

**SUBMISSION COVER SHEET**

**IMPORTANT:** Check box if Confidential Treatment is requested

Registered Entity Identifier Code (optional): 19-294

Organization: New York Mercantile Exchange, Inc. ("NYMEX")

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 8/21/2019 Filing Description: Initial Listing of the Dakota Access Bakken (Net Energy) Monthly Index Futures Contract

**SPECIFY FILING TYPE**

Please note only ONE choice allowed per Submission.

**Organization Rules and Rule Amendments**

- Certification § 40.6(a)
- Approval § 40.5(a)
- Notification § 40.6(d)
- Advance Notice of SIDCO Rule Change § 40.10(a)
- SIDCO Emergency Rule Change § 40.10(h)

**Rule Numbers:**

**New Product**

Please note only ONE product per Submission.

- Certification § 40.2(a)
- Certification Security Futures § 41.23(a)
- Certification Swap Class § 40.2(d)
- Approval § 40.3(a)
- Approval Security Futures § 41.23(b)
- Novel Derivative Product Notification § 40.12(a)
- Swap Submission § 39.5

Official Product Names: See filing.

**Product Terms and Conditions (product related Rules and Rule Amendments)**

- Certification § 40.6(a)
- Certification Made Available to Trade Determination § 40.6(a)
- Certification Security Futures § 41.24(a)
- Delisting (No Open Interest) § 40.6(a)
- Approval § 40.5(a)
- Approval Made Available to Trade Determination § 40.5(a)
- Approval Security Futures § 41.24(c)
- Approval Amendments to enumerated agricultural products § 40.4(a), § 40.5(a)
- "Non-Material Agricultural Rule Change" § 40.4(b)(5)
- Notification § 40.6(d)

Official Name(s) of Product(s) Affected

Rule Numbers:

August 21, 2019

**VIA ELECTRONIC PORTAL**

Mr. Christopher J. Kirkpatrick  
 Office of the Secretariat  
 Commodity Futures Trading Commission  
 Three Lafayette Centre  
 1155 21st Street, N.W.  
 Washington, D.C. 20581

**Re: CFTC Regulation 40.2(a) Certification. Notification Regarding the Dakota Access Bakken (Net Energy) Monthly Index Futures Contract NYMEX Submission No. 19-294**

Dear Mr. Kirkpatrick:

New York Mercantile Exchange, Inc. (“NYMEX” or “Exchange”) is notifying the Commodity Futures Trading Commission (“CFTC” or “Commission”) that it is self-certifying the initial listing of the Dakota Access Bakken (Net Energy) Monthly Index Futures contract (the “Contract”) for trading on the CME Globex electronic trading platform and for submission for clearing via CME ClearPort, effective on Sunday, September 8, 2019 for trade date Monday, September 9, 2019, as more specifically described below.

|                                      |  |
|--------------------------------------|--|
| <b>Contract Title</b>                | Dakota Access Bakken (Net Energy) Monthly Index Futures  |
| <b>Rulebook Chapter</b>              | 1296   |
| <b>Commodity Code</b>                | DAB  |
| <b>Settlement Type</b>               | Financial  |
| <b>Contract Size</b>                 | 1,000 barrels  |
| <b>Pricing Quotation</b>             | U.S. dollars and cents per barrel  |
| <b>Minimum Price Fluctuation</b>     | \$0.001 per barrel   |
| <b>Value per tick</b>                | \$1.00   |
| <b>First Listed Contract</b>         | October 2019   |
| <b>Termination of Trading</b>        | Trading shall cease one Canadian business day prior to the Notice of Shipments (NOS) date on the Enbridge Pipeline. The NOS date occurs on or about the 20th calendar day of the month, subject to confirmation by Enbridge Pipeline. The official schedule for the NOS dates will be made publicly available by Enbridge. |
| <b>Listing Schedule</b>              | Monthly contracts listed for the current year and the next 4 calendar years. List monthly contracts for a new calendar year following the termination of trading in the December contract of the current year.   |
| <b>CME Globex Match Algorithm</b>    | First-In, First-Out (FIFO)   |
| <b>Block Trade Minimum Threshold</b> | 5 contracts  |

