

Before the Public Utilities Commission  
of the State of South Dakota

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SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION ) HP 07-001  
BY TRANSCANADA KEYSTONE PIPELINE, )  
LP FOR A PERMIT UNDER THE SOUTH ) DIRECT TESTIMONY OF  
DAKOTA ENERGY CONVERSION AND ) RAYMOND & LILLIAN  
TRANSMISSION FACILITIES ACT TO ) ANDERSON  
CONSTRUCT THE KEYSTONE PIPELINE ) October 31, 2007  
PROJECT )

Our names are Raymond and Lillian Anderson. Our home address is 12189 – 415<sup>th</sup> Avenue, Langford, SD 57454. We operate a cattle and grain farm with headquarters located 4 miles west and 1 mile north of Langford.

**Burden of Proof**

According to the letter that the PUC sent us on September 19, 2007, TransCanada has the burden to prove that their permit application and project plan complies with state law.

**SDCL 49-41B-22 Applicant's burden of proof.** The applicant has the burden of proof to establish that:

- (1) The proposed facility will comply with all **applicable laws and rules;**
- (2) The facility will **not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants** or expected inhabitants in the siting area;
- (3) The facility will **not substantially impair the health, safety or welfare of the inhabitants;** and
- (4) The facility will **not unduly interfere with the orderly development** of the region with due consideration having been given the views of governing bodies of affected local units of government.

**Keystone Pipeline Will NOT Comply With The Following Laws and Rules**

OPS -PHMSA Regulations; Title 49, Part 195.6 Unusual Sensitive Areas (USA's)

As used in the part, a USA means a drinking water or ecological resource area that is unusually sensitive to environmental damage from a hazardous liquid pipeline release.

- (a) An USA drinking water resource is:

(1) The water intake for a Community Water System (CWSP) or a Non-transient Non-community Water System that obtains it was from a surface water source and does not have an adequate alternative drinking water source;

(2) The Source Water Protection Area for a CWS or NTNCWS that obtains its water supply from a Class I or Class IIA aquifer and does not have an adequate alternate drinking water source. Where state law has not yet identified the SWPA, the Wellhead Protection Areas will be used until the state has identified the SWPA; or

(3) The sole source aquifer recharge area where the sole source aquifer is a karst aquifer in nature.

195.452 Pipeline Integrity management in high consequences areas.

(a) Which pipelines are covered by this section? This section applies to each hazardous liquid pipeline and carbon dioxide pipeline that could affect a high consequence area, including any pipeline located in a high consequence area unless the operator effectively demonstrates by risk assessment that the pipeline could not affect the areas.

Class I Aquifer means an aquifer that is surficial or shallow, permeable, and is highly vulnerable to contamination

Appendix C to Part 195

B. The rules requires an operator to include a process in its program for identifying which pipeline segments could affect a high consequence area and to take measure to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence areas. (See

195.452(f) and (i). (must look to)

(1) Terrain surrounding the pipeline (USGS maps).

(2) Drainage systems such as small streams and other smaller water ways that could serve as a conduit to a high consequence area.

(etc)

### **Keystone Will Pose a Serious Threat To The Environment and Economic Condition**

We are landowners whose land TransCanada proposes to cross. This project, the TransCanada Keystone crude oil pipeline, will be a detriment to our farming operation. It will decrease the value of this quarter (NE ¼ of Sec. 14, T-125-N, R-59-W) crossed as well as the rest of our farm operation. Soil temperature is an important element in crop yield and production. The yields from farmlands crossed by this pipeline area will never be the same with crude oil running in the pipe buried 4 feet below the ground at between 75 and 80 degrees. This is South Dakota and July gets hot and dry. There will be no subsoil moisture left with 75 to 80 degree oil running under the land. Like heated pipe systems installed under concrete floors or shops and homes, the soil will be heated and

dried. Park a car or farm tractor in a shop or garage heated in this fashion and by morning the snow and ice will be melted away and all that will be left is the dirt and grit. So those acres crossed by the pipeline will be home mostly to weeds and pests and we will have to pay the taxes on the land even though it will not be productive. We know that nothing will grow over that pipeline the way it once did. A corn crop at 150 bushels per acre at \$3 equals \$450 per acre per year. Even with expenses taken out, that far exceeds what TransCanada Keystone is offering which averages out to \$36 per acre per year over the 50 year life of this pipeline. Multiply that loss times 30+ years for the time that my son will be farming this land. TransCanada is not even close to offering fair compensation for what they are ruining. Anytime land is dug up, it never produces what it did originally. TransCanada is sure that they can take our land for a nominal price. That is why they chose not to negotiate with the landowners. Putting in more lines would cause even more damage each time the ground is disturbed. (See Photo Attached – Anderson Exhibit #1  
Photo is pipelines in London, Ontario)

There are close to 23 acres of virgin prairie on this quarter of land (NE ¼ Sec. 14 T-125-N, R-59-W). Next to that is a wetland creek which could be disturbed by the pipeline. The creek drains west and north and goes right through other farm operations (See Maps Attached – Anderson Exhibit #2, 3,4,5,6 & 7). An oil leak will most certainly cause damage to our farm and other lands crossed, as well as the aquifer. In our area, there is very little virgin sod left. We have protected this piece of land in Section 14 since 1963 when Raymond purchased this land. There are plants out there that we have never seen anywhere else, including the Prairie Fringed Orchid (*Platanthera praeclara*), native grasses, and the Dakota Skipper (*Hesperia dacotae*) which we understand are on the federal endangered and protected species list. There are many different kinds of birds in the summer that aren't in cultivated fields. The NE ¼ of Section 14 is 135 acres of farmland and 23 acres of native grassland which has never been broken up. Some day the native grasslands may have higher value for the wild plants that grow on it or for organic farming. TransCanada does not take that into consideration in their offer.

We own land 20 miles north that will be within a mile of this line (S ½ of Sec. 13 T-128-N, R-59-W). That increases our chances of being affected by a spill many more times. The water table is even higher up there than it is at our homestead. Unfortunately, it is the same aquifer as the one that we live on so we couldn't even move up there to get water if they ruin the aquifer where we live now. (See Maps Attached – Anderson Exhibit #8 & #9)

There is no need for this pipeline with this type of crude oil. The president has given the car companies 20 years to increase the miles per gallon. That should be mandated right now and we believe that it is possible right now. The only reason that it does not happen is that the oil companies don't want to lose their profits. They are making plans for alternative fuels using field wastes so as not to impact the food supplies. The country and oil companies should invest in alternative fuels such as ethanol, wind generation, and hydrogen, not tar sands oil that is recognized in the oil industry as the bottom of the barrel, the dirtiest of the oils.

### **Keystone Will Substantially Impair Health, Safety and Welfare of Inhabitants**

In most years and we believe every year since 1992, this land has had large amounts of water flow across it. We have snow melt and rain runoff from the hills to the east of us in the spring or in case of large rainfalls. There is more than a 450 feet elevation drop from the Coteau Hills in the east to our property in Section 14, T-125-N, R-59-W and a 20 foot drop in elevation from this section 14 of land to the slough west of our farm located in S ½ Section 21, T-125-N, R-59-W. (See Maps Attached – Anderson Exhibit # 10 & # 11) This slough has the potential of covering parts of at least seven miles when it is full. To the east is the Crow Creek water shed. The Crow Creek flows into the James River and on to the Missouri River. If there were to be an oil leak of any extent, there is no way of telling how much damage could be done to the rivers of South Dakota. And that in turn damages the water systems of towns along the river south all the way to Huron, Mitchell, Yankton and the Missouri River.

