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

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

DOCKET HP 14-001

**DIRECT TESTIMONY OF CARLYLE
DUCHENEAUX**

1. Please state your name and address for the record.

Answer: My name is Carlyle Ducheneaux. My office address is P.O. BOX 542 Eagle Butte, SD 57625.

2. Please state your position with the Cheyenne River Sioux Tribe.

Answer: I am currently the Cheyenne River Sioux Tribe's Environmental Protection Department's 106 Coordinator. My prior positions with the Cheyenne River Sioux Tribe include working as the National Pollutant Discharge Elimination System Coordinator and Superfund Site Coordinator.

3. Please provide a description of your areas of responsibility within the Cheyenne River Sioux Tribe's Department of Environmental and Natural Resources.

Answer: I have multiple responsibilities, including the development of water quality standards, review and issuance of National Pollutant Discharge Elimination System permits, review all Environmental Impact Statement/Environmental Assessments affecting the Cheyenne River Sioux Tribe, conducting water, air, and soil testing, and interpreting collected environmental data. In addition, my duties also require me to perform human health risk assessments. I also work with Missouri breaks, BHCAIS and

the University of New Mexico performing scientific tests on humans and the environment.

4. Please state your professional qualifications and experience.

Answer: I have eighteen (18) years of work experience with the Cheyenne River Sioux Tribe in the environmental field. During my professional tenure with the Tribe I have worked collaboratively with the Environmental Protection Agency, the United States Geological Survey, the United States Fish and Wildlife Service, the Bureau of Indian Affairs, the Army Corps of Engineers, the Bureau of Reclamation, the Bureau of Land Management and many private sector science and environmental companies.

5. Are you familiar with the TransCanada Keystone XL Pipeline project?

Answer: Yes. I have thoroughly reviewed the Keystone XL Pipeline's Environmental Impact Statement.

6. Have you reviewed the proposed route of the Keystone Pipeline project; with specific regard to the portion of the project near the Cheyenne River Sioux Reservation?

Answer: Yes, as part of my review of the Environmental Impact Statement I have reviewed and familiarized myself with the proposed pipeline route, especially with regard to that portion of the project that is in close proximity to the Cheyenne River Sioux Reservation.

7. In your opinion, would construction of the Keystone Pipeline in the vicinity of the Cheyenne River Sioux Reservation affect the Cheyenne River Sioux Tribe?

Answer: Absolutely yes. It is my professional opinion that construction of the Keystone XL Pipeline in the vicinity of the Cheyenne River Sioux Reservation will affect the

Cheyenne River Sioux Tribe and its Tribal Members living on the Reservation.

Moreover, upon completion of the Keystone XL Pipeline's construction, the Project will continue to affect the Cheyenne River Sioux Tribe and its Tribal Members in that a spill incident would pose a serious risk to the health and safety of all people living in Dewey and Ziebach Counties.

8. Please describe how the Cheyenne River Sioux Tribe would be affected by construction of the Keystone Pipeline in the vicinity of the Cheyenne River Sioux Reservation.

Answer: Much of the soil in and around the Cheyenne River and its tributaries contains contaminants from previous polluters. At present these contaminants are largely in a settled state and thus do not pose significant immediate health and safety risks. However, construction of the Keystone XL Pipeline will necessarily involve extensive excavation and disruption of contaminated soils, which in turn will lead to the inevitable re-suspension of contaminated sediment in the Cheyenne River hydrological system. The Tribe and all residents of the Cheyenne River Sioux Reservation depend on the Cheyenne River as the sole source of potable water, making such soil disturbance and re-suspension a massive threat to the Tribe and the Reservation's residents. In essence, I see no positive outcome to the construction of the pipeline. Instead, construction of this project will pose a serious threat to the health, safety, and well-being of the Cheyenne River Sioux Tribe, the State of South Dakota, and their respective citizens.

9. What do you mean by "re-suspension" of contaminants? Could you please explain this particular risk in detail?

Answer: What I mean by the term “re-suspension” is that the legacy pollutants that are presently in a settled state in the soil will mix into the Cheyenne River’s hydrological system; thereby reintroducing old pollutants into the water source that the Cheyenne River Sioux Tribe and reservation residents rely on for potable water. In my opinion, such re-suspension will greatly affect the health and safety of the Cheyenne River Sioux Tribe, its tribal members, and the non-Indian residents who reside within the boundaries of the reservation.

10. Would non-Indian residents on the Cheyenne River Sioux Reservation be similarly affected?

Answer: Yes. All residents living on or near the Cheyenne River Sioux Reservation would be subject to the same negative consequences associated with the construction and operation of the Keystone XL Pipeline in the vicinity of the Cheyenne River Sioux Reservation.

11. In your opinion, would the presence of the Keystone Pipeline, once completed, pose a direct threat to the Cheyenne River Sioux Tribe?

