

- Five responded to the discovery, but have failed to disclose any witnesses or exhibits because they are still investigating their case (John Harter; BOLD Nebraska; Carolyn Smith; and Gary Dorr); or they simply objected to all of Keystone’s discovery requests and provided no responsive information (Yankton Sioux Tribe). (*Id.* ¶ 7.)
- Nine responded that they do not intend to call any witnesses at the hearing: Paul Seamans; Cindy Myers; Arthur Tanderup; Amy Schaffer; Nancy Hilding; Bruce Boettcher; Roxanne Boettcher; Wrexie Lainson Bardaglio; and Bonny Kilmurry. (*Id.* ¶ 9.) One of the nine, Cindy Myers, later responded that she might call an expert, but she has not provided any specific information about him in response to outstanding discovery. (*Id.* ¶ 13.)
- Nine responded and have disclosed the identity of witnesses they intend to call at the hearing: Elizabeth Lone Eagle; Rosebud Sioux Tribe; Standing Rock Sioux Tribe; Cheyenne River Sioux Tribe; Dakota Rural Action; Indigenous Environmental Network; Intertribal COUP; and Byron and Diana Steskal. (*Id.* ¶ 10.)

On February 11, 2015, as required by SDCL § 15-6-37(a), counsel for Keystone wrote to Intervenor who did not respond to ask that they respond by February 16, 2015. (*Id.* ¶ 5.) Except for the Sierra Club and the South Dakota Wildlife Federation, none of the Intervenor who received that letter responded. (*Id.* ¶ 6.)

On the same date, as required by SDCL § 15-6-37(a), counsel for Keystone also wrote to the six Intervenor who had objected or not fully responded to Keystone’s written discovery to request that they identify witnesses they intended to call at the hearing and documents that they intended to rely on at the hearing by March 10, 2015. (*Id.* ¶ 8.) Five of the six did not respond to the letter, but the Rosebud Sioux Tribe later served supplemental answers after discussions between counsel. (*Id.*)

2. The Intervenor who have disclosed nothing should not be allowed to offer witnesses or evidence.

With respect to the 18 Intervenor who failed to answer discovery and the four Intervenor who responded but failed to identify witnesses or documents based on their

continuing investigation or objections, Keystone asks that the Commission enter an order precluding them from offering witnesses or evidence at the hearing based on their failure to answer discovery.

First, by administrative rule, the rules of civil procedure applicable in state court apply before the Commission. ARSD 20:10:01:01.02; ARSD 20:10:01:22.01. The Commission has broad discretion to address discovery issues, including to preclude parties who entirely failed to respond to discovery from offering testimony or evidence at the hearing. *See, e.g., Veblen District v. Multi-Community Coop. Dairy*, 2012 S.D. 26, 21, 813 N.W.2d 161, 166 (“The authority of the trial court concerning sanctions is flexible and allows the court “broad discretion with regard to sanctions imposed thereunder for failure to comply with discovery orders.”” (quoting *Schwartz v. Palachuk*, 1999 S.D. 100, 23, 597 N.W.2d 442, 447)). By statute, if a party fails to answer discovery, a court may “make such orders in regard to the failure as are just,” including “[a]n order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence.” SDCL §§ 15-6-37(d) and 15-6-37(b)(2)(B). The South Dakota Supreme Court has held that it is within a court’s discretion to exclude testimony that was not disclosed in response to written interrogatories. *Delzer Const. Co. v. South Dakota State Bd. Of Transp.*, 275 N.W.2d 352, 356 (S.D. 1979).

As to the 18 Intervenors who failed to respond to discovery in any way, an order precluding them from offering testimony or evidence at the hearing would be appropriate. Their refusal to participate in discovery, including their failure to respond to a follow-up letter

requesting that they answer the discovery served on them is deliberate conduct inconsistent with the goal of allowing all parties an opportunity to learn what witnesses and evidence the other side will use to present its case.

Second, the Commission's procedural order established deadlines for responding to discovery, including a deadline of March 10, 2015, to respond to a second round of discovery. Because the next deadline identified in the Commission's order is the deadline on April 2, 2015, for disclosing prefiled testimony, the date of March 10, 2015 essentially set a discovery deadline. The four Intervenors who have stated that they are still investigating their case should not be allowed to disclose for the first time documents or witnesses after the discovery deadline. *See Thompson v. Mehlhaff*, 2005 S.D. 69, ¶¶ 25-27, 698 N.W.2d 512, 520-21 (affirming exclusion of expert witness who was not timely disclosed).

This proceeding was started in September, 2014, and Keystone's discovery was served on December 18, 2014. The four Intervenors who responded to discovery but who have failed to identify any witnesses or documents have had ample time to investigate the facts and circumstances and to disclose to Keystone what they intend to present at the hearing, if anything. The Intervenors offer no explanation for their failure to produce discovery. They should not be allowed to subvert the discovery process by providing information for the first time well after the close of discovery, which would be prejudicial to Keystone. *See Thompson*, ¶¶ 25-26, 698 N.W.2d at 521 (discussing explanation for failure to comply and prejudice as relevant factors).

3. The blanket objections of The Yankton Sioux Tribe are without merit and are an effort to deny Keystone even basic discovery.

The Yankton Sioux Tribe objected to all of Keystone's written discovery and provided no substantive information. Its objections are without merit and are an effort to deny Keystone even basic discovery before the hearing.

With respect to Interrogatory Nos. 3 and 4, asking for the identity of fact and expert witnesses, the Yankton Sioux Tribe objected that "[a]t this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify" at the hearing. (Moore Aff. ¶ 7, Ex. G.) These answers have not been supplemented. (*Id.* ¶ 11) When the answers were made on February 6, 2015, the case had been pending since September, and Keystone's discovery requests were served on December 18, 2014. The Yankton Sioux Tribe did not respond to Keystone's follow-up letter. (*Id.* ¶ 8.) The time for discovery expired on March 10, 2015. With a hearing set to begin on May 5, it would be prejudicial to Keystone to allow the Yankton Sioux Tribe to provide responsive information shortly before the hearing, especially given that other Intervenors have been able to timely respond, and that Keystone has timely responded to two sets of written discovery from the Yankton Sioux Tribe. (*Id.* ¶ 12.)

With respect to Interrogatory No. 5, in which Keystone asked the Tribe to identify by number each condition in the final permit that the Tribe contends Keystone could not meet, the Tribe objected that the request failed to comply with the Commission's discovery order because it did not "identify by number and letter the specific Condition or Finding of Fact addressed." (*Id.* Ex. G.) This objection makes no sense given that the request asked the Tribe to identify which conditions it contends Keystone cannot meet. The Tribe also objected that the request

called for work product under SDCL § 15-6-26(b)(3). (*Id.*) The cited statute is a codification of the work-product doctrine, which applies to “documents and tangible things.” SDCL § 15-6-26(b)(3). It does not apply to a request that a party identify the factual basis for what it must prove to prevail in the litigation. Finally, the Tribe objected that “it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.” (*Id.*) This is mere boilerplate. The Tribe offers no facts to support its objection.

The Tribe made essentially the same objections to Interrogatory Nos. 6, 7, and 8, in which Keystone asked the Tribe to identify by number each finding of fact in the final permit that it contends is no longer accurate because of a change in factor or circumstances; to identify any other reasons why it contends Keystone cannot meet its Permit obligations; and to identify any other reasons it contends that the Commission should not accept Keystone’s certification. (*Id.*) The objections should be overruled for the same reasons.

The Tribe objected to all of Keystone’s document requests. (*Id.*) The Tribe objected to Document Request No. 1 for all documents that would be offered as exhibits because it failed to identify by number each condition to which it was addressed; because it related to work product; and because it was vague and overbroad. As discussed, the first objection is illogical, the second is contrary to a basic understanding of procedure (parties almost always exchange exhibits to be used at trial), and it is not overlybroad or vague—it seeks only documents that the Tribe intends to offer as exhibits.

The Tribe objected to Document Request Nos. 2-5, which asked for documents supporting the answers to Interrogatory Nos. 5-8, as failing to identify by number each condition or factual finding to which it was addressed, which is an illogical objection given the nature of the request.

The Tribe objected to Document Request Nos. 6-8, which asked for documents relied on or sent to any expert to be called as a witness, as well as a resume for every expert witness the Tribe intends to call. The Tribe objected that these requests failed to identify the condition or finding to which they were addressed, required the production of work product (as to 6 and 7), and were vague and overly broad. To the contrary, South Dakota statute requires identification of trial experts, identification of the substance of the expert's testimony, and facts or data that a party's attorney sent to the expert. SDCL §§ 15-6-26(b)(4)(A)(i), (C)(ii) and (iii). Keystone respectfully requests that all of these objections be overruled.

4. Cindy Myers has not sufficiently disclosed an expert witness.

In her initial discovery responses, Cindy Myers did not identify any expert witnesses, but in a supplemental response sent on March 10, 2015, Myers disclosed that she may call Dr. Cleve Trimble, a retired UNMC staff educator/surgeon as an expert witness. (*Id.* ¶ 13.) Keystone responded with a request that if Myers intended to call Dr. Trimble, that she respond as soon as possible to the specifics in Interrogatory No. 4, asking for expert witness information. (*Id.*) Myers has not provided any additional information. (*Id.*)

Keystone asks that the PUC require Myers to provide, in advance of the hearing, additional responsive discovery related to Dr. Trimble if she intends to call him as a witness at the hearing.

Conclusion

Keystone therefore respectfully requests that the Commission enter an order:

- (1) precluding the 17 Intervenor who failed to respond to discovery from offering any testimony or evidence at the hearing;
- (2) precluding the four Intervenor who are still investigating their case from making late disclosures for the first time after the close of discovery, and therefore also precluding them from offering witnesses or evidence at the hearing;
- (3) overruling the objections of the Yankton Sioux Tribe, thereby limiting its hearing participation; and
- (4) requiring Cindy Myers to disclose additional expert information if she intends to present expert testimony.

Dated this 23rd day of March, 2015.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

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4. The Sierra Club and the South Dakota Wildlife Federation also failed to respond, but have since withdrawn from the case by order of the Commission.

5. As required by SDCL § 15-6-37(a), William Taylor, another of the lawyers representing Keystone, wrote to these Intervenors on February 11, 2015, asking for responses by February 16, 2015. A representative copy of Mr. Taylor's letter is attached as Exhibit B.

6. None of the Intervenors except for The Sierra Club and the South Dakota Wildlife Federation responded to the letter.

7. Five Intervenors responded to the discovery, but have failed to disclose any substantive information. John Harter, BOLD Nebraska, Carolyn Smith, and Gary Dorr all stated in their discovery responses that they were still investigating their case or had not had time to determine the identity of witnesses or exhibits. Their responses are attached as Exhibits C-F. The Yankton Sioux Tribe objected to all of Keystone's substantive requests and refused to provide any information. Its responses are attached as Exhibit G. The Rosebud Sioux Tribe also objected to all of Keystone's substantive requests.

8. As required by SDCL § 15-6-37(a), William Taylor wrote to these six Intervenors on February 11, 2015, asking that they identify no later than March 10, 2015, document and witnesses they intended to use at the hearing. A representative copy of the letter is attached as Exhibit H. Five of the six did not respond to the letter, but the Rosebud Sioux Tribe later served supplemental answers in which it disclosed the identity of its fact witnesses.

9. Nine Intervenors responded that they do not intend to call any witnesses at the hearing: Paul Seamans; Cindy Myers; Arthur Tanderup; Amy Schaffer; Nancy Hilding; Bruce Boettcher; Roxanne Boettcher; Wrexie Lainson Bardaglio; and Bonny Kilmurry.

10. Eight Intervenors responded and disclosed the identity of witnesses and documents they intend to call or use at the hearing: Elizabeth Lone Eagle; the Standing Rock Sioux Tribe; the Cheyenne River Sioux Tribe; Dakota Rural Action; Indigenous Environmental Network; Intertribal COUP; and Byron and Diana Steskal. The Rosebud Sioux Tribe later served supplemental answers disclosing the identity of its fact witnesses.

