

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 THE SOUTH DAKOTA ENERGY CONVERSION AND TRANSMISSION FACILITIES ACT TO CONSTRUCT THE KEYSTONE XL PROJECT	:	KEYSTONE’S RESPONSES TO ROSEBUD SIOUX TRIBE’S FIRST SET OF INTERROGATORIES AND REQUEST FOR 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 Rosebud 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 {01815085.1}

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

1. Please identify the person or persons providing each answer to an Interrogatory and request for production of documents, or portion thereof, giving the full name, address of present residence, date of birth, business address and occupation. Identify the names of each person, other than legal counsel, who assisted with providing the answers and request for production of documents, or portion thereof giving the full name, address of present residence, date of birth, business address and occupation.

ANSWER: Given the extremely broad scope volume of more than 800 discovery requests received by Keystone in this docket, a range of personnel were involved in answering the interrogatories. Keystone will designate the following witnesses with overall responsibility for the responsive information as related to the Conditions and proposed changes to the Findings of Fact, which are identified in Appendix C to Keystone's Certification Petition: Corey Goulet, President, Keystone Projects, 450 1st Street S.W., Calgary, AB Canada T2P 5H1; Steve Marr, Manager, Keystone Pipelines & KXL, TransCanada Corporation, Bank of America Center, 700 Louisiana, Suite 700, Houston, TX 77002; Meera Kothari, P. Eng., 450 1st Street, S.W., Calgary, AB Canada T2P 5H1; David Diakow, Vice President, Commercial, Liquids Pipeline, 450 1st Street

S.W., Calgary, AB Canada T2P 5H1; Jon Schmidt, Vice President, Environmental & Regulatory, exp Energy Services, Inc., 1300 Metropolitan Boulevard, Suite 200, Tallahassee, FL 32308; Heidi Tillquist, Senior Associate, Stantec Consulting Ltd., 2950 E. Harmony Rd., Suite 290, Fort Collins, CO 80528.

2. Prior to answering these interrogatories, have you made due and diligent search of all books, records, and papers of the Applicant with the view of eliciting all information available in this action?

ANSWER: Yes, to the extent reasonably practicable in attempting to respond to over 800 discovery requests within the time allowed.

3. Identify all oil and gas pipelines that TransCanada owns and/or operates in the United States and in Canada. Amended Permit Condition 1.

ANSWER: Please refer to TransCanada web site (www.transcanada.com).

4. What is TransCanada's principal place of business?

ANSWER: Calgary, Alberta, Canada.

5. State all affiliates that have an ownership interest in the TransCanada Corporation.

ANSWER: TransCanada Corporation is the parent corporation; as such its affiliates do not hold an ownership interest.

6. Identify all other names that TransCanada may do business under, in the United States and Canada.

ANSWER: None.

7. Identify each of the applicable laws and regulations that apply to the construction of the Keystone XL Pipeline that are referred to in Amended Permit Condition 1 not including the laws listed in Amended Permit Condition 1.

OBJECTION AND RESPONSE: This request is vague, unclear, and cannot reasonably be interpreted. Without waiving the objection, applicable laws and regulations are discussed in the Department of State's Final Supplemental EIS, which is available at <http://keystonepipeline-xl.state.gov/finalseis/index.htm>.

8. Identify each state that TransCanada has applied for and received a permit from for the construction of Keystone XL Pipeline as referred to in Amended Permit Condition 2.

ANSWER: Montana, South Dakota, Nebraska.

9. Has TransCanada received any communications from any regulatory body or agency that may have jurisdiction over the construction, maintenance or operation of the Keystone XL Pipeline alleging that TransCanada has failed to comply with any applicable permits for the construction, operation or maintenance of the Keystone KXL Pipeline. Amended Permit Condition 2.

ANSWER: No. Keystone has not commenced the construction, operation, or maintenance of the Keystone XL Pipeline.

10. Has TransCanada received any communications from any regulatory body or

{01815085.1}

agency that may have jurisdiction over the construction, maintenance or operation of any pipeline located in the United States alleging that TransCanada has failed to comply with any applicable permits for the construction, operation or maintenance of any pipeline located in the United States? Amended Permit Conditions 1 and 2.

OBJECTION: This request is not relevant, not likely to lead to the discovery of admissible evidence, and is overlybroad.

11. Has TransCanada received any communications from any regulatory body or agency that may have jurisdiction over the construction, maintenance or operation of any pipeline located in Canada alleging that TransCanada has failed to comply with any applicable permits for construction operation or maintenance of any pipeline located in Canada? Amended Permit Condition 2.

OBJECTION: This request is not relevant, not likely to lead to the discovery of admissible evidence, and is overlybroad.

12. What actions has TransCanada taken to comply with and implement any and all recommendations set forth in the Final Environmental Impact Statement from the United States Department of State regarding construction, operation or maintenance of the Keystone Pipeline? Amended Permit Condition 3.

ANSWER: Unless and until the Department issues a Record of Decision and a Presidential Permit, the recommendations in the Final EIS are not binding on Keystone.

13. Identify all permits that TransCanada has applied for within the State of South Dakota relating to the use of public water for construction, testing or drilling; for temporary discharges to waters of the state and temporary discharges of water from construction dewatering and hydrostatic testing referred to in Amended Permit Condition

1.

ANSWER: Keystone has submitted a Notice and Intent and Certificate of Application Form to Receive Coverage Under the General Permit for Temporary Discharges and a Temporary Water Use Permit.

14. Has TransCanada taken any action to transfer this permit to any other person? Amended Permit Condition 4.

ANSWER: No.

15. Has TransCanada obtained or applied for any permits in the State of South Dakota regarding railroad and road crossings from any agency or local government having jurisdiction to issue railroad and road crossing permits? Amended Permit Condition 2.

ANSWER: Two railroad crossing permits are being negotiated for the pipeline to cross under existing railroad rights-of-way. The South Dakota State Railroad application was filed November 23, 2012. The other is being negotiated with the Canadian Pacific Railway, which has been sold to the Genesee & Wyoming Railway. An agreement is pending.

