

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
IOWA UTILITIES BOARD

IN RE:  DAKOTA ACCESS, LLC	Docket No. HLP-2014-0001  <b>NOTICE REGARDING SURETY BOND</b>
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As part of its application for a pipeline permit, Dakota Access obtained and filed proof of a surety bond in the sum of \$250,000. *See* Iowa Code § 479B.13; Board Rule 13.2(1)(d). Dakota Access has maintained that bond since that time, however, the bond will expire on February 11, 2021. Dakota Access provides notice to the Board that it intends to let the surety bond expire as the statute allows for alternative security, which the Board required, and which is already present in this case.<sup>1</sup>

The statute provides

**479B.13 Financial condition of permittee — bond.**

Before a permit is granted under this chapter the applicant must satisfy the board that the applicant has property within this state other than pipelines or underground storage facilities, subject to execution of a value in excess of two hundred fifty thousand dollars, or the applicant must file and maintain with the board a surety bond in the penal sum of two hundred fifty thousand dollars. . . . When the pipeline company deposits with the board security satisfactory to the board as a guaranty for the payment of the damages, or furnishes to the board satisfactory proofs of its solvency and financial ability to pay the damages, the pipeline company is relieved of the provisions requiring bond.

Here, the Board, in its March 10, 2016 Final Decision and Order (“Final Order”) required alternative forms of financial security that dwarf the value of the bond – specifically, parental guarantees of funding for remediation, and a requirement that Dakota Access

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<sup>1</sup> The Board Rule only requires proof at the time the permit is filed, and allows subsequent transfer without any mention of the transferee posting a bond. *See* Board Rule 13.19(1). The statute, however, requires a pipeline operator to “maintain” financial security.

maintain at least \$25 million in insurance.<sup>2</sup> The insurance alone is 100-times greater than the value of the bond. The filings for the guarantees and the insurance policies are “proofs” which have been “furnish[ed] to the board” and, as the Board has accepted both the parental guarantees and the insurance policies as compliant with its orders, these are “satisfactory” under the terms of the statute. Moreover, as the Board is aware, and as the statute contemplates, Dakota Access has subsequently acquired or developed property in the state subject to execution other than the pipeline itself. This includes real property held in fee (in particular the pump station parcel), other real property rights, and the pump station building.

The financial assurance currently established far exceeds the value of the bond, and as contemplated by the statute itself stands as an adequate and alternative manner to ensure Dakota Access’s “financial ability to pay”. Accordingly, by operation of the statute, Dakota Access “is relieved of the provisions requiring bond” and will let the bond expire without renewal. Because of the Board’s other requirements, the parental guarantees and insurance policies will continue to provide financial protection for Iowa and Iowans far in excess of the surety bond.

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<sup>2</sup> Dakota Access most recently filed with the Board current policies representing in excess of \$25 million in coverage on November 17, 2020.

Respectfully submitted this 1st day of February, 2021.

By: /s/ Bret A. Dublinske

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**ATTORNEYS FOR  
DAKOTA ACCESS, LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 1st day February, 2021, he had the foregoing document electronically filed with the Iowa Utilities Board using the EFS system which will send notification of such filing (electronically) to the appropriate persons.

/s/ Bret A. Dublinske

Bret A. Dublinske