

Sept 30th DAPL meeting with SRST

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[Start of recorded material]

David Archambault: Okay. What is that – Dakota Access Pipeline, are they here? Let's take five. They're supposed to be here at 11:00. Let's take five. And then I'll see if they're here, and then we'll hear your presentation. Unless, if they're not here, then I'll ask Was to come up and give us an update on it. Okay. We'll come back in five.

Got a quorum? Okay, we got a quorum. Hi, Tammy. I want to – we'll just go around and give an introduction, let the Tribal Council introduce themselves. And you can introduce yourself. Thank you for coming today. I know that in the past, whenever there's projects like this, companies never came to the tribe and informed them of proposed activities. So I thank and we all welcome you here today. With that I'll just go around. My name is Dave Archambault. I'm the Tribal Chairman. And we'll start from my right, and we'll go around this way to introduce the Tribal Council members who are here today.

Randal White: My name's Randal White. I'm a councilman-at-large, and I come from the community of Porcupine, North Dakota.

Phyllis Young: I'm [Lakota language], Woman Who Loves Water. My name is Phyllis Young. I'm a Tribal Council member-at-large. My home community is here in Long Soldier, and I represent the entire reservation. Welcome.

Cody Two Bears: Cody Two Bears, district representative from the Cannonball District.

Joe Dunn: My name's Joe Dunn. I'm the council rep for Long Soldier District.

Adele White: Good morning. My name is Adele White. I'm the tribal secretary from Porcupine, but I'm originally from Kenel, South Dakota. So I represent two states.

Female Voice: Just kidding.

Adele White: No, we shared one.

Ben Harrison: Ben Harrison, Tribal Council rep from Porcupine. Welcome.

Ron Brown Otter: Ron Brown Otter, councilman-at-large, Bullhead, South Dakota.

Duane Claymore: Duane Claymore. I represent the Wakpala district of South Dakota.

Avis Little Eagle: Hello, my name is Avis Little Eagle, a councilwoman-at-large.

Joe White Mountain: Joe White Mountain, councilman for the Bear Soldier district in McLaughlin, South Dakota.

Tammy Ibach: Thank you. Thank you very much.

David Archambault: There's a button on your mic. If you just push it, there's a green light that should come on.

Tammy Ibach: There we go. Does that work? Good morning. Thank you so much for allowing us to be here today. I am Tammy Ibach with Dakota Access Pipeline. And with me today I have Chuck Frey and Joe Malucci. You all were so kind as to state where you're from, so I'm going to tell you where I'm from. I grew up across the river in Linton, so not too far from here. You can almost see it across the river. So thank you again for allowing us to be here. We did provide lunch. It's in Arlene's office. However you want to handle that is fine with us. If you want to have it while we're meeting, or if you're going to have it later, it's up to you.

Dakota Access Pipeline is a pipeline project that is originating out of the Bakken area with a gathering system put in place starting at Stanley, moving over to Tioga around near Williston, down to Trenton, Watford City, and then into Johnson's Corner, coming down through Dunn County, Mercer County, Morton County, crossing over the river into Emmons County, going down into South Dakota, crossing into Iowa, and ending in Illinois. And this project is geared to take, at the minimal, about 320,000 barrels of crude oil out of North Dakota into Illinois. And what it will do at the end of the day is eliminate a lot of railroad traffic in North Dakota, which you have all been widely versed on the pressure that the Bakken has put on rail traffic in North Dakota.

I'm going to turn it over to Chuck Frey, and he will walk through the project in more detail. But as you're aware, the project is going to cross over north of Cannonball within about 1,500 feet of the tribal reservation land. So we're here today to answer questions that you might have, put out any fires or rumors that you may have heard, because this project has gotten some media coverage, and I know that one of the representatives from Standing Rock has contacted the parent company, Energy Transfer Partners, who owns Dakota Access Pipeline, with some environmental questions already. So we're here to detail the project and to answer questions.

David Archambault: And just before you get started on the project, I want you to know and understand that we recognize our treaty boundaries, our Fort Laramie Treaty of 1851 and 1868, which encompasses North Dakota, Montana, Wyoming, South Dakota. Because of that we oppose the pipeline. We have a standing resolution that was passed in 2012 that opposes any pipeline within the treaty boundary. So just so you know coming in, this is something that the tribe is not supporting. This is something the tribe does not wish. Even though it's outside of our 1889 federal boundaries, we still recognize our treaty boundaries.

So you could give the presentation, and then what I'll do is I'll ask our Tribal Historic Preservation Office to help remind your company of the federal laws that exist, the Section 106. And then I'll ask the council to provide any input or insight. But if you want to go ahead and continue with the presentation of the project, and

then we'll ask Tribal Historic Preservation to remind us of the federal laws that exist. And then I'll open it up to Tribal Council to ask you any questions or any comments.

Tammy Ibach: Thank you, Chairman.

Chuck Frey: Thank you. As Tammy said, I'm Chuck Frey, and I work for Energy Transfer. And I want to thank you all for giving us the opportunity to come and explain our project and answer any questions you might have. The first item in the presentation is a legal disclaimer that just says –

David Archambault: Can you pull that mic closer?

