STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

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

Case No. PU-06-421

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Lisa Zeimer deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **18th day of December, 2007,** she deposited in the United States Mail, at Bismarck, North Dakota, **four** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

COPIES OF DOCKET CARD AND LETTERS FROM CASE FILE
COPIES OF LETTERS FROM PUBLIC INPUT FILE

The envelopes were addressed as follows:

Todd Kranda
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan, ND 58554-1266

Certified No. 7007 2560 0001 6057 8312

Erik R. Johnson, Esq.
Erik R. Johnson & Associates
505 Broadway Street North #206
Fargo, ND 58102

Certified No. 7007 2560 0001 6057 8329

Jana Linderman, Esq.
Plains Justice
100 First Street SW
Cedar Rapids, IA 52404

Certified No. 7007 2560 0001 6057 8336

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

Certified No. 7007 2560 0001 6057 8343

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

Subscribed and sworn to before me
this **18th day of December, 2007**

SEAL

SHELLY A BAUSKE
Notary Public
State of North Dakota
My Commission Expires July 22, 2010

Notary Public

Public Service Commission
State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona 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

December 17, 2007

Todd Kranda, Esq.
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan, ND 58554-1266

Erik R. Johnson, Esq.
Erik R. Johnson & Associates
505 Broadway Street North #206
Fargo, ND 58102

Jana Linderman, Esq.
Plains Justice
100 First Street SW
Cedar Rapids, IA 52404

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

Re: TransCanada Keystone Pipeline, LP
Case No. 06-421
Route Corridor and Route Permit Applications

Dear Sirs/Madams:

On November 30, 2007 the applicant requested copies of any documents received and placed into the Public Input File since October 31, 2007 through the hearings that took place on November 27 and 28, 2007. A copy of that request is included with this mailing.

On November 16, 2007 the applicant requested copies of all docketed items received and placed into the case file since the last mailing of such items on November 19, 2007. A copy of that request is also included in this mailing.

If you have questions or need additional information, please contact me.

Best regards,

Illona Jeffcoat-Sacco
Executive Director
Director, Public Utilities Division

Enclosures

Kelsch Kelsch Ruff & Kranda

C.F. Kelsch
1890-1987

Attorneys at Law
Mandan, North Dakota

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THOMAS F. KELSCH
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Mandan, ND 58554-7266
Phone (701) 663-9818
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Fax (701) 663-9810
Website www.kelschlaw.com

November 30, 2007

RECEIVED
DEC - 3 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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:

This letter is to request copies of any documents that have been received by the Public Service Commission and placed into the Public Input File regarding the Keystone Pipeline Project since October 31, 2007 through the hearings that took place November 27 and 28, 2007.

I am also enclosing an Affidavit of Service which indicates that this request letter is being provided to Attorney Erik Johnson who is legal counsel for the City of Fargo, Attorney Jana Linderman who is legal counsel of record for the Intervenors of Dakota Resource Council et al as well as to Intervenors John and Janie Capp.

If you have any questions, please feel free to contact Thomas D. Kelsch or me.

Sincerely,

Todd D. Kranda

TK:ls
Enc
c: TransCanada Keystone

ATTORNEYS AT LAW
Kelsch, Kelsch, Ruff & Kranda

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)

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

That on the 30 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:

November 30, 2007 request letter for Documents from the Public Input File since October 31, 2007 through the hearings that took place November 27 and 28, 2007

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

JANA LINDERMAN
ATTORNEY AT LAW
100 1st STREET SW
CEDAR RAPIDS IA 52404

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

Lori Spencer
LORI SPENCER

Subscribed and sworn to before me this 30 day of November, 2007.

Mary Kay Duchsherer
Notary Public, State of North Dakota

(SEAL)

MARY KAY DUCHSHERER
Notary Public
State of North Dakota
My Commission Expires May 11, 2009

Fahn, Patrick J.

From: Cramer, Kevin
Sent: Monday, December 10, 2007 10:44 AM
To: Fahn, Patrick J.
Subject: FW: Thanks for coming to the Kathryn/Fort Ransom area

For public input file

Kevin Cramer, Commissioner
ND Public Service Commission
(701) 328-4279
http://www.psc.state.nd.us/commission/cramer.html

From: Kory Peterson [mailto:kc0oet@yahoo.com]
Sent: Wednesday, December 05, 2007 9:20 AM
To: Cramer, Kevin
Subject: Thanks for coming to the Kathryn/Fort Ransom area

Mr. Cramer;

I want to thank you for taking the time to come to the Kathryn/Fort Ransom area and see where the proposed pipeline is expected to go.

In that picture that was taken of you in the Fargo Forum, my folk's land starts in the background where that lone tree stands and goes back as far as you can see.

That area has always been considered scenic by everyone who comes through here. You also noticed the sign that said "Scenic Byway". There is a lot of traffic on the weekends in the summer and fall because of this.

When this pipeline was first presented to us, it was about 5 miles further east of that location. It crossed some land we had there too but it was cropland. Nobody feels 100% comfortable with a pipeline going under their property but that would have been a lot better then slicing the line through the valley.