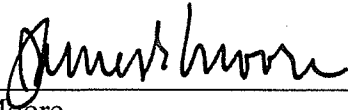
11. The Yankton Sioux Tribe has not supplemented its initial discovery responses, which are attached as Exhibit G.

12. The Yankton Sioux Tribe served two sets of written discovery on Keystone, and Keystone timely responded to both. Keystone's responses are attached as Exhibits I and J.

13. In her initial discovery responses, Cindy Myers did not identify any expert witnesses, but in a supplemental response sent on March 10, 2015, Myers disclosed that she may call Dr. Cleve Trimble, a retired UNMC staff educator/surgeon as an expert witness. A copy of her supplemental response is attached as Exhibit K. Keystone asked in response that if she intended to call Dr. Trimble, she answer Interrogatory 4 with respect to him as soon as possible. A copy of the response is attached as Exhibit L. Myers has not provided any additional information.

14. Under SDCL § 15-6-37(a)(2), I certify that we have attempted in good faith to obtain the requested discovery from the Intervenors addressed in the motion.

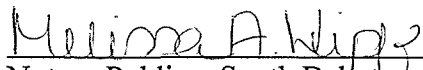
Dated this 23rd day of March, 2015.



James E. Moore

Subscribed and sworn to before me

this 23rd day of March, 2015.



Notary Public – South Dakota **My Commission Expires**
My commission expires: **Sept. 13, 2017**

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of March, 2015, I sent by United States first-class mail, postage prepaid, or e-mail transmission, a true and correct copy of Affidavit of James E. Moore, to the following:

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paul@paulblackburn.net

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Rappold Law Office
on behalf of Rosebud Sioux Tribe
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Rapid City, SD 57709
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Joy Lashley
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SD Public Utilities Commission
joy.lashley@state.sd.us

Eric Antoine
Rosebud Sioux Tribe
PO Box 430
Rosebud, SD 57570
ejantoine@hotmail.com

/s/ James E. Moore
One of the attorneys for TransCanada

INTERROGATORIES

1. State the name, current address, and telephone number of the person answering these interrogatories.
2. State the name, current address, and telephone number of any person, other than your legal counsel, who you talked with about answering these interrogatories, who assisted you in answering these interrogatories, or who provided information that you relied on in answering these interrogatories.
3. State the name, current address, and telephone number of each fact witness you intend to call to offer testimony at the evidentiary hearing in this case set for May 2015.
4. State the name, current address, and telephone number of each witness whom you intend to call at the evidentiary hearing as an expert witness under SDCL Ch. 19-15, and for each expert, state:
 - a. the subject matter on which the expert is expected to testify;
 - b. the substance of each opinion to which the expert is expected to testify;
 - c. the facts supporting each opinion to which the expert is expected to testify;

d. the expert's profession or occupation, educational background, specialized training, and employment history relevant to the expert's proposed testimony;

e. the expert's previous publications within the preceding 10 years; and

f. all other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

5. Identify by number each condition in Exhibit A to the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, that you contend Applicant TransCanada Keystone Pipeline, LP, cannot now or in the future meet, and for each condition that you identify, state:

a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify that Applicant is unable to meet the condition.

6. Identify by number each finding of fact in the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, that you contend is no longer accurate because of a change in facts or circumstances related to the proposed construction and operation of the Keystone XL Pipeline in South Dakota, and for each finding that you identify, state:

a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify that the finding of fact is no longer accurate.

7. In addition to the facts identified in your responses to interrogatory numbers 5 and 6, identify any other reasons that you contend Applicant cannot continue to meet the conditions on which the Permit granted, and for each reason that you identify, state:

a. the condition in the Amended Final Decision and Order dated June 29, 2010 entered in HP09-001, identified by number;

b. the facts on which your contention is based; and

c. the name, current address, and telephone number of each witness who will testify in support of your contention.

8. In addition to the facts identified in your responses to the preceding interrogatories, identify any other reason why the Public Utilities Commission should not accept Applicant's certification filed September 15, 2014 in HP14-001, and for each reason that you identify, state:

a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify in support of your contention.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents that you intend to offer as exhibits at the evidentiary hearing in this matter.
2. All documents on which you rely in support of your answer to Interrogatory No. 5.
3. All documents on which you rely in support of your answer to Interrogatory No. 6.
4. All documents on which you rely in support of your answer to Interrogatory No. 7.
5. All documents on which you rely in support of your answer to Interrogatory No. 8.
6. All documents relied on by any expert whose testimony you intend to offer at the evidentiary hearing in this matter.
7. All documents that you have sent to or received from any expert whose testimony you intend to offer at the evidentiary hearing in this matter.
8. A current resume for each expert whose testimony you intend to offer at the evidentiary hearing in this matter.

Dated this 18th day of December, 2014.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

William Taylor
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
bill.taylor@woodsfuller.com
Attorneys for Applicant TransCanada

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of December, 2014, I sent by e-mail transmission, a true and correct copy of Keystone's Interrogatories and Requests for Production of Documents, to the following:

The Yankton Sioux Tribe
Robert Flying Hawk, Chairman
PO Box 1153
Wagner, SD 57380
robertflyinghawk@gmail.com

Thomasina Real Bird
Attorney for Yankton Sioux Tribe
trealbird@ndnlaw.com

/s/ James E. Moore

One of the attorneys for TransCanada



February 11, 2015

William Taylor
Bill.Taylor@woodsfuller.com
Extension 647

Via e-mail

Chastity Jewett
chasjewett@gmail.com

Re: In the Matter of the Application by TransCanada Keystone Pipeline, LP
HP 14-001

Dear Ms. Jewett:

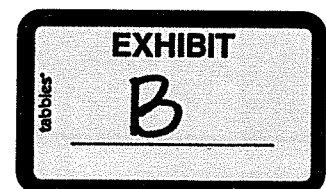
TransCanada served you with interrogatories and requests for production of documents on December 18, 2014. Per the Public Utilities Commission order, your responses were due February 6, 2015.

To date, we have not received responses to TransCanada's discovery requests. Please respond no later than close of business Monday, February 16, 2015.

Yours sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

William Taylor



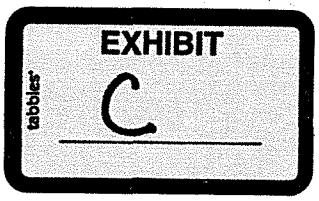
**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

John Harter ("John") hereby submits the following responses and objections to the interrogatories sent to him by TransCanada Keystone Pipeline, LP ("TransCanada"), dated December 18, 2014. John's answers are based on its reasonable inquiries and the information known to [him] as of the date of these responses. John's responses, therefore, are not intended to be, nor shall be deemed

IN THE MATTER OF THE)	
APPLICATION BY TRANSCANADA)	HP 14-001
KEYSTONE PIPELINE, LP FOR A)	
PERMIT UNDER THE SOUTH)	[INTERVENOR]'S FIRST RESPONSE TO
DAKOTA ENERGY CONVERSION)	THE INTERROGATORIES
AND TRANSMISSION FACILITIES)	AND REQUESTS FOR PRODUCTION
ACT TO CONSTRUCT THE)	OF DOCUMENTS OF TRANSCANADA
KEYSTONE XL PROJECT)	KEYSTONE PIPELINE, LP
)	

to be, a representation that no other facts or contentions other than those specified in the responses do or do not exist. Discovery and other investigation or research concerning this proceeding are continuing. John reserves the right, therefore, to amend or supplement its responses in accordance with the South Dakota Public Utility Commission ("SDPUC") scheduling order dated December 17, 2014. John's responses and objections are made within the scope of SDCL § 15-6-26(e) and shall not be deemed continuing nor be supplemented except as required by that rule.

INTERROGATORIES



INTERROGATORY NO. 1: State the name, current address, and telephone number of the person answering these interrogatories.

ANSWER: John Harter 28125 307th Avenue Winner, SD 605 842 0934

Cell 605 840 9478

INTERROGATORY NO. 2: State the name, current address, and telephone number of any person, other than your legal counsel, who you talked with about answering these interrogatories, who assisted you in answering these interrogatories, or who provided information that you relied on in answering these interrogatories.

ANSWER: John objects to this interrogatory because it is overly broad, vague, and burdensome. Specifically, identification of all individuals with whom John may have discussed the interrogatories to any degree, including their mere existence, would not lead to the discovery of admissible evidence. Without waving these objections, John has not discussed his substantive answers to these interrogatories with anyone.

Other than receiving this template in an email I have not discussed this with anyone.

INTERROGATORY NO. 3: State the name, current address, and telephone number of each fact witness you intend to call to offer testimony at the evidentiary hearing in this case set for May 2015.

ANSWER: John has not yet determined who it intends to call as a fact witness.

INTERROGATORY NO. 4: State the name, current address, and telephone number of each witness whom you intend to call at the evidentiary hearing as an expert witness under SDCL Ch. 1915, and for each expert, state:

- a. the subject matter on which the expert is expected to testify;
- b. the substance of each opinion to which the expert is expected to testify;
- c. the facts supporting each opinion to which the expert is expected to testify;
- d. the expert's profession or occupation, educational background, specialized training, and employment history relevant to the expert's proposed testimony;
- e. the expert's previous publications within the preceding 10 years; and
- f. all other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

ANSWER: John states that he has not yet determined which individuals, who would qualify as an expert witness under SDCL Ch. 1915, to call as expert witnesses in the evidentiary hearing.

INTERROGATORY NO. 5: Identify by number each condition in Exhibit A to the Amended Final Decision and Order dated June 29, 2010, entered in HP09001, that you contend Applicant TransCanada Keystone Pipeline, LP, cannot now or in the future meet, and for each condition that you identify, state:

- a. the facts on which your contention is based; and
- b. the name, current address, and telephone number of each witness who will testify that Applicant is unable to meet the condition.

ANSWER: John objects to this interrogatory because it is overly broad, vague and unduly burdensome. Providing a separate list containing each individual fact that

John intends to present would be unduly burdensome. In addition, the word "fact" is vague and overly broad, making it impossible for John to understand how to define a single fact. Without waiving these objections, John contends that TransCanada cannot now or in the future meet the following conditions in Exhibit A: John Harter has not yet had time to do all this. I have a real and honest job to do.

INTERROGATORY NO. 6: Identify by number each finding of fact in the Amended Final Decision and Order dated June 29, 2010, entered in HP09001, that you contend is no longer accurate because of a change in facts or circumstances related to the proposed construction and operation of the Keystone XL Pipeline in South Dakota, and for each finding that you identify, state:

- a. the facts on which your contention is based; and
- b. the name, current address, and telephone number of each witness who will testify that the finding of fact is no longer accurate.

ANSWER: John objects to this interrogatory because it is overly broad, vague and unduly burdensome. Providing a separate list containing each individual fact that John intends to present would be unduly burdensome. In addition, the word "fact" is vague and overly broad, making it impossible for John to understand how to define a single fact. Without waiving these objections, John contends that the following facts in the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, are no longer accurate:. John has not yet determined which fact witnesses to call in this proceeding.

INTERROGATORY NO. 7: In addition to the facts identified in your responses to interrogatory numbers 5 and 6, identify any other reasons that you contend Applicant cannot continue to meet the conditions on which the Permit granted, and for each reason that you identify, state:

- a. the condition in the Amended Final Decision and Order dated June 29, 2010 entered in HP09001, identified by number;
- b. the facts on which your contention is based; and
- c. the name, current address, and telephone number of each witness who will testify in support of your contention.

ANSWER: John objects to this interrogatory because it is overly broad, vague, and unduly burdensome. Providing a separate list containing each individual fact that John intends to present would be unduly burdensome. In addition, the word "fact" is vague and overly broad, making it impossible for John to understand how to define a single fact. Without waiving these objections, John has not yet determined which witnesses to call in this proceeding.

