

**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**

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* **STAFF'S BRIEF IN RESPONSE**
* **TO KEYSTONE'S OBJECTION**
* **TO COUP'S REQUEST FOR A**
* **TIME CERTAIN AND MOTION**
* **TO PRECLUDE WITNESS**

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* **HP14-001**
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COMES NOW, Staff ("Staff") of the South Dakota Public Utilities Commission ("Commission") and hereby files this brief in response to Keystone's Objection to COUP's Request for A Time Certain and Motion to Preclude Witness (Motion). Because the hearing was continued, the Request for Time Certain is moot, and Staff, therefore, addresses only the Motion to Preclude Witness.

On April 27, 2015, TransCanada Keystone Pipeline, LP (Keystone) filed the Motion, requesting that a witness proffered by Intertribal Council on Utility Policy (COUP) be precluded. Keystone argues that the testimony of that witness, Dr. James Hansen, is not rebuttal testimony, rather it is direct testimony, which should be excluded, because no pre-filed direct testimony was filed for Dr. Hansen.

Staff supports the Motion, in part, but for reasons other than those offered by Keystone. COUP states in its Notice and Request for a Time Certain for an Expert Rebuttal Witness (Request) that

Dr. Hansen will testify on: A) the potential impact of the Tar Sands development to the planet's narrowing atmospheric carbon budget; B) the role of the proposed Keystone XL pipeline in the economic development of the Tar Sands; and C) the changes in the level and

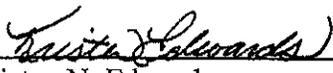
significance our national understanding of climate change over the past four years since the granting of the ... permit to TransCanada in this matter.

See Request at ¶7. None of the three areas mentioned by COUP are relevant to the certification proceeding. While climate change and greenhouse gas issues may be relevant as they relate to transportation, they are not relevant as they relate to extraction of oil, as that is not what the permit is for.

Conclusion

Staff supports the Motion to the extent that Dr. James Hansen should be precluded from offering testimony on the potential impact of the Tar Sands development, climate change, and any other issue not relevant to the certification proceeding, as well as to the extent that it deals with any issue not raised in Keystone's case in chief. Should Dr. Hansen offer testimony on any matter relevant to this proceeding, within the purview of SDCL § 49-41B-27, and in a manner that is truly rebuttal testimony, Staff has no objection to his being a witness at this time, but reserves the right to make objections as necessary at the time of the hearing.

Dated this 18th day of May, 2015.



Kristen N. Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

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PIPELINE)**

**CERTIFICATE OF SERVICE

HP14-001**

I hereby certify that true and correct copies of Staff's Brief in Response to Keystone's Objection to Coup's Request for a Time Certain and Motion to Preclude Witness, and Certificate of Service were served electronically to the Parties listed below, on the 18th day of May, 2015, addressed to:

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
patty.vangerpen@state.sd.us

Mr. Bill G. Taylor
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
bill.taylor@woodsfuller.com

Ms. Kristen Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
Kristen.edwards@state.sd.us

Mr. Paul F. Seamans
27893 249th St.
Draper, SD 57531
jackknife@goldenwest.net

Mr. Brian Rounds
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
brian.rounds@state.sd.us

Mr. John H. Harter
28125 307th Ave.
Winner, SD 57580
johnharter11@yahoo.com

Mr. Darren Kearney
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
darren.kearney@state.sd.us

Ms. Elizabeth Lone Eagle
PO Box 160
Howes, SD 57748
bethcbest@gmail.com

Mr. James E. Moore
Attorney
Woods, Fuller, Shultz and Smith P.C.
PO Box 5027
Sioux Falls, SD 57117
james.moore@woodsfuller.com

Mr. Tony Rogers
Rosebud Sioux Tribe - Tribal Utility
Commission
153 S. Main St.
Mission, SD 57555
tuc@rosebudsiouxtribe-nsn.gov

Ms. Viola Wain
PO Box 937
Rosebud, SD 57570
wainranch@goldenwest.net

Ms. Jane Kleeb
Bold Nebraska
1010 N. Denver Ave.
Hastings, NE 68901
jane@boldnebraska.org

Mr. Benjamin D. Gotschall
Bold Nebraska
6505 W. Davey Rd.
Raymond, NE 68428
ben@boldnebraska.org

Mr. Byron T. & Ms. Diania L. Steskal
707 E. 2nd St.
Stuart NE 68780
prairierose@nntc.net

Ms. Cindy Myers, R.N.
PO Box 104
Stuart, NE 68780
csmyers77@hotmail.com

Mr. Arthur R. Tanderup
52343 857th Rd.
Neligh, NE 68756
atanderu@gmail.com

Mr. Lewis GrassRope
PO Box 61
Lower Brule, SD 57548
wisestar8@msn.com
(605) 208-0606 - voice

Ms. Carolyn P. Smith
305 N. 3rd St.
Plainview, NE 68769
peachie_1234@yahoo.com

Mr. Robert G. Allpress
46165 Badger Rd.
Naper, NE 68755
bobandnan2008@hotmail.com
(402) 832-5298 - voice

Mr. Louis T. Genung
902 E. 7th St.
Hastings, NE 68901
tg64152@windstream.net

Mr. Peter Capossela, P.C.
Attorney at Law
PO Box 10643
Eugene, OR 97440
pcapossela@nu-world.com

