

HAMMARBACK, DUSEK & ASSOCIATES, P.L.C.

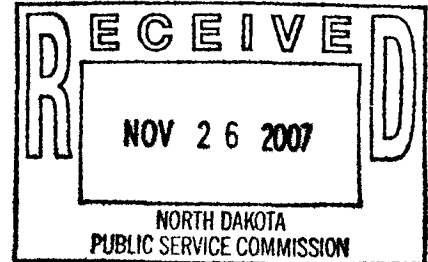
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712 DeMers Avenue, Post Office Box 4, East Grand Forks, MN 56721
Telephone 218-773-6841 Facsimile: 218-773-2845

November 20, 2007

VIA U.S. MAIL AND E-MAIL (ijs@nd.gov)

Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505-0480



RE: In the Matter of the Siting Application and Application for Certificate of Public Convenience and Necessity of TransCanada Keystone Pipeline, LP (PSC Case Nos. PU-06-421 and PU-07-152; OAH File No. 20070181)

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing please find the original plus seven (7) of the following documents:

1. Motion for Admission to Practice *Pro Hac Vice*;
2. Affidavit of Jana M. Linderman in Support of Motion;
3. (Proposed) Order Granting Motion for Admission to Practice *Pro Hac Vice*; and
4. Affidavit of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew F. Shimanek".

Matthew F. Shimanek

Enclosures

Copies (w/ enc) via e-mail to: Service List

Administrative Law Judge Al Wahl (awahl@nd.gov)
Lynn Wolff (lynn@drcinfo.com)
Janie and John Capp (janiecapp@csb100.com)
Ramona Klein (ramonak@daktel.com)
Linette and Merle Kratochvil (lckgoats@polarcomm.com)
Mark Novak (Neptune@polarcomm.com)

301 PU-06-421

Pages: 7

Motion for Admission to Practice Pro Hac Vice
(Lindeman)
by Public Service Commission
11/27/2007

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	Case No. PU-06-421
Cavalier to Sargent Counties	:	
Siting Application	:	
	:	
Application for Certificate of	:	Case No. PU-07-152
Public Convenience and Necessity	:	

MOTION FOR ADMISSION TO PRACTICE *PRO HAC VICE*

Pursuant to North Dakota Admission to Practice Rule 3, the undersigned hereby respectfully moves that the North Dakota Public Service Commission grant admission to practice *pro hac vice* to nonresident attorney Jana M. Linderman for the purpose of appearing as counsel for the Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak in the above-captioned matter. In support of this motion, the undersigned does hereby state the following:

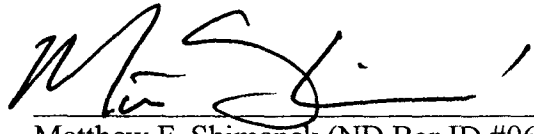
1. The undersigned, an attorney in good standing admitted and licensed to practice law in the State of North Dakota, will serve as co-counsel for Ms. Linderman in this matter;
2. A sworn affidavit of Ms. Linderman, affirming that she has been admitted to the practice of law in the State of Iowa since April 2005, that she is not presently subject to a disciplinary proceeding in any jurisdiction, that she is not under any restriction or probation in the practice of law in any jurisdiction, that she is not now nor has she ever been suspended or disbarred from a court in any jurisdiction and that she has not appeared in any prior North Dakota actions or ever registered under this rule, is attached hereto; and

3. A copy of this motion and accompanying affidavit has been contemporaneously filed with the State Board of Law Examiners, along with the required fee of \$380.

Wherefore, the undersigned respectfully requests that the North Dakota Public Service Commission grant this motion and allow the admission to practice *pro hac vice* of nonresident attorney Jana M. Linderman for the purpose of appearing as counsel for the above-named Intervenor in this matter.

Dated this 20th day of November, 2007

Respectfully submitted,



Matthew F. Shimanek (ND Bar ID #06115)
Hammarback, Dusek & Associates, PLC
712 DeMers Avenue
PO Box 4
East Grand Forks, MN 56721-0004
Phone: (218) 773-6841
Facsimile: (218) 773-2845

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	Case No. PU-06-421
Cavalier to Sargent Counties	:	
Siting Application	:	
	:	
Application for Certificate of	:	Case No. PU-07-152
Public Convenience and Necessity	:	

**AFFIDAVIT OF JANA M. LINDERMAN
IN SUPPORT OF MOTION FOR ADMISSION TO PRACTICE *PRO HAC VICE***

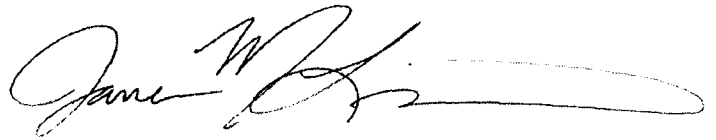
I, Jana M. Linderman, do hereby state and affirm as follows:

1. This affidavit is submitted in support of the foregoing attached motion that I be admitted to practice *pro hac vice* for the purpose of appearing as counsel in the above-captioned matter on behalf of Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak;
2. I have been admitted to practice law in the State of Iowa since April 2005;
3. I am not presently subject to a disciplinary proceeding in any jurisdiction;
4. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed;
5. I am not now nor have I ever been suspended or disbarred from a court in any jurisdiction;
6. I have not appeared in any North Dakota actions during the prior three years, nor have I ever registered under North Dakota Admission to Practice Rule 3;
7. I have appeared as counsel in numerous judicial and administrative proceedings in the State of Iowa, including regulatory proceedings before the Iowa Utilities Board;

8. I am familiar with and prepared to comply with all rules governing proceedings before North Dakota Public Service Commission, as well as all rules governing the professional conduct of attorneys in the State of North Dakota

The contents of the foregoing affidavit are true and correct as I verily believe.

Dated this 20th day of November, 2007, at Cedar Rapids, Iowa.



Jana M. Linderman, Affiant
Attorney (IA #AT00004750)
Plains Justice
100 1st Street SW
Cedar Rapids, IA 52404
Phone: (319) 362-2120
Facsimile: (866) 484-2373
E-mail: jlinderman@plainsjustice.org

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	Case No. PU-06-421
Cavalier to Sargent Counties	:	
Siting Application	:	
	:	
Application for Certificate of	:	Case No. PU-07-152
Public Convenience and Necessity	:	

**ORDER GRANTING
MOTION FOR ADMISSION TO PRACTICE *PRO HAC VICE***

Upon the Motion for Admission to Practice *Pro Hac Vice* of Jana M. Linderman, the same is hereby granted, subject to the requirements set forth in North Dakota Admission to Practice Rule 3 and all other applicable laws and rules of the State of North Dakota and the North Dakota Public Service Commission. Jana M. Linderman is hereby admitted to practice *pro hac vice* in the above-captioned matter and granted leave to appear as counsel for Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak.

Dated this ___ day of November, 2007 at Bismarck, North Dakota.

North Dakota Public Service Commission

By: _____

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	Case No. PU-06-421
Cavalier to Sargent Counties	:	
Siting Application	:	
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Application for Certificate of	:	Case No. PU-07-152
Public Convenience and Necessity	:	

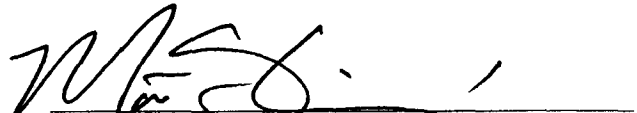
CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the Motion for Admission to Practice *Pro Hac Vice*, the accompanying Affidavit of Jana M. Linderman and the proposed Order Granting Motion for Admission to Practice *Pro Hac Vice* to which this Certificate is attached were served on the 20th day of November, 2007 by e-mail addressed to:

Thomas D. Kelsch
Todd D. Kranda
Kelsch, Kelsch, Ruff & Kranda
tdkelsch@kelschlaw.com
kranda@kelschlaw.com

Erik R. Johnson
City of Fargo
ejohnson@lawfargo.com

William W. Binek
Chief Counsel
North Dakota Public Service Commission
wbinek@nd.gov


Matthew F. Shimanek

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-06-421

ORDER DENYING MOTION TO CONTINUE HEARINGS

November 27, 2007

Background

On April 11, 2007, TransCanada Keystone Pipeline, LLC ("TransCanada") filed an application for a waiver of procedures and time schedules, and consolidated applications for a certificate of corridor compatibility and a route permit authorizing construction of approximately 218 miles of 30-inch crude oil pipeline and associated facilities in Cavalier, Pembina, Walsh, Nelson, Steele, Barnes, Ransom, and Sargent Counties of North Dakota.

The hearing in Case No. PU-06-421 was closed on September 6, 2007. On October 15, 2007, Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil, and Mark Novak, collectively referred to as "Intervenors," filed their post hearing Memorandum Brief, and TransCanada filed its Memorandum Brief and proposed Findings of Fact, Conclusions of Law and Order.

On October 24, 2007, the City of Fargo filed a Motion to Intervene and Reopen the Hearing. On November 7, 2007, the Public Service Commission ("Commission") issued an order to reopen proceedings in Case No. PU-06-421 limited to the safety and public health issues relating to the water supply of the City of Fargo from Lake Ashtabula and the Sheyenne River.

On November 6, 2007, Administrative Law Judge Al Wahl held a pre-hearing conference for the purpose of scheduling further hearing. The Intervenors' counsel, Nicholas Delaney, appeared along with Janie Capp. Both Delaney and Capp stated they could be available for further hearings on November 27th and 28th 2007. These dates were also satisfactory to TransCanada, the City of Fargo and the Commission. Delaney indicated at that time that he did not know if it would be necessary for him to participate in the re-opened hearing, because the Intervenors already put on their case, were able to testify, cross examine witnesses, introduce exhibits and put on their own witnesses in the previous four days of hearings.

300 PU-06-421

Pages: 6

Signed Order Denying Motion to Continue
Hearings
by Public Service Commission
11/27/2007

On November 8, 2007, the Commission issued a Notice of Further Hearing on Expedited Time Frame scheduling the hearing to begin November 27, 2007 for the purpose of allowing the City of Fargo to provide evidence regarding the safety and public health issues relating to the water supply from Lake Ashtabula and the Sheyenne River. The hearing dates of November 27 and 28 were agreed upon by counsel representing the parties to this proceeding.

On November 9, 2007, Nicholas Delaney of the Rinke Noonan law firm filed a Notice of Withdrawal as legal counsel for the Intervenor, Dakota Resource Council and Ramona Klein, Merle and Linette Kratochvill, Janie and John Capp and Mark Novak.

On November 9, 2007, TransCanada filed a Return to Notice of Withdrawal opposing the withdrawal unless there are protections and assurances that the proceedings will not be delayed and that appropriate parameters are established for the November 27 and 28, 2007 hearings. TransCanada expressed concern that there must not be any delay in the event the Intervenor wants to participate and are unable to obtain legal counsel for the November 27 and 28 hearings. TransCanada specifically requested that withdrawal not be granted unless there is no continuance granted and the matter will proceed with the hearings on November 27 and 28 as scheduled.

On November 16, 2007, Nicholas Delaney filed a Notice and Motion for Withdrawal of Counsel together with a Memorandum of Law in Support of Motion for Withdrawal and supported by affidavits of Nicholas R. Delaney of the Rinke Noonan law firm and Lynn Wolff, an authorized agent and representative of the Dakota Resource Council. In his Affidavit dated November 15, 2007 and executed before a Notary Public on November 16, 2007, Lynn Wolff stated:

1. I am the 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 Intervenor 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 Intervenor.
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.

On November 16, 2007, Administrative Law Judge, Al Wahl, held a prehearing conference to consider, among other matters, the Motion for Withdrawal of Counsel. Persons participating in the prehearing conference included attorneys Nicholas R. Delaney, Thomas D. Kelsch, Todd Kranda, Eric Johnson, John Dingess, and William W. Binek. Other persons participating included Lynn Wolff, Mark Novak, Linette and Merle Kratochvil, Janie Capp (on behalf of John and Janie Capp), Ramona Klein, and attorney Jana Linderman, an attorney with Plains Justice of Cedar Rapids, Iowa. At the prehearing conference Lynn Wolff, speaking on behalf of the Dakota Resource Council, stated that he agreed with Mr. Delaney's statement of facts and circumstances. The Intervenors participating in the prehearing conference each individually agreed with the statement of facts and circumstances presented by Nicholas R. Delaney. The Administrative Judge, before granting the Motion for Withdrawal of Counsel discussed in detail with the Intervenors the consequences of their decision to seek the withdrawal of counsel and explained how they would be able to participate pro se.

On November 16, 2007, Administrative Law Judge, Al Wahl, issued a Prehearing Order in which he granted the Motion for Withdrawal of Counsel.

On November 20, 2007, Matthew F. Shimanek, Hammarbach, Dusek & Associates, East Grand Forks, Minnesota, filed a Motion for Admission to Practice *Pro Hac Vice* for attorney Jana M. Linderman for the purpose of appearing as counsel for the Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil, and Mark Novak. Mr. Shimanek advised that he will serve as co-counsel for Ms. Linderman in this matter.

On November 21, 2007, Matthew F. Shimanek, on behalf of the Intervenors, filed a Motion to Continue Hearings. Mr. Shimanek states that previous counsel was not granted leave to withdraw as counsel until November 16, 2007, and until that date, Intervenors did not have certain knowledge as to whether previous counsel would continue to represent them in this matter or whether counsel would be required. He states that upon previous counsel finally being granted permission to withdraw, Intervenors acted promptly to obtain alternate counsel. Mr. Shimanek further states that the laws of North Dakota governing the withdrawal of legal representation contemplate that withdrawal will be allowed only where it will not have material adverse impact on the interests of the client or clients being represented, and that if hearings proceed as scheduled, the interests of the Intervenors will have been materially prejudiced by counsel for the Intervenors withdrawing only a week prior to the hearings and Intervenors having to locate and retain new counsel to present their interests within a matter of just a few days.

On November 23, 2007, TransCanada filed a Response Resisting Request for Continuance. TransCanada states 1) that the Intervenors have participated in four days of hearings and according to their previous counsel, Nicholas Delaney, they have

already presented their case, testified, introduced exhibits, cross examined witnesses, and called witnesses; 2) the withdrawal of previous counsel was agreed to by the Intervenor; and 3) TransCanada has demonstrated serious adverse consequences of further delay in hearings in this case. TransCanada points out that even as late as November 16, 2007, at the prehearing conference where the Administrative Law Judge considered the motion for withdrawal of attorney, the individual Intervenor including Lynn Wolff and Jana Linderman on behalf of the Dakota Resource Council did not object to the hearing dates of November 27 and 28, 2007.

TransCanada states that pursuant to section 69-02-04-03 of the North Dakota Administrative Code, continuances may be granted for good cause and must be submitted as far in advance as possible. This motion for continuance was filed on November 21, 2007 at 3:29 p.m. The motion was filed only two working days (not including Thanksgiving Day and the intervening weekend) before the scheduled hearing date. TransCanada points out that the individual witnesses for TransCanada and presumably for the City of Fargo have made travel arrangements and revised schedules to appear on the scheduled dates for the hearing. Furthermore, the six month deadline for issuance of a decision in this case has already been extended, and if the reopened hearing were to be continued, the period of time for issuance of a decision would significantly increase and would result in unreasonable delay in the Commission acting on the application for corridor and route.

TransCanada states that the motion for continuance is untimely and appears to have been made solely for the purpose of delay. TransCanada argues that the Intervenor should not be permitted to consent to the withdrawal of their legal representation less than 10 days before a scheduled hearing that they consented to and then use that withdrawal to attempt to obtain a continuance.

On November 23, 2007, the City of Fargo filed a Response resisting the Intervenor's motion for continuance. The City of Fargo requests that the Commission deny the motion, or in the alternative, if the motion is granted that the Commission order that the Dakota Resource Council be responsible for the costs that the City of Fargo will incur resulting from rescheduling of travel and lodging for witnesses and legal counsel. The City of Fargo states that it has used the services of witnesses who are located in the state of Minnesota, and that its special counsel is located in Colorado. All of Fargo's witnesses and counsel have made arrangements to be present for the November 27 and 28, 2007 hearings.

The City of Fargo points out that the Commission, through its Administrative Law Judge, and in cooperation with the parties to this matter, established the dates of November 27 and 28, 2007, as the time for hearing concerning the issues set forth in the November 7, 2007 Order. The City of Fargo also states that the Intervenor have not heretofore focused on the issues to be presented by the City of Fargo.

On November 26, 2007, Matthew Shimanek and Jana Linderman, on behalf of the Intervenor, filed a response to the objections of the City of Fargo and TransCanada

to continuance of the hearings. The Intervenors argue that their right to due process and full and fair participation in these hearings exist independent of travel plans of witnesses and counsel for the City of Fargo. The Intervenors object to the request of the City of Fargo for reimbursement of costs resulting from rescheduling of travel and lodging for witnesses and legal counsel if the Motion for Continuance is granted. Intervenors' state that the City of Fargo and TransCanada are both in much better positions to absorb costs of minor procedural delays.

Intervenors state that their right to fully and fairly participate in these proceedings has been unduly burdened by the late withdrawal of Intervenors' previous counsel. Intervenors argue that the constricted timeline for the hearing has created hardships that would not exist in a more expanded timeframe. Intervenors state that time to prepare for these hearings would have been difficult had Intervenors continued with the same counsel, but with previous counsel for the Intervenors withdrawing only one week prior to the hearings creates an almost impossible situation.

