

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Standing Rock Sioux Tribe; Yankton
Sioux Tribe; Robert Flying Hawk;
Oglala Sioux Tribe,

Plaintiffs,

and

Cheyenne River Sioux Tribe; Sara
Jumping Eagle et al.,

Plaintiff-Intervenors,

vs.

U.S. Army Corps of Engineers,

Defendant-Cross-
Defendant,

and

Dakota Access, LLP,

Defendant-Intervenor-
Cross-Claimant.

Civil No. 1:16-cv-01534-JEB
(Consolidated Case Nos.
1:16-cv-01796 and 1:17-cv-00267)

**DECLARATION OF LYNN D. HELMS IN SUPPORT OF THE STATE OF NORTH
DAKOTA'S MOTION TO INTERVENE**

I, Lynn D. Helms, state and declare as follows:

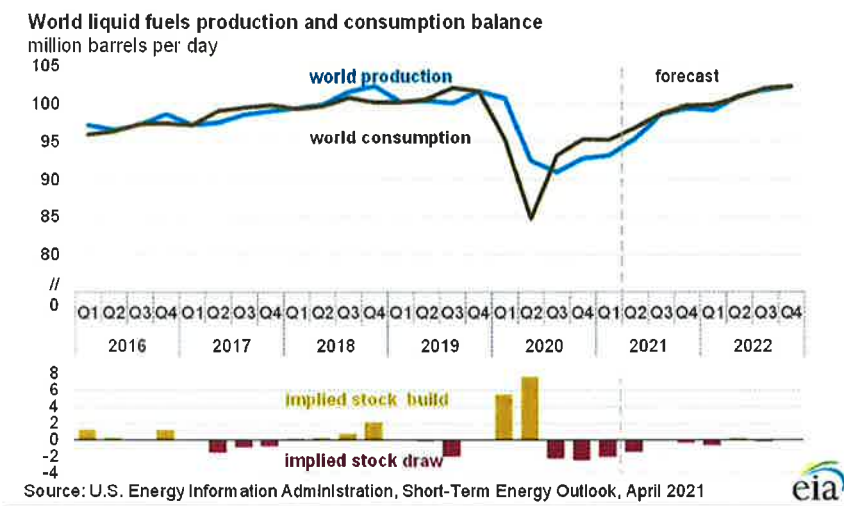
1. My name is Lynn D. Helms. I am over 21 years of age and am fully competent and duly authorized to make this Declaration. The facts contained in this Declaration are based on my personal knowledge and are true and correct.

2. I am the Director of the North Dakota Industrial Commission ("NDIC") Department of Mineral Resources ("DMR").

3. This declaration describes the importance of the oil industry to North Dakota's economy and citizens, and the significant adverse impacts on North Dakota if the Dakota Access Pipeline ("DAPL") is shut down or its use curtailed.

4. Recent data proves shutting down DAPL at a time when crude oil production is beginning to recover from the economic consequences of the pandemic will only stall that recovery and worsen the harm that North Dakota and its citizens have already endured as a result of the pandemic and the initial, short-term collapse in crude oil demand.

