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 PIPELINE PROJECT	)))))))	HP 07-001 DIRECT TESTIMONY OF CURT HOHN October 31, 2007

My name is Curt Hohn. I'm the General Manager of WEB Water Development Association, Inc., with offices at 38462 U.S. Highway 12, P.O. Box 51, Aberdeen, South Dakota 57402-0051. I'm responsible for the overall leadership, operations, development and protection of the WEB water pipeline system which provides domestic water service and drinking water to a 17 county area, which includes 14 counties in South Dakota and 3 counties in North Dakota.

Professional Qualifications - Background

I have been involved in water resource development, management, water resource conservation, aquifer studies, and rural water system development since 1976. From 1976 through 1982, I served as the Manager of the Oahe Conservancy Sub-district, one of five districts established by the South Dakota Legislature for the purpose of regional water resource development. In that capacity, I worked with the South Dakota Geological Survey (SDGS) and United States Geological Survey (USGS) on ground water studies that were completed in the northeast area of South Dakota, including the counties of Marshall, Day, Clark, Brown, and Beadle, all of which would be crossed by the TransCanada-Keystone Pipeline as currently proposed. I have served as the General Manager of the WEB Water Development Association for 15 years, from 1983 through 1987 and again from 1997 to the present date. I have been involved in securing the necessary federal authorization and funding for the WEB project and have been involved in the management and over sight of much of its construction. From 1998 to 1999 I served as a contract facilities consultant for CBM Inc. I also served as the Division Administrator and Operations Manager for the Oregon General Services Department from 1989 to 1993 involved in building facilities construction and operations. As the Manager of Engineering and Technical Services for the Clackamas Water and Sanitary District from 1994 to 1997 I was involved in treatment plant and pipeline system development and construction for a fast growing urban growth area southeast of Portland, OR. I'm a graduate of Northern State University with a Bachelor of Science degree in business and public administration. I worked as plumber on large building and heating/cooling facility

construction to put myself through college. I was born and raised in Aurora County, South Dakota near the town of Plankinton on a family farm which is still being operated by a member of my family.

WEB Water Development Association, Inc.

WEB Water Development owns and operates a regional water pipeline system which provides drinking water and domestic water to 8,000 farms and rural homes, 105 towns and bulk use customers, 5 ethanol plants, 2 electrical peaking power plants, 2 soybean processing plants, a 500,000 head livestock industry, and assorted industries in a 17 county area through a 6,800 mile pipeline system. Our primary source of water is the Missouri River at Lake Oahe Reservoir south of Mobridge, SD. The WEB water system was constructed in 1985 to 1990 to replace the deep artesian water wells, which prior to WEB were the main source of water for most of the area since statehood. The artesian water has high levels of sodium and TDS and fails to meet federal and state safe drinking water standards.

TransCanada-Keystone Impact On WEB

As proposed, the TransCanada- Keystone Pipeline would cross or parallel the WEB water pipeline system at 12 to 20 different locations in Day and Clark Counties, depending on the final route taken by the oil pipeline. The largest pipe being impacted is a 12 inch PVC mainline which provides the primary source of drinking water for 1,029 farms and rural homes, 8 towns and several lake resort areas in Day, Marshall and Clark Counties. One of the few sources of quality water in the area is the glacial drift area that makes up the James Aquifer and the Deep James Aquifer located along the west edge of Marshall, Day, and Clark Counties.

The route that TransCanada has selected for the proposed Keystone oil pipeline would cross through and over this aquifer, which is used by ranchers and farmers in the area for livestock and other uses. WEB is exploring the development of wells in groundwater aquifers near Mansfield, SD and Andover, SD to develop wells and install package water treatment plants to treat ground water, which will be blended with treated Missouri River water to help WEB meet peak water needs of our customer service area including value added plants that are building in the area.

Burden of Proof

Under South Dakota law, the applicant in this case, TransCanada, has the burden of proof as stated in SDCL 49;

> *SDCL 49-41B-22 Applicant's burden of proof. The applicant has the burden of proof to establish that:*
>
> *(1) The proposed facility will comply with all applicable laws and rules;*
> *(2) The facility will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area;*
> *(3) The facility will not substantially impair the health, safety or welfare of the inhabitants; and*
> *(4) The facility will not unduly interfere with the orderly development of the region with due consideration having been given the views of governing bodies of affected local units of government.*

The testimony presented in this document will address where we believe the permit application filed by TransCanada fails to meet burden of proof as required under state and federal law.

(1) The proposed facility will comply with all applicable laws & rules

The permit application and project plan presented by Canada-Keystone does not comply with state and federal laws and regulations.

Title 49: Transportation, Part 195 - Transportation of Hazardous Liquids By Pipeline: Federal regulations require that plans for crude oil pipelines provide protection for High Consequence Areas (HCA's) and Unusually Sensitive Areas (USA's) and Wellhead Protection Areas (WHPA) which has not been done by the applicant TransCanada. The permit applications filed with the U.S. State Department and the permit application filed with the SDPUC failed to recognize shallow aquifers being crossed in Marshall, Day, Clark and Beadle Counties and other counties. The applications also failed to recognize and mitigate for eight (8) rural water systems being crossed by the project.

Eminent Domain: The permit application does not comply with South Dakota eminent domain law SDCL 21-35, SDCL 49-41B, SDCL 46-8, SDCL 49-2, SDCL 49-7.

Common Carrier: TransCanada does not meet the test of a "common carrier". TransCanada has not secured the necessary permit from the South Dakota Public Utilities Commission and the necessary approvals. TransCanada has not obtained legislative approval, has not "Negotiated in good faith" as required under the law, and has secured easements through use of "harassment and willful or wanton misconduct and fraudulent means". TransCanada holds itself out as "a common carrier engaging in the business of transporting commodities for hire" when in fact the Keystone Pipeline is owned by a monopoly and will be used primarily to haul the oil products of the owners and investors of the pipeline, Conoco Phillips and EnCana Corp, a Calgary-based company specializing in recovery of oil sands bitumen. (See Exhibit 1) TransCanada-Keystone will move no oil products for anyone in South Dakota and will provide no direct benefit to the residents of South Dakota, which is essential in claiming common carrier status. We believe that TransCanada has violated state and federal law by filing condemnation and eminent domain against 18 South Dakota landowners, 15 landowners in Marshall County and 3 landowners in Day County. TransCanada has taken this action before the SDPUC has even held formal hearings or granted a permit and before the appeal of any such decision could be considered by a circuit court as is required by law and before a permit approval has been granted by U.S. government. TransCanada's permit and project plan does not comply with eminent domain laws of the state or the federal EIS approval process. The easement document TransCanada has used to secure signatures includes a clause that calls for "one or more pipes" to be placed in the easement right-of-way while the permit and project plan specifies one pipeline. (See Exhibit 2) An easement of this kind which is secured under duress or under the pressure or threat of condemnation, is not a valid document and amounts to an illegal taking which is a violation of state and federal law and a possible violation of the civil rights of the property owners involved.

James Bush of Britton, SD was working cattle when TransCanada's land agent dropped by and insisted that Bush stop what he was doing and sign the easement which he had just been given. Bush asked to set up an appointment at a later date. The next contact Jim had with TransCanada was when the sheriff delivered condemnation papers. An elderly lady (whose signed statement will be provided later) will testify that she was told by a TransCanada land agent that if she signed the easement "we can bring the boys back from Iraq sooner". We will present signed statements and testimony from various landowners that TransCanada land agents have raised the threat of condemnation at the first meeting and virtually every meeting or contact. There has been no negotiation as required by state and federal law. Landowners were denied their requests to keep a copy of the easement to share with their attorney or family. If TransCanada, a private company from a foreign country, is allowed to take land and property by eminent domain and condemnation, then property rights are no longer safe in South Dakota and the United States of America. Under South Dakota law, the use of eminent domain (condemnation) is limited to state and local governments, power lines, rural water systems and railroads that provide benefits to the communities they cross. Taking of private land is done only after all other options have been exhausted. Even then, landowners have the right to appeal to locally elected boards and commissions for relief.

