

PREFILED TESTIMONY
OF
FAITH SPOTTED EAGLE

Docket No. HP14-001

IN THE MATTER OF THE APPLICATION OF TRANSCANADA KEYSTONE
PIPELINE, LP FOR ORDER ACCEPTING CERTIFICATION OF PERMIT ISSUED
IN DOCKET HP09-001 TO CONSTRUCT THE KEYSTONE XL PIPELINE

1. Please state your name and you home address.

A. My name is Faith Spotted Eagle. My home address is Box 667, Lake Andes, SD, 57356.

2. Are you a member of the Yankton Sioux Tribe or any other tribe?

A. I am an enrolled member of the Yankton Sioux Tribe.

3. What is your occupation or what kinds of work do you do?

A. Private consultant in PTSD Counseling for veterans and veteran's organization; Trainer/facilitator in Historical Trauma for all populations; school certified counselor work in schools, Dakota Language teacher, Manager of Brave Heart Lodge in Lake Andes.

4. Please describe your educational background and professional experience.

A. I have an MA in Educational Psychology and Counseling from USD, Vermillion, SD. I have held professional positions as a teacher, counselor, principal, manager of Human Service Programs, Family and Individual therapist, Grantwriter and currently am Chair of the Ihanktonwan Treaty Committee.

5. Did you provide a copy of your resume?

A. I have attached a biography, it is Attachment A.

6. On whose behalf was this testimony prepared?

A. This testimony was prepared on behalf of the Yankton Sioux Tribe.

7. Do you currently hold any positions with the Yankton Sioux Tribe?

A. I am an elected official by the General Council to be on the Ihanktonwan Treaty Committee and serve as the Chair for that body.

8. Please state the purpose of your testimony in this proceeding.

A. The main objective of the Yankton Sioux Tribe through this testimony is to provide information to the South Dakota Public Utilities Commission that the Applicant does not continue to meet all conditions upon which the permit was issued including violations of treaties, socio-cultural threats, and threats to safe drinking water, in particular reference to the potential coming of man camps which presents a safety conference of an at risk population already threatened by violence.

9. Please describe the professional work you conduct in the areas of historic trauma, cultural violence, socio-cultural violence.

A. I am a facilitator/trainer for the Tucson, VA for the purpose of assisting staff and veterans recover from Post-Traumatic Stress Disorder; along with serving as a consultant recovering from historical trauma and oppression all across the US and Canada. Some of these communities are Ponca Nation in NE; Spirit Lake Community in ND; Crow Creek Community in SD; Eepay Band/Rancheria in California; Tsu tina Nation near Calgary, Canada, among many others. I work with communities in developing strategies to stop "girl on girl" aggression, relationship violence and sexual and physical violence. As a grandmother of Brave Heart

Society we are responsible for the safekeeping of the environment, the water, safe communities and sacred sites.

10. Through you work in these areas, have you specifically organized gatherings to discuss concerns related of “man camps” or “construction camps” and their effect on the well-being of the communities surrounding these camps?

A. Yes. In August of 2013, the Brave Heart Society and the Treaty Committee organized and hosted the only conference that I know of to mobilize allies against the coming of man camps via KXL PIPELINE. Out of this gathering, strategic directions were developed to stop this threat in order to keep our communities safe.

11. Would you describe who attending those gatherings?

A. Our conference was attended by the US Attorney's Office out of Sioux Falls, SD. In fact Brendan Johnson was one of our speakers. Other attendees were women's shelters combatting sexual and physical violence from SD and ND. Also attending were recovering persons from sex trafficking situations. Treaty Councils, Tribal Council Members, Nebraska Bold and NEAT also attended, which are comprised of landowners and farmers. Many grassroots organizations like Dakota Rural Action and many others attended.

