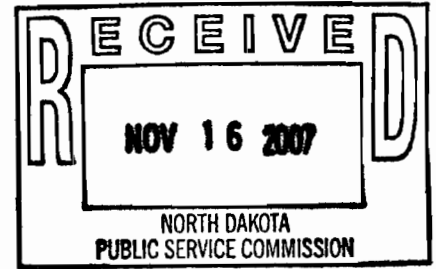


# RINKE NOONAN

Attorneys at Law

1015 West St. Germain, P.O. Box 1497  
St. Cloud, Minnesota 56302-1497  
Telephone 320-251-6700, Fax 320-656-3500



Date: November 16, 2007

### FACSIMILE COVER PAGE

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	<b>William Binck</b>	701-328-2410
	<b>Administrative Law Judge, Al Wahl</b>	701-328-3254
	<b>Executive Secretary, Public Service Commission</b>	701-328-2410
	<b>Erik Johnson</b>	701-328-2410 260-1902
	<b>Lynn Wolff</b>	701-298-9044

TRANSMITTED BY: **Nicholas Delaney** Fax: (320) 656-3500

OUR FILE NO. 20555.001

MESSAGE: See attached letter dated November 16, 2007

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**TransCanada Keystone Pipeline, L.P**  
**Our File No. 20555.001**

**Case No. PU-06-421**

Thomas D. Kelsch  
 Todd Kranda  
 Kelsch, Kelsch, Ruff & Kranda  
 P.O. Box 1266  
 Mandan, ND 58554-7266  
SENT VIA FAX AT 701-663-9810 AND  
CERTIFIED MAIL

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 Bismarck, ND 58501  
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 City of Fargo  
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Ramona Klein  
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Janic & John Capp  
 12466 60<sup>th</sup> St NE  
 Lankin ND 58250  
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**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA**

**TransCanada Keystone Pipeline, LP  
30-Inch Crude Oil Pipeline/Cavalier to Sargent  
Counties Siting Application**

**Case No. PU-06-421**

**NOTICE OF MOTION AND MOTION FOR WITHDRAW AS COUNSEL**

**November 16, 2007**

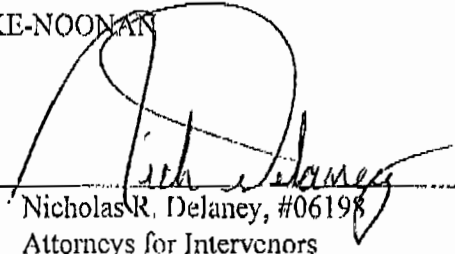
TO: THE ATTACHED SERVICE LIST

**PLEASE TAKE NOTICE**, that upon written argument Nicholas R. Delaney, the firm of Rinke-Noonan, 1015 West St. Germain Street, Suite 300, P.O. Box 1497, St. Cloud, MN 56302, as Attorney of record for the Intervenor, herein moves the Court, for an order to withdraw as Attorney of record for the Intervenor. If the Administrative Law Judge deems it necessary for a hearing, one will be set at the Court's discretion and as soon thereafter as counsel can be heard.

Dated: November 16, 2007

RINKE-NOONAN

By

  
Nicholas R. Delaney, #06198  
Attorneys for Intervenor  
P.O. Box 1497  
St. Cloud, MN 56302-1497  
320 251-6700

**SERVICE LIST**

**TransCanada Keystone Pipeline, LP**  
**Our File No. 20555.001**

**Case No. PU-06-421**

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**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA**

**TransCanada Keystone Pipeline, LP  
30-Inch Crude Oil Pipeline/Cavalier to Sargent  
Counties Siting Application**

**Case No. PU-06-421**

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR WITHDRAWAL**

November 16, 2007

**LEGAL ARGUMENT**

Dakota Resource Council, Ramona Klein, Merle and Linotte Kratochvill, Janic and John Capp, and Mark Novak (collectively referred to as "Intervenors") do not wish to incur the cost and expense of having legal counsel present at the November 27, 2007 and November 28, 2007 Hearings regarding the above-referenced matter. As such, so as to not prejudice the Intervenors, individually and cumulatively, Rinke-Noonan Law Firm offers this Memorandum of Law in Support of Rinke-Noonan's Motion for Withdrawal.