National Environmental Policy Act (NEPA): The project plan and testimony presented by TransCanada does not adequately address and compare the environmental and social impacts of the proposed route to various other alternate routes that could and should be considered, including the I-29 Alternate Route along the west road ditch of Interstate Highway 29 which was included as an alternate route in the permit application filed with the US State Department (See Exhibit 3). Or a route from Williston, ND south through the oil field area of western North Dakota and South Dakota which would place the pipe near the oil fields and provide a means for shipping oil out.

Further consideration should be given to these alternate routes by the PUC and federal government as part of the Final Environmental Impact Statement. By failing to seriously consider this and other alternatives, TransCanada is in violation of federal law. In their testimony, TransCanada claims "constructing any pipeline along a major highway will put workers at risk, require highway closures, increase safety impacts and costs, hamper development of commercial districts and trade one group of affected landowners for another". The WEB rural water system constructed miles of large ductile iron pipelines ranging in size from 30 inch and 24 inch pipe in the Highway 12 and Highway 281 road ditches without accident or injury. The pipeline has been operated safely for more than 20 years. Permits were granted by the South Dakota Department of Transportation (See Exhibit 4).

The State of South Dakota owns the highway road ditch along I-29 so very little private farm land would be needed to accommodate construction of the Keystone Pipeline. Road access for construction, operation and emergency response purposes would be better from a four lane interstate highway than a dirt road or gravel section line road that often has load restrictions and often are impassable in the winter and during the spring of the year. There is concern that Keystone with use the easement right-of-way they secure or condemn as a "corridor" for more pipelines. A representative of ConocoPhillips stated in a Houston news story that South Dakota and the Midwest will be a "corridor" for oil pipelines (more than one) and that by the year 2020 as much as 3,500,000 barrels of tar sands crude oil will be moved through pipelines in the USA (See Exhibit 1). To move that much crude oil will require SIX pipelines like TransCanada-Keystone. The state permit process and NEPA require that all connected and related issues be addressed in the project plans and that project plan plans be specific and detailed.

The National Environmental Policy Act (NEPA) requires that alternatives be reviewed and considered and that the public be given an opportunity for comment. In 2006, as part of their filing with the U.S. State Department, TransCanada present maps showing three pipeline routes that would have used the west ditch of Highway I-29. All three options would have passed by Elk Point, South Dakota, the location Hyperion has selected for a tars sands oil refinery. In the end, the route proposed for the Keystone Pipeline was shifted west so that it will run from Britton to Yankton, South Dakota. The citizens of South Dakota were never included in the decision process on site selection for the pipeline or the refinery. The oil

industry in Canada and Texas made the decision, without consultation, which is a violation of federal law and state law. IF the SDPUC grants a permit for the Keystone Pipeline it should be limited to one pipeline.

If a serious review of this project has been done by any state agencies the reports should be released to the public. Alternate pipeline routes through western North Dakota and South Dakota where oil wells are located or installing the pipe in the wide I-29 road ditch was never seriously considered or studied. The Department of Environment and Natural Resources (DENR), GF&P, Health Department, Geological Survey, EPA, and Fish and Wildlife have all been silent. Federal agencies say it's a state issue and state agencies say its federal. If a farmer installs a 1,000 gallon fuel storage tank, the DENR would review the plans and require containment to protect groundwater and the environment. If it leaks the farmer will be fined or prosecuted. The TransCanada pipeline will move 24.8 million gallons of crude oil PER DAY through South Dakota (591,000 barrels) through 220 miles of high pressure thin walled pipe crossing aquifers, wetlands, streams and hundreds of public and private water lines. Risk Management Consultants, DNV, says that a pinhole leak could release 372,000 gallons of oil PER DAY with no review by state agencies. If a farmer drains a wetland GF&P or USF&W would fine them. If a farmer's oil tanks leaks DENR would issue a fine and enforce the law. TransCanada, a private oil company from a foreign country, is allowed to threaten landowners with condemnation, trespass on private property, dig through wetlands, streams and aquifers, and add a new risk to our environment and no state agency gets involved.

Need & National Interest: TransCanada says their pipe is in the "national interest" and is needed to move Canadian tar sands oil south to Illinois and Texas. Yet, US oil refineries are running at less than full capacity. Canadian oil will compete with US energy supplies, including ethanol and wind energy here in the Midwest. TransCanada provides no direct benefit to South Dakota. Federal and state agencies, like the Fish and Wildlife Service, NRCS, and GF&P refuse to grant easements so the oil pipe can't cross government land or land with government easements. That forces the oil pipeline over on to private farm land. Apparently a high pressure crude oil pipe is in the "National Interest" so long as it's on private farm land and doesn't cross government lands.

Full Disclosure - Public Information: Documents TransCanada filed with the SDPUC in April in support of their permit application were all stamped "confidential" and not made available to the public. Even the table of contents was marked confidential. Only after formal complaints were filed by Dakotan's Concerned and others was part of the information made available months later. Those documents that were eventually released were not available until the Friday before the public meetings, too late for the 660 people who attended the meetings to review the documents. TransCanada did most of the talking at the four meetings leaving only limited time for questions and public input. Landowner lists were never made available by TransCanada. After complaints were filed, a list was released by the PUC but it was loaded with names of adjacent landowners so no one could really tell where the pipeline would go and who was impacted. One month before the

PUC hearings, a June 26th version of the pipeline route map is still not available to the public or the PUC as of Oct. 22, 2007.

(2) The facility will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area……..

At an operating pressure of 1,440 psi to 1,584 psi the thin walled pipe that TransCanada is proposing to construct and operate what will be highly pressurize vessel waiting to fail. At that pressure, TransCanada is asking South Dakota to accept an "unreasonable risk of a crude oil leak or spill occurring resulting in irreversible damage to 220 miles and thousands of acres of productive farmland, millions of acre feet of ground water, hundreds of creeks and streams, wetlands, and the groundwater aquifers, rivers, creeks, wetlands and private property in eastern South Dakota. Robert Jones, TransCanda VP was quoted in an April 29, 2007 Argus Leader news story saying "crude oil regularly moves between 1,400 to 2,000 psi, up from 1,000 psi for pipelines built in the 1950's" (See Exhibit 5). TransCanada will increase the pressure on this pipeline to 2,000 psi to move more and more oil through South Dakota to increase their profits. It's the job of state and federal regulators to protect the resources and the safety of the people of South Dakota.

Thinner Wall Pipe: November 17, 2006, TransCanada applied for a "Special Permit" from the federal government to install a 30-inch pipeline with THINNER PIPE WALL THICKNESS than any other oil pipeline currently operating in the United States. They also asked for permission to run the pipe at a HIGHER OPERATING PRESSURE (11%). TransCanada received the permit approval on April 30, 2007 but didn't inform the SDPUC or the public until August 23, 2007, four months later. What's remarkable is TransCanada has no track record of operating high-pressure crude oil pipelines. Most of TransCanada's pipeline experience is with natural gas pipelines which are less like to spill and damage soil or ground water. When crude oil pipes leak the oil spreads out into the soil and damages the groundwater aquifers. Thinner walled pipe means greater risk for South Dakota. Allowing a company like TransCanada, with no oil pipeline experience, a permit of that kind is an insult to South Dakota and every state crossed. According to recent news reports, much of the steel pipe that will be installed will be made in China and India. Neither country can provide the level of inspection and quality control that U.S. steel pipe company's offer. China has had problems making toothpaste, dog food and children's toys. A news story dated 10/31/07 reported that the estimated cost of the TransCanada-Keystone Pipeline has risen from $2.1 billion to $5.4 billion because of steel and construction costs (See Exhibit 6) . The PUC should require that all pipe installed in South Dakota be made in the USA and be of the same wall thickness or greater wall thickness than existing oil pipelines being operated, tested and inspected by the federal government in the United States of American. If a private company from Canada wants to build a crude oil pipeline through South Dakota they should be required to meet the same standards as the oil companies they are competing with in this country.

