

**YANKTON SIOUX TRIBE
BUSINESS AND CLAIMS COMMITTEE**

PETITION FOR OPPOSITION TO MAGELLAN PIPELINE REROUTE

November 8, 2024

Dear Minnesota Public Utilities Commission:

This statement is a follow up to the Yankton Sioux Tribe Business and Claims Committee Resolution No. 2024-047, ***Official Tribal Comments Opposing the Magellan Pipeline adjacent to 1858 Treaty Lands at Pipestone Monument Quarries***. We maintain our position against the recent selection of RA-01 and will be following this recent decision in defense of the Pipestone sacred site. We are meeting the November 11, 2024 deadline for submission of continued objection.

The Yankton Sioux Tribe is a federally recognized, sovereign Indian Tribe located in the lands now known as South Dakota. We have unique standing as the Pipestone Monument is part of our original 1858 Treaty with the Yankton Sioux. Recently, the Solicitor of the Department of Justice ruled that we have retained our right to secure and quarry Pipestone in perpetuity as spelled out in our original 1858 Treaty (Article VIII). Prior to this ruling we had to obtain a federal permit to quarry; but with this recent ruling we have regained a treaty right from 1858, sixty-five years ago for which we have fought hard for several generations. Our Tribal citizens have traveled since time immemorial to the Pipestone quarries to harvest sacred Pipestone, as known as catlinite, for use in making traditional ceremonial pipes necessary for our spiritual practices.

We continue to do so this day. The reroute of the Magellan Pipeline in this area poses a grave threat to our cultural and spiritual practices and our “Can O’he”. The other tribes recognize our unique standing in protecting this most sacred site and **its surroundings and we are known as the keepers of the Quarry. We continue to fight for a buffer surrounding the Quarry in order to protect endangered species, burials, cultural sites, old camp sites, ceremonial items and the streamflow of the water bodies surrounding the Quarry, including the proposed pipeline. We are in the process of examining the hydrogeology surrounding the Quarry and a buffer zone extending miles out. These items can only be identified by tribal people familiar with our culture. This joint opposition reflects the Yankton Sioux Tribe Business and Claims Committee; the Ihanktowan Oyate Treaty Committee; and the Brave Heart Society.**

We look forward to your recognition of our rights and the recognition of the establishment of the consultation requirement based on a federal nexus existing as defined in our attachment. We are including these comments as justification.

The Yankton Sioux Tribe is an unincorporated Tribe of Indians operating under an amended Constitution and By-Laws approved on April 24, 1963; June 16, 1975; and March 23, 1999; and

The Yankton Sioux Tribe's Business and Claims Committee is the elected body constituted for the purpose of conducting the business and serving the best interest of the Yankton Sioux Tribe and its membership; and

The General Council is the governing body of the Yankton Sioux Tribe and is the body that represents the Tribe in any Nation-to-Nation Consultations, unless other parties have been designated for parties have been designated for a specific consultation; and

Pursuant to Article IV, Section 1 of the Amended By-Laws of the Business and Claims Committee, the Committee has the authority to "investigate and transact all Tribal business of a routine nature and Indian Legislation, including Industry, and shall also act in the capacity of a liaison delegation between the Tribe and Federal, State and local governments, and such other agencies or parties that may offer opportunities for the Tribe; and

The Yankton Sioux Tribe and the United States entered a treaty in 1858 establishing a new reservation for the Tribe comprised of 400,000 acres of land including and to the east of the Missouri River; and

Article VIII of the 1858 Treaty reserved for the Tribe certain rights in the ceded lands, "Yankton Indian shall be secured in the free and unrestricted use of the red pipe-stone quarry." The area of red pipestone quarry now known as Pipestone National Monument in present-day Minnesota, which was part of the original Yankton Homelands; and

As such, the lands within the Tribe's 1858 Treaty Territory hold countless cultural and natural resources of significance to the Tribe and likely burials of ancestors of Tribal Members; and