Intervenors' attorney, Rinke-Noonan, filed a Notice of Withdrawal on November 9, 2007. TransCanada Keystone Pipeline, LP ("TransCanada") responded by filing a Return of Notice of Withdrawal, claiming that the Notice of the Hearing was served by mail on November 8, 2007, and that as a result, Rinke-Noonan did not comply with ND Admin. Code §98-02-02-18.

Rinke-Noonan concedes that ND Admin. Code §98-02-02-18 governs withdrawal of an appearance on behalf of a client at a noticed hearing. However, it is the position of the Intervenors that the ND Admin. Code §98-02-02-18 does not apply in this instance. The purpose of ND Admin. Code §98-02-02-18 is to protect a party who wishes to be represented from the withdrawal of their counsel. That is not the case. Intervenors do not wish to pay for legal

representation. The opposing party is the only party opposed to Rinke Noonan's withdrawal. ND Admin. Code §98-02-02-18 does not stand for the proposition that Intervenor or a party to an action cannot on their own choose to NOT have legal counsel. It is the Intervenor's and Rinke Noonan's position that the Intervenor and all parties to the action have the option, if they so choose, to appear at a hearing on their own behalf. This option should be available to all parties and Intervenor without the time, cost and expense of bringing a Motion under ND Admin. Code §98-02-02-18.

Despite the fact ND Admin. Code §98-02-02-18 is inapplicable, opposing counsel has argued this Motion is necessary. As such, Rinke-Noonan moves for withdrawal from any appearance at the November 27, 2007 and November 28, 2007 Hearings scheduled in the above-referenced matter with the consent of the Intervenor.

Rinke-Noonan has been in contact with the Dakota Resource Council and other individual Intervenor. Through these discussions, it has been learned that none of the Intervenor wish to incur the additional financial expense of having legal counsel present at any future hearing in this matter. See Affidavits of Nicholas Delaney and Lynn Wolff. If the Intervenor are forced to have legal representation at the Hearings, they would be placed under great financial hardship. *Id.* It is not within the purview the Administrative Law Judge or any party to force a party to obtain and pay legal counsel to be present at these Hearings. There is no statutory authority that would require such an imposition on the Intervenor regardless of the factual circumstances.

TransCanada poses the argument that there will be unnecessary delay if the Intervenor do not have legal counsel present at the Hearings. The Intervenor, each and every one of them,

have a right to appear *pro se*. This is a decision the Intervenor's get to make and not a decision that should or can be stripped from them for reasons cited by opposing counsel. Resulting delay, if any, from a party or parties appearing *pro se* is not grounds for forcing a party to incur the cost and expense of legal counsel. Rather, it is a reality in any hearing: civil, criminal or administrative. The Administrative Law Judge can take whatever steps necessary to move the hearing along and prevent unnecessary delay by not allowing irrelevant or cumulative testimony or evidence.

The Intervenor's would be prejudiced if they were forced to have legal counsel present at the Hearings. Not only would the Intervenor's be stripped of their legal right to represent themselves during the Hearings, but they would also be placed under financial hardship and duress.

Even if there was legal authority for the Administrative Law Judge or opposing counsel to impose the requirement that legal counsel be present, which is not the case, the Intervenor's do not need to have Rinke-Noonan present in these proceedings. Rinke Noonan is an out of state law firm which would have to travel a great distance to attend these Hearings and cause Intervenor's to incur additional, unnecessary expense. If indeed the Intervenor's decided on their own or were forced to hire counsel to appear on their behalf at these Hearings, they have chosen for Rinke-Noonan not to appear based on the circumstances.