49 CFR 195.106 (Thinner Pipe Wall – Higher Pressure): TransCanada's permit application filed with the SDPUC on April 27, 2007 requested a permit to build and operate a pipeline to move 18,270,000 gallons (435,000 barrels) of tar sands oil per day through South Dakota at a pressure of 1,400 psi. Four months later, on August 23, 2007, TransCanada informed the SDPUC that they had requested and received a "Special Permit" from Jeffery D. Wiese, Acting Associate Administrator for Pipeline Safety, on April 30, 2007 to increase the volume moved to 24,822,000 gallons (591,000 barrels) per day which represents a 36% increase in pipeline flow. To accomplish this, TransCanada proposes to increase the operating pressure from the standard followed by other oil pipes in the USA of 72% of pipe design capacity to 80% of pipe design capacity. In testimony, TransCanada officials are now saying the pressure will be 1,440 psi and 24,822,000 gallons (591,000 barrels) per day, and that federal law allows them to exceed the maximum operating pressure by 10% as a result of "abnormal" operation (1,440 psi x 1.10 = 1,584 psi). Once the Keystone Pipeline is built, TransCanada will be tempted to sell or lease the right-of way easement area to other pipelines and to "increase" the operating pressure to move even more oil at greater pressure and greater risk to South Dakota. Robert Jones, TransCanada Vice President was quoted in an Argus Leader news story dated April 29, 2007 saying that "crude oil regularly moves between 1,440 to 2,000 psi, up from 1,000 psi for pipelines built in the 1950's" (See Exhibit 6). Operating a crude oil pipeline through South Dakota at any pressure beyond what is normally done by other oil pipeline operators in the USA will increase the level of risk to South Dakota and should be avoided for public safety reasons if nothing else. TransCanada has not told us what the Maximum Operation Pressure (MOP) will be at the lowest point of elevation between each pump station in South Dakota. There will be low elevation locations along the Keystone pipeline where the pressure on the pipeline will "exceed" the Maximum Operation Pressure. If so, then TransCanada should be required to install, as part of construction, pressure sensors devices which are tied into their computer SCADA system that monitors the project. The SDPUC and the communities crossed by this pipeline have a right to know where high pressure locations will be along the pipeline and what special construction measures, if any, will be taken to protect public safety and the environment. Other pipelines with thicker pipe wall and lower operating pressure have failed because of surges on the line caused by equipment malfunction and operator error.

Oil Leak Impacts

A report prepared by a risk management consultants (DNV), in support of TransCanada permit application confirms that the TransCanada-Keystone Pipeline will leak within five to seven years and that pinhole leaks on the pipeline that will not be detected by computer SCADA systems could result in oil leaks as large as 372,330 gallons per day that could continue to leak for 90 days before they are detected. The Draft Environmental Impact Statement does not adequately address the impact that operational oil leaks on the TrandsCanada-Keystone Pipeline will have on aquifers, the environment, and the farm communities crossed by the project. The Draft EIS and the documents presented to the PUC address oil leaks that occur during construction from equipment and small spills and they do not adequately address the impact that oil leaks

during pipeline operations will have on aquifers, the environment, and the rural communities that will be crossed by the project.

Higher Operating Pressure Means Greater Risk For South Dakota

The application that TransCanada filed with the U.S. State Department in 2006 and the South Dakota PUC in 2007 stated that the Keystone Pipeline would be operated at 72% of pipe design factor and that the pressure would range from 1,400 psi to 1,700 psi. TransCanada recently released copies of a "***Special Permit***" it has received from the Pipeline and Hazardous Materials Safety Administration (PHMSA) to operate the TransCanada-Keystone pipeline at 80% of pipe design factor, or about 11 % higher than other oil pipelines currently operating oil pipelines in the United States (See Exhibit 7). Neither the project plans presented to the PUC or the Draft EIS presented to the State Department adequately addressed this change in pressure and what the associated changes in impact to the state will be. This increase in operating pressure increases the risk of pipe line leaks and failures and increases the risk of contamination of ground water, aquifers, farm land, grass lands, wetlands, wildlife habitat and the safety risk to the people of South Dakota living along the pipeline route. This pipeline will bring a new risk of environmental contamination to a remote rural area of South Dakota where no such risk exists now and will change the social and economic aspects of the area. In addition to the impact this higher operating pressure will have on the environment, we believe that it will increase the risk of oil leaks that could cause serious damage to miles of PVC rural water pipelines that the TransCanada-Keystone would be crossing in eastern South Dakota.

Proximity To Private Homes, HCA's and USA's

Federal 49 CFR 195 requires that oil pipelines be built to protect High Consequence Areas (HCA's) and Unusually Sensitive Areas (USA's) . The regulations include specific set back requirements: We reviewed the latest version of the TransCanada-Keystone Pipeline maps available on the SDPUC website on Oct. 30, 2007 and found the following;

		Sites With Less Than The Recommended Setback
Home or Private Dwelling	50 feet	1
Buildings Must Be Vacated During Pressure Test of The Pipeline	300 feet	16
Other Buildings	660 feet	53
Carlsbad, NM Standard	800 feet	78

(the number shown at right are cumulative)

The TransCanada-Keystone Oil Pipeline will be operated at 1,440 psi to 1,700 psi (pounds per square inch) to deliver 24,822,000 gallons per day (591,000 barrels). In a news story in the *Argus Leader*, Robert Jones, VP for TransCanada was quoted as saying the operating pressure could safely be raised as high as 2,000 psi. In comparison, the 155 mile WEB water mainline built with ductile iron pipe operates at a peak pressure of 100 to 209 psi and delivers 8,000,000 gallons of

water per peak day. A 30" crude oil pipeline pressurized at even 1,440 psi is a very serious and dangerous pressure vessel. The pipeline near Carlsbad, NM that failed in August 2000 was operating at 675 psi when 12 people were killed, including small children. According to NTSB there were 227 reported pipeline failures in the U.S. in 2000 with property damages of $197 million and 16 fatalities. As reported by the National Transportation Safety Board (NSTB), a single pipeline accident…"*can injure hundreds of persons, affect thousands more, and cost millions of dollars in property damage, loss of work opportunity, community disruption, ecological damage, and insurance liability*"(7). According to the Office of Pipeline Safety (OPS) the most common cause of natural gas and liquid (oil) transmission pipeline accidents is corrosion (24%). Another less frequent category is seam weld failure on pipe, when the seam of the pipe splits open. Seam weld failure accounted for 4% to 5% of the failures and 30% of the property damage according to a 2002 OPS report. The "*Distribution Pipeline Incident Summary by Cause Report*" issued by OPS concluded that… "*Outside force damage is a catchall term that includes (1) third party excavation damage, (2) excavation damage caused by the pipeline company itself, (3) landslides, (4) fire, (5) lightning, (6) snow, (7) wind, (8) motor vehicles and (9) vandalism.*" Explosions on large natural gas pipelines can kill people hundreds of feet away. Spills from oil pipelines may extend miles away from the pipeline and often can never be fully cleaned up. (See Bemidji, MN - 1979 Crude Oil Spill, USGS)

TransCanada's Lack of Oil Pipeline Experience:

At public meetings held in Aberdeen and Britton on May 10, 2007, TransCanada officials L.A. "Buster" Gray, Chief Engineer and Nichole Aitken, Stake Holder Relations Manager admitted to a group of landowners, farmers and local officials that TransCanada doesn't own or operate any crude oil pipelines. A recent search of TransCanada's official website found no oil pipeline listed among the facilities they own and operate. Companies with years of experience, like BP (British Petroleum), Exxon and others are having pipe failures and leaks like the one that dumped 200,000 gallons of crude oil into the ground near Prudhoe Bay, Alaska on March 3, 2003 and resulted in millions of dollars in fines (See Exhibit 8). It's a bad idea for the United States, the State of South Dakota and other Midwest states to allow the construction of a 30-inch high pressure crude oil pipeline by a foreign company which has no proven track record as a company in the operation of a high pressure thin walled oil pipeline.

The TransAlaska Pipeline, which is now called Alyeska Pipeline has had a history of oil leaks each of the 30 years that's been in operation from 1977 to 2007 (See Exhibit 9) http://www.alyeska-pipe.com/Pipelinefacts/PipelineOperations.html. The Draft Environmental Impact Statement does not adequately address the impact that high operating pressure will have on the environment and social impact it will have on the aquifers, the environment, the rural water pipeline systems, the communities and the states crossed by the TransCanada-Keystone Pipeline.