INTERROGATORY NO. 8: In addition to the facts identified in your responses to the preceding interrogatories, identify any other reason why the Public Utilities Commission should not accept Applicant's certification filed September 15, 2014 in HP14001, and for each reason that you identify, state:

- a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify in support of your contention.

ANSWER: John objects to this interrogatory because it is overly broad, vague, and unduly burdensome. Providing a separate list containing each individual fact that John intends to present would be unduly burdensome. In addition, the word "fact" is vague and overly broad, making it impossible for John to understand how to define a single fact. Without waiving this objection, John has not yet determined which witnesses to call in this proceeding.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: All documents that you intend to offer as exhibits at the evidentiary hearing in this matter.

ANSWER: John has not yet determined which documents he intends to offer as exhibits.

REQUEST FOR PRODUCTION NO. 2: All documents on which you rely in support of your answer to Interrogatory No. 5.

ANSWER: See John's response to Interrogatory No. 5.

REQUEST FOR PRODUCTION NO. 3: All documents on which you rely in support of your answer to Interrogatory No. 6.

ANSWER: See John's response to Interrogatory No. 6.

REQUEST FOR PRODUCTION NO. 4: All documents on which you rely in support of your answer to Interrogatory No. 7.

ANSWER: See John's response to Interrogatory No. 7.

REQUEST FOR PRODUCTION NO. 5: All documents on which you rely in support of your answer to Interrogatory No. 8.

ANSWER: See John's response to Interrogatory No. 8.

REQUEST FOR PRODUCTION NO. 6: All documents relied on by any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Information responsive to this interrogatory may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving this objection, John has not yet determined which expert witnesses to call in this proceeding.

REQUEST FOR PRODUCTION NO. 7: All documents that you have sent to or received from any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Information responsive to this interrogatory may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving this objection, John has not yet determined which expert witnesses to call in this proceeding.

REQUEST FOR PRODUCTION NO. 8: A current resume for each expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Information responsive to this interrogatory may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving this objection, John has not yet determined which expert witnesses to call in this proceeding.

Dated this 6th day of February, 2015.

/s/ John Harter

John Harter
28125 307th Avenue
Winner SD 57580
605 842 0934 / 605 840 9478
johnharter11@yahoo.com

CERTIFICATE OF SERVICE

I hereby certify that on February 6th, 2015, I sent by email a true and correct copy of [Name] Nebraska's First Response to the Interrogatories and Requests for Production of Documents of TransCanada Keystone Pipeline, LP, to the following:

Mr. James E. Moore
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
james.moore@woodsfuller.com

Mr. Bill G. Taylor
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
bill.taylor@woodsfuller.com

/s/ Paul C. Blackburn
Paul C. Blackburn

INTERROGATORIES

INTERROGATORY NO. 1: State the name, current address, and telephone number of the person answering these interrogatories.

ANSWER: Paul C. Blackburn, Esq., Counsel for Bold Nebraska, P.O. Box 17234, Minneapolis, MN 55417, 612-599-5568.

INTERROGATORY NO. 2: State the name, current address, and telephone number of any person, other than your legal counsel, who you talked with about answering these interrogatories, who assisted you in answering these interrogatories, or who provided information that you relied on in answering these interrogatories.

ANSWER: Bold objects to this interrogatory because it is overly broad, vague, and burdensome. Specifically, identification of all individuals with whom Bold's staff, volunteers, and supporters may have discussed the interrogatories to any degree, including but not limited to their mere existence, would not lead to the discovery of admissible evidence. It would be burdensome to identify all persons with whom Bold's staff, volunteers, and supporters may have had non-substantive communications about these interrogatories. Without waving these objections, Bold has not discussed its substantive answers to these interrogatories with anyone other than its counsel, which communications are protected by the work product doctrine and/or the attorney-client privilege.

INTERROGATORY NO. 3: State the name, current address, and telephone number of each fact witness you intend to call to offer testimony at the evidentiary hearing in this case set for May 2015.

ANSWER: Bold has not yet determined who it intends to call as a fact witness.

INTERROGATORY NO. 4: State the name, current address, and telephone number of each witness whom you intend to call at the evidentiary hearing as an expert witness under SDCL Ch. 1915, and for each expert, state:

- a. the subject matter on which the expert is expected to testify;
- b. the substance of each opinion to which the expert is expected to testify;
- c. the facts supporting each opinion to which the expert is expected to testify;
- d. the expert's profession or occupation, educational background, specialized training, and employment history relevant to the expert's proposed testimony;
- e. the expert's previous publications within the preceding 10 years; and
- f. all other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

ANSWER: Bold objects to this interrogatory because information responsive to it may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving this objection, Bold states that it has not yet determined which individuals, who would qualify as an expert witness under SDCL Ch. 1915, to call as expert witnesses in the evidentiary hearing.

INTERROGATORY NO. 5: Identify by number each condition in Exhibit A to the Amended Final Decision and Order dated June 29, 2010, entered in HP09001, that you contend

Applicant TransCanada Keystone Pipeline, LP, cannot now or in the future meet, and for each condition that you identify, state:

- a. the facts on which your contention is based; and
- b. the name, current address, and telephone number of each witness who will testify that Applicant is unable to meet the condition.

ANSWER: Bold objects to this interrogatory because it is vague and unduly burdensome. Providing a separate list containing each individual fact that Bold intends to present would be unduly burdensome. In addition, the word "fact" is vague and overly broad, making it impossible for Bold to understand how to define a single fact. Further, information responsive to this interrogatory may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving these objections, Bold will claim that TransCanada cannot now or in the future meet the following conditions in Exhibit A: 1, 2, 34, 35, and 36. Bold reserves the right to supplement or remove conditions from this list. Bold has not yet determined the witnesses it intends to call in this proceeding to provide evidence related to these conditions.

INTERROGATORY NO. 6: Identify by number each finding of fact in the Amended Final Decision and Order dated June 29, 2010, entered in HP09001, that you contend is no longer accurate because of a change in facts or circumstances related to the proposed construction and operation of the Keystone XL Pipeline in South Dakota, and for each finding that you identify, state:

- a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify that the finding of fact is no longer accurate.

ANSWER: Bold objects to this interrogatory because it is vague and unduly burdensome. Providing a separate list containing each individual fact that Bold intends to present would be unduly burdensome. In addition, the word "fact" is vague and overly broad, making it impossible for Bold to understand how to define a single fact. Further, information responsive to this interrogatory may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving these objections, Bold will claim that the following findings of fact in the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, are no longer accurate: 14 – 20, 22 – 29, 32, 40 – 45, 47, 48 – 53, 65 – 68, 70 – 72, 83, 84, 90, 92, 94, 95, 97 – 100, and 113. Bold reserves the right to supplement or remove findings of fact from this list. Bold has not yet determined the witnesses it intends to call in this proceeding to provide evidence related to these fact paragraphs.

INTERROGATORY NO. 7: In addition to the facts identified in your responses to interrogatory numbers 5 and 6, identify any other reasons that you contend Applicant cannot continue to meet the conditions on which the Permit granted, and for each reason that you identify, state:

a. the condition in the Amended Final Decision and Order dated June 29, 2010 entered in HP09001, identified by number;

b. the facts on which your contention is based; and

c. the name, current address, and telephone number of each witness who will testify in support of your contention.

ANSWER: Bold objects to this interrogatory because it is overly broad, vague, and unduly burdensome. Providing a separate list containing each individual fact that Bold intends to present would be unduly burdensome. In addition, the word “fact” is vague and overly broad, making it impossible for Bold to understand how to define a single fact. Further, information responsive to this interrogatory may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving these objections, Bold has not yet determined which witnesses to call in this proceeding.

INTERROGATORY NO. 8: In addition to the facts identified in your responses to the preceding interrogatories, identify any other reason why the Public Utilities Commission should not accept Applicant’s certification filed September 15, 2014 in HP14001, and for each reason that you identify, state:

- a. the facts on which your contention is based; and
- b. the name, current address, and telephone number of each witness who will testify in support of your contention.

ANSWER: Bold objects to this interrogatory because it is overly broad, vague, and unduly burdensome. Providing a separate list containing each individual fact that Bold intends to present would be unduly burdensome. In addition, the word “fact” is vague and overly broad, making it impossible for Bold to understand how to define a single fact. Further, information responsive to this interrogatory may include attorney thought processes and trial strategies and

other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving these objections, Bold has not yet determined which witnesses to call in this proceeding.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: All documents that you intend to offer as exhibits at the evidentiary hearing in this matter.

ANSWER: Bold has not yet determined which documents it intends to offer as exhibits.

REQUEST FOR PRODUCTION NO. 2: All documents on which you rely in support of your answer to Interrogatory No. 5.

ANSWER: See Bold's response to Interrogatory No. 5.

REQUEST FOR PRODUCTION NO. 3: All documents on which you rely in support of your answer to Interrogatory No. 6.

ANSWER: See Bold's response to Interrogatory No. 6.

REQUEST FOR PRODUCTION NO. 4: All documents on which you rely in support of your answer to Interrogatory No. 7.

ANSWER: See Bold's response to Interrogatory No. 7.

REQUEST FOR PRODUCTION NO. 5: All documents on which you rely in support of your answer to Interrogatory No. 8.

ANSWER: See Bold's response to Interrogatory No. 8.

REQUEST FOR PRODUCTION NO. 6: All documents relied on by any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Bold objects to this request for production of documents because it: (a) is not limited to a reasonable time period; (b) contains vague, ambiguous, and undefined terms and phrases that are open to a variety of meanings and interpretations; (c) seeks information or material that is a matter of public record and/or equally available to TransCanada; (d) is overly broad, unduly burdensome; and (e) seeks information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. The term "relied on" is undefined and unrestricted to any type of information relied on by an expert to any degree at any time in any matter and as such seeks information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. Further, information responsive to this interrogatory may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving these objections, Bold has not yet determined which expert witnesses to call in this proceeding and thus is unable to provide any documents relied on by such experts.

REQUEST FOR PRODUCTION NO. 7: All documents that you have sent to or received from any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Bold objects to this request for production of documents because it: (a) is not limited to a reasonable time period; (b) contains vague, ambiguous, and undefined terms and phrases that are open to a variety of meanings and interpretations; (c) seeks information or

material that is a matter of public record and/or equally available to TransCanada; (d) is overly broad; and (e) seeks information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. The phrase "All documents that you have sent to or received from any expert" seeks documents sent at any time on any matter regardless of relevance to this proceeding or availability to TransCanada. Further, information responsive to this interrogatory may include attorney thought processes and trial strategies and other information that is protected by the work product doctrine and/or the attorney-client privilege. Without waiving these objections, Bold has not yet determined which expert witnesses to call in this proceeding and thus is unable to provide any documents either sent to or received from any such experts.

REQUEST FOR PRODUCTION NO. 8: A current resume for each expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Bold has not yet determined which expert witnesses to call in this proceeding and thus is unable to provide resumes for any experts.

Dated this 6th day of February, 2015.

/s/ Paul C. Blackburn
Paul C. Blackburn
P.O. Box 17234
Minneapolis, MN 55407
(612) 599-5568
paul@paulblackburn.net
Attorney for Bold Nebraska

CERTIFICATE OF SERVICE

I hereby certify that on February 6th, 2015, I sent by email a true and correct copy of Bold Nebraska's First Response to the Interrogatories and Requests for Production of Documents of TransCanada Keystone Pipeline, LP, to the following:

Mr. James E. Moore
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
james.moore@woodsfuller.com

Mr. Bill G. Taylor
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
bill.taylor@woodsfuller.com

/s/ Paul C. Blackburn
Paul C. Blackburn

From: jennie boone [mailto:peachie_1234@yahoo.com]

Sent: Thursday, February 05, 2015 4:02 PM

To: James E. Moore; William Taylor

Cc: Carolyn Smith

Subject: RESPONSE TO THE INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF TRANSCANADA KEYSTONE PIPELINE, LP

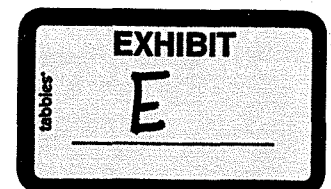
Dear Sirs,

At this time, I do not have any of the information that you have requested.