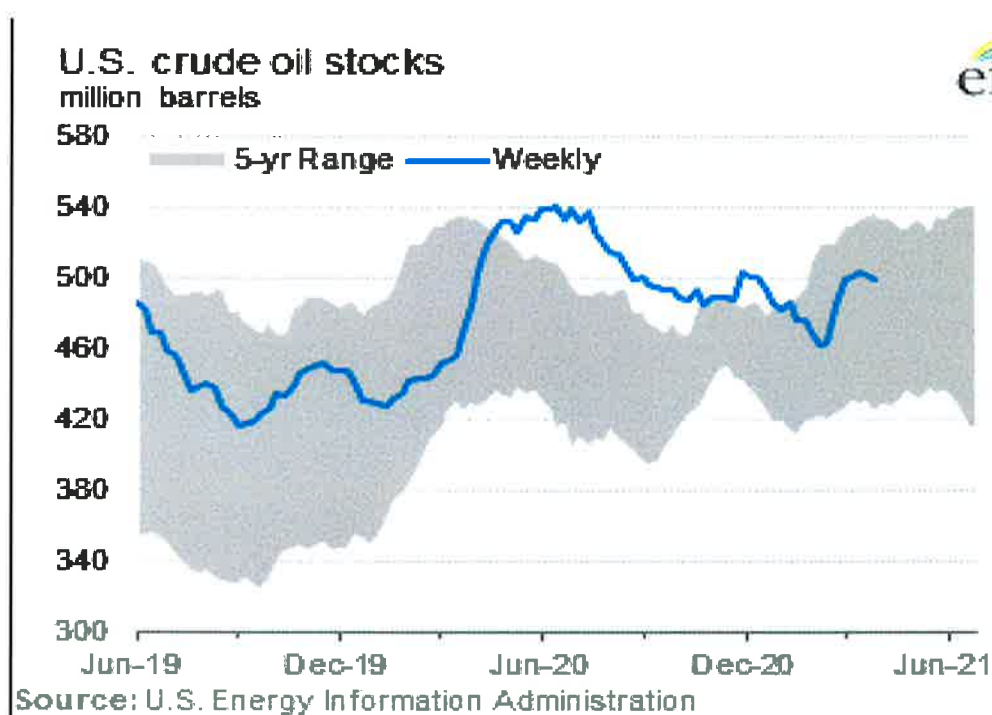
5. North Dakota crude oil production is recovering. Data from the U.S. Energy Information Administration's ("EIA"), for example, indicates that liquid fuel demand bottomed out in May 2020.¹ As a result, the EIA forecasts in the following graph that the balance of both global liquid fuels consumption and production will return to 2019 levels by the third quarter of 2022.²



¹ See Lynn Helms, *Dir.'s Cut: Aug. 2020 Prod.*, N.D. Dept. of Mineral Res., at 3 (Oct. 16, 2020), http://ndenergy.org/usrfiles/news/Directors_Cut_-_101620.pdf.

² *Id.* fig. 2.

Data from the U.S. Energy Information Administration's ("EIA"), also indicates that excess United States crude oil storage resulting from the pandemic is now gone indicating increasing production and transportation demand in the near future.³



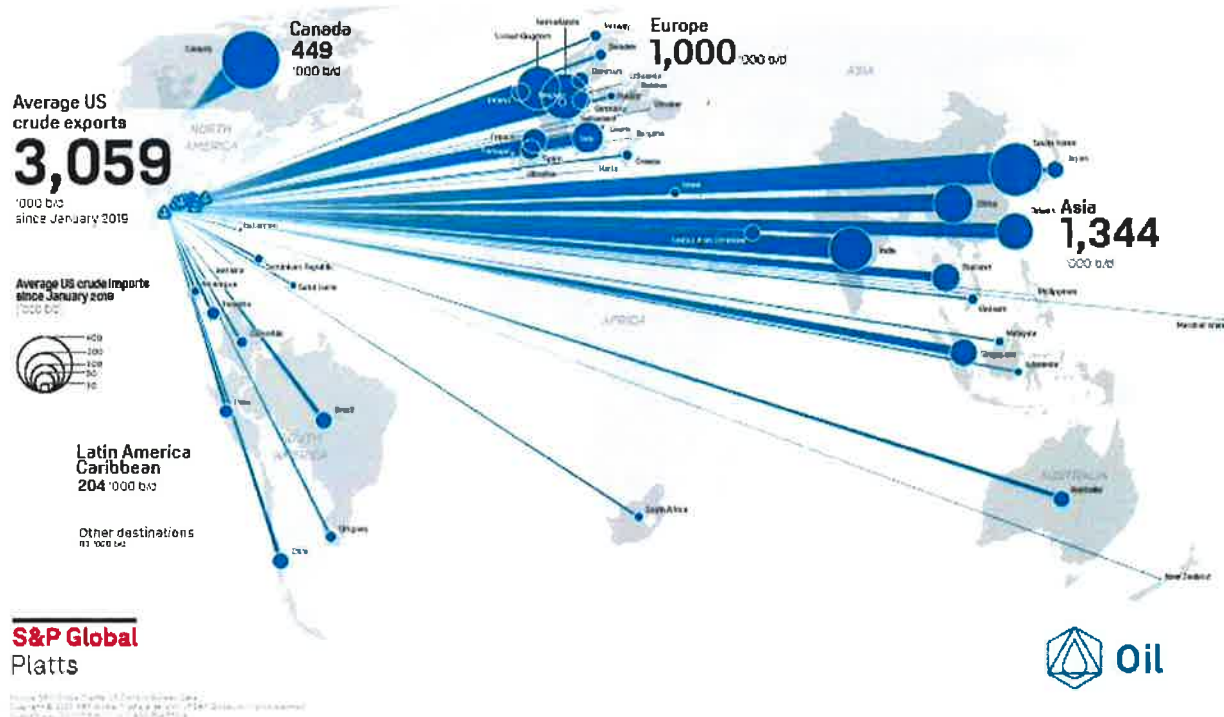
6. North Dakota's crude oil production is consistent with global trends because it is transported to coastal markets where it competes with other domestic and international crude oil. A 2020 analysis by Platts illustrates how DAPL serves as the only cost-effective highway to get North Dakota crude oil to markets that did not exist before DAPL, markets that will be lost to North Dakota oil and gas

