
**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
MOTION TO COMPEL**

HP14-001

The Yankton Sioux Tribe (hereinafter “the Tribe”), pursuant to SDCL §15-6-37(a), moves to compel TransCanada Keystone Pipeline, LP (“TransCanada”), to provide answers to interrogatories and requests for production of documents for the reasons stated below.

DISCUSSION OF FACTS

On January 6, 2015, TransCanada was served with the Yankton Sioux Tribe’s First Interrogatories and Request for Production of Documents. Ex. 1.

On February 6, 2015, TransCanada submitted responses to the Tribe’s First Interrogatories and Request for Production of Documents and asserted objections rather than fully responding to twelve (12) of the Tribe’s interrogatories and six (6) of the Tribe’s requests for production. Ex. 2.

On February 20, 2015, TransCanada was served with the Yankton Sioux Tribe’s Section Interrogatories and Request for Production of Documents. Ex. 3.

On March 10, 2015, TransCanada responded and asserted objections rather than fully responding to two (2) of the Tribe’s requests for production. Ex. 4.

On April 1, 2015, the Tribe sent a letter to TransCanada noting that TransCanada provided insufficient or deficient responses to six (6) of the Tribe’s interrogatories and six (6) of the Tribe’s requests for production and requesting that TransCanada cure said deficiencies. The Tribe

described each of the deficient objections to the Tribe's interrogatories and the Tribe's requests for production and requested TransCanada supplement its responses and produce additional documents no later than April 5, 2015. Ex. 5.

The Tribe's April 1, 2015 letter also advised TransCanada that the Tribe would request that the Public Utilities Commission compel TransCanada to comply with the Tribe's discovery requests and award the Tribe reasonable expenses of having to bring a motion. Moreover, the Tribe notified TransCanada that it will seek to have any non-produced documents excluded from the evidentiary hearing and it may seek dismissal of TransCanada's action. Ex. 5.

TransCanada did not respond to the Tribe's letter of April 1, 2015 until *today*, April 7, 2015, two days after the deadline provided by the Tribe in its April 1 letter and the very day by which any motions to compel must be filed. Furthermore, with the exception of one supplemental response providing the latitude and longitude for man camps, TransCanada's response to the Tribe's letter fails to provide additional information responsive to the Tribe's request and cites no new or valid basis for Keystone's failure to comply. Ex. 6.

The Yankton Sioux Tribe certifies that it has in good faith conferred or attempted to confer with the Applicant in an effort to secure the information and material sought through discovery without court action. Notwithstanding the Tribe's good faith effort, the impasse remains.

DISCUSSION OF LAW

I. TransCanada must be compelled to produce overdue answers to interrogatories and requests for production.

Under Public Utilities Commission Administrative Rule 20:10:01:22.01, an order to compel may be granted by the Commission upon the showing of good cause by a party to the proceeding. Additionally, this rule sets forth that discovery is to proceed "in the same manner as in the circuit courts of this state." A.R.S.D. 20:10:01:22.01.

In South Dakota circuit court discovery is governed by SDCL §15-6-26(b):

Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

- (1) In general. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The discovery rules are to be accorded a “broad and liberal treatment.” *Kaarup v. St. Paul Fire and Marine Insurance Co.*, 436 N.W.2d 17, 21 (S.D. 1989). “A broad construction of the discovery rules is necessary to satisfy the three distinct purposes of discovery (1) narrow the issues; (2) obtain evidence for use at trial; (3) secure information that may lead to admissible evidence at trial.” *Id.* at 19 (citing 8 C. Wright and A Miller, *Federal Practice and Procedure*, §2001 (1970)).

TransCanada was served with interrogatories and requests for production on January 6, 2015 and February 20, 2015, but its responses have been insufficient and deficient as explained in the Tribe’s letter dated April 1, 2015. Ex. 5. Under SDCL Section 15-6-37(a), the PUC must enter an order to compel responses and production.

The Yankton Sioux Tribe requests the Commission enter an order:

1. To compel discovery pursuant to SDCL 15-6-37(a)(2) and ARSD 20:10:01:22.01;
- and
2. Awarding reasonable attorneys’ fees and expenses with bringing this motion pursuant to SDCL 15-6-37(a)(4)(A).

Respectfully submitted this 7th day of April, 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

Exhibit 1

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

IN THE MATTER OF THE PETITION OF
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FOR ORDER ACCEPTING CERTIFICATION
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**YANKTON SIOUX TRIBE'S FIRST
INTERROGATORIES
AND REQUESTS FOR
PRODUCTION
OF DOCUMENTS TO
TRANSCANADA
KEYSTONE PIPELINE, LP**

HP14-001

TO: TransCanada

PLEASE TAKE NOTICE that, the Yankton Sioux Tribe (hereinafter "Yankton") hereby requests that the Applicant TransCanada (hereinafter "Keystone") answer fully, in writing and under oath, the interrogatories set forth herein within the time provided by the South Dakota Public Utilities Commission ("PUC") Order dated December 17, 2014. These Interrogatories shall be construed to include any supplemental information, knowledge, or data responsive hereto which is later discovered or obtained by you.

Yankton requests that Keystone respond in writing to the Requests for Production of Documents below and produce all responsive documents for inspection and copying at the offices of the undersigned counsel within the time frame set forth by the PUC Order dated December 17, 2014.

DEFINITIONS

These Interrogatories ("Interrogatories") and Requests for Production ("Document Requests") incorporate the following definitions:

1. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.
2. "Any" and "all" shall each be understood to mean "any and all."
3. "Communication" means the oral, written, or electronic transmittal of information in the form of facts, statements, ideas, inquiries or otherwise.
4. "Concerning" means relating to, referring to, describing, regarding, evidencing, or constituting.

5. "Document" shall be given the broadest reading possible under the Commission's rules and shall include, without limitation, the original and any copy, regardless of its origin or location, of any hard copy or electronic book, pamphlet, periodical, letter, memorandum, telegram, minutes, chart, tabulation, manual, guide, outline, abstract, history and/or record of meetings, conferences, and telephone or other conversations or communications, report, study, handwritten note, diary, desk calendar, work paper sheet, spreadsheet, paper, graph, index, tape, disk, audio or video recording, electronic data, magnetically and optically recorded document, electronically created or recorded document, archival copy of magnetically or optically recorded documents, document that has been logically deleted but not physically erased, computer hard drive, computer memory, network drive, floppy disk, CD ROM, backup tape, other archival media, email, instant message, intranet, extranet, voicemail, microfiche, recording sheet, Microsoft Word or other word processing file, Microsoft Excel or other spreadsheet file, Microsoft Outlook or other email, task, contact, or calendar file, Microsoft PowerPoint or other slide file, Microsoft Access or other database file, PDF or other image file, or data processing card, program or any other written, recorded, transcribed, punched, taped, filmed, or other graphic matter, however produced or reproduced, to which you or any of your agents, including, but not limited to, your attorneys, accountants, and all other representatives, have or have had. A true copy will suffice so long as you waive any objection to authenticity and will have the original available for inspection upon request. The terms "document," "documents," "record," or "records" also include copies of drafts and other documents that are not identical duplicates of the originals, as well as copies of documents of which the originals are not in the possession, custody, or control of the responding party.

6. "Identify" when referring to a person means to state the person's full name, present or last known address, telephone number, present or former employer and job title, and, if the person is deceased, his or her date of death. In addition, if the person is your current or former employee, state all job titles held by the person while employed by you and the dates that each job title was held. When referring to a document, "identify" means to give a reasonable description thereof, its date, author(s), recipient(s), media document is stored on if not stored in hard copy, and the full name and the present or last known address of the person, firm or corporation having possession, custody or control thereof.

