

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

0-0

IN THE MATTER OF THE PETITION OF	:	
TRANSCANADA KEYSTONE PIPELINE,	:	DOCKET NUMBER HP 14-001
LP FOR ORDER ACCEPTING	:	
CERTIFICATION OF PERMIT ISSUED IN	:	
DOCKET HP09-001 TO CONSTRUCT	:	REBUTTAL TESTIMONY
THE KEYSTONE XL PROJECT	:	OF JON SCHMIDT
	:	
	:	

0-0

Pursuant to the Commission’s Order Granting Motion to Define Issues and Setting Procedural Schedule, Petitioner TransCanada Keystone Pipeline, LP, offers the following rebuttal testimony of Jon Schmidt.

**1. State your name and occupation.**

Answer: My name is Jon Schmidt. I am employed as Vice President, Environmental and Regulatory Services, Energy Services, by exp Energy Services, a consultant for the Keystone XL Project.

**2. Did you provide direct testimony in this proceeding?**

Answer: Yes.

**3. To whose testimony are you responding in rebuttal?**

Answer: I am responding to the direct testimony of Doug Crow Ghost and Carlyle Ducheneaux.

**4. On pages 2-4 of his testimony, Crow Ghost discusses the Winters Doctrine.**

**Will construction of the Keystone Pipeline affect the water rights of the Tribe under this doctrine?**

Answer: Keystone has not applied yet for temporary water use permits. Current South Dakota administrative code (ARSD 46:5:40:1) indicates that “no temporary permit may be issued if the permit interferes with or adversely affects prior appropriations or vested rights.” Thus, there are administrative protections for the Tribe’s claimed water rights. The proposed temporary water uses will not interfere with long-standing water rights in any of the rivers proposed for withdrawal.

**5. On page 5 of his testimony, Crow Ghost states that the Little Missouri River, the Cheyenne River, the North Fork of the Morean River, the Bad River, and the White River have been potentially impacted by long-term drought. If Keystone withdraws water from these river systems, is it possible that downstream water users, including Tribal water users and non-Indian farmers and ranchers, will not have adequate water supplies?**

Answer: As discussed above, the permitting process will address that issue.

In addition, Keystone's primary use of water during construction is for hydrostatic testing.

Water used in hydrostatic testing is returned to the water source.

**6. On page 6 of his testimony, Crow Ghost discusses the effect of construction on water quality. Will construction of the Keystone Pipeline affect water quality, specifically referencing the North Fork of the Grand River and the Little Missouri River?**

Answer: The Project will not cross the North Fork of the Grand River, and therefore will not release any sediment contamination in the river through handling or construction. The Project will also cross the Little Missouri River using the HDD construction method, thereby avoiding any impacts to the river sediments, and thereby avoiding release of potential contaminants in the river.

**7. If drought conditions exist during the period of time when Keystone requires water for dust control or hydrostatic testing, how will Keystone obtain adequate water supplies?**

Answer: If drought conditions were to exist such that insufficient unappropriated water was available in quantities required by Keystone, Keystone would seek alternate sources of water, which could include use of existing water wells, drilling new water wells, reuse of water from upstream tested sections as appropriate, or use of municipal supply. Additionally, Keystone could use alternate dust abatement methods  
{01914821.1}

such as magnesium chloride to reduce the amount of water needed. Lastly, if no alternate solutions were feasible Keystone would delay its testing program.

**8. In question 8 of his testimony, Carlyle Ducheneaux states that the soils in and around the Cheyenne River and its tributaries are contaminated by previous polluters. Will construction of the Keystone XL Pipeline disrupt these contaminated sediments?**

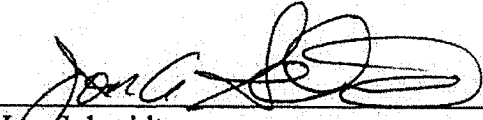
Answer: The Cheyenne River will be crossed using HDD construction techniques, which do not result in the disturbance or release of potential contaminants from existing river bed sediments or cause significant disturbance of soils in the area of the river.

**9. In questions 12 and 13 of his direct testimony, Ducheneaux addresses the likelihood of pipeline failure due to sloughing of river banks and the fact that the banks of the Cheyenne River are highly susceptible to collapse. Will the construction of the Keystone XL Pipeline cause sloughing, erosion, or collapse of these river banks?**

Answer: The Cheyenne River will be crossed using HDD construction techniques. There will be no impact to the river banks and bluffs that could lead to sloughing of the banks into the river. With respect to tributaries that are crossed using the open cut construction technique, Keystone will mitigate bank and bluff sloughing by

various stabilization means such as installation of rip-rap, geotextile material or re-sloping of the banks, all of which are addressed in the CMR Plan.

Dated this 4 day of June, 2015.

  
\_\_\_\_\_  
Jon Schmidt