Carolyn P. Smith
305 North Third Street
Plainview Nebraska 68769
402-582-4708
peachie_1234@yahoo.com

Mr. James E. Moore
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
james.moore@woodsfuller.com

Mr. Bill G. Taylor
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
bill.taylor@woodsfuller.com



001879

ANSWER: Gary F. Dorr, 27853 292d St. Winner, SD 57580, (605) 828-8391.

INTERROGATORY NO. 2: State the name, current address, and telephone number of any person, other than your legal counsel, who you talked with about answering these interrogatories, who assisted you in answering these interrogatories, or who provided information that you relied on in answering these interrogatories.

ANSWER: Gary Dorr objects to this question because this interrogatory does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this interrogatory.

Gary F. Dorr also objects to this interrogatory because it is overly broad, vague, and burdensome. Specifically, identification of all individuals with whom Gary Dorr may have discussed the interrogatories to any degree, including their mere existence, would not lead to the discovery of admissible evidence.

INTERROGATORY NO. 3: State the name, current address, and telephone number of each fact witness you intend to call to offer testimony at the evidentiary hearing in this case set for May 2015.

ANSWER: Gary Dorr objects to this question because this interrogatory does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this interrogatory.

Without waving this objection, Gary Dorr has not yet determined who he intends to call as a fact witness.

INTERROGATORY NO. 4: State the name, current address, and telephone number of each witness whom you intend to call at the evidentiary hearing as an expert witness under SDCL Ch. 19-15, and for each expert, state:

- a. the subject matter on which the expert is expected to testify;
- b. the substance of each opinion to which the expert is expected to testify;
- c. the facts supporting each opinion to which the expert is expected to testify;
- d. the expert's profession or occupation, educational background, specialized training, and employment history relevant to the expert's proposed testimony;
- e. the expert's previous publications within the preceding 10 years; and
- f. all other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

ANSWER: Gary Dorr objects to this question because this interrogatory does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to "identify by number and letter the specific Condition or Finding of Fact addressed," which Keystone has not done with respect to this interrogatory.

Gary F. Dorr also objects to this interrogatory because it is overly broad, vague, and burdensome. Specifically, identification of all individuals and their publications for the last 10

years with whom Gary Dorr may have discussed the interrogatories to any degree, including their mere existence, would not lead to the discovery of admissible evidence.

Without waving this objection, Gary Dorr has not yet determined which individuals, who would qualify as an expert witness under SDCL Ch. 19-15, to call as expert witnesses in the evidentiary hearing.

INTERROGATORY NO. 5: Identify by number each condition in Exhibit A to the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, that you contend Applicant TransCanada Keystone Pipeline, LP, cannot now or in the future meet, and for each condition that you identify, state:

- a. the facts on which your contention is based; and
- b. the name, current address, and telephone number of each witness who will testify that Applicant is unable to meet the condition.

ANSWER: Gary Dorr objects to this question because this interrogatory does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this interrogatory.

Gary F. Dorr also objects to this interrogatory because it is overly broad, vague, and burdensome. Specifically, it ignores deadlines for additional discovery requests, which were set in the Order Granting Motion to Define Issues and Setting Procedural Schedule.

Without waving this objection, Gary Dorr has not yet determined who he intends to call

as a fact witness.

INTERROGATORY NO. 6: Identify by number each finding of fact in the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, that you contend is no longer accurate because of a change in facts or circumstances related to the proposed construction and operation of the Keystone XL Pipeline in South Dakota, and for each finding that you identify, state:

- a. the facts on which your contention is based; and
- b. the name, current address, and telephone number of each witness who will testify that the finding of fact is no longer accurate.

ANSWER: Gary Dorr objects to this question because this interrogatory does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this interrogatory.

Gary F. Dorr also objects to this interrogatory because it is overly broad, vague, and unduly burdensome. Specifically, it ignores deadlines for additional discovery requests, which were set in the Order Granting Motion to Define Issues and Setting Procedural Schedule. Providing a separate list containing each individual fact that Gary Dorr intends to present would be unduly burdensome.

Without waving this objection, Gary Dorr has not yet determined who he intends to call as a fact witness.

INTERROGATORY NO. 7: In addition to the facts identified in your responses to interrogatory numbers 5 and 6, identify any other reasons that you contend Applicant cannot continue to meet the conditions on which the Permit granted, and for each reason that you identify, state:

- a. the condition in the Amended Final Decision and Order dated June 29, 2010 entered in HP09-001, identified by number;
- b. the facts on which your contention is based; and
- c. the name, current address, and telephone number of each witness who will testify in support of your contention.

ANSWER: Gary Dorr objects to this question because this interrogatory does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this interrogatory.

Gary F. Dorr also objects to this interrogatory because it is overly broad, vague, and unduly burdensome. Specifically, it ignores deadlines for additional discovery requests, which were set in the Order Granting Motion to Define Issues and Setting Procedural Schedule.

Without waving this objection, Gary Dorr has not yet determined who he intends to call as a fact witness.

INTERROGATORY NO. 8: In addition to the facts identified in your responses to the preceding interrogatories, identify any other reason why the Public Utilities Commission should

not accept Applicant's certification filed September 15, 2014 in HP14-001, and for each reason that you identify, state:

- a. the facts on which your contention is based; and
- b. the name, current address, and telephone number of each witness who will testify in support of your contention.

ANSWER: Gary Dorr objects to this question because this interrogatory does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to "identify by number and letter the specific Condition or Finding of Fact addressed," which Keystone has not done with respect to this interrogatory.

Gary F. Dorr also objects to this interrogatory because it is overly broad, vague, and unduly burdensome. Specifically, it ignores deadlines for additional discovery requests, which were set in the Order Granting Motion to Define Issues and Setting Procedural Schedule.

Without waving this objection, Gary Dorr has not yet determined who he intends to call as a fact witness.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: All documents that you intend to offer as exhibits at the evidentiary hearing in this matter.

ANSWER: Gary Dorr objects to this question because this request does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to "identify by number and letter the specific Condition or

Finding of Fact addressed,” which Keystone has not done with respect to this request.

Gary F. Dorr also objects to this request because it is overly broad, vague, and unduly burdensome. Without waving this objection, Gary Dorr has not yet determined which documents he intends to offer as exhibits but will be submitting at a minimum, copies of the 1851 and 1868 Treaties of Fort Laramie as exhibits attached hereto as attachment #1 and attachment #2.

REQUEST FOR PRODUCTION NO. 2: All documents on which you rely in support of your answer to Interrogatory No. 5.

ANSWER: See Gary Dorr’s response to Interrogatory No. 5, and Gary Dorr also objects to this question because this request does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this request.

REQUEST FOR PRODUCTION NO. 3: All documents on which you rely in support of your answer to Interrogatory No. 6.

ANSWER: See Gary Dorr’s response to Interrogatory No. 6, and Gary Dorr also objects to this question because this request does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this request.

REQUEST FOR PRODUCTION NO. 4: All documents on which you rely in support of your

answer to Interrogatory No. 7.

ANSWER: See Gary Dorr's response to Interrogatory No. 7, and Gary Dorr also objects to this question because this request does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to "identify by number and letter the specific Condition or Finding of Fact addressed," which Keystone has not done with respect to this request.

REQUEST FOR PRODUCTION NO. 5: All documents on which you rely in support of your answer to Interrogatory No. 8.

ANSWER: See Gary Dorr's response to Interrogatory No. 8, and Gary Dorr also objects to this question because this request does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to "identify by number and letter the specific Condition or Finding of Fact addressed," which Keystone has not done with respect to this request.

REQUEST FOR PRODUCTION NO. 6: All documents relied on by any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Gary Dorr objects to this question because this request does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to "identify by number and letter the specific Condition or Finding of Fact addressed," which Keystone has not done with respect to this request. Gary Dorr also objects to this request for production of documents because it: (a) is not limited to a reasonable time period; (b) contains vague, ambiguous, and undefined terms and phrases that are open to a variety of meanings and interpretations; (c) seeks information or material that is a

matter of public record and/or equally available to Keystone; (d) is overly broad, unduly burdensome; and (e) seeks information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. The term “relied on” is undefined and unrestricted to any type of information relied on by an expert to any degree at any time in any matter and as such seeks information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. Information responsive to this interrogatory may include thought processes and trial strategies and other information that is protected by the work product doctrine. Without waiving these objections, Gary Dorr has not yet determined which expert witnesses to call in this proceeding.

REQUEST FOR PRODUCTION NO. 7: All documents that you have sent to or received from any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Gary Dorr objects to this question because this request does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this request. Gary Dorr also objects to this request for production of documents because it: (a) is not limited to a reasonable time period; (b) contains vague, ambiguous, and undefined terms and phrases that are open to a variety of meanings and interpretations; (c) seeks information or material that is a matter of public record and/or equally available to Keystone; (d) is overly broad; and (e) seeks information that is irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. The phrase “All documents that you have sent to or received from any expert” seeks documents sent at any time on any matter regardless of relevance to this proceeding or availability to Keystone. Information responsive to this interrogatory may include

thought processes and trial strategies and other information that is protected by the work product doctrine. Without waiving these objections, Gary Dorr has not yet determined which expert witnesses to call in this proceeding.

REQUEST FOR PRODUCTION NO. 8: A current resume for each expert whose testimony you intend to offer at the evidentiary hearing in this matter.

ANSWER: Gary Dorr objects to this question because this request does not comply with the Order Granting Motion to Define Issues, issued by the Commission on December 17, 2014. That Order requires all parties to “identify by number and letter the specific Condition or Finding of Fact addressed,” which Keystone has not done with respect to this request. Without waiving these objections, Gary Dorr has not yet determined which expert witnesses to call in this proceeding.

Dated this 6th day of February, 2015.

/s/ Gary F. Dorr
Gary F. Dorr
27853 29d St
Winner, SD 57580
(605) 828-8391
gfdorr@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on February 6th, 2015, I sent by email a true and correct copy of Gary Dorr’s First Response to the Interrogatories and Requests for Production of Documents of TransCanada Keystone Pipeline, LP, to the following:

Mr. James E. Moore
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
james.moore@woodsfuller.com

Mr. Bill G. Taylor
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
bill.taylor@woodsfuller.com

/s/ Gary F. Dorr
Gary F. Dorr

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF
TRANSCANADA KEYSTONE PIPELINE, LP
FOR ORDER ACCEPTING CERTIFICATION
OF PERMIT ISSUED IN DOCKET
HP09-001 TO CONSTRUCT THE
KEYSTONE XL PIPELINE

**YANKTON SIOUX TRIBE'S ANSWERS
AND OBJECTIONS TO KEYSTONE'S
FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF
DOCUMENTS**

HP14-001

TO: TransCanada Keystone XL Pipeline, LP

Pursuant to SDCL §§ 1-26-19, 15-6-33, and 15-6-34, and ARSD 20:10:01:1.02, the Yankton Sioux Tribe (hereinafter "Yankton") hereby submits its responses and objections to Keystone's Interrogatories and Requests for Production of Documents dated December 18, 2014. The responses that follow shall be supplemented if and when supplementation is required by SDCL § 15-6-26(e) and only as required by that statute.

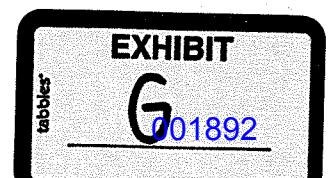
INTERROGATORIES

1. State the name, current address, and telephone number of the person answering these interrogatories.

OBJECTION: Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the Public Utilities Commission (hereinafter "PUC") on December 17, 2014. This interrogatory fails to "identify by number and letter the specific Condition or Finding of Fact addressed" as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Without waiving the objection above, as a matter of standard procedure and protocol and because the nature of this interrogatory is not substantive relative to the contested issues in this case, Yankton hereby provides notice that these interrogatories have been answered by Thomasina Real Bird, Esq., and Jennifer S. Baker, Esq., counsel for the Yankton Sioux Tribe, 1900 Plaza Drive, Louisville, CO, 80027, 303-673-9600.