7. "Keystone" refers to TransCanada Keystone Pipeline LP, including its officers and agents.

8. The term "objective metadata" means the custodian of the document, the author of the document, all recipients, including "cc" and "bcc" recipients, of the document, the document title, the document creation date, the document modification date(s), the document type, and parent/attachment Bates-range information.

9. "Parties" shall mean the parties to this proceeding before the South Dakota Public Utilities Commission.

10. "Person" is defined as any natural person or any business, legal, or governmental entity or association.

11. The "Tribe" means the Yankton Sioux Tribe.
12. "Trust land(s)" means any land held in trust by the United States on behalf of an Indian tribe or an individual Indian.
13. The terms "you" and "your" means the Keystone, their agents, executors, administrators, assigns, attorneys, solicitors, servants, employees, and representatives.

INTERROGATORIES INSTRUCTIONS

14. Each Interrogatory shall be answered separately and fully in writing under oath.
15. Each Interrogatory should be answered upon Keystone's entire knowledge and based upon all information that is available to Keystone or subject to reasonable inquiry by the Keystone. This includes all information in Keystone's possession or the possession of Keystone's attorneys, advisers, employees, agents, or other persons directly or indirectly employed by or connected with the Keystone or its attorneys and anyone else otherwise subject to Keystone's control.
16. If any answer is qualified, state specifically the terms of each qualification and the reasons for it. If you are unable to answer any Interrogatory fully and completely after exercising due diligence to secure the information necessary to make a full and complete answer, state the part that can be answered and answer the same in full to the extent possible. State further and specifically the reason(s) why the remainder cannot be answered, and state whatever information or knowledge you may have concerning the unanswered portions.
17. If Keystone does not have adequate knowledge to fully answer an Interrogatory, say so, but make a reasonable and good faith effort to obtain the information by asking other persons or organizations, unless the information is equally available to the asking party.
18. Whenever an Interrogatory may be answered by referring to a document, Keystone may specify the document, in sufficient detail to enable the asking party to locate and identify it as readily as you could, and attach such document as an exhibit to the response.
19. In responses to these discovery requests, Keystone should use all such defined terms with the same meaning or definition adopted by the Tribe. If Keystone uses any of terms differently than the Tribe, please indicate the particular definition or meaning that you are ascribing to any defined, collective, or unspecific term or phrase in the response to each discovery request.
20. Where a claim of privilege is asserted in responding or objecting to any discovery requested in these Interrogatories and information is not provided on the basis of such assertion, Keystone shall, in its response or objection, identify the nature of the privilege (including work product) that is being claimed. When any privilege is claimed, Keystone shall indicate, as to the information requested, whether (a) any documents exist, or (b) any communications took place, and (c) also provide the following information for each such document in a "privilege log":

- A. the type of document;
 - B. the general subject matter of the document;
 - C. the date of the document;
 - D. the author(s) of the document;
 - E. the addressee(s) and any other recipient(s) of the document; and
 - F. the custodian of the document, where applicable.
21. If Keystone objects or otherwise declines to answer any of the following Interrogatories fully and completely, set forth the grounds upon which Keystone relies with specificity so as to permit the Commission to determine the legal sufficiency of the objection, and provide the most responsive information you are willing to provide without an order to produce.
22. If, in answering the Interrogatories, Keystone claims any ambiguity in either the Interrogatories or in an applicable definition or instruction, identify in your response the language Keystone consider ambiguous and state the interpretation Keystone is using in responding.
23. The use of the singular form of any word includes the plural and vice versa; and the use of any tense of any verb shall also include within its meaning all other tenses of that verb.

REQUESTS FOR PRODUCTION OF DOCUMENTS INSTRUCTIONS

24. These Document Requests include and are applicable to electronically-stored information, including any documents in electronic format. The term "electronically-stored information" refers to any original and any non-identical copies (whether non-identical because of notes made on copies or embedded or attached comments, annotations, transmissions, notations, or highlighting of any kind), of electronically- or digitally-stored information, including but not limited to, programming notes or instructions, activity listings of electronic mail receipts or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines, electronic mail or email, operating systems, source code of all types, programming languages, linkers and compilers, peripheral devices, external drives, PDF files, PRF files, PST files, batch files, ASCII files, crosswalks, code keys, pull down tables, logs, file layouts or any miscellaneous files or file fragments, regardless of the media on which they reside and regardless of whether said electronic data consists of an active file, backup file, deleted file or file fragment. Electronically-stored information also includes data stored on computer memory or memories, hard disks, floppy disks, zip drives, CD-ROM discs, Blackberry or other handheld devices, Instant Messenger programs, Bernoulli Boxes or their equivalents, magnetic tapes, microfiche, punched cards, punched tape, computer chips (including, without limitation, EPROM, PROM, ROM or RAM of any kind) or media cards on or in any other vehicle for electronic or digital data storage or transmittal.

25. All responsive and/or relevant electronically-stored information is to be preserved in native format with all corresponding metadata and embedded data intact. Adequate preservation of electronically-stored information requires intervention to prevent loss due to routine operations. Continued use of your computers and other devices may cause electronically-stored information to be altered or erased. Consequently, alteration and erasure may result from your failure to act diligently to prevent loss or corruption of electronically-stored information. Therefore, to the extent you have not already done so, you must act affirmatively to properly segregate relevant information, as well as applicable hardware and software, to prevent loss or corruption.
26. If any document which you are requested to produce or identify herein was at one time in existence, but has been lost, discarded or destroyed, identify in writing each document and provide the following information:
- A. the date or approximate date it was lost, discarded or destroyed;
 - B. the circumstances and manner in which it was lost, discarded or destroyed;
 - C. the reason or reasons for disposing of the document (if discarded or destroyed);
 - D. the identity of all persons having knowledge of the document;
 - E. the identity of the person(s) who lost, discarded, or destroyed the document;
 - F. the identity of all persons having knowledge of the contents thereof; and
 - G. a detailed summary of the nature and contents of the document.
27. If any request for documents is deemed to call for the production of privileged or work product materials, and such privilege or work product protection is asserted, provide the following information, unless the parties have entered into an agreement providing otherwise:
- A. the reason for withholding the document;
 - B. a statement of the basis for the claim of privilege, work product or other ground of non-disclosure;
 - C. a brief description of the document, including:
 - i. the date of the document;
 - ii. number of pages, attachments and appendices of this documents;
 - iii. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
 - iv. the name of each person who was sent, shown, or received a blind or carbon copy of the document, together with an identification of each such person's employer and job title;