16. Identify all actions undertaken and completed or attempted to complete that TransCanada and its affiliated entities committed to undertake and complete in its application, in its testimony and exhibits received in evidence at the hearing and in its responses to data requests received in evidence at the hearing on Public Utilities Commission Docket HP09-001. Amended Permit Condition 5.

ANSWER: See the quarterly and annual reports filed by Keystone in Docket No. HP 09-001.

17. Identify the most recent and accurate depiction of the Project route and facility locations as they currently exist as compared to the information provided in Exhibit TC-14. Amended Permit Condition 6.

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

18. Identify all route changes and the reasons for each change, since the issuance of the June 29, 2010 Amended Final Decision and Order. Amended Permit Condition 6.

ANSWER: Attached as Keystone 0470-0583 are maps showing changes to the route since Keystone's permit was granted.

19. Identify the dates, locations and names of person or persons, along with addresses, phone numbers, email addresses for each person responsible for conducting surveys, addressing property specific issues and civil survey information regarding Amended

Permit Condition 6.

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

20. Identify all new aerial route maps that incorporate any adjustments made to the proposed project route. Amended Permit Condition 6.

ANSWER: Please refer to HP09-001 Open Docket Exhibit A for route maps and to the route variation maps attached as Keystone 0470-0583.

21. Provide the date of each communication and the name or names of person or persons responsible for providing each notification to the Commission, and all affected

{01815085.1}

landowners, utilities and local governmental units regarding the requirements of Amended Permit Condition 6.

ANSWER: In Keystone's opinion, there have been no material deviations made in the 2010 permitted route.

22. Has TransCanada identified a public liaison officer? Amended Permit Condition 6.

ANSWER: Yes. Sarah Metcalf, PO Box 904, Aberdeen, SD 57402, 1-888-375-1370, smetcalf12@gmail.com. Her appointment was approved by the PUC by order dated June 2, 2010, which is a matter of public record.

23. Does TransCanada consider the Rosebud Sioux Tribe to be a local government or local community within the vicinity of this Project? Amended Permit Condition 7.

ANSWER: No.

24. Does TransCanada consider the Rosebud Sioux Tribe to be a government that must be consulted with throughout the planning, construction, operation and maintenance of the project? Amended Permit Condition 7.

ANSWER: Keystone will provide contact information for the public liaison officer to the Tribe, as addressed in Amended Condition 7. Amended Condition 7 does not address "government consultation."

25. Has TransCanada made any modifications or changes to the Construction Mitigation and Reclamation Plan (CMR Plan)? Amended Permit Condition 13.

OBJECTION AND ANSWER: The current version of the CMR Plan is attached to Keystone's certification petition as Attachment A to Appendix C. Without waiving the objection, overall changes to the CMR Plan between the 2008 Rev1 version and the 2012 Rev4 version were made to clarify language, provide additional detail related to construction procedures, address agency comments, and incorporate lessons learned from previous pipeline construction, current right-of-way conditions and project requirements. The redline version of the CMR Plan Rev4 showing changes since the version considered in 2010 was provided in Attachment A to Appendix C of Keystone's September 2014 Recertification Petition to the Commission.

26. Has TransCanada incorporated environmental inspectors into the CMR Plan? Provide complete contact information for each environmental inspector. Amended Permit Condition 13.

OBJECTION AND RESPONSE: The identity of environmental inspectors is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, Section 2.2, Environmental Inspection of the CMR Plan Rev4 discusses the use of Environmental Inspectors during the construction of the Project. No Environmental Inspectors have been identified or hired, because the construction of the Project has not yet started.

27. Has TransCanada provided each land owner with an explanation regarding

trenching and topsoil and subsoil rock removal, segregation and restoration method options for each landowners property that is consistent with the applicable Con/Rec Unit? Amended Permit Condition 16.

ANSWER: Landowners and a project representative complete a "Keystone Pipeline Project Landowner/Tenant Construction Restrictions Binding Agreement," which covers rock disposal, topsoil stripping, and restoration preferences. All agreements will be completed before construction begins, unless a landowner refuses to complete the agreement.

28. Has TransCanada implemented sediment control practices? Amended Permit Condition 20.

ANSWER: Keystone has not initiated construction of the Project. Therefore, Keystone has not implemented any sediment control practices to-date and will not until construction starts.

29. Has TransCanada developed best management practices to prevent heavily silt-laden trench water from reaching any wetland or water bodies? Amended Permit Condition 22 f.

ANSWER: Best management practices to prevent silt-laden trench water from reaching any wetland or waterbody are identified in the CMR Plan Rev4 in Section 4.7.1, Trench Dewatering/Well Points. This section includes the following text:

{01815085.1}

“No heavily silt-laden trench water shall be allowed to enter a waterbody or wetland directly but shall instead be diverted through a well vegetated area, a geotextile filter bag, or a permeable berm (straw bale or Keystone approved equivalent).”

Additional sediment control best management practices are included in Sections 4.0, 6.0, and 7.0 of the CMR Plan Rev4 and in Appendix Z (Sections 4.0, 5.0, and 8.0 of the Department of State FSEIS (2014).

30. Has TransCanada developed policies that will permit TransCanada to comply with the requirements of Amended Permit Condition 23 a-f.

ANSWER: Yes, during the pre-construction planning period Keystone will develop and implement videotaping of road conditions prior to construction activities. Keystone, Contractor, and County Representatives will be present for evaluation and determination of road conditions.

Keystone will notify state and local governments and emergency responders to coordinate and implement road closures. All necessary permits authorizing crossing and construction use of county and township roads will be obtained.

31. Has TransCanada required that all of its shippers comply with its crude oil specifications in order to minimize the potential for internal corrosion? Amended Permit Condition 32.

ANSWER: No oil has been shipped as the pipeline has not been constructed.

Once transportation of oil commences, shippers are required to comply with the terms of Keystone's FERC tariff.

32. Have all of TransCanada's shippers agreed to comply with TransCanada's crude oil specifications? Amended Permit Condition 32.

ANSWER: Shippers are required to comply with the terms of a pipeline's FERC tariff.

33. Have any of TransCanada's shippers not agreed to comply with TransCanada's crude oil specifications? Amended Permit Condition 32.

ANSWER: Shippers are required to comply with the terms of a pipeline's FERC tariff.