Groundwater & Aquifer Protection

The aquifers in eastern South Dakota that would be crossed by the TransCanada pipeline are protected by federal and state laws against contamination and pollution under the Clean Water Act, Source Water Protection and PHMSA regulations and requirements that apply to pipelines moving oil and hazardous liquids. There is no way that TransCanada can "prove" or guarantee South Dakota that the pipeline won't leak as required under SDCL. There are documented cases that prove that oil pipelines of this kind will fail and leak. Oil pipeline failure statistics gathered by the PHMSA confirm that oil pipes fail and leak (See Exhibit 10. The thousands of farms, rural homes, 8 rural water systems, and hundreds of towns that rely on aquifers as a their sole source of drinking water supply have a right to be protected under state and federal law. If the PUC and their staff grant the permit and allow the project to proceed as planned they will be approving the construction of a public nuisance. There is a real and immediate risk and danger that the Keystone Pipeline Project could fail within 7 to 12 years and dump toxic tar sands crude oil into the soil and into the environment. With welded pipe joints at every 40 feet resulting in 132 welded joints per mile, there could be a total of 29,040 welded joints or more across South Dakota, each one a potential risk of oil leakage and pollution that wasn't there before Keystone came. There is a great risk that the pipe could fail during the life of the pipeline which would violate state and federal environmental laws. The oil, which will be warmed to 70 to 80 degrees, will pollute and contaminate shallow ground water and aquifers in eastern South Dakota, including those in Marshall, Day, and Clark Counties as well as other counties crossed through South Dakota. The Alyeska Pipeline has failed and leaked every year that it's been in operation. TransCanada has no history or track record operating high pressure oil pipelines as a company. What makes TransCanada think that they will have a better track record than British Petroleum (BP), Exxon, or other companies that have been in the oil pipeline business for years? Hydraulic testing of the pipeline with water once construction is completed will not eliminate leaks occurring after the pipeline is placed in operation. On the Northern Border Pipeline, which TransCanada is a partner on, there were more than 40 leaks on 31 miles of pipeline in Brown County alone according to statements made by the project foreman to landowners whose land was crossed by the pipeline.

Clean Water Act: There is a real and immediate risk and danger that if constructed as proposed, the Keystone Pipeline Project will leak and contaminate soil, water, wetlands, creeks and streams, and pollute air quality which would be a violation of the Clean Water Act and various state laws, permit requirements and regulations. The "*Frequency Volume Study"* completed by DNV Risk Management Consultants states on page 19 of the report that a pin hole leak smaller than 1.5% of pipe volume in remote areas of the pipeline could release oil into the soil and the environment for as long as 90 days before being detected. At 591,000 barrels of oil volume per day, 1.5% would amount to 372,330 gallons of per day and or 33,509,700 million gallons over a 90-day period. Certainly more than enough oil to contaminate any aquifer, wetland, creek or stream including the James River and Missouri River which will be crossed. It will cause serious damage

to shallow aquifers found in Marshall, Day and Clark Counties and other parts of the state. As proposed, the Keystone Pipeline Project route will cross one of the few sources of quality water and quantity in northeast South Dakota. The sandy soils in eastern Marshall, Day, Clark and Beadle Counties are recharged by snow melt and spring runoff from the Coteau Hills formation. According to a detailed report completed by the South Dakota Geological Survey, the aquifer ranges from 8 to 50 feet from the soil surface and offers a reliable water supply, even during extended dry conditions such as during the Great Depression. At times, the water in the aquifer comes to the surface in the form of springs. Incredibly, this is the location TransCanada has selected as the proposed route for the Keystone Pipeline.

According to USGS elevation maps, the land surface elevation between the Couteau Hills and the Keystone Pipeline route in Marshall and Day Counties drops off 450 feet in elevation. From the pipeline route the land elevation drops even further as the creeks and streams drain to the James River and a man made drainage canal (Crow Creek Drain) moves water through the area. The route selected will shallow aquifers which are used by rural residents, towns and rural water systems as their primary source of drinking water. (See Exhibit 11) TransCanada-Keystone Pipeline will be operated at 1,440 to 1,700 psi. At that pressure, there is a high risk if a crude oil leak or spill occurs that irreversible damage will be done to productive farm land and aquifers in eastern South Dakota. The carbon in the oil may move only a short distance from the location of the leak, but the chemicals in the crude oil, such as Ethylenzen, Xylene, Benzene, Toluene, and Hydrogen Sulfide are water soluble and will quickly move with the water and contaminate large areas of the aquifer.

The runoff from snow melt and spring and summer rains from the Coteau Hills in Marshall, and Clark Counties recharge the aquifers. Because of the elevation change, the runoff will "move" the crude oil spill and chemicals through the aquifer and down the natural drainages to the James River. The Brown-Day-Marshall (BDM) Rural Water System relies on the James Aquifer as its primary source of water. Five of the eight rural water systems that will be crossed by the project currently rely on groundwater aquifers. WEB has been exploring the development of wells in the aquifers located near Mansfield and Andover, SD to help meet the growing water needs of our service area.

The South Dakota Association of Rural Water Systems (SDARWS) has approved a draft resolution regarding the TransCanada-Keystone Pipeline, which will be finalized in early December and presented to the SDPUC as an addendum to this testimony. Once groundwater is contaminated by an oil spill it will never be the same again. The rural water systems and residents of South Dakota who rely on ground water aquifers for their supply have every right to expect that their water supply will be protected by the state and federal government.

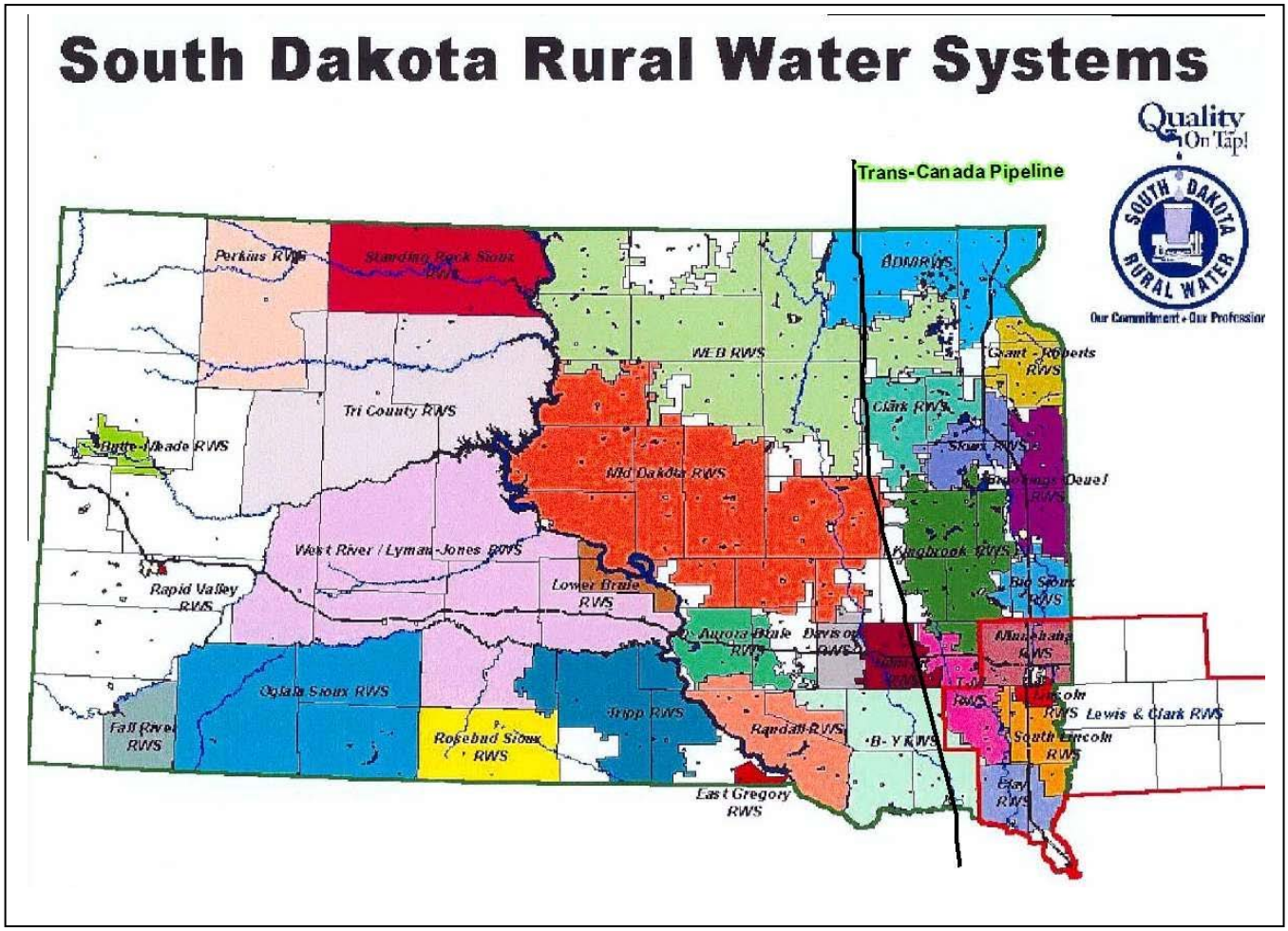
(3) The facility will not substantially impair the health, safety or welfare of the inhabitants