12. What information would you like to convey to the South Dakota PUC as a result of those gatherings?

A. It is frightening to think that no fore planning has been done to even recognize what happens when man camps are plopped into rural communities where wide gaps exist in law enforcement further impinged upon by cross-jurisdictional problems between reservation and state areas which are long standing issues. The Bakken experience proves that even non Natives are at risk. Many tribes do not have tribal/state agreements in order to handle cross jurisdictional major crimes. Mr. Johnson stated he could do nothing in the way of prevention until a crime occurred. We will not sit and wait for crimes to occur with close to 1800 men coming to treaty and unceded territory.

13. What specific information did you learn about the increase in police resources needed to address the increased crime that results from the placement of man camps near communities?

A. At our conference we had speakers and specialists who spoke of the impact of man camps near rural communities, in addition to the Bakken Range. Some of the speakers were from the Williston area. We also work with recovering sex workers who have first-hand knowledge.

14. What would you like the South Dakota Public Utilities Commission to know regarding anticipated increase in crime?

A. The Commission should anticipate a surge in crime, especially violent crime, in the communities near the man camps and not deny the fact that the current national statistics regarding Native people indicate that 3 out of 5 Native women will be raped in their lifetimes. I myself am a sexual abuse survivor and know that story well. As members of border towns, we are no strangers to violence. I can give details of an attack.

15. Have you reviewed Figure 2.1.5-1 entitled “Proposed Temporary Construction Camps”, attached hereto as Attachment B?

A. Yes.

16. What does this document depict?

A. From my understanding, it depicts the proposed locations of the Applicant’s man camps in South Dakota and Montana.

17. Are there any proposed man camp location(s) near the Yankton Sioux Reservation?

A. Yes, according to Attachment B, there is one proposed man camp to be located in Southeastern Tripp County. This location is equi-distant between the Rosebud Sioux Reservation and the Yankton Sioux Reservation, however, it is closer to the Yankton Sioux Reservation when traveling by vehicle.

18. What is your specific experience with the inhabitants of these man camps?

A. Man camps are inhabited by young and single men who are suddenly away from their families, spouses, and have the financial means to use and abuse illicit drugs. The result is easy to predict and does not require any scientific analysis – these young men, unfortunately, increase the crime rates including violent crimes, sexual crimes, and drug-related crimes. It is common sense that these men will need recreational outlets and will seek these at nearby casinos, including ours.

19. Why does this scenario especially troublesome for you and the Yankton Sioux Reservation?

A. Because the Yankton Sioux Tribe’s Fort Randall Casino and Hotel will be the closest large-scale entertainment center that offers a large selection of gaming, evening entertainment, bar and restaurant, and hotel in one place. I strongly believe that there will be undesired consequences that negatively and directly impact the Tribe’s socio-cultural as well as surge violent crime rates on an already overburdened police force.

20. Do you have jurisdictional concerns related to this point?

A. Yes, the nature of a tribe’s criminal jurisdiction is that it does not have criminal jurisdiction over crimes committed by non-Indians against Indians on the reservation. Even with the Congress’ passage of the Violence Against Women Reauthorization that allowed for expanded jurisdiction in certain circumstances, the reality is that the Yankton Sioux Tribe has not implemented VAWA. Even assuming it had, VAWA still requires the non-Indian perpetrator to be in a domestic relationship and have a tie to the reservation for the tribe to exert jurisdiction over the non-Indian.

21. What is the source or sources of your drinking water?

A. Lake Andes is a community that gets our water from the Missouri River.

22. Do you participate in ceremonies that involve the use of water?

A. All of our ceremonies are partaken with the existence of water presence. Our community sundances and other ceremonies are adjacent to the Missouri River.

23. What is the source or sources of water for those ceremonies?

A. The Missouri River.

24. In addition to the work you have already described, what other work do you do?

A. I am a member of the Tribe's governing body, its General Council, which consists of all adult members of voting age. I am also the Chairperson of the Ihanktonwan Treaty Steering Committee, which is appointed by the General Council. I am also a member of the Elder group and the Head of a revived Traditional Society, the Brave Heart Society which watches over sacred sites and burial sites.