Answer: Yes. Beyond the impacts associated with construction of the Keystone XL Pipeline, the Cheyenne River Sioux Tribe will also be affected by the operation of the Keystone XL Pipeline Project. Specifically, the Cheyenne River Sioux Tribe’s water treatment facility, which provides potable water for all residents within the Cheyenne River Sioux Reservation, would be at risk of contamination if a spill were to occur in the Cheyenne River or one of its hydrologically connected tributaries. As such, the Tribe will most definitely be affected by the ongoing operation of the Keystone XL Pipeline Project.

12. Please describe how the Cheyenne River Sioux Tribe would be negatively affected by the completed Keystone Pipeline?

Answer: As I have alluded to in my previous answers, the Tribe will be negatively affected by this project because it will initially contaminate and pose an ongoing threat of contamination to the Tribe's water resources. For example, the likelihood of pipeline failure due to sloughing of banks and movement of highly erodible soils is high. Obviously such a failure would be catastrophic for the Cheyenne River Sioux Tribe, its Tribal Members, and everyone else living within the confines of the Cheyenne River Sioux Reservation. In fact, just a moderate spill from the pipeline into any hydrological system connected to the Cheyenne River would jeopardize the Tribe's drinking water. All residents within the Cheyenne River Sioux Reservation, both Indian and non-Indian, rely on water from the Tribe's Mni Waste Water Company. Thus, any contamination of the Cheyenne River's hydrological system would inevitably impact the Tribe itself, as well as all residents residing within the Reservation. Such a contamination incident would force the residents of the Reservation to use bottled water until a spill is completely cleaned up. This in itself creates a major problem for the Tribe and Tribal Members. Namely, bottled water is not acceptable for many cultural activities. Rather, only water from the Cheyenne River itself can be used. Also, much of the Cheyenne River's flora and fauna would be destroyed. In other words, the Keystone XL Pipeline not only threatens the health and safety of the Cheyenne River Sioux Tribe and its Tribal Members, it also threatens the Tribe's access to irreplaceable cultural resources.

13. What do you mean by “sloughing of banks” and “movement of highly erodible materials?” Please explain how these two natural phenomena could cause the Keystone XL Pipeline to leak?

Answer: By sloughing of banks I mean that the banks bordering waterways such as the Cheyenne River and its tributaries are highly susceptible to collapse. This is because the soil in western South Dakota is highly erodible, meaning it is particularly susceptible to water erosion.

14. Are events such as these common in the vicinity of the Cheyenne River Sioux Reservation?

Answer: Yes, sloughing and movement of highly erodible materials is a very common natural phenomena throughout western South Dakota.

15. Would non-Indian residents on the Cheyenne River Sioux Reservation be similarly affected?

Answer: Yes. All residents who rely on the Tribe’s Mni Waste water treatment facility would be impacted, including non-Tribal members. In other words, the threat posed by the portion of the Keystone XL Pipeline in the vicinity of the Cheyenne River Sioux Reservation will equally affect citizens of the Cheyenne River Sioux Tribe and all other citizens of South Dakota residing within the boundaries of the Reservation.

16. In your professional capacity, has TransCanada Keystone XL Pipeline, LP contacted you or your office with regard to emergency response and/or cleanup issues?

Answer: No. To the best of my knowledge TransCanada has not made any attempt to contact me or anyone else in my office whatsoever. My office would be heavily involved

in any cleanup effort on the Cheyenne River Sioux Reservation, making their lack of contact with us especially disconcerting.

17. In your professional opinion, are the Cheyenne River Sioux Tribe and the local non-Indian governments within the Reservation, such as municipalities and counties, adequately trained and equipped to respond to a Pipeline spill into the Reservation's water?

Answer: No. In my opinion, the Cheyenne River Sioux Tribe, nor any other local government on the Reservation, has the capacity to adequately respond to a spill incident, making such an incident all the more decimating to the Tribe, Tribal Members, and non-Tribal Members living on the Reservation.

18. Does this conclude your prefiled testimony?

Answer: Yes it does.

Dated this 2 day of April, 2015.

/S/ Carlyle Ducheneaux

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CERTIFICATE OF SERVICE

I certify that on this 2nd day of April, 2015, the original of this **PRE-FILED TESTIMONY OF MR. CARLYLE DUCHENEAUX** on behalf of the Cheyenne River Sioux Tribe in Case Number HP 14-001, was filed on the Public Utilities Commission of the State of South Dakota e-filing website. Also on this day, a true and accurate copy of the above was sent to the following:

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

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**DIRECT TESTIMONY OF STEVE
VANCE**

1. Please state your name and address for the record.

Answer: My name is Steven Vance. My work address is PO Box 590
Eagle Butte, SD 57625

2. Please state your position with the Cheyenne River Sioux Tribe.

Answer: I am the Tribal Historic Preservation Officer (THPO) for the Cheyenne River
Sioux Tribe's Preservation Office.