Native Grass & Protected Species: As currently proposed, the TransCanada-Keystone Oil Pipeline poses a threat of serious injury to the inhabitants, the environment, and the social and economic condition of inhabitants in the siting area; TransCanada-Keystone Pipeline has the potential of causing irreversible long term damage to native grass lands in every county crossed. Farm crop lands, wetlands, wildlife and the environment of the rural area crossed in eastern South Dakota will be forever changed. The construction and operation of the Keystone Pipeline will impact virgin native "Buffalo" grass which has been protected and conserved by landowners and their families since statehood and which if disturbed can never be replaced. The native grass provides an important source of feed for livestock during extended drought conditions. The Keystone Pipeline will impact species found in Marshall, Day, Clark and Beadle Counties, including the "*Dakota Skipper*" and the "*Western Prairie Fringed Orchid*" which are both on the federal endangered species list.

Rural Water Systems: The permit application filed with the U.S. State Department by TransCanada failed to acknowledge that the proposed oil pipeline would cross miles of rural water pipeline operated by eight (8) rural water systems in South Dakota. The permit application filed with the federal government by TransCanada in 2006 failed to identify the risk that could result in the event that a crude-oil spill came in contact with buried PVC water pipelines.

A study by Iowa State University, commissioned by the American Water Works Association (AWWA), confirmed that petroleum and crude-oil products can permeate through the rubber gasket of PVC water pipes, contaminating the drinking water being delivered to customers by municipal and rural water systems. How much PVC water pipeline will need to be replaced in the event of a large oil "spill" is not known at this time, nor is it known if TransCanada would be held responsible for the cost of replacement.

In their prefiled testimony, TransCanada questions whether tar sands oil will damage PVC water lines. WEB challenges TransCanada to deliver a 42 gallon barrel of tar sands oil to Iowa State University and the Water Resource Lab at SDSU so that independent tests can be run in t he light of day. We are not going to take the word of a witness who owes his/ her career and future to TransCanada.



The TransCanada Oil Pipeline route will cross eight rural water pipeline systems in South Dakota.

Rural Water Concerns: .

If the TransCanada-Keystone pipeline fails at or near the point where the crude oil pipeline crosses WEB's 12" PVC water mainline a crude-oil spill could damage the rubber pipe joint gaskets, permeate through the pipe wall, and contaminate the drinking water service of 1,029 rural hookups and 8 towns. If the SDPUC issues a permit it should include a condition that TransCanada be required to secure a permit from every rural water system and municipal water system crossed, which includes insurance coverage naming water system as an "additional insured" and a cash bond be deposited in a South Dakota bank to cover the impacts of any future oil "spills" or leaks during the operating life of the pipeline. .

The Draft EIS does not adequately address the protection provided under Title 49 CRF Part 95 to rural water systems and their aquifer water sources. The Draft EIS fails to address how the eight rural water pipeline systems crossed by the TransCanada Keystone pipeline (BDM Rural Water System, WEB Rural Water System, Clark Rural Water System, King-Brook Rural Water System, Mid-Dakota Rural Water System, Hanson Rural Water System, Turner-McCook Rural Water

System and BonHomme-Yankton Rural Water System) will be protected and/or mitigated as required by federal law and Title 49 CRF Part 95.

Missouri River Crossing: The TransCanada-Keystone Oil Pipeline will cross the Missouri River near Yankton, South Dakota, upstream of a section of river which is the only portion of the Missouri River in South Dakota that remains in a natural scenic condition. The area is managed by the National Park Service and will require a permit from the U.S. Secretary of Interior. Constructing an oil pipe crossing under the Missouri River east of Yankton would be a major project and a major environmental concern. It would place the oil pipeline 22 miles upstream of Vermillion which is the location of the Lewis & Clark Regional Water System intake wells. The only thing standing between the Lewis and Clark wells along the Missouri River and the water soluble chemicals found in tar sands oil is river sand which will not block or filter out Ethylene, Xylene, Benzene, Toluene, and Hydrogen Sulfide. The Missouri River is a source of water for over half the population of South Dakota, including the City of Sioux Falls, once the Lewis & Clark water system is completed.

Oil Sands Makeup: TransCanada has refused to release the exact composition of the crude oil they plan to transport across North Dakota and South Dakota claiming it is "proprietary information". Below is a summary of information taken from the Canadian Center for Occupational Health & Safety (http://www.ccohs.ca). Among the many substances in crude-oil are chemicals such as benzene, toluene, ethyl benzene, xylene and other lightweight chemical compounds. These compounds are more water soluble and can disperse further and more rapidly in both surface and ground waters than other crude oil substances. These compounds pose a significant threat to water quality. For example, one teaspoon of benzene (0.005 ppm) can contaminate 260,660 gallons of water. The US-EPA enforceable water quality standard for drinking water allows no more that 0.005 ppm concentration of benzene in both surface water and groundwater. Benzene exposure can cause anemia or a decrease in blood platelets and may result in an increased risk of cancer. Toluene in excess of EPA standards can cause problems with the nervous system, kidneys and liver. Ethylbenzene can cause problems with the liver and kidneys. Xylene can cause damage to the nervous system.

An "*Oil Spill Frequency Volume Study* " filed by TransCanada in 2006 acknowledged that oil spills do occur on oil pipelines. Release of crude oil can occur during transport through a pipeline and pose a significant risk of soil and water contamination surrounding the area of the spill. The Trans-Canada Study estimated that a 1,000 barrel (42,000 gallons) oil spill may occur anywhere along the TransCanada Keystone Pipeline once in 12 years; a 10,000 barrels (420,000 gallons) oil spill may occur once in 39 years; and a spill of more than 10,000 barrels might occur once in 50 years *(TC Pipeline Risk Assessment, pg 3-2).* The projections are theoretical based on historical data of pipeline operation. The extent of environmental damage would depend on the location and quantity of the oil spill, the type of soil and water resources in the area of the spill, and the topography of the land area. In a study independent of the oil industry, the United States