Discussion

The facts and circumstances relating to the withdrawal of counsel for these Intervenors differs substantially from the statements of Mr. Shimanek contained in the Motion to Continue Hearings. As pointed out above, the Intervenors all supported the withdrawal of the Rinke Noonan. The Affidavit of Lynn Wolff states that "[t]he 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 intervenors 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."

The Intervenors also had Jana Linderman participate in the November 16, 2007 prehearing conference by telephone. The Intervenors indicated that Jana Linderman would provide advice to the Intervenors but that she was not licensed to practice law in North Dakota. At no time during the prehearing conference did Jana Linderman indicate that she would seek to be admitted to practice *Pro Hac Vice* nor did she indicate any concern about the hearing dates.


The Intervenors understood the facts and circumstances of the withdrawal of their attorney and they all agreed to and supported the withdrawal of Rinke Noonan. They were also aware that the hearings were scheduled for November 27 and 28, and expressed no concern relating to the date of those hearings and made no request that the hearings be continued. Jana Linderman, the present counsel for the Intervenors, participated in the prehearing conference on November 16, 2007. The Intervenors gave no indication at the November 16, 2007 prehearing conference that they intended to retain other counsel to represent them at the further hearing. Had the Intervenors advised the Administrative Law Judge and the other parties of that intent, it may have influenced the decision on the motion to withdraw.

The Commission finds that good cause does not exist for the continuance of the hearings scheduled for November 26 and 27, 2007. The Intervenor chose to seek and support the withdrawal of Rinke Noonan knowing that hearings were scheduled for these dates. The Administrative Law Judge fully informed the Intervenor of their rights to present evidence and cross examine witnesses as well as the consequences of granting of the Withdrawal prior to his granting the Motion for Withdrawal of Counsel.

ORDER

The Commission orders that the Motion to Continue Hearings is DENIED.

PUBLIC SERVICE COMMISSION


Tony Clark
Commissioner


Susan E. Wefald
President


Kevin Cramer
Commissioner

DUNCAN, OSTRANDER & DINGESS, P.C.
Attorneys and Counselors at Law

Robert R. Duncan
Donald M. Ostrander
John M. Dingess
Austin Hamre

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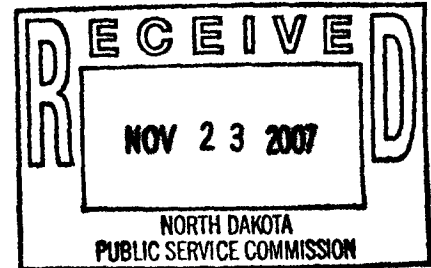
Special Counsel
James Birch
T. Daniel Platt
Paul C. Rufien, P.C.
Robert E. Schween, P.C.
Teri L. Pettit
Stephanie Neitzel
Patricia A. Madsen

Lynn B. Obernyer - 2003
Elizabeth D. Rubinstein

November 23, 2007

VIA E-MAIL (IJS@ND.gov)

Ms. Ilona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505-0480



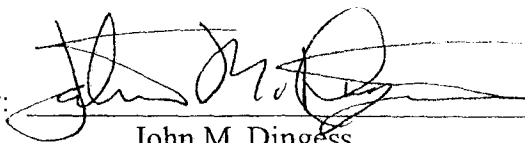
RE: In the Matter of the Siting Application and Application for Certificate of Public Convenience and Necessity of TransCanada Keystone Pipeline, LP (PSC Case Nos. PU-06-421 and PU-07-152; OAH File No. 20070181)

Dear Ms. Jeffcoat-Sacco:

Attached for filing please find the Response of City of Fargo to Dakota Resource Council's Motion to Continue Hearings.

Sincerely,

DUNCAN OSTRANDER & DINGESS P.C.

By: 
John M. Dingess
jdingess@dodpc.com

JMD:pat
Attachments

cc: William W. Binek (WBinek@ND.gov)
Al Wahl, Administrative Law Judge (AWahl@ND.gov)
Thomas D. Kelsch, Esq. (TDKelsch@KelschLaw.com)

Illona Jeffcoat-Sacco
November 23, 2007
Page 2

Todd D. Kranda, Esq. (Kranda@KelschLaw.com)
Matthew F. Shimanek, Esq. (Matt@HDALawyers.com)
Erik R. Johnson, Esq. (EJohnson@LawFargo.com)
Ramona Klein (RamonaK@DAKTel.com)
Linette and Merle Kratochvil (lckgoats@Polarcomm.com)
Janie and John Capp (JanieCapp@CSB100.com)
Mark Novak (Neptune@PolarComm.com)
Jana Linderman, Esq. (JLinderman@PlainsJustice.org)
Derrick@svogellaw.com
Lynn Wolff (Lynn@DRCInfo.com)

**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 OF CITY OF FARGO TO DAKOTA RESOURCE COUNCIL'S
MOTION TO CONTINUE HEARINGS**

Commissioners Susan E. Wefald, Tony Clark, and Kevin Cramer

Thomas D. Kelsch and Todd D. Kranda, Kelsch Kelsch Ruff & Kranda, 103 Collins Avenue, Mandan, ND 58554, on behalf of the Applicant TransCanada Keystone Pipeline, LP

Matthew F. Shimanek, Esq, Hammarback, Dusek & Associates, PLC, 712 DeMers Ave, PO Box 4, East Grand Forks, MN 56721-0004, on behalf of Dakota Resources Council, Ramona Klein, Merle and Linette Kratochvil, Janie and John Capp, and Mark Novak

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, Bismarck, ND 58505, on behalf of the Public Service Commission

Al Wahl, Office of Administrative Hearings, 1707 N 9th Street, Bismarck, ND 58501, as Procedural Hearing Officer

Erik R. Johnson, Esq., Erik R. Johnson & Assoc. Ltd., 505 Broadway, Suite 206, Fargo, ND 58102-4907 on behalf of Intervenor City of Fargo, North Dakota

John M. Dingess, Patricia Madsen, Duncan Ostrander & Dingess, P.C., 3600 S Yosemite St, Ste 500, Denver, CO 80237-1829, on behalf of Intervenor City of Fargo, North Dakota

RESPONSE

The city of Fargo, North Dakota (Fargo), Intervenor herein, respectfully requests the Public Service Commission (PSC) deny the Motion to Continue Hearings filed by Intervenor Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil, and Mark Novak (DRC Intervenor). In the alternative, should the PSC be inclined

to grant DRC Intervenors' Motion, Fargo respectfully requests the PSC order that DRC Intervenors be responsible for the costs that Fargo will incur resulting from rescheduling of travel and lodging for witnesses and legal counsel if DRC Intervenors' Motion is granted.

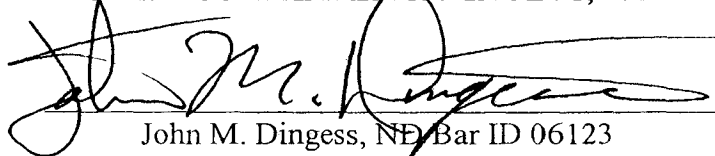
Fargo was allowed to intervene and these proceedings were reopened to address specific issues raised by Fargo pursuant to the PSC's Order of November 7, 2007 (11/07/07 Order). The DRC Intervenors have been parties to this proceeding since its nascent stages and multiple references to their past participation appear in the record of this matter. Following the 11/07/07 Order, the PSC, through its Administrative Law Judge, and in cooperation with the parties to this matter, established the dates of November 27 and 28, 2007, as the time for hearing concerning the issues set forth in the 11/07/07 Order. Since receiving those hearing dates, Fargo has made substantial efforts to prepare for the scheduled hearing. The delay requested by DRC Intervenors would add significant time and expense to Fargo's participation, and Fargo therefore requests said Motion be denied. Fargo would further point out that the scope of the November 27-28 proceedings are limited, and it has been Fargo's observation through its review of the records in this proceeding that notwithstanding their previous participation in this matter, DRC Intervenors have not heretofore focused on the issues to be presented by Fargo.

In order to prepare for the scheduled hearing, Fargo has used the services of various witnesses who are located in the state of Minnesota. At the November 27-28 proceedings, Fargo will present these witnesses and other witnesses who do not live in the Bismarck area. Further, Fargo's undersigned special counsel is located in Colorado. All of Fargo's witnesses and counsel have made travel and lodging arrangements so that they might be present for the November 27-28 proceedings. Canceling and rescheduling hotel reservations and airline travel will likely result in additional fees and charges incurred by Fargo. Accordingly, should the PSC be inclined to grant DRC Intervenors' Motion, Fargo respectfully requests and moves the PSC to include as part of any such order a requirement that DRC Intervenors reimburse Fargo for any and all charges incurred for the rescheduling of travel and lodging to any continued hearing.

In conclusion, Fargo respectfully requests denial of DRC Intervenors' Motion to Continue Hearings; however, if said Motion is granted, Fargo requests that any order include provisions requiring DRC Intervenors to reimburse Fargo for travel and lodging expenses resulting from any rescheduling of the proceedings.

Respectfully submitted this 23rd day of November, 2007.

DUNCAN OSTRANDER & DINGESS, P.C.



John M. Dingess, NE Bar ID 06123
3600 S Yosemite St Ste 500
Denver CO 80237-1829
Phone 303-779-0200
JDingess@dodpc.com
Special Counsel, City of Fargo

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of November, 2007, a true and correct copy of the foregoing **RESPONSE OF CITY OF FARGO TO DAKOTA RESOURCE COUNCIL'S MOTION TO CONTINUE HEARINGS** was filed with the Public Service Commission of the State of North Dakota and served via E-Mail to the following:

Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck ND 58505-0480
(IJS@ND.gov)

William W. Binek, Chief Counsel
Public Service Commission
State Capitol
Bismarck ND 58505
WBinek@ND.gov
(Public Service Commission)

Al Wahl, Administrative Law Judge
Office of Administrative Hearings
1707 N 9th St
Bismarck ND 58501
(AWahl@ND.gov)

Thomas D. Kelsch, Esq
Todd D. Kranda, Esq
Kelsch Kelsch Ruff & Kranda
103 Collins Ave
Mandan ND 58554
(TDKelsch@KelschLaw.com;
Kranda@KelschLaw.com)
(Applicant TransCanada Keystone Pipeline, LP)

Matthew F. Shimanek, Esq
Hammarback, Dusek & Associates, PLC
712 DeMers Ave
PO Box 4
East Grand Forks MN 56721-0004
(Matt@HDALawyers.com)
(Dakota Resources Council, Ramona Klein, Merle and Linette Kratochvill, Janie and John Capp, and Mark Novak)

Erik R. Johnson, Esq.
Assistant City Attorney
City of Fargo
505 Broadway St N Ste 206
Fargo ND 58102-4907
EJohnson@LawFargo.com
(City of Fargo)

Ramona Klein
(RamonaK@DAKTeI.com)

Linette and Merle Kratochvil
(lckgoats@Polarcomm.com)

Janie and John Capp
(JanieCapp@CSB100.com)

Mark Novak
(Neptune@PolarComm.com)

Jana Linderman, Esq
(JLinderman@PlainsJustice.org)

Derrick@svogellaw.com

Lynn Wolff
(Lynn@DRCInfo.com)


Patricia E. Sullivan

Kelsch Kelsch Ruff & Kranda

C.F. Kelsch
1890-1987

Attorneys at Law
Mandan, North Dakota

William C. Kelsch
Retired

THOMAS F. KELSCH
ARLEN M. RUFF, P.C.
THOMAS D. KELSCH, P.C.
TODD D. KRANDA, P.C.*
WILLIAM J. DELMORE
DANIEL NAGLE

*Also Licensed in Minnesota

 MERITAS LAW FIRMS WORLDWIDE

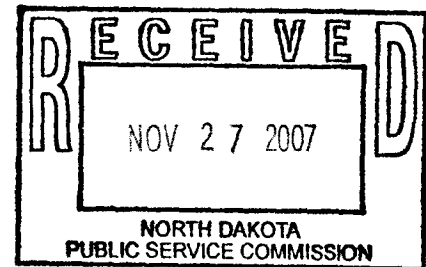
103 Collins Avenue
P.O. Box 1266
Mandan, ND 58554-7266
Phone (701) 663-9818
1-888-663-9818
Fax (701) 663-9810
Website www.kelschlaw.com

November 27, 2007

MS ILLONA A JEFFCOAT-SACCO
EXECUTIVE SECRETARY
PUBLIC SERVICE COMMISSION
600 EAST BOULEVARD, DEPT 408
BISMARCK ND 58505-0480

HAND DELIVERED

Re: TransCanada - Keystone Pipeline Project
Case No: PU-06-421
OAH File No. 20070181
Our File No. 11815



Dear Ms. Jeffcoat-Sacco:


A ten day period was allowed for submission of a written request in response to the November 7, 2007 Notice of Intent to Consider Information Not Presented at a Hearing. According to my calculations, that deadline date would be November 28, 2007 which is ten days from November 7th excluding weekends and legal holidays and adding three days for mailing.

Pursuant to the November 7th Notice, and in accordance with Section 28-32-25 NDCC and the October 18, 2007 Memorandum from ALJ Wahl, I am requesting on behalf of TransCanada Keystone Pipeline LP, that we are afforded an opportunity to examine and present information or evidence in response regarding the PHMSA Special Permit information, item no. 203, which will be submitted in writing to be considered by the Public Service Commission in this matter.

I am also enclosing an original Certificate of Service which indicates that this correspondence and request letter has been provided to legal counsel for the various parties, namely Attorney Erik R. Johnson and Attorneys Pat Madsen and John Dingess who are legal counsel of record for Fargo, Attorney Matt Shimanek and Attorney Jana Linderman who are legal counsel of record for the Intervenor of Dakota Resource Council et al as well as to Intervenor John and Janie Capp.

Keystone intends to prepare and submit its written response within a reasonable time. If you have any questions, please feel free to contact Thomas D. Kelsch or me.

Sincerely,


Todd D. Kranda



TK:ls
Enc

298 PU-06-421

Pages: 2

Letter Requesting Opportunity to Examine &
Present Evidence
Kelsch, Kelsch, Ruff & Kranda

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

TRANSCANADA KEYSTONE PIPELINE, LP) CASE NO. PU-06-421
30-INCH CRUDE OIL PIPELINE/CAVALIER TO)
SARGENT COUNTIES SITING APPLICATION)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 21st day of November, 2007, the undersigned deposited in the United States Post Office at Mandan, North Dakota, a true and correct copy of the following document(s) in the above-captioned action:

Letter requesting opportunity to submit written response

That a copy of the above document(s) was securely enclosed in an envelope with postage duly prepaid, and addressed as follows:

WILLIAM BINEK
ATTORNEY AT LAW
PUBLIC SERVICE COMMISSION
600 E. BOULEVARD, DEPT 408
BISMARCK ND 58505-0480

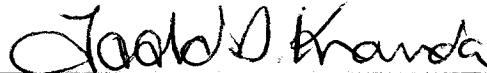
ERIK R JOHNSON
ATTORNEY AT LAW
505 BROADWAY ST N - STE 206
FARGO ND 58102

MATT F. SHIMANEK
ATTORNEY AT LAW
PO BOX 4
EAST GRAND FORKS MN 56721

JOHN & JANIE CAPP
12466 60TH ST NE
LANKIN ND 58250

PAT MADSEN
JOHN DINGESS
ATTORNEYS AT LAW
3600 S. YOSEMITE ST, STE 500
DENVER CO 80237-1829

JANA LINDERMAN
ATTORNEY AT LAW
100 FIRST STREE TSW
CEDAR RAPIDS IA 52404



TODD D. KRANDA, State Bar ID No. 04512
KELSCH, KELSCH, RUFF & KRANDA
Attorneys for TransCanada Keystone Pipeline LP
103 Collins Avenue, P.O. Box 1266
Mandan, North Dakota 58554-7266
(701) 663-9818



100 1st Street SW
Cedar Rapids, Iowa 52404

November 26, 2007

VIA E-MAIL (ijs@nd.gov)

Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505-0480

RE: In the Matter of the Siting Application and Application for Certificate of Public Convenience and Necessity of TransCanada Keystone Pipeline, LP (PSC Case Nos. PU-06-421 and PU-07-152; OAH File No. 20070181)

Dear Ms. Jeffcoat-Sacco:

Attached for filing please find the following documents:

1. Response to Objections to Motion to Continue Hearings; and
2. Certificate of Service.

Sincerely,

Jana M. Linderman

Enclosures

Copies (w/ enc) via e-mail to: Service List

Administrative Law Judge Al Wahl (awahl@nd.gov)
Lynn Wolff (lynn@drcinfo.com)
Janie and John Capp (janiecapp@csb100.com)
Ramona Klein (ramonak@daktel.com)
Linette and Merle Kratochvil (lckgoats@polarcomm.com)
Mark Novak (Neptune@polarcomm.com)

297 PU-06-421

Pages: 9

Email Response to Objections to Motion to
Continue Hearings
by Public Service Commission by Dakota Resource Council
11/26/2007

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline Cavalier to Sargent Counties Siting Application	:	Case No. PU-06-421
	:	
Application for Certificate of Public Convenience and Necessity	:	Case No. PU-07-152
	:	

**RESPONSE TO OBJECTIONS BY CITY OF FARGO AND TRANSCANADA
KEYSTONE PIPELINE TO MOTION TO CONTINUE HEARINGS**

COME NOW the Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak (the Intervenors), by and through the undersigned counsel, with this Response to Objections by the City of Fargo (Fargo) and TransCanada Keystone Pipeline, LP (TransCanada) to Intervenors' Motion to Continue Hearings in the above-captioned matter. As response to said objections, the Intervenors hereby state as follows:

1. On November 21, 2007, the Intervenors submitted a motion requesting that the Commission continue the hearings scheduled in this matter for November 27 and November 28, 2007.
2. On November 23, 2007, Fargo and TransCanada submitted separate written responses to Intervenors' motion, setting forth several grounds for objection and requesting that the Commission deny the motion.
3. Fargo objects to the Intervenors' motion on the grounds that granting the motion would require Fargo to incur additional costs for transportation and lodging for witnesses and counsel in connection with the upcoming hearings. Intervenors' right to due process and

full and fair participation in these hearings exists independent of the travel plans of the witnesses and counsel for Fargo. While the Intervenors are sympathetic to Fargo's difficulties in this respect, the objections raised by Fargo only further exemplify the obstacles that have resulted for all parties from the expedited timeline of these new hearings and the particular difficulties faced by the Intervenors in proceeding on such short notice with new counsel. The Notice of Hearing in this matter was issued on November 8, 2007. Previous counsel for the Intervenors submitted a request to withdraw as counsel on November 9, 2007. Said request was granted on November 16, 2007. Intervenors' present counsel submitted a request to appear on November 20, 2007 and a motion to continue hearings on November 21, 2007. Intervenors' present counsel then received formal permission to appear on November 23, 2007. While all these actions occurred in a timely manner, the constricted timeline has created hardships that would not exist in a more expanded timeframe. This is the central point of Intervenors' motion. Time to prepare for these hearings would have presented enough difficulty had Intervenors continued with the same counsel, but previous counsel for the Intervenors withdrawing only one week prior to the hearings creates an almost impossible situation. Participating in the expedited discovery process, preparing evidence and submitting and responding to motions become significant burdens for the Intervenors and for the other parties as well.