- v. the present custodian of the document;
 - vi. the subject matter of the document; and
 - vii. the type or nature of the document.
28. In responding to each Document Request, produce all documents that are in your possession, custody, or control, including, but not limited to, those maintained or stored by attorneys and all other persons acting or purporting to act on your behalf.
 29. If you know of any documents responsive to a particular Document Request but cannot produce them, so indicate in your response, produce all documents responsive to that Document Request which are in your possession, custody, or control, and identify each person who you believe has additional documents responsive to that Document Request.
 30. If Keystone objects to any part of a Document Request, produce all documents responsive to those parts of the Document Request to which Keystone does not object.
 31. Each of the following Document Requests is continuing in nature. Accordingly, if, after serving a response to any Document Request or producing any documents responsive thereto, or any part thereof, Keystone obtains or becomes aware of additional documents responsive to such Document Request, or become aware that in some material respect to a previous response or document production is incomplete or incorrect, Keystone is required to supplement its response and/or your document production.
 32. Documents are to be produced in full. If any requested Document cannot be produced in full, produce it to the extent possible, indicating which Document, or portion of that Document, is being withheld, and the reason that Document is being withheld.
 33. Documents attached to each other should not be separated. To the extent documents have been separated, links to relevant attachments or identification, in list form, of corresponding attachment information shall be produced.
 34. Keystone must produce the original of each Document requested together with all non-identical copies and drafts of that Document. If the original of any Document cannot be located, provide a copy in lieu thereof, which shall be legible and bound or stapled in the same manner as the original.
 35. Documents which are maintained in the usual course of business in hardcopy form are to be produced in hardcopy form, unless otherwise agreed upon by the parties. To the extent such documents have been copied and converted to electronic form, you are instructed to so advise the requesting party prior to actual production to permit the parties to assess and discuss the extent to which such documents should be produced in electronic form, and, if so, the requested characteristics of such a production.
 36. Electronically-stored information shall be produced in such fashion as to identify the location (i.e., the network file folder, hard drive, back-up tape or other location) where it is stored and, where applicable, the natural person in whose possession it was found (or on whose hardware

device they reside or are stored) and the business address of each respective custodian. In addition, a separate list identifying all custodians for whom electronically-stored information is being produced and the corresponding bates range(s) of documents/information for each respective custodian is hereby requested.

37. Unless otherwise provided or agreed upon by the parties, databases and spreadsheets are to be produced in native format, with all corresponding metadata and embedded data intact and all cells of information accessible, including, but not limited to notes, comments, embedded formulas, headings, column titles and hidden cells.
38. Unless otherwise provided or agreed upon by the parties, PowerPoint or other similar electronic presentation files shall be produced in native format with all objective metadata, and other metadata, including, but not limited to notes, comments, presentations scripts and embedded formulas.
39. In the event that documents originally maintained in hard copy form are converted to electronic form such documents are to be produced in a searchable format, to be discussed and agreed upon by the parties, and with any compiled objective coding information and/or objective metadata intact and/or linked.
40. If you produce an electronically-stored or converted document which has attachments, enclosures, and/or exhibits, such attachments, enclosures, and/or exhibits should also be produced and proximately linked to the document containing the attachments, enclosures, and/or exhibits.
41. The fact that a document has been or will be produced by another party (or non-party) does not relieve you of the obligation to produce your copy of the same document, even if the two documents are identical in all respects.

INTERROGATORIES

INTERROGATORY NO. 1.

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

INTERROGATORY NO. 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.

INTERROGATORY NO.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.

INTERROGATORY NO. 4.

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

INTERROGATORY NO. 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?

INTERROGATORY 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?

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

INTERROGATORY 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 11.

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

INTERROGATORY NO. 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?

INTERROGATORY NO. 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.

INTERROGATORY NO. 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?

INTERROGATORY 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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?

INTERROGATORY NO. 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.;

INTERROGATORY NO. 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?

INTERROGATORY NO. 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.

INTERROGATORY NO. 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).

INTERROGATORY NO. 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.;

INTERROGATORY NO. 23.

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

INTERROGATORY NO. 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?

INTERROGATORY NO. 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?

INTERROGATORY NO. 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?

INTERROGATORY NO. 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?

INTERROGATORY NO. 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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?

INTERROGATORY NO. 32.

Pursuant to Conditions One, Two, and Thirty-Six, identify the location of all equipment staging areas, construction staging areas, construction camps, and housing camps in South Dakota that will be used for emergency response, construction, and/or temporary housing.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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?

INTERROGATORY NO. 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?

INTERROGATORY NO. 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?

INTERROGATORY NO. 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.

INTERROGATORY No. 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.

INTERROGATORY NO. 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.

INTERROGATORY NO. 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?

INTERROGATORY NO. 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?

REQUESTS FOR PRODUCTION OF DOCUMENTS

DOCUMENT REQUEST NO. 1.

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

DOCUMENT REQUEST NO. 2.

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

DOCUMENT REQUEST NO. 3

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

DOCUMENT REQUEST NO. 4.

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

DOCUMENT REQUEST NO. 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.

DOCUMENT REQUEST NO. 6.

All documents constituting Keystone's Emergency Response Plan.

DOCUMENT REQUEST NO. 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.

Dated this 6th day of January 2015.

Thina Real Bird

Thomasina Real Bird, SD Bar No. 4415
FREDERICKS PEBBLES & 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 January, 2015 I sent by email a true and correct copy of **YANKTON SIOUX TRIBE'S FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO TRANSCANDA PIPELINE, LP**, to the following:

James E. Moore
WOODS, FULLER, SHULTZ & SMITH, P.C.
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Email james.moore@woodsfuller.com

Bill G. Taylor
WOODS, FULLER, SHULTZ & SMITH,
P.C.
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Email: bill.taylor@woodsfuller.com



Patricia Krakowski
Legal Assistant

Exhibit 2

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

0-0

IN THE MATTER OF THE APPLICATION : HP 14-001
BY TRANSCANADA KEYSTONE
PIPELINE, LP FOR A PERMIT UNDER : KEYSTONE'S OBJECTIONS 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
:
:

0-0

TransCanada Keystone Pipeline, LP ("Keystone") makes the following objections to interrogatories pursuant to SDCL § 15-6-33 and objections to request for production of documents pursuant to SDCL § 15-6-34(a). Keystone will further respond, as indicated throughout the objections, on or before February 6, 2015. These 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.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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 answer this interrogatory on or before February 6, 2015.

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

ANSWER: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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

ANSWER: Keystone will answer this interrogatory on or before February 6, 2015.

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 will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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.

OBJECTION AND RESPONSE: The identity of the persons who conducted surveys is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, Keystone will provide the dates when civil surveys related to the project have been done.

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

ANSWER: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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

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: Keystone will answer this interrogatory on or before February 6, 2015.

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?

ANSWER: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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?

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ANSWER: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: The identity of the surveyors is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

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:

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- 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: Keystone will answer this interrogatory on or before February 6, 2015.

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

ANSWER: Keystone will answer this interrogatory on or before February 6, 2015.

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 will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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 will answer this interrogatory on or before February 6, 2015.

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 will answer this interrogatory on or before February 6, 2015.

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, Keystone will answer this interrogatory limited to South Dakota on or before February 6, 2015.

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, Keystone will answer this interrogatory limited to South Dakota on or before February 6, 2015.

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, Keystone will answer this interrogatory limited to South Dakota on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

32. Pursuant to Conditions One, Two, and Thirty-Six, identify the location of all equipment staging areas, construction staging areas, construction camps, and housing camps 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. Without waiving the objection, Keystone will respond to the rest of the request on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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 will answer this interrogatory on or before February 6, 2015.

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 will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

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: Keystone will answer this interrogatory on or before February 6, 2015.

REQUESTS FOR PRODUCTION OF DOCUMENTS

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

ANSWER: Any responsive, non-privileged documents will be provided on or before February 6, 2015.

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: Any responsive, non-privileged documents will be provided on or before February 6, 2015.

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 23rd day of January, 2015.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

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 23rd day of January, 2015, I sent by e-mail transmission, a true and correct copy of Keystone's Objections 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

/s/ James E. Moore

One of the attorneys for TransCanada

Exhibit 3

**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
SECOND
INTERROGATORIES
AND REQUESTS FOR
PRODUCTION
OF DOCUMENTS TO
TRANSCANADA
KEYSTONE PIPELINE, LP**

HP14-001

TO: TransCanada

PLEASE TAKE NOTICE that, the Yankton Sioux Tribe (hereinafter "Yankton") hereby requests that the Applicant TransCanada (hereinafter "Keystone") answer fully, in writing and under oath, the interrogatories set forth herein within the time provided by the South Dakota Public Utilities Commission ("PUC") Order dated December 17, 2014. These Interrogatories shall be construed to include any supplemental information, knowledge, or data responsive hereto which is later discovered or obtained by you.

