
**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

DOCKET HP 14-001

**DIRECT TESTIMONY OF CARLYLE
DUCHENEAUX**

1. Please state your name and address for the record.

Answer: My name is Carlyle Ducheneaux. My office address is P.O. BOX 542 Eagle Butte, SD 57625.

2. Please state your position with the Cheyenne River Sioux Tribe.

Answer: I am currently the Cheyenne River Sioux Tribe's Environmental Protection Department's 106 Coordinator. My prior positions with the Cheyenne River Sioux Tribe include working as the National Pollutant Discharge Elimination System Coordinator and Superfund Site Coordinator.

3. Please provide a description of your areas of responsibility within the Cheyenne River Sioux Tribe's Department of Environmental and Natural Resources.

Answer: I have multiple responsibilities, including the development of water quality standards, review and issuance of National Pollutant Discharge Elimination System permits, review all Environmental Impact Statement/Environmental Assessments affecting the Cheyenne River Sioux Tribe, conducting water, air, and soil testing, and interpreting collected environmental data. In addition, my duties also require me to perform human health risk assessments. I also work with Missouri breaks, BHCAIS and

the University of New Mexico performing scientific tests on humans and the environment.

4. Please state your professional qualifications and experience.

Answer: I have eighteen (18) years of work experience with the Cheyenne River Sioux Tribe in the environmental field. During my professional tenure with the Tribe I have worked collaboratively with the Environmental Protection Agency, the United States Geological Survey, the United States Fish and Wildlife Service, the Bureau of Indian Affairs, the Army Corps of Engineers, the Bureau of Reclamation, the Bureau of Land Management and many private sector science and environmental companies.

5. Are you familiar with the TransCanada Keystone XL Pipeline project?

Answer: Yes. I have thoroughly reviewed the Keystone XL Pipeline's Environmental Impact Statement.

6. Have you reviewed the proposed route of the Keystone Pipeline project; with specific regard to the portion of the project near the Cheyenne River Sioux Reservation?

Answer: Yes, as part of my review of the Environmental Impact Statement I have reviewed and familiarized myself with the proposed pipeline route, especially with regard to that portion of the project that is in close proximity to the Cheyenne River Sioux Reservation.

7. In your opinion, would construction of the Keystone Pipeline in the vicinity of the Cheyenne River Sioux Reservation affect the Cheyenne River Sioux Tribe?

Answer: Absolutely yes. It is my professional opinion that construction of the Keystone XL Pipeline in the vicinity of the Cheyenne River Sioux Reservation will affect the

Cheyenne River Sioux Tribe and its Tribal Members living on the Reservation.

Moreover, upon completion of the Keystone XL Pipeline's construction, the Project will continue to affect the Cheyenne River Sioux Tribe and its Tribal Members in that a spill incident would pose a serious risk to the health and safety of all people living in Dewey and Ziebach Counties.

8. Please describe how the Cheyenne River Sioux Tribe would be affected by construction of the Keystone Pipeline in the vicinity of the Cheyenne River Sioux Reservation.

Answer: Much of the soil in and around the Cheyenne River and its tributaries contains contaminants from previous polluters. At present these contaminants are largely in a settled state and thus do not pose significant immediate health and safety risks. However, construction of the Keystone XL Pipeline will necessarily involve extensive excavation and disruption of contaminated soils, which in turn will lead to the inevitable re-suspension of contaminated sediment in the Cheyenne River hydrological system. The Tribe and all residents of the Cheyenne River Sioux Reservation depend on the Cheyenne River as the sole source of potable water, making such soil disturbance and re-suspension a massive threat to the Tribe and the Reservation's residents. In essence, I see no positive out come to the construction of the pipeline. Instead, construction of this project will pose a serious threat to the health, safety, and well-being of the Cheyenne River Sioux Tribe, the State of South Dakota, and their respective citizens.

9. What do you mean by "re-suspension" of contaminants? Could you please explain this particular risk in detail?

Answer: What I mean by the term “re-suspension” is that the legacy pollutants that are presently in a settled state in the soil will mix into the Cheyenne River’s hydrological system; thereby reintroducing old pollutants into the water source that the Cheyenne River Sioux Tribe and reservation residents rely on for potable water. In my opinion, such re-suspension will greatly affect the health and safety of the Cheyenne River Sioux Tribe, its tribal members, and the non-Indian residents who reside within the boundaries of the reservation.

10. Would non-Indian residents on the Cheyenne River Sioux Reservation be similarly affected?

Answer: Yes. All residents living on or near the Cheyenne River Sioux Reservation would be subject to the same negative consequences associated with the construction and operation of the Keystone XL Pipeline in the vicinity of the Cheyenne River Sioux Reservation.