4. Fargo also notes that the scope of the upcoming hearings is limited to a set of issues not heretofore focused on by the Intervenors. Without admitting to the accuracy of this allegation, the Intervenors urge that this point is irrelevant. As Fargo notes, the Intervenors have been parties to this proceeding "since its nascent stages." As parties to

this docket; the Intervenors have a right to full and fair participation in these hearings and to respond to any new evidence presented by the other parties to this matter. Although the record in this matter has been reopened at the request of Fargo, it does not follow that Fargo is the only party permitted to participate in the making of this record. The Applicant TransCanada intends to present additional evidence as well, and due process demands that the other parties, namely the Intervenors, be guaranteed the same opportunity, albeit within the limited scope of issues established for these hearings.

5. Fargo further states in its response that if Intervenors' motion is granted, that the Intervenors should be required to reimburse Fargo for any additional costs incurred as a result of continuing the upcoming hearings to a later date. The Intervenors object to this request. Intervenors' lack of funds has already proved a burden in this matter, as this was a primary reason for the request by Intervenors' previous counsel to withdraw. Fargo and TransCanada are both in much better positions to absorb the costs of minor procedural delays. In the event that the Commission intends to grant Intervenors' motion subject to payment of costs to either or both of the other parties, then the Intervenors would respectfully request to withdraw the motion, provided that the Commission notes for the record Intervenors' continuing objection to proceeding with the hearings as scheduled for the reasons stated herein and in Intervenors' motion of November 21, 2007.
6. TransCanada states in its resistance to Intervenors' motion that the Intervenors have participated in previous hearings and presented evidence for the record. This is true. It is also true that TransCanada has participated in all previous hearings and been allowed to present all its evidence for the record. Presumably TransCanada would not now argue that this previous participation limits the due process rights of TransCanada with respect

to the upcoming hearings. A new record will be made on the limited set of issues set forth by the Commission, and all parties have the right to full and fair participation. The right of Intervenors to fully and fairly participate in these new proceedings has been unduly burdened by the late withdrawal of Intervenors' previous counsel. TransCanada does not deny the timing of this event or assert that it has no prejudicial impact on Intervenors' ability to participate in the upcoming hearings. Rather TransCanada seems to urge that the lateness of withdrawal and Intervenors' lack of ability to meaningfully participate does not matter, because the Intervenors have participated in previous hearings. As parties to this matter, the Intervenors have the right to participate in the making of a new record, regardless of previous participation.

7. TransCanada further urges that Intervenors' motion should not be granted, because Intervenors did not object to the withdrawal of their previous counsel. As stated in the record of the hearing to consider the request by Intervenors' previous counsel to withdraw, the primary motive for the request was the lack of financial resources on the part of the Intervenors. When asked by the hearing officer, the Intervenors confirmed that they did not have the financial resources to continue with their previous counsel. As this is a factually accurate statement, the Intervenors were hardly in a position to dispute it in good faith. The Intervenors did not state that the withdrawal of previous counsel would not prejudice their ability to participate effectively in new hearings and when questioned by the hearing officer, expressed reservations about appearing on their own behalf and acting as their own counsel at formal hearings. Some of the individual Intervenors were unsure that they would even be able to attend the upcoming hearings on their own behalf. Furthermore, as TransCanada notes, the Intervenor Dakota Resource

Council could not participate at all in these new hearings if new counsel had not been retained. After the formal withdrawal of Intervenor's previous counsel, the Intervenor acted promptly to obtain new counsel. Unfortunately, in light of the timeframe of the upcoming hearings even prompt action by the Intervenor has left Intervenor's present counsel little time to effectively prepare.

8. Finally, TransCanada notes that any delay in these proceedings will constitute a serious financial burden to TransCanada in the construction and operation of its proposed pipeline. As already noted to this Commission in proceedings regarding Fargo's petition to intervene, TransCanada requires a number of permits before any action can be taken with regards to either the construction or the operation of the pipeline. Notably, the South Dakota Public Utilities Commission has not yet begun its siting hearings, the U.S. government has not yet published a final Environmental Impact Statement or issued the requisite Presidential Permit, and complex consultations with Native American tribes in the pipeline corridor regarding cultural resources are on-going. TransCanada does not cite in its response to Intervenor's motion what specific activities it would be prevented from carrying out if the Commission grants a continuance. This Commission has already significantly constricted its procedural schedule at the request of TransCanada. Any delay that would occur from granting Intervenor's motion would be minor and would not affect the overall permitting schedule for TransCanada, which will be on-going in other jurisdictions long after this Commission issues its final decision. As such, TransCanada's financial concerns do not outweigh the right of the Intervenor to full and fair participation in these new hearings.

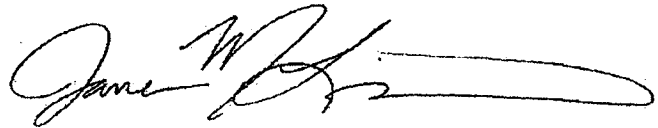
WHEREFORE, the Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak hereby repeat their request that the hearings scheduled in this matter for November 27 and November 28, 2007 be continued until a later date to allow the Intervenors and counsel for the Intervenors sufficient time to prepare for said hearings and to effectively participate as parties in this matter, and that the objections by the City of Fargo and TransCanada Keystone Pipeline, LP to this motion be overruled. The Intervenors further request, that in the event the Commission intends to grant the Intervenors' motion conditioned on the payment of costs by the Intervenors to either or both of the other parties, that the Intervenors be granted leave to withdraw this motion, provided that the Commission notes for the record Intervenors' continuing objection to proceeding with the hearings as scheduled on November 27 and November 28, 2007 for all the reasons set forth herein above and in Intervenors' Motion to Continue Hearings dated November 21, 2007.

Dated this 26th day of November, 2007

Respectfully submitted,



Matthew F. Shimanek (ND Bar ID #06115)
Hammarback, Dusek & Associates, PLC
712 DeMers Avenue
PO Box 4
East Grand Forks, MN 56721-0004
Phone: (218) 773-6841
Facsimile: (218) 773-2845
E-mail: matt@hdalawyers.com



Jana M. Linderman (IA #AT00004750)
Plains Justice
100 1st Street SW
Cedar Rapids, IA 52404
Phone: (319) 362-2120
Facsimile: (866) 484-2373
E-mail: jlinderman@plainsjustice.org

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	Case No. PU-06-421
Cavalier to Sargent Counties	:	
Siting Application	:	
	:	
Application for Certificate of	:	Case No. PU-07-152
Public Convenience and Necessity	:	

CERTIFICATE OF SERVICE


The undersigned certifies that true and correct copies of the Response to Objections to Motion to Continue Hearing to which this Certificate is attached were served on the 26th day of November, 2007 by e-mail addressed to:

Thomas D. Kelsch
Todd D. Kranda
Kelsch, Kelsch, Ruff & Kranda
tdkelsch@kelschlaw.com
kranda@kelschlaw.com

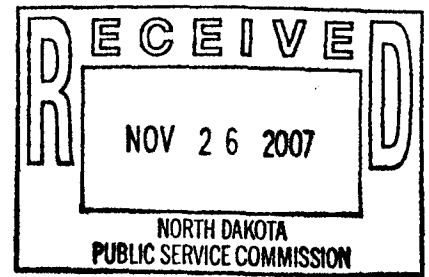
John M. Dingess
Pat Madsen
Duncan, Ostrander & Dingess, PC
jdingess@dodpc.com
poolpat@dodpc.com

Erik R. Johnson
City of Fargo
ejohnson@lawfargo.com

William W. Binek
Chief Counsel
North Dakota Public Service Commission
wbinek@nd.gov


Matthew F. Shimanek

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

**MOTION REQUESTING PERMISSION TO APPEAR *PRO HAC VICE*
FOR INTERVENING PARTY CITY OF FARGO IN REOPENED PROCEEDINGS**

APPEARANCES

Commissioners Susan E. Wefald, Tony Clark, and Kevin Cramer

Thomas D. Kelsch and Todd D. Kranda, Kelsch Kelsch Ruff & Kranda, 103 Collins Avenue, Mandan, ND 58554, on behalf of the Applicant TransCanada Keystone Pipeline, LP

Nicholas R. Delaney, Rinke Noonan, US Bank Plaza, Suite 300, St. Cloud, MN 56302, on behalf of Interveners, Dakota Resources Council, Ramona Klein, Merle and Linette Kratochvill, Janie and John Capp, and Mark Novak

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, Bismarck, ND 58505, on behalf of the Public Service Commission

Al Wahl, Office of Administrative Hearings, 1707 N 9th Street, Bismarck, ND 58501, as Procedural Hearing Officer

Janie and John Carr, *pro se*, 12466 60th St NE, Lankin, ND 58250, Interveners

John M. Dingess, Patricia Madsen, Duncan Ostrander & Dingess, P.C., 3600 S Yosemite St, Ste 500, Denver, CO 80237-1829, on behalf of Intervenor City of Fargo, North Dakota

MOTION

Patricia A. Madsen, a nonresident attorney licensed to practice in the State of Colorado, pursuant to North Dakota Supreme Court Rule 3, requests permission to appear before the North Dakota Public Service Commission *pro hac vice*. She represents the following:


1. John Dingess, an attorney admitted and licensed to practice law in North Dakota since 2005, North Dakota Bar Number 06123, is hereby designated as associate attorney in these proceedings.

2. The Affidavit of Patricia A. Madsen is attached in support of this motion.
3. This motion is respectfully directed to the Hon. Al Wahl, hearing officer duly appointed by the Public Service Commission to preside over hearing in the matters in which admission is sought.
4. Copies of this Motion and Affidavit are being filed with the State Board of Law Examiners at the same time they are filed with the hearing officer of the Public Service Commission.
5. With a copy of this Motion and its attached Affidavit, I am remitting the sum of \$380.00, reflecting the fee required for an attorney who has been licensed in this state for five years, to:

State Board of Law Examiners
Penny L. Miller, Secretary-Treasurer
Office of the Clerk of the Supreme Court
Judicial Wing, 1st Floor
600 E Boulevard Ave Dept 180
Bismarck ND 58505-0530.

6. John Dingess, Special Counsel for the City of Fargo and designated associate counsel for Patricia Madsen, filed the City's Motion to Intervene in the above-captioned matters on or about the 23rd day of October, 2007. Hearing is scheduled for November 27 and 28, 2007. This Motion is filed within 45 days of the filing of Fargo's Motion to Intervene.

Respectfully submitted this 21st day of November, 2007.



Patricia A. Madsen, Colo. Bar. No. 7239
Duncan Ostrander & Dingess, P.C.
3600 S Yosemite St Ste 500
Denver CO 80237-1829
Phone 303-779-0200
poolpat@dodpc.com
Special Counsel, City of Fargo

**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

AFFIDAVIT OF PATRICIA A. MADSEN

I, Patricia A. Madsen, whose signature appears below, do swear and affirm on this 21st day of November, 2007, that the following statements are true and correct to the best of my knowledge and belief:

1. I am a resident of the State of Colorado.
2. I was admitted to practice law in Colorado in 1976. I have been admitted to practice for 31 years. My Bar Number in Colorado is 7239.
3. I am not presently subject to any disciplinary proceeding in any jurisdiction.
4. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed to practice law.
5. I am not now nor have I ever been suspended or disbarred from a court in any jurisdiction.
6. I have not appeared in any North Dakota actions in the three years prior to my Motion Requesting Permission to Appear *Pro Hac Vice* for Intervening Party City of Fargo in Reopened Proceedings.
7. I have never registered to practice in North Dakota *pro hac vice* pursuant to NDSC Rule 3.

FURTHER, Affiant sayeth not.



Patricia A. Madsen, Colo. Bar No. 7239
Duncan Ostrander & Dingess, P.C.
3600 S Yosemite St Ste 500
Denver CO 80237-1829

MARSHALL D BRODSKY
PATRICIA MADSEN
1445 BIRCH ST
DENVER, CO 80220-2429

3218

Date 11-19-07

82-7512/3020
96

Pay to the order of State Board of Law Examiners \$ 380 —

Three Hundred Eighty & no/100 — Dollars

Look for: Micro Print signature line, blue type and line work, CSECU logo on back. If not present, do not cash.



COLORADO STATE
EMPLOYEES CREDIT UNION
1390 Logan Street 1-800-444-4816
Denver, Colorado 80203

For Collection 7239 pro hac vice PA Madsen MP

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Zeimer, Lisa D.

From: Jeffcoat-Sacco, Illona
Sent: Saturday, November 24, 2007 7:16 PM
To: -Grp-PSC Commissioners
Cc: -Grp-PSC Legal; -Grp-PSC Public Utilities; 'kranda@kelschlaw.com';
tdkelsch@kelschlaw.com; ejohnson@lawfargo.com; matt@hdalawyers.com;
LCKGoats@polarcomm.com; neptune@polarcomm.com; ramonak@daktel.com;
janiecapp@csb100.com; Lynn@DRCInfo.com; JLinderman@PlainsJustice.org;
derrick@svogellaw.com; jdingess@dodpc.com
Subject: FW: TransCanada Keystone Pipeline, LP, North Dakota Public Service Commission Case No. PU-06-421

I am forwarding this for docketing and distribution in the Commission-- and also forwarding to the parties for which I have e-mail addresses, to avoid any *ex parte* communication issues.

Illona A. Jeffcoat-Sacco
ND PSC
701-328-2407 (fax 2410)
ijs@nd.gov

From: Wahl, Al
Sent: Saturday, November 24, 2007 9:48 AM
To: Jeffcoat-Sacco, Illona
Cc: 'Ramona Klein'
Subject: FW: TransCanada Keystone Pipeline, LP, North Dakota Public Service Commission Case No. PU-06-421

Ms. Jeffcoat-Sacco, forwarded to you for filing in the captioned matter is the response of Ramona Klein to the request of Richard Starke to intervene for the further proceedings to be had for the captioned matter. Regards, Al Wahl

Ms. Klein, in this case (where I preside as the Commission's hearing officer) the decision whether to grant a motion or request to intervene is made by a vote of the commissioners. I have forwarded your message to Illona Jeffcoat-Sacco, the executive director of the Commission, for filing. Regards, Al Wahl

From: Ramona Klein [mailto:ramonak@daktel.com]
Sent: Friday, November 23, 2007 4:46 PM
To: Wahl, Al
Subject: Re: TransCanada Keystone Pipeline, LP, North Dakota Public Service Commission Case No. PU-06-421

Dear Judge Wahl: I would like you to grant Richard Starke the status of Intervener, as he has requested. Thank you. Ramona Klein

295 PU-06-421

Pages: 1

Zeimer, Lisa D.

From: Jeffcoat-Sacco, Illona
Sent: Friday, November 23, 2007 3:54 PM
To: Zeimer, Lisa D.
Subject: FW: TransCanada Keystone Pipeline, LP, North Dakota Public Service Commission Case No. PU-06-421

Please docket, copy and distribute before the hearing--thanks.

Illona A. Jeffcoat-Sacco
ND PSC
701-328-2407 (fax 2410)
ijs@nd.gov

From: Wahl, Al
Sent: Friday, November 23, 2007 3:43 PM
To: Jeffcoat-Sacco, Illona
Cc: John Capp and Janie Capp
Subject: FW: TransCanada Keystone Pipeline, LP, North Dakota Public Service Commission Case No. PU-06-421

Ms. Jeffcoat-Sacco, please note Mr. and Mrs. Capp's response to Mr. Starke's request to intervene and file it accordingly.