I would like to see Keystone consider moving the pipeline back to its original location in northern Ransom county if the line is going to be approved.

I am not against the pipeline.. just the location of it crossing the Sheyenne. There is never a perfect location to cross a valley but I would think that an area designed a "Scenic Byway" is the least perfect.

Thank you for your time.

Kory Peterson
Horace, ND
Ham Radio callsign KCØOET

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, December 10, 2007 9:21 AM
To: Rafferty, Tom D.
Subject: FW: DOE letter - Public Input File
Attachments: MPT453.JPG

Public input file.

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Saturday, December 08, 2007 6:07 AM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Cc: mvonpinnon@forumcomm.com
Subject: DOE letter

This "new " petroleum is what we pave our roads with and apply to roofs. It gives off THREE times the CO2 of legitimate crude thus hastening the loss of up to 60 % 0f our Amazon rain forest and their species by 2030 and YOU APPROVE of this debacle?? We are inventing new automobiles that run on HYDROGEN plus gasoline and tge exhaust is **WATER!!!!!!! wHAT WILL YOU SAY OF YOUR ACTIONS WHEN F ARGO LOSES ITS WATER SUPPLY? iT HAS A 20 HOUR EMERGENCY SUPPLY. Forests the size of FLORIDA will be destroyed. Is this ENVIRONMENTAL SUICIDE??**

Department of Energy
Washington, DC 20585

November 28, 2007

Major Richard Starke, Sr.
5 Elm Street
Burlington, ND 58722

Dear Major Starke:

This correspondence is in response to your letter of September 10, 2007, to President Bush in which you expressed your opposition to the proposed TransCanada Keystone Pipeline LLC (Keystone) project. Your letter was forwarded to the Department of Energy's Office of Oil and Natural Gas for response.

We appreciate your views on this issue. However, the increase in North American demand for petroleum suggests that energy policies be adopted that will secure long-term access to new petroleum supplies in a safe and environmentally sound manner.

The United States Department of State requested the Department of Energy (DOE) concurrence on The Department of States issuance of a Presidential Permit for the Keystone project. The Presidential Permit would authorize the construction, operation, and maintenance of pipeline facilities at Cavalier County, North Dakota, for the transport of crude oil across the international boundary between the United States and Canada.

Pursuant to Executive Order 13337, the DOE has reviewed the Keystone application. In addition, DOE is participating as a cooperating agency for the preparation of the TransCanada Keystone Pipeline Environmental Impact Statement. Since it was determined that issuance of the permit would serve the national interest, the Department of State proposes to issue the Presidential Permit to Keystone. The DOE expects to have no objection to the issuance of the Presidential Permit for the TransCanada Keystone Pipeline, pending completion of the Environmental Impact Statement.

In April 2007, the U.S. Department of Transportation Pipeline and Hazardous Safety Administration granted a special permit that allows Keystone to design, construct and operate the pipeline at no more than 80 per cent of the steel pipe's specified minimum yield strength in certain areas. Keystone's application for the special permit included measures Keystone would implement beyond those required by regulations to ensure pipeline safety and to meet stringent environmental regulations.

Printed with soy ink on recycled paper

RECEIVED
DEC - 7 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Duane Hagen
9164 119th Ave SE
Cogswell, ND 58017

December 4, 2007

Commissioners Wefald, Cramer & Clark.

RE: Keystone Pipeline

We were called on Saturday, December 1 by Keystone land agent, Kris Gibson. He told us that Keystone would not consider moving the pipe to the quarter line and that if we would not sign that we would be under eminent domain.

There are only six farmsteads along this county road - 119th Ave SE in Jackson Twp. and Keystone hits 3 of them. We are asking them to move as close as possible to the quarter line. These people are Paul Mathews, Homer, Moffett and Duane Hagen. We live in almost a straight line from each other and within one mile. I do not think that this is too much for them to do for 3 families.

Duane & Velica Hagen
Cogswell, ND 58017

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, December 03, 2007 9:08 AM
To: Rafferty, Tom D.
Subject: FW: Premature AGAIN - Public input

Public input please.

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Thursday, November 29, 2007 10:47 AM
To: Wefald, Susan E.
Subject: Premature AGAIN

Commissioner Wefald, another mistaken knee-jerk on my part. I understsand that there is just so much time for this case considering your heavy workload. I have had several calls urging me to wait and see what turns out, so I have retracted my resignation from the DRC and will appeal their decision. The members at the hearing all support me. My 79 year old companion was exhausted on Tuesday and wanted to go home so I am sorry that I missed the last day's proceedings. THANK YOU for your patience and understanding, Richard Starke. Please share these documents before sending to the public file.