25. Can you please explain the nature and purpose of the Ihanktonwan Treaty Steering Committee?

A. To oversee the protection of all treaty lands from depredation, exploitation and enforce the reason for the treaty.

26. Please describe the treaty you are referencing.

A. The 1851 Treaty of Fort Laramie is a binding peace treaty signed among the Dakota, Nakota, and Lakota and the United States to establish peace and identify boundaries for land to be used exclusively by the tribes who are signatories to that treaty

27. Please take a look at this document (Attachment C). Can you identify this document?

A. Yes, that is a copy of the 1851 Fort Laramie Treaty.

28. I'd like to show you A MAP that was provided by Keystone (Figure 2.1.1-2, FSEIS) (Attachment D). This is a map from Keystone that shows the planned route of the proposed pipeline project. What can you tell me about this map (Attachment D), of the pipeline route, compared with the Ihanktonwan Treaty Territory as defined by the 1851 Fort Laramie Treaty?

A. The proposed pipeline route clearly cuts corner-to-corner through our Treaty Territory.

29. Has the Ihanktonwan Treaty Steering Committee ever addressed the possibility of this proposed project being constructed?

A. Yes, this project has been of great concern to us as a Treaty Committee.

30. Why was this a concern to the Treaty Committee?

A. Because as that map demonstrates, the pipeline would trespass right through Treaty Territory guaranteed by the Fort Laramie Treaty as well as additional lands beyond that area that are unceded lands, and we still retain a multitude of rights on those lands based on the treaty that are protected by federal law and that are vital to our cultural, spiritual, and physical survival.

31. Can you describe some of these rights for us?

A. Hunting, fishing, gather medicinal plants, use of the water, burial responsibilities, oversight of sacred sites based on five historical preservation laws of the US that recognize our aboriginal right to protect these pre historical properties.

32. To your knowledge, has the Ihanktonwan Treaty Steering Committee ever given its approval for the construction of the proposed project?

A. No, never.

33. To your knowledge, has the governing body of the Yankton Sioux Tribe ever consented to construction of the proposed project through Ihanktonwan Treaty Territory?

A. No, never.

34. Does this conclude your prefiled testimony?

A. I reserve the right to supplement my prefiled testimony as well as offer additional testimony during the hearing in this case.