A Canadian website lists the following elements as being found in tar sands crude oil: benzene, toluene, ethylbenzene, xylene and other light weight chemical compounds. If the benzene, toluene and these other chemicals should get into our ground water aquifer that our farm and community has relied on for over 100 years, our farm and this rural community would be ruined. We could not operate as we do now. The chemicals found in tar sands oil can cause health problems in livestock and humans according to the Canadian health agency, including mutations and cancer. Any loss of this water could force us to sell our cattle at a large loss of income to our operation. That would take a large part of our income from us as well as Langford, Britton and the surrounding communities that rely on our business. We have eight wells on our farmstead with good water in all of them. It is plentiful, running at about 15 to 30 gallons per minute. It is good, clean water that our livestock thrive on. The aquifer starts anywhere from 4 to 8 feet from the soil surface to the water surface all over our farm. This fact has been confirmed by ground water studies completed by the USGS and the South Dakota Geological Survey in Vermillion, SD.

The potential risk of a spill from this pipeline is great. It is a risk that our farm and our community does not have now. Accidents do happen to even the best plans. But thinner pipe produced from a foreign country isn't that reassuring. It doesn't even have to be TransCanada's fault. That is why they are called accidents. But once the spill has occurred, there is no turning back. The damage is done. The soil and water are ruined for our lifetimes, if not forever.

TransCanada applied for waivers in building this line. Some of those waivers have been approved. How many more have they applied for that we do not know about? They have not been truthful with the citizens of South Dakota. TransCanada plans to install thinner walled pipe and operate it at a higher pressure than other oil pipelines currently operate in the USA. This is of special concern to those of us who live and farm along the pipeline because TransCanada has admitted at public meetings that this will be the first oil pipeline they will have built and operated. TransCanada may have operated natural gas

lines but they have no experience for operating high pressure thin walled crude oil pipelines.

At the four public meetings held by the PUC in June, TransCanada offered no explanation or plans for remedying any type of spill. They say that they will get to that later. How much later? After there is the spill that they say will never happen? How many crude oil pipeline have they built? How many have they run? How long have they run a crude oil line? What is their track record for this kind of pipeline? Others that have been in the business for years have spills all the time. The pipeline industry is trying to expunge those records from public records. Why do you think that would be except to stop people from knowing what is going on. And the only reason that they would do that is because there are more spills than they care to admit to.

Based on information I have received through a Google search and information provided by the Safe Pipelines Organization, this type of crude sand oils is reported to cause three times more greenhouse gases than sweet crude. Could that be why Canada chooses not to refine their own product but would rather ship it down to the USA so we can have this pollution? With what is happening in our world now because of emissions, do we want to cause more problems for our children and grandchildren so that oil companies can reap more profit? There has to be a better way than tar sands oil.

### **Landowner Relations**

TransCanada has shown contempt for the landowners. Of course the ones that signed right away say TransCanada was good to work with because they caused TransCanada no problems. Those that wished to talk to their families or attorneys and those that asked questions or disagreed with their land agents were soon told that they had no rights. That TransCanada had deep pockets and they would walk over us. And it seems that they have. There has been little opposition from the people that are sworn to protect us—our county, state and federal officials. Taxes have been hung in front of our local and state governments. Then right away, there are promises of refunds. TransCanada VP Robert Jones stated in a news story that the \$18 million in construction and excise tax could be reduced to \$3 million. No farmer or small business or homeowner gets a break like that when we build a new shop, or improve a business building, or shingle the roof. What about a per barrel tax for the state?

Keystone is running advertisements in South Dakota newspapers denying that they are using the threat of eminent domain when talking to farmers. (See Attached Copy of Ad – Anderson Exhibit #12). We have a witness who was in our yard when the land agent came to our home and on the first visit told us ...*“You had better take what is offered now or they will take it and you will get nothing. TransCanada has deep pockets and you can't fight them. They can take your land by eminent domain.”* We have names of other land owners who were treated in the same way and have complained to the PUC at public meetings and sent letters and emails, all of which is in the PUC records and on your website. TransCanada is using deceptive, false advertising and it should be stopped.

### **Eminent Domain**

TransCanada violated the trust of South Dakota when they filed condemnation papers on 18 landowners and taxpayers before the PUC held public hearings and before they were granted a permit from the SDPUC or the US Department of State. A PRIVATE company from a FOREIGN COUNTRY is trying to take the land from United States and South Dakota tax payers. They have not negotiated with anyone who did not take their offer. Their land agents make promises and when pressed for more information, state that they really have no power to do so. If TransCanada, a private company from a foreign country, is allowed to take lands by condemnation, then property rights are no longer safe in the United States of America. Under South Dakota law the use of eminent domain (condemnation) is limited to state and local governments, power lines, rural water systems and railroads that provide benefit to the communities they cross. Taking of private land is done only after all other options have been exhausted. Even then, landowners can appeal to local boards and commissions for relief. TransCanada, a private oil company from a foreign company, claims it has the right to use state law to take land for an oil pipeline that provides no direct benefit to anyone in South Dakota. TransCanada land agents threaten landowners with condemnation at the first meeting. There is no negotiation. There is no place to appeal. Read the letters filed with the PUC <http://puc.sd.gov/commission/dockets/HydrocarbonPipeline>.

### **Cultural Resources**

There has not been sufficient surveying done to protect any relics or our cultural resources from the past. I understand that the Native Americans or SHPO need to do a 100% walking survey to protect their rights. Treaties with the Native Americans in the USA and Canada should be protecting these rights for them. As landowners, we have a right to ask the Department of State and the State Historic Preservation Office (SHPO) to require that a 100% walking survey be done over our entire quarter section of land (NE ¼ Sec. 14, T-125-N, R-59-W) to check for cultural and historical resources before TransCanada is allowed to cross our land. We have sent such a request to these two agencies.

### **Need & National Interest**

TransCanada says their pipe is in the “national interest” and is needed to move Canadian tar sands oil south to Illinois and Texas. Yet, US oil refineries are running at less than full capacity. Canadian oil will compete with US energy supplies, including ethanol and wind energy here in the Midwest. TransCanada provides no direct benefit to South Dakota. Federal and state agencies, like the Fish and Wildlife Service, NRCS, and GF&P refuse to grant easements so the oil pipe can not cross government land or land with government easements. That forces the oil pipeline over on to private farm land. Apparently a high pressure crude oil pipe is in the “National Interest” so long as it is on private land and doesn’t cross government lands.

### **Drinking Water & The Environment**

TransCanada claims that they and the SDPUC have “meticulously investigated and reviewed the project from every angle”. Not true. The only information the PUC has

seen is what TransCanada has given them. Their paid consultants from Denver and Alberta are not independent experts. They say whatever TransCanada wants them to say. Plans filed with the U. S. State Department and the SDPUC failed to acknowledge that the Keystone oil pipeline would cross 8 rural water systems in South Dakota, shallow aquifers and thousands of farm wells. Under federal law, public water supplies are consider "High Consequence Areas" and must be protected. TransCanada claims their pipe will leak once in 41 years and is no risk to the water supply. Rural water systems and independent groundwater reports say otherwise. Shortly after TransCanada said their pipeline wouldn't leak, pipelines failed and leaked in Minnesota, Kansas and British Columbia, including one operated by TransCanada.

