

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF HUGHES)

IN CIRCUIT COURT

SIXTH JUDICIAL DISTRICT

IN THE MATTER OF THE PETITION OF
TRANSCANADA KEYSTONE PIPELINE
LP FOR AN ORDER ACCEPTING
CERTIFICATION OF PERMIT ISSUED IN
IN DOCKET HP 09-001 TO CONSTRUCT
THE KEYSTONE XL PIPELINE

CIV. 16-33

AFFIDAVIT OF
PAUL F. SEAMANS

I, Paul F. Seamans, under penalty of perjury, hereby state and affirm:

1. That I am an appellant in the above-captioned matter. I am represented by legal counsel of record, Chase Iron Eyes, Post Office Box 888, Fort Yates, North Dakota 58538, (701) 455-3702, chaseironeyes@gmail.com. I was an intervenor *pro se* in the proceeding before the Public Utilities Commission on the certification of the TransCanada permit for the Keystone XL Pipeline in South Dakota (S.D. PUC Docket 14-001).

2. I am a longtime South Dakota resident, and ranch near Draper, South Dakota. TransCanada obtained an easement on my property, against my wishes, removing approximately 9 acres of productive pasture land from my livestock operation.

3. TransCanada's heavy-handed tactics in obtaining an easement on my property, and its unwillingness to share basic engineering and safety information to my family, led me to research TransCanada's claims about the Keystone XL Pipeline.

4. There was a significant release of oil from the Keystone base pipeline near Freeman, South Dakota. Upon my information and belief, the breach occurred on April 2, and was discovered by the landowner on April 3. The leak detection system for the Keystone Pipeline did not work as promised by TransCanada.

5. On April 4, I visited the site of the oil spill. I observed two track hoes stripping top soil off the pipeline route, in preparation for digging up the corroded pipeline. It did not appear that the precise location of the leak had even been located at that time.

6. More heavy equipment was being transported to the site, where a massive movement of top soil was getting underway. There were also two pumper trucks on site that appeared to be pumping something out of holes on the pipeline route.

7. I attempted to get closer to the work site by way of a county road, but was stopped by an armed man, who identified himself as a security guard for TransCanada. He had no badge or any other identification that would authorize him to stop individuals on a public roadway. He informed me that he was hired by TransCanada to prevent any unauthorized persons from traveling beyond that point.

8. The site of the oil spill was west of the north-south county road, approximately 500 feet from a farmstead. Dirt was being transported and piled across the road from the spill site.

9. I returned to the site on April 9. Excavation was underway in earnest. Side loading trucks were hauling contaminated dirt away from the site, to the southeast edge of the community Freeman. Fumes from the site could impact the community, as the prevailing winds are from the west.

10. I observed a major clean-up operation at the site of the oil spill. There was a large hole across the road from the spill site, and part of the county road had been dug up. The site resembled a major excavation or industrial site.

11. I returned to the site again on April 23, to attend a prayer ceremony organized by members of the Yankton Sioux Tribe. Upon my information, Tribal members and others were invited by the landowner, Galen Heckenlaible, who participated in the prayer circle. Mr. Heckenlaible's connection to the local rural water system, which supplies his drinking water, had been disconnected near the spill and a temporary plastic water line had been run to his home. There was concern with the amount of time that elapsed from when the breach occurred to when it was discovered and reported to TransCanada. Mr. Heckenlaible's family continued to drink the water during that time, carcinogenic benzene may have contaminated his system. That is why TransCanada's contractors installed an alternative pipeline, after Mr. Heckenlaible's family had been drinking the contaminated water for several days.

12. TransCanada originally reported to the public that the spill was 187 gallons, by this time it revised its original story and the magnitude of the spill was reported to be 16,800 gallons – nearly 100 times more than TransCanada's original estimate.

13. Upon my information and belief, Brian Walsh of the South Dakota Public Utilities Commission has publicly stated that the wells of local farmers, ranchers and rural home sites in the vicinity of the Freeman oil spill may be contaminated.

14. I am familiar with the permit conditions included in TransCanada's 2010 permit from the South Dakota PUC. Based upon my observations on April 4, April 9 and April 23, the Keystone base line spill and TransCanada's actions following the spill, relate to TransCanada's ability to comply with Keystone XL pipeline permit conditions 1 and 31 (compliance with federal oil pipeline regulations), condition 36 (implementation of emergency response plan) and conditions 37-37 (leak detection).

15. Evidence regarding the spill from the Keystone base line is material to the issue of whether TransCanada complies with the permit conditions for Keystone XL. Such evidence would be helpful in determining whether the certification of compliance with the permit conditions should have been granted and should be affirmed by this court.

16. This affidavit is made in good faith and not for the purpose of securing delay, or for any other improper purpose.

WHEREFORE, your Affiant respectfully requests that the Motion to Remand be granted.

Pat P. Scoway

STATE OF SOUTH DAKOTA)

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COUNTY OF JONES)

SUBSCRIBED and SWORN to before me
this 10th day of May, 2016

Debra Byrd
Notary Public

My Commission Expires 12-31-16
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