Attachment A

BIO FOR FAITH SPOTTED EAGLE

English Name: Faith Spotted Eagle
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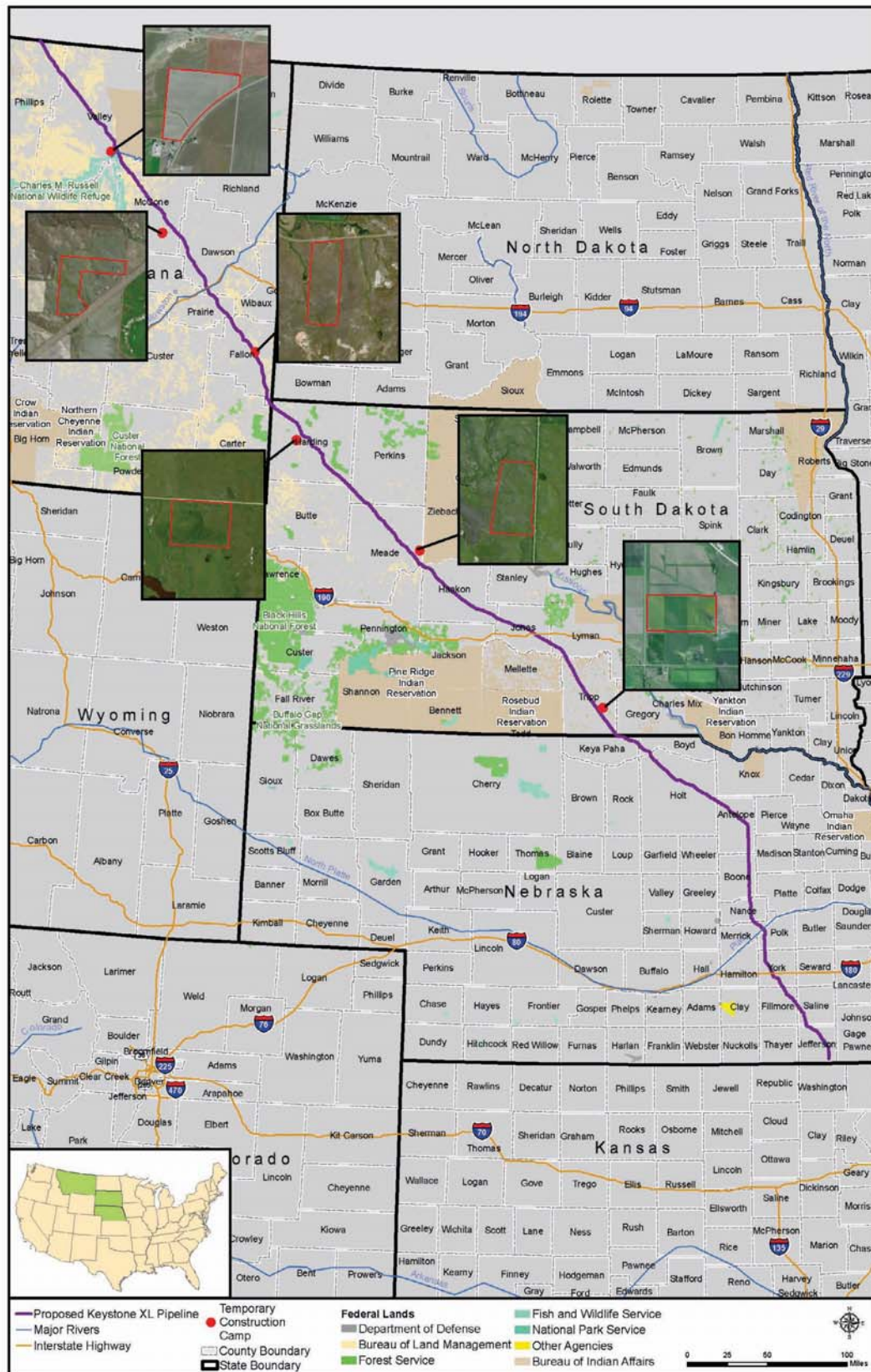
Faith Spotted Eagle is a 65 year old grandmother who lives on Ihanktonwan Dakota Territory (Yankton Sioux) in Southeastern South Dakota. She is a fluent speaker of the Dakota Language and a member of the Ihanktonwan, although she descends from the Sicangu, Hunpati, Hunkpapa and Mdewakantonwan and has French/Irish blood through her grandmother Julia Deloria and John McBride. She has two children. Kip Spotted Eagle is a Dakota Language Instructor and Brook Spotted Eagle is a Ph.D candidate at the University of Washington in Cultural Anthropology. Her new grandson is Tokana Ikpanajin Spotted Eagle.

In the western world, Faith earned a Master's in Guidance and Counseling in her early twenties at the University of South Dakota, although she attended college at American University in Washington, DC and Black Hills State College, Spearfish, SD., also. Throughout her long career she has been a high school counselor/teacher/principal; manager of Human Services Programs and Youth Programs; Indian Child Welfare Worker; Organizational Development Consultant; Teacher in a Psychiatric setting; Peacemaker/mediator; Community College Instructor; PTSD therapist and Community Activist. She was also a women's basketball coach in Idaho. As a young student she was an intern in the office of Sen. Geo McGovern; served as an intern with the National Park Service in Glacier Park, Montana; provided student input to the early development of Talent Search Programs in Chicago, Illinois. She worked with the groundbreaking Coalition of Indian Controlled Schoolboards in Denver, Colorado, the organization which played an important role in returning Native control of schools. She was one of the early instructors at Sinte Gleska College in Rosebud. She did the early work of repatriation and cultural resources work at White Swan in her homeland at Ihanktonwan in a historical Section 106 foreclosure on the Corps of Engineers for disrupting a burial grounds. She works in Native communities with her model Healing from Red Rage, which has been widely used in Native Communities in the US and Canada. She also contracts with the Veteran's Administration utilizing this model. She is a trained mediator/peacemaker and incorporates traditional peacemaking with western approaches of peacemaking. Her priority is the preserve the good medicine of the Dakota Culture for the future.