34. Identify every person, along with the contact information for each, who has agreed to supply any type of product to be transported through the project. Amended Permit Condition 32.

OBJECTION: The identity of Keystone's shippers and the terms of their contracts have substantial commercial and proprietary value, are subject to substantial efforts by Keystone to protect them from actual and potential competitors, and are required to be maintained on a confidential basis pursuant to the terms of the contracts between Keystone and its shippers and Section 15(13) of the Interstate Commerce Act.

35. Has TransCanada filed any documents with the Public Utilities Commission that it

considers to be "confidential" with respect to ARSD 20:10:01:41. If so, identify each filing consistent with appropriate Administrative Rules of South Dakota. Amended Permit Condition 36.

ANSWER: Not at this time in this docket.

36. Does TransCanada operate any other pipelines in the United States or Canada that have similar requirements of Amended Permit Condition 37?

ANSWER: All of TransCanada's pipelines meet this requirement.

37. Identify each pipeline in the United States and Canada that has requirements which are similar to the requirements of Amended Permit Condition 37.

ANSWER: All of TransCanada's pipelines meet this requirement.

38. Has TransCanada ever been found to be in non-compliance with any other permits, from any state regarding the Keystone KXL Pipeline, that have similar requirements as the requirements of Amended Permit Condition 37.

ANSWER: No.

39. Identify the dates and manner of all communications sent by TransCanada to the President of the Rosebud Sioux Tribe regarding the Project. Amended Permit Condition 7.

ANSWER: Lou Thompson and Robert Hopkins, Keystone Tribal Liaisons, and other Keystone personnel, met with Rosebud Chairman Rodney Bordeaux at various

times from 2009-2012 on matters relating to the Project. Meeting dates are memorialized in the Rosebud document production. *See* Keystone documents 1121-1169.

40. Does TransCanada have a Native American Relations policy? Amended Permit Condition 7.

ANSWER: Yes.

41. Does TransCanada believe that it has followed its Native American Relations Policy with respect to its applicability to the Rosebud Sioux Tribe? Amended Permit Condition 7.

ANSWER: Yes.

42. Does TransCanada consider the Federal Bureau of Investigations a law enforcement agency that they must communicate with regarding the Project? Amended Permit Condition 7.

ANSWER: TransCanada may communicate with the FBI if circumstances warrant.

43. If TransCanada does not consider the Federal Bureau of Investigations a law enforcement agency that they must communicate with regarding the Project identify the legal basis for asserting such a position. Amended Permit Condition 7.

ANSWER: TransCanada may communicate with the FBI if circumstances

warrant.

44. Does TransCanada consider the Rosebud Sioux Tribe Law Enforcement Services a law enforcement agency that they must communicate with regarding the project?

Amended Permit Condition 7.

ANSWER: TransCanada may communicate with the Rosebud Sioux Tribe Law Enforcement Services if circumstances warrant.

45. If TransCanada does not consider the Rosebud Sioux Tribe Law Enforcement Services a law enforcement agency that they must communicate with regarding the Project identify the legal basis for asserting such a position. Amended Permit Condition 7.

ANSWER: TransCanada may communicate with the Rosebud Sioux Tribe Law Enforcement Services if circumstances warrant.

46. Identify all protection and mitigation efforts that have been identified by the US Fish and Wildlife Service and the South Dakota Game Fish and Parks. Amended Permit Condition 1, 2 and 3.

ANSWER: All of the protection measures and mitigation measures efforts that have been identified by the US Fish and Wildlife Service and the South Dakota Game Fish and Parks are found in Sections 7.0, 8.0, and 9.0 of Appendix X of the Department of State FSEIS (2014); Sections 4.6, 4.7, and 4.8 of the Department of State FSEIS (2014); and the May 2013 Biological Opinion issued by USFWS (Appendix H of the

Department of State FSEIS (2014)).

47. Has TransCanada kept a record of all drain tile system information throughout the planning and pre-construction phases of the Project? Amended Permit Condition 42.

ANSWER: Land agents work with landowners to complete a Construction Binding Agreement which identifies any drain tile systems. In South Dakota, no drain tile systems have been identified on the Keystone XL project.

48. Has TransCanada ever applied for any waivers for permit conditions with the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration for any pipeline that it owns or operates in the United States? Amended Permit Condition 2.

OBJECTION AND RESPONSE: To the extent that this request seeks information unrelated to oil pipelines, it is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, TransCanada applied for a Special Permit to operate at 80% SMYS for Keystone Mainline, Cushing Extension, and KXL. The Special Permit was issued for Keystone Mainline and Cushing Extension in 2007 Docket Number PHMSA-2006-266I7. TransCanada withdrew the Special Permit request for KXL.

49. If TransCanada has applied for any waiver from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration have any of the

{01815085.1}

requests been denied? If any request has been denied, identify the appropriate pipeline and state the reason or reasons for each denial. Amended Permit Condition 2.

OBJECTION AND RESPONSE: To the extent that this request seeks information unrelated to oil pipelines, it is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, no.

50. Identify all applications for waivers for permit conditions that were filed with the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration regarding the construction, operation or maintenance of Pipeline. Amended Permit Condition 1 and 2.

OBJECTION AND RESPONSE: To the extent that this request seeks information unrelated to oil pipelines, it is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, see answer to interrogatory no. 48.

51. Identify all sources of oil that will be transported on the proposed KXL pipeline. Appendix C # 14.

OBJECTION: This interrogatory is vague and unclear as to "all sources of oil." Without waiving the objection, crude oil for Keystone XL will primarily be sourced from the Western Canadian Sedimentary Basin and the Williston Basin. Sources could also include many other producing regions in North America for transportation services originating at Cushing, OK.

52. Identify all companies that have committed to use the KXL pipeline to ship oil. Identify the country where each company that has committed to provide oil or gas to the pipeline is incorporated. Appendix C # 14.

OBJECTION: The identity of Keystone's shippers and the terms of their contracts have substantial commercial and proprietary value, are subject to substantial efforts by Keystone to protect them from actual and potential competitors, and are required to be maintained on a confidential basis pursuant to the terms of the contracts between Keystone and its shippers and Section 15(13) of the Interstate Commerce Act.