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Monday, December 03, 2007 8:59 AM
To: Rafferty, Tom D.
Subject: FW: Bemidji Pioneer: Pipeline Tragedy

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Saturday, December 01, 2007 6:15 AM
To: Ramona Klein; -Info-Governor's Office; George Bush
Cc: SENATOR@conrad.senate.gov; Dorgan, Senator (Dorgan); REP.Earl.Pomeroy@mail.house.gov; mike jacobs; MVonpinnon@forumcomm.com; ed bismarck; dave walaker; Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin; Mike Ferguson; Tollefson, Ben C.; EE "Smokey" Wright; Thomas Scherer; Jim Jones
Subject: Re: Bemidji Pioneer: Pipeline Tragedy

Ramona, I *don't want ANYTHING TO DO WITH PIPELINES of any kind!!! Enbridge has 5 huge tanks 1/2 mile east of Minot. They should be moved at least 25 miles from any town and mandated BUILT WITH stainless steel. ALL lines are made of "plain carbon steel" i's the technical word to describe it,which is simply IRON ALLOYED WITH CARBON and it is guaranteed to rust through.!!! It is just a matter of when .Pressures should be REDUCED IN OLDER PIPE. The toxic and other hazardous compounds are kept SECRET from the public. Bio fuels carry NO heavy metals because there ARE NONE in corn, soybeans or whatever biomass is the feed stock. Our PSC should DENY Keystone's application on future PIPELINES that are GUARANTEED TO FAIL. The unknown time is WHEN. All cheap pipelines should be CLOSED AND DUG UP. No jobs are worth lives.THERE should be a NATIONAL LAW PROHIBITING THE USE OF ANY METAL OTHER THAN STAINLESS STEEL. The practice of using so-called "pigs" to scrape the RUST from the inside of the pipes is FUTILE and OUTMODED since the weakened walls are now the site of FUTURE BREAKS, EXPLOSIONS, AND FIRES. Oil companies are NOTORIOUSLY CALLOUS OF HUMAN LIFE. IT IS TIME TO END THE DANGER!!! CALL OR WRITE YOUR CONGRESSMEN AND DEMAND IMMEDIATE LEGISLATION . ELECTIONS ARE COMING SOON, SO NOW IS THE TIME TO ACT. RICHARD STARKE BSIE. PLEASE SPREAD THE TRUTH!!!*

----- Original Message -----
From: Ramona Klein
To: Dick Starke
Sent: Friday, November 30, 2007 10:19 PM
Subject: Fw: Bemidji Pioneer: Pipeline Tragedy

Good Morning,
The following article and Editorial comes to you from the November 30, 2007, Bemidji Pioneer.
If it will be determined that the leaking fumes were ignited by a running nearby pickup truck that caused this deadly explosive fire, perhaps this is something that could be worked into some type of post hearing brief.
I mean to point out, that an undetected pinhole leak of odorless, colorless fumes may occupy a substantial area; how many times a day during the cropping season will the pipeline be crossed by heavy agricultural equipment (and things like, sparks from the cultivator shovels against rocks) much less running pickups and trucks?

Pipeline officials seek cause of explosion that killed two workers

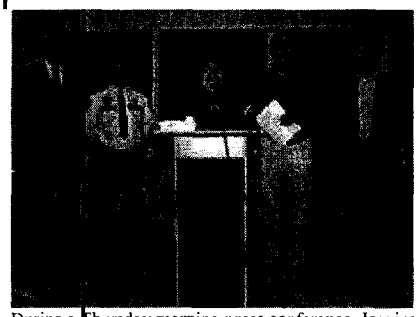
Molly Miron Bemidji Pioneer

Published Friday, November 30, 2007

CLEARBROOK — The exact cause of the Enbridge Energy oil pipeline explosion Wednesday is unknown. But company officials have a theory.

"There was no welding going on at the time," said Richard Bird, Enbridge executive vice president for liquids pipelines. "The most likely source of ignition were the vehicles."

Bird, Enbridge Vice President for Operations Leon Zupan and company CEO Pat Daniel held a press conference Thursday morning at the old Clearbrook High School to discuss the incident.



During a Thursday morning press conference, Jeanine Brand, Clearwater County attorney and public information officer for the emergency management team, describes response efforts to the explosion and fire Wednesday afternoon at a section of Enbridge Energy pipeline near Clearbrook. From left behind her are Enbridge CEO Pat Daniel, Clearwater County Sheriff Mike Erickson, Enbridge Executive Vice President for Liquids Pipelines Richard Bird and Enbridge Vice President for Operations Leon Zupan. Pioneer Photo/Molly Miron

Zupan said the two workers who died as a result of the explosion and subsequent fire were seated in a pickup truck about 20 feet away from the pipeline excavation when the accident occurred. The company officials said the victims were from Superior, Wis. They expressed sympathy for the victims' families and said their thoughts and prayers are with them.

They did not release the victims' names. However, family members said the victims are David Mussatti, 27, and Steve Arnovich, 35. Mussatti was engaged to be married, and Arnovich leaves a wife, Candy, and daughter, Aili, who will turn 5 on Saturday.

Bird said Enbridge has had a presence in the Clearbrook area for 50 years.

"We are greatly saddened by the events of the last 24 hours," he said.

He added that company officials have been in close contact with the victims' families and will continue to offer support.

Others unhurt

Zupan said 17 other workers at the site of the explosion who were farther from the pipeline and fire escaped without injury. Five pickups and a Trackhoe were destroyed.

