

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

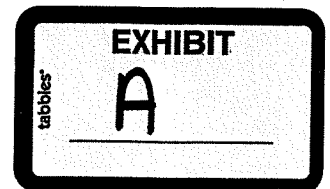
IN THE MATTER OF THE APPLICATION) BY TRANSCANADA KEYSTONE) PIPELINE, LP FOR A PERMIT UNDER THE) SOUTH DAKOTA ENERGY CONVERSION) AND TRANSMISSION FACILITIES ACT TO) CONSTRUCT THE KEYSTONE XL) PROJECT)	HP14-001 KEYSTONE'S SUPPLEMENTAL RESPONSES TO DAKOTA RURAL ACTION'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
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Applicant TransCanada makes the following supplemental responses to interrogatories pursuant to SDCL § 15-6-33, and responses to requests for production of documents pursuant to SDCL § 15-6-34(a). These responses are made within the scope of SDCL 15-6-26(e) and shall not be deemed continuing nor be supplemented except as required by that rule. Applicant objects to definitions and directions in answering the discovery requests to the extent that such definitions and directions deviate from the South Dakota Rules of Civil Procedure. The supplemental responses are made in response to the Commission's order on Dakota Rural Action's motion to compel discovery, and are made in addition to the responses and objections previously stated.

GENERAL OBJECTION

Keystone objects to the instructions and definitions contained in Dakota Rural Action's First Set of Interrogatories and Requests for Production of Documents to the extent that they are inconsistent with the provisions of SDCL Ch. 15-6. *See* ARSD 20:10:01:01.02. Keystone's answers are based on the requirements of SDCL §§ 15-6-26, 15-6-33, 15-6-34, and 15-6-36.

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REQUEST FOR PRODUCTION OF DOCUMENTS

1. All documents identified or referred to in your Answers to DRA's First Interrogatories to you. *[Applicable Finding or Condition No.: all]*

ANSWER: See documents identified in the supplemental interrogatory responses.

9. All documents concerning the decision to use API 5L X70M high-strength steel for the Project in lieu of API 5L X80M high-strength steel. *[Applicable Finding or Condition No.: Finding 18]*

ANSWER: Pipeline design is addressed in Section 2.1.7.1 of the FSEIS. A copy is included in the non-confidential FTP site. TransCanada's Material Grade Selection Directive related to XM70 steel is also included in the confidential FTP site. TransCanada's engineering standards are proprietary, have substantial commercial value, and would place Keystone at a competitive disadvantage if publicly disclosed and made available to competitors.

10. All documents concerning the decision to use fusion-bonded epoxy (FBE) coating on the proposed pipeline, including but not limited to, contracts or other agreements with the manufacturer of the FBE product, and any communications between TransCanada and such manufacturer. *[Applicable Finding or Condition No.: Finding 18]*

ANSWER: Keystone has no communications with the manufacturer of the FBE coating because the FBE specification is given to the pipe mills. The pipe mill is responsible for coating application. A copy of TransCanada's Underground Coating Directive, which relates to selection of coating materials for new construction pipelines, is included in the confidential FTP site. TransCanada's directive is proprietary, has substantial commercial value, and would place Keystone at a competitive disadvantage if publicly disclosed and made available to competitors.

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12. All documents showing location of power lines for pumping stations proposed for the Project, the location of proposed pumping stations and mainline valves for the Project in South Dakota, and including, but not limited to all communications between TransCanada's or its Affiliates' staff, consultants, advisors, or other parties concerning location and operation of pumping stations, mainline valves, and the proposed conversion of valves to remote control operations. *[Applicable Finding or Condition No.: Finding 20]*

ANSWER: Powerline maps submitted to the Department of State in September 2012 are included in the non-confidential FTP site. The Management of Change documents for valve sites and pump stations are included in the non-confidential FTP site.