**3. Please provide a description of your areas of responsibility within the Cheyenne
River Sioux Tribe's Preservation Office.**

Answer: The Cheyenne River Sioux Tribe has assumed all previous duties of the South
Dakota State Historic Preservation Officer (SHPO) on all lands within the exterior
boundaries of the CRST reservation. In other words, as a Tribal Historic Preservation
Officer I serve in an essentially identical capacity as a State Historic Preservation Officer.

4. Please state your professional qualifications and experience.

Answer: Previous to my position with the Cheyenne River Sioux Tribe's Preservation
Office as a Tribal Historic Preservation Officer, I was employed for sixteen (16) years by
the Cheyenne River Sioux Tribe as a Certified Law Enforcement Officer. Following my

career in law enforcement, I was employed by the Cheyenne River Sioux Tribe as a Certified Lakota Studies Instructor for the instruction of Lakota language, culture, history, and government for seven (7) years. Following my time as a Lakota Studies Instructor, I was hired by the Cheyenne River Sioux Tribe as a Tribal Historic Preservation Officer. I have served the Tribe in this capacity for the past five to six (5-6) years.

5. Are you familiar with the TransCanada Keystone XL Pipeline project?

Answer: Yes.

6. Have you reviewed the proposed route of the Keystone Pipeline project; with specific regard to the portion of the project near the Cheyenne River Sioux Reservation?

Answer: Yes.

7. In your opinion, would construction of the Keystone Pipeline in the vicinity of the Cheyenne River Sioux Reservation affect the Cheyenne River Sioux Tribe's access to cultural and historical resources?

Answer: Yes. The proposed route of the Keystone XL Pipeline falls within view shed of significant spiritual landforms, such as Slim Buttes, North Cave Hills, South Cave Hills, Woman Who Lived with the Wolves, Touch the Cloud Camp, and Spotted Elk Camp. This is a non-exhaustive list of affected cultural and historic sites. For instance, numerous trails which access these sites, as well as sites beyond the proposed route, such as the Sacred Black Hills, will also be affected by the proposed pipeline project.

8. Please describe how access to such resources would be hindered by construction of the Keystone Pipeline.

Answer: The actual construction phases will greatly hinder the Tribe's and Tribal Member's access to numerous cultural and historic sites. After all, people cannot simply walk through active construction zones to get to these sites. In all likelihood alternate routes, if there are any, would probably have to be selected by travelers to these cultural and historic sites.

9. In your opinion, would the presence of the Keystone Pipeline, once completed, pose any ongoing problems with regard to cultural or historical resources?

Answer: Yes. Once construction of the pipeline is complete there will undoubtedly be an ongoing need for general inspection and maintenance of the completed pipeline. This, in turn, would place pipeline workers within the vicinity of many sacred places. Traditional practitioners seeking solitude while performing traditional worship practices would almost certainly be interrupted by pipeline workers. Solitude is an essential element of many traditional worship practices, which require that outsiders not observe or otherwise disturb the practitioner during the traditional worship practice. As such, any disturbance by pipeline workers will necessarily have an immense negative impact on the ability of Tribal Members to perform traditional practices at these affected cultural and historical sites.

10. In your opinion, would the Cheyenne River Sioux Tribe's cultural and historical resources be irreparably harmed by the construction and presence of the Keystone Pipeline?

Answer: Yes. Comparing this to what happened to the mining of resources in the Sacred Black Hills, this proposed project will have long term negative effects emotionally and spiritually on many Tribal Members. In essence, the presence of the Keystone XL

Pipeline will cause irreparable harm to the Cheyenne River Sioux Tribe, its Tribal Members, and traditional cultural and religious practices.

11. In your professional capacity, has TransCanada Keystone XL Pipeline, LP contacted you or your office with regard to construction of the Pipeline project?

Answer: Yes. Keystone held one teleconference about four (4) years ago and one (1) visit to the Chairman's office by two Native Keystone XL employees one year ago.

12. To the extent of your knowledge, was the Keystone Pipeline's impact on cultural and historic resources discussed during these meetings?

Answer: The impacts to cultural resources could not be discussed during these preliminary meetings because the resources were not sufficiently identified at the time.

13. To the extent of your knowledge, did Keystone propose or otherwise agree to any mitigating measures in order to reduce the pipeline's impact on cultural and historic resources?

Answer: To my knowledge, avoidance and mitigation measures should have been addressed during the development of the PA. However, the Cheyenne River Sioux Tribe was not involved in the development of the PA.

14. Does this conclude your prefled testimony?

Answer: Yes it does.

Dated this 2 day of April, 2015.

/S/ Steve Vance

Steve Vance
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CERTIFICATE OF SERVICE

I certify that on this 2nd day of April, 2015, the original of this **PRE-FILED TESTIMONY OF MR. STEVE VANCE** on behalf of the Cheyenne River Sioux Tribe in Case Number HP 14-001, was filed on the Public Utilities Commission of the State of South Dakota e-filing website. Also on this day, a true and accurate copy of the above was sent to the following:

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