

**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 ) HP 14-001  
ENERGY CONVERSION AND TRANSMISSION )  
FACILITIES ACT TO CONSTRUCT THE )  
KEYSTONE XL PROJECT )

**STANDING ROCK SIOUX TRIBE  
MOTION FOR DISCOVERY SANCTIONS OR TO COMPEL**

COMES NOW the Standing Rock Sioux Tribe, by and through undersigned counsel, and moves for an order prohibiting the applicant TransCanada Keystone Pipeline, LP (“TransCanada”) from introducing evidence regarding compliance by Keystone XL with state and federal law; or, alternatively, to produce the documents requested by the Tribe and to fully answer the interrogatories propounded. The Tribe submitted timely and reasonable requests for the production of documents and interrogatories related to the Findings of Facts and Amended Permit Conditions (HP 09-001), and the credibility of TransCanada’ witnesses and documentary evidence. *See* Exhibits A-D filed herewith. TransCanada has willfully failed to comply with the applicable discovery statutes and rules.

Specifically:

- (1) TransCanada possesses an Emergency Response Plan for the Keystone XL Pipeline;
- (2) TransCanada possesses an Integrity Management Plan and a Quality Control and Quality Assurance Plan for the Keystone XL Pipeline;
- (3) TransCanada possesses documents relating to compliance in the construction and operation of the Keystone XL Pipeline with the numerous state and federal laws; and

(4) TransCanada possesses information on the incident referenced in the item 68 in its “Tracking Table of Changes,” *Petition for Certification*, App. C, *on file herein*, regarding corrosion in a pipeline owned and operated by TransCanada.

The above-described information and documents contain evidence that is relating to matters within the scope of the Findings of Fact and Amended Conditions and is relevant to the TransCanada’s petition for certification. Furthermore, such information and documents may be useful or impeachment purposes, and, in addition, may contain vital admissions against interest. Denial of the above-described information and documents will unfairly prejudice the Tribe in preparing for the hearing and will cause the Tribe undue harm, hardship and injustice.

The Tribe certifies that it has undertaken considerable and good faith effort to resolve this discovery dispute and avoid this Motion to Compel. The Tribe’s efforts include initiating a telephone conference with counsel for TransCanada on February 24, 2015, and propounding Interrogatory No. 51 for a list of relevant documents, in order to identify specific documents and scale down the Tribe’s document requests.

The Tribe moves for an order excluding the introduction of evidence by TransCanada regarding compliance by Keystone XL with applicable state and federal law. The exclusion of this testimony shall prevent TransCanada from certifying that Keystone XL continues to meet the conditions in the 2010 permit, and consequently the *Petition for Certification* should be dismissed. Alternatively, the time-period for discovery should be extended, the hearing continued, and TransCanada compelled to produce documents per the Tribe’s Requests for Production 3-15 (regarding compliance with applicable state and federal law), and to answer Interrogatories Nos. 15-20 (regarding emergency response), 30 (regarding the pipeline corrosion referenced in item 68 of the Table of Changes) and 51 (identification of documents). Costs and attorney’s fees are requested as permitted by law.

This motion is based on SDCL §§15-6-26, 15-6-33; 15-6-37(a)(2), the Exhibits and Brief filed herewith, and the pleadings and papers on file herein.

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