In the Dakota/Native world, she has been active in teaching the Dakota language in language nest settings; been a 20-year member of a revived traditional Brave Heart Society; comes from a Sundance family; and has helped revive the Isnati Awicadowanpi (Coming of Age Ceremony) for the last 18 years across the Seven Council Fires. Her Red Rage Model has been utilized in the Brave Heart work. She has been active in leading resistance against Tar Sands Development and the KXL Pipeline. As the Chair of the Ihanktonwan Treaty Committee and Brave Heart

Society Grandmother , she helped bring forth the International Treaty to Protect the Sacred against the KXL Pipeline and the Tar Sands. She is the volunteer Manager of the Brave Heart Lodge on the Ihanktonwan Reservation, which seeks to preserve Dakota cultural beliefs for the future. Brave Heart recently cooperated with other entities to revive Lacrosse/shinny in the Ihanktonwan homelands. She has been a delegate of the Treaty Committee NGO at the United Nations. She is the current Chair of the Ihanktonwan Treaty Steering Committee. She helped create an important cultural survey of Ihanktonwan lands along the Missouri River in South Dakota and other Treaty lands. Her priority has been to battle for the preservation of Sacred Sites through Brave Heart Society support of the World Peace and Prayer Day, represented by Bundlekeeper, Arvol Looking Horse. She will be a featured speaker at World Peace and Prayer Day in June of 2014 in New York.

Attachment B



Source: Esri 2013, exp Energy Services, Inc. 2012b

Figure 2.1.5-1 Proposed Temporary Construction Camps

Attachment C

TREATY OF FORT LARAMIE

September 17, 1851

Articles of a treaty made and concluded at Fort Laramie, in the Indian Territory, between D. D. Mitchell, superintendent of Indian affairs, and Thomas Fitzpatrick, Indian agent, commissioners specially appointed and authorized by the President of the United States, of the first part, and the chiefs, headmen, and braves of the following Indian nations, residing south of the Missouri River, east of the Rocky Mountains, and north of the lines of Texas and New Mexico, viz, the Sioux or Dahcotahs, Cheyennes, Arrapahoes, Crows, Assinaboines, Gros-Ventre Mandans, and Arrickaras, parties of the second part, on the seventeenth day of September, A.D. one thousand eight hundred and fifty-one. (a)

ARTICLE 1. The aforesaid nations, parties to this treaty, having assembled for the purpose of establishing and confirming peaceful relations amongst themselves, do hereby covenant and agree to abstain in future from all hostilities whatever against each other, to maintain good faith and friendship in all their mutual intercourse, and to make an effective and lasting peace.

ARTICLE 2. The aforesaid nations do hereby recognize the right of the United States Government to establish roads, military and other posts, within their respective territories.

ARTICLE 3. 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.

ARTICLE 4. The aforesaid Indian nations do hereby agree and bind themselves to make restitution or satisfaction for any wrongs committed, after the ratification of this treaty, by any band or individual of their people, on the people of the United States, whilst lawfully residing in or passing through their respective territories.

ARTICLE 5. The aforesaid Indian nations do hereby recognize and acknowledge the following tracts of country, included within the metes and boundaries hereinafter designated, as their respective territories, viz;

The territory of the Sioux or Dahcotah Nation, commencing the mouth of the White Earth River, on the Missouri River; thence in a southwesterly direction to the forks of the Platte River; thence up the north fork of the Platte River to a point known as the Red Butts, or where the road leaves the river; thence along the range of mountains known as the Black Hills, to the head-waters of Heart River; thence down Heart River to its mouth; and thence down the Missouri River to the place of beginning.