53. Has TransCanada in its operations of any pipeline in the United States, received communications from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration related to any of TransCanada's permits to operate a pipeline in the United States? Amended Permit Condition 1.

OBJECTION: This interrogatory is overlybroad, unduly burdensome, and seeks information that is not relevant and not likely to lead to the discovery of admissible evidence under SDCL 15-6-26(b). It is not limited in time and extends to all of TransCanada's pipeline operations of whatever kind in the United States.

54. Identify the date and substance of each communication from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration . Amended Permit Conditions 1 and 2.

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 is not limited in time and extends to all of TransCanada's pipeline operations of whatever kind in the United States.

55. Provide copies of all safety reports submitted to any agencies with jurisdiction over the operation of the Southern Leg of the Keystone XL pipeline project. Amended Permit Conditions 1 and 2.

OBJECTION AND ANSWER: The U.S. Department of Transportation, Pipeline and Hazardous Material Safety Administration is the governing agency that has federal jurisdiction over the operations of the Keystone XL pipeline. This issue is therefore beyond the scope of this proceeding. Without waiving the objection, a spreadsheet showing leaks and spills on the Keystone XL Pipeline is attached as Keystone 0774-0784.

56. Identify all contractors that TransCanada will use to transport materials that will be used in the construction, operation or maintenance of the Keystone Pipeline. Amended Permit Condition 1.

ANSWER: Keystone anticipates the use of heavy equipment haulers to transport pipe, valves, fittings and other equipment required for the construction of the Keystone Project. There will also be a need for local transportation services for haulage of

ancillary materials and supplies required by both Keystone and its contractors and subcontractors. Keystone currently has no contractors retained to undertake trucking and hauling requirements.

57. Identify all contractors that TransCanada will use in the construction operation or maintenance of the Keystone Pipeline. Amended Permit Condition 1.

ANSWER: Keystone currently has no contractors in place to undertake construction, operation, or maintenance of the Keystone XL Pipeline.

58. Do you acknowledge that Appendix C from TransCanada's Petition for Certification identifies 30 conditions that have changed from the June 29, 2010 Order? If not, identify the number of each condition from Appendix C and state the legal basis that your denial is based on for each. Appendix C.

OBJECTION: This request is argumentative and not reasonably calculated to lead to the discovery of admissible evidence. The updated information contained in Appendix C speaks for itself.

59. Identify each contractor that TransCanada has hired to construct other pipelines in the United States. Amended Permit Condition 1.

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 is unlimited in time and extends to all of TransCanada's pipeline

operations of whatever land in the United States.

60. Have any contractors hired by TransCanada to construct any pipeline owned or operated by TransCanada 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. Amended Permit Condition 1.

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.

61. Identify each contractor that TransCanada has hired to construct other pipelines in Canada. Amended Permit Condition 1.

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 is not limited in time and extends to all of TransCanada's pipeline operations of whatever kind in Canada.

62. Have any contractors hired by TransCanada to construct any pipeline owned or operated by TransCanada 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. Amended Permit Condition 1.

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.

63. What role does TransCanada or any of its affiliates play in scheduling local public informational meetings and hiring security for the meetings? Amended Permit Condition 7.

OBJECTION: This request is vague and unclear. It also seeks information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence under SDCL 15-6-26(b). Amended Condition 7 does not address "local public informational meetings."

64. Is TransCanada or any of its affiliates aware of the social and law enforcement concerns associated with "man-camps" that will be established to facilitate the construction, operation or maintenance of the Keystone Pipeline? Amended Permit Condition 7.

ANSWER: TransCanada is aware of numerous socioeconomic and law enforcement concerns associated with the "man-camps". These impacts are addressed in

the following sections of the FSEIS: 4.10 Socioeconomics; 4.10.1 Introduction; 4.10.3 Impacts; 4.10.3.1 Construction (Population, Housing, Local Economic Activity, Public Services, Tax Revenues, Traffic and Transportation).

In addition, TransCanada is committed to ongoing consultation with law enforcement and has been advised of their concerns with respect to workforce camps. TransCanada will consider augmenting local law enforcement staffing shortages caused by the project. Policies and procedures have been developed to address law enforcement concerns and stakeholder engagement will continue to address future concerns.

65. Does TransCanada or any of its affiliates recognize that they have any obligations to obtain the free, prior informed consent under the United Nations Declaration of the Rights of Indigenous People regarding the construction, maintenance or operation of the Keystone Pipeline? Amended Permit Condition 1.

ANSWER: Keystone recognizes that the United Nations Declaration of the Right of Indigenous People was adopted by the United Nations on September 13, 2007. Canada and the United States voted against the adoption of the declaration. The declaration is not a legally binding instrument under international law or the law of the United States and, accordingly, Keystone is not legally bound by it.

66. What steps has TransCanada or any of its affiliates taken to ensure that all lands that the Rosebud Sioux Tribe have an interest in have had proper cultural and historic

surveys completed to the satisfaction of the Rosebud Sioux Tribe? Finding of Fact 110.

ANSWER: Keystone believes that the pipeline right-of-way as currently permitted does not pass through Indian Country or cross any land owned or held in trust for the Rosebud Sioux Tribe.

67. Does TransCanada 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? Finding of Fact 110.

ANSWER: Keystone recognizes that the KXL Pipeline route passes through lands that were considered in the Fort Laramie Treaties of 1851 and 1868.

68. Does TransCanada recognize that the Winters Doctrine of reserved tribal water rights applies to any permit application to use water for the construction, operation or maintenance of the Keystone Pipeline project? Amended Permit Condition 1.

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

69. What steps has TransCanada or any of its affiliates taken to insure that tribal water rights under the Winters Doctrine will be protected? Amended Permit Condition 1.

ANSWER: Keystone does not believe that any South Dakota resident tribe's Winters Doctrine water rights are affected by the use of the water for construction, operation, or maintenance of the Keystone Pipeline.

70. Are there any land areas or waterways where the pipeline will pass through or nearby subject to any designation under the Wilderness Act of 1964? Amended Permit Condition 1.

