother Earth, as a resource. We look at her as a living being that provides for and nurtures us. In our language we have a saying, “Le makoce kin teunkilapi sni, ki hehan un Lakotapi kte sni,” which translates to, “When we no longer cherish the land we will no longer be Lakota.” The difference between mainstream society and the original people of this land is that mainstream society looks at the earth as a resource and our people engage with a living universe.

We still have people who go to the water to pray and make offerings so that all life that is sustained by our river may live. People, horses, buffalo, deer, fish, birds, all life is considered to be sacred and is dependent upon water. The same percentage of water on Unci Maka, Grandmother Earth, is the same amount of water that makes us who we are. We are that connected to our environment.

Q: Why are you concerned about a leak or spill from the pipeline?
A: My father told me that my grandparents would back a wagon up to the river and fill rain barrels with water. He said they would take those barrels home and let the
sediment drift to the bottom then drink the water from the top. My generation drank water from creeks and streams. We were told as long as it was moving it was safe to drink. My children and grandchildren drink water from plastic bottles. That is how fast our environment is deteriorating. A leak or spill from the pipeline in Lake Oahe would be devastating to the Tribe. Imagine the most sacred place in your life, whether it is a church or other house of worship, or a cemetery where your parents are buried, or something else. Then imagine that it is desecrated and destroyed, solely because someone was trying to make money.

Q: What has been the effect of the operation of the pipeline on the Standing Rock Sioux Tribe?

A: Tribal members live every day under the risk of an oil spill that would harm the waters that sustain our people, our economy, and our spiritual lives. An oil spill would foul the water that we drink, that we rely upon for our Treaty protected, subsistence hunting, fishing and traditional plant gathering, and that provides irrigation for our farming and other economic ventures. The risks of leaks and spills are placed squarely on the Tribe, as our Reservation is immediately downstream from the crossing site at Lake Oahe.

Throughout the course of our history, we have suffered trauma. This has taken many forms – the devastating loss of lands, the destruction of the buffalo and our way of life, the efforts by the federal government to take away our language and culture, the impacts of poverty, and the ravages of racism. All of this has been
endured with great dignity by my people. We say, “Nahahci Lena Unkupelo!”

We’re still here. But over time this history takes a significant toll on our physical and mental health. Many of the health challenges that we face today have been linked, in significant scientific studies, to the historic traumas that we have faced. The traumas of our ancestors are passed down across the generations and impact us today.

While I am not a psychologist or social worker, I know many Tribal members, and I understand how our history of trauma affects us and creates challenges for us today. One of those challenges today involves the Dakota Access pipeline. Our history tells us that the government does not listen to the voices of our people and does not care about our rights or interests. Our Tribe has been subject to terrible misdeeds and abuse at the hands of the federal government and this has been so in Treaty times, at the time our lands were taken for the Oahe project, and up until the present. This pattern of ignoring Tribal interests continued with respect to the Dakota Access pipeline.

Q: **Does the Tribe support the expansion of the Dakota Access Pipeline’s capacity?**

A: No. My father told a story of a time that my grandparents rode in a wagon from Wakpala, South Dakota to Bismarck, North Dakota. He said that he and his brother followed them on horseback. He said that along the river bottom there was an ancient pathway, and all day he saw people coming and going. It took my
grandparents two days to get to Bismarck and all along the way he said there were
people camped along the river bottom. He said that everything they needed was
on the river bottom and it was a happy time. When they passed camps the people
would welcome each other and share whatever they had with each other. He said
the canopy of the trees was like a great cathedral. As I write this the memory of
his story puts an image in my mind that unfortunately I will never see. He told me
this story only once and never spoke of it again.

The flooding of the river to create the hydroelectric dams had an adverse effect on
a traditional cultural landscape that caused a deep unresolved trauma to the
people who witnessed the original beauty of the river and the subsequent
destruction of a way of life. That federal action also created a disconnect between
the people of Standing Rock and their neighbors on the east side of the river. The
people of Standing Rock at one time had a great relationship with their neighbors.
I grew up listening to stories of my dad and his brothers breaking horses for area
ranchers who in turn bought them school clothes and shoes in the fall. My mother-
in-law told stories of traveling to Linton to attend Polka dances. Our elders told
stories of gatherings on the river bottom to share harvest, to exchange and trade
goods with one another. Those are stories that my generation never got to
experience because we were born after the flooding of the river. Once man
changes the land it is changed forever.
I have personally been to five countries and forty-eight of our states. I have seen such beauty in my lifetime that only a poet could give word to the experience. As I look around at the beauty that is the Dakotas, I think to myself, do we really want to risk this? Do we really want to support the expansion of this pipeline and risk what we have left? Because the company itself isn’t from here, they don’t have the same connection to this land that those of us who were born and raised in the Dakotas have. They’re willing to take that risk, but are we?

Q. Does this conclude your testimony?

A. It does.