Thank you for your assistance. Regards, Al Wahl.

From: Janie Capp [mailto:JanieCapp@csb100.com]
Sent: Friday, November 23, 2007 3:27 PM
To: Wahl, Al
Subject: Intervene

Good Afternoon Judge Wahl

We would like to respond to Mr. Starke's Request to intervene. We request that he be allowed to intervene.

Also we do NOT wish to be at the counsel table and if we choose to make a statement it will be as a witness called by the attorney.

Have a good day

John & Janie Capp

Kelsch Kelsch Ruff & Kranda

C.F. Kelsch
1890-1987

Attorneys at Law
Mandan, North Dakota

William C. Kelsch
Retired

THOMAS F. KELSCH
ARLEN M. RUFF, P.C.
THOMAS D. KELSCH, P.C.
TODD D. KRANDA, P.C.*
WILLIAM J. DELMORE
DANIEL NAGLE

*Also Licensed in Minnesota

 MERITAS LAW FIRMS WORLDWIDE

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Phone (701) 663-9818
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Fax (701) 663-9810
Website www.kelschlaw.com

November 23, 2007

VIA E-MAIL (IJS@ND.GOV)

MS ILLONA A JEFFCOAT-SACCO
EXECUTIVE SECRETARY
PUBLIC SERVICE COMMISSION
600 EAST BOULEVARD, DEPT 408
BISMARCK ND 58505-0480

Re: TransCanada - Keystone Pipeline Project
Case No: PU-06-421
OAH File No. 20070181
Our File No. 11815

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing is TransCanada Keystone Pipeline, LP's Response Resisting Request for Continuance filed on behalf of Intervenor.

If you have any questions, please feel free to contact me.

Sincerely,



Thomas D. Kelsch

encs.

Cc:

William Binek
Al Wahl, Administrative Law Judge
Lynn Wolf, Dakota Resource Council
Mr. & Mrs. Kratochvil
Mr. Novak
Mrs. Klein

wbinek@nd.gov
awahl@nd.gov
lynn@drcinfo.com
lckgoats@polarcomm.com
Neptune@polarcomm.com
ramonak@daktel.com



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TransCanada Response Resisting Request for
Continuance
by Kelsch Kelsch Ruff & Kranda
11/23/2007

November 23, 2007

Page 2

M & M Capp
Derrick Braaten
Jana Linderman
Erik Johnson
John Dingess
Pat Madsen
Matt Shimanek

janiecapp@csb100.com
derrick@svogellaw.com
jlinderman@plainsjustice.org
ejohnson@lawfargo.com
idingess@dodpc.com
poolpat@dodpc.com
Matt@hdalawyers.com

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

TRANSCANADA KEYSTONE PIPELINE, LP) CASE NO. PU-06-421
30-INCH CRUDE OIL PIPELINE/CAVALIER TO)
SARGENT COUNTIES SITING APPLICATION)

RESPONSE RESISTING REQUEST FOR CONTINUANCE

On May 2, 2007, the Public Service Commission, (Commission), noticed public hearings on the above Application scheduled for Monday, July 23, 2007 in Valley City, North Dakota, and Tuesday, July 24, 2007 in Park River, North Dakota. The public hearings were held as noticed and scheduled. Testimony was received and the public was allowed to fully participate and comment. However, after allowing the public the opportunity to comment and the Intervenors the opportunity to participate and provide testimony, the hearing for the above referenced matter had to be continued and rescheduled to September 5th and 6th 2007, at the Commission Chambers in Bismarck, in order to allow the Petitioner TransCanada Keystone Pipeline, LP (Keystone), to present the remainder of its case.

The hearing on PU-06-421 was closed on September 6, 2007. Intervenors filed their post hearing Memorandum Brief, and Keystone filed its Memorandum Brief and proposed Findings of Fact Conclusions of Law and Order, the morning of October 15, 2007.

On October 24, 2007, the City of Fargo filed a Motion to Intervene and to Reopen the Hearing. On November 7th 2007, the Commission granted Fargo's motion to Intervene, and reopened the hearing limited to "the safety and public health issues relating to the water supply of the City of Fargo from Lake Ashtabula and The Sheyenne River."

On November 6, 2007, Administrative Law Judge (ALJ), Wahl held a pre-hearing conference for case No PU-06-421, for the purpose of scheduling further hearing. The

Intervenors' counsel, Nicholas Delaney, appeared along with Janie Capp. Both Delaney and Capp stated that they could be available for further hearings on November 27th and 28th 2007. Keystone, the City of Fargo as well as the Commission were all available for the re-opened hearing on November 27th and 28th, 2007. Delaney indicated that he did not know if it would be necessary for him to participate in the re-opened hearing, because the Intervenors already put on their case, were able to testify, cross examine witnesses, introduce exhibits and put on their own witnesses in the previous four days of hearings.

On November 8, 2007, based on the stated availability of all parties, the Commission issued Notice of Further Hearing on Expedited Time Frame in Case PU-06-421 for hearing on November 27th 2007 at 8:00 a.m. In its notice the Commission found that an emergency exists under the circumstances of this proceeding and the hearing be scheduled on an expedited basis as authorized under NDCC 29-22-13(4).

On November 9, 2007, Rinke Noonan, attorneys for the Intervenors filed a Notice of Withdrawal. In the Notice attorney Delaney indicated he was no longer representing the Intervenors and the Intervenors planned to appear and to act "pro se" at the re-opened hearing on November 27th and 28th, 2007.

Keystone filed a Return to the Withdrawal of Delaney. Keystone objected to the withdrawal in that it was made after the Issuance of the Notice of hearing issued by the Commission. Keystone resisted the withdrawal unless there are assurances that the proceedings would not be delayed, and specifically requested that the request for withdrawal not be granted if Intervenors would argue that they would be unable to hire substitute legal counsel in time for the scheduled November 27th and 28th 2007 hearings. Keystone requested that the withdrawal be conditioned so that there is no delay in the scheduled hearings.

ALJ Wahl held a pre-hearing conference on November 16, 2007, for the purpose of considering the Notice of Withdrawal of Rinke Noonan and Keystone's objection, as well as discovery issues and conduct for the scheduled hearing. At the pre-hearing conference, counsel for Keystone, the City of Fargo and Nicholas Delaney on behalf of the Intervenors appeared. The following individual Intervenors appeared "pro se": Mark Novak, Merle Kratochvill, Linette Kratochvil, Ramona Klein, and Janie Capp, and DRC appeared through Lynn C. Wolff and Jana Linderman. At the pre-hearing conference all of the individual Intervenors and the DRC representatives were given an opportunity to participate. None of the individual Intervenors or DRC objected to the withdrawal of Rinke Noonan as their attorney in the re-opened hearing. All of the Intervenors agreed to act "pro se" at the hearings on November 27th and 28th, 2007 in Bismarck. Lynn C. Wolff was advised that the DRC could not participate "pro se" and would need substitute counsel if it desired to appear and participate at the re-opened hearing. ALJ Wahl stated that the parties have the right to represent themselves "pro se" and granted Rinke Noonan's Motion to withdraw. In the pre-hearing order, ALJ Wahl further ordered that each of the Intervenors who will participate at the hearing "pro se" shall notify the other parties, including the other "pro se" parties of their intension to participate at the hearing no later than November 26th 2007, at 9:00 a.m.

On November 21st, 2007, at 3:29 p.m. attorney Shimanek filed a motion for a continuance on behalf of attorney Jana Linderman and the Intervenors. This motion was filed only 2 days before the scheduled hearing not counting the Thanksgiving holiday and intervening weekend. The grounds listed in the motion was that the ALJ had only recently granted Rinke Noonan withdrawal request and Linderman and the Intervenors would not have adequate time to prepare for the scheduled hearing.

Keystone respectfully requests that this untimely request for a continuance be denied. The Intervenors have already had their due process. The Intervenors have participated in four days of hearings and as their counsel admitted they already presented their case, testified, introduced exhibits, cross examined witnesses, and called witnesses. Further the stated reason for the continuance, (i.e. Rinke Noonan's withdrawal), was agreed to by Intervenors and should not now be able to be used as grounds to grant a continuance. Finally, Keystone has demonstrated the serious adverse consequences of further delay in hearings in this case. The Commission has recognized this impact, (which could be as high as \$100 million dollars), and found that grounds existed to grant an expedited hearing process.

Prior to the rescheduling of the hearing date for November 27th and 28th, 2007, the attorneys for the Commission, Keystone, the City of Fargo, and for the Intervenors as well and Janie Capp, were consulted through the ALJ and their availability was confirmed for the rescheduled dates in November based on the Commission schedule. Even as late as November 16, 2007, the individual Intervenors including Lynn C. Wolff and Jana Linderman on behalf of DRC did not object to the hearing dates of November 27th and 28th 2007. Had any of the Intervenors advised the ALJ that they would not be willing or able to act "pro se", or indicated that they needed legal counsel and that the new legal counsel would need more time to prepare for the re-opened hearing, ALJ Wahl would most likely have denied the withdrawal of Rinke Noonan.

Now, pursuant to a Motion dated November 21, 2007, a request for continuance has been submitted by Intervenors DRC, John and Janie Capp, Mark Novak, Merle Kratochvill and Linette Kratochvill and Ramona Klein, requesting that the rescheduled November 27th and 28th 2007 hearing be continued to allow their new counsel more time to prepare.

Keystone hereby resists and opposes the request for continuance of the November 27th and 28th hearing. The request for continuance should be denied and the re-opened hearing should proceed on November 27th and 28th as scheduled and noticed.

Pursuant to Section 69-02-04-03 of the North Dakota Administrative Code, continuances may be granted for good cause and must be submitted as far in advance as possible. It is hereby submitted that the request for continuance is untimely and good cause does not exist for the continuance of the re-opened hearing date of November 27th and 28th 2007.

Any delay by a continuance of the re-opened hearing would cause substantial prejudice to Keystone. The individual witnesses for the Keystone and presumable for the City of Fargo, have already made travel arrangements and revised their schedules to return and appear at this re-opened hearing on November 27th and 28th 2007.

More importantly, there are deadlines that exist for the Commission in this case which have already been extended in this case. The Application was deemed complete on May 2, 2007 and therefore the 6 month deadline established by rule for the issuance of a determination on the Application would be November 2, 2007. The Commission has extended this time period for good cause to December 12, 2007. A continuance of the re-opened hearing date would significantly increase this time. If the re-opened hearing was continued, the earliest it could be held would be in January 2008. This would result in a significant and unreasonable delay in the Commission acting on the application for corridor and route.

Each of the Intervenors was present and each testified at the prior hearings in July 2007. In fact, Mr. Novak appeared and testified at the Valley City hearing on July 22nd while Merle Kratochvill, Linette Kratochvill, John Capp and Janie Capp all appeared and testified at the Park River hearing on July 23rd. Furthermore, the Intervenors were present through their counsel at

the hearings in September.

The continuance request in addition to being untimely appears to have been made solely for the purpose of delay. The Intervenor should not be permitted to consent to the withdrawal of their legal representation less than 10 days before a scheduled hearing that they consented to and then use that withdrawal to attempt to obtain a continuance. Their attorney of record was involved in the discussions for the rescheduling and did not oppose to the rescheduled hearing and the Intervenor did not object when the issue was raised by Keystone on November 16, 2007. These Intervenor waited until the last week prior to the re-opened hearing date before they submitted the request even though the hearing date was coordinated, scheduled, approved and noticed by the Commission on November 9, 2007.

For the foregoing reasons, Keystone objects to the request for continuance and requests that the Commission deny the request for continuance and allow the re-opened hearing on November 27th and 28th 2007 to proceed without a delay and that the Commission continue to act with all due speed in this matter.

Dated this 23 day of November, 2007.

Respectfully submitted,
TransCanada Keystone Pipeline, LP

By 

Thomas D. Kelsch
Counsel for TransCanada Keystone Pipeline, LP
PO Box 1266
Mandan, ND 58554-7266

Kelsch Kelsch Ruff & Kranda

C.F. Kelsch
1890-1987

Attorneys at Law
Mandan, North Dakota

William C. Kelsch
Retired

THOMAS F. KELSCH
ARLEN M. RUFF, P.C.
THOMAS D. KELSCH, P.C.
TODD D. KRANDA, P.C.*
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November 23, 2007

MS ILLONA A JEFFCOAT-SACCO
EXECUTIVE SECRETARY
PUBLIC SERVICE COMMISSION
600 EAST BOULEVARD, DEPT 408
BISMARCK ND 58505-0480

SENT BY EMAIL ONLY

ijis@nd.gov

Re: TransCanada - Keystone Pipeline Project
OAH Case No 20070181
Case No: PU-06-421
Our File No. 11815

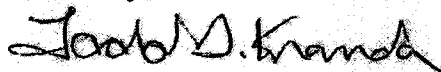
Dear Ms. Jeffcoat-Sacco:

I mentioned this security concern previously this past week. However, there was no indication whether or not any additional security measures would be taken by the Public Service Commission for the hearings scheduled at the end of the month. Accordingly, please consider this a formal request that the Public Service Commission obtain adequate security for the hearings that are scheduled for Tuesday and Wednesday, November 27 and 28, 2007.

Specifically, I would request on behalf of myself, co-counsel and the witnesses of Keystone that the PSC notify the ND Highway Patrol office that Richard Starke has previously made a threat and that if he appears and attends the hearings, a patrolman or other law enforcement should be present and attend the hearings. Given the past conduct and recent threat of physical violence that was made by Mr. Starke against the project, there is a serious concern that cannot and should not be ignored.

Please confirm in advance of the start of the hearings on Tuesday, November 27, 2007 that arrangements have been made to have security present at the hearings in the event Mr. Starke appears and attends. If you have any questions, please feel free to contact me or Thomas D. Kelsch.

Sincerely,



Todd D. Kranda

TK:ls

c: ALI Al Wahl awahl@nd.gov
Attorney William Binek wbinek@nd.gov
Attorney Erik Johnson ejohnson@lawfargo.com
Attorney Matt Schimanek matt@hdalawyers.com



**Upper Sheyenne River Joint
Water Resource Board**

P.O. Box 446
Lakota, North Dakota 58344-0446

Phone: 701 247-2682
Fax: 701 247-2692
E-mail: ncwrdb@polarcomm.com
Web: upper-sheyenne-river-board.tripod.com/

*Providing a coordinated and cooperative approach to planning and
implementing a comprehensive water management program in the
Upper Sheyenne Watershed*

November 23, 2007

Public Service Commission
600 E Boulevard Dept. 408
Bismarck, ND 58505-0480

RE: Keystone Pipeline Case #06421

The accompanying letter to Mr. Jeff Rauh and Mr. Todd Kranda, dated November 19, 2007, expresses the concerns of the Upper Sheyenne Water Resource Board in regard to the Keystone Pipeline Project. I am also sending the September 20, 2007, letter to Elizabeth Orlando, US Department of State, for your review.

Please place these letters on the formal record for review during the evaluation of the permit for the Keystone Pipeline and its rerouting through our state.

Thank you.

Respectfully,

Ben Varnson, Chairman
Upper Sheyenne River Joint
Water Resource Board

BAV/ckv

County Members
Barnes County WRD Benson County WRD Eddy County WRD F
McHenry County WRD Nelson County WRD Pierce County
Steele County WRD Stutsman County WRD

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Pages: 2

Letter to Rauh & Kranda re Concerns re
Project
by Public Service Commission by Upper Sheyenne River v
11/23/2007

**Upper Sheyenne River Joint
Water Resource Board**

P.O. Box 446
Lakota, North Dakota 58344-0446

Phone: 701 247-2682
Fax: 701 247-2692
E-mail: ncwrdb@polarcomm.com
Web: upper-sheyenne-river-board.tripod.com/

*Providing a coordinated and cooperative approach to planning and
implementing a comprehensive water management program in the
Upper Sheyenne Watershed*

Nov 2007
September 20, 2007

Elizabeth Orlando
OES/ENV Room 2657
U.S. Department of State
Washington, D.C. 20520

RE: Keystone Oil Pipeline Project

The Upper Sheyenne River Joint Water Resource Board represents 12 counties in North Dakota. This Board is concerned with the proposed Keystone Pipeline in regard to water quality issues within the watershed.

The proposed route from the Luverne Pumping Station in Steele County and south comes very close to the Sheyenne River and Lake Ashtabula. The Board suggests moving the line to a ridge approximately 3 to 5 miles east. This would give some protection to the river, in the event there is a leak, by detecting it before it would reach the river or Lake Ashtabula.

The Board is also concerned with comments that the pipe thickness would fluctuate in rural areas. The Upper Sheyenne River Joint Water Resource Board strongly requests that the standard thickness is maintained with no variances allowed.