OBJECTION AND RESPONSE: To the extent that it seeks information outside South Dakota, this request is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, there are no land areas or waterways that the Project route in South Dakota will pass through that would be subject to any designation under the Wilderness Act of 1964.

71.a. Are any waterways situated on or near the Pipeline route subject to designation under the Wild and Scenic River Act of 1968? Amended Permit Condition 1.

OBJECTION AND RESPONSE: To the extent that it seeks information outside South Dakota, this request is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, the Project route does not cross any waterways that are subject to designation under the Wild and Scenic River Act of 1968. There are no waterways that are subject to designation under the Wild and Scenic River Act of 1968 near the Project route in South Dakota. An evaluation of Wild and Scenic Rivers as per

related to the Project is found on page 4.3-24 of the Department of State FSEIS (2014).

71.b. 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. Amended Permit Condition 1.

OBJECTION AND RESPONSE: To the extent that it seeks information outside South Dakota, this request is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, there are no lands along or near the Project route in South Dakota that are designated as critical habitat under the Endangered Species Act. Endangered species are discussed in Section 4.8 of the Department of State FSEIS (2014). The following federally-listed threatened or endangered species have the potential to occur along Project route in South Dakota: interior least tern; piping plover; rufa red knot; whooping crane; and the American burying beetle. Section 4.8.3 of the Department of State FSEIS (2014) and Appendix H, Biological Opinion in the Department of State FSEIS (2014) discusses the potential occurrence of these federally-listed threatened and endangered species along the Project route in South Dakota and Sections 4.8.3 and 4.8.4 and Appendix H of the Department of State FSEIS (2014) discusses the potential impacts and conservation measures the Project will implement to protect listed species.

71.c. Are there any land areas along or nearby the Keystone Pipeline route that have any

{01815085.1}

Endangered Species located in that area? Amended Permit Condition 1.

OBJECTION AND RESPONSE: To the extent that it seeks information outside South Dakota, this request is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, there are no lands along or near the Project route in South Dakota that are designated as critical habitat under the Endangered Species Act. Endangered species are discussed in Section 4.8 of the Department of State FSEIS (2014). The following federally-listed threatened or endangered species have the potential to occur along Project route in South Dakota: interior least tern; piping plover; rufa red knot; whooping crane; and the American burying beetle. Section 4.8.3 of the Department of State FSEIS (2014) and Appendix H, Biological Opinion in the Department of State FSEIS (2014) discusses the potential occurrence of these federally-listed threatened and endangered species along the Project route in South Dakota and Sections 4.8.3 and 4.8.4 and Appendix H of the Department of State FSEIS (2014) discusses the potential impacts and conservation measures the Project will implement to protect listed species.

72. Has TransCanada obtained a National Pollutant Discharge Elimination System (NPDES) permit as required by the Clean Water Act in each state where the Keystone Pipeline will be constructed, operated or maintained? Amended Permit Condition 1.

ANSWER: In South Dakota, Keystone has received a General Permit for

Temporary Discharge Activities on April 11, 2013, from the South Dakota Department of Environment and Natural Resources. Other permits, as required, will be filed closer to the time period of construction.

73. Besides the changes identified in Appendix C of TransCanada's Petition for Certification, identify all other conditions that have changed since the Commission issued the Final Amended Order and Permit on June 29, 2010. Amended Permit Condition 1.

ANSWER: None.

74. State the name, current address, and telephone number of every fact witness that Keystone intends to call to offer testimony at the Commission's evidentiary hearing, currently scheduled for May 2015.

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

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

Inc., 1300 Metropolitan Boulevard, Suite 200, Tallahassee, FL 32308; (850) 385-5441; Environmental Issues; CMR Plan, Con/Rec Units, HDD's

(6) Heidi Tillquist, Senior Associate, Stantec Consulting Ltd., 2950 E. Harmony Rd., Suite 290, Fort Collins, CO 80528; (970) 449-8609; High Consequence Areas, Spill Calculations

75. State the name, current address, employer name and/or organization(s) with which he or she is associated in any professional capacity, and telephone number of each expert witness pursuant to SDCL Ch. 19-15 that Keystone intends to call at the Commission's evidentiary hearing, currently scheduled for May 2015.

In addition, for each expert please provide:

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

ANSWER: Keystone does not intend to call any retained expert witnesses.

Keystone will provide a resume for each of its fact witnesses.

76. What steps, if any, has Keystone or any of its affiliates taken to ensure that the cultural and historic resources of the Rosebud Sioux Tribe are protected? Amended Permit Condition 44.

ANSWER: Keystone has taken all steps required by state and federal law to

ensure that the cultural and historic resources affected by the construction of the pipeline within the permitted right-of-way are protected.

77. 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?

Amended Permit Condition 44.

ANSWER: Yes, all cultural resources survey reports are listed in Section 3.11 of the Department of State FSEIS (2014), with results of the South Dakota surveys detailed in Table 3.11-3.

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

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


79. Describe what effect the TransCanada Energy East Pipeline will have on the need for the Keystone KXL Pipeline Project.

OBJECTION AND RESPONSE: This request seeks information that is beyond the scope of the PUC's jurisdiction and Keystone's burden of proof under SDCL § 49-41B-27. It is within the purview of the United States Department of State to

determine whether the proposed project is in the national interest, under the applicable Presidential Executive Order. Without waiving the objection, TransCanada has long-term binding shipper agreements in support of both projects.

Dated this 5th day of February, 2015.

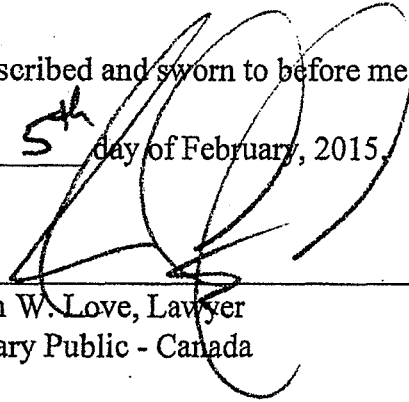
TRANSCANADA KEYSTONE PIPELINE, LP
by its agent, TC Oil Pipeline Operations, Inc.