Chuck Frey: Oh, sorry. The first item is a legal disclaimer just saying these are forward-looking events, and some things could change. I'll give you a little bit of an overview of the Energy Transfer family. There are four companies in the Energy Transfer family. Energy Transfer Equity is the parent company. They're located in Dallas. They own the general partnership units for the other entities, which consist of Energy Transfer Partners, which is headquartered in San Antonio, and that is the company, right, that owns Dakota Access Pipeline and will be constructing Dakota Access Pipeline. There's another affiliated company, Regency Energy Partners, that's also located in Dallas, engaged in midstream activities. And then finally, Sunoco Logistics, which is in Pennsylvania. And between all these

companies we have about 71,000 miles of pipeline, have a long history of operating pipelines and believe we do so safely.

Some other information, again, we have about 47 million barrels of storage. We operate two fractionators. We have a large crude oil terminal on the Gulf Coast where crude oil is imported and distributed to refineries in the U.S.

On page 5 there's an asset map. You can see the majority of our assets are in Texas, which is where the company started. We don't have a presence in the Dakotas yet. Building this pipeline will give us our first activity in the Dakotas and in Iowa. We're going to connect the line down into Illinois. It's going to connect to an existing pipeline that's currently in natural gas service that's going to be converted to crude oil service. And that would be one of those yellow lines kind of in the middle of Illinois that runs south and southwest down to the Gulf Coast.

We're going to be constructing about 346 miles of pipe in North Dakota. That'll vary from 12-inch to 30-inch. As Tammy mentioned, we start in Stanley, and we make kind of a big loop around the lake and pick up the different production areas in North Dakota where the current drilling activity is taking place. Johnson's Corner is the last gathering point. And there's where we start the line, kind of at a diagonal to the southeast, running through North Dakota. Again, about 346 miles in North Dakota, 267 miles in South Dakota. We will have six gathering terminals, tank farms, in

North Dakota: one near Stanley, one near Tioga, one near Epping, one near Trenton, one near Watford City, and one near Johnson's Corner. We will be filing a certificate with the Public Service Commission in North Dakota sometime toward the end of December this year.

On page 7 there's a project map that shows the route all the way down to the middle of Illinois. The six stars in the northwest corner of North Dakota are the gathering terminal locations. On page 8 there's a larger scale map of North Dakota, again shows the locations of the gathering facilities and gives a little better approximate location of them. You can see the counties that we'll traverse.

As Tammy said, we've got mining commitments from shippers for a minimum of 320,000 barrels a day of Bakken crude oil. This will all be oil that's produced in North Dakota. It's currently being moved primarily by rail. And this pipeline will give the producers an alternative means of moving product. We believe it's a more energy-efficient and safer way to transport crude oil long distances.

Page 10 gives the mileage in each county. Again, about 346 miles in North Dakota, starting in Mountrail County, through Williams, McKenzie, Dunn, Mercer, Morton, and Emmons County. We're having public meetings in North Dakota this week, as well as meeting with your tribe and the three affiliated tribes in order to

explain our project and answer any questions that you all have about the project.

The total cost for the project we estimate to be about \$3.74 billion. North Dakota would be about one – just a little over a billion dollars, and the same thing in South Dakota, approximately a billion dollars. Construction jobs, anywhere from eight to 12,000 – North Dakota two to 4,000, South Dakota two to 4,000 construction jobs. Overall there'll be about 40 full-time jobs created. We expect 10 to 15 of them to be in North Dakota and 10 to 15 of them to be in South Dakota. We have not finalized where we're going to set up operating offices yet.

The ad valorem tax for North Dakota is estimated to be almost \$13.5 million a year after the pipeline is placed in service. In South Dakota it'll be about \$12.3 million a year, again, after the pipeline is placed in service. That would be at the end of 2016 or early 2017.

We have done a lot of routing work with the pipeline, working with all the databases that are available out there that show environmentally sensitive areas, known cultural artifact areas, federal lands, tribal lands. And as Tammy mentioned, we have avoided the existing tribal boundary property, and we actually come within 2,500 feet – 2,500 feet is the closest we come to your current tribal boundary. We are in the process of acquiring survey permissions and performing survey work and also cultural work and environmental work, threatened and endangered species surveys,

and some people are out on the ground as we get the surveys done and walking the route and looking for sensitive areas.

The only pump stations that'll be constructed in North Dakota will be at the terminals. So other than the terminal locations, there will only be pipeline and valve sites. The valve sites will be placed in areas around waterways to protect the waterways, also to protect high-consequence areas that are environmentally sensitive or have other maybe wells, things that would be of more consequence if there were any incident on the pipeline.

As I said, we're having meetings right now. We expect to file our application before the end of this year. We expect to be ready to start construction early in 2016, and we expect to be finished with construction at the end of 2016.

In summary, this pipeline is moving Bakken crude oil only, completely North Dakota domestically produced crude oil, taking it to refineries in the Midwest and on the Gulf Coast. It provides short-term economic benefits from construction activity, construction jobs that'll take place. And then there will be the long-term impact of the taxes and the full-time jobs that'll be created by the pipeline, and it will enhance the ability of the Bakken producers to move crude oil out of the region in a more energy-efficient and safer manner. And that's in brief our project. And so, any questions?