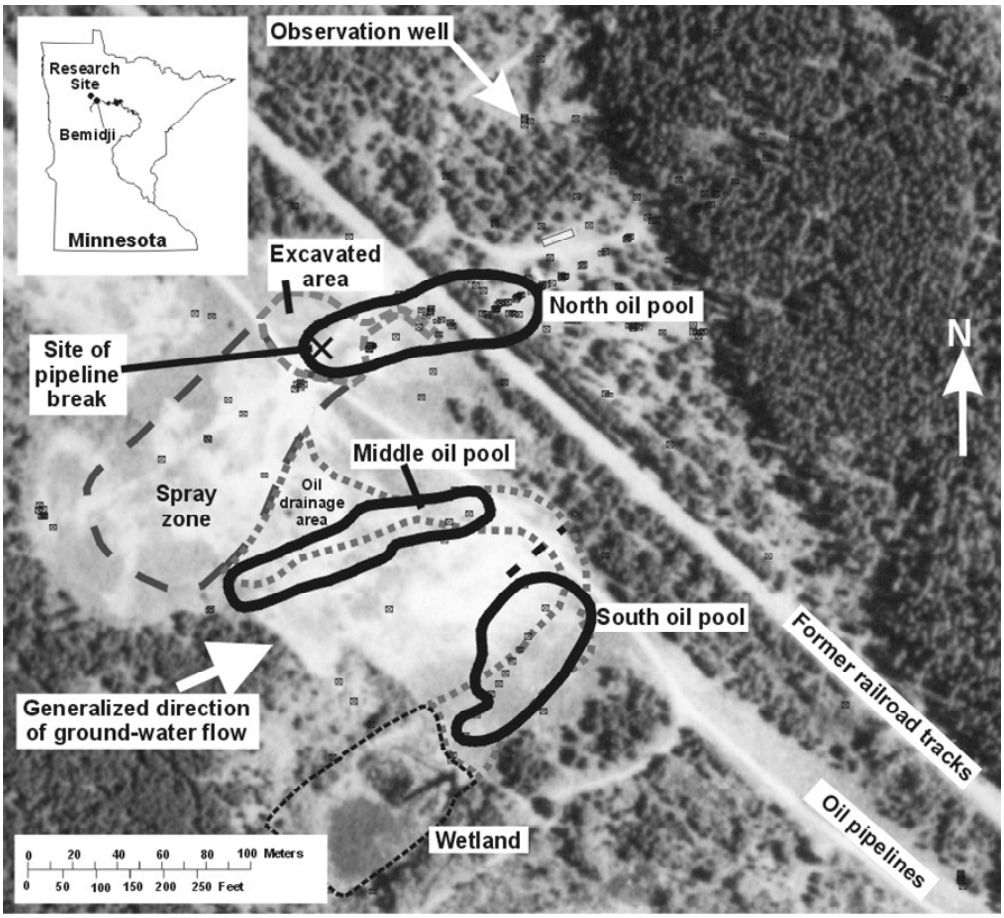
Geological Survey (USGS) estimated that an average of 83 crude-oil spills occurred in the United States during the three year period of 1994-1996, with each spilling about 50,000 barrels (2,100,000 gallons) of crude-oil. The British Petroleum (BP) pipeline failure and spill on March 3, 2003 at Prudhoe Bay, Alaska dumped 200,000 gallons of crude oil. BP is recognized as having years of oil pipeline operations experience, and they had a major pipe failure and oil spill. TransCanada doesn't even own or operate a crude oil pipeline and has no experience or track record operating a high pressure crude oil pipeline.

Oil Spill -Impact On Soils: According to the information filed by TransCanada with the U.S. State Department, the clean-up of a 84,000 gallon oil spill (2,000 barrels) from the TransCanada pipeline spill could require the removal of up to the equivalent land area of 3 feet in depth over 400 acres or about 2,001,277 cubic yards of soil *(Pipeline Risk Assessment, pg 4-4).*

The crude oil is extracted from Alberta oil sands, called "bitumen", is described as "black and thick oil". Crude-oil released into soils will disperse both vertically and horizontally. Much of the land area being crossed by the pipeline in under-laid with large quantities of sand, gravel and sandy soil.

Sandy soils found throughout much of the TransCanada-Keystone Pipeline route would accommodate the dispersion of crude-oil. Soil moisture and run off due to snow melt and spring rains could also increase the dispersion of a crude-oil spill. TransCanada's application states that clean-up of soil contaminated by crude oil can require significant time, effort and cost. Required remedial actions may range from excavation and removal of contaminated soil to allow the contaminated soil to

recover through natural environmental fate process (evaporation, biodegradation, etc). State and federal programs mandate notification and initiation of response actions "*in a timeframe and on a scale commensurate with the threats posed*" whatever that means *(TransCanada Construction Mitigation & Reclamation Plan, 2-50).* What about the loss of crop production, property values and future earnings to farmers as a result of contamination by an oil spill? A crude oil pipeline leak near Bemidji, MN in 1979 was never fully cleaned up and soils remain sterile 28 years later.



Approximate extent of oil, August 1998 modified from Lakehead Pipe Line Co., written commun., 1998

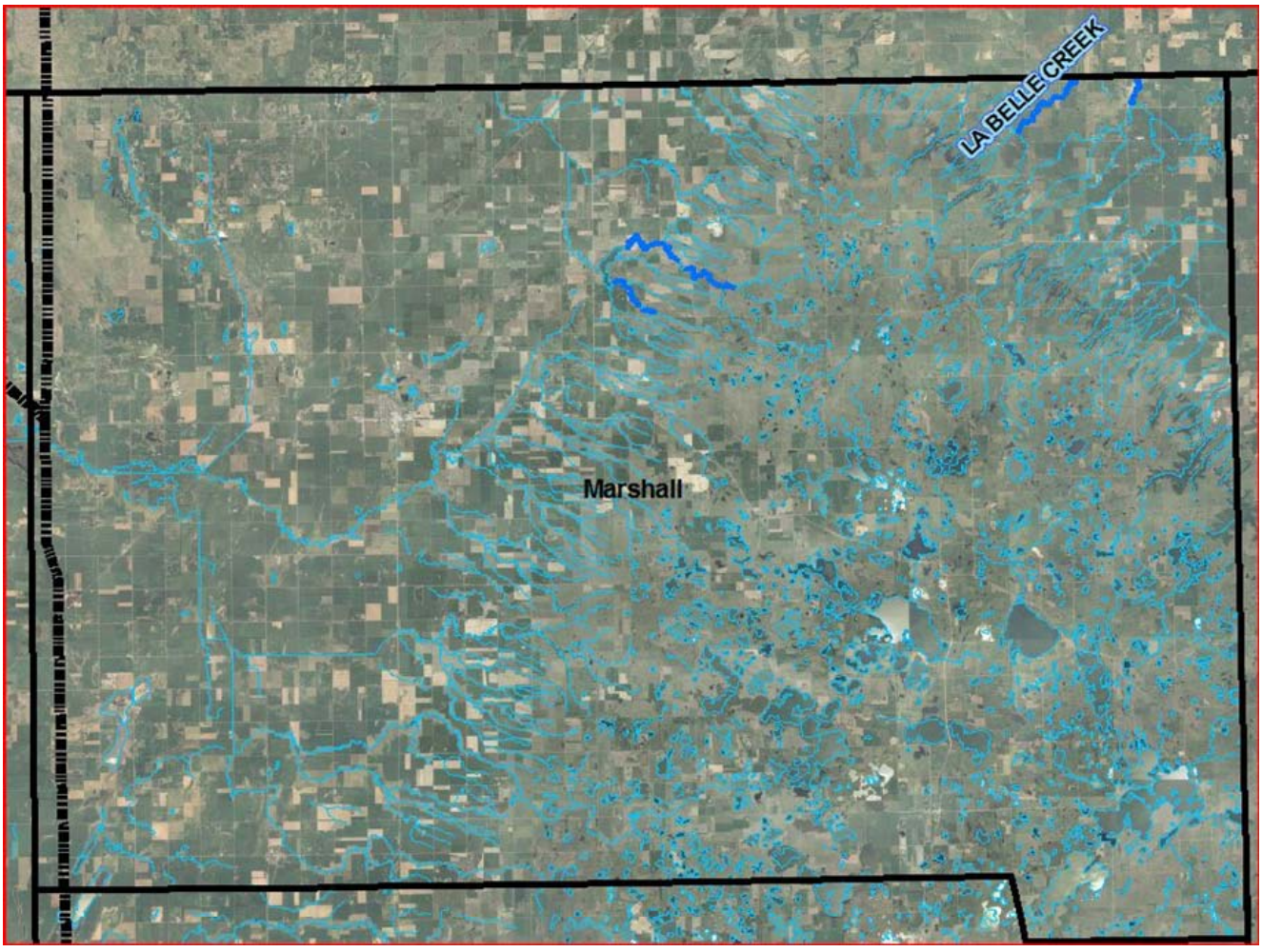
Features of the Bemidji, Minnesota crude-oil spill research site superimposed on a 1991 aerial photograph.

<u>Risk Of Large Crude Oil Spill</u>: The TransCanada-Keystone Oil Pipeline plan calls for a wide separation between mainline automated valves and manual valves. For example, the distance between the pump station at the North Dakota-South Dakota state line and the next pumping station near Ferney, SD is about 42 miles of 30 inch pipe which would hold about 156,660,000 gallons of crude-oil (3,728,571 barrels).