He said the workers were replacing a small section of pipeline that developed a "pinhole leak" Nov. 13 with new pressure-tested pipe. The site is about one mile southeast of Clearbrook on Clearwater County Road 3 and about three miles from Enbridge's Clearbrook pumping station. The Enbridge employees started the repair Wednesday morning and were scheduled to complete the job Wednesday afternoon.

About 3:45 p.m. Wednesday, when the oil flow was reactivated, apparently vapor caused the heavy crude to spray into the air and atomize, Bird said. The oil-and-air mixture ignited.

"This would not normally be a dangerous operation," Zupan said.

"I live just a little over a mile from it," said Clearwater County Clerk Liisa Amundson, adding that from a distance she feared for her own home. "I saw the flames when I went home last night. "They were high — three times higher than the trees."

Emergency response

The Clearwater County Sheriff's Department received the emergency call at 3:51 p.m. and immediately responded, said Jeanine Brand, Clearwater County attorney and public information officer for the emergency management team. Other responders included the Clearbrook, Gonvick, Bagley and White Earth police departments, Minnesota State Patrol, Clearwater Ambulance and Clearbrook, Gonvick, Bagley, Shevlin and Ponemah fire departments and Red Cross. In all, Brand said, about 50 people helped with the emergency, and she stayed on site for about seven hours Wednesday.

"We just trained a month ago for this at the pumping station, so everybody knew who to call and where to go," Clearwater County Sheriff Mike Erickson said Thursday. "I had deputies on the scene all night.

RELATED CONTENT

- Add a comment
- Official: 2 men killed at Clearbrook blast were in nearby vehicle
- Pipeline incidents are rare
- Enbridge worker's death leaves void for friends, family
- Volatile energy markets give consumers a bumpy ride
- Clearbrook mayor: Enbridge helps enrich the community
- Molly Miron Archive

They'll be there all day today."
Clearbrook Mayor Michael Gibeau praised the emergency preparedness of both the local response teams and Enbridge officials.
"My hat's off to Enbridge being ready for this situation," Gibeau said. "They've done a good job. They had the road closed within 15 minutes."
He said Clearbrook has always supported Enbridge, which brings jobs and community donations to the area.
Erickson said the fire was extinguished and the site foamed as a precaution Thursday morning. Residents of the 10 households within a one-mile radius of the fire were also evacuated. Enbridge officials said they hadn't given the all clear for the people to return to the neighborhood. Clearwater County Road 3 remained closed Thursday. The concern was the thick smoke and soot that could cause breathing problems, they said.
"Most of them have at least checked their property," said Erickson. "There was no visible damage."
The Enbridge officials said they didn't know as of Thursday how much oil had been lost, most of it from the fire. However, Doug Bellefeuille, a Minnesota Pollution Control agent from Detroit Lakes, said some crude oil remained in the excavation and vacuum trucks were sucking it up. He said some oil also trailed into a wetland southeast of the site, so that soil will be excavated. Because the ground is frozen, the oil didn't soak into the soil. Later Thursday, Enbridge officials said around 325 barrels had been spilled.
Zupan said four pipelines run through the accident site. He said Line 2, carrying 460,000 barrels of light crude per day, restarted flow at 3:30 a.m. Thursday. Line 1, which transports light crude and natural gas, carries 220,000 barrels per day and restarted at 4:15 a.m. Line 4 carries 706,000 barrels of crude oil per day and restarted at 12:20 p.m. Thursday.
Line 3 was the site of the explosion. Zupan said it should be repaired and resume flow in two or three days.
Supply lines
According to the Enbridge Web site, **www.enbridge.com**, the company operates in Canada and the United States, the world's longest pipeline system transporting crude oil and natural gas. Bird said the local pipeline transports products from western Canada to refineries in the Chicago area.
As for the national impact of the accident and the immediate jump of more than $4 in crude oil prices, Bird said that response was unwarranted.
"I believe that is likely an overreaction in relation to the amount of time these lines will be out of service," he said.
He said Enbridge has reserve capacity on both Lines 3 and 4, as do the refineries in the Chicago hub, owned by Exxon Mobil, BP and Citgo, and the Murphy Refinery in Superior.
"Both our system and the refineries that could be impacted have a significant amount of crude in tankage," Bird said. "We don't expect this (accident) to have a significant impact on the supply of crude oil and the availability of refined product."
Enbridge Energy Partners is based in Houston, Texas. Enbridge Inc, based in Calgary, Alberta, holds an ownership interest in Enbridge Energy Partners through U.S. subsidiary Enbridge Energy Co.

Pioneer Editorial: What can we do to prevent tragedy again?