**Trading and Clearing Hours:**

|                              |   |
|------------------------------|---|
| CME Globex and CME ClearPort | Sunday - Friday 6:00 p.m. - 5:00 p.m. Eastern Time /ET (5:00 p.m. - 4:00 p.m. Central Time/CT) with a 60-minute break each day beginning at 5:00 p.m. ET (4:00 p.m. CT) |
|------------------------------|---|

**Exchange Fees:**

| Exchange Fees | Member | Non-Member | International Incentive Programs (IIP/IVIP) |
|---------------|--------|------------|---|
| CME Globex    | \$0.85 | \$1.35     | \$1.10                                      |
| EFP           | \$0.85 | \$1.35     |   |
| Block         | \$0.85 | \$1.35     |   |
| EFR/EOO       | \$0.85 | \$1.35     |   |

| Processing Fees                       | Fee    |
|---------------------------------------|--------|
| Cash Settlement                       | \$0.50 |
| Facilitation Fee                      | \$0.60 |
| Give-Up Surcharge                     | \$0.05 |
| Position Adjustment/Position Transfer | \$0.10 |

The Exchange is also notifying the CFTC that it is self-certifying the insertion of the terms and conditions for the new futures contract into the Position Limit, Position Accountability and Reportable Level Table and Header Notes located in the Interpretations and Special Notices Section of Chapter 5 of the NYMEX Rulebook in relation to the listing of the new contract. These terms and conditions establish the all month/any one-month accountability levels, expiration month position limit, reportable level, and aggregation allocation for the new contract. Please see Exhibit B attached under separate cover.

In addition, NYMEX is self-certifying block trading on this contract with a minimum block threshold of five (5) contracts. This block level aligns with the Exchange's currently listed Clearbrook Bakken Sweet Crude Oil Monthly Index (Net Energy) Futures.

The Exchange reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodity Exchange Act ("CEA" or "Act") and staff identified that the Contract may have some bearing on the following Core Principles:

- **Compliance with Rules:** Trading in the Contract will be subject to all CME Rules, including prohibitions against fraudulent, noncompetitive, unfair and abusive practices as outlined in CME Rule Chapter 4, the Exchange's trade practice rules, the majority of which are contained in Chapter 5 and Chapter 8 of the CME Rulebook, and the dispute resolution and arbitration procedures of CME Rule Chapter 6. As with all products listed for trading on one of CME Group's designated contract markets, trading activity in the Contract will be subject to monitoring and surveillance by CME Group's Market Regulation Department. The Market Regulation Department has the authority to exercise its investigatory and enforcement power where potential rule violations are identified.
- **Contract Not Readily Subject to Manipulation:** The Contract is based on a cash price series that is reflective of the underlying cash market and is commonly relied on and used as a reference price by cash market brokers and commercial market participants.
- **Prevention of Market Disruption:** Trading in the Contract will be subject to the Rules of CME, which include prohibitions on manipulation, price distortion, and disruption to the cash settlement process. As with any new product listed for trading on a CME Group designated contract market,

trading activity in the futures Contract proposed herein will be subject to monitoring and surveillance by CME Group's Market Regulation Department.

- **Position Limitations or Accountability:** The speculative position limits for the Contract as demonstrated in this submission are consistent with the Commission's guidance.
- **Availability of General Information:** The Exchange will publish on its website information in regard to contract specifications, terms, and conditions, as well as daily trading volume, open interest, and price information for the Contract. In addition, the Exchange will advise the marketplace of the launch of the Contract by releasing a Special Executive Report ("SER"). The SER will also be posted on CME Group's website.
- **Daily Publication of Trading Information:** The Exchange will publish contract trading volumes, open interest levels, and price information daily on its website and through quote vendors for the Contract.
- **Execution of Transactions:** The Contract will be listed for trading on the CME Globex electronic trading and for clearing through CME ClearPort. The CME Globex electronic trading venue provides for competitive and open execution of transactions. CME Globex affords the benefits of reliability and global connectivity.
- **Trade Information:** All requisite trade information for the Contract will be included in the audit trail and is sufficient for the Market Regulation Department to monitor for market abuse.
- **Financial Integrity of Contract:** The Contract will be cleared by the CME Clearing House, a derivatives clearing organization registered with the CFTC and subject to all CFTC regulations related thereto.
- **Protection of Market Participants:** CME Rulebook Chapters 4 and 5 set forth multiple prohibitions that preclude intermediaries from disadvantaging their customers. These rules apply to trading in all of the Exchange's competitive trading venues.
- **Disciplinary Procedures:** Chapter 4 of the Rulebook contains provisions that allow the Exchange to discipline, suspend or expel members or market participants that violate the Rulebook. Trading in the Contract will be subject to Chapter 4, and the Market Regulation Department has the authority to exercise its enforcement power in the event rule violations in these products are identified.
- **Dispute Resolution:** Disputes with respect to trading in the Contract will be subject to the arbitration provisions set forth in Chapter 6 of the Rulebook. Chapter 6 allows all nonmembers to submit a claim for financial losses resulting from transactions on the Exchange to arbitration. A member named as a respondent in a claim submitted by a nonmember is required to participate in the arbitration pursuant to Chapter 6. Additionally, the Exchange requires that members resolve all disputes concerning transactions on the Exchange via arbitration.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.2(a), the Exchange hereby certifies that listing the Contract complies with the Act, including regulations under the Act. There were no substantive opposing views to the listing of the Contract.