13. All documents concerning compliance by TransCanada with U.S. Department of Transportation, Pipeline Hazardous Materials and Safety Administration ("PHMSA") regulations set forth at 49 CFR Part 195, and the special conditions developed by PHMSA and set forth in Appendix Z to the Department of State ("DOS") January 2014 Final Supplemental Environmental Impact Statement ("Final SEIS"), including but not limited to any and all communications between TransCanada's or its Affiliates' staff, consultants, advisors, or other parties, and PHMSA, DOS, or other federal agencies concerning regulatory compliance, approvals, or waivers of applicable regulations with respect to the Project. *[Applicable Finding or Condition No.: Finding 22]*

ANSWER: The Design Basis Memorandum for the Project, dated October 2008, is included in the non-confidential FTP site. It is the initial design guidance for the project and mandates compliance with codes and standards in Section 4. The IFC (Issued For Construction) drawings which provide compliance direction on a site-specific basis are included in the

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confidential FTP site. The IFC drawings are the result of thousands of hours of engineering, surveys, and design, at a cost of millions of dollars, and would substantially injure Keystone if publicly disclosed and made available to competitors. Keystone's Special Permit Application is included in the non-confidential FTP site. Keystone has not submitted any other waiver applications. The correspondence and specific documents related to the Department of State, PHMSA and EPA Independent Engineering Design review are included in the non-confidential FTP site. The correspondence and specific documents related to compliance with the PHMSA special conditions are included in the non-confidential FTP site. Only select conditions were the subject of correspondence based on timing set forth in the conditions relative to work Keystone was undertaking at the time (special condition 1-9 (pipe), 14 (HCAs), 18 (welding procedure development), 58 (QC) and 59 (TPIC)). The correspondence and specific documents related to the development of the special conditions are included in the non-confidential FTP site.

26. All documents containing information concerning the failure of FBE coating referenced in the update to Finding 68. *[Applicable Finding or Condition No.: Finding 68]*

ANSWER: A root cause analysis of the incident is included in the non-confidential FTP site.

28. All documents containing information regarding TransCanada's (or its Affiliates') decision to use horizontal directional drilling to cross waterways, including but not limited to all documents discussing or describing the decision-making process engaged in to determine which waterways would be crossed using horizontal directional drilling. *[Applicable Finding or Condition No.: Finding 83]*

ANSWER: Section 2.1.9.2 of the FSEIS addresses the criteria for the use of HDD. A copy is included in the non-confidential FTP site. Site-specific drawings for HDD locations are included in the non-confidential FTP site.

29. All documents, including but not limited to forecasts and projections of tax revenue accruing to the State of South Dakota should construction and operation of the Project commence. *[Applicable Finding or Condition No.: Finding 107]*

ANSWER: Keystone has confirmed that it has no responsive documents.

30. All documents evidencing TransCanada's or its Affiliates' compliance efforts with applicable laws and regulations related to construction and operation of the Project. *[Applicable Finding or Condition No.: Condition 1]*

ANSWER: Keystone has not started construction or operation of the Keystone XL Pipeline. The internal corporate compliance template to be completed for submission to PHMSA is included in the non-confidential FTP site. Additional corporate policies addressing TransCanada's Code of Business Ethics, Compliance Organization, Ethics and Compliance Organization, and Corporate Compliance Charter are included in the non-confidential FTP site.

31. All documents concerning TransCanada's or its Affiliates' efforts to obtain and comply with applicable permitting referenced in Condition 2, including but not limited to copies of any permits obtained. *[Applicable Finding or Condition No.: Condition 2]*

ANSWER: The Presidential Permit Application, the draft U.S. Army Corps of Engineers pre-construction notification, and all non-environmental permits obtained in South Dakota are included in the non-confidential FTP site.

33. All documents concerning or discussing proposed adjustments or deviations in the route of the Project, including but not limited to copies of notices to affected land owners.

[Applicable Finding or Condition No.: Condition 6]

ANSWER: In addition to the route variation maps previously produced, Management of Change documentation and landowner contact reports related to the route changes are included in the non-confidential FTP site.

34. All documents concerning the appointment of a public liaison officer by TransCanada for the Project, and all documents containing information regarding communications between the public liaison officer and landowners affected by the Project.

[Applicable Finding or Condition No.: Condition 7]

ANSWER: Copies of the reports that Sarah Metcalf has submitted to the Commission are included in the non-confidential FTP site. Copies of e-mails between Metcalf and Keystone XL landowners are also included in the non-confidential FTP site.

37. All documents containing information regarding consultations, including but not limited to communications, with Natural Resources Conservation Services ("NRCS") regarding development of construction/reclamation units ("Con/Rec Units"). *[Applicable Finding or Condition No.: Condition 15]*

ANSWER: In addition to the documents previously produced, included in the non-confidential FTP site are copies of contact reports and correspondence related to development of the Con/Rec Units.

38. All Con/Rec Units developed in connection with the Project, including but not limited to drafts and supporting studies or documents. *[Applicable Finding or Condition No.: Condition 15]*

ANSWER: The 2013 Construction/Reclamation Unit Specifications are found in Appendix R of the FSEIS. Copies are included in the non-confidential FTP site.