Bemidji Pioneer Editorial Board Bemidji Pioneer

Published Friday, November 30, 2007

Our deepest condolences reach out to the families of the two Superior, Wis., workers who lost their lives Wednesday in the explosion and fire of the pipeline south of Clearbrook, and also to their co-workers and colleagues at Enbridge Energy. Such a loss of life is tragic at any time, but will be made even more keen to all who knew them this holiday season.
While it is much too early to determine what happened Wednesday, or to make recommendations on how to prevent such tragedies from occurring again, the incident should prompt a review of Min-nesota's pipeline safety regulations and an investigation into the validity of work-place safety rules as applied to

today's changing workplace requirements.
According to reports received Thurs-day from the scene, it appears the two men died while in their truck parked about 20 feet away from the ditch where the 34-inch pipeline was being repaired. It's not known what triggered the explo-sion of crude oil, but speculation lies with perhaps a running truck engine providing the spark. An aerial photo shows several trucks destroyed in the fireball, all parked near the workplace ditch just off the paved county road.

RELATED CONTENT

It is understandable that workers in our clime need to keep warm, and parking close to the work site helps, but perhaps that needs to be studied as part of updated workplace safety rules as applied to cold-whether work.

Safety records kept by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration show 34 "significant incidents" in Minnesota from 1997-06 involving hazardous liquid pipelines, such as crude oil, causing $18.7 million in property damage. But what is truly significant is that only two injuries were reported and no fatalities — until now. The record for all pipeline systems during that time, including natural gas, is seven deaths and 14 injuries with $35.6 million in property damage.
In the hazardous liquids records, Enbridge Energy and its predecessor, Lake Head Pipe Line Co., were responsible for 17 of the 34 significant incidents during the period, with five of them at Clearbrook and one at nearby Trail. The last one, however, was in 2004 at Clearbrook, listed as material failure with $107,003 in property damage.
It is clear how important the pipelines are to our area in economic development and jobs, and also to the nation as a source of oil. That was clearly shown as the incident in Clear-brook rippled throughout the global marketplace, temporarily spiking oil prices as the four-line bundle that pas-ses through Clearbrook provides 15 per-cent of the nation's imported crude oil.
We must do our best to see that line not be interrupted, but we also must do our utmost to ensure the safety of those who maintain our energy lifeline and those who live there. It is a lifeline very much similar to the transportation lifeline provided by the Interstate 35W bridge in the Twin Cities, and should garner as much scrutiny and oversight.

Recent Comments

Thank God it wasn't a nuclear accident. Maybe we should make them dig up all that nasty old pipe and leave the state. LOL.
rod k
Bemidji, MN
11/30/2007 6:45 AM

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, December 03, 2007 9:01 AM
To: Rafferty, Tom D.
Subject: FW: oil leak time to theSheyenne River.
Attachments: MPT17E.JPG; MPT17F.JPG; MPT180.JPG

Public Input from Richard Starke.

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Thursday, November 29, 2007 1:26 PM
To: Wahl, Al; Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Cc: -Info-Governor's Office; mike jacobs; mvonpinnon@forumcomm.com; ed bismarck; brian obenchain; Jim Jones; jodie white
Subject: oil leak time to theSheyenne River.

Grounds for DENIAL of Keystone Ltd for experimental pipeline.

NDSU EXTENSION SERVICE

NORTH DAKOTA STATE UNIVERSITY

Agricultural and Biosystems Engineering

P.O. Box 5626
Fargo, ND 58105-5626

Tel. 701.231.7236
Fax 701.231.1008
sgerig@ndsuext.nodak.edu

Mr. Richard Starke
5 Elm Street
Burlington, ND 58722

Dear Richard,

As per your request for information on the velocity of water in vegetated waterways during our phone conversation of November 16, 2007 here are some calculations of the velocity of the open channels on your property near Valley City.

The information you provided was that there is a 200-foot fall over approximately 3 miles from your property to the Sheyenne River. You were concerned about two reaches in the stream channel. The first was in the upper part where, after a good storm, the channel was about 30 feet wide on top with about 1 foot of depth in the middle. The vegetation in the channel is mowed so it isn't very tall (less than 4 inches). The second reach was closer to the Sheyenne. It isn't mowed and has some brush on the sides of the channel. In this area the water is about 10 feet wide on the top and the depth is about 2 feet in the center.

To calculate the flow velocity I have to make some assumptions. The first assumption is that this is uniform flow, which, to a hydrologist, means there are no sudden changes in grade and that the channel slope stays fairly uniform. Typically, for small channels like yours, uniform flow will be achieved within 2 to 3 hundred feet of a change in grade of the streambed.

The formula I used is the Manning formula:

$$V = \frac{1.49}{n} R^{2/3} s^{1/2}$$

Where:

- V - mean velocity in feet per second of water in the channel
- R - hydraulic radius. For open channels R is equal to the cross sectional area of the flow in square feet divided by the wetted perimeter in feet (A/P).
- s – slope of the water surface or gradient of flow in feet per feet. In uniform flow the bed slope is equal to the slope of the water surface.
- n – roughness coefficient. For mowed grass waterways n = 0.04, for taller grass or brush n can range from 0.04 to 0.08.

County Commissioners, North Dakota State University and U.S. Department of Agriculture Cooperating
NDSU is an equal opportunity institution

Richard Starke

From: "Thomas Scherer" <Thomas.Scherer@ndsu.edu>
To: "Richard Starke" <starkef4@srt.com>
Sent: Thursday, November 29, 2007 10:04 AM
Subject: Re: Calculations

Richard,

The velocity values I calculated in my letter are the average velocity values in the channel. Research has shown that the surface velocity in the middle of the small streams is about 25 percent greater than the average velocity.