The territory of the Gros Ventre, Mandans, and Arrickaras Nations, commencing at the mouth of Heart River; thence up the Missouri River to the mouth of the Yellowstone River; thence up the Yellowstone River to the mouth of Powder River in a southeasterly direction, to the head-waters of the Little Missouri River; thence along the Black Hills to the head of Heart River, and thence down Heart River to the place of beginning.

The territory of the Assinaboin Nation, commencing at the mouth of Yellowstone River; thence up the Missouri River to the mouth of the Muscle-shell River; thence from the mouth of the Muscle-shell River in a southeasterly direction until it strikes the head-waters of Big Dry Creek; thence down that creek to where it empties into the Yellowstone River, nearly opposite the mouth of Powder River, and thence down the Yellowstone River to the place of beginning.

The territory of the Blackfoot Nation, commencing at the mouth of Muscle-shell River; thence up the Missouri River to its source; thence along the main range of the Rocky Mountains, in a southerly direction, to the head-waters of the northern source of the Yellowstone River; thence down the Yellowstone River to the mouth of Twenty-five Yard Creek; thence across to the head-waters of the Muscle-shell River, and thence down the Muscle-shell River to the place of beginning.

The territory of the Crow Nation, commencing at the mouth of Powder River on the Yellowstone; thence up Powder River to its source; thence along the main range of the Black Hills and Wind River Mountains to the head-waters of the Yellowstone River; thence down the Yellowstone River to the mouth of Twenty-five Yard Creek; thence to the head waters of the Muscle-shell River; thence down the Muscle-shell River to its mouth; thence to the head-waters of Big Dry Creek, and thence to its mouth.

The territory of the Cheyennes and Arrapahoes, commencing at the Red Butte, or the place where the road leaves the north fork of the Platte River; thence up the north fork of the Platte River to its source; thence along the main range of the Rocky Mountains to the head-waters of the Arkansas River; thence down the Arkansas River to the crossing of the Santa Fe' road; thence in a northwesterly direction to the forks of the Platte River, and thence up the Platte River to the place of beginning.

It is, however, understood that, in making this recognition and acknowledgement, the aforesaid Indian nations do not hereby abandon or prejudice any rights or claims they may have to other lands; and further, that they do not surrender the privilege of hunting, fishing, or passing over any of the tracts of country heretofore described.

ARTICLE 6. The parties to the second part of this treaty having selected principals or head-chiefs for their respective nations, through whom all national business will hereafter be conducted, do hereby bind themselves to sustain said chiefs and their successors during good behavior.

ARTICLE 7. In consideration of the treaty stipulations, and for the damages which have or may occur by reason thereof to the Indian nations, parties hereto, and for their maintenance and the improvement of their moral and social customs, the United States bind themselves to deliver to the said Indian nations the sum of fifty thousand dollars per annum for the term of ten years, with the right to continue the same at the discretion of the President of the United States for a period not exceeding five years thereafter, in provisions merchandise, domestic animals, and agricultural implements, in such proportions as may be deemed best adapted to their condition by the President of the United States, to be distributed in proportion to the population of the aforesaid Indian nations.

ARTICLE 8. It is understood and agreed that should any of the Indian nations, parties to this treaty, violate any of the provisions thereof, the United States may withhold the whole or a portion of the annuities mentioned in the preceding article from the nation so offending, until, in the opinion of the President of the United States, proper satisfaction shall have been made.

In testimony whereof the said D. D. Mitchell and Thomas Fitzpatrick commissioners as aforesaid, and the chiefs, headmen, and braves, parties hereto, have set their hands and affixed their marks, on the day and at the place first above written.