42. All documents containing information regarding consultations between TransCanada (or its Affiliates) and South Dakota Game, Fish and Parks. *[Applicable Finding or Condition No.: Condition 20(c)]*

ANSWER: The following is a summary of Keystone consultation history with SD Game, Fish, and Parks as documented in the USFWS issued May 2013 Biological Opinion (Appendix H of the of the Department of State FSEIS (2014)).

- June 10, 2008: Keystone met with staff from USFWS and South Dakota Department of Game, Fish, and Parks (SDGFP), at the SDGFP office in Pierre, South Dakota, to discuss issues pertaining to wildlife, special status species, and sensitive habitat that could potentially occur in the Project area. The goal of the meeting was to gather input on agency recommendations based on the information sent to them in April 2008 for species occurrence, habitat assessments, and future field surveys. Keystone incorporated comments from the meeting into survey protocols and BMPs for future agency verification.
- January/February 2009: Keystone initiated section 7 consultation with the USFWS. Keystone continued discussions with BLM, and state wildlife agency offices for South Dakota that included state-specific special status species survey protocols and BMPs for the species

identified as potentially occurring during the 2008 meetings. A summary of the findings from the 2008 biological field surveys was included in the discussions.

- January 27, 2009: Keystone met with staff from the USFWS and SDGFP at the SDGFP office in Pierre, South Dakota, to discuss issues pertaining to special status species surveys. The goals of the meeting were to verify Keystone's survey approach, BMPs, discuss required field surveys, and review the information that was sent to the USFWS in the January/February 2009, informal consultation package. The USFWS and SDGFP provided additional recommendations to Keystone's sensitive species mitigation approach to be updated prior to final agency concurrence.
- October 23, 2012: A meeting was held between the USFWS, Department, SDGFP, BLM, and Keystone regarding the greater sage-grouse and a compensatory mitigation plan for the species in South Dakota. Discussions included a management plan and avoidance, minimization, and mitigation strategies.

Copies of contact reports and correspondence related to this process of consultation are included in the non-confidential FTP site.

44. All documents describing or containing information regarding TransCanada's or its Affiliates' efforts to comply with conditions regarding construction of the Project near wetlands, water bodies, and riparian areas, such documents including but not limited to compliance plans, construction plans, mitigation plans, and communications with any regulatory agency in such regard. *[Applicable Finding or Condition No.: Condition 22]*

ANSWER: Copies of Keystone's CMR Plan (Rev 4), Appendix R to the FSEIS, and the draft Preconstruction Notices to the U.S. Army Corps of Engineers are included in the non-confidential FTP site.

53. All documents containing information regarding TransCanada's or its Affiliates' efforts to comply with protection and mitigation requirements of the US Fish and Wildlife Service ("USFWS") and SDGFP with respect to any endangered species. *[Applicable Finding or Condition No.: Condition 41]*

ANSWER: The Biological Assessment and Biological Opinion are included in the non-confidential FTP site. Contact reports with USFW regarding endangered species are also included in the non-confidential FTP site. The Biological Survey Reports are included in the confidential FTP site.

55. All documents referencing or containing information concerning cultural or paleontological resources along the Project route, including but not limited to all documents identifying cultural and paleontological resources, consultations and communications with the Bureau of Land Management and Museum of Geology at the South Dakota School of Mines and Technology. *[Applicable Finding or Condition No.: Condition 44]*

ANSWER: There were no consultations with BLM (there are no BLM lands along the route in South Dakota) or the Museum of Geology at the South Dakota School of Mines and Technology for the Project route in South Dakota. The cultural survey reports are included in the confidential FTP site, as are the Paleontological Monitoring Plan and its appendices. The Programmatic Agreement (Appendix E to the FSEIS) is included in the non-confidential FTP site.

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56. The incident reports for each and every spill or leak related to a pipeline operated by TransCanada and its Affiliates since January 1, 2010. [*Applicable Finding or Condition No.: Findings 12(2)-(3), 41-45, 47, 103; Conditions 32-38*]

ANSWER: The incident reports are included in the non-confidential FTP site.

Dated this 17th day of April, 2015.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ William Taylor

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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of April, 2015, I sent by e-mail transmission, a true and correct copy of Keystone's Supplemental Responses to Dakota Rural Action's First Request for Production of Documents, to the following:

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/s/ William Taylor
One of the attorneys for TransCanada