So if we assume the average velocity in the stream is around 3.5 feet per second then the surface velocity will be around 4.7 ft per second or 3.2 miles per hour. A floating mass on the surface would take just a little less than 1 hour to traverse the 3 miles. Of course, we are assuming there are no restrictions like backups from roads, etc. Hope this helps.

> Dr Scherer, Thank you for the explanation. I am a 76 year old USAF retiree and a bit rusty and since I cannot find my slide rule perhaps you can calculate the time it would take a floating mass to travel the three miles assuming that the conditions were at STP. My farm stretches from the Soo line overpass to the Peak interchange east of Valley City, ND. along I-94. Thank you, Richard Starke Major USAF (ret'd). BSED, BSIE.

--
Tom Scherer
North Dakota State University
Extension Agricultural Engineer
(701) 231-7239

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, December 03, 2007 9:00 AM
To: Rafferty, Tom D.
Subject: Public Input

Tom – I think Janelle's SD story should go into public input. Thanks.

From: Janell Cole, Forum Capitol Bureau [mailto:forumcap@btinet.net]
Sent: Thursday, November 29, 2007 1:31 PM
To: Clark, Tony T.; Cramer, Kevin; Wefald, Susan E.
Subject: Re: I'll call you after lunch... are you in?

OK, thanks, Tony.
I'll call in a few minutes.

Meanwhile, is anyone in ND talking about the kind of fund that SD landowners are seeking from Keystone? See SD story below.

Pipeline opponents want funds in case of spill, break
But PUC-hired experts say money not needed
Nov. 28, 2007
The Daily Republic

By BOB MERCER
Republic Capitol Bureau

PIERRE — Some landowners along the route of the proposed Keystone crude-oil pipeline through South Dakota want the state Public Utilities Commission to require parent company TransCanada to post a multi-million dollar bond.
They want financial assurance that damages to water and soil will be cleaned up in case of a spill or break. But safety and environmental consultants hired by the PUC see the situation differently and aren't recommending a spill bond.
Environmental bonds are standard for mining projects in South Dakota.
"Overall, I found the construction, mitigation and reclamation practices…to be adequate and generally comply with pipeline industry standards," Tom Janssen, a senior analyst at the Minneapolis-based firm Merjent, said in his report.
The consulting team's recommendations do call for TransCanada to post bonds during the construction period — $3 million in 2008 and $12 million in 2009 — against possible damage from heavy equipment traveling over roads, highways, bridges and other infrastructure.
The PUC, which has jurisdiction over pipelines in South Dakota, opens a hearing Monday morning on TransCanada's state permit. The hearing is scheduled to run at least a full week, and the PUC has set aside two weeks of time.
Based on pre-filed testimony, the most widespread concern among members of the public is that the pipeline will leak or be damaged, allowing crude oil to contaminate drinking water, farm fields and wild areas which are environmentally sensitive.
"Bear in mind that there are those of us with everything to lose and nothing to gain," Edward Miller of Salem, a Miner County landowner, wrote.
His testimony includes exhibits showing federal statistics on pipeline spills. Since 2002, there have been 446 reported crude oil spills of five barrels or more in the United States. Of those, 71 spills contaminated water and 79 involved high-consequence areas, such as places which have large populations or are environmentally sensitive.
They resulted in more than $217 million in property damage, according to Miller. He said the spills together totaled nearly 280,000 barrels. For comparison, Miller said, that is a greater volume of oil than what was spilled in the Exxon Valdez disaster in Alaska.
The PUC's consultants have suggested TransCanada work more closely with the state Department of Environment and Natural Resources to identify potentially vulnerable areas of surface water and sources of drinking water along the 220-mile route through 10 counties.
The consultants also are urging that more consideration be given to how drain tile systems in farm fields could carry spilled oil long distances.

