

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF HUGHES)

IN CIRCUIT COURT

SIXTH JUDICIAL DISTRICT

IN THE MATTER OF THE PETITION OF
TRANSCANADA KEYSTONE PIPELINE
LP FOR AN ORDER ACCEPTING
CERTIFICATION OF PERMIT ISSUED IN
IN DOCKET HP 09-001 TO CONSTRUCT
THE KEYSTONE XL PIPELINE

CIV. 16-33

CINDY MYERS, RN
MOTION TO WITHDRAW

COMES NOW, Cindy Myers, RN, by and through counsel, and requests leave of court and moves for an order for permission to withdraw as an appellant in the above-referenced matter. This withdrawal is sought because appellant was an intervenor in the agency proceeding below, and has expended the time and financial resources available to her.

Counsel certifies that it consulted by electronic mail with counsel for the Public Utilities Commission and TransCanada on the filing of this motion. Counsel for the PUC represented that there is no objection to Ms. Myers' withdrawal. Counsel for TransCanada did not reply, but appellant verily believes no objection shall be forthcoming.

This motion is based on SDCL §15-6-7(b).

POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO WITHDRAW

It is common practice to permit a plaintiff or petitioner to withdraw a pleading for mistake or otherwise. *See* 61B Am. Jur. 2d *Pleading* §855 (2016 Update). It is within the sound discretion of the trial court. *Id.* In the present case, Ms. Myers is one of numerous individuals and families living on or near the proposed route for the Keystone XL Pipeline, who intervened before the PUC, and have joined as appellants in this

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matter. Ms. Myers' withdrawal will have no effect on this matter moving forward, and there is no prejudice to the agency or real party in interest.

DATED this 23rd day of May, 2016

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