By 

Its Director, Authorized Signatory

Subscribed and sworn to before me

this 5th day of February, 2015.



John W. Love, Lawyer
Notary Public - Canada

REQUEST FOR PRODUCTION OF DOCUMENTS

1. If the answer to Interrogatory No. 22 is in the affirmative, produce all documents related to and documenting Keystone's public liaison officer's immediate access to Keystone's on site project manager, Keystone's executive project manager and to each contractor's on site managers referenced to in Amended Permit Condition 7.

OBJECTION AND ANSWER: The request for "all documents" related to the public liaison officer's access to Keystone personnel is vague, overlybroad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, the liaison has contact information for all project team members, and can and does make contact at any time. Contractors for construction have not yet been selected.

2. Produce documentation that assures that Keystone's public liaison officer is available at all times to the PUC Staff as required by Amended Permit Condition 7.

ANSWER: The liaison's information is found on the SDPUC's website at <https://puc.sd.gov/dockets/hydrocarbonpipeline/2009/publicliaisonreports.aspx>.

Keystone has no documents responsive to this request.

3. Produce documentation of every concern and complaint that was communicated to the Staff and the public liaison officer from landowners or others as referenced in Amended Permit Condition 7.

OBJECTION: This request is overlybroad, unduly burdensome, not relevant, and not likely to lead to the discovery of admissible evidence. The liaison files quarterly and annual reports addressing her contacts with landowners and other members of the public.

4. Produce documentation that TransCanada has provided contact information for the public liaison to all landowners crossed by the project. Amended Permit Condition 7.

ANSWER: A letter dated December 22, 2010, from Robert E. Jones was sent to all landowners to provide information about Sarah Metcalf. A copy of the letter is attached as Keystone 0642.

5. Produce documentation that TransCanada has provided contact information for the public liaison to all law enforcement agencies and local governments within the vicinity of the project. Amended Permit Condition 7.

ANSWER: Notification to law enforcement agencies and local governments in the vicinity of the Project was completed in the first quarter of 2011 in conjunction with notice required by other conditions. The liaison continues to contact affected counties, townships and other governmental entities as the permit process takes place.

6. Produce documentation that TransCanada has provided contact information for the public liaison to the Rosebud Sioux Tribe Law Enforcement Services. Amended Permit Condition 7.

ANSWER: Notification was not made, since the project does not cross Rosebud Sioux Tribe lands, and Keystone does not consider the Rosebud Sioux tribe a "local government."

7. Produce documentation that TransCanada has provided contact information for the public liaison to the President of the Rosebud Sioux Tribe as well as the Rosebud Sioux Tribal Council. Amended Permit Condition 7.

ANSWER: Notification was not made, since the project does not cross Rosebud Sioux Tribe lands, and Keystone does not consider the Rosebud Sioux tribe a "local government."

8. Produce all changes made to or contemplated to be made to the Construction Mitigation and Reclamation Plan (CMR Plan). Amended Permit Condition 13.

ANSWER: The current version of the CMR Plan is attached to Keystone's certification petition as Attachment A to Appendix C.

9. Produce all documentation showing that TransCanada filed all changes to the CMR Plan to the Commission. Amended Permit Condition 13.

ANSWER: The current version of the CMR Plan is attached to Keystone's certification petition as Attachment A to Appendix C.

10. Provide the qualifications and work history for each environmental inspector that TransCanada has incorporated into the CMR Plan. Amended Permit Condition 13.

OBJECTION AND ANSWER: This request is overlybroad, unduly burdensome, not relevant, and not likely to lead to the discovery of admissible evidence. Without waiving the objection, no environmental inspectors have been identified or hired, because the construction of the Project has not yet started.

11. Provide copies of each communication to all landowners that contains an explanation regarding trenching and topsoil and subsoil rock removal, segregation and restoration method options for each landowners property that is consistent with the applicable Con/Rec Unit? Amended Permit Condition 16.

ANSWER: A form Keystone Pipeline Project Landowner/Tenant Construction Restrictions Binding Agreement is attached as Keystone 1116-1118.

12. Provide maps that document the location of private and municipal wells along with proposed fuel storage facilities in the Project area. Amended Permit Condition 18.

OBJECTION AND ANSWER: This request is overlybroad, unduly burdensome, not relevant, and not likely to lead to the discovery of admissible evidence. In addition, it seeks documents not within Keystone's custody or control. Without waiving the objection, maps are not available for the locations of fuel storage facilities. The fuel storage facility locations will be determined at the time of construction. Refer to FSEIS 2.1.5.3 Fuel Transfer Stations. Wells will be identified prior to the fuel storage facility final locations and will adhere to HP09-001 Condition 18.

13. Provide all documents that formalize TransCanada's sediment control practices.

Amended Permit Condition 20.

ANSWER: The CMR Plan Rev4 and the Department of State FSEIS (2014).

14. Provide the frac-out plans TransCanada developed in compliance with Amended Permit Condition 21.

ANSWER: Keystone currently has no contractors retained to undertake construction. When Keystone employs a pipeline contractor, that contractor will develop the frac-out plan subject to Keystone's approval.

15. Provide all documents relating to TransCanada's compliance with all provisions of the federal Clean Water Act. Amended Permit Condition 22.

OBJECTION AND ANSWER: This request is vague, overlybroad, and unduly burdensome. Without waiving the objection, the Project has not started construction; therefore, Keystone has not initiated any activity that requires compliance with the federal Clean Water Act.

16. Provide copies of TransCanada's best management practices relating to the prevention of heavily silt-laden trench water from reaching wetland or water bodies.

Amended Permit Condition 22 f.

ANSWER: Appendix Z, Section 4.0 of the Department of State FSEIS (2014); the Project's CMR Plan Rev 4.

17. Provide copies of TransCanada's policies that will permit TransCanada to comply with Amended Permit Condition 22 a-f.

ANSWER: The following are Keystone's policies that will permit Keystone to comply with Amended Permit Condition 22 a-f.