Yankton requests that Keystone respond in writing to the Requests for Production of Documents below and produce all responsive documents for inspection and copying at the offices of the undersigned counsel within the time frame set forth by the PUC Order dated December 17, 2014.

DEFINITIONS

These Interrogatories ("Interrogatories") and Requests for Production ("Document Requests") incorporate the following definitions:

1. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.
2. "Any" and "all" shall each be understood to mean "any and all."
3. "Communication" means the oral, written, or electronic transmittal of information in the form of facts, statements, ideas, inquiries or otherwise.
4. "Concerning" means relating to, referring to, describing, regarding, evidencing, or constituting.

5. "Document" shall be given the broadest reading possible under the Commission's rules and shall include, without limitation, the original and any copy, regardless of its origin or location, of any hard copy or electronic book, pamphlet, periodical, letter, memorandum, telegram, minutes, chart, tabulation, manual, guide, outline, abstract, history and/or record of meetings, conferences, and telephone or other conversations or communications, report, study, handwritten note, diary, desk calendar, work paper sheet, spreadsheet, paper, graph, index, tape, disk, audio or video recording, electronic data, magnetically and optically recorded document, electronically created or recorded document, archival copy of magnetically or optically recorded documents, document that has been logically deleted but not physically erased, computer hard drive, computer memory, network drive, floppy disk, CD ROM, backup tape, other archival media, email, instant message, intranet, extranet, voicemail, microfiche, recording sheet, Microsoft Word or other word processing file, Microsoft Excel or other spreadsheet file, Microsoft Outlook or other email, task, contact, or calendar file, Microsoft PowerPoint or other slide file, Microsoft Access or other database file, PDF or other image file, or data processing card, program or any other written, recorded, transcribed, punched, taped, filmed, or other graphic matter, however produced or reproduced, to which you or any of your agents, including, but not limited to, your attorneys, accountants, and all other representatives, have or have had. A true copy will suffice so long as you waive any objection to authenticity and will have the original available for inspection upon request. The terms "document," "documents," "record," or "records" also include copies of drafts and other documents that are not identical duplicates of the originals, as well as copies of documents of which the originals are not in the possession, custody, or control of the responding party.

6. "Identify" when referring to a person means to state the person's full name, present or last known address, telephone number, present or former employer and job title, and, if the person is deceased, his or her date of death. In addition, if the person is your current or former employee, state all job titles held by the person while employed by you and the dates that each job title was held. When referring to a document, "identify" means to give a reasonable description thereof, its date, author(s), recipient(s), media document is stored on if not stored in hard copy, and the full name and the present or last known address of the person, firm or corporation having possession, custody or control thereof.

7. "Keystone" refers to TransCanada Keystone Pipeline LP, including its officers and agents.

8. The term "objective metadata" means the custodian of the document, the author of the document, all recipients, including "cc" and "bcc" recipients, of the document, the document title, the document creation date, the document modification date(s), the document type, and parent/attachment Bates-range information.

9. "Parties" shall mean the parties to this proceeding before the South Dakota Public Utilities Commission.

10. "Person" is defined as any natural person or any business, legal, or governmental entity or association.

11. The "Tribe" means the Yankton Sioux Tribe.
12. "Trust land(s)" means any land held in trust by the United States on behalf of an Indian tribe or an individual Indian.
13. The terms "you" and "your" means the Keystone, their agents, executors, administrators, assigns, attorneys, solicitors, servants, employees, and representatives.

INTERROGATORIES INSTRUCTIONS

14. Each Interrogatory shall be answered separately and fully in writing under oath.
15. Each Interrogatory should be answered upon Keystone's entire knowledge and based upon all information that is available to Keystone or subject to reasonable inquiry by the Keystone. This includes all information in Keystone's possession or the possession of Keystone's attorneys, advisers, employees, agents, or other persons directly or indirectly employed by or connected with the Keystone or its attorneys and anyone else otherwise subject to Keystone's control.
16. If any answer is qualified, state specifically the terms of each qualification and the reasons for it. If you are unable to answer any Interrogatory fully and completely after exercising due diligence to secure the information necessary to make a full and complete answer, state the part that can be answered and answer the same in full to the extent possible. State further and specifically the reason(s) why the remainder cannot be answered, and state whatever information or knowledge you may have concerning the unanswered portions.
17. If Keystone does not have adequate knowledge to fully answer an Interrogatory, say so, but make a reasonable and good faith effort to obtain the information by asking other persons or organizations, unless the information is equally available to the asking party.
18. Whenever an Interrogatory may be answered by referring to a document, Keystone may specify the document, in sufficient detail to enable the asking party to locate and identify it as readily as you could, and attach such document as an exhibit to the response.
19. In responses to these discovery requests, Keystone should use all such defined terms with the same meaning or definition adopted by the Tribe. If Keystone uses any of terms differently than the Tribe, please indicate the particular definition or meaning that you are ascribing to any defined, collective, or unspecific term or phrase in the response to each discovery request.
20. Where a claim of privilege is asserted in responding or objecting to any discovery requested in these Interrogatories and information is not provided on the basis of such assertion, Keystone shall, in its response or objection, identify the nature of the privilege (including work product) that is being claimed. When any privilege is claimed, Keystone shall indicate, as to the information requested, whether (a) any documents exist, or (b) any communications took place, and (c) also provide the following information for each such document in a "privilege log":
 - A. the type of document;
 - B. the general subject matter of the document;

- C. the date of the document;
- D. the author(s) of the document;
- E. the addressee(s) and any other recipient(s) of the document; and
- F. the custodian of the document, where applicable.

21. If Keystone objects or otherwise declines to answer any of the following Interrogatories fully and completely, set forth the grounds upon which Keystone relies with specificity so as to permit the Commission to determine the legal sufficiency of the objection, and provide the most responsive information you are willing to provide without an order to produce.

22. If, in answering the Interrogatories, Keystone claims any ambiguity in either the Interrogatories or in an applicable definition or instruction, identify in your response the language Keystone consider ambiguous and state the interpretation Keystone is using in responding.

23. The use of the singular form of any word includes the plural and vice versa; and the use of any tense of any verb shall also include within its meaning all other tenses of that verb.

REQUESTS FOR PRODUCTION OF DOCUMENTS INSTRUCTIONS

24. These Document Requests include and are applicable to electronically-stored information, including any documents in electronic format. The term "electronically-stored information" refers to any original and any non-identical copies (whether non-identical because of notes made on copies or embedded or attached comments, annotations, transmissions, notations, or highlighting of any kind), of electronically- or digitally-stored information, including but not limited to, programming notes or instructions, activity listings of electronic mail receipts or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines, electronic mail or email, operating systems, source code of all types, programming languages, linkers and compilers, peripheral devices, external drives, PDF files, PRF files, PST files, batch files, ASCII files, crosswalks, code keys, pull down tables, logs, file layouts or any miscellaneous files or file fragments, regardless of the media on which they reside and regardless of whether said electronic data consists of an active file, backup file, deleted file or file fragment. Electronically-stored information also includes data stored on computer memory or memories, hard disks, floppy disks, zip drives, CD-ROM discs, Blackberry or other handheld devices, Instant Messenger programs, Bernoulli Boxes or their equivalents, magnetic tapes, microfiche, punched cards, punched tape, computer chips (including, without limitation, EPROM, PROM, ROM or RAM of any kind) or media cards on or in any other vehicle for electronic or digital data storage or transmittal.