The Exchange certifies that this submission has been concurrently posted on the Exchange's website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

Should you have any questions concerning the above, please contact the undersigned at (212) 299-2200 or via e-mail at [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

Sincerely,

/s/ Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachments: Exhibit A: NYMEX Rulebook Chapter  
Exhibit B: Position Limit, Position Accountability, and Reportable Level Table in  
Chapter 5 of the NYMEX Rulebook (attached under separate cover)  
Exhibit C: NYMEX Rule 588.H. – (“Globex Non-Reviewable Trading Ranges”) Table  
Exhibit D: Cash Market Overview and Analysis of Deliverable Supply

**EXHIBIT A**  
**NYMEX Rulebook**

**Chapter 1296**  
**Dakota Access Bakken (Net Energy) Monthly Index Futures**

**1296101. SCOPE OF CHAPTER**

The provisions of these rules shall apply to all futures contracts bought or sold on the Exchange for cash settlement based on the Floating Price. The procedures for trading, clearing and cash settlement of this contract, and any other matters not specifically covered herein shall be governed by the general rules of the Exchange.

**1296102. CONTRACT SPECIFICATIONS**

The Index Price for each contract month is equal to the Net Energy Canadian Monthly Index (NEI) for Bak-DAPL during the Index Pricing Period for the contract month. The Index Pricing Period shall extend from the first Canadian business day of the month through the last Canadian business day prior to Notice of Shipments (NOS) date on the Enbridge Pipeline. The Index is expressed as a differential versus the Calendar Month Average (CMA) of the NYMEX Light Sweet Crude Oil futures settlement price.

**1296103. TRADING SPECIFICATIONS**

The number of months open for trading at a given time shall be determined by the Exchange.

**1296102.A. Trading Schedule**

The hours of trading for this contract shall be determined by the Exchange.

**1296102.B. Trading Unit**

The contract quantity shall be 1,000 U.S. barrels. Each contract shall be valued as the contract quantity (1,000) multiplied by the settlement price.

**1296102.C. Price Increments**

Prices shall be quoted in U.S. dollars and cents per barrel. The minimum price fluctuation shall be \$0.001 per barrel. There shall be no maximum price fluctuation.

**1296102.D. Position Limits, Exemptions, Position Accountability and Reportable Levels**

The applicable position limits and/or accountability levels, in addition to the reportable levels, are set forth in the Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5.

A Person seeking an exemption from position limits for bona fide commercial purposes shall apply to the Market Regulation Department on forms provided by the Exchange, and the Market Regulation Department may grant qualified exemptions in its sole discretion.

Refer to Rule 559 for requirements concerning the aggregation of positions and allowable exemptions from the specified position limits.

**1296102.E. Termination of Trading**

Trading shall cease one Canadian business day prior to the Notice of Shipments (NOS) date on the Enbridge Pipeline. The NOS date occurs on or about the 20th calendar day of the month, subject to confirmation by Enbridge Pipeline. The official schedule for the NOS dates will be made publicly available by Enbridge.

**1296104. FINAL SETTLEMENT**

Delivery under the contract shall be by cash settlement. Final settlement, following termination of trading for a contract month, will be based on the Floating Price. The final settlement price will be the Floating Price calculated for each contract month.

**EXHIBIT B**

**NYMEX Rulebook**

**Chapter 5**

**(“Trading Qualifications and Practices”)**

**Position Limit, Position Accountability, and Reportable Level Table**

(Attached under separate cover.)