22a. Appendix Z, Section 5.0 of the Department of State FSEIS (2014)

22b. Section 4.4.4 of the Department of State FSEIS (2014)

22c. Appendix Z, Section 4.0 of the Department of State FSEIS (2014); The Project's CMR Plan Rev4

22d. Appendix Z, Section 4.0 of the Department of State FSEIS (2014); The Project's CMR Plan Rev4

22e. Section 4.4.4 of the Department of State FSEIS (2014)

22f. Appendix Z, Section 4.0 of the Department of State FSEIS (2014); The Project's CMR Plan Rev4

18. Provide documentation regarding TransCanada's compliance with reclamation and clean up-efforts from all other construction activities related to any other pipeline that TransCanada owns or operates in the United States and Canada. Amended Permit Condition 26.

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 is unlimited in time and extends to all of TransCanada's operations in the United States and Canada.

19. Provide copies of TransCanada's pipeline safety records for all other pipelines that TransCanada owns or operates in the United States and 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 is unlimited in time and extends to all of TransCanada's operations in the United States and Canada.

20. Provide copies of all documentation concerning the requirement that all of TransCanada's shippers comply with its crude oil specifications. Amended Permit Condition 32.

OBJECTION: The identity of Keystone's shippers and the terms of their contracts have substantial commercial and proprietary value, are subject to substantial efforts by Keystone to protect them from actual and potential competitors, and are required to be maintained on a confidential basis pursuant to the terms of the contracts between Keystone and its shippers. *See* Section 15(13) of the Interstate Commerce Act.

21. Provide the most recent Integrity Management and Emergency Response Plan. Amended Permit Condition 35.

ANSWER: 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 and integrity management 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 and integrity management plan would commercially disadvantage Keystone. In addition, Keystone is not required to submit its Emergency Response Plan and Integrity Management 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>.

22. Provide documentation of any allegations from any jurisdiction in the United States or Canada that TransCanada was alleged to be in noncompliance with the operation, construction or maintenance other pipelines that have similar requirements as the requirements of Amended Permit Condition 37.

OBJECTION: This request is overlybroad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. It is unlimited in time and

place, and therefore also exceeds the jurisdiction of the Commission.

23. Provide copies of documentation to include meetings of minutes, contact with all tribal chairman of federally recognized Indian Tribes located in South Dakota, notices to area tribes, that would demonstrate compliance with SDCL 49-41B-6. Amended Permit Condition 1.

ANSWER: *See* Keystone documents 1121-1340 attached.

24. Provide copies of all documentation sent to the President of the Rosebud Sioux Tribe regarding TransCanada's compliance with the National Environmental Policy Act. Amended Permit Conditions 1 and 3.

ANSWER: *See* Keystone documents 1121-1181, attached to response no. 23 above.

25. Provide copies of all documentation sent to the Rosebud Sioux Tribal Council regarding TransCanada's compliance with the National Environmental Policy Act. Amended Permit Conditions 1 and 3.

ANSWER: *See* Keystone documents 1121-1181, attached to response no. 23 above.

26. Provide copies of all documentation sent to the President of the Rosebud Sioux Tribal Council regarding TransCanada's compliance with the National Historic Preservation Act. Amended Permit Conditions 1 and 3.

ANSWER: *See* Keystone documents 1121-1181, attached to response no. 23 above.

27. Provide copies of all documentation sent to the Rosebud Sioux Tribe's Tribal Historic Preservation Office regarding TransCanada's compliance with the National Historic Preservation Act. Amended Permit Conditions 1 and 3.

ANSWER: *See* Keystone documents 1121-1181, attached to response no. 23 above.

28. Provide copies of all documentation sent to the President of the Rosebud Sioux Tribe regarding TransCanada's compliance with the Native American Graves and Repatriation Act. Amended Permit Conditions 1 and 3.

ANSWER: *See* Keystone documents 1121-1181, attached to response no. 23 above.

29. Provide copies of all documentation sent to the Rosebud Sioux Tribal Council that demonstrates TransCanada's compliance with the Native American Graves and Repatriation Act. Amended Permit Conditions 1 and 3.

ANSWER: *See* Keystone documents 1121-1181, attached to response no. 23 above.

30. Provide copies of all communications sent by TransCanada to the President of the Rosebud Sioux Tribe and the Rosebud Sioux Tribal Council regarding the Project.

Amended Permit Conditions 1 and 3.

ANSWER: *See* Keystone documents 1121-1181, attached to response no. 23 above.

31. Provide copies of all documentation that demonstrates that Keystone has identified all greater prairie chicken and greater sage and sharp tailed grouse leks within the buffer distances from the construction right of way set forth for each species in the Final Environmental Impact Statement and the Biological Assessment prepared by the Department of State and the US Fish and Wildlife Services. Amended Permit Condition 41.

ANSWER: The final Biological Assessment prepared by the USFWS and DOS provides a listing of all the studies and surveys that were conducted to comply with the USFWS requirements in addressing all listed species. These can be found at Section 3.8.3 of the FSEIS and Section 3.1 of the Biological Assessment (Appendix H2 of the FSEIS). In addition, the South Dakota Game, Fish, and Parks has also reviewed and agreed to the findings of the Biological Assessment as required by recent USFWS guidance on aligning species assessments with state resource agencies.

32. Provide copies of all documentation that demonstrates TransCanada's compliance with the requirements of Amended Permit Condition 42.

ANSWER: In South Dakota, no drain tile systems have been identified on the

Keystone XL project.

33. Provide copies of all documents that demonstrate that TransCanada has complied with the requirements of Amended Permit Condition 44 a-e.

ANSWER: Paleontological fieldwork methodology, literature search information, and results can be found in Sections 3.1.2.2 and 3.1.2.3 of the Department of State FSEIS (2014). A list of reports detailing the results of all pre-construction paleontological field surveys can be found in Table 3.1-4 of the Department of State FSEIS (2014). The paleontological mitigation report is titled: Second Confidential Draft – Paleontological Resources Mitigation Plan: Keystone XL Pipeline Project, South Dakota. The Plan is not provided because it is confidential/privileged information.

34. Provide copies of all documentation from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration regarding denied waiver from any Pipeline and Hazardous Materials Safety Administration pipeline safety regulations. Amended Permit Condition 1 and 2.

OBJECTION: This request is overlybroad, unduly burdensome, not relevant, and not likely to lead to the discovery of admissible evidence.