### **State & Federal Review**

If a serious review of this project has been done by any state agency, it has never been released to the public. Alternative pipeline routes through western North Dakota and South Dakota where oil wells are located or installing the pipe in the wide I-29 road ditch were never seriously considered or studied. The Department of Environment and Natural Resources (DENR), GF&P, Health Department, Geological Survey, EPA, and Fish and Wildlife have all been silent. If a farmer installs a 1,000 gallon fuel storage tank, the DENR would review the plans and require containment to protect groundwater and the environment. If it leaks, the farmer will be fined or prosecuted. The TransCanada pipeline will move 28.4 million gallons of crude oil PER DAY through South Dakota (591,000 barrels) through 220 miles of high pressure, thin walled pipe crossing aquifers, wetlands, streams, and hundreds of public and private water lines and our state and federal officials are silent. Risk Management Consultants, DNV, say that a pinhole leak could release 372,000 gallons of oil PER DAY with no review by state agencies. If a farmer drained a wetland, GF&P or USF&W would fine them. If a farmer's oil tanks leak, DENR would issue a fine and enforce the law. Yet TransCanada, a private oil company from a foreign country, is allowed to threaten landowners with condemnation, trespass on private property, dig through wetlands, streams and aquifers, and add a new risk to our environment. Our Governor, PUC, Attorney General, state officials and Congressional Delegation all looked the other way.

### **Public Information**

Documents TransCanada filed with the SDPUC in April in support of their permit application were all stamped "**Confidential**" and not made available to the public. Even the table of contents was confidential. Only after formal complaints were filed by Dakotan's Concerned and others was part of the information made available months later. Those documents that were eventually released were not available until the **Friday before** the public meetings—too late for the 660 people who attended the meeting to review the documents. TransCanada did most of the talking at the four meetings leaving only limited time for questions and public input. Landowner lists were never made available by TransCanada. After complaints were filed, a list was released by the PUC but it was loaded with names of adjacent landowners so no one could really tell where the pipeline would go and who was impacted. An updated pipe route map dated June 26<sup>th</sup> is still not available to the public on the PUC website on Oct 29, 2007, one month before the PUC hearings.

### **Thinner Pipe Wall**

November 17, 2006, TransCanada applied for a "Special Permit" from the federal government pipeline with THINNER PIPE WALL THICKNESS than any other oil pipeline currently operating in the United States. They also asked for permission to run the pipe at a HIGHER OPERATING PRESSURE (11% higher). TransCanada didn't inform the SDPUC or the public until August 23, 2007, almost a year later. Even more remarkable, TransCanada has no track record of operating high pressure crude oil pipelines. Most of TransCanada's experience is with natural gas pipelines which are less likely to spill and damage soil or ground water. When crude oil pipes leak, the oil spreads out into the soil and damages the groundwater aquifers. Thinner walled pipe means greater risk for South Dakota. Allowing a company like TransCanada, with no oil pipeline experience, a permit of that kind is an insult to South Dakota and every state crossed. According to recent news reports, much of the steel pipe that will be installed will be made in China and India. Neither country can provide the level of inspection and quality control that US steel pipe companies offer. China has had problems making toothpaste, dog food and children's toys. The PUC should require that all pipe installed in South Dakota be made in the USA.

### **I-29 Alternate Route**

TransCanada claims "constructing any pipeline along a major highway will put workers at risk, require highway closures, increase safety impacts and costs, hamper development of commercial districts and trade one group of affected landowners for another". Not true. WEB rural water has installed miles of 30 inch and 24 inch pipe in the Highway 12 and Highway 281 road ditches without accident or injury and has operated the pipelines safely for more than 20 years. The State owns the highway road ditch so little if any private lands would be needed. Road access for construction, operation and emergency response would be better than dirt or gravel section line roads. In 2006, TransCanada proposed three pipeline routes that would have used the west ditch of I-29. All three options ran right past Elk Point, SD, the location Hyperion has picked for its Oil Refinery. South Dakota was never included in the decision process on site selection for the pipeline or the refinery. The oil industry in Canada and Texas made the decisions.

### **Emergency Response**

DNV Risk Management consultants say that the thin walled 30 inch, high pressured 1700 psi oil pipeline will fail within the first 5 to 7 years. When that happens, TransCanada wants the oil leak in some remote, back road area and not along a well traveled highway like I-29. It doesn't matter that a 372,000 gallon per day crude oil leak will damage farmland and pollute the water. It doesn't matter that it will be more difficult to get heavy pumper trucks and large equipment to the leak on dirt or gravel section line roads in the fall, winter and spring. It doesn't matter that small town, local volunteer fire departments like Britton, Langford, Carpenter, Iroquois, Freeman, and Alexandria aren't equipped or trained to contain oil spills or fight crude oil fires where the fumes can cause cancer and damage to the lungs and vital organs. It doesn't matter to TransCanada that they are crossing 8 rural water pipeline systems and aquifers which are the water supply

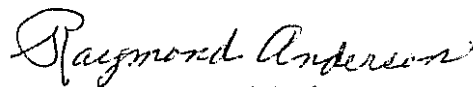


for thousands of South Dakota citizens. What matters to TransCanada, ConocoPhillips, and their investors are profits, annual stock dividends, and the bottom line.

The Aberdeen American News editorial had it right. The oil industry in Texas and Alberta made the decisions. South Dakota had no say. Where are our elected officials? Where are Governor Rounds, the legislature, Attorney General Long, and the SD Congressional Delegation?

In summary, we object to the TransCanada-Keystone Crude Oil Pipeline crossing through our community and our land, we feel threatened by the project and ask that the SDPUC ask TransCanada to move the pipeline to another location, either the west ditch of I-29 or out to western South Dakota and North Dakota where there are oil wells that might be able to make use of it. The speed with which this pipeline is being rushed through our state is alarming. I doubt that Canada would let an American company tear through their states with so little concern for their citizens, their private property, their ground water and their natural resources.

There is an Amish proverb that says **“We don’t inherit the land from our ancestors. We borrow it from our children”**. This TransCanada Keystone pipeline will not be a good gift to our next generations.