25. All responsive and/or relevant electronically-stored information is to be preserved in native format with all corresponding metadata and embedded data intact. Adequate preservation of electronically-stored information requires intervention to prevent loss due to routine operations. Continued use of your computers and other devices may cause electronically-stored information to be altered or erased. Consequently, alteration and erasure may result from your failure to act diligently to prevent loss or corruption of electronically-stored information. Therefore, to the

extent you have not already done so, you must act affirmatively to properly segregate relevant information, as well as applicable hardware and software, to prevent loss or corruption.

26. If any document which you are requested to produce or identify herein was at one time in existence, but has been lost, discarded or destroyed, identify in writing each document and provide the following information:

- A. the date or approximate date it was lost, discarded or destroyed;
- B. the circumstances and manner in which it was lost, discarded or destroyed;
- C. the reason or reasons for disposing of the document (if discarded or destroyed);
- D. the identity of all persons having knowledge of the document;
- E. the identity of the person(s) who lost, discarded, or destroyed the document;
- F. the identity of all persons having knowledge of the contents thereof; and
- G. a detailed summary of the nature and contents of the document.

27. If any request for documents is deemed to call for the production of privileged or work product materials, and such privilege or work product protection is asserted, provide the following information, unless the parties have entered into an agreement providing otherwise:

- A. the reason for withholding the document;
- B. a statement of the basis for the claim of privilege, work product or other ground of non-disclosure;
- C. a brief description of the document, including:
 - i. the date of the document;
 - ii. number of pages, attachments and appendices of this documents;
 - iii. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
 - iv. the name of each person who was sent, shown, or received a blind or carbon copy of the document, together with an identification of each such person's employer and job title;
 - v. the present custodian of the document;
 - vi. the subject matter of the document; and
 - vii. the type or nature of the document.

28. In responding to each Document Request, produce all documents that are in your possession, custody, or control, including, but not limited to, those maintained or stored by attorneys and all other persons acting or purporting to act on your behalf.

29. If you know of any documents responsive to a particular Document Request but cannot produce them, so indicate in your response, produce all documents responsive to that Document Request which are in your possession, custody, or control, and identify each person who you believe has additional documents responsive to that Document Request.

30. If Keystone objects to any part of a Document Request, produce all documents responsive to those parts of the Document Request to which Keystone does not object.

31. Each of the following Document Requests is continuing in nature. Accordingly, if, after serving a response to any Document Request or producing any documents responsive thereto, or any part thereof, Keystone obtains or becomes aware of additional documents responsive to such Document Request, or become aware that in some material respect to a previous response or document production is incomplete or incorrect, Keystone is required to supplement its response and/or your document production.

32. Documents are to be produced in full. If any requested Document cannot be produced in full, produce it to the extent possible, indicating which Document, or portion of that Document, is being withheld, and the reason that Document is being withheld.

33. Documents attached to each other should not be separated. To the extent documents have been separated, links to relevant attachments or identification, in list form, of corresponding attachment information shall be produced.

34. Keystone must produce the original of each Document requested together with all non-identical copies and drafts of that Document. If the original of any Document cannot be located, provide a copy in lieu thereof, which shall be legible and bound or stapled in the same manner as the original.

35. Documents which are maintained in the usual course of business in hardcopy form are to be produced in hardcopy form, unless otherwise agreed upon by the parties. To the extent such documents have been copied and converted to electronic form, you are instructed to so advise the requesting party prior to actual production to permit the parties to assess and discuss the extent to which such documents should be produced in electronic form, and, if so, the requested characteristics of such a production.

36. Electronically-stored information shall be produced in such fashion as to identify the location (i.e., the network file folder, hard drive, back-up tape or other location) where it is stored and, where applicable, the natural person in whose possession it was found (or on whose hardware device they reside or are stored) and the business address of each respective custodian. In addition, a separate list identifying all custodians for whom electronically-stored information is being produced and the corresponding bates range(s) of documents/information for each respective custodian is hereby requested.

37. Unless otherwise provided or agreed upon by the parties, databases and spreadsheets are to be produced in native format, with all corresponding metadata and embedded data intact and all cells of information accessible, including, but not limited to notes, comments, embedded formulas, headings, column titles and hidden cells.

38. Unless otherwise provided or agreed upon by the parties, PowerPoint or other similar electronic presentation files shall be produced in native format with all objective metadata, and other metadata, including, but not limited to notes, comments, presentations scripts and embedded formulas.

39. In the event that documents originally maintained in hard copy form are converted to electronic form such documents are to be produced in a searchable format, to be discussed and agreed upon by the parties, and with any compiled objective coding information and/or objective metadata intact and/or linked.

40. If you produce an electronically-stored or converted document which has attachments, enclosures, and/or exhibits, such attachments, enclosures, and/or exhibits should also be produced and proximately linked to the document containing the attachments, enclosures, and/or exhibits.

41. The fact that a document has been or will be produced by another party (or non-party) does not relieve you of the obligation to produce your copy of the same document, even if the two documents are identical in all respects.

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.

INTERROGATORY NO. 46:

Describe the information furnished by Keystone to each fact witness for the purposes of his or her testimony.

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

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.

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.

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.

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.

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.

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.

Dated this 20th day of February 2015.

Thina 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 20th day of February, 2015 I sent by email a true and correct copy of **YANKTON SIOUX TRIBE'S SECOND INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO TRANSCANDA PIPELINE, LP**, to the following:

James E. Moore
WOODS, FULLER, SHULTZ & SMITH, P.C.
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Email james.moore@woodsfuller.com

Bill G. Taylor
WOODS, FULLER, SHULTZ & SMITH,
P.C.
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Email: bill.taylor@woodsfuller.com



Patricia Krakowski
Legal Assistant

Patricia Krakowski

From: Patricia Krakowski
Sent: Friday, February 20, 2015 3:26 PM
To: 'James E. Moore (james.moore@woodsfuller.com)'; 'Bill G. Taylor'
Cc: Thomasina Real Bird; Jennifer Baker; Jessica Wagner
Subject: Yankton Sioux Tribe's Second Interrogatories and Requests for Production of Documents
Attachments: 15_02_20 YST Second Interrogs and RFP to TransCanada.pdf

Dear Mr. Moore and Mr. Taylor:

Enclosed please find the Yankton Sioux Tribe's Second Interrogatories and Requests for Production of Documents to TransCanada Keystone Pipeline. Please advise if you have any issues opening this document.

Sincerely,

Patricia Krakowski
Legal Assistant to Jeff Rasmussen*,
Thomasina Real Bird and Alvina Earnhart**
**Licensed in Washington*
***Licensed in New Mexico*

Fredericks, Peebles & Morgan LLP
1900 Plaza Drive
Louisville, CO 80027
Phone: (303) 673-9600
Direct: (303) 815-1731
Fax: (303) 673-9155
Email: ptrakowski@ndnlaw.com
Web: www.ndnlaw.com



**FREDERICKS
PEEBLES &
MORGAN LLP**
ATTORNEYS AT LAW

THE INFORMATION CONTAINED IN THIS E-MAIL MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL E-MAIL MESSAGE TO US VIA RETURN E-MAIL OR AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU

Exhibit 4

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

0-0

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	:	SECOND INTERROGATORIES
FACILITIES ACT TO CONSTRUCT THE		AND REQUEST FOR
KEYSTONE XL PROJECT	:	PRODUCTION OF DOCUMENTS

0-0

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 Second 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*

(01844536.1)

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.