TransCanada's oil spill response plan remains incomplete, according to the review, and must be filed at least 30 days before operation of the pipeline begins. Within one year of the start of operation, TransCanada also must file an integrity management plan for maintaining the quality of the pipeline.
The consultants recommended more training for state personnel who will be involved in responding to pipeline releases.
Drain tiling is a concern for Ron Schaeffer of Menno, who farms in Hutchinson and Yankton counties. He wants to be sure he'll still be able to install a system in the future after the pipeline is laid. Schaeffer also called for TransCanada to post money in escrow to be used in the event of problems.
The South Dakota Association of Towns and Townships is taking no position in support or against the project but wants the PUC to assure that roads receive minimal damage during construction and are repaired and can be maintained afterward.
Kirk Madsen of Carpenter, who opposes the pipeline, said he's worried about the potential effect to his shallow well. Madsen said TransCanada originally planned to put a pump station on his property but moved it a half-mile south to a neighbor's property.
Chris Hastings of Britton wants the PUC to require TransCanada to put in U.S. banks $1 million for every tract of land the pipeline crosses in South Dakota. Under Hastings' suggestion, TransCanada could get its original money once the amount on deposit had doubled through interest earnings.
Jerry Burger of Britton asked the PUC to require TransCanada to post a bond, similar to a gold mine, and to purchase an extensive insurance policy. He also suggested that a per-barrel fee be placed on oil shipped through the pipeline, with the money to accumulate and be used for the costs of cleaning up spills, environmental damage and other problems.
"People have worked for years to build these rural water systems, it has cost the federal and local governments and citizens vast sums of money to create this important infrastructure," John Sieh of rural Groton said in his pre-filed testimony.
The South Dakota Resources Coalition, through testimony filed by board member George Piper, has also requested the PUC to require a bond and to make TransCanada file a remediation plan in advance that would be used if a spill occurred.
TransCanada is expected to spend about $93 million in South Dakota during the construction period.
John Muelhausen, a senior analyst at Merjent, calculated the various social and economic effects from the project. He said the pipeline would affect approximately 2,169 acres of cropland, total, in Marshall, Day, Clark, Beadle, Kingsbury, Miner, Hanson, McCook, Hutchinson and Yankton counties.
"Compared to the 2.7 million acres of cropland in the counties crossed by the pipeline," Muelhausen said in his written testimony, "the acreage of cropland taken out of production would be insignificant."

Clark, Tony T. wrote:
I'm in now. 328-4546. call anytime.

-----Original Message-----
From: Janell Cole, Forum Capitol Bureau [mailto:forumcap@btinet.net]
Sent: Thursday, November 29, 2007 12:04 PM
To: Wefald, Susan E.; Cramer, Kevin; Clark, Tony T.
Cc: Rafferty, Tom D.
Subject: I'll call you after lunch... are you in?

Commissioners,

I need to talk to you for comments for a story on how the Enbridge explosion at Clearbrook may hurt (or not) public perception of the Keystone line and whether it may affect your eventual decision on Keystone.
Assuming you will approve a route permit with restrictions/conditions, would the fatal explosion in Minn. inspire additional conditions.

The morning slipped away from me, talking to Keystone folks and DRC, so I hope you are in this afternoon and I will call each of you then.

If you won't be in or have a preferred time you'd like me to call, maybe

you or Tom can let me know.

Thanks.

Janell

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, December 03, 2007 8:32 AM
To: Rafferty, Tom D.
Subject: FW: Disaster is imminent!!! - Public Input
Attachments: MPT27.JPG; MPT28.JPG

Public Input please.

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Saturday, December 01, 2007 6:40 AM
To: Ramona Starke Klein; dave walaker
Cc: dave walaker; Wefald, Susan E.
Subject: Disaster is imminent!!!

Prevention is spelled DENY the pipeline. We GROW out own fuel...keep your TAR for roads.!!!

Rafferty, Tom D.

From: Cramer, Kevin
Sent: Friday, November 30, 2007 3:30 PM
To: Rafferty, Tom D.
Subject: FW:

Public Input file

Kevin Cramer, Commissioner
ND Public Service Commission
(701) 328-4279
http://www.psc.state.nd.us/commission/cramer.html

-----Original Message-----
From: Scott Hennen [mailto:shennen@wday.com]
Sent: Friday, November 30, 2007 2:55 PM
To: Cramer, Kevin
Subject: Fw:

----- Original Message -----
From: "Pat Zavoral" <PZavoral@cityoffargo.com>
To: <SHennen@wday.com>
Sent: Friday, November 30, 2007 1:46 PM
Subject: RE:

The old pipelines were placed there prior to the present administration's tenure-we would have questioned them if we had the opportunity. The pipelines that are in place are mostly 6 and 8 inch pipelines operated under lesser pressures. The Keystone pipeline is 30 inches in diameter, they have received a federal waiver to lessen the pipe size thickness to .038 inch, they will be operating at 1440 psi; and their contents--what they will release to us or what we have found out from an independent investigation--carries naphtlinc acid which to date in our research can not be treated within any known water treatment process. The other pipes are perpendicular to the water sources they cross; Keystone is paralleling Lake Ashtabula and the Sheyenne River for 91 miles before it crosses the River.

The two pipelines nearest our intake in south Fargo have limited capacity in their pipes due to the size (6"and 8") and the proximity of their shut off valves--one is located at the Bowler and the other at highway 52nd in Moorhead. The largest volume of spillage from these pipes is 500 barrels. The Keystone pipeline currently has one valve in 42 miles of pipe along the Sheyenne corridor; our consultants tell us that if 1% of the volume is spilled it represents over 8,000 barrels of crude--it would take 30 days to

clean up and it only take 9 days for the releases of Baldhill to reach the Fargo intake.

We estimate that we will spend about $100,000 in consultant and attorney fees to protect our water source in this dispute with Keystone. We will be using our water fund to support these costs.