³ *Id.* fig.1.

producers in the event DAPL is shut down.

Platts American GulfCoast Select Crude Benchmark

US crude exports have reached over 50 different countries and become an important outlet for US production. With direct-from-Permian light, sweet crude continuing to move to the global market, this important grade needs a waterborne pricing basis—free of any price distortions from logistics constraints. Platts AGS brings the US market a Dated Brent of its own.



The State also estimates that the recovery of North Dakota oil production is already occurring and projects that North Dakota crude oil production will continue to increase in the coming months.⁴ Specifically, on March 11, 2021, the DMR reported that 1,191,429 bpd were produced in North Dakota in December 2020 and 1,147,374 bpd in January 2021⁵.

⁴ *Sept. 2020 Dir.'s Cut*, YouTube, N.D. Dep't of Mineral Res. (Sept. 15, 2020), [youtube.com/watch?v=aRCeWnFIWDU](https://www.youtube.com/watch?v=aRCeWnFIWDU).

⁵ See Lynn Helms, *Dir.'s Cut: Sept. 2020 Prod.*, N.D. Dept. of Mineral Res., at 3 (Nov. 17, 2020), at 1, <https://www.dmr.nd.gov/oilgas/directorscut/directorscut-2020-11-17.pdf>.

Indeed, the latest report from the State's Bakken Restart Task Force, which was established to "facilitate rapid recovery of the oil and gas industry,"⁶ confirms these upward trends.


8. Finally, DAPL is still transporting roughly 40 percent of Bakken production volumes. Based on information available during the open season for DAPL I estimate that 75-90% of this crude oil transportation is subject to binding contracts, so it must be produced and transported in accordance with those commitments, or be shut-in. If DAPL is shut down, 427,000 to 513,000 barrels of oil per day will likely remain shut-in until alternate transportation can be secured and prices rebound to make that transportation economically viable. The estimated time frame for economic alternate transportation of the entire shut in volume to be secured is 6-9 months.

Oil and gas operators in North Dakota were already forced to greatly reduce 2020 drilling and well completion activities due to the COVID 19 pandemic. All North Dakota oil and gas operators were forced to reduce capital budgets for 2021 and have planned major growth in drilling and completion activities in 2022 based in part on continued operation of DAPL. The events of 2020 and 2021 have resulted in large temporary job losses in the State and shutting down DAPL would cause extensive permanent job losses. *See* First Helms Decl., ¶ 12.

⁶ Press Release, *Bakken Restart Task Force established to outline plan forward to strengthen North Dakota's energy future*, N.D. Dept. of Mineral Res., at 1 (May 6, 2020), https://www.dmr.nd.gov/oilgas/pressreleases/Final.5.06.20_Bakken_Restart_Task_Force_Press_Release.pdf

A shutdown would also increase costs for shippers. Margins are already razor thin due to the pandemic's short-term effects on crude oil demand, and shippers cannot absorb additional costs resulting from more expensive transportation methods and supply chain disruption. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 19, 2021.


Lynn D. Helms