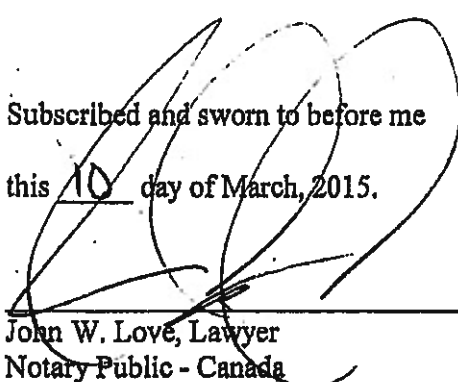
ANSWER: Mr. Harlan has not had any contacts with the Yankton Sioux Tribe.

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}

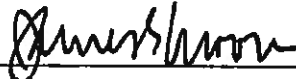
OBJECTIONS

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

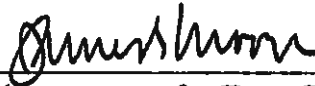
James.Moore@woodsfuller.com

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

Exhibit 5



FREDERICKS PEEBLES & MORGAN LLP
ATTORNEYS AT LAW

THOMASINA REAL BIRD

1900 Plaza Drive
Louisville, CO 80027
Telephone: (303) 673-9600
Fax: (303) 673-9155
E-Mail: trealbird@ndnlaw.com
www.ndnlaw.com

April 1, 2015

SENT VIA E-MAIL AND U.S. MAIL

James E. Moore
William Taylor
P.O. Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5-27

Re: TransCanada Keystone Pipeline Company, LP's Insufficient or Deficient Responses to Yankton Sioux Tribe's Discovery Requests and Yankton Sioux Tribe's Discovery Responses, PUC Docket No. HP14-001

Dear Messrs. Moore and Taylor:

This letter serves as notice to you that you have provided insufficient or deficient responses to the Yankton Sioux Tribe's First Interrogatories and Request for Production and to the Yankton Sioux Tribe's Second Interrogatories and Request for Production in the above-captioned matter, and as a request that you cure said deficiencies.

As noted in your February 12, 2015 letter, discovery in this matter is governed by the South Dakota Rules of Civil Procedure ("Rules"), SDCL Chapter 15-6. Section 15-6-26(b) of the Rules addresses the scope of discovery and provides that:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party...It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The Rules, at Section 15-6-37(a), allow a party to apply for an order compelling discovery and requiring the defaulting party to pay the moving party reasonable expenses.

CALIFORNIA • COLORADO • MICHIGAN • NEBRASKA • NORTH DAKOTA • SOUTH DAKOTA • WASHINGTON DC

www.ndnlaw.com

003603

James E. Moore and William Taylor
April 1, 2015
Page 2

In your responses dated January 23, 2015, to Yankton Sioux Tribe's First Interrogatories and Request for Production of Documents, as supplemented by your supplemental responses dated March 10, 2015, and in your responses dated March 10, 2015, to Yankton Sioux Tribe's Second Interrogatories and Request for Production, you asserted objections rather than fully responding to ten (10) of the Tribe's interrogatories and six (6) of the Tribe's requests for production. As described in "Attachment A," your responses to the Tribe's discovery requests thus far are deficient. We request that you cure the deficiencies in your responses to the six (6) interrogatories and six (6) requests for production referenced in Attachment A by supplementing these responses and producing additional documents as soon as possible, but no later than April 5, 2015. In the event you do not respond or your supplemental responses continue to be deficient, we will request that the Public Utilities Commission compel the Applicant to comply with our discovery requests and award the Tribe reasonable expenses of having to bring said Motion. Moreover, we will seek to have the non-produced documents excluded from the evidentiary hearing. *Lagge v. Corsica Co-op*, 677 N.W.2d 569, 573-574 (S.D. 2003). We may also seek dismissal of Applicant's action. *Van Zee v. Reding*, 436 N.W. 2d 844 (S.D. 1989).

With respect to your letter of January 23, 2015, regarding our discovery responses, we wish to point out that, to date, you have failed to remedy the deficiency contained in each of your requests by providing us with the specific permit condition or finding of fact addressed by each respective request. With respect to witnesses and exhibits, please be advised that the Tribe will not be utilizing experts and that we have not yet identified our hearing exhibits. Please also be advised that we will disclose exhibits and witness lists as required by order of the Public Utilities Commission – just as you indicated the Applicant will do in your objection to our discovery request for hearing exhibits (*see Keystone's Responses to Yankton Sioux Tribe's Second Interrogatories and Request for Production of Evidence*, Objection to RFP No. 10). If you have additional and specific concerns regarding our discovery responses, please detail those to us in writing. Otherwise, we trust that this response fully addresses your concerns.

In the interest of the good spirit that guides this discovery, we request you provide us amended answers and production as required. Failure to cure any deficiencies will require that we move the Commission for an order to compel, seek reasonable expenses associated therewith, seek exclusion of non-produced documents from introduction at the evidentiary, and seek dismissal of Keystone's case. It is in the best interest of all parties and the Commission to avoid such measures which can be avoided by your responses to such deficiencies.

Sincerely,



Thomasina Real Bird
Attorney at Law

Attachment A

Deficiencies in the Applicant's Discovery Responses

I. General Objections to the Tribe's Discovery

Keystone's general objection regarding inconsistency of the Tribe's instructions and definitions with the provisions of SDCL Chapter 15-6 fails to state the grounds for said objection with specificity, as required by SDCL 15-6-33(a), because it fails to identify the specific instruction and/or definition and corresponding provision of SDCL Chapter 15-6 to which it applies. Furthermore, because said objection fails to specify the part(s) of the instructions and definitions to which it applies, said objection fails to comply with SDCL 15-6-34(b). Please immediately provide us with this specific information so that this matter can be resolved; otherwise please respond using the definitions and instructions contained in the original discovery requests.

II. Applicant's Responses to the Tribe's First Interrogatories

- **Interrogatory No. 10**

The Tribe requested that the Applicant identify the dates, addresses, phone numbers, emails, and names of person(s) responsible for conducting surveys, addressing property specific issues and civil survey information. The Applicant objected on the grounds that this information is not relevant or reasonably calculated to lead to the discovery of admissible evidence. However, the request is designed and calculated to lead to discovery of admissible evidence. The individuals about whom information is sought may possess information or records relevant to the Applicant's compliance or non-compliance with the permit conditions cited in Interrogatory No. 10. Please provide all information responsive to Interrogatory No. 10.

- **Interrogatory No. 13**

The Tribe requested that the Applicant identify and provide the phone number, address, and email address of every each environmental inspector that Keystone has incorporated into the CMR. The Applicant objected on the grounds that this information is not relevant or reasonably calculated to lead to the discovery of admissible evidence. However, the request is designed and calculated to lead to discovery of admissible evidence. The individuals about whom information is sought may possess information or records relevant to the Applicant's compliance or non-compliance with the permit conditions cited in Interrogatory No. 13. Please provide all information responsive to Interrogatory No. 13.

- **Interrogatory No. 15**

The Tribe asked the Applicant whether any contractors hired by Keystone to construct any pipeline owned or operated by Keystone or any of its affiliates have 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. The Applicant objected on the grounds that this request is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence, and

that it seeks information not in the Applicant's custody or control and not maintained by the Applicant in the ordinary course of business. However, the request is designed and calculated to lead to discovery of admissible evidence. The information sought may include information relevant to the Applicant's compliance or non-compliance with the permit conditions cited in Interrogatory No. 15. In response to your concern about the breadth of this request and the fact that such information is not in the Applicant's custody or control or generally maintained in the ordinary course of business, we request that you respond to Interrogatory No. 15 based on the Applicant's knowledge, i.e., to the Applicant's knowledge, 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?