Lastly, there is no evidence that there will be any unnecessary delay as a result of Intervenor's not having legal counsel. In fact, it is quite likely that having legal counsel present on behalf of the Intervenor's would in fact cause more delay than if counsel was not present. That said, even if it was proven that there would be delay by not having legal counsel present, the

Intervenors still maintain the right, notwithstanding possible delay, to represent themselves at these hearings. There is no legal authority that suggests because a hearing may be delayed due to a party appearing *pro se*, that the party can be ordered to pay for and retain legal counsel.

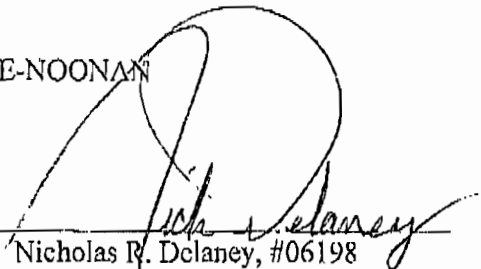
CONCLUSION

For the foregoing reasons, Rinke-Noonan requests withdrawal from appearing at any future hearings on this matter on behalf of the Intervenors.

Dated: November 16, 2007

RINKE-NOONAN

By

  
Nicholas R. Delaney, #06198  
Attorneys for Intervenors  
P.O. Box 1497  
St. Cloud, MN 56302-1497  
320 251-6700

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

**TrausCanada Keystone Pipeline, LP  
30-Inch Crude Oil Pipeline/Cavalier to Sargent  
Counties Siting Application**

**Case No. PU-06-421**

**AFFIDAVIT OF NICHOLAS R. DELANEY**

**November 16, 2007**

STATE OF MINNESOTA    )  
  )SS  
COUNTY OF STEARNS    )

Nicholas R. Delancy, being first duly sworn on oath, states and alleges as follows:

1. I am an attorney with the Rinke Noonan law firm in St. Cloud, MN, located at 1015 West St. Germain Street, St. Cloud, MN 56302.

2. Rinke Noonan represents the Dakota Resource Council, Ramona Klein, Merle and Linette Kratochvill, Janie and John Capp, and Mark Novak (collectively referred to as "Intervenors").

3. I have spoken with Lynn Wolff on behalf of the Dakota Resource Council. He has spoken with the other Intervenors who are all members of the Dakota Resource Council and they collectively agree that they do not wish to incur further legal expenses related to legal representation at the November 27, 2007 and November 28, 2007, Hearings in Bismarck, North Dakota.

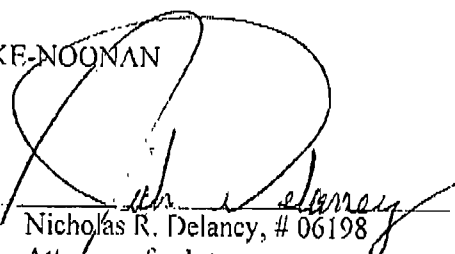
4. The Intervenors have further indicated that they wish to appear *pro se* at said Hearings and do not wish for Rinke Noonan to travel to Bismarck and represent their interests.

5. The Intervenors also agree that further legal expenses should not be incurred in this matter and do not wish for Rinke Noonan to appear at the Hearings. If the Intervenors were required to incur additional legal fees it would create great financial hardship on them.

Dated: November 16, 2007

RINKE-NOONAN

By



Nicholas R. Delancy, # 06198

Attorneys for Intervenor

P.O. Box 1497

St. Cloud, MN 56302-1497

320 251-6700



Dated: 11-16-07, 2007.

*Lynn Wolff*  
Lynn Wolff

STATE OF NORTH DAKOTA    )  
  ) ss  
COUNTY OF CASS            )

Subscribed and sworn to before me  
this 16<sup>th</sup> day of November, 2007.

*Kiley Hart*  
Notary Public

KILEY HART  
Notary Public  
State of North Dakota  
My Commission Expires Apr. 14, 2011



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