Further, the lands within the Tribe's 1858 Treaty Territory are home to flora and fauna and many animal relatives that Tribal Members continue to pray with and use for spiritual, medicinal, cultural, and subsistence purposes to this day; and

The Yankton Sioux People have traveled since time immemorial to the Pipestone quarries to harvest sacred Pipestone, also known as catlinite, for use in making traditional ceremonial pipes necessary for our spiritual practices, and continue to do so to this day; and

The United States has acknowledged the importance and sacredness of Pipestone, establishing in 1937 the Pipestone National Monument to protect the sacred Pipestone quarries; and

The U.S. National Park Service has specifically acknowledged the sacredness of the Pipestone quarries and the ties of Tribal Nations to this land, stating that, "[f]or over 3,000 years, Indigenous people have quarried the red stone at this site to make pipes used in prayer and ceremony - a tradition that continues to this day and makes this site sacred to many people," and that "[t]oday, Pipestone National Monument is officially affiliated with 23 tribal nations and Indigenous people from across the country keep ancient quarrying traditions alive to this day"; and

No fewer than 23 Tribal Nations hold the Pipestone quarries and surrounding region sacred; and

Any contamination by pollutants of this sacred and priceless resource would destroy our ability to use the Pipestone for ceremony, inflicting irreparable damage upon our spiritual practices and our very spirituality; and

Due to its proximity to the Pipestone quarries, the region surrounding the quarries where our People have traveled since time immemorial contains cultural sites and cultural resources of significance to the Yankton Sioux Tribe, and likely burials of ancestors of our Tribal citizens; and

Any new ground disturbance in this region is likely to disturb or destroy our cultural sites, cultural resources, and burials; and

Magellan Pipeline, L.P., owns a pipeline that was originally routed through federal lands in immediate proximity to the Pipestone quarries and the Pipestone National Monument pursuant to a 0.74-mile-long right-of-way that has now expired; and

The Magellan Pipeline is an 8-inch-diameter pipeline designed to transport 1,100 barrels per hour of toxic refined petroleum products including gasoline, diesel, and jet fuel; and

The 0.74-mile stretch of pipeline through federal lands has now been decommissioned; and

Magellan Pipeline, L.P., now seeks to construct a new segment of pipeline around the Pipestone quarries using a new route to resume operation of the Magellan Pipeline; and

Magellan Pipeline, L.P., applied to the Minnesota Public Utilities Commission (“Minnesota PUC”) in 2023 for a permit to re-route the Magellan pipeline; and

Over the course of Minnesota PUC proceedings, three alternate routes were proposed for the Magellan Pipeline reroute project; and

All four routes considered by the Minnesota PUC pose unacceptable risks to the Pipestone and other natural and cultural resources at and surrounding the Pipestone quarries; and

No National Environmental Policy Act (NEPA) review and analysis has been undertaken with respect to any of the four routes; and

The 23 Tribal Nations for whom the Pipestone quarries hold spiritual and cultural significance have not been consulted on the Magellan Pipeline reroute; and

Traditional Ecological Knowledge (TEK) was not incorporated in the assessment and analysis of the reroute project; and

The Comparative Environmental Analysis prepared for the reroute project failed to consider impacts on Native Americans and Native communities in its purported environmental justice analysis; and

According to the Comparative Environmental Analysis for the reroute project, “[d]irect impacts from pipeline construction could include the destruction of archaeological resources through grading, ditching, trenching, and other methods required to install the pipe,” and “[i]mpacts will be permanent”; and

Of the four routes considered, only two routes have been partially surveyed for cultural resources and the other two have not been surveyed for this purpose at all; and

None of the four routes has been surveyed by Tribal cultural and spiritual resource experts; and

All four routes pose a considerable risk to water, which we hold sacred and which the people, plants, and animals rely upon, in the event of a leak or spill during construction or operation of the Magellan Pipeline; and