David Archambault: Okay. What I want to do is I want to ask Wasté Win if you would come up, sit at Jay's mic. And I don't know if Terry wants to ask any questions also, but maybe. I want Wasté Win to come up and just remind us of the federal law that exists. And then I'll ask council if they have any comments or questions for you. Go ahead, Was.

Wasté Win Young: Good morning. Thank you guys for coming. I said I wasn't going to say "um," and that was my first word. My name is Wasté Win Young, and I'm the Tribal Historic Preservation Officer for the Standing Rock Sioux Tribe. I deal with the National Historic Preservation Act, and we also work with the National Environmental Policy Act. And I typed up some comments that I think are important for you guys, for us to convey to you our position and why we have the position that we do.

Our understanding was there was going to be an individual from the Army Corps here with you guys. Is there anybody?

Chuck Frey: No, there's not anyone with the Army Corps of Engineers. We have been having meetings with them, but they are not coming to our informational meetings.

Wasté Win Young: Okay. It's our understanding that the Army Corps of Engineers will be the lead federal agency on this project. Is that correct?

Chuck Frey: I don't know if they're the lead federal agency. I know we're working with them on permitting.

Wasté Win Young: On permitting?

Chuck Frey: Yes.

Wasté Win Young: Permitting for –

Chuck Frey: Permitting for waterway crossings and other core property.

Wasté Win Young: Okay. There are critical issues within the NHPA and the NEPA processes that the Army Corps repeatedly overlooks on projects where the Standing Rock Sioux Tribe has consulted on. One such concern would be the segmenting of the routes under the National Environmental Policy Act in order to streamline the permitting process.

On June 6 of this year, the U.S. Court of Appeals for the District of Columbia Circuit ruled in the Delaware Riverkeeper v. the Federal Energy Regulatory Commission case that a continuous pipeline project cannot be segmented into multiple parts to avoid a comprehensive NEPA review. The U.S. Army Corps of Engineers did the same thing to streamline permitting for both the southern leg of TransCanada's Keystone XL and Enbridge's Flanagan South pipelines. Delaware Riverkeeper v. FERC dealt with breaking up a new 40-mile-long pipeline upgrade into four segments. For the

other two cases, the Army Corps of Engineers shape-shifted the two projects, both which were hundreds of miles long, into thousands of single complete projects for permitting purposes.

The Corps, when it comes to working with the tribes, especially the Standing Rock Sioux Tribe, their modus operandi is to streamline the process using the Nationwide Permit 12 to complete smaller segments for environmental analysis or the 404 Permit, which says their agency is only responsible to consult on their jurisdictional boundaries where the project crosses a waterway of the United States of America. This is unacceptable, and as the U.S. Court of Appeals for the District of Columbia Circuit ruled this year to that effect.

This exact scenario unfolded within the last three years on the Bakken pipeline and the Baker Lateral pipeline, where the concerns of the Standing Rock Sioux Tribe went unanswered while construction commenced on both pipelines. And in the case of the Baker Lateral, the pipeline became fully operational while the Standing Rock Sioux Tribal THPO office, we were waiting on a meeting that the Corps had promised to set up. And in that meantime, the pipeline Baker Lateral became fully operational, and we were notified two weeks after it had happened.

My question for you guys is, have any permits been applied for by Energy Transfer or their subsidiaries to the Army Corps of Engineers?

Chuck Frey: The permitting process is underway. I don't know if any of the applications have been formally filed. The information is being gathered with which to file the permits.

Wasté Win Young: Okay. Thank you. For this particular project, it is our understanding that the Corps will be the lead agency. Yet when we contacted the regulatory office for the Army Corps in Omaha, they have been saying that there is no permit issued. However, talking to another Corps office in South Dakota, they made it clear to us that the Army Corps is trying to figure out what permit they will utilize for this project, either the Nationwide Permit 12 or the 404 Permit. And we believe that this may be an intentional strategy behind the door on their part because of the recent Delaware case, the Riverkeeper case.

We've been actually having a hard time setting up a meeting with the Corps for this particular project. So we do appreciate that you guys came here to answer some of our questions and let you guys know the concerns that we do have. We believe that the Army Corps knows full well the process that they're using and relying on is outdated, and it's based on regulations that were passed in 1983. And if you want, you can write this down. It's 33 CFR 325 Appendix C. It was passed a full nine years before the 1992 amendments to the NHPA that were passed, created what is referred to as the Section 106 process.

This law was a game-changer for tribes and tribal historic preservation and historic preservation nationwide because it allowed for Section 106 of the NHPA, allowed for tribes to consult on undertakings and to participate in the identification of historic properties that are significant to them. And basically there's four steps to that under the Section 106 process. There's the identification of historic properties, and then there is the right for the tribe to help nominate these to the National Register of Historic Places and then resolve any adverse effects to those.

At no time on any project that the Standing Rock Sioux Tribe consulted on in the last three years with the Army Corps, were we allowed to participate in identification, which is the first step under the NHPA. So that's very problematic, if the Corps is going to be the lead federal agency for this project. And under NHPA Section 101(d)(6)(B), says that regardless of land status, the Indian tribe has the right to ascribe significance to a place that was significant to our culture and our ways, our prayers and practices.