Respectfully,

Ben Varnson, Chairman

Copy: North Dakota Public Service Commission
North Dakota Department of Health
Senator Kent Conrad
Senator Byron Dorgan
Representative Earl Pomeroy
Mary Lee Nielson, Mayor, Valley City, ND

BAV:ckv

County Members
Barnes County WRD Benson County WRD Eddy County WRD
McHenry County WRD Nelson County WRD Pierce Cou
Steele County WRD Stutsman County WRI

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Letter to State Dept re Water Quality
Concerns
by Public Service Commission by Upper Sheyenne River v
11/20/2007

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DOCKETED IN ERROR

by Public Service Commission by
11/26/2007

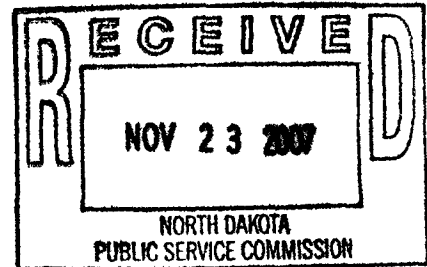


Hammarback, Dusek & Associates, PLC
712 DeMers Avenue
PO Box 4
East Grand Forks, MN 56721-0004
(218) 773-6841

November 21, 2007

VIA U.S. MAIL AND E-MAIL (ijs@nd.gov)

Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505-0480



RE: In the Matter of the Siting Application and Application for Certificate of Public Convenience and Necessity of TransCanada Keystone Pipeline, LP (PSC Case Nos. PU-06-421 and PU-07-152; OAH File No. 20070181)

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing please find the original plus seven (7) of the following documents:

1. Motion to Continue Hearings; and
2. Affidavit of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew F. Shimanek".

Matthew F. Shimanek

Enclosures

Copies (w/ enc) via e-mail to: Service List

Administrative Law Judge Al Wahl (awahl@nd.gov)
Lynn Wolff (lynn@drcinfo.com)
Janie and John Capp (janiecapp@csb100.com)
Ramona Klein (ramonak@daktel.com)
Linette and Merle Kratochvil (lckgoats@polarcomm.com)
Mark Novak (Neptune@polarcomm.com)

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Pages: 6

Original of Motion to Continue Hearing

by Public Service Commission by Dakota Resource Council
11/23/2007

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
	:	
30-Inch Crude Oil Pipeline Cavalier to Sargent Counties Siting Application	:	Case No. PU-06-421
	:	
	:	
Application for Certificate of Public Convenience and Necessity	:	Case No. PU-07-152
	:	

MOTION TO CONTINUE HEARINGS

COME NOW the Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak (the Intervenors), by and through the undersigned counsel, with this Motion to Continue Hearings in the above-captioned matter. In support of this motion, the undersigned does hereby state as follows:

1. Counsel for the Intervenors filed a motion on November 20, 2007 requesting leave to appear as counsel on behalf of the Intervenors in the above matter. It is the understanding of said counsel that such motion will be decided upon today, November, 21, 2007.
2. Formal hearings in this matter have been scheduled for November 27 and November 28, 2007, for the purpose of hearing new evidence pursuant to the Order on Motions to Intervene and Reopen dated November 7, 2007.
3. Previous counsel for the Intervenors was not granted leave to withdraw as counsel in this matter until November 16, 2007. Until that date, Intervenors did not have certain knowledge as to whether previous counsel would continue to represent them in this matter, or whether alternate counsel would be required. Previous counsel for the Intervenors had attempted to withdraw as counsel prior to the formal hearings in this

matter held on September 5 and September 6, 2007. Permission for such withdrawal was denied at that time. Previous counsel for the Intervenors continued to represent the Intervenors throughout the formal hearings held on September 5 and September 6, 2007 and for the purpose of preparing and filing a post-hearing brief on October 15, 2007. Upon previous counsel for the Intervenors finally being granted permission to withdraw, the Intervenors acted promptly to obtain alternate counsel, and said counsel filed a motion requesting permission to appear in this matter on November 20, 2007. Although the Intervenors acted in a timely manner to obtain alternate counsel, current counsel for the Intervenors is now left with less than one week to prepare for formal hearings in this matter. It should be additionally noted that the Thanksgiving holiday weekend falls in the middle of that week, further hampering timely and effective preparations prior to the scheduled hearings. The applicable rules of the State of North Dakota governing the withdrawal of legal representation contemplate that such withdrawal be allowed only where it will not have material adverse impact on the interests of the client or clients being represented. If hearings in this matter proceed on November 27 and November 28, 2007, the interests of the Intervenors will have been materially prejudiced by counsel for the Intervenors withdrawing only a week prior to said hearings and Intervenors having to locate and retain new counsel to represent their interests within a matter of just a few days.

4. This short timeframe has worked substantial and material prejudice on the ability of current counsel for the Intervenors to effectively prepare for the upcoming formal hearings. A copy of the attorney case file in this matter was only sent to the individual Intervenors via U.S. Mail on November 16, 2007, after previous counsel for the

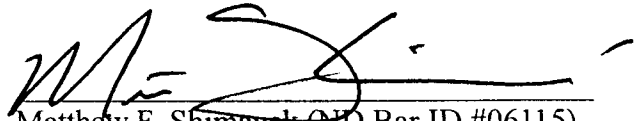
Intervenors was given leave to withdraw. Said case file was not received by the individual Intervenors until November 19, 2007 and was not in the hands of current counsel for the Intervenors until November 21, 2007. Although previous counsel for the Intervenors appears to have forwarded said case file to the individual Intervenors in a timely manner after being permitted to withdraw, current counsel for the Intervenors will not have sufficient opportunity to review said file prior to formal hearings in this matter scheduled less than one week from the receipt of said file.

5. The right of the Intervenors to full and effective participation as parties to this matter will be substantially and materially prejudiced if formal hearings are held within this short timeframe, in violation of Intervenors' right to due process under the Constitution of North Dakota and the U.S. Constitution. It is anticipated that new evidence will be entered onto the record by the Applicant, TransCanada Keystone Pipeline, LP, and the recent Intervenor, the City of Fargo. As parties to this matter, the Intervenors have the right to fully participate in these new hearings and the making of a new record, a right which is independent of Intervenors' participation in previous hearings in this matter. Just as the Applicant TransCanada Keystone Pipeline, LP now has a right to offer evidence for the re-opened record, in spite of having had the opportunity to participate in previous hearings on the record, the Intervenors have the same right to participate and offer evidence into the re-opened record and to respond to the evidence offered by other parties. This right cannot be meaningfully exercised given the very recent withdrawal of previous counsel for the Intervenors only one week prior to formal hearings in this matter, as well as the extremely short timeframe current counsel for the Intervenors now has to prepare to provide representation.

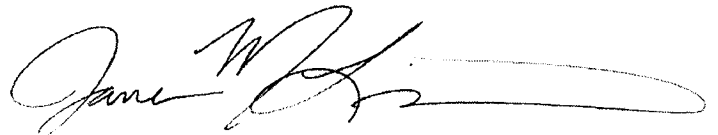
WHEREFORE, the Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak do hereby move that the hearings scheduled in this matter for November 27 and November 28, 2007 be continued until a later date to allow the Intervenors and counsel for the Intervenors sufficient time to prepare for said hearings and to effectively participate as parties in this matter.

Dated this 21st day of November, 2007

Respectfully submitted,



Matthew F. Shimanek (ND Bar ID #06115)
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712 DeMers Avenue
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East Grand Forks, MN 56721-0004
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Jana M. Linderman (IA #AT00004750)
Plains Justice
100 1st Street SW
Cedar Rapids, IA 52404
Phone: (319) 362-2120
Facsimile: (866) 484-2373
E-mail: jlinderman@plainsjustice.org

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	Case No. PU-06-421
Cavalier to Sargent Counties	:	
Siting Application	:	
	:	
Application for Certificate of	:	Case No. PU-07-152
Public Convenience and Necessity	:	

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the Motion to Continue Hearings to which this Certificate is attached were served on the 21st day of November, 2007 by e-mail addressed to:

Thomas D. Kelsch
Todd D. Kranda
Kelsch, Kelsch, Ruff & Kranda
tdkelsch@kelschlaw.com
kranda@kelschlaw.com

Erik R. Johnson
City of Fargo
ejohnson@lawfargo.com

William W. Binek
Chief Counsel
North Dakota Public Service Commission
wbinek@nd.gov



Matthew F. Shimanek

HAMMARBACK, DUSEK & ASSOCIATES, P.L.C.

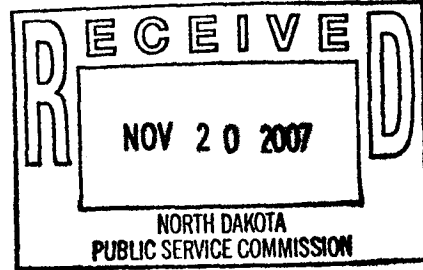
www.hdalawyers.com

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Telephone 218-773-6841 Facsimile: 218-773-2845

November 20, 2007

VIA U.S. MAIL AND E-MAIL (ijs@nd.gov)

Ilona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505-0480



RE: In the Matter of the Siting Application and Application for Certificate of Public Convenience and Necessity of TransCanada Keystone Pipeline, LP (PSC Case Nos. PU-06-421 and PU-07-152; OAH File No. 20070181)

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing please find the original plus seven (7) of the following documents:

1. Motion for Admission to Practice *Pro Hac Vice*;
2. Affidavit of Jana M. Linderman in Support of Motion;
3. (Proposed) Order Granting Motion for Admission to Practice *Pro Hac Vice*; and
4. Affidavit of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew F. Shimanek".

Matthew F. Shimanek

Enclosures

Copies (w/ enc) via e-mail to: Service List

Administrative Law Judge Al Wahl (awahl@nd.gov)
Lynn Wolff (lynn@drcinfo.com)
Janie and John Capp (janiecapp@csb100.com)
Ramona Klein (ramonak@daktel.com)
Linette and Merle Kratochvil (lckgoats@polarcomm.com)
Mark Novak (Neptune@polarcomm.com)

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Pages: 7

Motion for Admission to Practice Pro Hac Vice

by Public Service Commission by Dakota Resource Council
11/20/2007

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
	:	
30-Inch Crude Oil Pipeline Cavalier to Sargent Counties Siting Application	:	Case No. PU-06-421
	:	
	:	
Application for Certificate of Public Convenience and Necessity	:	Case No. PU-07-152
	:	

MOTION FOR ADMISSION TO PRACTICE *PRO HAC VICE*

Pursuant to North Dakota Admission to Practice Rule 3, the undersigned hereby respectfully moves that the North Dakota Public Service Commission grant admission to practice *pro hac vice* to nonresident attorney Jana M. Linderman for the purpose of appearing as counsel for the Intervenor Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak in the above-captioned matter. In support of this motion, the undersigned does hereby state the following:

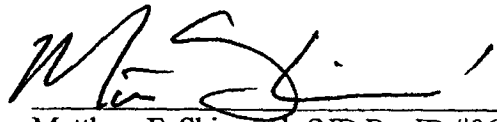
1. The undersigned, an attorney in good standing admitted and licensed to practice law in the State of North Dakota, will serve as co-counsel for Ms. Linderman in this matter;
2. A sworn affidavit of Ms. Linderman, affirming that she has been admitted to the practice of law in the State of Iowa since April 2005, that she is not presently subject to a disciplinary proceeding in any jurisdiction, that she is not under any restriction or probation in the practice of law in any jurisdiction, that she is not now nor has she ever been suspended or disbarred from a court in any jurisdiction and that she has not appeared in any prior North Dakota actions or ever registered under this rule, is attached hereto; and

3. A copy of this motion and accompanying affidavit has been contemporaneously filed with the State Board of Law Examiners, along with the required fee of \$380.

Wherefore, the undersigned respectfully requests that the North Dakota Public Service Commission grant this motion and allow the admission to practice *pro hac vice* of nonresident attorney Jana M. Linderman for the purpose of appearing as counsel for the above-named Interveners in this matter.

Dated this 20th day of November, 2007

Respectfully submitted,



Matthew F. Shimanek (ND Bar ID #06115)
Hammarback, Dusek & Associates, PLC
712 DeMers Avenue
PO Box 4
East Grand Forks, MN 56721-0004
Phone: (218) 773-6841
Facsimile: (218) 773-2845

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline Cavalier to Sargent Counties Siting Application	:	Case No. PU-06-421
	:	
Application for Certificate of Public Convenience and Necessity	:	Case No. PU-07-152
	:	

**AFFIDAVIT OF JANA M. LINDERMAN
IN SUPPORT OF MOTION FOR ADMISSION TO PRACTICE *PRO HAC VICE***

I, Jana M. Linderman, do hereby state and affirm as follows:

1. This affidavit is submitted in support of the foregoing attached motion that I be admitted to practice *pro hac vice* for the purpose of appearing as counsel in the above-captioned matter on behalf of Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak;
2. I have been admitted to practice law in the State of Iowa since April 2005;
3. I am not presently subject to a disciplinary proceeding in any jurisdiction;
4. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed;
5. I am not now nor have I ever been suspended or disbarred from a court in any jurisdiction;
6. I have not appeared in any North Dakota actions during the prior three years, nor have I ever registered under North Dakota Admission to Practice Rule 3;
7. I have appeared as counsel in numerous judicial and administrative proceedings in the State of Iowa, including regulatory proceedings before the Iowa Utilities Board;

8. I am familiar with and prepared to comply with all rules governing proceedings before North Dakota Public Service Commission, as well as all rules governing the professional conduct of attorneys in the State of North Dakota

The contents of the foregoing affidavit are true and correct as I verily believe.

Dated this 20th day of November, 2007, at Cedar Rapids, Iowa.



Jana M. Linderman, Affiant
Attorney (IA #AT00004750)
Plains Justice
100 1st Street SW
Cedar Rapids, IA 52404
Phone: (319) 362-2120
Facsimile: (866) 484-2373
E-mail: jlinderman@plainsjustice.org

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	
Cavalier to Sargent Counties	:	Case No. PU-06-421
Siting Application	:	
	:	
Application for Certificate of	:	
Public Convenience and Necessity	:	Case No. PU-07-152

**ORDER GRANTING
MOTION FOR ADMISSION TO PRACTICE *PRO HAC VICE***

Upon the Motion for Admission to Practice *Pro Hac Vice* of Jana M. Linderman, the same is hereby granted, subject to the requirements set forth in North Dakota Admission to Practice Rule 3 and all other applicable laws and rules of the State of North Dakota and the North Dakota Public Service Commission. Jana M. Linderman is hereby admitted to practice *pro hac vice* in the above-captioned matter and granted leave to appear as counsel for Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak.

Dated this ___ day of November, 2007 at Bismarck, North Dakota.

North Dakota Public Service Commission

By: _____

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	Case No. PU-06-421
Cavalier to Sargent Counties	:	
Siting Application	:	
	:	
Application for Certificate of	:	Case No. PU-07-152
Public Convenience and Necessity	:	

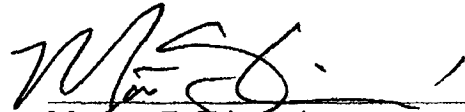
CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the Motion for Admission to Practice *Pro Hac Vice*, the accompanying Affidavit of Jana M. Linderman and the proposed Order Granting Motion for Admission to Practice *Pro Hac Vice* to which this Certificate is attached were served on the 20th day of November, 2007 by e-mail addressed to:

Thomas D. Kelsch
Todd D. Kranda
Kelsch, Kelsch, Ruff & Kranda
tdkelsch@kelschlaw.com
kranda@kelschlaw.com

Erik R. Johnson
City of Fargo
ejohnson@lawfargo.com

William W. Binek
Chief Counsel
North Dakota Public Service Commission
wbinek@nd.gov



Matthew F. Shimánek

Kelsch Kelsch Ruff & Kranda

C.F. Kelsch
1890-1987

Attorneys at Law
Mandan, North Dakota

William C. Kelsch
Retired

THOMAS F. KELSCH
ARLEN M. RUFF, P.C.
THOMAS D. KELSCH, P.C.
TODD D. KRANDA, P.C.*
WILLIAM J. DELMORE
DANIEL NAGLE

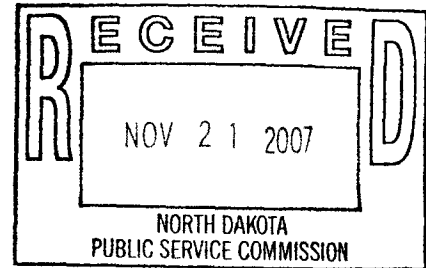
*Also Licensed in Minnesota

 MERITAS LAW FIRMS WORLDWIDE

103 Collins Avenue
P.O. Box 1266
Mandan, ND 58554-7266
Phone (701) 663-9818
1-888-663-9818
Fax (701) 663-9810
Website www.kelschlaw.com

November 20, 2007

MS ILLONA A JEFFCOAT-SACCO
EXECUTIVE SECRETARY
PUBLIC SERVICE COMMISSION
600 EAST BOULEVARD, DEPT 408
BISMARCK ND 58505-0480



Re: TransCanada - Keystone Pipeline Project
Case No: PU-06-421
OAH File No. 20070181
Our File No. 11815

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing is an original and seven copies of an Objection to Richard Starke's Request to Intervene which is being submitted on behalf of TransCanada Keystone Pipeline, LP.

I am also enclosing an Affidavit of Service which indicates copies are being served on the various parties in this proceeding. Also enclosed is a Certificate of Service which indicates copies are being served on Richard Starke.

If you have any questions, please feel free to contact me.

Sincerely,


Todd D. Kranda

TK:ls

Encs

c: TransCanada Keystone Pipeline LP



286 PU-06-421

Pages: 6

Objection to Starke Request to Intervene

by Kelsch Kelsch Ruff & Kranda

11/21/2007

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

TRANSCANADA KEYSTONE PIPELINE, LP) CASE NO. PU-06-421
30-INCH CRUDE OIL PIPELINE/CAVALIER TO)
SARGENT COUNTIES SITING APPLICATION)

**OBJECTION TO
RICHARD STARKE'S REQUEST TO INTERVENE**

TransCanada Keystone Pipeline, LP, (Keystone) hereby files its objection to the request by Richard Starke (Starke) to intervene as a party as stated in his email directed to the Public Service Commission dated November 15, 2007 at 9:32 PM.

