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Iowa Utilities Board issues pipeline permit

Board finds Dakota Access in compliance with its March 10 order

(Des Moines) – The Iowa Utilities Board has found that Dakota Access has substantially complied with the requirements of the Board’s March 10, 2016, order and has issued a hazardous liquid pipeline permit to Dakota Access, LLC, in Docket No. HLP-2014-0001. With its decision today the Board also issued an “ORDER ACCEPTING COMPLIANCE FILINGS AND ISSUING PERMIT.”

However, Dakota Access has made certain commitments that must be completed before construction can commence. Consistent with the company’s own commitments, construction may not commence until certain documents are filed with the Board. Dakota Access has committed that it will file with the Board permits and approval documents from the U.S. Army Corps of Engineers and Iowa Department of Natural Resources prior to commencing construction. The company has also committed to file final versions of the Storm Water Pollution Prevention Plan and Unanticipated Discovery Plan prior to commencing construction.

The Board ruled that Dakota Access may continue to engage in environmental staking and clearing trees and shrubbery with hand-held tools, but only on parcels where all of the following conditions are true: (a) Dakota Access has a voluntary easement; (b) Dakota Access has received permission from the landowner to engage in these activities; and (c) Dakota Access has given the county inspector for that county and the landowner reasonable advance notice of the timing and location of the activities.

In today’s order, the Board reviewed the compliance filings and the comments filed by the parties that were required in the Board’s March 10, 2016, order. As described in that order, the compliance filings are required in order to support and sustain the Board’s finding that the proposed pipeline will promote the public convenience and necessity, as required by Iowa Code § 479B.9. The compliance filings provided by the parties included, but were not limited to:

- A revised Agricultural Impact Mitigation Plan (AIMP);
- Proof of general liability insurance in the amount of at least \$25 million;
- Unconditional and irrevocable parent company guarantees of Dakota Access for remediation of damages from a leak or spill;
- A timeline showing the construction notices that will be given and describing the information to be included with the notices;
- Modified condemnation easements; and
- A statement accepting the terms and conditions of the Board’s March 10 order.

(More)

With today's decision, the Board ordered:

- Pursuant to Iowa Code chapter 479B, the permit for a hazardous liquid pipeline requested by Dakota Access is issued.
- Pursuant to Iowa Code § 479B.13, Dakota Access is vested with the right of eminent domain to the extent necessary and as prescribed and approved by the Board, as shown on the revised Exhibit H documents filed in the record of this case.
- Within seven days of the date of today's Board order, Dakota Access must file for the record:
 - a. A final revised AIMP incorporating the ministerial changes described in the order;
 - b. A final description of the notice timeline incorporating the ministerial change described in the order; and
 - c. A final set of condemnation easement descriptions incorporating the ministerial change described in the order.
 - d. A revised statement of easement rights for parcel H-LE-28 with all vegetation trimming rights removed (except in the case of an emergency).
 - e. A list of the county inspector or inspectors for each county, with contact information.
- Those landowners for whose property that revised Exhibit H documents were filed on April 5, 2016, may file comments on those documents within seven days of the date of today's Board order.
- Dakota Access must file its permit, approvals, or other authorization from the U.S. Army Corps of Engineers as it agreed to do in its Reply Brief, filed February 2, 2016.
- Dakota Access may continue to engage in environmental staking and clearing trees and shrubbery with hand-held tools, but only on parcels where certain conditions are met.
- Within 180 days after completion of the construction of the new pipeline, Dakota Access must file maps that accurately show the location of the pipeline as constructed. The map will be part of the record in this case and will represent the final route as authorized by the permit.
- The Board retains subject matter jurisdiction of this docket for purposes of receiving and acting upon such additional filings as may be appropriate.

Due to the potential for the Board's involvement in rehearing and/or judicial review, the Board Members will not have any additional comments in relation to today's order.

Today's Board order is available on the Board's web site at <https://iub.iowa.gov>. All documents in this case are found in the Board's Electronic Filing System at <https://efs.iowa.gov/efs/>.

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