So regardless of land status, I know that there is an existing natural gas pipeline near the Cannonball, north of Cannon Ball, that crosses. And you guys may be utilizing that right-of-way, but that also is an area that is important to us. It's important that the land and the waters that we're talking about is not taken out of context. We have a really rich history here, and our history and ceremonies are who we are. There are 66 village sites along the Missouri River within the boundaries of the Standing Rock Sioux Tribe. The

northern border of the Standing Rock Sioux Indian Reservation is north of Cannon Ball, North Dakota; and the southern border ends near Mobridge, South Dakota. These lands were also home to the Arikara, Mandan, Hidatsa, and Cheyenne.

The proposed Dakota Access Pipeline would cross the Missouri directly underneath a village site. There is an island that gets exposed when the Oahe Reservoir levels drop. This island is part of a larger village that is presently inundated. There are human remains, artifacts, pottery shards, tools throughout this entire channel. Across the Missouri River on the eastern shoreline, where Dakota camps, including Chief Two Bears and Little Soldiers [indiscernible] camps. This crossing is near what was called [mini] Horse Head Bottoms. It's where the Dakota escaped Generals Sibley and Sully 1863, after the massacre at Whitestone Hill.

Chief Big Head's family crossed the water here. When night fell, the babies were crying, and the young girls carried them across the river. They plugged their nose so they wouldn't be heard crying. They swam across the Missouri River with those babies. This is a story that many of us do not know, but it's an important part of our story that needs to be put out there. And I actually struggled with this last night, is do we want to tell something that's so important and sacred to us to a pipeline company?

But it's important for you guys to know the history and our connection to this area. Today Chief Big Head's descendants are in

the room, Chief Little Soldier's, and as well as many of the descendants of a lot of other chiefs. And for us to officially endorse or accept a proposal that would negatively impact our cultural sites, our prayer sites, our duties and responsibilities as stewards of the land, it would be unacceptable and goes against the very intent of our office in fighting and protecting and preserving what we have here, what we have left for our people and our children. And I thank you guys for coming, but the risks are too great for our children. Thank you.

David Archambault: Terry, do you have anything you want to add? Can you push the button?

Terry Clouthier: There we go. Yeah, I've got a couple of questions. On page 5 of your Energy Transfer Asset Overview, I notice Southern Union Pipeline isn't listed as one of the assets for Energy Transfer, even though that was bought about a month before Sunoco was bought by Energy Transfer?

Chuck Frey: Yes. Southern Union is not listed as an entity. The pipelines that Southern Union owned are. And that would be Trunkline Gas, Trunkline LNG, SUGS, Sea Robin Pipeline, Panhandle Eastern Pipeline. Those were what made up Southern Union.

Terry Clouthier: Thank you. Additionally, not listed as assets on here are the 5,000 gas stations that Sunoco owns.

Chuck Frey: That is correct. That's set up in a different holding company now. I'm not sure why there's a – I think it's [trouser]. I'm sorry, I'm not real familiar with the retail gas station operations. But it is in the family. It's not part of – it's being moved out of Energy Transfer Partners into a different company.

Terry Clouthier: Okay, thank you. Some other questions. Are there any additional pipelines in association with this Dakota Access, or proposed by Energy Transfer? And be aware I do my research, so –

Chuck Frey: Dakota Access Pipeline itself runs to Southern, I mean, Patoka in Illinois. And at that point it connects to what we're calling Energy Transfer Crude Oil Pipeline. And that runs down to Nederland, Texas, which is right by Beaumont. And so those two pipelines are going to connect to each other in Illinois. There are no other pipelines planned in North Dakota right now by us. Again, we have the terminaling locations, and the producers right now are responsible for bringing pipe or connections or crude oil to the terminals that we put in place.

Terry Clouthier: I kind of wish that one of the Army Corps representatives, as we had heard was supposed to be coming down, was here because I'd be questioning him right now on whether or not those should be an interconnected action under NEPA. And that's something you guys might want to get addressed because you are intending to ship this down to the Gulf Coast, as well. Your endpoint isn't Patoka. You do intend to also produce this to go down to the Gulf Coast.

Chuck Frey: It will connect and deliver into that line. Some of the product will be delivered in Patoka to – there's an interconnecting pipeline hub at Patoka. And so some of the shippers will deliver their product at Patoka for delivery into other third-party pipelines.

Terry Clouthier: Thank you.

Tammy Ibach: I'd like to address the question about the Army Corps of Engineers. In setting up this meeting for today, it was never communicated in my first original email to Chairman Archambault and to Arlene that there would be a representative from the Army Corps of Engineers. So where that commentary has come from is outside of the original meeting request. So I just want that to be noted. Thank you.

Terry Clouthier: Our information at the THPO that we have from individuals within the Army Corps was that there would be a representative down here. So that was what we were told. That's why we had anticipated someone being here.

Tammy Ibach: Is there anyone sitting behind us that wants to be identified as with the Army Corps of Engineers?

Terry Clouthier: I don't see anyone sitting here that would be Army Corps.

David Archambault: Doug is the closest thing.

Terry Clouthier: Going on to page 6 of your presentation, the project is being initially designed for a capacity of 320,000 barrels per day. What is your anticipated BPD? Is it the 540 that you're looking at?

Chuck Frey: Yes. The 570, the line is expandable to that with some addition of horsepower and the utilization of a drag-reducing agent.