Starke submitted his request several months after the close of the initial public hearings in this proceeding, which were held in late July and early September, 2007. Starke had notice of those hearings. In fact, Starke already participated and appeared at those hearings and he presented testimony to the Public Service Commission at both the Valley City and Bismarck hearings.

Now, Starke seeks to intervene after Fargo was granted intervenor's status and the record was reopened with the very limited scope and focus of the "safety and public health issues relating to the water supply of the City of Fargo from Lake Ashtabula and the Sheyenne River" as was stated by the Public Service Commission in its Order dated November 7, 2007.

Starke is not affected by the limited issue involved in the reopened proceedings. Starke has already presented testimony and evidence on several occasions during the hearings and through subsequent correspondence that the Commission has considered.

Starke has not demonstrated good cause for his late and untimely request to intervene in these proceedings, as required by Section 69-02-02-05 of the North Dakota Administrative Code. Moreover, Starke has not alleged that material changes in fact or law have occurred since the prior hearings.

Pursuant to Section 69-02-02-05 of the North Dakota Administrative Code, a petition to intervene in any proceeding must be filed at least 10 days prior to the hearing, but not after except for good cause shown.

The hearings in this case were scheduled and held on July 23 and 24, 2007 and continued on September 5 and 6, 2007. The request to intervene by Starke had to be filed on or before July 9, 2007, to be considered timely filed pursuant to Section 69-02-02-05 of the North Dakota Century Code. The request was not filed ten (10) days before the hearings and the request is in direct violation of Section 69-02-02-05.

In conclusion, Keystone objects to the request by Starke to become an intervenor in this Proceeding. The Public Service Commission does not have the legal authority and basis to grant the requested intervention by Starke. The Public Service Commission should deny the requests of Starke to become an intervenor, as both untimely and unnecessary. Keystone respectfully requests that the Public Service Commission act with all due speed with entry of an Order denying Starke's request to be an intervenor in this matter.

Dated this 20th day of October, 2007.

Respectfully submitted,
TransCanada Keystone Pipeline, LP

By Thomas D. Kelsch
Thomas D. Kelsch, State Bar ID No. 03918
Todd D. Kranda, State Bar ID No. 04512
KELSCH, KELSCH, RUFF & KRANDA
Attorneys for the Petitioner
103 Collins Avenue, P.O. Box 1266
Mandan, North Dakota 58554-7266
(701) 663-9818

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

STATE OF NORTH DAKOTA)
) ss. **AFFIDAVIT OF SERVICE**
COUNTY OF MORTON)

THOMAS D. KELSCH being first duly sworn, on oath, deposes and says: That he is a citizen of the United States, over the age of eighteen and not a party to the above-entitled action.

That on the 20th day of November, 2007, this affiant deposited in the United States Post Office at Mandan, North Dakota, a true and correct copy of the following document(s) in the above-captioned action:

Objection to Richard Starke's Request to Intervene

That a copy of the above document(s) was securely enclosed in an envelope with postage duly prepaid, and addressed as follows:

ERIK R JOHNSON
ERIK R JOHNSON & ASSOCIATES
505 BROADWAY STREET N - STE 206
FARGO ND 58102

RAMONA KLEIN
3340 123RD AVE SE
ORISKA ND 58663

JOHN AND JANIE CAPP
12466 60TH STREET NE
LANKIN ND 58250

DAKOTA RESOURCE COUNCIL
118 BROADWAY - STE 801
FARGO ND 58107

JOHN M DINGESS
DUNCAN OSTRANDER & DINGESS PC
3600 S YOSEMITE ST - STE 500
DENVER CO 82037-1829

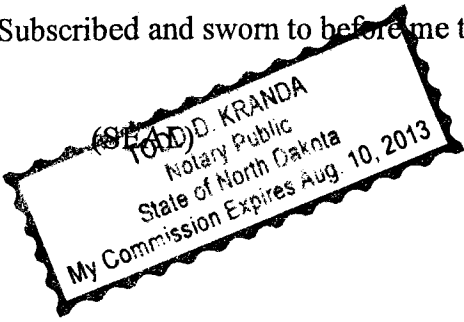
MARK NOVAK
PO BOX 122
LANKIN ND 58250

LINETTE AND MERLE KRATOCHVIL
6355 COUNTY RD 14
LANKIN ND 58250



THOMAS D. KELSCH

Subscribed and sworn to before me this 20th day of November, 2007.



Todd D. Kranda
Notary Public, State of North Dakota

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

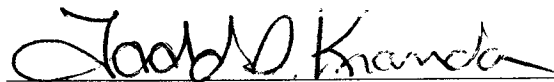
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of November, 2007, the undersigned deposited in the United States Post Office at Mandan, North Dakota, a true and correct copy of the following document(s) in the above-captioned action:

Objection to Richard Starke's Request to Intervene

That a copy of the above document(s) was securely enclosed in an envelope with postage duly prepaid, and addressed as follows:

RICHARD STARKE
5 ELM STREET
BURLINGTON ND 58722



TODD D. KRANDA, State Bar ID No. 04512
KELSCH, KELSCH, RUFF & KRANDA
Attorneys for TransCanada Keystone Pipeline LP
103 Collins Avenue, P.O. Box 1266
Mandan, North Dakota 58554-7266
(701) 663-9818

Zeimer, Lisa D.

From: Rafferty, Tom D.
Sent: Wednesday, November 21, 2007 9:04 AM
To: Wahl, Al; -Grp-PSC Commissioners
Cc: -Grp-PSC Public Utilities
Subject: Richard Starke

Good morning Judge Wahl,

I thought I had better inform you about a conversation I had with Shannon Henke of the Highway Patrol this morning.

He called me asking about the Sept. 6 Keystone hearing and accusations from Richard Starke that some Keystone witnesses committed perjury. He wants to see transcripts and hear recordings of the hearing because he is investigating Mr. Starke's claims.

I also told him he should call you because you were the judge presiding over the hearing. He said he would reach you by calling the main number of your office.

He also asked for phone numbers of two of the witnesses, which I will be providing to him this morning.

Shannon's phone number is 328-5590 in case you need it.

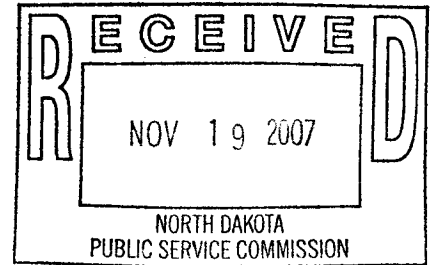
Let me know if you have any questions for me.

Sincerely,

*Tom Rafferty
Consumer Affairs/Public Outreach Specialist
North Dakota Public Service Commission
State Capitol, 12th Floor, Dept. 408
600 E. Boulevard Ave., Bismarck, ND 58505-0480
Phone: 701-328-4078
Fax: 701-328-2410*

MEMORANDUM

DATE: November 16, 2007
TO: Illona Jeffcoat-Sacco, Executive Director
Public Service Commission
FROM: Al Wahl
RE: TransCanada Keystone Pipeline, LP
30-Inch Crude Oil Pipeline
Cavalier to Sargent Counties
Siting Application



Enclosed for filing is the prehearing order for the captioned matter.

284 PU-06-421

Original Prehearing Order

by Public Service Commission by ALJ Wahl
11/19/2007

Pages: 4

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OAH File No. 20070181

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

Case No. PU-06-421

PREHEARING ORDER

Upon a prehearing conference for this matter held November 16, 2007; Thomas D. Kelsch and Todd D. Kranda, Kelsch Kelsch Ruff & Kranda, appearing for TransCanada Keystone Pipeline, LP; Nicholas R. Delaney, Rinke Noonan, appearing for Rinke Noonan; William W. Binek, Chief Counsel, with Patrick K. Fahn, Utility Analyst, North Dakota Public Service Commission, appearing for the Commission, Erik R. Johnson, Erik R. Johnson & Associates, Fargo, North Dakota, with John M. Dingess, Duncan, Ostrander and Dingess, Denver, Colorado, appearing for the City of Fargo; Intervenors Mark Novak, Merle Kratochvil and Linette Kratochvil, Ramona Klien, and Janie Capp, each appearing pro se; and Lynn C. Wolff with Jana Linderman, attending for Dakota Resource Council, it is determined and hereby

Ordered, that upon finding that this prehearing conference is in substantial compliance with the requirements of N.D.C.C. § 98-02-02-18(2) for the consideration of the motion of Rinke Noonan for leave to withdraw as counsel for the intervenors Dakota Resource Council, Mark Novak, Merle Kratochvil and Linette Kratochvil, Ramona Klien, John Capp and Janie Capp, (collectively, "Intervenors") for all further proceedings in this matter, and due consideration of the motion, the motion is granted; provided, however, that Rinke Noonan shall promptly provide to each Intervenor complete copies of the Notice of Intent to Consider Information Not Presented at a Hearing, issued November 7, 2007; Order on Motion to Intervene and Reopen Hearing,

issued November 7, 2007; Order for Hearing, issued November 8, 2007; and the Notice of Further Hearing on Expedited Time Frame, issued November 8, 2007; and it is further

Ordered, that the parties shall respond to all pending discovery requests by e-mail not later than five o'clock p.m., November 23, 2007 (provided, however, that service of discovery, any notice, or other copy of communication to the administrative law judge need not be separately made to Thomas D. Kelsch and Todd D. Kranda, or Eric R. Johnson and John M. Dingess, as counsel, or to Merle Kratocvil and Linette Kratocvil, or John Capp and Janie Capp, as Intervenors), and it is further

Ordered, that counsel and the parties shall each reasonably cooperate in good faith for the prompt response to all discovery requests, both those pending and any that may be informally made by counsel or any party ("party" including any of Intervenors except Dakota Resource Council, unless it shall act by counsel as allowed by law); and it is further

Ordered, that for the further hearing of this matter to be held beginning at eight o'clock a.m., November 27, 2007, the City of Fargo shall open and go forward with the offer of its evidence, followed by Intervenors, and TransCanada Keystone Pipeline, LP, shall close with its offer of evidence; and it is further

Ordered, that any of Intervenors who will participate for the hearing to cross-examine witnesses and offer evidence shall notify by e-mail each other pro se party, counsel, and the administrative law judge of his or her intent to do so not later than nine o'clock a.m., November 26, 2007.

Dated at Bismarck, North Dakota, this 16TH day of November, 2007.

State of North Dakota
Public Service Commission

By: 

Al. Wahl, Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501
(701) 328-3260, awahl@nd.gov

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OAH File No. 20070181

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

Case No. PU-06-421

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the **PREHEARING ORDER** to which this Certificate of Service is attached were served on the 16th day of November, 2007, by email addressed to:

Thomas D. Kelsch
Todd D. Kranda
Kelsch Kelsch Ruff & Kranda
tdkelsch@kelschlaw.com
kranda@kelschlaw.com

Nicholas R. Delaney
Rinke Noonan
ndelaney@rnoonan.com

John Capp
Janie Capp
janiecapp@csb100.com

Erik R. Johnson
City of Fargo
ejohnson@lawfargo.com

William W. Binek
Chief Counsel
Public Service Commission
wbinek@nd.gov

Lynn Wolff
Dakota Resource Council
lynn@drcinfo.com

Ramona Klien
ramonak@daktel.com

Merle Kratochvil
Linette Kratochvil
lckgoats@polarcomm.com

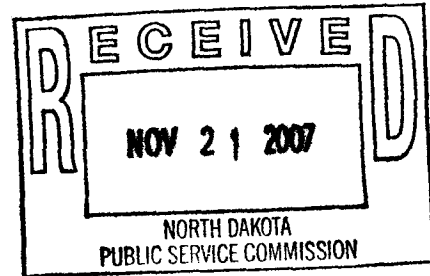
Mark Novak
neptune@polarcomm.com

OFFICE OF ADMINISTRATIVE HEARINGS


Al. Wahl, Administrative Law Judge

Hammarback, Dusek & Associates, PLC
712 DeMers Avenue
PO Box 4
East Grand Forks, MN 56721-0004
(218) 773-6841

November 21, 2007



VIA U.S. MAIL AND E-MAIL (ijs@nd.gov)

Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505-0480

RE: In the Matter of the Siting Application and Application for Certificate of Public Convenience and Necessity of TransCanada Keystone Pipeline, LP (PSC Case Nos. PU-06-421 and PU-07-152; OAH File No. 20070181)

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing please find the original plus seven (7) of the following documents:

1. Motion to Continue Hearings; and
2. Affidavit of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew F. Shimanek".

Matthew F. Shimanek

Enclosures

Copies (w/ enc) via e-mail to: Service List

Administrative Law Judge Al Wahl (awahl@nd.gov)
Lynn Wolff (lynn@drcinfo.com)
Janie and John Capp (janiecapp@csb100.com)
Ramona Klein (ramonak@daktel.com)
Linette and Merle Kratochvil (lckgoats@polarcomm.com)
Mark Novak (Neptune@polarcomm.com)

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	Case No. PU-06-421
Cavalier to Sargent Counties	:	
Siting Application	:	
	:	
Application for Certificate of	:	Case No. PU-07-152
Public Convenience and Necessity	:	

MOTION TO CONTINUE HEARINGS

COME NOW the Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak (the Intervenors), by and through the undersigned counsel, with this Motion to Continue Hearings in the above-captioned matter. In support of this motion, the undersigned does hereby state as follows:

1. Counsel for the Intervenors filed a motion on November 20, 2007 requesting leave to appear as counsel on behalf of the Intervenors in the above matter. It is the understanding of said counsel that such motion will be decided upon today, November, 21, 2007.
2. Formal hearings in this matter have been scheduled for November 27 and November 28, 2007, for the purpose of hearing new evidence pursuant to the Order on Motions to Intervene and Reopen dated November 7, 2007.
3. Previous counsel for the Intervenors was not granted leave to withdraw as counsel in this matter until November 16, 2007. Until that date, Intervenors did not have certain knowledge as to whether previous counsel would continue to represent them in this matter, or whether alternate counsel would be required. Previous counsel for the Intervenors had attempted to withdraw as counsel prior to the formal hearings in this

matter held on September 5 and September 6, 2007. Permission for such withdrawal was denied at that time. Previous counsel for the Intervenors continued to represent the Intervenors throughout the formal hearings held on September 5 and September 6, 2007 and for the purpose of preparing and filing a post-hearing brief on October 15, 2007. Upon previous counsel for the Intervenors finally being granted permission to withdraw, the Intervenors acted promptly to obtain alternate counsel, and said counsel filed a motion requesting permission to appear in this matter on November 20, 2007. Although the Intervenors acted in a timely manner to obtain alternate counsel, current counsel for the Intervenors is now left with less than one week to prepare for formal hearings in this matter. It should be additionally noted that the Thanksgiving holiday weekend falls in the middle of that week, further hampering timely and effective preparations prior to the scheduled hearings. The applicable rules of the State of North Dakota governing the withdrawal of legal representation contemplate that such withdrawal be allowed only where it will not have material adverse impact on the interests of the client or clients being represented. If hearings in this matter proceed on November 27 and November 28, 2007, the interests of the Intervenors will have been materially prejudiced by counsel for the Intervenors withdrawing only a week prior to said hearings and Intervenors having to locate and retain new counsel to represent their interests within a matter of just a few days.

4. This short timeframe has worked substantial and material prejudice on the ability of current counsel for the Intervenors to effectively prepare for the upcoming formal hearings. A copy of the attorney case file in this matter was only sent to the individual Intervenors via U.S. Mail on November 16, 2007, after previous counsel for the

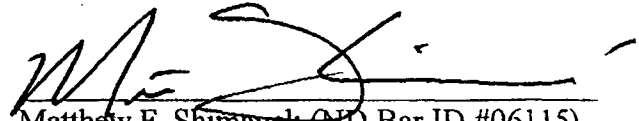
Intervenors was given leave to withdraw. Said case file was not received by the individual Intervenors until November 19, 2007 and was not in the hands of current counsel for the Intervenors until November 21, 2007. Although previous counsel for the Intervenors appears to have forwarded said case file to the individual Intervenors in a timely manner after being permitted to withdraw, current counsel for the Intervenors will not have sufficient opportunity to review said file prior to formal hearings in this matter scheduled less than one week from the receipt of said file.

5. The right of the Intervenors to full and effective participation as parties to this matter will be substantially and materially prejudiced if formal hearings are held within this short timeframe, in violation of Intervenors' right to due process under the Constitution of North Dakota and the U.S. Constitution. It is anticipated that new evidence will be entered onto the record by the Applicant, TransCanada Keystone Pipeline, LP, and the recent Intervenor, the City of Fargo. As parties to this matter, the Intervenors have the right to fully participate in these new hearings and the making of a new record, a right which is independent of Intervenors' participation in previous hearings in this matter. Just as the Applicant TransCanada Keystone Pipeline, LP now has a right to offer evidence for the re-opened record, in spite of having had the opportunity to participate in previous hearings on the record, the Intervenors have the same right to participate and offer evidence into the re-opened record and to respond to the evidence offered by other parties. This right cannot be meaningfully exercised given the very recent withdrawal of previous counsel for the Intervenors only one week prior to formal hearings in this matter, as well as the extremely short timeframe current counsel for the Intervenors now has to prepare to provide representation.

