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Iowa Utilities Board issues order approving Dakota Access request to begin pipeline construction

(Des Moines) – During the Iowa Utilities Board meeting on June 6, 2016, in the Dakota Access pipeline, Docket No. [HLP-2014-0001](#), the Board voted 2-1 to approve the request by Dakota Access to begin pipeline construction on land outside of the jurisdiction of the U.S. Army Corps of Engineers. The Board also directed General Counsel to prepare an order for their review, which would include a dissent statement. On June 7, 2016, the Board signed and approved the “Order Granting Motion,” which is now final and [available here](#).

Today’s Board order ruled that the “Request for Permission to Begin Construction Outside PCN Areas” filed by Dakota Access, LLC, on May 5, 2016, is granted. Dakota Access may begin construction in areas where it has all required permits, authorizations, approvals, and easements, where it has provided all required notices, and where it has complied with all other legal requirements. Any such activities will be conducted at the company’s own risk.

The Board order also noted, if Dakota Access is required to relocate the pipeline for any reason, the Board’s rules at 199 IAC 13.2(1)(a) (relating to allowed construction deviation) or 199 IAC 13.9 (relating to amendment of a permit) may apply.

Dakota Access will still be required to file the Pre-Construction Notice (PCN) verifications when received, and to re-file the DNR permit if it is modified or otherwise reissued, as required by Ordering Clause No. 3 of the March 10 Order. These filings will provide the public with a complete identification of the permits and other authorizations required for this project.

The Board order also stated that the inspection and enforcement process of Iowa Code chapter 479B will apply to this project. Pursuant to § 479B.20, county inspectors will conduct on-site inspections for compliance with the applicable land restoration standards. If the inspector determines there is a violation of those standards, the inspector can give notice to Dakota Access or order corrective action to be taken. If Dakota Access does not comply, the inspector may temporarily halt construction at that site and the county board of supervisors may petition the Board for an order requiring corrective action and, in appropriate cases, assessing civil penalties pursuant to § 479B.21.

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In addition, the Board order noted the unanticipated discoveries plan filed by Dakota Access on April 14, 2016, is designed to address situations like the existing DNR permit matters.

In the dissent statement the Board Chair stated in conclusion, “Dakota Access’s request affects the terms and conditions of the permit that is currently subject to judicial review proceedings. The Board is therefore deprived of jurisdiction. Further, Dakota Access also has not fulfilled its obligations that the Board adopted in its March 10 Order. I respectfully dissent.”

Today’s Board order can also be found on the Board’s Web site at <https://iub.iowa.gov>.

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