2. State the name, current address, and telephone number of any person, other than your legal counsel, who you talked with about answering these interrogatories, who assisted you in answering



these interrogatories, or who provided information that you relied on in answering these interrogatories.

OBJECTION: Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

Without waiving the objection above, as a matter of standard procedure and protocol, and because the nature of this interrogatory is not substantive relative to the contested issues in this case, Yankton hereby provides notice that no person other than Yankton’s legal counsel assisted or provided information in the preparation of these answers and objections.

3. State the name, current address, and telephone number of each fact witness you intend to call to offer testimony at the evidentiary hearing in this case set for May 2015.

OBJECTION: Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. At this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify as a fact witness at the evidentiary hearing.

4. State the name, current address, and telephone number of each witness whom you intend to call at the evidentiary hearing as an expert witness under SDCL Ch. 19-15, and for each expert, state:

- a. the subject matter on which the expert is expected to testify;
- b. the substance of each opinion to which the expert is expected to testify;
- c. the facts supporting each opinion to which the expert is expected to testify;
- d. the expert’s profession or occupation, educational background, specialized training, and employment history relevant to the expert’s proposed testimony;

e. the expert's previous publications within the preceding 10 years; and

f. all other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

OBJECTION: Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to "identify by number and letter the specific Condition or Finding of Fact addressed" as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton's intentions. At this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify as an expert witness at the evidentiary hearing and to acquire and produce the information requested in this interrogatory.

5. Identify by number each condition in Exhibit A to the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, that you contend Applicant TransCanada Keystone Pipeline, LP, cannot now or in the future meet, and for each condition that you identify, state:

a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify that Applicant is unable to meet the condition.

OBJECTION: Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to "identify by number and letter the specific Condition or Finding of Fact addressed" as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it seeks "mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation," which are protected under SDCL 15-6-26(b)(3). Moreover, you have failed to show substantial need of the requested information and that you are unable to obtain it by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.

6. Identify by number each finding of fact in the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, that you contend is no longer accurate because of a change in facts or circumstances related to the proposed construction and operation of the Keystone XL Pipeline in South Dakota, and for each finding that you identify, state:

a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify that the finding of fact is no longer accurate.

OBJECTION: Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it seeks “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, you have failed to show substantial need of the requested information and that you are unable to obtain it by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.

7. In addition to the facts identified in your responses to interrogatory numbers 5 and 6, identify any other reasons that you contend Applicant cannot continue to meet the conditions on which the Permit granted, and for each reason that you identify, state:

a. the condition in the Amended Final Decision and Order dated June 29, 2010 entered in HP09-001, identified by number;

b. the facts on which your contention is based; and

c. the name, current address, and telephone number of each witness who will testify in support of your contention.

OBJECTION: Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific

Condition or Finding of Fact addressed” as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it seeks “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, you have failed to show substantial need of the requested information and that you are unable to obtain it by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, this request for “*any other reasons*” is vague and overly broad and it reaches far beyond the scope of discovery as set forth in the Order dated December 17, 2014. Furthermore, it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.

8. In addition to the facts identified in your responses to the preceding interrogatories, identify any other reason why the Public Utilities Commission should not accept Applicant’s certification filed September 15, 2014 in HP14-001, and for each reason that you identify, state:

- a. the facts on which your contention is based; and
- b. the name, current address, and telephone number of each witness who will testify in support of your contention.

OBJECTION: Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it seeks “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, you have failed to show substantial need of the requested information and that you are unable to obtain it by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, this request for “*any other reasons*” is vague and overly broad and it reaches far beyond the scope of discovery as set forth in the Order dated December 17, 2014. Furthermore, it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents that you intend to offer as exhibits at the evidentiary hearing in this matter.

OBJECTION: Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

Yankton further objects to this request to the extent that it would produce “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, all documents sought by this request constitute trial preparation materials and you have failed to show substantial need of the requested documents and that you are unable to obtain them by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, Yankton objects to this request on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. Yankton has not yet received Keystone’s responses to Yankton’s first discovery requests, and the second set of discovery requests have not even been submitted yet. As we are still in the early discovery stages of this matter, Yankton cannot possibly know what it might ultimately decide to offer as exhibits once we reach the hearing stage of this matter, and it would be frivolous and unduly burdensome to require a party to speculate about future exhibits before the party has had an opportunity to review the information and materials obtained through discovery.

2. All documents on which you rely in support of your answer to Interrogatory No. 5.

OBJECTION: Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

3. All documents on which you rely in support of your answer to Interrogatory No. 6.

OBJECTION: Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule

issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

4. All documents on which you rely in support of your answer to Interrogatory No. 7.

OBJECTION: Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

5. All documents on which you rely in support of your answer to Interrogatory No. 8.

OBJECTION: Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

6. All documents relied on by any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

OBJECTION: Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

Yankton further objects to this request to the extent that it would produce “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, all documents sought by this request constitute trial preparation materials and you have failed to show substantial need of the requested documents and that you are unable to obtain them by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, Yankton objects to this request on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. Yankton has not yet received Keystone’s responses to Yankton’s first discovery requests, and the second set of discovery requests have not even been submitted yet. As we are still in the early discovery stages of this matter, Yankton cannot possibly know what documents might ultimately be relied on by experts once we reach the hearing stage of this matter, and it would be frivolous and unduly

burdensome to require a party to speculate about such documents before the party has had an opportunity to review the information and materials obtained through discovery.

7. All documents that you have sent to or received from any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

OBJECTION: Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

Yankton further objects to this request to the extent that it would produce “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, all documents sought by this request constitute trial preparation materials and you have failed to show substantial need of the requested documents and that you are unable to obtain them by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, Yankton objects to this request on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. At this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify as an expert at the evidentiary hearing.

8. A current resume for each expert whose testimony you intend to offer at the evidentiary hearing in this matter.

OBJECTION: Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

In addition, Yankton objects to this request on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. At this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify as an expert at the evidentiary hearing.

Dated this 6th day of February 2015.

Thiri Real Bird

Thomasina Real Bird, SD Bar No. 4415
FREDERICKS PEEBLES & MORGAN LLP
1900 Plaza Drive
Louisville, Colorado 80027
Telephone: (303) 673-9600
Facsimile: (303) 673-9155
Email: trealbird@ndnlaw.com
Attorney for Yankton Sioux Tribe

CERTIFICATE OF SERVICE

I certify that on this 6th day of February, 2015 I sent by email a true and correct copy of **YANKTON SIOUX TRIBE'S ANSWERS AND OBJECTIONS TO KEYSTONE'S FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS** to the following:

James E. Moore
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300 South Phillips Avenue, Suite 300
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Email: bill.taylor@woodsfuller.com

Patricia Krakowski

Patricia Krakowski
Legal Assistant



February 12, 2015

William Taylor
Bill.Taylor@woodsfuller.com
Extension 647

Via e-mail

Matthew Rappold
Rappold Law Office
Attorney for Rosebud Sioux Tribe

Re: In the Matter of the Application by TransCanada Keystone Pipeline, LP
HP 14-001

Dear Mr. Rappold:

We received your discovery responses on February 6. The responses do not comply with the South Dakota Rules of Civil Procedure. The rules require a good faith effort to fully answer the questions and provide the documents requested. Your responses do not meet that standard.

Please fully and completely respond to our discovery requests by the close of business March 10, 2015, the date discovery closes per the Public Utilities Commission order. Your response must include a list of witnesses you intend to call or rely on and copies of documents you intend to offer, or a list of documents others offer that you intend to rely on.

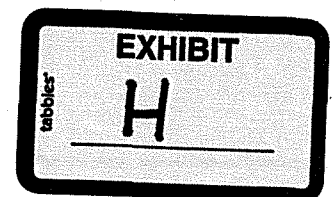
If you do not make a good faith effort to respond, you can expect that TransCanada will seek protections allowed by the Rules of Civil Procedure, which include dismissal of your petition to intervene or limiting your participation in the hearing.

Yours sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in black ink that reads 'William Taylor'.

William Taylor



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION	:	HP 14-001
BY TRANSCANADA KEYSTONE		
PIPELINE, LP FOR A PERMIT UNDER	:	KEYSTONE'S RESPONSES TO
THE SOUTH DAKOTA ENERGY		YANKTON SIOUX TRIBE'S
CONVERSION AND TRANSMISSION	:	FIRST INTERROGATORIES AND
FACILITIES ACT TO CONSTRUCT THE		REQUEST FOR PRODUCTION OF
KEYSTONE XL PROJECT	:	DOCUMENTS
	:	

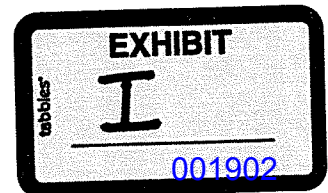
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Applicant TransCanada makes the following responses to interrogatories pursuant to SDCL § 15-6-33, and responses to requests for production of documents pursuant to SDCL § 15-6-34(a). These responses are made within the scope of SDCL 15-6-26(e) and shall not be deemed continuing nor be supplemented except as required by that rule. Applicant objects to definitions and directions in answering the discovery requests to the extent that such definitions and directions deviate from the South Dakota Rules of Civil Procedure.

GENERAL OBJECTION

Keystone objects to the instructions and definitions contained in Yankton Sioux Tribe's First Set of Interrogatories and Requests for Production of Documents to the extent that they are inconsistent with the provisions of SDCL Ch. 15-6. See ARSD

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20:10:01:01.02. Keystone's answers are based on the requirements of SDCL §§ 15-6-26, 15-6-33, 15-6-34, and 15-6-36.

INTERROGATORIES

1. State the name, current address, and telephone number of the person answering these interrogatories.

ANSWER: Given the extremely broad scope volume of more than 800 discovery requests received by Keystone in this docket, a range of personnel were involved in answering the interrogatories. Keystone will designate the following witnesses with overall responsibility for the responsive information as related to the Conditions and proposed changes to the Findings of Fact, which are identified in Appendix C to Keystone's Certification Petition: Corey Goulet, President, Keystone Projects, 450 1st Street S.W., Calgary, AB Canada T2P 5H1; Steve Marr, Manager, Keystone Pipelines & KXL, TransCanada Corporation, Bank of America Center, 700 Louisiana, Suite 700, Houston, TX 77002; Meera Kothari, P. Eng., 450 1st Street, S.W., Calgary, AB Canada T2P 5H1; David Diakow, Vice President, Commercial, Liquids Pipeline, 450 1st Street S.W., Calgary, AB Canada T2P 5H1; Jon Schmidt, Vice President, Environmental & Regulatory, exp Energy Services, Inc., 1300 Metropolitan Boulevard, Suite 200, Tallahassee, FL 32308; Heidi Tillquist, Senior Associate, Stantec Consulting Ltd., 2950 E. Harmony Rd., Suite 290, Fort Collins, CO 80528.

2. State the name, current address, and telephone number of any person, other than legal counsel, who Keystone talked with about answering these interrogatories, who assisted Keystone in answering these interrogatories, or who provided information that Keystone relied on in answering these interrogatories.

ANSWER: Given the extremely broad scope volume of more than 800 discovery requests received by Keystone in this docket, a range of personnel were involved in answering the interrogatories. Keystone will designate the following witnesses with overall responsibility for the responsive information as related to the Conditions and proposed changes to the Findings of Fact, which are identified in Appendix C to Keystone's Certification Petition: Corey Goulet, President, Keystone Projects, 450 1st Street S.W., Calgary, AB Canada T2P 5H1; Steve Marr, Manager, Keystone Pipelines & KXL, TransCanada Corporation, Bank of America Center, 700 Louisiana, Suite 700, Houston, TX 77002; Meera Kothari, P. Eng., 450 1st Street, S.W., Calgary, AB Canada T2P 5H1; David Diakow, Vice President, Commercial, Liquids Pipeline, 450 1st Street S.W., Calgary, AB Canada T2P 5H1; Jon Schmidt, Vice President, Environmental & Regulatory, exp Energy Services, Inc., 1300 Metropolitan Boulevard, Suite 200, Tallahassee, FL 32308; Heidi Tillquist, Senior Associate, Stantec Consulting Ltd., 2950 E. Harmony Rd., Suite 290, Fort Collins, CO 80528.