## EXHIBIT C

### **NYMEX Rulebook Chapter 5 ("Trading Qualifications and Practices")**

NYMEX Rule 588.H. – ("Globex Non-Reviewable Trading Ranges") Table  
(additions underscored)

| <b>Outright</b>  |                      |   |                           |                   | <b>Spreads</b>            |                                    |
|--|----------------------|---|---------------------------|-------------------|---------------------------|------------------------------------|
| <b>Instrument Name</b>   | <b>Globex Symbol</b> | <b>Globex Non-Reviewable Ranges (NRR)</b> | <b>NRR: Globex Format</b> | <b>NRR: Ticks</b> | <b>NRR: Globex Format</b> | <b>NRR: Minimum Outright Ticks</b> |
| <u>Dakota Access Bakken (Net Energy) Monthly Index Futures</u> | DAB                  | <u>\$1.00 per barrel</u>                  | <u>1000</u>               | <u>1000</u>       | <u>N/A</u>                | <u>N/A</u>                         |



## **EXHIBIT D**

### **Cash Market Overview and Analysis of Deliverable Supply**

New York Mercantile Exchange, Inc. (“NYMEX” or “Exchange”) is self-certifying the listing of the Dakota Access Bakken (Net Energy) Monthly Index Futures contract (the “Contract”). The Exchange conducted a review of the underlying cash market and deliverable supply of Bakken crude oil, which is produced in North Dakota. The contract details are as follows:

| <b><u>Contract Title</u></b>                            | <b><u>Commodity Code</u></b> | <b><u>Rulebook Chapter</u></b> | <b><u>Proposed Spot Limit</u></b> |
|---|------------------------------|--------------------------------|-----------------------------------|
| Dakota Access Bakken (Net Energy) Monthly Index Futures | DAB                          | 1296                           | 1,000 contracts                   |

The Exchange has determined to base its deliverable supply estimate primarily on the pipeline capacity for the Energy Transfer Partners Bakken Pipeline, also known as the Dakota Access Pipeline (“DAPL”). Additionally, the Exchange determined not to adjust the deliverable supply estimates based on the spot availability because spot market liquidity is not restrictive and tends to vary depending on the market fundamentals of supply and demand. The typical term agreement in the cash market allows flexibility for re-trading of the contracted quantity in the spot market, so the term agreements do not restrict the supply readily available for delivery.

#### **Data Sources**

The Exchange based its analysis of deliverable supply of Bakken crude oil primarily on data provided by the North Dakota Pipeline Authority. The North Dakota Pipeline Authority collects, analyzes, and disseminates independent and impartial energy information to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment.

The final settlement price for the Dakota Access Bakken (Net Energy) Monthly Index Futures contract references an index based on physical transactions in the underlying Bakken crude oil cash market as assessed and published by Net Energy, which is one of the price reporting agencies that are used in the over-the-counter market for pricing contracts. In April of 2016, Net Energy was granted approval from the Alberta Securities Commission for recognition as an Exchange.

The Net Energy price assessment for Bakken crude oil is quoted in U.S. dollars and cents per barrel. The index is assessed based on the Bakken crude oil stream. The financially-settled Dakota Access Bakken (Net Energy) Monthly Index Futures contract is expressed as a differential to the Calendar Month Average (CMA) of the NYMEX Light Sweet Crude Oil futures settlement price.

CME Group (parent company of New York Mercantile Exchange, Inc.) is a party to license agreements with Net Energy to utilize their pricing data.

#### **Bakken Crude Oil**

The production of crude oil in North Dakota consists of Bakken type crude oil, which is a light sweet stream with an API gravity between 40° and 43° and a sulfur content <0.2 wt.%.<sup>1</sup> As such, it is similar in quality to the fungible domestic sweet crude oil, also referred to as WTI. In recent years, North Dakota has seen

<sup>1</sup> Bakken Crude Oil, <https://www.ndoil.org/resources/bkn/>.

an unprecedented increase in oil production as a result of the expansion of oil development mainly due to shale formations. The Bakken formation is one of the largest deposits of oil and natural gas located in the United States coming in second behind Texas. Bakken crude oil moves to various locations via pipeline, rail, and truck, and is consumed in the Midwest region, as well as in the Gulf Coast and markets.