D. D. Mitchell
Thomas Fitzpatrick
Commissioners.

Assinaboines:
Mah-toe-wit-ko, his x mark,
Toe-tah-ki-eh-nan, his x mark,

Sioux:
Mah-toe-wha-you-whey, his x mark,
Mah-kah-toe-zah-zah, his x mark,
Bel-o-ton-kah-tan-ga, his x mark,
Nah-ka-pah-gi-gi, his x mark,
Mak-toe-sah-bi-chis, his x mark,
Meh-wha-tah-ni-hans-kah, his x mark,

Mandans and Gros Ventres:
Nochk-pit-shi-toe-pish, his x mark,
She-oh-mant-ho, his x mark,

Arickarees:
Koun-hei-ti-shan, his x mark,
Bi-atch-tah-wetch, his x mark,

Cheyennes:
Wah-ha-nis-satta, his x mark,
Voist-ti-toe-vetz, his x mark,
Nahk-ko-me-ien, his x mark,
Koh-kah-y-wh-cum-est, his x mark,

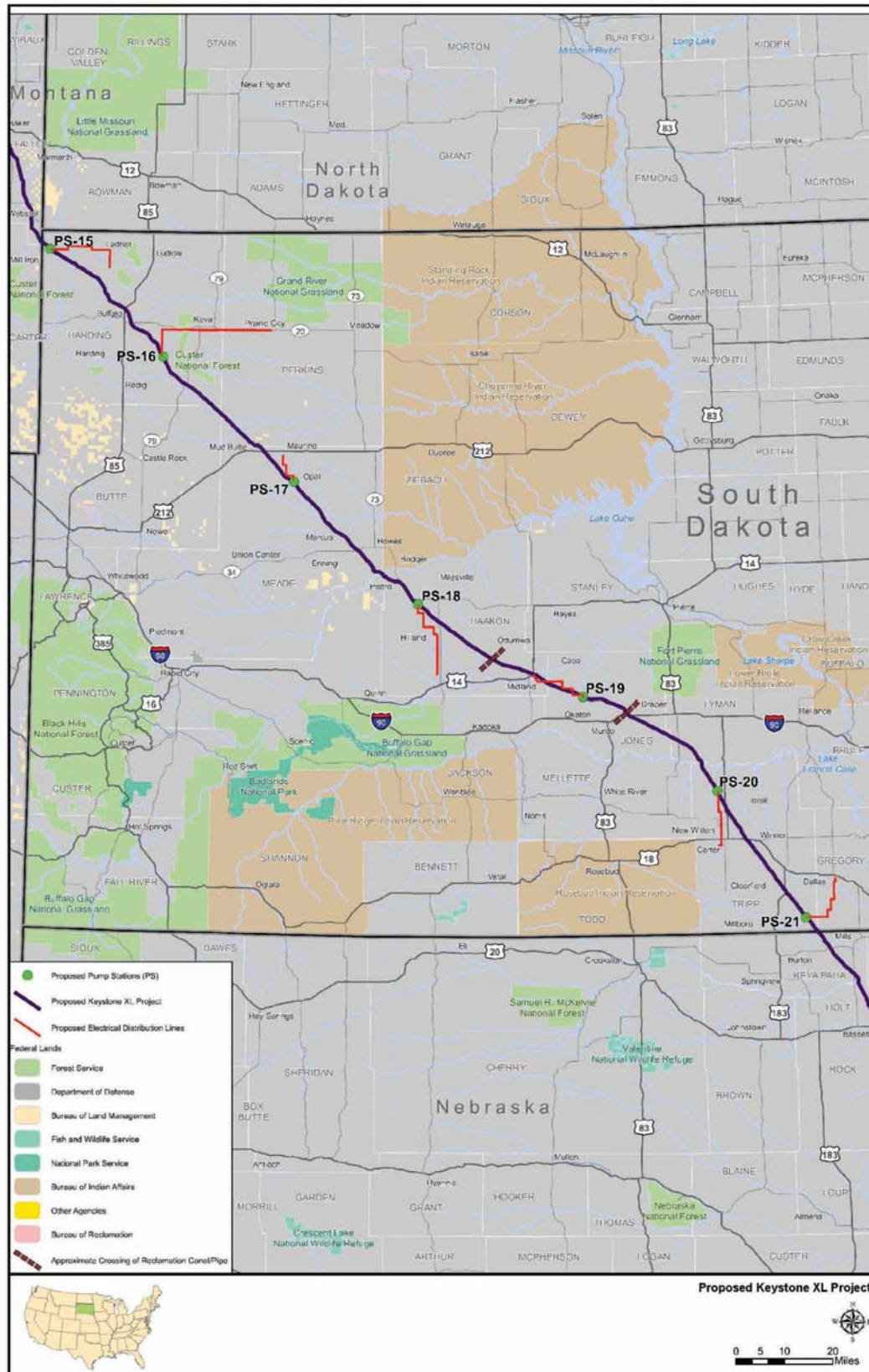
In the presence of---

Arrapahoes:
Be-ah-te,-a-qui-sah, his x mark,
Neb-ni-bah-seh-it, his x mark,
Beh-kah-jay-beth-sah-es, his x mark,

A. B. Chambers, secretary.
S. Cooper, colonel, U. S. Army.
R. H. Chilton, captain, First Drags.
Thomas Duncan, captain, Mounted Rifiemen.
Thos. G. Rhett, brevet captain R. M. R.
W. L. Elliott, first lieutenant R. M. R.
C. Campbell, interpreter for Sioux.
John S. Smith, interpreter for Cheyennes.
Robert Meldrum, interpreter for the Crows.
H. Culbertson, interpreter for Assiniboinés and Gros Ventres.
Francois L'Etalie, interpreter for Arickarees.
John Pizelle, interpreter for the Arrapahoes.
B. Gratz Brown.
Robert Campbell.
Edmond F. Chouteau.

(a) This treaty as signed was ratified by the Senate with an amendment changing the annuity in Article 7 from fifty to ten years, subject to acceptance by the tribes. Assent of all tribes except the Crows was procured (see Upper Platte C., 570, 1853, Indian Office) and in subsequent agreements this treaty has been recognized as in force (see post p. 776).

