STATE OF SOUTH DAKOTA IN CIRCUIT COURT :SS **COUNTY OF HUGHES** SIXTH JUDICIAL CIRCUIT

 $0 \hbox{-} 0 \hbox{-}$

IN THE MATTER OF PUBLIC UTILITIES 32CIV16-33

COMMISSION DOCKET NO. HP14-001, ORDER ACCEPTING CERTIFICATION OF:

PERMIT ISSUED IN DOCKET HP09-001 TO

MOTION TO TAKE JUDICIAL CONSTRUCT THE KEYSTONE XL **NOTICE**

PIPELINE

 $0 \hbox{-} 0 \hbox{-}$

Under SDCL Ch. 19-10, Appellee TransCanada Keystone Pipeline, LP ("Keystone"), moves that the Court take judicial notice of the Presidential Memorandum Regarding Construction of the Keystone XL Pipeline dated January 24, 2017 (attached as Exhibit A), and Keystone's Application for Presidential Permit for Keystone XL Pipeline Project dated January 26, 2017 (attached as Exhibit B). Judicial notice is appropriate because the documents are relevant to one of the arguments raised by the Appellants on appeal, namely, that Keystone cannot comply with Condition 2 of the Public Utilities Commission's Amended Final Decision and Order because its previous application for a Presidential Permit was denied on November 6, 2015. This motion is based on a supporting brief.

Dated this 6th day of March, 2017.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

James E. Moore
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
Email James.Moore@woodsfuller.com

William Taylor
TAYLOR LAW FIRM
4820 E. 57th Street
Sioux Falls, SD 57108
Phone (605) 782-5304
Email bill.taylor@taylorlawsd.com
Attorneys for TransCanada Keystone Pipeline, LP

Certificate of Service

I hereby certify that on the 6th day of March, 2017, I electronically served a true and correct copy of the foregoing Motion to Take Judicial Notice using the Odyssey File & Serve System, , which will automatically send e-mail notification of such service to the following:

Ms. Patricia Van Gerpen

Executive Director

South Dakota Public Utilities Commission

500 E. Capitol Ave.

Pierre, SD 57501

Patty.vangerpen@state.sd.us

Robert P. Gough

Secretary

Intertribal Counc

PO Box 25

Rosebud, SD 575

Gough.bob@gma

Intertribal Council on Utility Policy
PO Box 25
Rosebud, SD 57570
Gough.bob@gmail.com

{02560540.1}

Case Number: Civ. 16-33 Motion to Take Judicial Notice

> Adam De Hueck Special Assistant Attorney General South Dakota Public Utilities Commission 500 E. Capitol Ave. Pierre, SD 57501 Adam.dehueck@state.sd.us

Thomasina Real Bird
Tracey Zephier
Travis Clark
FREDERICKS PEEBLES & MORGAN LLP
1900 Plaza Drive
Louisville, CO 80027
trealbird@ndlaw.com
tzephier@ndlaw.com
tclark@ndlaw.com

John J. Smith Hearing Examiner Capitol Building 1st Floor 500 E. Capitol Ave. Pierre, SD 57501 Johnj.smith@state.sd.us

And by e-mail transmission and United States first class mail, postage pre-paid to:

Bruce Ellison
Attorney
Dakota Rural Action
518 Sixth Street #6
Rapid City, SD 57701
Belli4law@aol.com

Robin S. Martinez
The Martinez Law Firm, LLC
1150 Grand, Suite 240
Kansas City, MO 64106
Robin.martinez@martinezlaw.net

Jennifer S. Baker FREDERICKS PEEBLES & MORGAN LLP 1900 Plaza Drive Louisville, CO 80027 jbaker@ndlaw.com Peter Capossela Peter Capossela, P.C. Attorney at Law PO Box 10643 Eugene, Oregon 97440 pcapossela@nu-world.com

Chase Iron Eyes Iron Eyes Law Office, PLLC PO Box 888 Fort Yates, ND 58538 Chaseironeyes@gmail.com

/s/ James E. Moore

One of the Attorneys for TransCanada Keystone Pipeline, LP

{02560540.1}