Terry Clouthier: Going on to page 9, Dakota Access LLC has secured long-term binding contractual commitments for up to 320, and then there's the mention of the 570,000. When was this accomplished in terms of your open binding season? I realize it was in March that your open binding season, and then you expanded it again in September, in fact started it within this week, I think?

Chuck Frey: That's correct. We had our initial open season in the first quarter of this year. And that's where we got the initial commitments. The 320,000 does include 10 percent, what's called walk-up capacity, so that being a common carrier, that producers that haven't contracted to ship on the pipeline would still have an opportunity to move volume on the pipeline. And so that's in there. Then we, as you mentioned, there was a public announcement that we're having a secondary open season that just started to try and obtain additional throughput commitments from shippers. We did obtain one, or actually two, that we made an announcement about with the announcement of the additional open season.

Terry Clouthier: I'm a little curious about this because the Koch Brothers had introduced the Dakota Express, which was canceled in January of this year. And it pretty much followed the same route and was connecting, intending to connect to your secondary pipeline going from Patoka south. So I'm a little bit curious on how you guys managed to obtain the shipper commitments, and Koch Brothers, who have huge lobbying interests throughout the nation, somehow didn't manage to get these same shipper commitments.

Chuck Frey: I can't comment to what the producers, why they liked one project and were not inclined to sign up for the other project. Perhaps it's the fact that our project gives them an ability to move barrels to Patoka and also to move barrels to the Gulf Coast.

Terry Clouthier: Well, the stuff that I've read specifically stated that they were actually going to use your line from Patoka south. So I'm a little bit curious on why they canceled and you guys see this as a feasible option. I mean, granted, you've got apparently your 320,000 commitment, which is great for you. But I'm still kind of stumped on why Koch Brothers, who I assume, based on the fact that they're rated sixth in the world for billionaires, didn't manage to get the same commitments that somebody who's rated 521st in the world in 2013 managed to do.

Chuck Frey: Again, you would have to address that question to the producers who signed up with us.

Terry Clouthier: All right. And will that be available eventually publicly? Or will that be kept private?

Chuck Frey: We'll write this down. I'll have to get back with you on that question. I don't know if that is public information or not. The terms of the contracts are not. I don't know if the [ship] producers are.

Terry Clouthier: Yeah. I noticed that it did say that there would be confidentiality agreements in terms of the open season. But as you just mentioned, it might be public knowledge on who those companies were, but not the terms.

Continuing on, page 11, you listed 40 permanent jobs in North Dakota, 12 to 15 jobs. North Dakota's percentage of – I guess these jobs would be more associated with the pump stations, considering that there's five here as opposed to one at Patoka. I'm a little curious on this number, though. Are these new jobs created, or just permanent jobs associated with the pipeline?

Chuck Frey: The FTEs would be new jobs being created because we don't have any current staffing in these areas. And so, yes, there'll be – the positions would be mechanics, pipeline operators. You have to have folks who would do the one-call investigations when somebody's doing construction activity in the vicinity of the pipeline.

Terry Clouthier: Going on to page 12, routing analysis for pipeline facilities to parallel existing corridors as much as possible. Will this be shown

within the environmental assessment or environmental impact statement that NEPA requires? The reason I'm asking this is that currently the natural gas pipeline sits on Cannonball Ranch, which is historically significant to the Standing Rock Sioux Tribe and North Dakota in general. So I'm a little curious if you're following that route, how that's going to be addressed.

Chuck Frey: Yes, we did try and follow existing utility corridors where they existed. I don't know what distance we follow –

Joe Malucci: I'm not certain which pipeline you're referring to. Is it Northern Natural?

Terry Clouthier: I think so, yeah.

Joe Malucci: We do follow it for a little bit in Morton County, just north of it.

Terry Clouthier: All right. Also on the same page, “currently conducting civil wetland threatened endangered species and cultural resource surveys to identify sensitive areas to avoid.” You heard from my boss, Wasté Win Young that we haven't been involved in identification efforts with the Army Corps throughout numerous projects throughout our ancestral territories. So I'm curious right now what's the tribal participation on these projects because I know Mergent is the contracting company for you guys. I know that they're currently hiring archeologists, but I'm also curious on where

they are and where you guys are in terms of tribal participation on these projects.

Chuck Frey: That I'm going to have to get back with you. I don't know specifically. I know we have availed ourselves of all the available public information that the state has in trying to overlay that with our maps to have that shown as points to avoid, and then the actual physical guys on the ground walking, looking for any evidence of culturally significant sites. And I guess I'll ask – you mentioned a couple of spots when – previous discussion. And do you all have maps or anything that denotes such areas? Or is that available in contacting someone with the tribe?

Terry Clouthier: It's generally not available, but you can talk to our office about our issues and concerns with your pipeline route. We do know, we do have traditional knowledge and oral history of a lot of these areas. In particular, as Wasté Win mentioned, some of the story that she had just conveyed in terms of the exact area where you're intending to cross. And that we don't give out publicly, but we will talk about it privately. The other subsequent question to that, you mention that people are surveying. What exactly is being surveyed? Is it just jurisdictional boundaries of the Army Corps? Or are you guys surveying 100 percent of your pipeline route?