3. Identify each witness that you will or may call as a fact witness or expert witness in any evidentiary hearing or trial of this matter. For each individual, identify and provide the name, business address, and business telephone and the name of his or her employer and/or other organization(s) with which he or she is associated in any professional capacity; the substance of the facts to which he or she is expected to testify and the substance of the opinions to which he or she is expected to testify; the individual's profession or occupation, educational background, specialized training, and employment history relevant to the proposed testimony; and the individual's previous publications within the preceding 10 years; and all other cases or proceedings in which the witness has testified as an expert within the preceding four years.

ANSWER: Keystone will offer prefiled direct testimony from the following persons, each of whom will testify to the changes identified in Keystone's tracking table for that person's area of expertise:

- (1) Corey Goulet, President, Keystone Projects, 450 1st Street S.W., Calgary, AB Canada T2P 5H1; (403) 920-2546; Project purpose, Overall description; Construction schedule; Operating parameters; Overall design; Cost; Tax Revenues
- (2) Steve Marr, Manager, Keystone Pipelines & KXL, TransCanada Corporation, Bank of America Center, 700 Louisiana, Suite 700, Houston, TX 77002; (832) 320-5916; same; CMR Plan, Con/Rec Units, HDD's
- (3) Meera Kothari, P. Eng., 450 1st Street S.W., Calgary, AB Canada T2P 5H1; (832) 320-5190; same; Design and Construction; PHMSA compliance
- (4) David Diakow, Vice President, Commercial, Liquids Pipeline, 450 1st Street S.W., Calgary, AB Canada T2P 5H1; (403) 920-6019; Demand for the Facility

- (5) Jon Schmidt, Vice President, Environmental & Regulatory, exp Energy Services, Inc., 1300 Metropolitan Boulevard, Suite 200, Tallahassee, FL 32308; (850) 385-5441; Environmental Issues; CMR Plan, Con/Rec Units, HDD's
- (6) Heidi Tillquist, Senior Associate, Stantec Consulting Ltd., 2950 E. Harmony Rd., Suite 290, Fort Collins, CO 80528; (970) 449-8609; High Consequence Areas, Spill Calculations

4. Identify any other names that Keystone conducts business under, in the United States and Canada.

ANSWER: None.

5. Pursuant to Condition Two of the Commission's Amended Final Decision and Order, has Keystone received any communications from any regulatory body or agency that may have jurisdiction over the project which alleges that Keystone has failed to comply with any applicable permits, law, or regulation?

ANSWER: No.

6. Pursuant to Condition Two, has Keystone a permit by any regulatory body or agency that may have jurisdiction over the construction, maintenance, or operation of any pipeline located in the United States or Canada ever been denied, revoked, or suspended by the regulatory body or agency?

ANSWER: No.

7. Pursuant to Condition Two, has Keystone been given notice by any regulatory body or agency that may have jurisdiction over the construction, maintenance or operation of any pipeline located in the United States or Canada alleging that Keystone

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has failed to comply with any applicable permits for the construction, operation or maintenance of any pipeline located in the United States?

ANSWER: No.

8. Pursuant to Condition One, please identify all required permits that Keystone has applied for within the State of South Dakota regarding the use of public water for construction, testing, drilling, or temporary discharges to waters of the state and temporary discharges of water from construction dewatering and hydrostatic testing.

ANSWER: Keystone has submitted a Notice and Intent and Certificate of Application Form to Receive Coverage Under the General Permit for Temporary Discharges and a Temporary Water Use Permit. Other permits, as required, will be filed closer to the time period of construction.

9. Pursuant to Condition Six, identify the most recent depiction of the Project route and facility locations as they currently exist as compared to the information provided in Exhibit TC-14.

ANSWER: Maps showing changes to the route since the permit was granted are attached as Keystone 0470-0583.

10. Pursuant to Condition Six, identify the dates, addresses, phone numbers, emails, and names of person(s) responsible for conducting surveys, addressing property specific issues and civil survey information.

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OBJECTION AND RESPONSE: The identity of persons conducting civil surveys is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, American Burying Beetle Habitat Assessment was conducted by W. Wyatt Hoback, Department of Biology, University of Nebraska at Kearney; Biological Surveys (i.e., habitat, wetland delineations) were conducted by AECOM (Scot Patti was the principal investigator) and SCI (Scott Billing was the principal investigator); Phase I ESA Surveys were conducted by AECOM (Brian Bass was the principal investigator); Biological Surveys (i.e., threatened and endangered species, noxious weeds, reclamation) were conducted by Westech (John Beaver was the principal investigator); Cultural resources surveys were conducted by SWCA Environmental Consultants (principal investigator was Scott Phillips); the paleontological surveys were conducted by SWCA Environmental Consultants (principal investigator was Paul Murphey).

11. Pursuant to Condition Six, does Keystone recognize the Yankton Sioux Tribe, a federally recognized sovereign Indian Nation, as a "local governmental unit?"

ANSWER: Because the Project does not cross Tribal land and because the Yankton Sioux Tribe is a sovereign nation, Keystone does not consider the Tribe to be a "local governmental unit" as referenced in Condition 6.

12. Condition Seven requires Keystone to appoint a public liaison officer. Accordingly, has Keystone:

1. Appointed such public liaison officer, and if so please provide such officer's:

- a. Name;
- b. Address;
- c. Phone number; and
- d. Email address.

2. Directed such public liaison officer to contact and or consult with the Yankton Sioux Tribe?

ANSWER:

1.a. Sarah Metcalf's appointment was approved by the PUC by order dated June 2, 2010, in an order which is a matter of public record.

1.b. PO Box 904, Aberdeen, SD 57402.

1.c. 1-888-375-1370

1.d. smetcalf12@gmail.com

2. No. The project does not cross Yankton Sioux lands and Keystone does not consider the Tribe to be a "local government" in the vicinity of the project as stated in Amended Permit Condition 7.

13. Pursuant to Condition Thirteen, identify and provide the phone number, address, and email address of every each environmental inspector that Keystone has incorporated into the CMR.

OBJECTION AND ANSWER: The identity of environmental inspectors is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the objection, no Environmental Inspectors have been identified or hired, because the construction of the Project has not yet started.

14. Pursuant to Condition Thirty-Seven, has Keystone ever been found non-compliant with any other permits, from any state regarding the Keystone XL Project?

ANSWER: No.

15. Pursuant to Conditions One and Two, have any contractors hired by Keystone to construct any pipeline owned or operated by Keystone or any of its affiliates received any communication from any agency or regulatory body having jurisdiction over each pipeline regarding alleged safety concerns or safety violations regarding the construction, maintenance or operation of any pipeline in the United States.

OBJECTION: This request is overlybroad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence under SDCL

15-6-26(b). It also seeks information that is not in Keystone's custody or control and is not maintained by Keystone in the ordinary course of business.

16. Pursuant to Conditions One and Two, have any contractors hired by Keystone to construct any pipeline owned or operated by Keystone or any of its affiliates received any communication from any agency or regulatory body having jurisdiction over each pipeline regarding alleged safety concerns or safety violations regarding the construction, maintenance or operation of any pipeline in Canada.

OBJECTION: This request is overlybroad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence under SDCL 15-6-26(b). It also seeks information that is not in Keystone's custody or control and is not maintained by Keystone in the ordinary course of business.

17. Pursuant to Condition Forty-Four, what steps has Keystone or any of its affiliates taken to ensure that the cultural and historic resources of the Yankton Sioux Tribe are protected?

OBJECTION AND ANSWER: Condition 44 refers to paleontological studies. Notwithstanding the objection, cultural resources survey reports are listed in Section 3.11 of the Department of State FSEIS (2014), with results of the SD surveys detailed in Table 3.11-3. Any further discussions regarding these surveys would be addressed through the course of government to government consultation with the DOS when the Yankton Sioux were afforded the opportunity to not only review those studies but also participate in the surveys themselves.

18. Pursuant to Condition Forty-Four, how many times has Keystone contacted the Yankton Sioux Tribe?

1. If Keystone did make such contact please provide the following:
 - a. Name(s) of the person(s) notified;
 - b. Title of the person(s) notified;
 - c. The physical address of the person(s) notified;
 - d. The telephone number(s) of the person(s) notified; and
 - e. The means by which Keystone made notification, i.e. written, oral, electronic, etc.;

ANSWER: A precise record of the number of contacts with the Yankton Sioux Tribe, either through the body politic or through tribal members does not exist. Typically contacts came through the TransCanada Tribal Liaison staff. See Keystone documents 1304-1340 that document some of the contacts. With respect to Condition 44, there may not have been any paleontological specific contacts.

19. Pursuant to Condition Forty-Four, has Keystone made any new cultural and/or historic surveys along the route of the Project since its original permit was granted?

OBJECTION AND ANSWER: Condition 44 refers to paleontological studies, not cultural studies. However, all cultural resources survey reports are listed in Section

3.11 of the Department of State FSEIS (2014), with results of the SD surveys detailed in Table 3.11-3.

20. According to Keystone's original application, Keystone began cultural and historic surveys in May 2008 and at that time it had found several pre-historic stone circles were uncovered. Please provide a detailed description of these sites, including location.

ANSWER: These sites are addressed during the course of government to government consultation with the DOS. Site locations are confidential and cannot be disclosed outside of the consultation process.

21. Pursuant to Condition Forty-Four, please provide the name, address, phone number, and email of all persons involved in any cultural or historic survey conducted by Keystone. In addition, please provide a detailed description of all pertinent professional training that qualifies the surveyor as a professional who meets the standards of the Secretary of the Interior's Historic Preservation Professional Qualification Standards (48 FR 44716, September 29, 1983).

OBJECTION AND ANSWER: The identity of the surveyors is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, SWCA Environmental Consultants performed the survey work. The cultural resources principal investigator was Scott Phillips; the paleontological principal

investigator was Paul Murphey. Both individuals meet the SOI standards for their particular field.

22. Pursuant to Condition Forty-Four, has Keystone made any attempt to contact the Yankton Sioux Tribe Business and Claims Committee, its officers, or its Tribal Historic Preservation Office? If so, please provide the following:

- a. Name(s) of the person(s) contacted;
- b. Title of the person(s) contacted;
- c. The physical address of the person(s) contacted;
- d. The telephone number(s) of the person(s) contacted; and
- e. The means by which Keystone made contact, i.e. written, oral, electronic, etc.;

ANSWER: See response to interrogatory no. 18 above.

23. Pursuant to Condition Forty-Four, provide a detailed description of cultural and historic training that Keystone provides to its construction personnel.

ANSWER: Training material developed by Keystone will be finalized and available for distribution to the construction personnel after the inventory phase is complete and prior to construction.

24. Pursuant to Condition Forty-Four, does Keystone or any of its affiliates recognize that if approved and constructed, the Keystone Pipeline will travel through the

identified Indian Country territory from the Fort Laramie Treaty of 1851 and 1868, and as such will likely encounter undiscovered cultural and/or historic sites?

ANSWER: Keystone recognizes that the KXL Pipeline will travel through territory considered in the Treaties of Fort Laramie of 1851 and 1868. Keystone does not believe that any part of its route as currently permitted passes through Indian Country or across tribally owned lands. Keystone recognizes the possibility that undiscovered cultural and/or historic sites may be found in the course of construction. Keystone believes Conditions 43 and 44, and the provisions provided for therein, suitably accommodate cultural and paleontological resource discoveries. Tribal monitors will be hired by Keystone to monitor designated areas during ground disturbing activities relating to construction to assist in managing previously undiscovered cultural and/or historic sites that are found in the course of construction and in complying with the unanticipated discoveries plan.