- **Interrogatory No. 16**

The Tribe asked the Applicant whether any contractors hired by Keystone to construct any pipeline owned or operated by Keystone or any of its affiliates have 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. The Applicant objected on the grounds that this request is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence, and that it seeks information not in the Applicant's custody or control and not maintained by the Applicant in the ordinary course of business. However, the request is designed and calculated to lead to discovery of admissible evidence. The information sought may include information relevant to the Applicant's compliance or non-compliance with the permit conditions cited in Interrogatory No. 16. In response to your concern about the breadth of this request and the fact that such information is not in the Applicant's custody or control or generally maintained in the ordinary course of business, we request that you respond to Interrogatory No. 16 based on the Applicant's knowledge, i.e., to the Applicant's knowledge, 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?

- **Interrogatory No. 21**

The Tribe requested that the Applicant provide the name, address, phone number, and email of all persons involved in any cultural or historic survey conducted by Keystone as well as 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). The Applicant objected on the grounds that this information is not relevant or reasonably calculated to lead to the discovery of admissible evidence. However, the request is designed and calculated to lead to discovery of admissible evidence. The information sought may include information relevant to the Applicant's compliance or non-compliance with the permit condition cited in Interrogatory No. 21. Please provide all information

- **Interrogatory No. 32**

The Tribe requested in part that the Applicant identify the location of all construction camps and housing camps in South Dakota that will be used for construction and/or temporary housing. The Applicant responded by citing the counties in which the camps would be located and referencing Figure 2.1.5-1 of the FSEIS. This information does not provide a precise location for the camps to adequately respond to the Tribe's request. The map referenced by the Applicant is of poor quality and minimal detail. Additionally, it is unclear whether the red dot indicating a camp location is to scale but it seems unlikely that this is the case. If the dot is not to scale, this calls into question the accuracy of the map and the locations depicted. The Applicant's response is therefore deficient. Please provide geographic coordinates or legal descriptions for all known or anticipated locations of construction and/or temporary housing camps.

III. Applicant's Responses to the Tribe's First Requests for Production of Documents

- **RFP No. 2**

The Tribe requested that the Applicant provide all documents relating to environmental and hydrological surveys. The Applicant objected on the grounds that this request is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence because it is unlimited in time and does not refer to a specific project. However, the request is designed and calculated to lead to discovery of admissible evidence. The information sought may include information relevant to the Applicant's request to change the finding of fact cited in Request No. 2. In response to your concern about the breadth of this request, we request that you respond to Request No. 2 within the scope of the proposed Keystone XL pipeline project, i.e., please provide all documents relating to environmental and hydrological surveys conducted in conjunction with, in support of, or in planning the proposed Keystone XL pipeline project.

- **RFP No. 3**

The Tribe requested that the Applicant provide all documents relating to cultural and historic surveys, training, and response plans. The Applicant objected on the grounds that this request is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence because it is unlimited in time and does not refer to a specific project. However, the request is designed and calculated to lead to discovery of admissible evidence. The information sought may include information relevant to the Applicant's compliance or non-compliance with the permit condition cited in Request No. 3. In response to your concern about the breadth of this request, we request that you respond to Request No. 3 within the scope of the proposed Keystone XL pipeline project, i.e., please provide all documents relating to cultural and historic surveys, training, and response plans prepared in conjunction with, in support of, or in planning the proposed Keystone XL pipeline project.

- **RFP No. 4**

The Tribe requested that the Applicant provide all documents relating to required permits, both in South Dakota and outside South Dakota, including permit applications which were denied, revoked, or suspended. The Applicant objected on the grounds that this request is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. However, the request is designed and calculated to lead to discovery of admissible evidence. The information sought may include information relevant to the Applicant's compliance or non-compliance with the permit condition number 1. In response to your concern about the breadth of this request, we request that you respond to a narrowed request that you provide all permits required by any law, both in South Dakota and outside South Dakota, all applications for such permits, and all permit applications which were denied, revoked, or suspended.

- **RFP No. 6**

The Tribe requested that the Applicant provide all documents constituting Keystone's Emergency Response Plan. The Applicant objected on the grounds that the information is beyond the scope of the PUC's jurisdiction and Keystone's burden, the requests seeks information governed by federal law and within the exclusive province of PHMSA, and the request seeks information that is confidential and proprietary. However, an applicant's plans for addressing emergencies related to the project are of key importance to the PUC's determinations regarding pipeline permits. While safety of a pipeline once it is operational may be within the exclusive purview of the PHMSA, this is not the case with respect to a proposed project that has not yet been built. In fact, the PHMSA has expressly disclaimed authority over pipelines that are not yet operational. Furthermore, such information is vital to the Tribe because such information may directly affect the safety of Tribal members and because such information is necessary to determine whether the proposed project continues to meet the conditions on which the Applicant's permit was issued. The applicant further alleged that public disclosure of the Emergency Response Plan would commercially disadvantage Keystone. This is not a valid basis for an objection. Finally, the Applicant's reference to the FSEIS is not responsive to this request. The Tribe therefore requests that you provide all documents requested in Request No. 6.

- **RFP No. 7**

The Tribe requested that the Applicant provide 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. The Applicant objected on the grounds that this information is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. However, the request is designed and calculated to lead to discovery of admissible evidence and is no more broad or burdensome than is necessary to procure evidence relevant to the relief the Applicant seeks and the basis for such relief. The information sought is directly related to the Applicant's request that such Findings of Facts be changed. Please provide all information responsive to Request No. 7.

III. Applicant's Responses to the Tribe's First Requests for Production of Documents

- **RFP No. 8**

The Tribe requested that the Applicant provide 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. The Applicant objected on the grounds that this information is not reasonably calculated to lead to the discovery of admissible evidence. However, the request is designed and calculated to lead to discovery of admissible evidence. The information sought is directly related to the Applicant's request that such Findings of Facts be changed. Please provide all information responsive to Request No. 8.

Exhibit 6

Jennifer Baker

From: Thomasina Real Bird
Sent: Tuesday, April 7, 2015 9:07 AM
To: Jennifer Baker; Patricia Krakowski
Subject: Fwd: Keystone XL discovery

Sent from my Verizon Wireless 4G LTE Smartphone

----- Original message -----

From: "James E. Moore"
Date: 04/07/2015 8:53 AM (GMT-07:00)
To: Thomasina Real Bird
Cc: Melissa Wipf, William Taylor
Subject: Keystone XL discovery

Thomasina,

Thanks for your letter of April 1, 2015. We have the following responses to your discovery concerns.

Interrogatory No. 10: The identity of the persons conducting surveys is not relevant or reasonably calculated to lead to the discovery of admissible evidence. The Department of State was satisfied with the surveys conducted.

Interrogatory No. 13: Keystone has not hired any environmental inspectors for KXL. There is no additional information that we can provide.

Interrogatory No. 15: Keystone has not hired any contractors for KXL. We will stand on the objection that information related to contractors on other projects is not relevant or likely to lead to the discovery of admissible evidence..

Interrogatory No. 16: Keystone has not hired any contractors for KXL. We will stand on the objection that information related to contractors on other projects is not relevant or likely to lead to the discovery of admissible evidence.

Interrogatory No. 21: Keystone stands on its objection.

Interrogatory No. 32: Keystone will provide latitude/longitude information for the camps in South Dakota. I'll get that for you yet today.

With respect to the document requests, Keystone stands on its objections and responses.

Please advise if you have any further questions or comments.