Chuck Frey: We're surveying the entire pipeline route. We're surveying, doing a centerline survey for the proposed route. And we're surveying

property boundaries of all the landowners whose property is crossed by the pipeline and adjacent property owners.

Terry Clouthier: Okay. Sorry, I'm just writing this down. How large is your right-of-way – 150 feet, 300 feet?

Chuck Frey: The permanent easement is planned to be 50 foot in width, and the construction easement will generally be 150 foot in width.

Terry Clouthier: Additionally, do you have access to all of this land, or are you guys going to be doing eminent domain on any of it to get access? Has there been any resistance to your pipeline crossing individuals' lands?

Chuck Frey: Right now we're in the process of getting the survey permissions and finalizing the route via the surveys that are performed. We haven't – we have just started the process of talking to individual landowners about easements. And our plan, desire, and the way we're focused on doing these projects is to avoid the use of eminent domain.

Terry Clouthier: Thank you. Going to your summary, "100 percent domestic-produced crude to support 100 percent domestic consumption." I'm kind of shocked you guys put that in there, to be honest.

Chuck Frey: Why is that?

Terry Clouthier: Because there's no way that it's going to be consumed strictly within the United States. You have no control over what your shippers do with that crude oil. And in fact it's heading down south, where it's got easy access for shipping to Europe, where the profits are generally greater. The United States exports more crude oil than any other place right now, so I'm a little confused.

Chuck Frey: That's not an accurate statement. Federal law prohibits the export of crude oil.

Terry Clouthier: It's being refined down at the refineries down in –

Chuck Frey: Refined products can be exported. Crude oil cannot be.

Terry Clouthier: But that's the intention is you're shipping this to Patoka for refineries in Patoka. And at the refineries, it says that right in your announcement, it's being refined at the Gulf Coast and Patoka, which generally means it's likely used for export. It's the same as saying Keystone XL isn't going to be exported, which we all know it is.

Chuck Frey: Currently the U.S. imports, the United States imports about 7.5 million barrels of crude oil. And so any additional production we have out of the Bakken would tend to reduce the amount of crude oil that's imported into the U.S.

Terry Clouthier: And yet it's been producing since 2008 on the levels that it's been doing it at, and there's still been no reduction in terms of your imports in the United States. So I'm not going to get into an argument, but I just – I'm kind of shocked that that's in there. "Additionally reduces truck and rail utilization, which increases overall safety to the public and environment." Rail use will continue unabated, regardless of the number of pipelines that are created because the number of barrels per day continues to increase. It's not going to see much of a deficit in terms of rail use, just by one pipeline – or three pipelines, for that matter. If it was, you'd see Warren Buffett investing more in pipelines as opposed to rail, which he continues to invest in.

Wasté Win Young: I have a question. If there are resources that are identified on the route, what is the plan for possible reroutes or avoidance of those resources?

Chuck Frey: The line, we will reroute as necessary for threatened endangered species and cultural resources. We work with the federal agencies, I don't know if that's the Corps or others in that regard, but work with the agencies on their databases, and we'll have the protocol in place with the contractor, if they come across a cultural resource in their construction activity as to who they have to notify and what takes place, that they don't continue to construct. So that'll be addressed in the contractor's contract.

Wasté Win Young: Okay. The tribe is the only one in possession of the maps for Sioux County. And in our site files and our map room upstairs we have records that stay here that are our site files. And so if there is an existing, let's say the village site that I refer to, it's existing and goes into Morton County, how will that be addressed as a potential impact, adverse impact to that resource?

Chuck Frey: Is it possible for someone to work with the tribe to be able to look at those maps with you?

Wasté Win Young: Mergent, our point of contact at Mergent, [Peggy Bowden], she put us in charge, put us in contact with one of the crew chiefs for the project or the environmental assessment. So he did call us, but that's a conversation that we need to talk more with our committee and Tribal Council about.

Chuck Frey: Okay. If you're willing to share the information that you have, or some of the information that you have, we will take that information and utilize it in our routing process.

Wasté Win Young: Okay, thank you. One more comment that I have is that the Northern pipeline that crosses at Morton County, the Missouri there, that pipeline has been – I'm not sure the exact date that it was constructed. Do you guys know that?

Female Voice: In '81.

Wasté Win Young: 1881?

Female Voice: 1981.

Wasté Win Young: 1981, okay. So the '92 amendments to the National Historic Preservation Act were passed in 1992, and that was before the tribes had the right to consult on the project. So I think it would be really important for you guys to have tribal participation or request to work with the tribes on that because it was built before the tribes had a voice in the process.

David Archambault: And also that we ask that you consult with us [unintelligible]. Also we ask that you consult with Standing Rock because we do have the expertise, and we do have knowledge of where the sites are. There are tribes that claim they know what sites are. But because these are – we're talking about – the entire area that you're trying to take the pipeline through crosses our treaty boundaries and where we existed before anybody. And so we have significant sites, and we know what they are, and we're always trying to educate people about the sites.

So if we know exactly where your pipeline is, we could help you and identify what is there. But that's where we have to work together. And that's why I thank you guys for coming to – this has never been done before, where XL Pipeline, they just routed it. They had no communication with tribes prior. There was no communication with – we have seven, we call it Oceti Sakowin, the

original tribes that were in this area. So by you coming and trying to understand what our concerns are, what our questions are, what laws apply, if the 1981 pipeline that crosses north of the Cannonball River, if the 1992 law was in place, we could have showed where there's a significant site to our ancestors, to us, and to future generations. We could have let them see what exists there.