25. Pursuant to Condition Forty-Four, does Keystone plan to consult with the Yankton Sioux Tribe and its General Council, Business and Claims Committee, and its Tribal Historic Preservation Office in the future?

ANSWER: Condition 44 applies to paleontological discoveries. Condition 43 applies to unanticipated discoveries. See the answer to Interrogatory 24 above.

26. Pursuant to Conditions One and Two, does Keystone recognize and acknowledge that the Yankton Sioux Tribe has federally protected Winters Doctrine water rights and that these rights apply to any permit application to use water for the construction, operation or maintenance of the Keystone Pipeline project?

ANSWER: Keystone recognizes the so-called Winters Doctrine arising from *Winters v. The United States*, 207 U.S. 564 (1908) and its progeny. Keystone does not believe that the Yankton Sioux Tribe's Winters Doctrine water rights are affected by Keystone's use of water for construction, operation, or maintenance.

27. Pursuant to Conditions One and Two, what steps, if any, has Keystone or any of its affiliates taken to ensure that the Yankton Sioux Tribe's federally protected Winters Doctrine water rights are be protected?

ANSWER: Keystone does not believe that the Yankton Sioux Tribe's Winters doctrine water rights are affected by the use of water for the construction, operation, or maintenance of the Keystone Pipeline.

28. Pursuant to Conditions One and Two, are any waterways situated on or near the Pipeline route subject to designation under the Wild and Scenic River Act of 1968? If so, identify each of the waterways.

OBJECTION AND RESPONSE: To the extent that it seeks information on the Pipeline route outside South Dakota, this request is not relevant or reasonably likely to

lead to the discovery of admissible evidence. Without waiving the objection, the Project route does not cross any waterways that are subject to designation under the Wild and Scenic River Act of 1968. There are no waterways that are subject to designation under the Wild and Scenic River Act of 1968 near the Project route in South Dakota. An evaluation of Wild and Scenic Rivers as per related to the Project is found on page 4.3-24 of the Department of State FSEIS (2014).

29. Pursuant to Conditions One and Two, are there any land areas along or near the Keystone Pipeline route that have been designated as critical habitat under the Endangered Species Act? If so identify each of the land areas.

OBJECTION AND RESPONSE: To the extent that it seeks information on the Pipeline route outside South Dakota, this request is not relevant or reasonably likely to lead to the discovery of admissible evidence. Without waiving the objection, there are no lands along or near the Project route in South Dakota that are designated as critical habitat under the Endangered Species Act. Endangered species are discussed in Section 4.8 of the Department of State FSEIS (2014).

30. Pursuant to Conditions One and Two, are there any land areas along or nearby the Keystone Pipeline route that have any Endangered Species located in that area? If so, identify the land areas and the endangered species.

OBJECTION AND RESPONSE: To the extent that it seeks information on the Pipeline route outside South Dakota, this request is not relevant or reasonably likely to lead to the discovery of admissible evidence. Without waiving the objection, the following federally-listed threatened or endangered species have the potential to occur along the Project route in South Dakota: interior least tern; piping plover; rufa red knot; whooping crane; and the American burying beetle. Section 4.8.3 of the Department of State FSEIS (2014) and Appendix H, Biological Opinion in the Department of State FSEIS (2014) discusses the potential occurrence of these federally-listed threatened and endangered species along the Project route in South Dakota and Sections 4.8.3 and 4.8.4 and Appendix H of the Department of State FSEIS (2014) discusses the potential impacts and conservation measures the Project will implement to protect listed species.

31. Pursuant to Condition Twenty-Three, will employees of Keystone or any of its contractors or subcontractors enter the exterior boundaries of the Yankton Sioux Reservation during construction of the Project? If so, for what purposes?

ANSWER: Employees of Keystone or any of its contractors or subcontractors will not enter the exterior boundaries of the Yankton Sioux Reservation during construction.

32. Pursuant to Conditions One, Two, and Thirty-Six, identify the location of all equipment staging areas, construction staging areas, construction camps, and housing

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campus in South Dakota that will be used for emergency response, construction, and/or temporary housing.

OBJECTION AND RESPONSE: The request for the location of equipment and construction staging areas is not relevant and not likely to lead to the discovery of admissible evidence. It is confidential for reasons related to security. Keystone currently has not determined the specific locations that will be used for emergency response, but as required by Permit Condition 10, will timely consult with the appropriate agencies. Without waiving the objection, emergency response locations will be determined prior to the project going into service and will be determined in accordance with Federal response requirements.

Construction

Keystone has leased 11 pipe yards and 6 contractor yards in South Dakota. Pipe yards are planned in Harding, Meade, Butte, Haakon, Jones and Tripp counties. The 6 contractor yards are located in Harding, Meade, Haakon and Tripp counties. Each pipe yard is approximately 30 acres in size.

Temporary Housing

Some areas within Montana, South Dakota, and Nebraska do not have sufficient temporary housing in the vicinity of the proposed route for all construction personnel working in those areas. Temporary work camps would be constructed to meet the housing

needs of the construction workforce in these remote locations. A total of eight temporary construction camps would be established. It is currently anticipated that four construction camps would be needed in Montana (McCone, Valley [two], and Fallon counties), three camps would be required in South Dakota (Tripp, Harding, and Meade counties), and one camp would be required in Nebraska (Holt county). Figure 2.1.5-1 shows the anticipated location of six of the eight camps. The locations of two camps are unknown at this time (one in Montana and one in Nebraska). The final number and size of camps would be determined based on the time available to complete construction and to meet Keystone's commercial commitments. All construction camps would be permitted, constructed, and operated consistent with applicable county, state, and federal regulations. (FSEIS, page 2.1-31)

33. Pursuant to Condition Thirty-Six and Changed Finding of Fact No. 107, identify the contractor or company that is responsible for providing emergency response services.

ANSWER: TransCanada has agreements/contracts with corporations such as the National Response Copr. that meet the Oil Spill Response Organization (OSRO) requirements (Keystone ERP, Appendix I to the FSEIS).

The resources will be secured from a Company approved contractor.

34. Pursuant to Changed Finding of Fact No. 107, provide a breakdown of crime statistics (including violent crimes, sexual crimes, and drug and/or alcohol-related crimes) for areas in which temporary housing camps have been located for construction of comparable projects showing crime rates both before and during construction of said projects. Please also identify the source of this data and the method used to collect this data.

OBJECTION: This request seeks information that is not in Keystone's custody or control and is not maintained by Keystone in the ordinary course of business. It is also overlybroad and unduly burdensome.

35. Pursuant to Changed Finding of Fact No. 107, identify the precautionary measures Keystone has or will implement at the temporary housing camps to protect the surrounding area from crime resulting from the temporary influx of construction workers at the temporary housing camps.

ANSWER: TransCanada Keystone will implement policies and procedures that all residents will be required to comply with during their residency at the camp. Violations may lead to removal from the camp or the appropriate level of disciplinary action. TransCanada will liaise with and engage law enforcement if any issues arise from the man-camps, as appropriate. TransCanada will consider augmenting local law enforcement staffing impacts resulting from camp operations.

Ref: FSEIS 4.10-13

Each camp site would be fully fenced and have a guard house at a single entrance. A contract security officer manning the guard house would be provided on a 24/7 basis. In addition, at all times there would be at least one additional roving security officer supplemented with off-duty law enforcement personnel, as needed. Local law enforcement agencies would also respond to violent, criminal, or illegal activities.

36. Pursuant to Changed Finding of Fact No. 107, identify the protocols and guidelines that will be utilized to respond to reports of crime in or near the temporary housing camps that reportedly involve temporary construction workers or other employees of Keystone or of its contractor or subcontractor.

ANSWER: Any reports of crime or criminal activity in or near temporary housing camps will be reported to local law enforcement for investigation and follow up. TransCanada is committed to cooperating with and assisting law enforcement with their investigation, where appropriate.

Ref: FSEIS 4.10.33

Each camp site would be fully fenced and have a guard house at a single entrance. A contract security officer manning the guard house would be provided on a 24/7 basis. In addition, at all times there would be at least one additional roving security officer

supplemented with off-duty law enforcement personnel, as needed. Local law enforcement agencies would also respond to violent, criminal, or illegal activities.

37. Pursuant to Condition Twenty-Three and the changed Finding of Fact Number Forty-One, will any of Keystone's construction equipment or crew access the Project from trust land? If so, has Keystone received the necessary consent of the United States government to access trust land on the Yankton Sioux Reservation or the affected Reservation?

ANSWER: Keystone does not cross any trust land with access to the Project in South Dakota.

38. Pursuant to Condition Twenty-Three, has Keystone made contact with or otherwise taken any action to plan for road closures which may affect the Yankton Sioux Tribe? If so, does Keystone plan to notify, coordinate or otherwise consult with the Yankton Sioux Tribe?

ANSWER: Keystone does not expect any road closures will affect the Yankton Sioux Tribe, but if such road closures should occur, Keystone will consult with the Yankton Sioux Tribe regarding same.

39. Pursuant to Condition Twenty-Three, has Keystone made contact with or otherwise taken any action to plan for emergency response which may affect the Yankton

Sioux Tribe? If so, does Keystone plan to notify, coordinate, or otherwise consult with the Yankton Sioux Tribe?

ANSWER: Yes, the Yankton Sioux Tribe will be notified if the tribe is affected by an incident. The final version of the Keystone Pipeline Emergency Response Plan (ERP) is complete and complies with 49 C.F.R. Part 194. The Keystone ERP will be amended to include Keystone XL. A redacted version of the ERP is found at Appendix I of the FSEIS.

40. Pursuant to Condition Two, please provide the following information with respect to each instance of tribal consultation with the Yankton Sioux Tribe referenced in Appendix E of the Final Supplemental Environmental Impact Statement.

- a. Name(s) of the Tribal official(s) or other person(s) contacted;
- b. Title of the Tribal official(s) or other person(s) contacted;
- c. The physical address of the Tribal official(s) or other person(s) contacted;
- d. The telephone number(s) of the Tribal official(s) or other person(s) contacted;
- e. The means by which contact with the Tribe was made, i.e. written, oral, electronic, etc.;

f. Whether any employee, official, or other agent of Keystone was present during the particular instance of consultation and if so, the name and contact information for that individual(s); and

g. Whether Keystone actively or otherwise participated during the particular instance of consultation.

ANSWER: Tribal consultation is the responsibility of the Department of State.

41. Pursuant to Conditions 6 and 43 how much land along Keystones proposed route for the KXL Project has yet to be TCP surveyed. If any, identify the land.

ANSWER: The status of TCP surveys can be found in Table 3.11-8 of the Department of State FSEIS (2014). The Yankton Sioux Tribe's report was received and accepted in March and April 2011. Any outstanding issues would be addressed through the course of government to government consultation with the DOS.

42. Pursuant to Condition 2, how many other state permits and federal permits are pending or not yet received by Keystone for the Keystone XL project.

ANSWER: The Presidential Permit is currently pending before the United States Department of State. Permit authorization from the USACE under Section 404 of the Clean Water Act has not yet been sought.

43. Pursuant to Conditions 6 and 43, have any tribes surveyed the land along the proposed route for the KXL Project? If so, which tribes and for what portion of the route, respectively?

ANSWER: Yes. The route surveys performed are summarized in Keystone documents 1151-1169.

44. Pursuant to Condition 10, has Keystone yet commenced a program of contacts with state, county and municipal emergency response, law enforcement and highway, road and other infrastructure management agencies serving the Project area? If so, please describe the program and any steps taken in furtherance of meeting Condition 10. If not, when does Keystone plan to do so?

ANSWER: No. Keystone will commence such a program not later than six months before commencing construction.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents that Keystone intends to offer as exhibits at the evidentiary hearing in this matter.

ANSWER: Keystone has not yet identified hearing exhibits, but will disclose them as required by the PUC.

