

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

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

AFFIDAVIT IN SUPPORT OF
MOTION FOR CONTINUANCE

HP14-001

AFFIDAVIT IN SUPPORT OF MOTION FOR CONTINUANCE

Affidavit of Matthew L. Rappold

I, Matthew L. Rappold, under penalty of perjury hereby state and affirm the following:

1. That I am one of the attorneys of record for the Rosebud Sioux Tribe in the above captioned matter.
2. I am informed and have personal knowledge of the affirmations contained herein, except any affirmations that are stated upon information and belief.
3. That the Rosebud Sioux Tribe submitted a proposed procedural schedule regarding this case upon the request of the Public Utilities Commission requesting a schedule that included a period of time that allowed for a meaningful discovery period to be completed that was prior to the scheduled trial for the application. Rosebud Sioux Tribe's suggested procedural schedule is attached as Exhibit 1 and is incorporated by reference herein.
4. That the Commission rejected the proposed procedural schedule over the objections of the parties and issued a highly compressed procedural schedule that did not provide any time period to complete discovery prior to the hearing being scheduled for trial.
5. That on March 25, 2015 the Rosebud Sioux Tribe filed a Motion to Amend Procedural Schedule requesting that the Commission amend the schedule to allow for a meaningful time period to complete the discovery process prior to the matter being scheduled for trial.
6. That the Commission amended the procedural schedule but did not account for or include into the amended schedule a meaningful time period to resolve discovery prior to the matter being scheduled for trial.
7. That on March 27, 2015 the Standing Rock Sioux Tribe submitted a Motion to Amend Procedural schedule to allow for a meaningful time period to resolve discovery prior to the matter being scheduled for trial.


8. That the Commission rejected the Standing Rock Sioux Tribe's Motion in its entirety.
9. That on March 31, 2015, the Indigenous Environmental Network filed a Motion in Support of the Motions to Amend the Procedural Schedule.
10. That on March 30, 2015 Bold Nebraska submitted its Motion in Support of the Rosebud Sioux Tribe and Standing Rock Sioux Tribe's Motions to Amend Procedural Schedule.
11. That on April 7, 2015 Dakota Rural Action, the Rosebud Sioux Tribe, the Standing Rock Sioux Tribe, Cheyenne River Sioux Tribe and the Indigenous Environmental Network filed a joint motion to stay the proceedings.
12. That the Joint Motion to Stay the proceedings was rejected by the Commission in its entirety.
13. That on April 7, 2015 Dakota Rural Action, Rosebud Sioux Tribe, Cheyenne River Sioux Tribe and the Indigenous Environmental Network filed a Motion to Appoint a Special Master to assist the Commission with resolving ongoing discovery disputes.
14. That the Motion to Appoint a Special Master to assist the Commission with the ongoing discovery disputes.
15. That on April 8, 2015 the Rosebud Sioux Tribe filed a Motion to Amend the Procedural Schedule to allow for a meaningful time period in which to resolve discovery disputes prior to the matter being scheduled for trial.
16. That the Commission granted the motion in part and denied the motion in part but did not amend the schedule to permit a meaningful time period in which to complete ongoing discovery disputes prior to the matter being scheduled for trial.
17. That the other parties to this motion participated in a meet and confer call with attorneys for TransCanada on April 20, 2015 for the purposes of attempting to resolve ongoing disputes related to discovery, security matters associated with the manner by which TransCanada made documents electronically available to certain parties, issues associated with the scope of the protective order issued by the Commission, changing the date for filing witness and exhibit lists and TransCanada's designation of confidential materials that were provided by TransCanada pursuant to the Commissions Orders compelling TransCanada to provide discovery to certain parties.
18. That by email dated April 20, 2015, counsel for TransCanada, Bill Taylor informed the parties that TransCanada would agree to extend the date to file witness and exhibit lists to April 28, 2015. The extension of the date to file witness and exhibit lists did nothing to address or resolve the underlying issues of disagreement between the interveners and TransCanada.

19. That by email dated April 21, 2015 counsel for TransCanada, Bill Taylor informed the parties that TransCanada would agree to certain modifications of current orders and conditions but ultimately would not agree to continue the hearing scheduled for May 5-8, 2015. This email correspondence is attached as Exhibit 2.

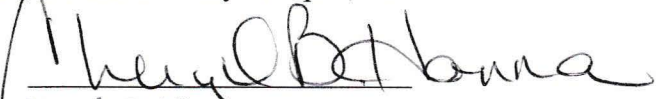
20. That the concessions offered by TransCanada were not acceptable to the parties because they did nothing to address or resolve the underlying concern of the parties, that being that the trial for this matter cannot take place until the discovery process is fully completed.

21. That as of the time of the filing of this motion to continue there are ongoing discovery disputes between the interveners and TransCanada that necessitates continuing the case until after the disputes can be resolved and the parties have been provided a meaningful opportunity to participate in the discovery process.

Dated this 24th day of April, 2015.


Matthew L. Rappold

Subscribed and sworn to before me, a Notary Public, on this 24th day of April, 2014.


Notary Public



My Commission Expires: 12-4-19