

RINKE NOONAN

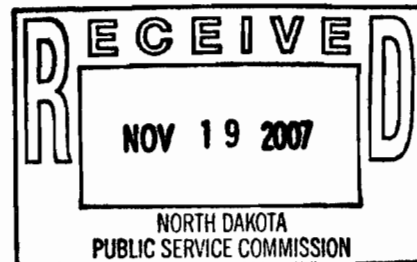
A T T O R N E Y S A T L A W

SUITE 300, US BANK PLAZA, P. O. BOX 1497
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ST. CLOUD, MINNESOTA 56302-1497
TELEPHONE 320-251-6700, FAX 320-656-3500
EMAIL: MAIL@RNOON.COM
WWW.RNOON.COM

November 16, 2007

SEE ATTACHED SERVICE LIST

Re: TransCanada Keystone Pipeline, LP
Case No. PU-06-421
Our File No. 20555.001



Ladies and Gentlemen:

Enclosed and served upon you please find the following with regard to the above referenced matter:

1. Notice of Motion and Motion for Withdrawal of Counsel;
2. Memorandum of Law in Support of Motion for Withdrawal;
3. Affidavit of Nicholas R. Delaney;
4. Affidavit of Lynn Wolff; and
5. Affidavit of Service.

If you have any questions, please contact our office.

Sincerely,

Nicholas R. Delaney
NRD/lmh

Enclosures

PNovember 16, 2007:C2007 11 16
F:\DATA\20555\001\Letters\Letter All Parties 11 16 2007.wpd lmh

RINKE, NOONAN, SMOLEY, DETER, COLOMBO, WIA NT, VON KORFF & HOBBS, LTD.

D. Michael Noonan
William A. Smoley¹
Kurt A. Deter¹
Barrett L. Colombo
James L. Wiant

Gerald W. Von Korff
Sharon G. Hobbs
David J. Meyers^{1,2,6}
John J. Meuers
Roger C. Justin^{2,4}

John J. Babcock
Jill A. Adkins
Igor S. Lenzner³
Gary R. Leistico^{4,5}
John C. Kolb

Scott G. Hamak
Pamela A. Steckman¹
Stefanie L. Brown
Tonya T. Hinkemeyer
Ryan J. Hatton¹

Benjamin B. Bohnsack³
Tim A. Sime⁷
James A. Mogen³
Nicholas R. Delaney⁴

Chad D. Miller
Adam A. Ripple
Brodie L. Miller
Sarah E. Fisher

1. Qualified neutral under Rule 114. 2. A Real Property Law Specialist certified by the Minnesota State Bar Association. 3. Admitted to practice law in Wisconsin.
4. Admitted to practice law in North Dakota. 5. Admitted to practice law in South Dakota. 6. Sherburne County Examiner of Titles. 7. Admitted to practice law in Arizona.

SERVICE LIST

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

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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**

Administrative Law Judge, Al Wahl
Office of Administrative Hearing
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Bismarck, ND 58501
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William Binek
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Dakota Resource Council
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Fargo ND 58102
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CERTIFIED MAIL**

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Lankin ND 58250
SENT VIA CERTIFIED MAIL

Janie & John Capp
12466 60th 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

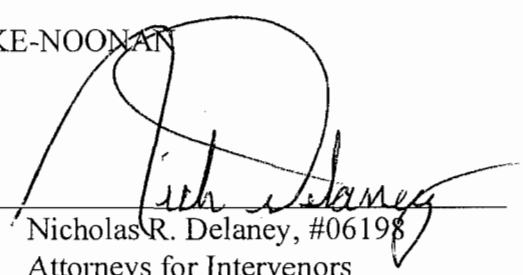
TO: THE ATTACHED SERVICE LIST

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 Intervenors, herein moves the Court, for an order to withdraw as Attorney of record for the Intervenors. 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 Intervenors
P.O. Box 1497
St. Cloud, MN 56302-1497
320 251-6700

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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 Linette Kratochvill, Janie 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 Intervenors or a party to an action cannot on their own choose to NOT have legal counsel. It is the Intervenors' and Rinke Noonan's position that the Intervenors 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 Intervenors 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 Intervenors.