2. All documents relating to environmental and hydrological surveys. Changed Finding of Fact Number Forty-One.

OBJECTION: This request is overlybroad, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence under SDCL 15-6-26(b). The request is unlimited in time and does not refer to any specific project.

3. All documents relating to cultural and historic surveys, training, and response plans. Condition Forty-Four.

OBJECTION: This request is overlybroad, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence under SDCL 15-6-26(b). The request is unlimited in time and does not refer to any specific project.

4. All documents relating to required permits, both in South Dakota and outside South Dakota, including permit applications which were denied, revoked, or suspended.

OBJECTION: This request is overlybroad, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence under SDCL 15-6-26(b).

5. All documents related to Interrogatory No. 40, including but not limited to any correspondence between any employee, official, or other agent of Keystone and any other party pertaining to each instance of consultation and any notes or other documents generated by any employee, official, or other agent of Keystone pertaining to each instance of consultation.

ANSWER: As indicated in the answer to number 40, consultation is the responsibility of the Department of State.

6. All documents constituting Keystone's Emergency Response Plan.

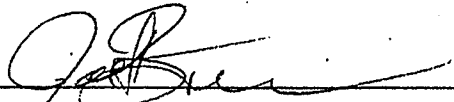
OBJECTION: This request seeks information that is beyond the scope of the PUC's jurisdiction and Keystone's burden under SDCL § 49-41B-27. This request also seeks information addressing an issue that is governed by federal law and is within the exclusive province of PHMSA. The PUC's jurisdiction over the emergency response plan is preempted by federal law, which has exclusive jurisdiction over issues of pipeline safety. *See* 49 C.F.R. Part 194; 49 U.S.C. § 60104(c). This request further seeks information that is confidential and proprietary. *See* Amended Final Order, HP 09-001, Condition ¶ 36. Public disclosure of the emergency response plan would commercially disadvantage Keystone. In addition, Keystone is not required to submit its Emergency Response Plan to PHMSA until sometime close to when the Keystone Pipeline is placed into operation. Keystone's Emergency Response Plan is addressed in The Final Supplemental Environmental Impact Statement at <http://keystonepipeline-xl.state.gov/documents/organization/221189.pdf>.

7. All documents that support the proposed changes to the Findings of Fact identified in Appendix C to Keystone's application filed on September 14, 2014 with the PUC.

OBJECTION: This request is overlybroad, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence under SDCL 15-6-26(b). Appendix C to Keystone certification petition includes citations to sources for many of the statements in the document.

Dated this 5th day of February, 2015.

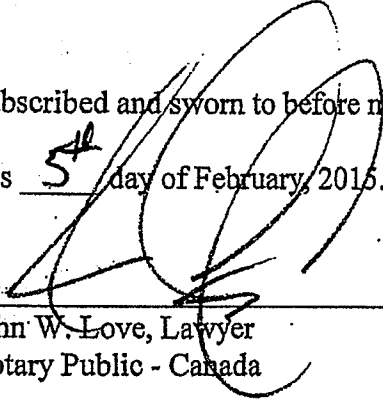
TRANSCANADA KEYSTONE PIPELINE, LP
by its agent, TC Oil Pipeline Operations, Inc.

By 

Its Director, Authorized Signatory

Subscribed and sworn to before me

this 5th day of February, 2015.



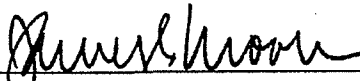
John W. Love, Lawyer
Notary Public - Canada

OBJECTIONS

The objections stated to Yankton Sioux Tribe's Interrogatories and Request for Production of Documents were made by James E. Moore, one of the attorneys for Applicant TransCanada herein, for the reasons and upon the grounds stated therein.

Dated this 6th day of February, 2015.

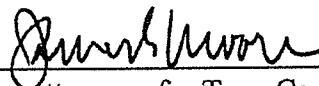
WOODS, FULLER, SHULTZ & SMITH P.C.

By  _____
William Taylor
James E. Moore
Post Office Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone: (605) 336-3890
Fax: (605) 339-3357
Email: Bill.Taylor@woodsfuller.com
James.Moore@woodsfuller.com
Attorneys for Applicant TransCanada

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of February, 2015, I sent by e-mail transmission,
a true and correct copy of Keystone's Responses to Yankton Sioux Tribe's First
Interrogatories and Request for Production of Documents, to the following:

Thomasina Real Bird
Fredericks Peebles & Morgan LLP
1900 Plaza Drive
Louisville, CO 80027
trealbird@ndnlaw.com



One of the attorneys for TransCanada

20:10:01:01.02. Keystone's answers are based on the requirements of SDCL §§ 15-6-26, 15-6-33, 15-6-34, and 15-6-36.

INTERROGATORIES

INTERROGATORY NO. 45: For each person who you expect to call as a fact witness in Docket HP14-001, provide a description of the witness's educational background, specialized training, and employment history relevant to the witness's expected testimony and a description of all exhibits that the witness will attach to his or her testimony.

ANSWER: Resumes for the witnesses previously identified by Keystone are attached as Keystone 1341-1374.

INTERROGATORY NO. 46: Describe the information furnished by Keystone to each fact witness for the purposes of his or her testimony.

ANSWER: Other than a copy of the discovery requests, Keystone has not furnished any information to its fact witnesses for purposes of providing testimony in this proceeding. The witnesses have provided information used in answering discovery based on their work on the Keystone XL project.

INTERROGATORY NO. 47: Pursuant to Condition One, describe any other permits that Keystone will file closer to the time period of construction referenced in Keystone's Responses to Yankton Sioux Tribe's First Interrogatories and Request for {01844536.1}

Production of Documents, Answer to Interrogatory No. 8 and list the agencies that Keystone will submit each permit to.

ANSWER: Keystone will comply with Clean Water Act 404 by permitting the crossing of all jurisdictional waterbodies in South Dakota under the US Army Corps of Engineers Nationwide General Permit (NWP) 12. As part of the permitting process of the Project route in South Dakota, Keystone will submit a NOI to the US Army Corps of Engineers, South Dakota Regulatory Office and will consult as required with the South Dakota Regulatory Office.

INTERROGATORY NO. 48: Pursuant to Conditions 43, 44, and 6, provide the job title, scope of work, and dates of employment for Keystone employee Calvin Harlan.

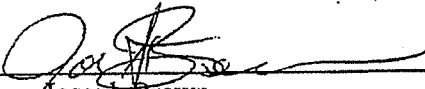
ANSWER: Calvin Harlan is employed by TransCanada's Tribal Relations Department. He is responsible for assisting in implementing the company Native American Relations Policy. He has been employed by TransCanada since 2013.

INTERROGATORY NO. 49: Pursuant to Conditions 6, 43, and 44, describe the contacts Calvin Harlan has had with the Yankton Sioux Tribe or any of its employees, agents, or representatives.

ANSWER: Mr. Harlan has not had any contacts with the Yankton Sioux Tribe.

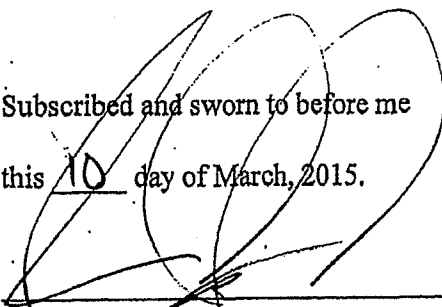
Dated this 10 day of March, 2015.

TRANSCANADA KEYSTONE PIPELINE, LP
by its agent, TC Oil Pipeline Operations, Inc.

By 
Joseph Brown
Its Director, Authorized Signatory

Subscribed and sworn to before me

this 10 day of March, 2015.


John W. Love, Lawyer
Notary Public - Canada

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 8: Provide a copy of each document that supports the proposed changes to the Findings of Fact identified in Appendix C to Keystone's application filed on September 14, 2014 with the PUC.

OBJECTION: This request is overlybroad and unduly burdensome.

REQUEST FOR PRODUCTION NO. 9: Provide a copy of each document furnished by Keystone to each fact witness for the purposes of his or her testimony.

RESPONSE: See Keystone's response to Interrogatory No. 46. Keystone has no responsive documents.

REQUEST FOR PRODUCTION NO. 10: Provide a copy of each document that each of Keystone's fact witness will attach to his or her testimony.

OBJECTION: Keystone has not yet identified its hearing exhibits. Keystone will disclose its exhibits as required by order of the Commission.

REQUEST FOR PRODUCTION NO. 11: Pursuant to Condition One, provide a copy of the Notice and Intent and Certificate of Application Form to Receive Coverage Under the General Permit for Temporary Discharges and a Temporary Water Use Permit referenced in Keystone's Responses to Yankton Sioux Tribe's First Interrogatories and Request for Production of Documents, Answer to Interrogatory No. 8.

RESPONSE: Responsive documents are attached as Keystone 1589-1629.

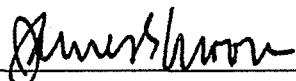
{01844536.1}

OBJECTIONS

The objections stated to Yankton Sioux Tribe's Interrogatories and Request for Production of Documents were made by James E. Moore, one of the attorneys for Applicant TransCanada herein, for the reasons and upon the grounds stated therein.

Dated this 10th day of March, 2015.

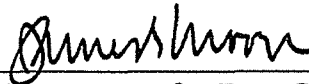
WOODS, FULLER, SHULTZ & SMITH P.C.

By 
William Taylor
James E. Moore
Post Office Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone: (605) 336-3890
Fax: (605) 339-3357
Email: Bill.Taylor@woodsfuller.com
James.Moore@woodsfuller.com
Attorneys for Applicant TransCanada

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2015, I sent by e-mail transmission, a true and correct copy of Keystone's Responses to Yankton Sioux Tribe's Second Interrogatories and Request for Production of Documents, to the following:

Thomasina Real Bird
Fredericks Peebles & Morgan LLP
1900 Plaza Drive
Louisville, CO 80027
trealbird@ndnlaw.com



One of the attorneys for TransCanada

From: Cindy Myers [<mailto:csmyers77@hotmail.com>]
Sent: Tuesday, March 10, 2015 1:44 PM
To: William Taylor; James E. Moore
Subject: Expert Witness

Legal Representatives for TransCanada,

Please excuse this informal communication.

In response to your discovery request, and since the deadline is today, I would like to inform you of the possibility of an expert witness to be presented by me.

Dr. Cleve Trimble
retired UNMC staff educator/surgeon

He would like to speak to health concerns related to the tar sands product.

Please confirm that you have received my second set of interrogatories and also confirm that you have received my response to your second set of interrogatories/requests for production of documents.

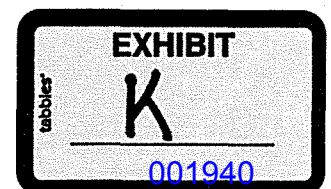
Cindy Myers RN
Individual Intervener, HP 14-001
Stuart, NE
csmyers77@hotmail.com
402-709-2920

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01863947.1



From: Cindy Myers [csmyers77@hotmail.com]
Sent: Tuesday, March 10, 2015 2:22 PM
To: James E. Moore
Cc: William Taylor; Melissa Wipf
Subject: Re: Expert Witness

Thank you.

I will send requested information related to question number 4 should Dr Trimble indeed be an expert witness.

Cindy Myers
402-709-2920
csmyers77@hotmail.com

On Mar 10, 2015, at 2:18 PM, James E. Moore <James.Moore@woodsfuller.com> wrote:

Ms. Myers,

We received your second set of discovery requests, and will be serving answers today. We also received your second responses to Keystone's discovery requests.

If you intend to call Dr. Trimble, please respond as soon as possible to the specifics in interrogatory number 4 addressed to you. You previously responded that you did not intend to call an expert witness.

Thanks.

<image001.jpg>

James E. Moore

Attorney

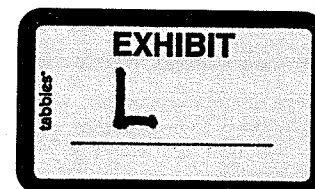
300 S. Phillips Avenue, Suite 300

Sioux Falls, SD 57104-6322

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