

Erik R. Johnson
City Attorney

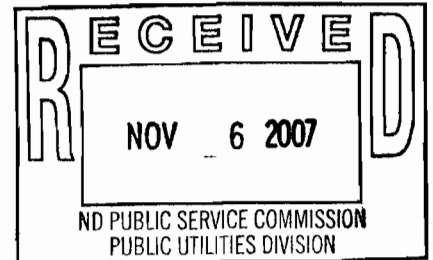


Patricia A. Roscoe
Assistant City Attorney

OFFICE OF THE CITY ATTORNEY

November 5, 2007

Illona A. Jeffcoat-Sacco
Public Service Commission
State Capital
600 E. Boulevard Avenue
Bismarck, ND 58505-0480



Re: Case No. PU-06-421
Case No. PU-07-152

Dear Ms. Jeffcoat-Sacco:

Enclosed, for filing, is the original Response to Supplemental Objection to Motion for Intervention to Appear as a Party and Motion to Reopen the Hearing Records and Certificate of Service in the above matter. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Jackie Faith".

Jackie Faith, Secretary to
Erik R. Johnson

Enclosure



**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

TRANSCANADA KEYSTONE PIPELINE, LP)
30-INCH PIPELINE / CAVALIER TO)
SERGEANT COUNTIES SITING APPLICATION)

Case No. PU-06-421

APPLICATION FOR CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY)

Case No. PU-07-152

**RESPONSE TO SUPPLEMENTAL OBJECTION TO MOTION FOR INTERVENTION
TO APPEAR AS A PARTY
AND
MOTION TO REOPEN THE HEARING RECORDS**

The City of Fargo does hereby reply to the very recently filed Supplemental Objection, above referenced, of TransCanada Keystone Pipeline, LP ("Keystone") dated Friday, November 2, 2007.

1. Keystone's Supplemental Objection adds no additional substantive argument to their original objection which was dated October 26, 2007. Any harm from a small delay should be balanced with the PSC's obligation to provide a reasonable opportunity for Fargo to appear and participate in view of the nature, scope and importance of this pipeline siting and routing matter. Shark v. Northern States Power Company, 477 N.W.2d 251, 255 (N.D. 1991).

2. There are assertions of fact in the Supplemental Objection which are not supported by the record and for which City of Fargo reserves the right to challenge. For example, statements are made regarding the losses that would occur as a result of any delay.

3. Keystone argues about the costs of a delay. The City of Fargo has expressed concern about the cost, in human suffering and numbers of lives, and in money, that it would take to clean up a leak of this highly hazardous tar sands crude oil, should there be a leak. Fargo

asserts that the cost of such a cleanup along with the potential damage suffered could easily exceed any potential dollar loss caused by the delay of a month or two.

4. With respect to allegations of delay, according to the existing record, the only state that Keystone Pipeline has obtained approval is Illinois. The City of Fargo is aware that South Dakota has yet to give approval to the pipeline. The status of approval of the pipeline project through other states is as of yet unknown. In order for the project to move forward, the Environmental Impact Statement must be complete and the project authorized by the United States Department of State. We believe the EIS has not yet been finalized. Thus, assertions of delay caused by the City's intervention or reopening are premature.

5. From our (Fargo's) review of the PSC hearing record thus far, Lake Ashtabula is mentioned in only fleeting terms. There is no mention of Lake Ashtabula as being the significant and primary source of water for the City of Fargo as well as for communities up and down the Red River. There is no reference to the fact that there has been a process that is currently underway by the Lake Agassiz Water Authority (created by N.D.C.C. Chapter 61-39) whose task, in conjunction with the Garrison Conservancy District is to establish a conduit for water to be brought from the Missouri River to Lake Ashtabula to supply the domestic drinking water needs for communities up and down the Sheyenne and the Red River Valley, including the city of Fargo. This project, if successful will cost \$400 to \$600 million and will provide the future drinking water supply to the Red River Valley.

6. Keystone, through its project director, Dean Cowling, has agreed to subject itself to ongoing and continuing modifications as directed by the PSC. In response to a question by PSC's attorney, Bill Binek, stated that Keystone understands and agrees that the authorizations granted by the Corridor Certificate and the Route Permit [issued by PSC] are subject to

modification by order of the commission as deemed necessary to further protect the public or the environment. See Docket No. 120, Transcript of Hearing, Volume 1, State Capitol – Bismarck, September 5 and 6, 2007, pages 44-45. The City of Fargo sees no prejudice to the Keystone Pipeline by the allowance of the City of Fargo to investigate the safety concerns it has regarding this most important drinking water source.

7. From the City's review of the record thus far, there appears to have been no evidence introduced by Keystone as to the nature of the oil that will be pumped through the pipeline. It is the understanding of consultants to the City of Fargo that this particular type of "tar sands" crude oil being transmitted through this pipeline may contain extremely hazardous substances. There are questions that remain and are yet unanswered as to these contents. It appears from submissions by Keystone Pipeline that they claim "proprietary information" in response to inquiry regarding the exact chemical composition of the crude oil, the nature of the "upgrading" of the crude oil that they perform prior to pushing the oil down the pipeline.

8. Since there were no experts offered by any person, firm or individual opposing the Keystone Pipeline or its routing. Comments to the pipeline and testimony offered during the hearings did not probe in any substantial way into the safety concerns being expressed by the City of Fargo.

9. Finally, the City of Fargo objects to the late filing of the Supplemental Objection on Friday afternoon, November 2, 2007, when the Public Service Commission has already scheduled its working session for Monday afternoon, November 5, 2007, to discuss the motion and objection already in the record. City of Fargo respectfully requests that the Public Service Commission disregard the November 2nd submission of Keystone Pipeline. No "courtesy" telephone call was made to the City Attorney's office to advise of this late filing. The City

Attorney did receive an e-mail from Mr. Kranda, at 5:08 p.m. on Friday, November 2, containing Keystone's Supplemental Objection as an attachment and Mr. Kranda stated his 4:53 p.m. e-mail effort, a few minutes earlier, was returned as undelivered.

Respectfully submitted this 5th day of November, 2007.

CITY OF FARGO, NORTH DAKOTA

By:



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