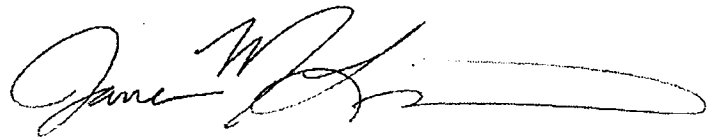
WHEREFORE, the Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak do hereby move that the hearings scheduled in this matter for November 27 and November 28, 2007 be continued until a later date to allow the Intervenors and counsel for the Intervenors sufficient time to prepare for said hearings and to effectively participate as parties in this matter.

Dated this 21st day of November, 2007

Respectfully submitted,



Matthew F. Shimanek (ND Bar ID #06115)
Hammarback, Dusek & Associates, PLC
712 DeMers Avenue
PO Box 4
East Grand Forks, MN 56721-0004
Phone: (218) 773-6841
Facsimile: (218) 773-2845
E-mail: matt@hdalawyers.com



Jana M. Linderman (IA #AT00004750)
Plains Justice
100 1st Street SW
Cedar Rapids, IA 52404
Phone: (319) 362-2120
Facsimile: (866) 484-2373
E-mail: jlinderman@plainsjustice.org

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

TransCanada Keystone Pipeline, LP	:	OAH File No. 20070181
	:	
30-Inch Crude Oil Pipeline	:	
Cavalier to Sargent Counties	:	Case No. PU-06-421
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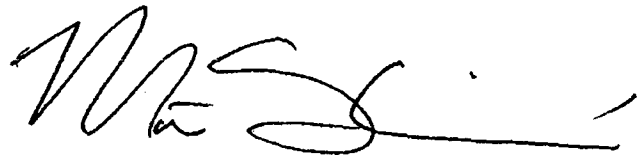
CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the Motion to Continue Hearings to which this Certificate is attached were served on the 21st day of November, 2007 by e-mail addressed to:

Thomas D. Kelsch
Todd D. Kranda
Kelsch, Kelsch, Ruff & Kranda
tdkelsch@kelschlaw.com
kranda@kelschlaw.com

Erik R. Johnson
City of Fargo
ejohnson@lawfargo.com

William W. Binek
Chief Counsel
North Dakota Public Service Commission
wbinek@nd.gov



Matthew F. Shimanek

APPROVED

DATE: 11-21-07
EQ

MOTION

November 21, 2007

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

Case No. PU-06-421

I move the Commission admit Jana M. Linderman to practice before the Commission pursuant to N.D. Admin. Code §69-02-01-06 and North Dakota Supreme Court Rule 3 in the above captioned proceeding for the limited purpose of representing Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil and Mark Novak.



Public Service Commission

State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Ilona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.nd.gov/psc
e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

16 November 2007

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For TransCanada Pipeline
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Mandan, ND 58554-1266

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For TransCanada Pipeline
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Nicholas Delaney, Attorney for
The Dakota Resource Council
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Denver, CO 80237-1829

Dean Cowling, Project Manager
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Ramona Klein
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Oriska, ND 58663

Mark Novak
PO Box 122
Lankin, ND 58250

John & Janie Capp
12466 60th St. NE
Lankin, ND 58250

Case No. PU-06-421
Page 2
16 November 2007

Linette & Merle Kratochvil
6355 County Rd 14
Lankin, ND 58250

Lynn C Wolff, Organizer
Dakota Resource Council
118 Broadway, Suite 801
Fargo, ND 58102

Re: Case # PU-06-421, TransCanada Keystone Pipeline, LP, Siting Application

Dear Ladies and Gentlemen,

This letter is to notify you that each Commissioner received an e-mail from Richard Starke (sent on the night of 15 November 2007). Each e-mail will be docketed, and a copy of one of these e-mails, plus a copy of the attachment to one of the e-mails, are included with this letter.

You have an opportunity to respond to Mr. Starke's request to intervene, but allowing parties the full period for response will run past the hearing date. Consequently, your responses, if any, must be filed prior to the hearing so that the Commission can decide this request at the beginning of the hearing, or earlier.

If you have questions, please do not hesitate to call or write.

Sincerely,



Illona A. Jeffcoat Sacco
Executive Director

Enclosures

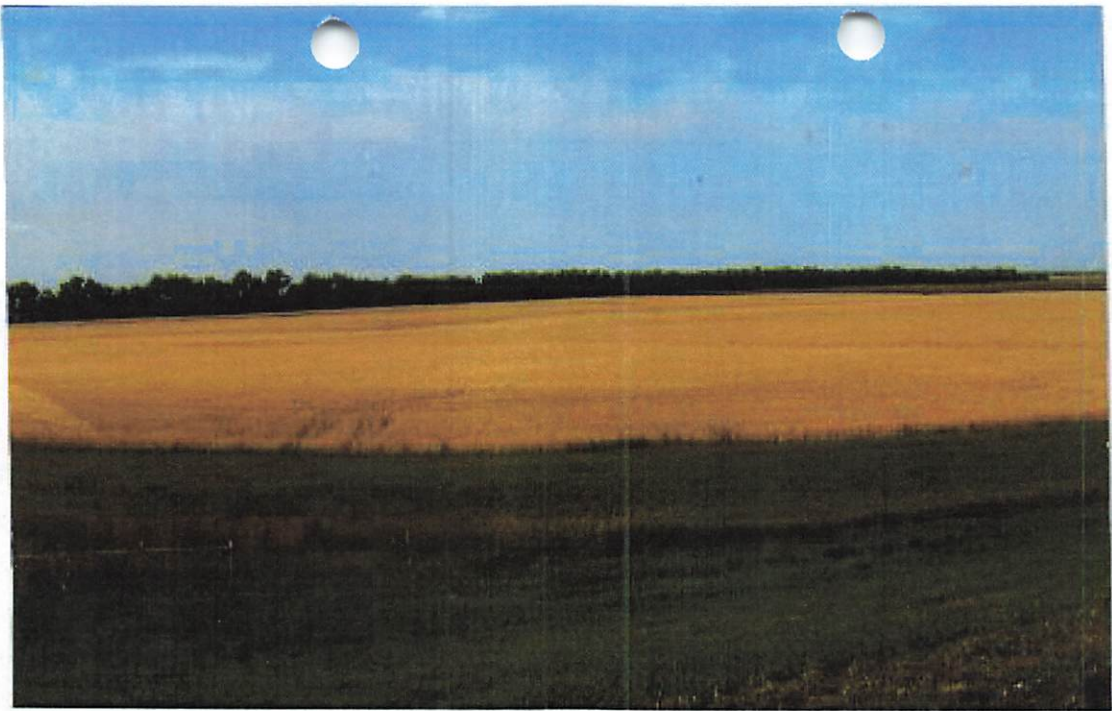
cc: Judge Al Wahl, Richard Starke

Wefald, Susan E.

From: Richard Starke [starkef4@srt.com]
Sent: Thursday, November 15, 2007 9:32 PM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Cc: dave walaker
Subject: pristene land
Attachments: MPT57.JPG

This is the NE 1/4,sect.30-140-57m Barnes County, I hat the Canadians want to create a 50 foot scar in and a 1000 foot wide NO BUILD zone across my land, It is YOUR MANDATE to protect the Public, not the foreigners, from exploitation, or have you forgotten.? I object to your concluding that the case is closed and saying so in the press. If you believe that the Canadians will lose \$100,000,000 due to the delay you must still believe in the Tooth Fairy and Santa Claus.!!!

I would like to be awarded intervener status because there are many technical questions concerning the chemistry and fluids dynamics of the oil that you apparently have little knowledge of but must be known prior to your decision or your position will not be valid nor defensible in court.



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-06-421

AFFIDAVIT OF SERVICE BY REGISTERED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Paula Kent deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 16th day of November, 2007, she deposited in the United States Mail, Bismarck, North Dakota, one registered envelope containing a photocopy of:

Order for Hearing on Expedited Notice

The envelope was addressed as follows:

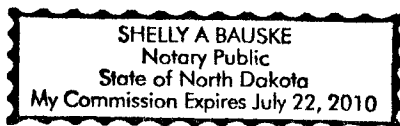
Dean Cowling, Project Manager
TransCanada Keystone
Pipeline, LP
PO Box 1000, Station M
450 1st Street SW
Calgary, Alberta Canada T2P 5H1

Registration No. RR 047 608 505 US

Each address shown is the respective addressee's last reasonably ascertainable post office address.

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

SEAL



Paula Kent

Shelly A Bauske
Notary Public

280 PU-06-421

Pages: 1

06-421

FACSIMILE COVER SHEET

TO: Dean Cowling

FAX #: 403-920-2325

From: Paula Kent
Company: ND Public Service Commission
Phone: 701-328-4076
Fax: 701-328-2410
E-Mail: pfkent@nd.gov

Date: November 16, 2007

Pages including this cover page: ~~2~~ 3

Please find attached the Order for Hearing on Expedited Notice.

I will resend the same by registered mail along with the affidavit of service.

Let me know if you need anything else.

Paula Kent

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-06-421

ORDER FOR HEARING ON EXPEDITED NOTICE

November 8, 2007

On April 11, 2007, TransCanada Keystone Pipeline, LP (TransCanada) filed an application for a waiver of procedures and time schedules, and consolidated applications for a certificate of corridor compatibility and a route permit authorizing construction of approximately 218 miles of 30-inch crude oil pipeline and associated facilities in Cavalier, Pembina, Walsh, Nelson, Steele, Barnes, Ransom, and Sargent Counties of North Dakota.

Public Hearings on this application were held July 23, 2007 at the Valley City Auditorium in Valley City, ND and on July 24, 2007 at the City Office Building in Park River, ND and continued hearings were held in the Commission Hearing Room, State Capitol, Bismarck, North Dakota on September 5 and 6, 2007.

On November 7, 2007, the Public Service Commission ("Commission") issued an order granting motions by the City of Fargo to intervene as a party and to reopen the proceeding.

A further hearing is required in this proceeding to allow the City of Fargo to provide evidence to the Commission regarding safety and public health issues relating to the water supply from Lake Ashtabula and the Sheyenne River. The parties to the proceeding have agreed to a hearing date.

TransCanada asserts that a substantial delay in a decision concerning the applications for a certificate of corridor compatibility and a route permit may result in the inability to complete construction planned in 2008 and could result in an estimated additional cost to TransCanada of \$65 to \$100 million.

The Commission has discretion under Section 49-22-13(4) to notice a hearing upon less than twenty days in an emergency. The Commission finds that unless a hearing on the limited issues set forth in the Commission's November 7, 2007 order to reopen the proceeding is held upon an expedited time frame, there will likely be significant delay in issuance of a decision in this proceeding. The Commission further finds that the exposure to substantial increases in costs that could result from a significant delay in issuance of a decision constitutes an emergency under the circumstances of this proceeding.

Order

The Commission orders;

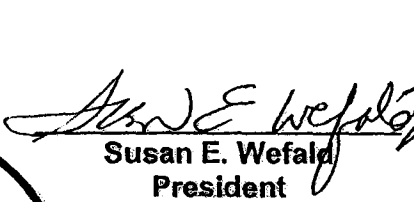
1. That an emergency exists under the circumstances of this proceeding.

2. That a hearing be scheduled on an expedited basis to hear evidence regarding safety and health issues relating to the City of Fargo's water supply from Lake Ashtabula and the Sheyenne River

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Susan E. Wefald
President



Kevin Cramer
Commissioner

Article Short Paid - INS FORM Needs to be attached in order to mail. A register. Take to Post Office for proper handling.

11/14/07

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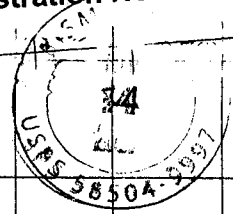
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<p>Dean Cowling, Project Manager TransCanada Keystone Pipeline, LP PO Box 1000, Station M 450 1st Street SW Calgary, Alberta Canada T2P 5H1</p>																
<p>Registration No. RR 047 608 575 US</p>																
<p>Delivery Confirmation</p>																
<p>Signature Confirmation</p>																
<p>Special Handling</p>																
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<p>Return Receipt</p>																

06-42



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See Private Act Statement on Reverse

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by Public Service Commission

278 PU-06-421

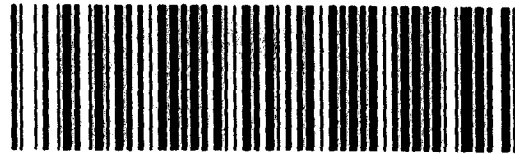
Pages: 2



Public Service Commission
State of North Dakota

Official Mail 600 E BOULEVARD AVE DEPT 408
BISMARCK ND 58505-0480

REGISTERED MAIL



RR 047 608 575 US

Label 200, July 1999

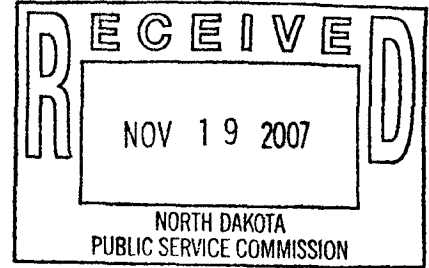
(102595) 99-M-1904

DEAN COWLING, PROJECT MANAGER
TRANSCANADA KEYSTONE
PIPELINE, LP
PO BOX 1000, STATION M
450 1ST STREET SW
CALGARY, ALBERTA CANADA T2P 5H1



02 12
0006367783
MAILED FROM ZIP CODE 58505
NOV 14 2003
\$ 12.34
UNITED STATES POSTAGE
FIFTY DOLLARS

3340 123rd Ave. S. E.
Oriska, N. D. 58063
November 16, 2007



Mrs. Wiefald, Mr. Cramer, Mr. Clark
Public Service Commission
600 E. Boulevard Ave. #408
Bismarck, N. D. 58505

Dear Commissioners:

Attached is a front-page article from the November 8 edition of the "Valley City Times Record," our local newspaper.

In the lead article by J. Stephenson, the Keystone project representative, Jeff Rauh, is quoted:

"Restoration of our construction activities may not be completed in the year of construction." "So we may have to come back the following year to complete restoration in Barnes County."

The paper defines "restoration projects" to "include burial and inspection of the pipe along with creating trenches and conducting inspections."

So, is this a threat? Does the Keystone rep. have the nerve to threaten us BEFORE you have even allowed them to come into the state?!

If so, what is North Dakota to expect if they do receive official permission to be here? Will they leave the mess and do "restoration" when they get around to it? Who is going to make them comply with any or all of the stipulated rules and regulations? Please protect us now while you can.

Your comments appreciated. Thank you

Yours truly,


Daryl and Ramona Klein

cc. Judge Al Wahl

Thursday, November 8, 2007

Barnes County - Home of Lorraine Larson

HI-LINERS IN TOURNEY HUNT

- SPORTS, page 8



Award-winning Times & Record

SERVING BARNES COUNTY COMMUNITIES FOR 128 YEARS

75¢ - Barnes County's Official Newspaper

www.times-online.com

Volume 1

Oil spill concerns prompt new hearing on Keystone pipeline

Delays could slow construction here

■ Leaks could contaminate Fargo drinking water sources: Lake Ashtabula, Sheyenne River

Gil
str
sh
off

By
Valk

T

A possible delay in the Keystone Pipeline project is not good news for Barnes County, according to a project representative with the company.

"Restoration of our construction activities may not be completed in the year of construction," said Jeff Rauh, a project representative with Keystone Pipeline. "So we may have to come back the following year to complete restoration in Barnes County."

Restoration projects include burial and inspection of the pipe along with creating trenches and conducting inspections.

Another impact, Rauh says, is easement acquisition, a term used for getting landowners to agree to have the pipeline buried on their property.

"There are several landowners who have told us they are waiting until the end of the PSC (Public Service Commission) process before they'd like to work with us on our purchase of an easement from them," Rauh said. "So this delay sets this process back for us."

When landowners do not agree to have a pipeline placed on their property, the company must go through a timely process exploring other options, according to Rauh.

"This delay in the process will set us back in the need to acquire the right-of-way, and if we don't have a contiguous path from one end of the county to the other, then we might have to disrupt our construction process," Rauh said.

Rauh also said there will be two workforces constructing the pipeline, each with 400 to 600 laborers. The construction delay would also delay when these workers are expected to be in Barnes County.