Ms. Nancy Hilding
6300 W. Elm
Black Hawk, SD 57718
nhilshat@rapidnet.com

Mr. Gary F. Dorr
27853 292nd
Winner, SD 57580
gfdorr@gmail.com

Mr. Bruce & Ms. RoxAnn Boettcher
Boettcher Organics
86061 Edgewater Ave.
Bassett, NE 68714
boettcherann@abbnebraska.com

Ms. Wrexie Lainson Bardaglio
9748 Arden Rd.
Trumansburg, NY 14886
wrexie.bardaglio@gmail.com
(607) 229-8819 - voice

Mr. Cyril Scott
President
Rosebud Sioux Tribe
PO Box 430
Rosebud, SD 57570
cscott@gwtc.net
eiantoine@hotmail.com

Mr. Eric Antoine
Attorney
Rosebud Sioux Tribe
PO Box 430
Rosebud, SD 57570
eiantoine@hotmail.com

Ms. Paula Antoine
Sicangu Oyate Land Office Coordinator
Rosebud Sioux Tribe
PO Box 658
Rosebud, SD 57570
wopila@gwtc.net
paula.antoine@rosebudsiouxtribe-nsn.gov

Mr. Harold C. Frazier
Chairman
Cheyenne River Sioux Tribe
PO Box 590
Eagle Butte, SD 57625
haroldcfrazier@yahoo.com

Ms. Amy Schaffer
PO Box 114
Louisville, NE 68037
amyanschaffer@gmail.com

Ms. Debbie J. Trapp
24952 US HWY 14
Midland, SD 57552
mtdt@goldenwest.net

Ms. Gena M. Parkhurst
2825 Minnewasta Place
Rapid City, SD 57702
gmp66@hotmail.com

Ms. Joye Braun
PO Box 484
Eagle Butte, SD 57625
jmbraun57625@gmail.com

Mr. Robert Flying Hawk
Chairman
Yankton Sioux Tribe
PO Box 1153
Wagner, SD 57380
Robertflyinghawk@gmail.com

Ms. Thomasina Real Bird
Attorney
Fredericks Peebles & Morgan LLP
1900 Plaza Dr.
Louisville, CO 80027
trealbird@ndnlaw.com

Ms. Chastity Jewett
1321 Woodridge Dr.
Rapid City, SD 57701
chasjewett@gmail.com

Mr. Duncan Meisel
350.org
20 Jay St. #1010
Brooklyn, NY 11201
duncan@350.org

Ms. Sabrina King
Dakota Rural Action
518 Sixth Street, #6
Rapid City, SD 57701
sabrina@dakotarural.org

Mr. Frank James
Dakota Rural Action
PO Box 549
Brookings, SD 57006
fejames@dakotarural.org

Mr. Bruce Ellison
Attorney
Dakota Rural Action
518 Sixth St. #6
Rapid City, SD 57701
belli4law@aol.com

Mr. Tom BK Goldtooth
Indigenous Environmental Network (IEN)
PO Box 485
Bemidji, MN 56619
ien@igc.org

Mr. Dallas Goldtooth
38371 Res. HWY 1
Morton, MN 56270
goldtoothdallas@gmail.com

Ms. Bonny Kilmurry
47798 888 Rd.
Atkinson, NE 68713
bjkilmurry@gmail.com

Mr. Robert P. Gough
Secretary
Intertribal Council on Utility Policy
PO Box 25
Rosebud, SD 57570
bobgough@intertribalCOUP.org

Mr. Terry & Cheryl Frisch
47591 875th Rd.
Atkinson, NE 68713
tcfrisch@g.com

Ms. Tracey Zephier
Fredericks Peebles & Morgan LLP
Ste. 104
910 5th St.
Rapid City, SD 57701
tzephier@ndnlaw.com

Mr. Robin S. Martinez
Martinez Madrigal & Machicao, LLC
616 W. 26th St.
Kansas City, MO 64108
robin.martinez@martinezlaw.net

Ms. Mary Turgeon Wynne, Esq.
Rosebud Sioux Tribe - Tribal Utility
Commission
153 S. Main St
Mission, SD 57555
tuc@rosebudsiouxtribe-nsn.gov

Mr. Matthew L. Rappold
Rappold Law Office
816 Sixth St.
PO Box 873
Rapid City, SD 57709
Matt.rappold01@gmail.com

Mr. Paul C. Blackburn - Representing: Bold
Nebraska
Attorney
4145 20th Ave. South
Minneapolis, MN 55407
paul@paulblackburn.net

Ms. April D. McCart
Certified Paralegal
Martinez Madrigal & Machicao, LLC
616 W. 26th St.
Kansas City, MO 64108
april.mccart@martinezlaw.net

Ms. Kimberly E. Craven - Representing:
Indigenous Environmental Network (IEN)
Attorney
3560 Catalpa Way
Boulder, CO 80304
kimecraven@gmail.com

And on May 18, 2015, a true and accurate copy of the foregoing was mailed via U.S. Mail, first class postage prepaid, to the following:

Mr. Cody Jones
21648 US HWY 14/63
Midland, SD 57552

Mr. Jerry Jones
22584 US HWY 14
Midland SD 57552

Ms. Elizabeth Lone Eagle
PO Box 160
Howes, SD 57748

Mr. Ronald Fees
17401 Fox Ridge Rd.
Opal, SD 57758



Kristen N. Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501