The Dakota Access Pipeline (DAPL), transports light sweet crude oil from the Bakken and Three Forks region in North Dakota to major refining markets in the Midwest region. The pipeline is approximately 1,172 miles and 30-inches diameter traversing through North Dakota, South Dakota, Iowa, and Illinois. It has a capacity of 570,000 barrels per day which accounts for approximately 40% of the Bakken oil output<sup>2</sup>.

The DAPL pipeline delivers crude oil to a hub outside of Patoka, IL where it can be transported via other pipelines to refining markets throughout the Midwest and where it connects to the Energy Transfer Company (ETCO) pipeline for delivery to the Gulf Coast. The ETCO pipeline is approximately 742 miles and primarily 30-inches in diameter which meets DAPL in Patoka, IL and travels to Nederland, TX. The DAPL and ETCO pipelines are also referred to as the “Bakken Pipeline” collectively. The Bakken Pipeline is a joint venture between Energy Transfer Partners, MarEn Bakken Company LLC, and Phillips 66. It is operated by a wholly owned subsidiary of Energy Transfer.

According to the North Dakota Pipeline Authority, the Energy Transfer Partners Bakken Pipeline, also referred to as DAPL, has a capacity of 570,000 barrels per day as of year-end 2018. Capacity is projected to increase by 30,000 barrels per day to 600,000 barrels per day by year-end of 2019. For a complete list of pipelines in North Dakota’s Williston Basin area, please consult Appendix A<sup>3</sup>.

As of June 2019, Energy Transfer Partners filed with the Public Service Commission its plans to expand the Dakota Access pipeline from 570,000 barrels per day to as much as 1.1 million barrels per day. The expansion includes adding new pumping station in three states. Further, it would allow for the pipeline to meet growing demand from shippers without additional pipelines or rail shipments.

According to FERC data, there are six terminal hubs where crude oil is injected on the Dakota Access pipeline. Bakken origin location terminals include: Stanley, Mountrail County, ND; Ramberg, Williams County, ND; Epping, Williams County, ND; Trenton, Williams County, ND; Watford City, McKenzie County, ND; and Johnson’s Corner, McKenzie County, ND. Alternatively, there are two additional Bakken origin points. They include: Alexander Junction, McKenzie County, ND and Trenton Junction, McKenzie County, ND.

Initially heading West before turning Southeast, DAPL begins at the Stanley Terminal in North Dakota then passes through five additional terminals before ending at the Patoka Terminal. These locations are all origin points that can receive Bakken crude oil.

Production of Bakken crude oil has risen steadily over the past five years. The EIA currently provides production data at the oil field level. According to the EIA and Table 1 below, the three-year average of crude oil production<sup>4</sup> in North Dakota averaged 1.2 million barrels per day over the annual period from May 2016 through April 2019.

**Table 1: North Dakota Crude Oil Production (EIA)**

(Thousand Barrels per Day)

| Year | Month | North Dakota Crude Oil Production |
|------|-------|-----------------------------------|
|------|-------|-----------------------------------|

<sup>2</sup> <https://daplpipelinefacts.com/>.

<sup>3</sup> Dakota Pipeline Authority, <https://ndpipelines.files.wordpress.com/2019/06/export-table-6-20-19-1.png>.

<sup>4</sup> Production Data, <http://www.eia.gov/petroleum/production/>

|      |                |       |
|------|----------------|-------|
| 2016 | Jun            | 1,020 |
|      | Jul            | 1,023 |
|      | Aug            | 976   |
|      | Sep            | 966   |
|      | Oct            | 1,037 |
|      | Nov            | 1,027 |
| 2017 | Dec            | 935   |
|      | Jan            | 976   |
|      | Feb            | 1,026 |
|      | Mar            | 1,016 |
|      | Apr            | 1,040 |
|      | May            | 1,027 |
|      | Jun            | 1,023 |
|      | Jul            | 1,040 |
|      | Aug            | 1,079 |
|      | Sep            | 1,096 |
|      | Oct            | 1,171 |
|      | Nov            | 1,183 |
| 2018 | Dec            | 1,164 |
|      | Jan            | 1,163 |
|      | Feb            | 1,161 |
|      | Mar            | 1,146 |
|      | Apr            | 1,210 |
|      | May            | 1,230 |
|      | Jun            | 1,216 |
|      | Jul            | 1,258 |
|      | Aug            | 1,279 |
|      | Sep            | 1,342 |
|      | Oct            | 1,377 |
|      | Nov            | 1,381 |
| 2019 | Dec            | 1,403 |
|      | Jan            | 1,374 |
|      | Feb            | 1,310 |
|      | Mar            | 1,363 |
|      | Apr            | 1,361 |
|      | May            | 1,364 |
|      | 3-Year Average | 1,160 |

