

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION BY )	
TRANSCANADA KEYSTONE PIPELINE, LP )	HP14-001
FOR A PERMIT UNDER THE SOUTH DAKOTA )	
ENERGY CONVERSION AND TRANSMISSION )	APPLICATION FOR
FACILITIES ACT TO CONSTRUCT THE )	PARTY STATUS BY
KEYSTONE XL PROJECT )	THE STANDING ROCK
	SIOUX TRIBE

COMES NOW, the Standing Rock Sioux Indian Tribe, by and through undersigned counsel, and pursuant to SDCL §49-41B-17(3) and SDAR §20.10.01.02 petitions to be granted party-status in the above-captioned matter. The petitioner’s interests are as follows:

1. The Standing Rock Sioux Tribe is a federally-recognized Indian Tribe residing on the Standing Rock Indian Reservation of North Dakota and South Dakota. The address of the Tribal government headquarters is Post Office Box D Fort Yates, North Dakota 58538.

2. The Keystone XL project would cross land that has been adjudged by the U.S. Indian Claims Commission and the U.S. Court of Claims to be the aboriginal and Treaty-titled land of the petitioner Standing Rock Sioux Tribe. *United States v. Sioux Nation of Indians*, 601 F.2d 1157, 1172 (Ct. Cl. 1975) *aff’d* 448 U.S. 384 (1980); *Sioux Nation v. United States*, 21 Ind. Cl. Comm. 371, 382 (1974).

3. The Keystone XL project would cross the Little Missouri River, Missouri River and the South Fork of the Grand River, upstream from the Standing Rock Indian Reservation. The petitioner possesses reserved water rights to the Missouri River and Grand River, under federal law. *See e.g.* John H. Davidson, *Indian Water Rights, the Missouri River and the Administrative Process: What are the Questions?* 24 AMERICAN INDIAN L. REV. 1 (2000). The water crossings and pipeline construction would result in water depletions and water quality degradation of the Missouri River and Grand River, impacting petitioner’s water rights. The Grand River is presently listed as impaired by

the South Dakota Department of Environment and Natural Resources. (SD DENR, 2012, p. 111).

4. The petitioner possesses proprietary rights to certain human remains, funerary objects and cultural objects of Native American origin that may be unintentionally unearthed during construction of the Keystone XL project. These rights are codified in section 3 of the federal Native American Graves Protection and Repatriation Act, 25 U.S.C. §3002(a)(2).

5. The petitioner Tribal government includes programs empowered to protect water quality (Department of Water Resources) and to preserve historical sites (Tribal Historic Preservation Office). Their mission includes the protection of water quality and historic properties both within and outside of the exterior boundaries of the Standing Rock Indian Reservation. *See* 33 U.S.C. §1377(e) (authorizing Tribes to be treated as states for water quality standards under the Clean Water Act); 16 U.S.C. §470a(d)(2) (authorizing Tribes to assume State Historic Preservation Office functions under the National Historic Preservation Act). The proposed Keystone XL project will traverse land and waters of concern to the Standing Rock Department of Water Resources and Tribal Historic Preservation Office.

6. Standing Rock Tribal members engage in subsistence hunting and fishing on Indian land in Corson County, near the proposed pipeline and pump stations 16 and 17. The project would affect fish and wildlife in the Grand River basin and the plains ecosystem, and impact subsistence hunting and fishing by Tribal members.

7. Secondary environmental and health effects of the construction of the Keystone XL project would directly impact Standing Rock, such as increased traffic on U.S. Highway 12 on the Reservation, the possible development of worker camps and infrastructure near Indian land in Corson County, and place further stress on limited rural health care resources in our region.

8. The cumulative environmental impacts of the Keystone XL project and other recently-proposed projects, such as the Dakota Access Pipeline, have not been evaluated, and may have a significant effect on the Standing Rock Reservation environment.

9. The petitioner possesses rights under other federal statutes, regulations, executive orders, and treaties, compliance with which has not been demonstrated by TransCanada Keystone Pipeline, LP.

WHEREFORE, petitioner respectfully applies for an order granting party status.

Dated this 14th day of October, 2014

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