Jennifer Feist, director of the Valley City Barnes County Development Corporation, says a delay in workers arriving to Barnes County would not have a serious financial impact as long as the project still goes

See IMPACT, page 3

NO PAGES SUBMITTED

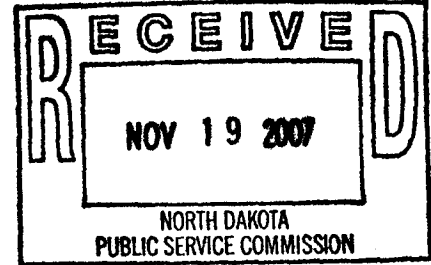
PINKE NOONAN
ATTORNEYS AT LAW

SUITE 300, US BANK PLAZA, P. O. BOX 1497
1015 W. ST. GERMAIN STREET
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



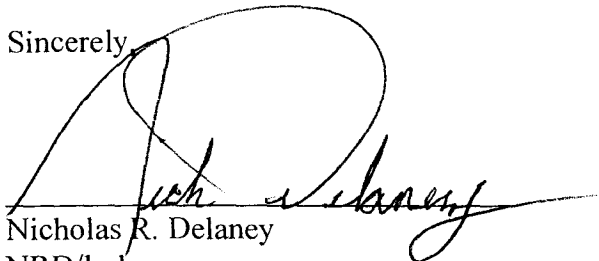
Ladies and Gentlemen:

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

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

RINKE, NOONAN, SMOLEY, DETER, COLOMBO, WIANT,

276 PU-06-421

Pages: 14

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^{3,4}

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

Scott G. H
Pamela A. St
Stefanie L. I
Tonya T. Hin
Ryan J. He

Original Notice of Motion-Motion for
Withdrawal of Counsel
by Rinke Noonan Attorneys at Law
11/19/2007

SERVICE LIST

**TransCanada Keystone Pipeline, LP
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**

Administrative Law Judge, Al Wahl
Office of Administrative Hearing
1707 North 9th Street
Bismarck, ND 58501
**SENT VIA FAX AT 701-328-3254 AND
CERTIFIED MAIL**

Erik R. Johnson
City of Fargo
505 Broadway Street North, Suite 206
Fargo, ND 58102
**SENT VIA FAX AT 701-328-2410 AND
CERTIFIED MAIL**

Mark Novak
P.O. Box 122
Lankin, ND 58250
SENT VIA CERTIFIED MAIL

Ramona Klein
3340 - 123rd Avenue SE
Oriska, ND 58663
SENT VIA CERTIFIED MAIL

William Binek
Public Service Commission
State Capitol
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
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Executive Secretary
Public Service Commission
State Capitol
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
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Lynn C Wolff - Organizer
Dakota Resource Council
118 Broadway, Suite 801
Fargo ND 58102
**SENT VIA FAX AT 701-298-9044 AND
CERTIFIED MAIL**

Linette & Merle Kratochvil
6355 Co Rd 14
Lankin ND 58250
SENT VIA CERTIFIED MAIL

Janie & John Capp
12466 60th St NE
Lankin ND 58250
SENT VIA CERTIFIED MAIL

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

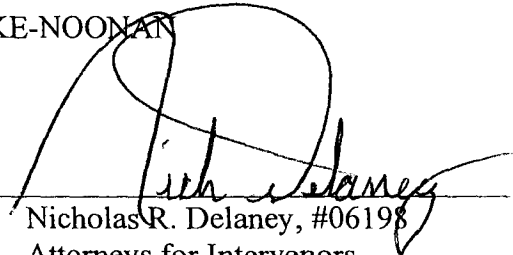
TO: THE ATTACHED SERVICE LIST

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

SERVICE LIST

**TransCanada Keystone Pipeline, LP
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**

Administrative Law Judge, Al Wahl
Office of Administrative Hearing
1707 North 9th Street
Bismarck, ND 58501
**SENT VIA FAX AT 701-328-3254 AND
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City of Fargo
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Ramona Klein
3340 - 123rd Avenue SE
Oriska, ND 58663
SENT VIA CERTIFIED MAIL

William Binek
Public Service Commission
State Capitol
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
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CERTIFIED MAIL**

Executive Secretary
Public Service Commission
State Capitol
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
**SENT VIA FAX AT 701-328-2410 AND
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Dakota Resource Council
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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

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 Intervenors 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 Intervenors would be prejudiced if they were forced to have legal counsel present at the Hearings. Not only would the Intervenors 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 Intervenors 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 Intervenors to incur additional, unnecessary expense. If indeed the Intervenors 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 Intervenors not having legal counsel. In fact, it is quite likely that having legal counsel present on behalf of the Intervenors 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.

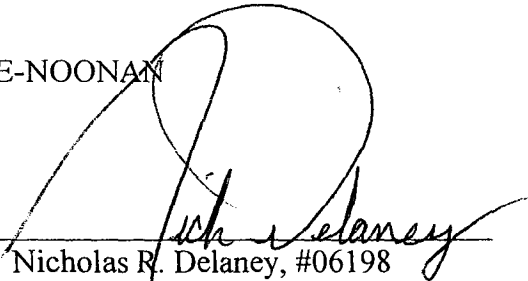
CONCLUSION

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**

**TransCanada 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. Delaney, 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.

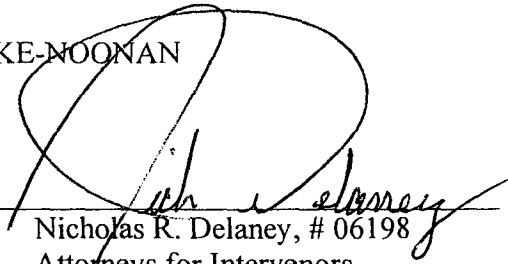
4. The Intervenors have further indicated that they wish to appear *pro se* at said Hearings and do not wish for Rinke Noonan to travel to Bismarck and represent their interests.

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

A large, stylized handwritten signature in black ink, appearing to read "Nicholas R. Delaney". The signature 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
OF THE STATE OF NORTH DAKOTA**

**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 Intervenor 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 Intervenor.

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.

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:

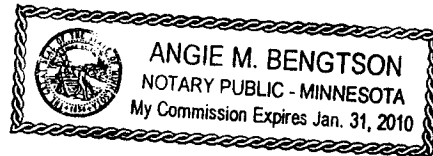
1. Notice of Motion and Motion for Withdrawal of Counsel;
2. Memorandum of Law in Support of Motion for Withdrawal;
3. Affidavit of Nicholas R. Delaney; and
4. Affidavit of Lynn Wolff.

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.

Seilani Heinen

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

Angie M. Bengtson
Notary Public



SERVICE LIST

**TransCanada Keystone Pipeline, LP
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**

Administrative Law Judge, Al Wahl
Office of Administrative Hearing
1707 North 9th Street
Bismarck, ND 58501
**SENT VIA FAX AT 701-328-3254 AND
CERTIFIED MAIL**

Erik R. Johnson
City of Fargo
505 Broadway Street North, Suite 206
Fargo, ND 58102
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CERTIFIED MAIL**

Mark Novak
P.O. Box 122
Lankin, ND 58250
SENT VIA CERTIFIED MAIL

Ramona Klein
3340 - 123rd Avenue SE
Oriska, ND 58663
SENT VIA CERTIFIED MAIL

William Binek
Public Service Commission
State Capitol
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
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CERTIFIED MAIL**

Executive Secretary
Public Service Commission
State Capitol
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
**SENT VIA FAX AT 701-328-2410 AND
CERTIFIED MAIL**

Lynn C Wolff - Organizer
Dakota Resource Council
118 Broadway, Suite 801
Fargo ND 58102
**SENT VIA FAX AT 701-298-9044 AND
CERTIFIED MAIL**

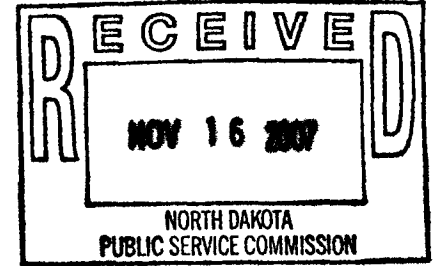
Linette & Merle Kratochvil
6355 Co Rd 14
Lankin ND 58250
SENT VIA CERTIFIED MAIL

Janie & John Capp
12466 60th St NE
Lankin ND 58250
SENT VIA CERTIFIED MAIL

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

TRANSMITTED TO:	Thomas Kelsch and Todd Kranda	701-663-9810
	William Binck	701-328-2410
	Administrative Law Judge, Al Wahl	701-328-3254
	Executive Secretary, Public Service Commission	701-328-2410
	Erik Johnson	701-328-2410 280-1902
	Lynn Wolff	701-298-9044

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

OUR FILE NO. 20555.001

MESSAGE: See attached letter dated November 16, 2007

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. We will immediately reimburse you for postage.

TOTAL PAGES TRANSMITTED: A total of _____ pages, including this instruction memorandum, are transmitted. If all pages are not received, call Leilani at once (320) 251-6700.

Original Will Follow

RINKE NOONAN
ATTORNEYS AT LAW

SUITE 300, US BANK PLAZA, P. O. BOX 1487
1015 W. ST. GERMAIN STREET
ST. CLOUD, MINNESOTA 56302-1487
TELEPHONE 320-251-6700, FAX 320-656-3800
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

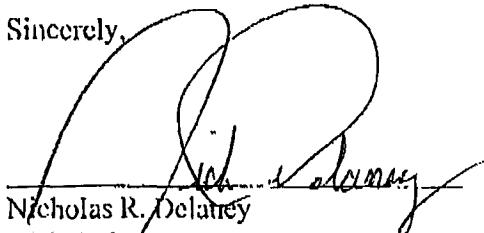
Ladies and Gentlemen:

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

November 16, 2007 (2007) 11 16
P:\A\F\20555\001\Letter\After All Parties 11-16-2007.wpd lmh

RINKE NOONAN SMITH DILLER COLOMBO WIANT VOF PUGH & HUBER, L.P.

D. Michael Noonan
William A. Simoley¹
Kurt A. Dickert²
Barrett L. Colonius
James L. Wintz

Gerold W. Van Korf
Sharon G. Hubbs
David J. Myerson^{1,2}
John J. Meyers
Roger C. Justice²

John J. Babcock
Jim A. Adams
Igor S. Lazarev²
Gary R. Leister²
John C. Krall

Scott C. Humak
Pamela A. Stockman
Stephan L. Brown
Tanya T. Hinkley
Ryan J. Hutton¹

Benjamin B. Bolinback¹
Tim A. Stone¹
James A. Mogan
Nicholas R. Delaney²

Clifford G. Miller
Arlene A. Sipple
Freddie L. Miller
Sarah C. Fisher

SERVICE LIST

TransCanada Keystone Pipeline, LP
Our File No. 20555.001

Case No. PU-06-421

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 Todd Kranda
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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

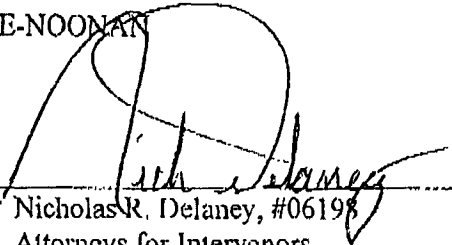
TO: THE ATTACHED SERVICE LIST

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 Intervenors 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 Intervenors would be prejudiced if they were forced to have legal counsel present at the Hearings. Not only would the Intervenors 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 Intervenors 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 Intervenors to incur additional, unnecessary expense. If indeed the Intervenors 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 Intervenors not having legal counsel. In fact, it is quite likely that having legal counsel present on behalf of the Intervenors 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.

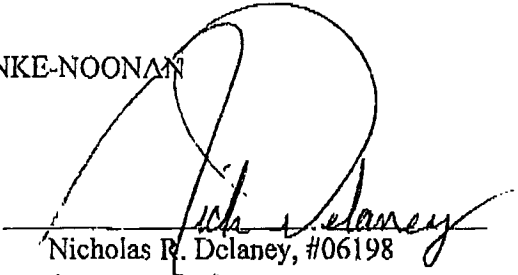
CONCLUSION

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

TransCanada 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.

**BEFORE THE PUBLIC SERVICE COMMISSION
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30-Inch Crude Oil Pipeline/Cavaller to Sargent
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Case No. PU-06-421

AFFIDAVIT OF LYNN WOLFF

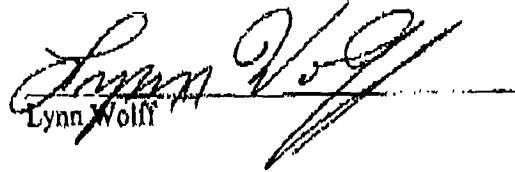
November 15, 2007

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 intervenors 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 intervenors.

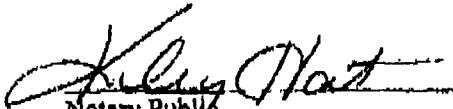
3. The Dakota Resource Council does, however, wish to retain all rights associated with their Intervenor status, including without limitation, the right to present evidence and question witnesses at the hearings on November 27th and 28th, 2007.

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

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

SERVICE LIST

TransCanada Keystone Pipeline, LP
Our File No. 20555.001

Case No. PU-06-421

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 Todd Kranda
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Janie & John Capp
 12466 60th St NE
 Lankin ND 58250
SENT VIA CERTIFIED MAIL

Zeimer, Lisa D.

From: Binek, William W.
Sent: Monday, November 19, 2007 7:20 AM
To: -Grp-PSC Commissioners
Cc: -Grp-PSC Public Utilities; -Grp-PSC Legal
Subject: FW: TransCanada Keystone Pipeline, LP, North Dakota Public Service Commission Case No. PU-06-421
Attachments: prehearing order.pdf

Lisa: The attached Prehearing Order should be docketed. Thanks.

William W. Binek
Chief Counsel
ND Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck ND 58505-0480
Phone: 701-328-4088
Fax: 701-328-2410
wbinek@nd.gov

From: Wahl, Al
Sent: Friday, November 16, 2007 4:07 PM
To: Thomas D. Kelsch; Todd D. Kranda; Nicholas R. Delaney; Erick R. Johnson; Binek, William W.; Lynn C. Wolff; John Capp and Janie Capp; Mark Novak; Merle Kratochvil and Linette Kratochvil; Ramona Klien
Subject: TransCanada Keystone Pipeline, LP, North Dakota Public Service Commission Case No. PU-06-421

Counsel and Intervenors, attached is the prehearing order upon the prehearing conference had this morning (and afternoon, as it was).

I have been in a bit of a rush to complete a number of things today, so please do not hesitate to advise me if I have overlooked or appear to have misstated anything for the order. (As I write this, it occurs to me that I did not include for the order that counsel should also e-mail Mr. Wolff all discovery responses served upon Intervenors so that he can assist them with any difficulty any of them may have with the attachments. Please also make a note of that, counsel.) Regards, Al Wahl

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OAH File No. 20070181

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

Case No. PU-06-421

PREHEARING ORDER

Upon a prehearing conference for this matter held November 16, 2007; Thomas D. Kelsch and Todd D. Kranda, Kelsch Kelsch Ruff & Kranda, appearing for TransCanada Keystone Pipeline, LP; Nicholas R. Delaney, Rinke Noonan, appearing for Rinke Noonan; William W. Binek, Chief Counsel, with Patrick K. Fahn, Utility Analyst, North Dakota Public Service Commission, appearing for the Commission, Erik R. Johnson, Erik R. Johnson & Associates, Fargo, North Dakota, with John M. Dingess, Duncan, Ostrander and Dingess, Denver, Colorado, appearing for the City of Fargo; Intervenors Mark Novak, Merle Kratochvil and Linette Kratochvil, Ramona Klien, and Janie Capp, each appearing pro se; and Lynn C. Wolff with Jana Linderman, attending for Dakota Resource Council, it is determined and hereby

Ordered, that upon finding that this prehearing conference is in substantial compliance with the requirements of N.D.C.C. § 98-02-02-18(2) for the consideration of the motion of Rinke Noonan for leave to withdraw as counsel for the intervenors Dakota Resource Council, Mark Novak, Merle Kratochvil and Linette Kratochvil, Ramona Klien, John Capp and Janie Capp, (collectively, "Intervenors") for all further proceedings in this matter, and due consideration of the motion, the motion is granted; provided, however, that Rinke Noonan shall promptly provide to each Intervenor complete copies of the Notice of Intent to Consider Information Not Presented at a Hearing, issued November 7, 2007; Order on Motion to Intervene and Reopen Hearing,

issued November 7, 2007; Order for Hearing, issued November 8, 2007; and the Notice of Further Hearing on Expedited Time Frame, issued November 8, 2007; and it is further

Ordered, that the parties shall respond to all pending discovery requests by e-mail not later than five o'clock p.m., November 23, 2007 (provided, however, that service of discovery, any notice, or other copy of communication to the administrative law judge need not be separately made to Thomas D. Kelsch and Todd D. Kranda, or Eric R. Johnson and John M. Dingess, as counsel, or to Merle Kratocvil and Linette Kratocvil, or John Capp and Janie Capp, as Intervenors), and it is further

Ordered, that counsel and the parties shall each reasonably cooperate in good faith for the prompt response to all discovery requests, both those pending and any that may be informally made by counsel or any party ("party" including any of Intervenors except Dakota Resource Council, unless it shall act by counsel as allowed by law); and it is further


Ordered, that for the further hearing of this matter to be held beginning at eight o'clock a.m., November 27, 2007, the City of Fargo shall open and go forward with the offer of its evidence, followed by Intervenors, and TransCanada Keystone Pipeline, LP, shall close with its offer of evidence; and it is further

Ordered, that any of Intervenors who will participate for the hearing to cross-examine witnesses and offer evidence shall notify by e-mail each other pro se party, counsel, and the administrative law judge of his or her intent to do so not later than nine o'clock a.m., November 26, 2007.

Dated at Bismarck, North Dakota, this 16TH day of November, 2007.

State of North Dakota
Public Service Commission

By: _____


Al. Wahl, Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501
(701) 328-3260, awahl@nd.gov

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OAH File No. 20070181

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

Case No. PU-06-421

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the **PREHEARING ORDER** to which this Certificate of Service is attached were served on the 16th day of November, 2007, by email addressed to:

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OFFICE OF ADMINISTRATIVE HEARINGS


Al. Wahl, Administrative Law Judge