11. In your opinion, would the presence of the Keystone Pipeline, once completed, pose a direct threat to the Cheyenne River Sioux Tribe?

Answer: Yes. Beyond the impacts associated with construction of the Keystone XL Pipeline, the Cheyenne River Sioux Tribe will also be affected by the operation of the Keystone XL Pipeline Project. Specifically, the Cheyenne River Sioux Tribe’s water treatment facility, which provides potable water for all residents within the Cheyenne River Sioux Reservation, would be at risk of contamination if a spill were to occur in the Cheyenne River or one of its hydrologically connected tributaries. As such, the Tribe will most definitely be affected by the ongoing operation of the Keystone XL Pipeline Project.

12. Please describe how the Cheyenne River Sioux Tribe would be negatively affected by the completed Keystone Pipeline?

Answer: As I have alluded to in my previous answers, the Tribe will be negatively affected by this project because it will initially contaminate and pose an ongoing threat of contamination to the Tribe's water resources. For example, the likelihood of pipeline failure due to sloughing of banks and movement of highly erodible soils is high. Obviously such a failure would be catastrophic for the Cheyenne River Sioux Tribe, its Tribal Members, and everyone else living within the confines of the Cheyenne River Sioux Reservation. In fact, just a moderate spill from the pipeline into any hydrological system connected to the Cheyenne River would jeopardize the Tribe's drinking water. All residents within the Cheyenne River Sioux Reservation, both Indian and non-Indian, rely on water from the Tribe's Mni Waste Water Company. Thus, any contamination of the Cheyenne River's hydrological system would inevitably impact the Tribe itself, as well as all residents residing within the Reservation. Such a contamination incident would force the residents of the Reservation to use bottled water until a spill is completely cleaned up. This in itself creates a major problem for the Tribe and Tribal Members. Namely, bottled water is not acceptable for many cultural activities. Rather, only water from the Cheyenne River itself can be used. Also, much of the Cheyenne River's flora and fauna would be destroyed. In other words, the Keystone XL Pipeline not only threatens the health and safety of the Cheyenne River Sioux Tribe and its Tribal Members, it also threatens the Tribe's access to irreplaceable cultural resources.

13. What do you mean by “sloughing of banks” and “movement of highly erodible materials?” Please explain how these two natural phenomena could cause the Keystone XL Pipeline to leak?

Answer: By sloughing of banks I mean that the banks bordering waterways such as the Cheyenne River and its tributaries are highly susceptible to collapse. This is because the soil in western South Dakota is highly erodible, meaning it is particularly susceptible to water erosion.

14. Are events such as these common in the vicinity of the Cheyenne River Sioux Reservation?

Answer: Yes, sloughing and movement of highly erodible materials is a very common natural phenomena throughout western South Dakota.

15. Would non-Indian residents on the Cheyenne River Sioux Reservation be similarly affected?

Answer: Yes. All residents who rely on the Tribe’s Mni Waste water treatment facility would be impacted, including non-Tribal members. In other words, the threat posed by the portion of the Keystone XL Pipeline in the vicinity of the Cheyenne River Sioux Reservation will equally affect citizens of the Cheyenne River Sioux Tribe and all other citizens of South Dakota residing within the boundaries of the Reservation.

16. In your professional capacity, has TransCanada Keystone XL Pipeline, LP contacted you or your office with regard to emergency response and/or cleanup issues?

Answer: No. To the best of my knowledge TransCanada has not made any attempt to contact me or anyone else in my office whatsoever. My office would be heavily involved

in any cleanup effort on the Cheyenne River Sioux Reservation, making their lack of contact with us especially disconcerting.

17. In your professional opinion, are the Cheyenne River Sioux Tribe and the local non-Indian governments within the Reservation, such as municipalities and counties, adequately trained and equipped to respond to a Pipeline spill into the Reservation's water?

Answer: No. In my opinion, the Cheyenne River Sioux Tribe, nor any other local government on the Reservation, has the capacity to adequately respond to a spill incident, making such an incident all the more decimating to the Tribe, Tribal Members, and non-Tribal Members living on the Reservation.

18. Does this conclude your prefiled testimony?

Answer: Yes it does.

Dated this 2 day of April, 2015.

/S/ Carlyle Ducheneaux

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CERTIFICATE OF SERVICE

I certify that on this 24th day of November, 2014, the original of this **RESPONSE OPPOSING TRANSCANADA KEYSTONE PIPELINE MOTION TO LIMIT THE SCOPE OF DISCOVERY** on behalf of the Cheyenne River Sioux Tribe in Case Number HP 14-001, was filed on the Public Utilities Commission of the State of South Dakota e-filing website. Also on this day, a true and accurate copy of the above was sent to the following:

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