

Box 1153
Wagner, SD 57380

(605) 384-3804/384-3641
Fax (605) 384-5687

OFFICERS:
ROBERT FLYING HAWK, CHAIRMAN
JEAN ARCHAMBEAU, VICE CHAIRWOMAN
LEO O'CONNOR, TREASURER
GLENFORD "SAM" SULLY, SECRETARY



COUNCIL:
JASON COOKE
QUENTIN "JB" BRUGIER, JR.
EVERDALE SONGHAWK
JUSTIN SONGHAWK
MONA WRIGHT

July 6, 2015

**STATEMENT FROM THE YANKTON SIOUX TRIBE TO THE SOUTH DAKOTA PUBLIC UTILITIES
COMMISSION REGARDING THE PROPOSED KEYSTONE XL PIPELINE**

Good evening Commissioners. I am here to speak to you today as a member of the Yankton Sioux Tribe Business and Claims Committee. As an elected leader of the Yankton Sioux Tribe, it is my duty to make the concerns of the Yankton Tribal membership known to you. Due to procedural developments in this case, I am disappointed to say that this public input session is the only way many of these concerns can be aired.

I am here despite the fact that the Commission has provided inadequate opportunities for Tribal members to participate and an inadequate process by excluding relevant evidence because this forum is the only forum provided to us to address these issues. This is par for the course, unfortunately, when it comes to outside governments' treatment of indigenous people. And this is something that must change for the PUC's proceedings to provide due process to all South Dakotans.

Any time our rights are at stake, it is first necessary to consider the treaties that apply. The Yankton Sioux Tribe is a party to the 1851 Fort Laramie Treaty, which sets aside nearly all land west of the Missouri River as Treaty Territory for the signatory tribes. Because the proposed Keystone XL pipeline route passes through South Dakota west of the Missouri River, this means that nearly all of the proposed project in South Dakota would exist on Treaty Territory reserved for the Yankton Sioux Tribe and other bands of the Oceti Sakowin. The interests we have in that land did not disappear when the land was taken from us in violation of the Treaty. Federal Courts have repeatedly held that even when a reservation has been diminished, a tribe continues to retain its usufructuary rights unless and until those rights have been expressly abrogated. Our usufructuary rights in the 1851 Treaty Territory have existed since long before South Dakota was a state, they have never been expressly abrogated, and they continue to exist to this day. It does not take a court decision to establish these rights; they exist already.

Yankton Sioux Tribe Statement

July 6, 2015

Page 2

To deprive the Tribe of an opportunity to express its concerns relating to these rights is a violation of due process. A government agency cannot choose ignore the rights of a group of people just because they don't understand those rights without violating the interests of justice, yet that is precisely what the PUC has done.

The Yankton Sioux Tribe and others have countless sacred and cultural sites in the land that is threatened by this project. We use the plants, animals, and water on these lands as we have done since time immemorial, and if one of the inevitable spills were to occur on these lands, the effect on these resources would be devastating.

The Yankton Sioux Tribe also holds grave concerns about the proximity of construction workers living at "man camps" to our reservation and our casino. These man camps are notorious for bringing drug abuse, human trafficking, and violence including sexual violence to surrounding communities. The dangers these activities pose to our Tribal members, particularly our young women and youth, are unacceptable.

While we appreciate the opportunity to participate in this proceeding, and that others have been granted the opportunity as well, it now appears that intervenor status was not granted to enable the public to meaningfully participate but, rather, to give this proceeding the appearance of fairness to the public. Many of the Commission's decisions in the course of this proceeding do not comport with what is required by South Dakota statutes, and this process has become almost unrecognizable as a quasi-judicial proceeding. The public involvement element of this process has been a matter of form rather than substance, which is not what was intended by the statutes. To protect all of South Dakota, the voices of all South Dakotans must be considered in a meaningful way.

Jason Cooke, Member
Business and Claims Committee
Yankton Sioux Tribe