The distance between the Fernery pump station and the next pump station near Carpenter, SD is about 47 miles of 30 inch pipe which would hold about 175,312,000 gallons of crude oil (4,174,000 barrels). In addition to the 4 automated valves at

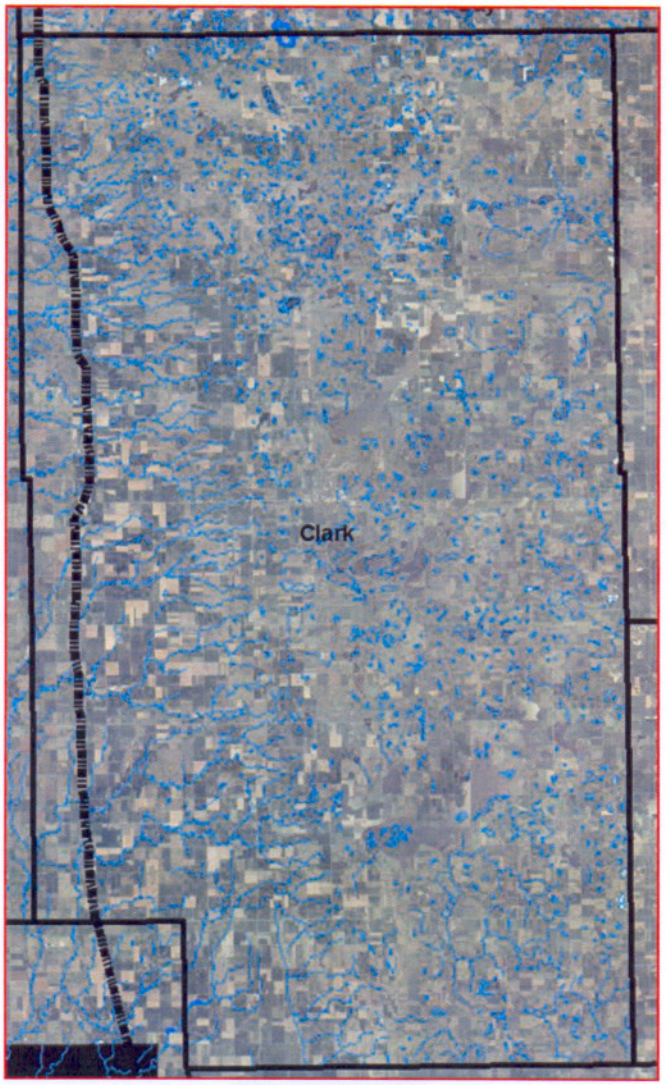
compressor pump stations, the TransCanada-Keystone Pipeline will have 7 to 10 manually operated valves on the 220 miles of pipeline in South Dakota, with some valves being 20 to 30 miles apart.

In the event of a major pipe failure, there may not be time to reach manual valves to stop the crude-oil from draining out of the pipeline and on to productive farm land or wetlands. Manually operated valves won't do much good if the TransCanada operations staff and contractors are hundreds of miles away in Alberta or Omaha. A pipe failure at a low elevation point on either the 42 mile reach between North Dakota and Ferney, SD or the 47 mile reach between Ferney and Carpenter, SD could result in a spill of millions of gallons of crude oil. In line check valves are being provided on either side of the Missouri River near Yankton to protect the river. Similar check valves will be needed in other areas of the pipeline route where elevation changes are great. By way of comparison, the 155 mile WEB water mainline has 31 manual isolation valves, with each valve located every 5 miles, and six pump stations and control points which are monitored and operated by a computerized SCADA system and operations staff dispatched out of Aberdeen, South Dakota. At a May 10, 2007 meeting a TransCanada official stated that their operational staff will be located in Omaha, NE and the SCADA control center will be located in Canada, hundreds of miles from South Dakota.



The black line at the left side of the map is the approximate route of the TransCanada pipeline as it crosses streams and drainages in Day County, all of which contribute to the recharge of the aquifer and drain to the James River.

If the TransCanada Keystone Pipeline fails and leaks the water from the drainage will carry the pollutants into the aquifer and to the James River.



The U.S. Office of Pipeline Safety requires that TransCanada-Keystone prepare and file an Emergency Response Plan (ERP). The TransCanada permit application filed with the U.S. State Department states last year stated that an Emergency Response Plan will be filed as a "supplemental" to the permit application. No plan has been made available as of Sept. 21, 2007. The Emergency Response Plan, which is required by law, should be filed with state and local government, fire departments, utilities and local emergency responders for review, comment and approval BEFORE consideration is given to any permits by the SD Public Utilities Commission or the U.S. State Department. The rural area where TransCanada is proposing to construct their oil pipeline has only volunteer fire departments without the equipment, training and man power to contain an oil leak or fight an oil fire like the one shown at the right.

Computer Monitoring Systems

TransCanada-Keystone says they will use two technology-based leak detection systems, which will include leak detection software SCADA (Supervisory Control and Data Acquisition) monitoring and volumetric balancing. Sensors and monitoring equipment will be located at pump stations and the data collected will be transmitted by satellite to the central control center in Canada (*TransCanada Construction & Reclamation Plan, 2-48).* The SCADA systems that TransCanada will be using will help monitor and operate the crude-oil pipeline and may help detect problems by sensing changes in pressure and flow rate. However, at the point the SCADA system senses a change in pressure or flow and shuts the automated valves off at the pump station, a major release or spill may have already occurred on the pipeline miles away from the pump station. Based on NTSB's reports on oil and gas line failures, and WEB's own experience, computer SCADA systems may detect major changes in pressure and flow but they don't necessarily detect small leaks that develop on pipelines, which over time can develop into a major leak or spill and contaminate soil and ground water for days, weeks or months before the leak is found. That is exactly what happened on March 3, 2005 with the BP crude oil pipeline failure at Prudhoe Bay, Alaska. This kind of leak causes more of a problem when the pipe is located in a remote isolated rural area. Because of the potentially severe consequences of a crude-oil spill, prevention is critically important and successful prevention requires regular testing of the pipeline's integrity, including internal corrosion. Internal inline inspection devices, known as "smart pig" may detect some defects in the pipe as they travel through the pipeline being moved by oil flow and pressure. It is not enough to cite oil industry construction standards and record keeping required by OPS. The Draft EIS should specifically address the impacts that tar sands crude oil will have on the environment and the health and safety of the residents who live along the pipeline and whose lives may come in contact with it.

Ground Water Aquifers

The groundwater aquifers in the path of the proposed pipeline route meet the test of HCA's (High Consequent Areas)" and USAs (Unusual Sensitive Areas) under Title 49 CRF Part 195. Section 195.6 speaks to the issue of groundwater and surface water sources, public water systems, and well head protection areas as sensitive areas. Under federal law, these aquifer resources must receive additional protection from high pressure oil pipelines like the TransCanada-Keystone Pipeline. As currently proposed, the TransCanada-Keystone Pipeline will cross numerous shallow aquifers which are the primary source of drinking water for rural homes, farms and towns in eastern South Dakota, including five of the eight rural water systems being crossed by the TransCanada-Keystone Pipeline. The aquifers have been identified by studies completed by the South Dakota Geological Survey and the USGS. Enclosed are maps and reports completed in Marshall County and Clark County, which are representative of studies completed in other South Dakota Counties. TransCanada made no mention of these water systems in their permit application. Very little mention was made in the Draft Environmental Impact Statement. TransCanada-Keystone Pipeline will be operated at a high operating pressure that could

result in an increased number of oil leaks and will increase the risk of oil leaks that could cause serious damage to underground aquifers that would be crossed by the TransCanada-Keystone Pipeline in eastern South Dakota.

The Draft Environmental Impact Statement fails to address how groundwater aquifers in eastern South Dakota will be impacted by the construction and long term operation on the TransCanada-Keystone Pipeline. The Draft EIS must address how these underground water supplies are to be protected as required under federal law, including Title 49 CRF Part 95, et al, the Clean Water Act and other federal laws. TransCanada claims that shipping oil by pipe is safer than shipping the same oil by truck which is not true. The risk of an oil spill with a tanker truck is limited to volume of the tanker. Unlike the Keystone pipeline, an oil tanker is not under pressure. It would take 47 tankers trucks each pulling 8,000 gallons to equal just one day's oil leak of 372,000 gallons estimated in the DNV Frequency Volume Study. If the pipe leak went 90 days undetected as was estimated, the pill would equal 4,208 tanker trucks of 8,000 gallon each. An oil leak incident does far more damage than a tanker truck because the pipeline has an endless supply of oil.