James

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CERTIFICATE OF SERVICE

I certify that on this 7th day of April 2015, a true and correct copy of the **YANKTON SIOUX TRIBE'S MOTION TO COMPEL** on behalf of Yankton Sioux Tribe was filed on the Public Utilities Commission of the State of South Dakota e-filing website. And also on this day, a true and accurate copy was sent via email to the following:

Ms. Patricia Van Gerpen
Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
patty.vangerpen@state.sd.us

Ms. Kristen Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
Kristen.edwards@state.sd.us

Mr. Brian Rounds
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
brian.rounds@state.sd.us

Mr. Darren Kearney
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
darren.kearney@state.sd.us

Mr. James E. Moore - Representing: TransCanada Keystone Pipeline, LP
Attorney
Woods, Fuller, Shultz and Smith P.C.

PO Box 5027
Sioux Falls, SD 57117
james.moore@woodsfuller.com

Mr. Bill G. Taylor - Representing: TransCanada Keystone Pipeline, LP
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
bill.taylor@woodsfuller.com

Mr. Paul F. Seamans
27893 249th St.
Draper, SD 57531
jackknife@goldenwest.net

Mr. John H. Harter
28125 307th Ave.
Winner, SD 57580
johnharter11@yahoo.com

Ms. Elizabeth Lone Eagle
PO Box 160
Howes, SD 57748
bethcbest@gmail.com

Mr. Tony Rogers
Rosebud Sioux Tribe - Tribal Utility Commission
153 S. Main St.
Mission, SD 57555
tuc@rosebudsiouxtribe-nsn.gov

Ms. Viola Waln
PO Box 937
Rosebud, SD 57570
walnranch@goldenwest.net

Ms. Jane KleeB
Bold Nebraska

1010 N. Denver Ave.
Hastings, NE 68901
jane@boldnebraska.org

Mr. Benjamin D. Gotschall
Bold Nebraska
6505 W. Davey Rd.
Raymond, NE 68428
ben@boldnebraska.org

Mr. Byron T. Steskal & Ms. Diana L. Steskal
707 E. 2nd St.
Stuart NE 68780
prairierose@nntc.net

Ms. Cindy Myers, R.N.
PO Box 104
Stuart, NE 68780
csmyers77@hotmail.com

Mr. Arthur R. Tanderup
52343 857th Rd.
Neligh, NE 68756
atanderu@gmail.com

Mr. Lewis GrassRope
PO Box 61
Lower Brule, SD 57548
wisestar8@msn.com

Ms. Carolyn P. Smith
305 N. 3rd St.
Plainview, NE 68769
peachie_1234@yahoo.com

Mr. Robert G. Allpress
46165 Badger Rd.
Naper, NE 68755

bobandnan2008@hotmail.com

Mr. Jeff Jensen
14376 Laflin Rd.
Newell, SD 57760
jensen@sdplains.com

Mr. Louis T. Genung
902 E. 7th St.
Hastings, NE 68901
tg64152@windstream.net

Mr. Peter Capossela, P.C. - Representing: Standing Rock Sioux Tribe
Attorney at Law
PO Box 10643
Eugene, OR 97440
pcapossela@nu-world.com

Ms. Nancy Hilding
6300 W. Elm
Black Hawk, SD 57718
nhilshat@rapidnet.com

Mr. Gary F. Dorr
27853 292nd
Winner, SD 57580
gfdorr@gmail.com

Mr. Bruce & Ms. RoxAnn Boettcher
Boettcher Organics
86061 Edgewater Ave.
Bassett, NE 68714
boettcherann@abbnebraska.com

Ms. Wrexie Lainson Bardaglio
9748 Arden Rd.
Trumansburg, NY 14886
wrexie.bardaglio@gmail.com
(607) 229-8819 - voice

Mr. Cyril Scott
President
Rosebud Sioux Tribe
PO Box 430
Rosebud, SD 57570
cscott@gwtc.net
ejantoine@hotmail.com

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

Ms. Paula Antoine
Sicangu Oyate Land Office Coordinator
Rosebud Sioux Tribe
PO Box 658
Rosebud, SD 57570
wopila@gwtc.net
paula.antoine@rosebudsiouxtribe-nsn.gov

Mr. Harold C. Frazier
Chairman
Cheyenne River Sioux Tribe
PO Box 590
Eagle Butte, SD 57625
haroldcfrazier@yahoo.com

Ms. Amy Schaffer
PO Box 114
Louisville, NE 68037
amyanschaffer@gmail.com

Ms. Debbie J. Trapp
24952 US HWY 14

Midland, SD 57552
mtdt@goldenwest.net

Ms. Gena M. Parkhurst
2825 Minnewasta Place
Rapid City, SD 57702
gmp66@hotmail.com

Ms. Joye Braun
PO Box 484
Eagle Butte, SD 57625
jmbraun57625@gmail.com

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

Ms. Chastity Jewett
1321 Woodridge Dr.
Rapid City, SD 57701
chasjewett@gmail.com

Mr. Duncan Meisel
350.org
20 Jay St. #1010
Brooklyn, NY 11201
duncan@350.org

Ms. Sabrina King
Dakota Rural Action
518 Sixth Street, #6
Rapid City, SD 57701
sabrina@dakotarural.org

Mr. Frank James
Dakota Rural Action
PO Box 549

Brookings, SD 57006
fejames@dakotarural.org

Mr. Bruce Ellison
Attorney
Dakota Rural Action
518 Sixth St. #6
Rapid City, SD 57701
belli4law@aol.com

Mr. Tom BK Goldtooth
Indigenous Environmental Network (IEN)
PO Box 485
Bemidji, MN 56619
ien@igc.org

Mr. Dallas Goldtooth
38371 Res. HWY 1
Morton, MN 56270
goldtoothdallas@gmail.com

Ms. Bonny Kilmurry
47798 888 Rd.
Atkinson, NE 68713
bjkilmurry@gmail.com

Mr. Robert P. Gough
Secretary
Intertribal Council on Utility Policy
PO Box 25
Rosebud, SD 57570
bobgough@intertribalCOUP.org

Mr. Terry & Cheryl Frisch
47591 875th Rd.
Atkinson, NE 68713
tefrisch@q.com

Ms. Tracey Zephier - Representing: Cheyenne River Sioux Tribe
Fredericks Peebles & Morgan LLP
Ste. 104
910 5th St.
Rapid City, SD 57701
tzephier@ndnlaw.com

Mr. Robin S. Martinez - Representing: Dakota Rural Action
Martinez Madrigal & Machicao, LLC
616 W. 26th St.
Kansas City, MO 64108
robin.martinez@martinezlaw.net

Ms. Mary Turgeon Wynne, Esq.
Rosebud Sioux Tribe - Tribal Utility Commission
153 S. Main St
Mission, SD 57555
tuc@rosebudsiouxtribe-nsn.gov

Mr. Matthew L. Rappold - Representing: Rosebud Sioux Tribe
Rappold Law Office
816 Sixth St.
PO Box 873
Rapid City, SD 57709
Matt.rappold01@gmail.com

Ms. April D. McCart - Representing: Dakota Rural Action
Certified Paralegal
Martinez Madrigal & Machicao, LLC
616 W. 26th St.
Kansas City, MO 64108
april.mccart@martinezlaw.net

Mr. Paul C. Blackburn - Representing: Bold Nebraska
Attorney
4145 20th Ave. South
Minneapolis, MN 55407
paul@paulblackburn.net

Ms. Kimberly E. Craven - Representing: Indigenous Environmental Network (IEN)
Attorney
3560 Catalpa Way
Boulder, CO 80304
kimecraven@gmail.com

VIA U.S. MAIL, FIRST CLASS POSTAGE PREPAID:

Mr. Cody Jones
21648 US HWY 14/63
Midland, SD 57552

Mr. Ronald Fees
17401 Fox Ridge Rd.
Opal, SD 57758

Mr. Jerry Jones
22584 US HWY 14
Midland SD 57552

/s/Jessica Wagner

Jessica Wagner