The water at Pipestone National Monument and the surrounding areas is already contaminated, and rerouting the Magellan Pipeline risks further contamination of that water; and

The Comparative Environmental Analysis of the reroute project failed to adequately and transparently address the risk of spills from the Magellan Pipeline; and

A spill from the Magellan Pipeline could contaminate the Pipestone (catlinite) we hold sacred, and while there are no studies or data on petroleum contamination of this particular resource, studies on similar materials show high rates of contamination with little chance of mitigation; and

All four of the routes considered by the Minnesota PUC contain critical habitat for threatened and endangered species, including the tricolored bat (a proposed endangered species), the northern long-eared bat (an endangered species), the monarch butterfly (a candidate for federally protected status), and the Topeka shiner (an endangered species), as well as likely the Dakota skipper (a threatened species) and the western prairie fringed orchid (a threatened species); and

On September 12, 2024, the Minnesota PUC voted to approve a route permit for the Magellan Pipeline, approving the route known as “RA-01;” and

Route RA-01, like all routes considered by the Minnesota PUC, poses unconscionable risks to the Pipestone and other natural and cultural resources at and surrounding the Pipestone quarries; and

In addition to the species listed above, the western harvest mouse (a species of special concern) has critical habitat in the Project area for Route RA-01; and

Route RA-01 crosses surface waters six times in close proximity to the Pipestone quarries; and

Route RA-01 has been determined to have 41 separate wetland areas totaling 9.8 acres; and

No cultural resource surveys have been conducted for Route RA-01; and

The Phase IA archaeological and cultural resources literature review to identify and assess known and potential archaeological sites for Route RA-01 had not been completed at the time the Comparative Environmental Analysis was prepared and thus was not available for consideration by the Minnesota PUC when the Minnesota PUC issued a permit for Route RA-01; and

Magellan Pipeline, L.P. must eventually also consult with the Yankton Sioux Tribe, as citizens of the Yankton Sioux Tribe have harvested Pipestone from the Pipestone quarries since time immemorial and continue to do so and to hold this place sacred to this day through the Treaty standing; and precedent outlined by the US Solicitor. However, we refuse to consult until all options have been exhausted to protect endangered species, waterways, cultural sites resources and further surveyed by Native funded Traditional Cultural Surveys.

During the Minnesota PUC proceedings, the Minnesota PUC received thousands of comments from the public opposing any reroute of the Magellan Pipeline due to the harmful effects it would have on Indigenous Peoples and their spiritual and cultural practices; and

In granting a permit to Magellan Pipeline, L.P., the Minnesota PUC placed greater value on corporate profits than on the welfare of human beings; and

In the interest of protecting Tribal spiritual and cultural rights and resources, the Minnesota PUC must reverse its decision to approve a permit for Route RA-01; and

In the interest of protecting Tribal spiritual and cultural rights and resources, the Minnesota PUC must not grant a route permit to Magellan Pipeline, L.P., for any of the proposed routes, all of which threaten these vital Tribal interests.

The Yankton Sioux Tribe opposes any reroute of the Magellan Pipeline using any of the four routes considered by the Minnesota PUC.

The Yankton Sioux Tribe calls upon the Minnesota PUC to reverse its decision to grant a permit for Route RA-01 to Magellan Pipeline, L.P.

The Yankton Sioux Tribe calls upon the Minnesota PUC to refrain from issuing a permit for any of the four routes previously considered for the Magellan Pipeline.

The Yankton Sioux Tribe further calls upon the Minnesota PUC to require Magellan Pipeline, L.P., to consult with the Yankton Sioux Tribe in an ongoing manner as requested and defined by the tribe only after certain conditions outlined above have been met. This consultation cannot and will not occur in one meeting.

Respectfully Submitted on behalf of the Yankton Sioux Tribe,

Robert Flying Hawk, Chairman
Yankton Sioux Tribe
Business and Claims Committee