And it's still there today, even though you can look on a map, you can look on googlemaps.com satellite images where the pipeline crosses north of the Cannonball, 1,500 feet or 2,500 feet there's an existing – you can see where it's been dredged. You can see where the water goes under the river. And it's right beside an island that was important to us. So that's within our right of way. So it's really important that you communicate with Standing Rock right now. That's what we're asking you here. So any future plans on routes or anything, you should come to Standing Rock and the other tribes. That's our ask for you.

What I want, I had a couple councilmen that had their hands up to ask questions. I have Randy, Avis, and Phyllis. Are there any other council that have any comments or questions? Okay, I'll let Randy, Avis, then Phyllis. Randy's over there.

Randal White: Good morning. First of all, I just want to say that you're talking about consultation. I mean, to me, when you have the stakes laid out, to me, I mean, it's not consultation because the plan's already done. And to me, that's really wrong. The other concerns I have is

we talk about refineries and oil. A year ago in North Dakota, we're all native North Dakota, people were paying \$5.64 for propane, up to \$6.25. Where were the people that were pumping all this refinery oil out of here, when people from North Dakota are having hard times? And a lot of times I don't – I proposed that to our senators, and I said, "Why do we have a refinery, when I can go to Rapid City, South Dakota and get \$0.24 cheaper gas, or go to Fargo and get – what is that refinery doing here for North Dakota?" To me there's only a few people that are getting rich off it, and it surely ain't the people from North Dakota.

So I just wanted to make those concerns because a lot of us live here, and we have to pay that high propane cost. And a lot of times I know we address it. So I just wanted to make that put on the record because, I mean, that's – a lot of our people don't have that money to pay \$5.64 or \$6.25 for propane. That's a lot. So I just wanted you to take that back and tell all these billionaires, I mean, these are lives that are north of Cannon Ball, that's a lot of our family that they're going to – but I just wanted to make that a matter of record, Chairman.

David Archambault: Thanks, Randy. Go ahead, Avis.

Avis Little Eagle: Phyllis.

David Archambault: No, I have Randy, Avis, and then Phyllis.

Avis Little Eagle: Oh, I thought Phyllis was before me. But thank you. I guess I'm like the chairman. I thank you for coming. But some of the things that I was concerned with is the participation of our THPO. I think they really have to participate in the monitoring of those sites, cultural sites. You said they are out there walking the ground now. That's been a standard, I guess, a sore spot with the states of North Dakota and South Dakota is that they really don't have a lot of that information about cultural sites within our reservation.

We have that, I guess, historical knowledge here on the reservation that they have. A lot of it, some of it, I should say, is not written down. So it really is going to take some tribal participation. You ain't going to get a map with it marked out. A lot of it's in our oral histories. And the knowledge is kept there in the Tribal Historic Preservation Office. So there's got to be a way for this tribe to participate because you're going to miss something.

And then I understand – I want to let you know that yesterday the Standing Rock Tribal Water Control Board passed a motion to oppose those two pipelines – actually it's going to be by resolution – and the reason being is that we do monitoring of our waters out here on the reservation. We test them and everything. And we have intakes in the Missouri River. And we utilize that water for consumption on this reservation. And that's going to be a major concern for us is the contamination of the water. They all leak. No matter what, every oil pipeline leaks. And we're going to end up contaminating our water.

And one of the uses is beneficial use. I think Phyllis is going to highlight some of that because she really keyed into it for us here on Tribal Council. One of the uses we have is beneficial use, and that means that we consume the water. We're really worried about it being contaminated for us here now, that use it now, and our future generations. It's a great fear that we have. They all leak, no matter what. It's going to happen, and it's going to ruin that water that we consume and that future generations are going to consume. So they passed the Water Control Board, and it'll come before this council. And we'll probably be coming forth with a resolution opposing it.

David Archambault: And the Tribal Council already has a –

Avis Little Eagle: Previous resolution.

David Archambault: – resolution [unintelligible].

Avis Little Eagle: Which – previous pipelines. I guess that's what I wanted to stress there, that we have [unintelligible] rights on all the waterways in our aboriginal territories. And we do use the water, so that would be our biggest fear is that it's going to be contaminated. So that's all I wanted to mention is what action the Water Control Board took yesterday.

David Archambault: Okay. Thanks, Avis. Go ahead, Phyllis.

Phyllis Young: Mr. Chairman, for the record, we have a quorum.

15 Statutes, 635 is ratified by the Congress of the United States. As a council member of this tribe, I am bound by my oath of office to uphold that statute. Article 11 says anything that comes through Indian country has to have an assessment and damages. In this case, it's subjective assessment. This tribe has adopted a Social Impact Assessment which is a methodology that is not recognized by the United States; it does no such measurement of the damages to communities at that level. The United States almost did it when Exxon Valdez happened to the Tlingit Village in Alaska. It almost adopted a methodology. It didn't happen. So we adopted our own. It's called the SIA. It is a methodology that every person, company, and the United States is bound to recognize. And that's the impacts.

