

# **EXHIBIT C**

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

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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 ANSWERS  
AND OBJECTIONS TO KEYSTONE'S  
FIRST INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS**

**HP14-001**

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**TO: TransCanada Keystone XL Pipeline, LP**

Pursuant to SDCL §§ 1-26-19, 15-6-33, and 15-6-34, and ARSD 20:10:01:1.02, the Yankton Sioux Tribe (hereinafter "Yankton") hereby submits its responses and objections to Keystone's Interrogatories and Requests for Production of Documents dated December 18, 2014. The responses that follow shall be supplemented if and when supplementation is required by SDCL § 15-6-26(e) and only as required by that statute.

**INTERROGATORIES**

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

**OBJECTION:** Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the Public Utilities Commission (hereinafter "PUC") on December 17, 2014. This interrogatory fails to "identify by number and letter the specific Condition or Finding of Fact addressed" as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Without waiving the objection above, as a matter of standard procedure and protocol and because the nature of this interrogatory is not substantive relative to the contested issues in this case, Yankton hereby provides notice that these interrogatories have been answered by Thomasina Real Bird, Esq., and Jennifer S. Baker, Esq., counsel for the Yankton Sioux Tribe, 1900 Plaza Drive, Louisville, CO, 80027, 303-673-9600.

2. State the name, current address, and telephone number of any person, other than your legal counsel, who you talked with about answering these interrogatories, who assisted you in answering

these interrogatories, or who provided information that you relied on in answering these interrogatories.

**OBJECTION:** Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

Without waiving the objection above, as a matter of standard procedure and protocol, and because the nature of this interrogatory is not substantive relative to the contested issues in this case, Yankton hereby provides notice that no person other than Yankton’s legal counsel assisted or provided information in the preparation of these answers and objections.

3. State the name, current address, and telephone number of each fact witness you intend to call to offer testimony at the evidentiary hearing in this case set for May 2015.

**OBJECTION:** Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. At this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify as a fact witness at the evidentiary hearing.

4. State the name, current address, and telephone number of each witness whom you intend to call at the evidentiary hearing as an expert witness under SDCL Ch. 19-15, and for each expert, state:

- a. the subject matter on which the expert is expected to testify;
- b. the substance of each opinion to which the expert is expected to testify;
- c. the facts supporting each opinion to which the expert is expected to testify;
- 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 in which the witness has testified as an expert at trial or by deposition within the preceding four years.

**OBJECTION:** Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to "identify by number and letter the specific Condition or Finding of Fact addressed" as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton's intentions. At this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify as an expert witness at the evidentiary hearing and to acquire and produce the information requested in this interrogatory.

5. Identify by number each condition in Exhibit A to the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, that you contend Applicant TransCanada Keystone Pipeline, LP, cannot now or in the future meet, and for each condition that you identify, state:

a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify that Applicant is unable to meet the condition.

**OBJECTION:** Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to "identify by number and letter the specific Condition or Finding of Fact addressed" as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it seeks "mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation," which are protected under SDCL 15-6-26(b)(3). Moreover, you have failed to show substantial need of the requested information and that you are unable to obtain it by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.

6. Identify by number each finding of fact in the Amended Final Decision and Order dated June 29, 2010, entered in HP09-001, that you contend is no longer accurate because of a change in facts or circumstances related to the proposed construction and operation of the Keystone XL Pipeline in South Dakota, and for each finding that you identify, state:

a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify that the finding of fact is no longer accurate.

**OBJECTION:** Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it seeks “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, you have failed to show substantial need of the requested information and that you are unable to obtain it by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.

7. In addition to the facts identified in your responses to interrogatory numbers 5 and 6, identify any other reasons that you contend Applicant cannot continue to meet the conditions on which the Permit granted, and for each reason that you identify, state:

a. the condition in the Amended Final Decision and Order dated June 29, 2010 entered in HP09-001, identified by number;

b. the facts on which your contention is based; and

c. the name, current address, and telephone number of each witness who will testify in support of your contention.

**OBJECTION:** Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific

Condition or Finding of Fact addressed” as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it seeks “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, you have failed to show substantial need of the requested information and that you are unable to obtain it by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, this request for “*any other reasons*” is vague and overly broad and it reaches far beyond the scope of discovery as set forth in the Order dated December 17, 2014. Furthermore, it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.

