

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION :
BY TRANSCANADA KEYSTONE
PIPELINE, LP FOR A PERMIT UNDER THE :
SOUTH DAKOTA ENERGY CONVERSION :
AND TRANSMISSION FACILITIES ACT TO :
CONSTRUCT THE KEYSTONE XL :
PROJECT :
:
:

HP 09-001

**APPLICANT’S MOTION
TO RELEASE ROAD BOND,
APPROVE REMOVAL OF
PUBLIC LIAISON OFFICER,
AND ACCEPT FINAL REPORTING**

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TransCanada Keystone Pipeline, LP (“Keystone”) moves that the Commission enter its order: (1) releasing the road bond entered under SDCL § 41-49B-38; (2) approving the termination of the public liaison officer; and (3) accepting the most recent reports filed by Keystone and the public liaison officer as final reports, and ending their respective reporting obligations.

1. The Commission entered an Amended Final Decision & Order dated June 29, 2010, approving construction and operation of the Keystone XL Pipeline in South Dakota. Attached to the order were 50 conditions.

2. Condition 7 required Keystone to appoint a public liaison officer. Keystone appointed Sarah Metcalf, whose appointment was approved by order of the Commission dated June 2, 2010. She has continued to serve in that role since her appointment. Condition 7 provides that the public liaison officer may not be removed without the approval of the Commission.

3. Condition 23(f) required Keystone to obtain and file for approval a bond in the amount of \$15.6 million assuring appropriate road reclamation. The bond was to be filed for the

year in which construction was to commence. Keystone filed a motion to approve an indemnity bond on June 15, 2018, the fully executed indemnity bond was filed on June 25, 2018, and the Commission granted Keystone's motion and approved the indemnity bond by order dated June 28, 2018. Condition 23(f) provides that the bond "shall remain in effect until released by the Commission, which release shall not be unreasonably denied following completion of the construction and repair period."

4. Condition 8 required Keystone to submit quarterly progress reports to the Commission summarizing the status of land acquisition, construction, and the implementation of other measures required by the permit conditions. Keystone has submitted quarterly reports since July 30, 2010.

5. Condition 9 also required the public liaison officer to file quarterly reports on the status of the project until one year following completion of construction, and annual reports until three years after construction is completed. The public liaison officer submitted annual reports for 2013 through 2018, and began submitting quarterly reports on July 30, 2019.

6. As required by Condition 11, Keystone conducted a preconstruction conference on May 20, 2020, and filed notice of the conference with the Commission on the same day. Keystone began construction on Pump Station 20 in Tripp County, did site stabilization work at Pump Station 15 in Harding County, did site work at some pipe yards, moved and stored pipe, did grading work and some primary electrical work at the Opal workforce camp, which was never occupied, and constructed and opened the Philip workforce camp.

7. Keystone has returned the workforce camp sites to the landowners and transferred the storm water prevention plan permits to the landowners. Keystone sold the pump stations to a

salvage company and has no further legal responsibility for these sites. Keystone has sold the pipe that has been stored in Pipe yard 15 and has extended the lease for one year to allow the buyer to remove the pipe. Keystone has also extended its lease at the Philip rail siding in Jackson County for one year to allow transportation of the pipe. The other pipe yards, where no pipe was stored, have been returned to the landowners.

8. On June 9, 2021, TC Energy terminated the Keystone XL project after President Biden revoked the Presidential Permit allowing Keystone to construct and operate a pipeline segment across the international border. The international border segment was constructed in 2020 and was removed in October 2021.

9. Since the project was terminated, Keystone has completed all construction-related activity on the Keystone XL project in South Dakota, including reclamation of areas disturbed by construction as required by Condition 16 and repair or replacement of property removed or damaged during construction as required by Condition 45.

10. Keystone has completed all road reclamation work required by its haul road agreements with counties and townships and has terminated each of the agreements. No work for which the indemnity bond was required remains to be completed, and Keystone is unaware of any outstanding issues with counties or townships related to roads.

11. No claims have been made under the indemnity bond.

12. Keystone has no remaining activities in South Dakota that are within the scope of the permit or the conditions.

13. Thus, Keystone respectfully requests that the Commission release the indemnity bond, approve the removal of the public liaison officer because her work is finished, and accept

Keystone's most recent quarterly report and the liaison's most recent quarterly report as final reports, thereby ending the reporting obligations under Conditions 8 and 9.

Dated this 21st day of December, 2021.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of December, 2021 I served a true and correct copy of the foregoing Applicant's Motion to Release Road Bond, Approve Removal of Public Liaison Officer, and Accept Final Reporting by e-mail transmission to the following:

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