35. If the answer to Interrogatory No. 25 is in the affirmative; provide all documents that demonstrate that TransCanada has made changes to the CMR Plan and properly submitted them to the Commission. Amended Permit Condition 13.

OBJECTION: The current version of the CMR Plan is attached to Keystone's certification petition as Attachment A to Appendix C.

36. Provide all documents relating to each environmental inspector that TransCanada has incorporated into the CMR Plan as referred to by Interrogatory No. 26. Amended Permit Condition 13.

OBJECTION AND ANSWER: The identity of environmental inspectors is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, no environmental inspectors have been identified or hired, because the construction of the Project has not yet started.

37. If the answer to Interrogatory No. 27 is in the affirmative provide all documentation that supports the assertion that TransCanada has provided each landowner with an explanation regarding trenching and topsoil and subsoil rock removal, segregation and restoration method options for each landowners property that is consistent with each applicable Con/Rec Unit. Amended Permit Condition 16.

OBJECTION: This request is overlybroad and unduly burdensome.

38. If the answer to Interrogatory No. 28 is in the affirmative produce all documents that support that answer. Amended Permit Condition 20.

ANSWER: N/A.

39. If the answer to Interrogatory 22 is in the affirmative, provide the name,

credentials, address, phone number, email address and website for the public liaison officer which was approved by the Commission referred to in Amended Permit Condition 6.

ANSWER: Sarah Metcalf, PO Box 904, Aberdeen, SD 57402, 1-888-375-1370, smetcalf12@gmail.com,
<https://puc.sd.gov/dockets/hydrocarbonpipeline/2009/publicliaisonreports.aspx>.

40. Provide copies of all communications with the Bureau of Indian Affairs regarding the construction, operation or maintenance of the Keystone Pipeline. Amended Permit Condition 1.

ANSWER: None.

41. Provide copies of all communications with the Federal Bureau of Investigation regarding the construction, operation and maintenance of the Keystone Pipeline. Amended Permit Condition 7.

OBJECTION: This request is not related to Amended Permit Condition 7. It is also not relevant and not reasonably calculated to lead to the discovery of admissible evidence. It is also overlybroad and unduly burdensome since the Keystone Pipeline has been in operation since 2010.

42. Provide copies of all communications with the Rosebud Sioux Tribe Law Enforcement Services regarding the construction, operation and maintenance of the Keystone Pipeline. Amended Permit Condition 7.

ANSWER: See Keystone documents 1121-1181 attached to response no. 23 above. See also Ms. Metcalf's reports, published as public liaison reports on the PUC website.

43. Provide copies of all communications with each local law enforcement agency regarding the construction, operation and maintenance of the Keystone Pipeline. Amended Permit Condition 7.

OBJECTION: This request is not related to Amended Permit Condition 7. It is also not relevant and not reasonably calculated to lead to the discovery of admissible evidence. It is also overlybroad and unduly burdensome since the Keystone Pipeline has been in operation since 2010.

44. Provide copies of all documentation regarding TransCanada's efforts to acquire land through eminent domain in the State of Nebraska. Amended Permit Condition 1.

OBJECTION: This request seeks information that is beyond the scope of the PUC's jurisdiction and is not relevant or reasonably calculated to lead to the discovery of admissible evidence under SDCL 15-6-26(b).

45. If the answer to Interrogatory No. 31 is in the affirmative provide copies of all

{01815085.1}

documentation that support the affirmative answer. Amended Permit Condition 32.

OBJECTION: The identity of Keystone's shippers and the terms of their contracts have substantial commercial and proprietary value, are subject to substantial efforts by Keystone to protect them from actual and potential competitors, and are required to be maintained on a confidential basis pursuant to the terms of the contracts between Keystone and its shippers and Section 15(13) of the Interstate Commerce Act.

46. If the answer to Interrogatory No. 32 is in the affirmative provide copies of all documentation that supports the affirmative answer. Amended Permit Condition 32.

OBJECTION: The identity of Keystone's shippers and the terms of their contracts have substantial commercial and proprietary value, are subject to substantial efforts by Keystone to protect them from actual and potential competitors, and are required to be maintained on a confidential basis pursuant to the terms of the contracts between Keystone and its shippers and Section 15(13) of the Interstate Commerce Act.

47. If the answer to Interrogatory No. 33 is in the affirmative provide copies of all documentation that supports the affirmative answer. Amended Permit Condition 32.

OBJECTION: The identity of Keystone's shippers and the terms of their contracts have substantial commercial and proprietary value, are subject to substantial efforts by Keystone to protect them from actual and potential competitors, and are required to be maintained on a confidential basis pursuant to the terms of the contracts

between Keystone and its shippers and Section 15(13) of the Interstate Commerce Act.

48. Provide copies of all documents regarding all materials and types of products that will be transported into South Dakota for the construction, operation and maintenance of the Keystone Pipeline. Amended Permit Condition 32.

OBJECTION: This request is overlybroad, unduly burdensome, not relevant, and not likely to lead to the discovery of admissible evidence.

49. If the answer to Interrogatory No. 36 is in the affirmative provide copies of all documentation that supports the affirmative answer including the name of each pipeline along with the complete contact information for the contact person for each pipeline.

Amended Permit Condition 37.

OBJECTION: This request is overlybroad and unduly burdensome. It is also not reasonably calculated to lead to the discovery of admissible evidence.

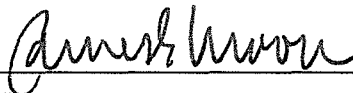
OBJECTIONS

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

Dated this 6th day of February, 2015.

WOODS, FULLER, SHULTZ & SMITH P.C.

By _____



William Taylor

James E. Moore

Post Office Box 5027

300 South Phillips Avenue, Suite 300

Sioux Falls, SD 57117-5027

Phone: (605) 336-3890

Fax: (605) 339-3357

Email: Bill.Taylor@woodsfuller.com


James.Moore@woodsfuller.com

Attorneys for Applicant TransCanada

CERTIFICATE OF SERVICE

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

Matthew L. Rappold
PO Box 873
Rapid City, SD 57709
Matt.rappold01@gmail.com



One of the attorneys for TransCanada