8. In addition to the facts identified in your responses to the preceding interrogatories, identify any other reason why the Public Utilities Commission should not accept Applicant’s certification filed September 15, 2014 in HP14-001, and for each reason that you identify, state:

a. the facts on which your contention is based; and

b. the name, current address, and telephone number of each witness who will testify in support of your contention.

**OBJECTION:** Yankton objects to this interrogatory on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This interrogatory fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order. The entirety of this interrogatory is therefore objectionable, and Yankton is under no duty to answer pursuant to SDCL 15-6-33(a).

Yankton further objects to this interrogatory on the grounds that it seeks “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, you have failed to show substantial need of the requested information and that you are unable to obtain it by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, this request for “*any other reasons*” is vague and overly broad and it reaches far beyond the scope of discovery as set forth in the Order dated December 17, 2014. Furthermore, it would be unduly burdensome for Yankton to compile a list of each and every fact on which each and every contention is based.

## REQUESTS FOR PRODUCTION OF DOCUMENTS

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

**OBJECTION:** Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

Yankton further objects to this request to the extent that it would produce “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, all documents sought by this request constitute trial preparation materials and you have failed to show substantial need of the requested documents and that you are unable to obtain them by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, Yankton objects to this request on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. Yankton has not yet received Keystone’s responses to Yankton’s first discovery requests, and the second set of discovery requests have not even been submitted yet. As we are still in the early discovery stages of this matter, Yankton cannot possibly know what it might ultimately decide to offer as exhibits once we reach the hearing stage of this matter, and it would be frivolous and unduly burdensome to require a party to speculate about future exhibits before the party has had an opportunity to review the information and materials obtained through discovery.

2. All documents on which you rely in support of your answer to Interrogatory No. 5.

**OBJECTION:** Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

3. All documents on which you rely in support of your answer to Interrogatory No. 6.

**OBJECTION:** Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule

issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

4. All documents on which you rely in support of your answer to Interrogatory No. 7.

**OBJECTION:** Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

5. All documents on which you rely in support of your answer to Interrogatory No. 8.

**OBJECTION:** Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

6. All documents relied on by any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

**OBJECTION:** Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

Yankton further objects to this request to the extent that it would produce “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, all documents sought by this request constitute trial preparation materials and you have failed to show substantial need of the requested documents and that you are unable to obtain them by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, Yankton objects to this request on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. Yankton has not yet received Keystone’s responses to Yankton’s first discovery requests, and the second set of discovery requests have not even been submitted yet. As we are still in the early discovery stages of this matter, Yankton cannot possibly know what documents might ultimately be relied on by experts once we reach the hearing stage of this matter, and it would be frivolous and unduly

burdensome to require a party to speculate about such documents before the party has had an opportunity to review the information and materials obtained through discovery.

7. All documents that you have sent to or received from any expert whose testimony you intend to offer at the evidentiary hearing in this matter.

**OBJECTION:** Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

Yankton further objects to this request to the extent that it would produce “mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation,” which are protected under SDCL 15-6-26(b)(3). Moreover, all documents sought by this request constitute trial preparation materials and you have failed to show substantial need of the requested documents and that you are unable to obtain them by other means without undue hardship as required by SDCL 15-6-26(b)(3).

In addition, Yankton objects to this request on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. At this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify as an expert at the evidentiary hearing.

8. A current resume for each expert whose testimony you intend to offer at the evidentiary hearing in this matter.

**OBJECTION:** Pursuant to SDCL 15-6-34(b), Yankton objects to this request on the grounds that it fails to comply with the Order Granting Motion to Define Issues and Setting Procedural Schedule issued by the PUC on December 17, 2014. This request fails to “identify by number and letter the specific Condition or Finding of Fact addressed” as required by that Order.

In addition, Yankton objects to this request on the grounds that it is vague and overly broad, as the only parameter setting the scope of the request is Yankton’s intentions. At this early stage in the proceedings before discovery has been completed, it would be frivolous and unduly burdensome to require a party to speculate as to whom it will call to testify as an expert at the evidentiary hearing.

Dated this 6th day of February 2015.

*Thiri Real Bird*

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*Attorney for Yankton Sioux Tribe*

**CERTIFICATE OF SERVICE**

I certify that on this 6<sup>th</sup> day of February, 2015 I sent by email a true and correct copy of **YANKTON SIOUX TRIBE'S ANSWERS AND OBJECTIONS TO KEYSTONE'S FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS** to the following:

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*Patricia Krakowski*

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Patricia Krakowski  
Legal Assistant