The permit application information and testimony presented by TransCanada in support of the permit does not adequately address and compare the environmental and social impacts of the proposed route to various alternate routes, including the I-29 Corridor Alternate Route and the western route proposed by North Dakota. Further consideration should be given to the alternate routes in the Final Environmental Impact Statement. By failing to seriously consider this and other alternatives, TransCanada is in violation of federal law. An oil leak along I-29 would be observed and reported sooner than if the same leak were to develop along the remote area between Britton and Yankton, SD. The fire and emergency response teams would be able to access the area much easier from I-29 than from the gravel and dirt section line roads the pipeline would cross in Marshall, Day and Clark County and the rural area between Britton and Yankton.

The Pipeline Safety Improvement Act of 2002, which was signed into law on December 17, 2002, and codified at 49 U.S.C. 60109, provides protections and safe guards for communities crossed by gas and oil pipelines. As a primary source of drinking water for eastern South Dakota, rural water pipeline systems meet the test of being "Highly Consequent Areas" (HCA's) and Unusually Sensitive Areas (USA's) under Title 49 CRF Part 195. Section 195.6 speaks to the issue of groundwater and surface water sources, public water systems, and well head protection areas as sensitive areas. Under federal law, these rural water pipeline systems and their water sources must receive a higher level of protection from a high pressure oil pipeline like the TransCanada-Keystone Pipeline. Eight rural water pipeline systems will be crossed by the TransCanada-Keystone Pipeline in eastern South Dakota, including the WEB water systems. Of the eight rural water systems, five rely on ground water aquifer as their sole source of water. TransCanada-Keystone made no mention of these rural water systems in their application filed with DOS and the SDPUC. WEB raised the issue in written testimony we presented to the Department of State in the fall of 2006. We provided DOS with a map of South Dakota showing the

relationship of the TransCanada-Keystone Pipeline to the location of rural water pipeline systems.

Groundwater Aquifers: The TransCanada-Keystone Pipeline will cross numerous aquifers in South Dakota, including the Oakes, Bramton, Tulare, Vermillion, Altamont, Floyd, and Lower James-Missouri aquifers. The depth to water in the Oakes Aquifer along the route of the pipeline in Marshall County is 10-15 feet in depth. The depth to the upper layer of water of the Altamont Aquifer near Raymond in Clark County varies from 10-35 feet. The same is true for ground water in the Carpenter area of Clark County. Near-surface groundwater occurs at various locations where the pipeline crosses small streams in northwestern Day County *(TransCanada Construction Mitigation & Reclamation Plan, pg 3.5-35)*. Much of the ground water in northwest and western Day County is within 4 feet of the surface according to the *Day County Soils Survey* completed by USDA-NRCS.

MP-257
Day Co.

The Coteau Hills, in the center of the photo above, snow melt and runoff from spring and summer rain recharge the aquifers in western Marshall, Day, and Clark Counties. The sandy soils at the base of the hills filter and retain the water as it recharges the shallow aquifer below. The potential for groundwater contamination is greater where the water table is relatively close to the surface, and where the soils overlying the aquifer are porous materials. Depending on the type of pipe failure, the volume of the spill, the depth of the groundwater and the soil conditions in the area, a crude oil spill could continue to move and contaminate an aquifer in a very short time. Crude-oil moving through gravel or sandy soils could reach and damage PVC water pipelines used by municipal water systems and rural water systems to deliver drinking water to towns, farms, rural homes, livestock hookups, ethanol plants and other customers. Five of the eight rural water systems crossed by TransCanada currently rely on groundwater wells (See Exhibit 12).

DNV Risk Management consultants say that the thin walled 30-inch high-pressured 1,700 psi oil pipeline will fail within the first 5 to 7 years. When that happens, TransCanada wants the oil leak in some remote back road area and not along a well-traveled highway like I-29. Small town local volunteer fire departments like Britton, Langford, Carpenter, Iroquois, Freeman, and Alexandria aren't equipped or trained to contain oil spills or fight crude oil fires where the fumes can cause cancer and damage to the lungs and vital organs. The DNV Report title "*Frequency Volume Study*" states that 53% of the leaks on the Keystone Pipeline will be from pinhole leaks that cannot be detected by the computer SCADA systems TransCanada will use to monitor and operate the system (See WEB Attachment # 4). The DNV report estimates that leaks smaller than 1.5% of the pipe volume flow will go undetected. At 591,000 barrels per day a 1.5% volume leak undetected could result in a leak of 8,864 barrels per day or the equivalent of 372,330 gallons per day. In prefiled testimony a TransCanada witness raised the unaccounted for pipe volume to 2% which at 591,000 barrels per day would amount to 496,440 gallons per day. The DNV report also states that oil lost to pin holes leaks could go undetected for as long as 90 days which could result in an oil leak totaling 33 million gallons to 44.7 million gallons. An oil leak of that size and magnitude could pollute and ruin an entire aquifer and rural community resulting in millions of dollars of damages.

Oil spill at Coffeyville, Kansas on July 2, 2007

Oil leak at Burnaby, BC on July 24, 2007

(4) The facility will not substantially interfere with the orderly development of the region with due consideration having been given the views of governing bodies of affected local units of government.

As currently proposed, the TransCanada-Keystone pipeline will restrict and limit development of WEB and other rural water systems by a new threat of risk over available ground water supplies. No serious consideration was given to alternative routes, including the I-29 Corridor Alternative Route which would offer less long term risk and environmental damage to South Dakota. The I-29 route would offer better access for construction, inspection, operations and emergency response. The larger towns along I-29, such as Watertown, Brookings and Sioux Falls, have full time fully equipped professional fire

departments and emergency responders, with the equipment and staff to handle oil pipeline emergencies. The small communities along the proposed route do not. The people of South Dakota and the communities to be crossed by the pipeline were never included in the process for selecting a route. North Dakota government officials have asked that a route through western North Dakota be considered to allow crude oil in that part of the state to use the Keystone Pipeline to ship their product to market. The I-29 route and the western route proposed by North Dakota officials should be considered in the DEIS process. The TransCanada-Keystone Pipeline route, as currently proposed and routed, would unduly interfere with and restrict economic development in the counties that would be crossed. Aquifer ground water that is relied on by the community for livestock development, irrigation, housing development, industry, value added development and new home construction could be seriously impacted. Landowners who would have an oil pipeline through the center of their property or going at odd angles would not have the full use of their property. New farming practices have such as "no till" have increased production. Innovate uses of the land, such as fish farming, rice production, organic farming and wind farms are all possible for the landowner to explore. The Keystone Pipeline would limit and restrict that development. The I-29 Alternative Route, which would place the oil pipeline in state owned road right-of-way would have less impact on land use and communities and less impact on orderly development.

Taxes: TransCanada claims that they will pay $6.4 million in annual tax on the pipeline the first year it is built and sales and excise tax from the construction. County governments have been told they will benefit. A Britton School official was quoted in the Britton Journal as saying their school district would get very little of the taxes paid by Keystone. TransCanada has printed ads in papers and mailed out letters bragging about the taxes South Dakota will get if the oil pipeline is built.

Then a news story in the American News dated Sept. 28, 2007 written by Bob Mercer quotes TransCanada's Vice President Robert Jones as saying that $13 million of the $18 million in sales and excise tax (75%) will be waived by the State. (See Exhibit 13).

So, TransCanada will REALLY ONLY PAY $4.5 million (25%) of the sales and excise tax they owe. If a farmer builds a shop, or a business adds on to their business, or a home owner hires a contractor to shingle the roof, they all pay their share of South Dakota's sales and excise tax. But private oil company from Canada gets 75% break. WHY? There is no reason for South Dakota to give TransCanada a tax break, they were coming anyway. The SDPUC and the Legislature should ask the Revenue Department and the Auditor General to look into that.

Dated this 31st day of October, 2007

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Curt Hohn

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Dated this **31st** day of **October, 2007**

Curt Hohn