Rinke-Noonan has been in contact with the Dakota Resource Council and other individual Intervenors. Through these discussions, it has been learned that none of the Intervenors 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 Intervenors 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 Intervenors regardless of the factual circumstances.

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

have a right to appear *pro se*. This is a decision the Intervenor 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 would be prejudiced if they were forced to have legal counsel present at the Hearings. Not only would the Intervenor 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 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 to incur additional, unnecessary expense. If indeed the Intervenor 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 not having legal counsel. In fact, it is quite likely that having legal counsel present on behalf of the Intervenor 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

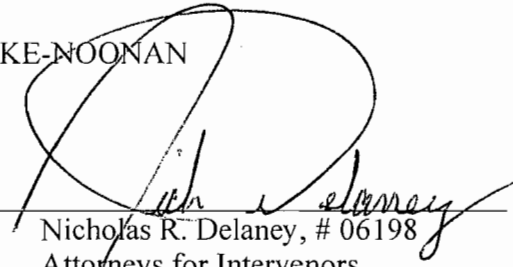
St. Cloud, MN 56302-1497

320 251-6700

Dated: November 16, 2007

RINKE-NOONAN

By

A large, stylized handwritten signature in black ink, appearing to read "Nicholas R. Delaney", is written over a horizontal line.

Nicholas R. Delaney, # 06198

Attorneys for Intervenors

P.O. Box 1497

St. Cloud, MN 56302-1497

320 251-6700

**BEFORE THE PUBLIC SERVICE COMMISSION
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**TransCanada Keystone Pipeline, LP
30-Inch Crude Oil Pipeline/Cavaller to Sargent
Counties Siting Application**

Case No. PU-06-421

AFFIDAVIT OF LYNN WOLFF

November 15, 2007

1. I am an organizer for the Dakota Resource Council. I am an authorized agent and representative of the Dakota Resource Council. We have obtained Intervenor status in the above referenced matter.

2. The Dakota Resource Council does not wish to incur further legal expenses related to legal representation at the November 27th and 28th, 2007, hearings in Bismarck, ND. The Dakota Resource Council wishes to appear pro se at said hearing and does not wish for Rinke Noonan to travel to Bismarck and represent its interests. I have spoken with the other Interveners who are all members of the Dakota Resource Council. They 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 scheduled for November 27th and 28th, 2007. If the Dakota Resource Council were required to incur additional legal fees it would create great financial hardship on the Interveners.

3. The Dakota Resource Council does, however, wish to retain all rights associated with their Intervenor status, including without limitation, the right to present evidence and question witnesses at the hearings on November 27th and 28th, 2007.

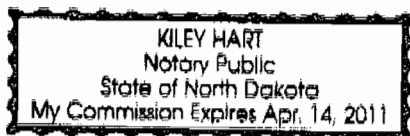
Dated: 11-16-07, 2007.


Lynn Wolff

STATE OF NORTH DAKOTA)
) ss
COUNTY OF CASS)

Subscribed and sworn to before me
this 16th day of November, 2007.


Notary Public



STATE OF MINNESOTA)
)
COUNTY OF STEARNS)

AFFIDAVIT OF SERVICE

The below signed, being duly sworn, states that on the 16th day of November, 2007, I served the following documents:

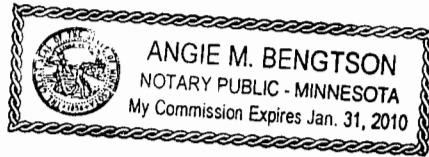
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2. Memorandum of Law in Support of Motion for Withdrawal;
3. Affidavit of Nicholas R. Delaney; and
4. Affidavit of Lynn Wolff.

on the attached Service List by faxing as indicated and mailing to them copies thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at St. Cloud, Minnesota, directed to said persons at the addresses listed on the Service List, and by faxing to the facsimile numbers as indicated, the last known facsimile numbers and addresses of said persons.

Seilmi Heinen

Subscribed and sworn to before me
this 16th day of November, 2007.

Angie M. Bengtson
Notary Public



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