Attachment D



Source: Esri 2013, exp Energy Services, Inc. 2012b

Figure 2.1.1-2 Proposed Project Overview—South Dakota

Attachment E

Table 2.1-13 Pipeline Construction Spreads Associated with the Proposed Project

State	Approximate Miles by State	County	Spread Number	Approximate Location (Milepost)	Approximate Length of Construction Spread (Miles)
Montana	285	Phillips, Valley	Spread 1	0-90	90
		Valley, McCone	Spread 2	90-152	61.5
		McCone, Dawson	Spread 3	152-198	46.2
		Dawson, Prairie, Fallon	Spread 4	198-289	91
South Dakota	316	Harding	Spread 5	289-411	122.1
		Harding, Butte, Perkins, Meade	Spread 6	411-500	89.7
		Meade, Pennington	Spread 7	500-599	98.4
		Haakon, Jones	Spread 8	599-692	92.9
		Jones, Lyman, Tripp	Spread 9	692-776	83.9
Nebraska	274	Tripp	Spread 10	776-875	99.7
		Keya Paha, Boyd, Holt, Antelope			
		Antelope, Boone, Nance, Merrick, Polk			
		Polk, York, Fillmore, Saline, Jefferson			

Source: exp Energy Services, Inc. 2012a

\CERTIFICATE OF SERVICE

I certify that on this 2nd day of April 2015, a true and correct copy of the Prefiled Testimony of Faith Spotted Eagle on behalf of Yankton Sioux Tribe was filed on the Public Utilities Commission of the State of South Dakota e-filing website. And also on this day, a true and accurate copy was sent via email to the following:

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