Raymond Anderson  
10/31/07

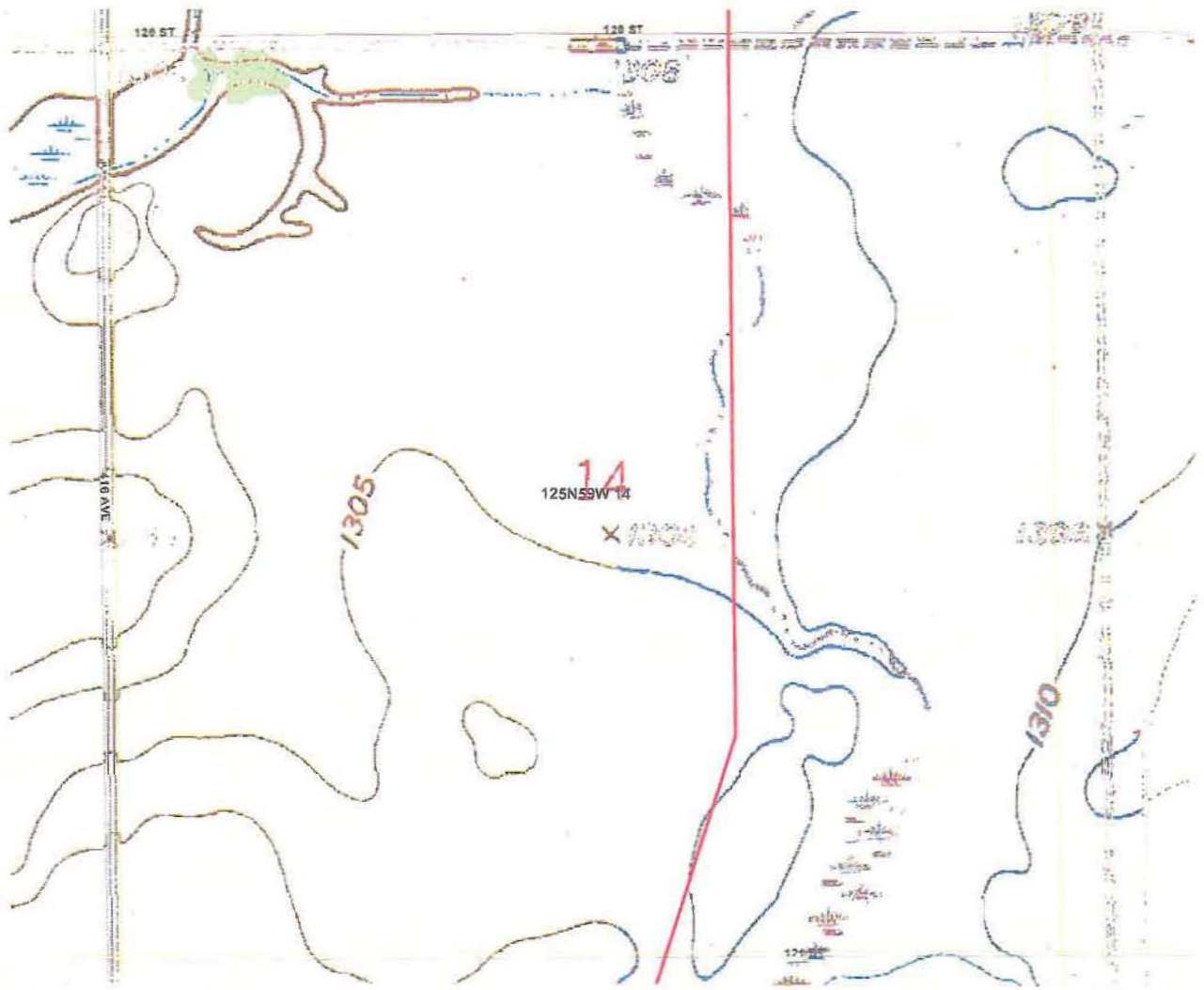


Lillian Anderson  
10/31/07

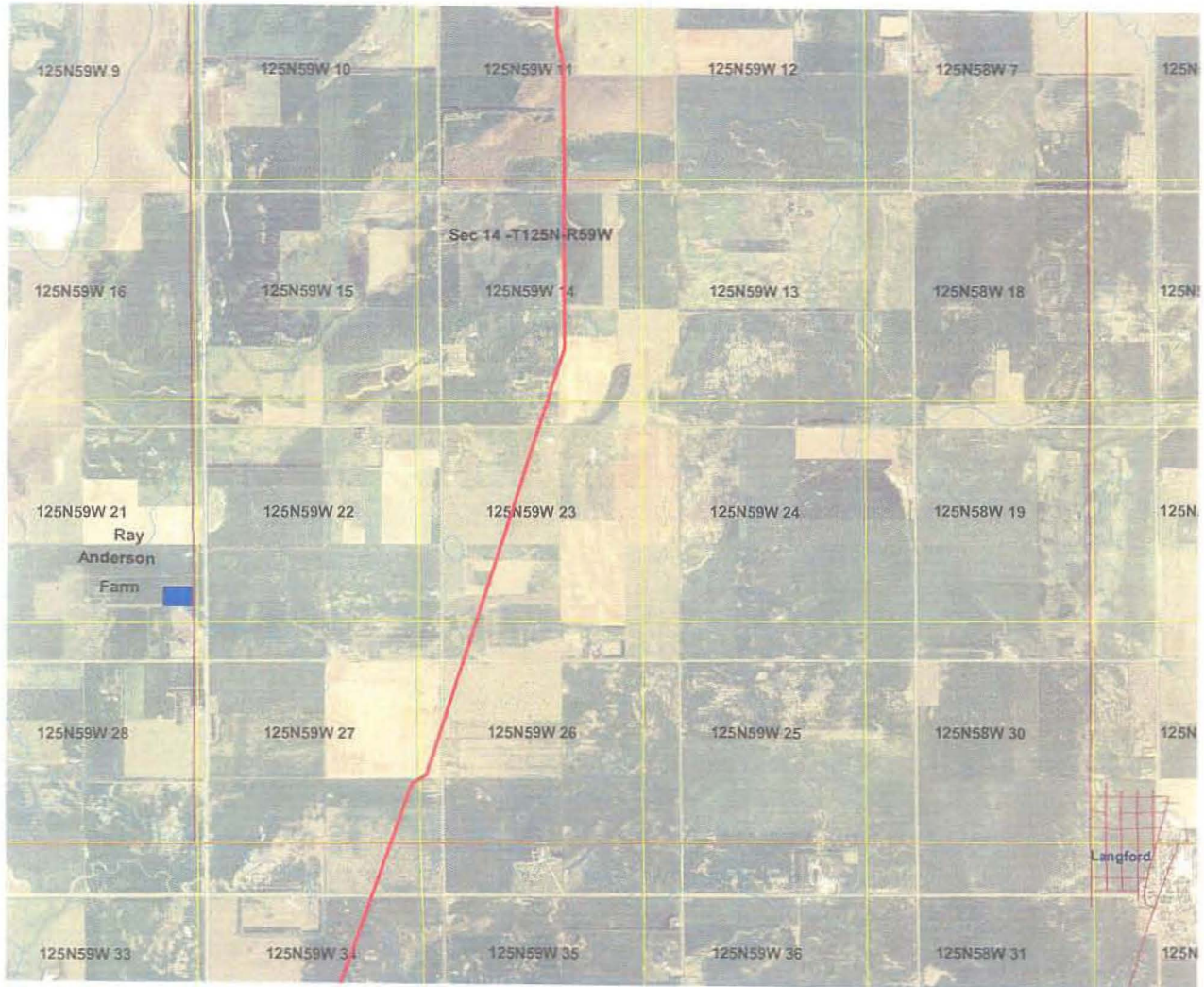
Anderson Exhibit #1



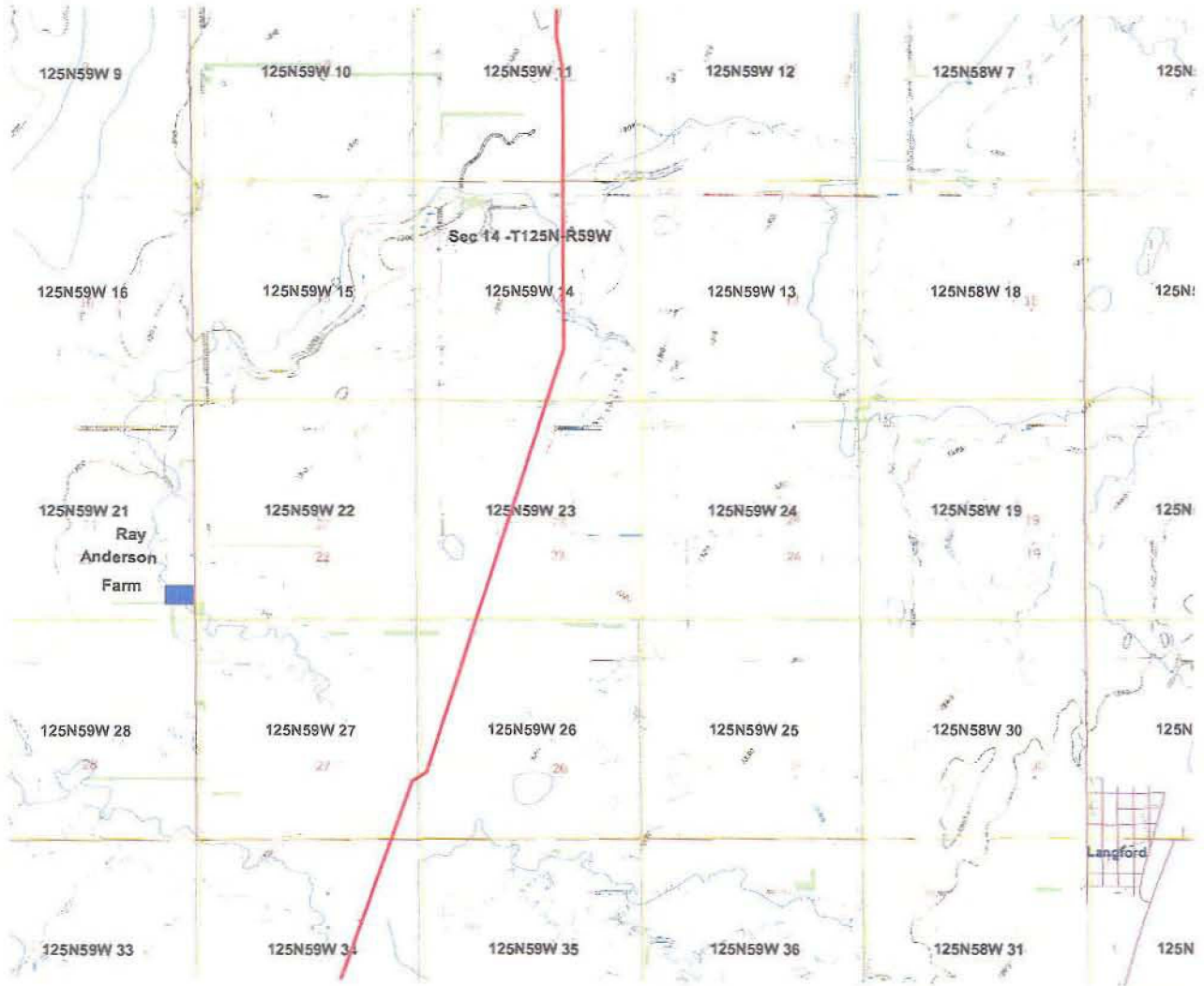




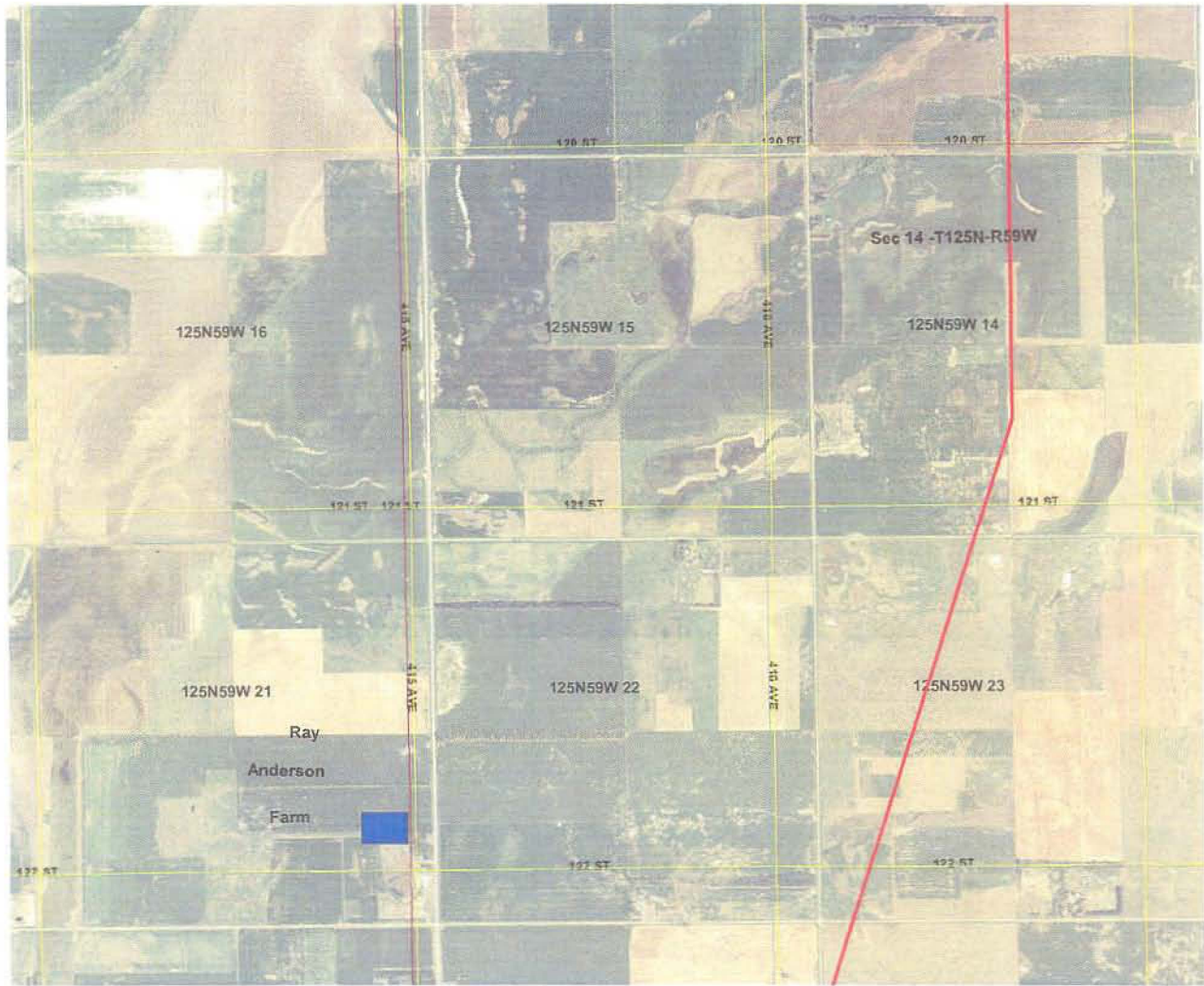
Anderson - Exhibit # 4



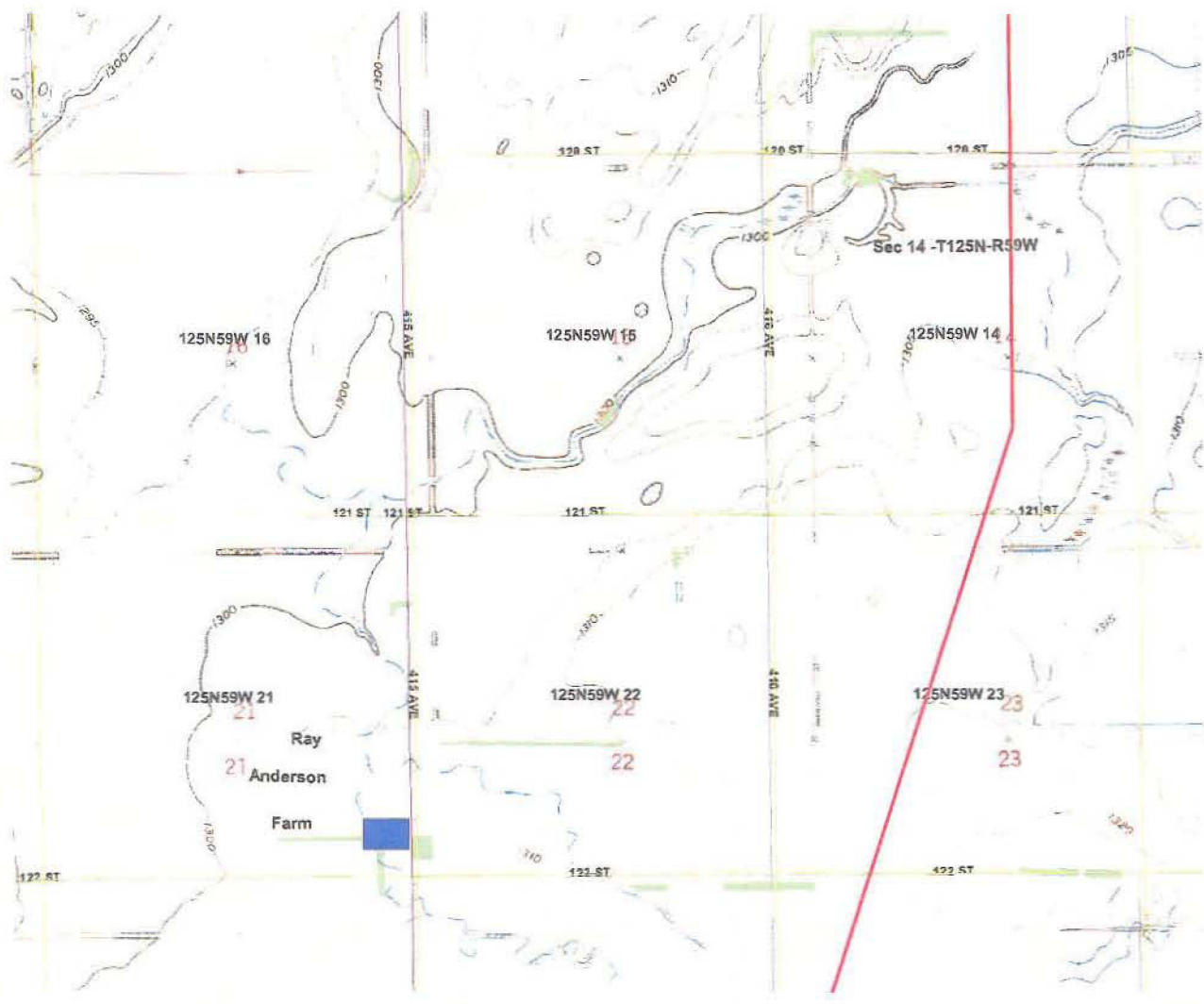
Anderson - Exhibit # 5



Anderson - Exhibit # 6

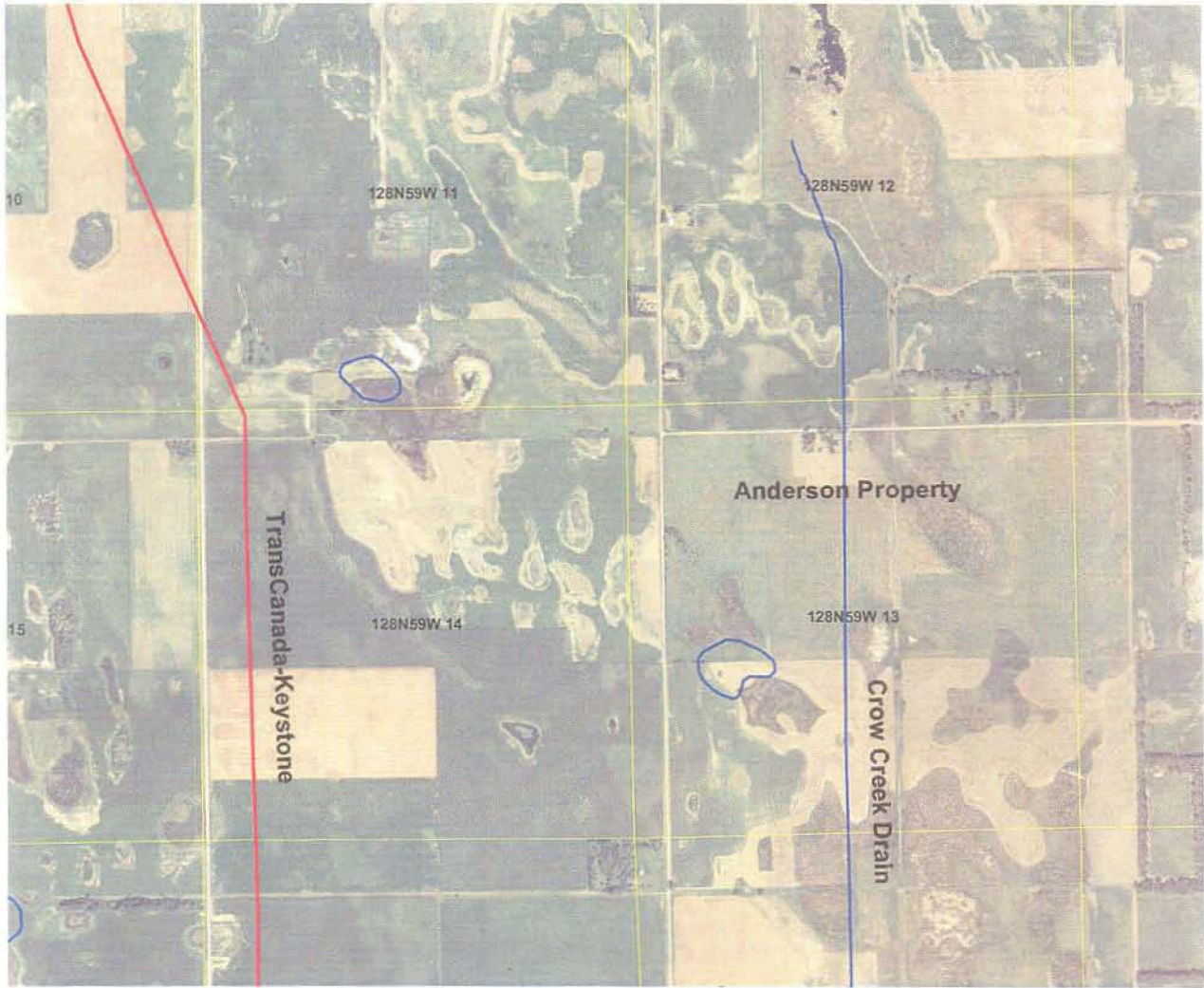


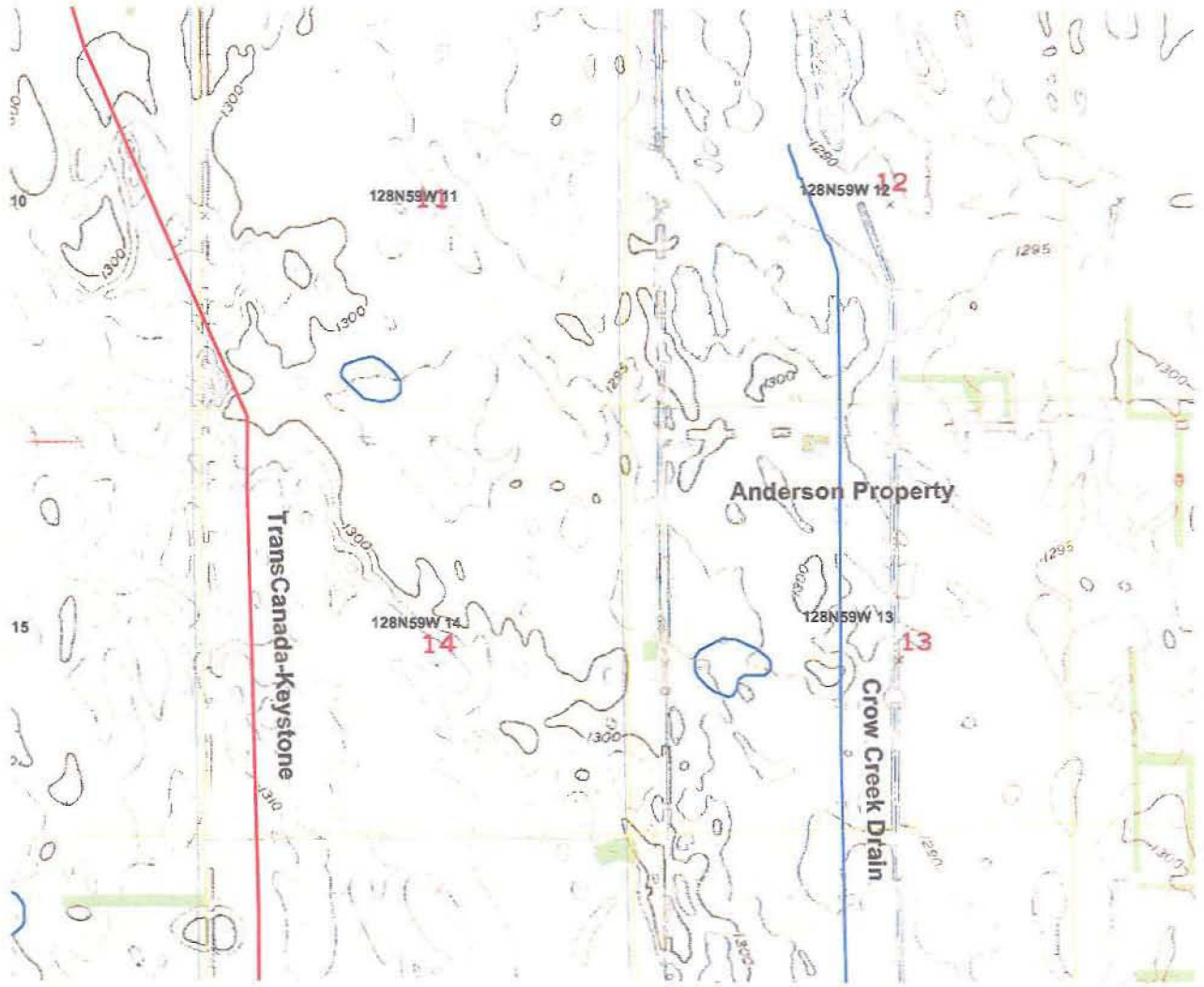
Anderson- Exhibit # 7

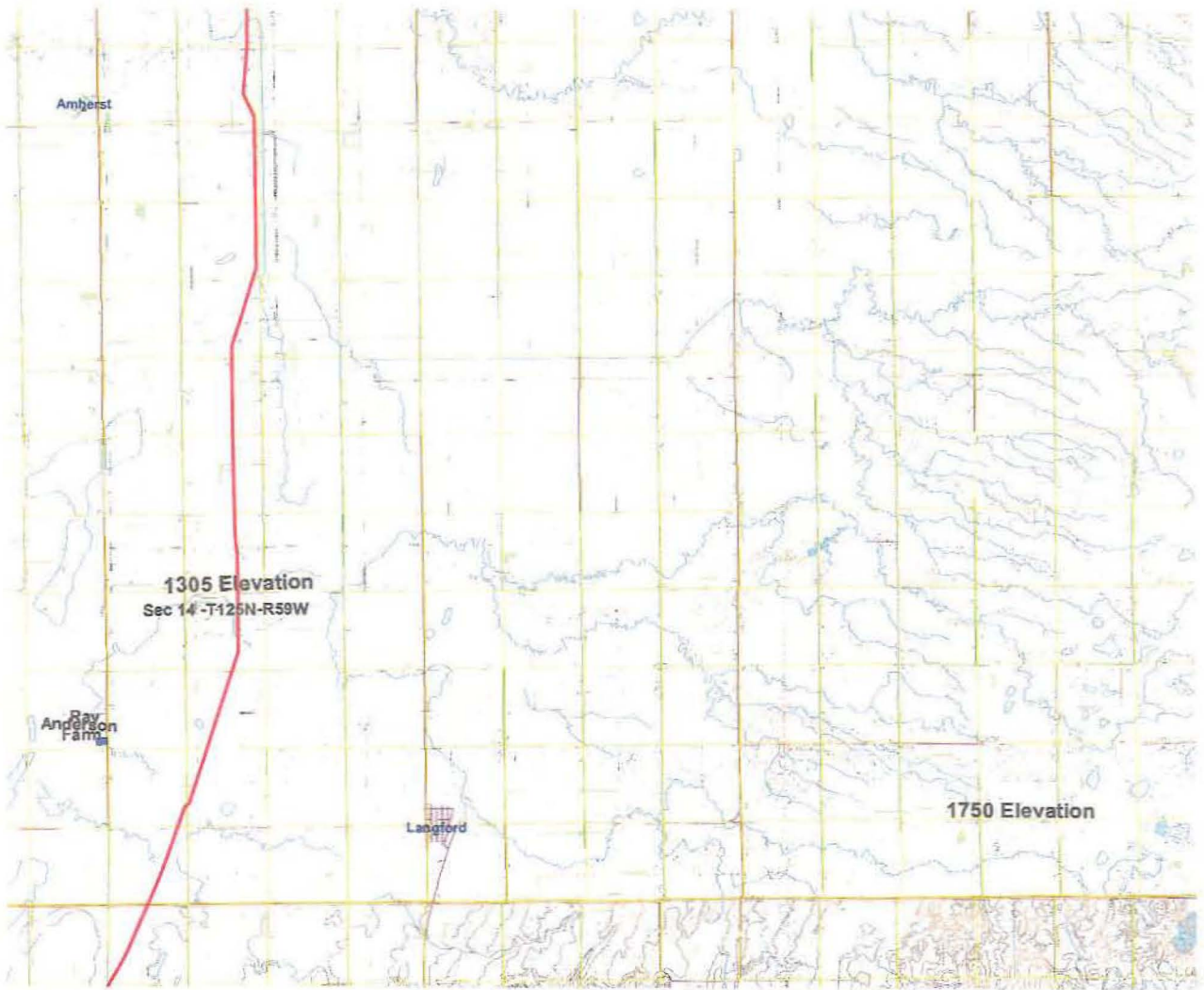


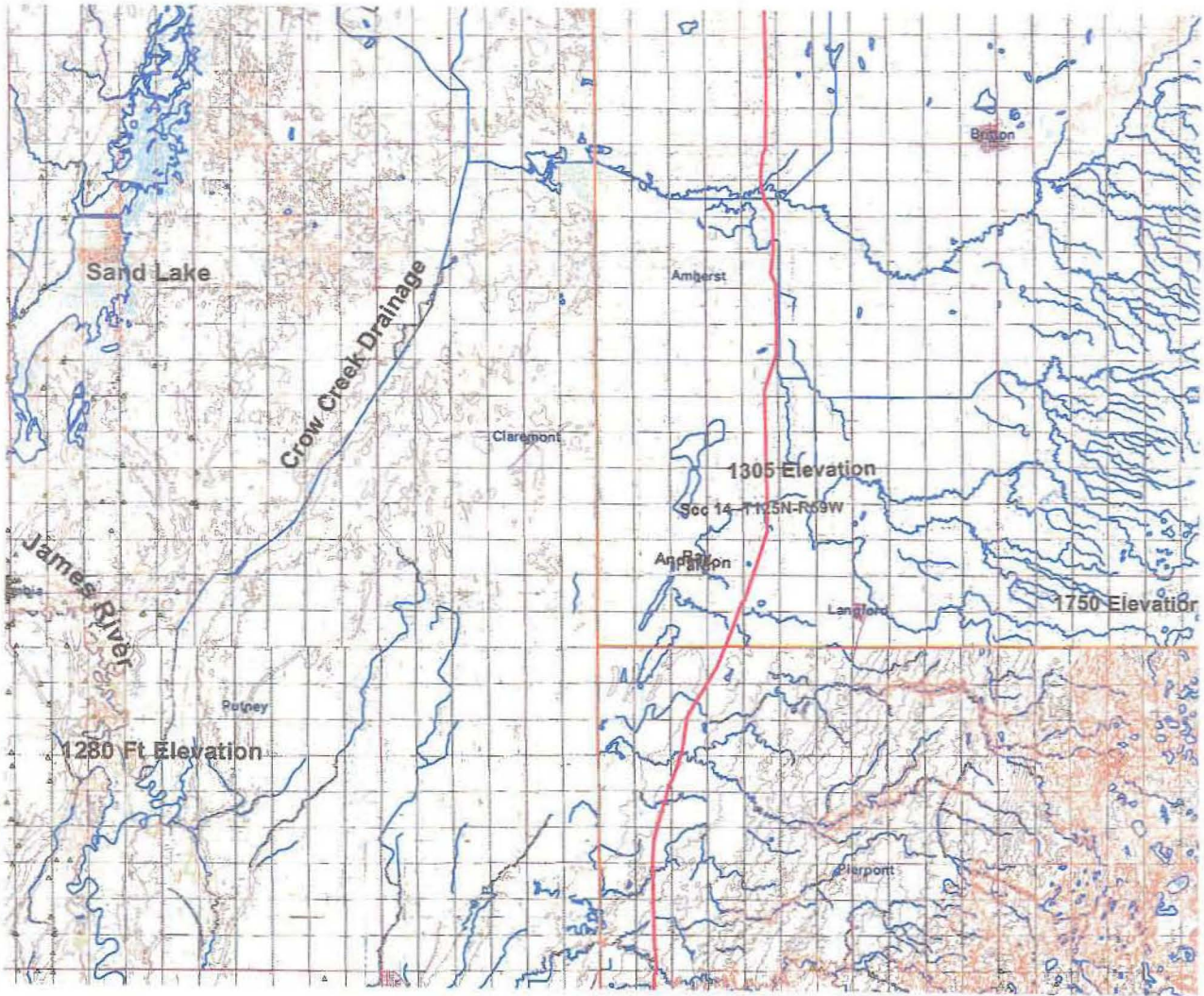