The state of North Dakota provides monthly data for Bakken oil production. According to the North Dakota State Government, production over the annual period of June 2016 through May 2019 averaged 1.1 million barrels per day, or 33 million barrels per month (see Table 2 below). The state also reported an average of 65 rigs operating per month in May 2019 and roughly 15,000 wells producing<sup>5</sup>. Comparing DAPL's throughput to North Dakota's production, DAPL moves roughly 50% of the oil produced in the Bakken.

<sup>5</sup> North Dakota Rig Count and Wells Producing, <https://www.dmr.nd.gov/oilgas/stats/2019monthlystats.pdf>.

**Table 2: North Dakota Bakken Oil Production (North Dakota State Government)<sup>6</sup>**

(Thousand Barrels per Day)

| <b>Year</b> | <b>Month</b>   | <b>North Dakota Bakken Oil Production</b> |
|-------------|----------------|---|
| 2016        | Jun            | 974                                       |
|             | Jul            | 977                                       |
|             | Aug            | 931                                       |
|             | Sep            | 921                                       |
|             | Oct            | 992                                       |
|             | Nov            | 982                                       |
|             | Dec            | 895                                       |
| 2017        | Jan            | 935                                       |
|             | Feb            | 982                                       |
|             | Mar            | 973                                       |
|             | Apr            | 996                                       |
|             | May            | 985                                       |
|             | Jun            | 980                                       |
|             | Jul            | 996                                       |
|             | Aug            | 1,036                                     |
|             | Sep            | 1,055                                     |
|             | Oct            | 1,130                                     |
|             | Nov            | 1,141                                     |
|             | Dec            | 1,123                                     |
| 2018        | Jan            | 1,123                                     |
|             | Feb            | 1,120                                     |
|             | Mar            | 1,106                                     |
|             | Apr            | 1,169                                     |
|             | May            | 1,190                                     |
|             | Jun            | 1,177                                     |
|             | Jul            | 1,220                                     |
|             | Aug            | 1,240                                     |
|             | Sep            | 1,302                                     |
|             | Oct            | 1,336                                     |
|             | Nov            | 1,322                                     |
|             | Dec            | 1,347                                     |
| 2019        | Jan            | 1,347                                     |
|             | Feb            | 1,283                                     |
|             | Mar            | 1,340                                     |
|             | Apr            | 1,336                                     |
|             | May            | 1,337                                     |
|             | 3-Year Average | 1,119                                     |

<sup>6</sup> North Dakota Production, <https://www.dmr.nd.gov/oilgas/stats/historicalbakkenoilstats.pdf>

### **Analysis of Deliverable Supply**

Appendix C to part 38 of the Commission's regulations defines deliverable supply as "the quantity of the commodity meeting the contract's delivery specifications that can reasonably be expected to be readily available to short traders and saleable by long traders at its market value in normal cash marketing channels at the derivative contract's delivery points during the specified delivery period, barring abnormal movement in interstate commerce."

For the Dakota Access Bakken (Net Energy) Monthly Index Futures Contract, the Exchange has determined to base its deliverable supply estimate on the Energy Transfer Partners Bakken Pipeline capacity, also referred to as the DAPL pipeline, given that the pipeline capacity is the constraining factor that determines the amount of Bakken crude oil that can be included in Net Energy's index.

To be conservative, the Exchange focused on pipeline capacity in its deliverable supply estimate, because it provides a more accurate estimate of the total supply. The main source of data for the pipeline capacity is the North Dakota Pipeline Authority, which provides detailed data on pipeline capacity in the Williston Basin. In addition, the Exchange has applied a 10% haircut to the pipeline capacity, which accounts for a 57,000 barrel per day reduction for operational minimums. Therefore, the estimated pipeline capacity is 513,000 barrels per day.

The Exchange is not including stocks data in its analysis of deliverable supply as stock data tends to fluctuate.