You know we have survived incredible odds. You must know that we are Sitting Bull's people. You must know who we are. And we sit on a previous military fort, and we have survived that. And we have rebuilt on what was taken from us. We survived Wounded Knee, a massacre. We are survivors. We are fighters. And we are protectors of our land. And if that Social Impact Assessment can protect this homeland for seven generations, then perhaps we could look at a proposal from any company.

But we realize we are in a national sacrifice area. We have always been. The Black Hills are part of our territory. National sacrifice so America could take the largest goldmine and take all the gold from

our people. We have about \$5 billion in the Treasury that we did not take for payment of that gold. We're a national sacrifice area. We were the number one military zone. They nationalized our airspace to protect this country.

And in my lifetime, a national sacrifice area to build the dams so that there could be hydropower and revenue in the national interest for this country; and taking my home, flooding it, in the middle of a cold winter. I know what it is to be homeless. I know what it is to be hungry in this great land of plenty, where we lived in the richest riverbed in the world.

So it's nothing for you to come and say we want to do this. We want to be friends with you. But Section 106, what the National Historic Preservation Office has addressed is ancestral territory. It was very astute for you to go around the northern boundary of Standing Rock as we see it in modern times. This is treaty territory. Those are ancestral lands. Fifty yards, a hundred miles north is treaty territory. So you are bound by Section 106, by the laws of this country, to adhere to those laws that are federal laws for the protection of our people. So it wasn't very, very cool to go just 50 feet north of our boundary.

You need to know also that there has been a \$5 million claim filed on the Bakken, \$5 million a day for what's going on in the Bakken in treaty territory. That's been filed in 2007. So we are not stupid people. We are not ignorant people. Do not underestimate the

people of Standing Rock. We know what's going on, and we know what belongs to us, and we know what we have to keep for our children and our grandchildren.

In 15 Statutes, 635 we are also keepers of the Missouri River to the east bank. To the east bank. That's statutory. And the Army Corps of Engineers, in all of their underhandedness and their control they think they have of this river, is our territory. You mention nothing about the water. You don't want to infringe on native lands, but our water is our single last property that we have for our people. And water is life: Mni Wiconi.

You as a human being cannot drink oil. You need the water to survive. Seventy-five percent of our body is water. We believe in the natural systems that we have. We have fought for that. We have sacrificed for it. And we're still waiting for the compensation for the building of the dams. We are still owed, on the construction of those dams, \$339 million. That's probably a drop in the bucket for your oil company. We're still owed for the actual revenue that comes off of it.

We are owners of 13 percent of the hydropower on that river. How do you separate it? How are you going to separate the oil from the water when it's contaminated? How are you going to do that? Only the creator can do that. Maybe in your high technology you think you can. But this is our property. This is our homeland. And we are protected by statute. There is statutory law that has to be changed.

And let you know that we did go on record to sue Keystone XL Pipeline to stop it. And we are going before the Public Utilities Commission in South Dakota because they have to redo their licensing process. And we will do whatever we have to do to stop this pipeline, as we do 55 other pipelines proposed in North Dakota. Dakota. North Dakota. [Lakota language] Dakota. I'm Dakota. Dakota means "friend and ally." This is Dakota territory. This is treaty territory. This is where you agreed not to come into my territory. We signed a treaty of peace that you would not come here. The state of North Dakota and South Dakota, they filed an enabling act to join the Union of the United States, that they would not interfere in the affairs of the people who lived here. And that was upheld by the Supreme Court of the United States in 1964. So we have put on our best. We will put our best warriors in the front. We are the vanguard. We are Hunkpapa Lakota. That means the "horn of the buffalo." That's who we are. We are the protectors of our nation, of Oceti Sakowin, the Seven Council Fires. Know who we are.

We will put forward our young people, our young lawyers, who understand the weasel words now of the English language, who know that one word can mean seven things. We understand the forked tongue that our grandfathers talked about. We know about talking [about] both sides of your mouth, smiling with one side of your face. We know all the tricks of the Wasi'chu world. Our young people have mastered it.

I have mastered your language. I can speak eloquently in the English language my grandmother taught me. But I also know the genetic psyche. And I also have the collective memory of the damages that have occurred to my people. And I will never submit to any pipeline to go through my homeland. [Lakota language]

David Archambault: Go ahead, Ron.

Ron Runner: One comment that I want to say is 2,500 feet's too close. There is a refinery in Mandan. So why can't you bring your pipeline to there, work with those people, and bring it down through Bismarck, across the river, whatever, follow that interstate highway system? I mean, that's there; you know? That's my comment.

David Archambault: Okay. Are there any other comments or questions? If not, then we're going to move on. We're going to take a break. And I just want to thank you for coming down and sharing the information with us. Like I said, it's never been said before. And with our position, we know that we can live without oil. We know that we can live without money. But we can't live without water, so we're always doing what we can to protect that, and also to protect our culture sites.

Chuck Frey: Well, we thank you for having us. If there's any time that you or other members of council would want to have any description of some of the monitoring safety programs that we have in place to ensure that we operate the pipeline safely and that there are not

leaks from the pipeline, we'd be glad to share that information with you.

David Archambault: Okay. Thank you. Now, we'll recess until 1:00 o'clock.

Tammy Ibach: Thank you.

David Archambault: Okay.

[End of recorded material]