Anderson Exhibit # 8









# TransCanada's Keystone Pipeline Project

Anderson Exhibit #12

With more than 50 years of experience, TransCanada is a leader in the responsible development and safe operation of pipelines and other major energy infrastructure facilities. The Keystone Pipeline Project is a timely and innovative solution to meet the growing need for energy in the United States. Keystone provides a reliable North American connection between the world's second-largest oil reserve in Canada and existing U.S. refineries.



## Keystone and Landowners

TransCanada has relationships with more than 40,000 landowners across a 36,500-mile pipeline network. We recognize and value these important relationships. Our landowner policy on Keystone is simple: treat landowners fairly and honestly and with courtesy and respect. That philosophy is why Keystone has successfully negotiated easements with nearly two-thirds of South Dakota landowners where Keystone plans construction in 2008.

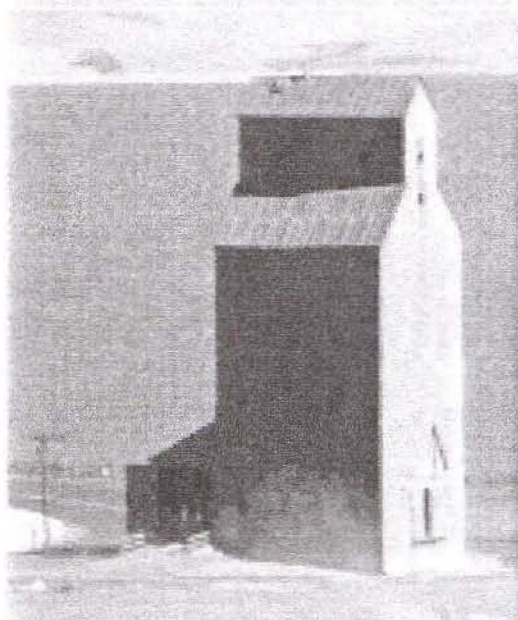
### Keystone: Fact or Fiction

**Fiction:** Keystone has threatened to take lands from landowners through the use of eminent domain.

**Fact:** Keystone is committed to treat landowners respectfully and our preference is to negotiate an easement that meets both the needs of the landowner and Keystone. However, if a landowner asks about eminent domain, Keystone land agents must answer truthfully. State law gives pipelines such as Keystone the ability to secure an easement through a legal process where voluntary agreements with landowners cannot be reached.

**Fiction:** Landowners won't own the land after Keystone acquires an easement.

**Fact:** Landowners will continue to own the land on which the pipeline has been buried and will continue to use it for crops, pasture or other purposes. Easements provide Keystone limited rights needed for pipeline construction and safe operation. However, Keystone is making full market value offers as though it were a land purchase.



For more information about Keystone and TransCanada or answers to other questions, please visit [www.transcanada.com/keystone](http://www.transcanada.com/keystone) or call us toll-free at 866.717.7473.



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In business to deliver