

October 27, 2014

Executive Director  
South Dakota Public Utilities Commission  
500 E. Capital Ave.  
Pierre, SD 57501-5070

And to the Members of the South Dakota Public Utilities Commission

- 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.
- Application for Party Status HP14-001;
- Further documentation for Party Status of Tom BK Goldtooth, on behalf of the Indigenous Environmental Network, and;
- In reply to TransCanada's Response to Applications of Party Status of Tom BK Goldtooth

This is to clarify, pursuant to SDCL 49-41B-17, when I, Tom BK Goldtooth, filed an application to the South Dakota Public Utility Commission (Commission) to be granted party status in the matter of the above mentioned facility permit, I did so on behalf of the Indigenous Environmental Network (IEN), a Native non-profit organization.

It is IEN's continued concern of cultural resource impacts that may take place as a result of the construction of the KXL pipeline. TransCanada's response to our petition citing that the Commission has no jurisdiction is noted; however, this concern is of valid interest and is addressed numerous times in the Commission's Amended Permit Conditions (Number 3, 43, 43b, 43c and 43d). The Amended Permit Conditions cite the role of South Dakota's State Historic Preservation Office (SHPO) numerous times in section 43 of the Conditions, however, with no recognition of the numerous Tribal Historic Preservation Offices of the South Dakota Tribes and Tribes in nearby States that may have historical interest in cultural resource impacts caused by the project.

As mentioned in our petition, IEN has network members who are enrolled tribal grassroots members of South Dakota tribes. Some are founding members of IEN. As individual tribal members, they have invested interests in this pipeline project as this proposed project crosses their lands; lands that have been adjudged by the U.S. Indian Claims Commission and the U.S. Court of Claims to be of aboriginal and Treaty-titled land<sup>1</sup>.

For further clarification, IEN, along with these tribal grassroots members of South Dakota have interests beyond cultural resource impacts. IEN and its South Dakota tribal grassroots members

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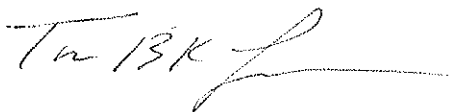
<sup>1</sup> *United States v. Sioux Nation of Indians*, 601 F.2d 1157, 1172 (Ct. Cl. 1975) aff'd 448 U.S. 384 (1980); *Sioux Nation v. United States*, 21 Ind. Cl. Comm. 371, 382 (1974)

have serious interests and concerns of the threats this pipeline project could have to water quality and quantity, the environment, and to the health and safety of humans, the ecology, and endangered and vulnerable species that could be at risks to pipeline spills and leaks. IEN has 23 years of history working with South Dakota tribes, traditional societies, elders, youth and women on issues of environmental justice. The interests and concerns of IEN directly relates to the effects this proposed project would have on the environment within the jurisdiction of the Commission and within the Treaty-lands and territories of the Lakota-Nakota-Dakota nations.

IEN has been requested by concerned tribal members of South Dakota to participate in the Commission process. On behalf of IEN we have filed our application on time. With good intentions, we have done everything to fulfill the stated requirements posted by the Commission.

We respectfully request the Commission to approve us for party status pursuant to SDCL 49-41B-17.

Thank you,



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These persons are approved to represent IEN during the Commissions' scheduled agenda on October 28, 2014:

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