Further, the Exchange has determined not to adjust the deliverable supply estimate based on spot availability because spot market liquidity is not restrictive and tends to vary depending on the market fundamentals of demand and supply. The typical term agreement in the cash market allows flexibility for re-trading of the contracted quantity in the spot market, so the term agreements do not restrict the potential deliverable supply. Also, the spot trading is not restricted, in that it could increase if the market demand increases. Therefore, we believe that it is not necessary to adjust the deliverable supply estimate on the basis of spot trading activity as it does not restrict the deliverable supply, and spot trading volume can expand to allow for more supply to flow if needed in the spot market.

The proposed spot month position limit of the Dakota Access Bakken (Net Energy) Monthly Index Futures is 1,000 contracts. The Exchange's deliverable supply estimate, which is based on pipeline capacity, is 513,000 barrels per day, or 15.4 million barrels per month, which is equivalent to 15,400 contracts. Consequently, the spot month limit of 1,000 contracts represents 6.5% of the monthly deliverable supply.

**Appendix A**

US Williston Basin Crude Oil Pipelines, June 2018<sup>7</sup>  
 Pipeline Capacity Data  
 (Barrels per Day)

|  | 2010           | 2011           | 2012           | 2013           | 2014           | 2015           | 2016           | 2017             | 2018             | 2019             | 2020*            | 2021*            |
|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|------------------|------------------|------------------|------------------|
| Butte Pipeline   | 118,000        | 145,000        | 160,000        | 160,000        | 160,000        | 160,000        | 160,000        | 160,000          | 160,000          | 160,000          | 160,000          | 160,000          |
| Butte Expansion (Q3 2014)  | -              | -              | -              | -              | 100,000        | 100,000        | 100,000        | 100,000          | 100,000          | 100,000          | 100,000          | 100,000          |
| Tesoro Mandan Refinery   | 58,000         | 58,000         | 68,000         | 68,000         | 68,000         | 68,000         | 68,000         | 68,000           | 68,000           | 68,000           | 68,000           | 68,000           |
| Enbridge Mainline North Dakota   | 161,500        | 185,000        | 210,000        | 210,000        | 210,000        | 210,000        | 210,000        | 210,000          | 210,000          | 210,000          | 210,000          | 210,000          |
| Enbridge Bakken Expansion Program  | -              | 25,000         | 25,000         | 145,000        | 145,000        | 145,000        | 145,000        | 145,000          | 145,000          | 75,000           | 50,000           | -                |
| Plains Bakken North (Up to 70,000 BOPD)                                    | -              | -              | -              | -              | 40,000         | 40,000         | 40,000         | 40,000           | 40,000           | 40,000           | 40,000           | 40,000           |
| Dakota Prairie Refinery (Q2 2015) (Proposed Conversion - No crude Q4-2020) | -              | -              | -              | -              | -              | 20,000         | 20,000         | 20,000           | 20,000           | 20,000           | -                | -                |
| Davis Refinery (Q4 2020)*  | -              | -              | -              | -              | -              | -              | -              | -                | -                | -                | 49,500           | 49,500           |
| Energy Transfer Partners Bakken Pipeline                                   | -              | -              | -              | -              | -              | -              | -              | 520,000          | 570,000          | 600,000          | 600,000          | 600,000          |
| ETP DAPL Expansion* (Exact Timeline Unavailable - Up to 500,000 bpd)       |                |                |                |                |                |                |                |                  |                  |                  | 200,000          | 200,000          |
| Bridger Expansion Project*   | -              | -              | -              | -              | -              | -              | -              | -                | -                | -                | -                | 175,000          |
| Kinder Morgan Double H Pipeline (Q1 2015)                                  | -              | -              | -              | -              | -              | 84,000         | 108,000        | 108,000          | 108,000          | 108,000          | 108,000          | 108,000          |
| <b>Pipeline/Refining Total</b>   | <b>337,500</b> | <b>413,000</b> | <b>463,000</b> | <b>583,000</b> | <b>723,000</b> | <b>827,000</b> | <b>851,000</b> | <b>1,371,000</b> | <b>1,421,000</b> | <b>1,381,000</b> | <b>1,585,500</b> | <b>1,710,500</b> |

<sup>7</sup> US Williston Basin Crude Oil Pipelines, <https://northdakotapipelines.com/oil-transportation-table/>.