-----Original Message-----
From: Scott Hennen [mailto:SHennen@wday.com]
Sent: Friday, November 30, 2007 11:51 AM
To: Pat Zavoral
Cc: Heather Mitzel; Dennis Walaker; Mike Tanner; JMonk@wday.com
Subject: Re:

Thanks Pat...Do you have an estimate on what you expect the total to be to complete the testimony/protest? As far as the costs from a potential spill....my question is why the new proposed pipeline is any more of a threat than the 9 upstream that currently are underneath our water supply?
Scott Hennen
General Manager/Host of "Hot Talk"
WDAY Talkradio Network
Forum Communications Company
701-241-5339 Office Direct
701-219-0123 Cell
701-237-6500 Switchboard
Office Assistant is Becky Wells at 701-241-5201 or BWells@wday.com
Sent from my Verizon Wireless BlackBerry

-----Original Message-----
From: "Pat Zavoral" <PZavoral@cityoffargo.com>

Date: Fri, 30 Nov 2007 11:14:18
To:SHennen@wday.com
Cc:"Heather Mitzel" <HMitzel@cityoffargo.com>, "Dennis Walaker" <DWalaker@cityoffargo.com>
Subject:

Scott,
Heather asked if I'd respond to your inquiry about cost of the Keystone pipeline protest. To date we have spent $18,000 for engineering consultants and about $10,000 for attorney fees. There will be more coming.
I'm not sure if you are aware of all of the potential costs to Fargo if an oil spill would occur, since the press coverage didn't get into any detail. An NDSU study, as part of the Red River Water Supply Project, pegged the loss of revenue to the City, County and State at $6 million a day--- $22 million a year. Our last oil spill was at the Flying J truck stop, less then 100 gallons of oiled spilled out and we had to shut our Red River inlet off for 10 days. If the Sheyenne River is our water supply and there is a spill during a drought the possibility of Fargo not having a water supply is a real possibility; what would be the economic and physical cost of such an

event?

ENBRIDGE

Nov 28, 2007 19:52 ET

Incident on Enbridge Pipeline

CALGARY, ALBERTA--(Marketwire - Nov. 28, 2007) - Enbridge Inc. (TSX:ENB) (NYSE:ENB) reports that at approximately 3:45 CST, November 28, 2007, an explosion and fire occurred on an Enbridge crude oil pipeline approximately three miles southeast of Enbridge's Clearbrook, Minnesota terminal. The extent of the damage and injuries is not yet confirmed.

All Enbridge pipelines in the vicinity were immediately shut down and isolated and Enbridge emergency crews were dispatched to the site.

Enbridge has notified and is working with the appropriate authorities and emergency officials. The cause of the explosion has not been determined.

There is no estimate at this time on the restart of the lines.

Enbridge Inc. (www.enbridge.com) is a leader in energy transportation and distribution in North America and internationally. As a transporter of energy, Enbridge operates, in Canada and the United States, the world's longest crude oil and liquids pipeline system. Enbridge also has international operations and a growing involvement in the natural gas transmission and midstream businesses. As a distributor of energy, Enbridge owns and operates Canada's largest natural gas distribution company, which provides distribution services in the provinces of Ontario and Quebec, and in New York State; and is developing a gas distribution system for the Province of New Brunswick. Enbridge is a Canadian company and its common shares trade on the Toronto Stock Exchange in Canada and on the New York Stock Exchange in the United States under the symbol ENB.

Oil pipeline explodes near Clearbrook--two workers unaccounted for

Two workers were unaccounted for Wednesday after an explosion and fire along a crude oil pipeline near this northern Minnesota town, authorities said.

The Clearwater County Sheriff's Department said emergency workers were responding to the scene of the Enbridge Energy explosion, which was reported at 3:51 p.m.

The blast and oil spill appeared to be self-contained and the ensuing fire was expected to burn itself out, according to the sheriff's department. The fire was expected to burn through the night.

Little information was available about the two workers who were unaccounted for.

Residents within close proximity have been evacuated.

In a news release posted on its Web site, Enbridge Energy said pipelines in the vicinity of the explosion were immediately shut down after the blast. The company said it hadn't

confirmed any injuries and that the cause of the blast hadn't been determined.

Clearbrook is about 25 miles northwest of Bemidji.

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Get the power of Windows + Web with the new Windows Live. Power up!

Get the power of Windows + Web with the new Windows Live. Power up!

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Thursday, November 29, 2007 8:53 AM
To: Rafferty, Tom D.
Subject: FW: Resignation

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Wednesday, November 28, 2007 9:25 PM
To: mike jacobs; mvonpinnon@forumcomm.com; ed bismarck; Wahl, Al; Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Cc: Tom Brown; EE "Smokey" Wright; mooneymit@srt.com; Henry Singer; ed starke
Subject: Resignation

Editors, Please publish, Please be advised that because of the lack of support by the Dakota Resource Council leaders and the suspension of my membership for one year for an alleged breach of ettiquet , I will try to find an organization more suited to my style of communication. I wish the members well in their battle with big oil who daily use the media to convince the public that the sludge being fed to America has a legitimate need, which is FALSE Our refineries produce all the road tar we need. Richard Starke,BSIE,BSED, Major USAF (ret'd)d. Now for my book.!! Let the heads fall wher they may!!

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Thursday, November 29, 2007 8:52 AM
To: Rafferty, Tom D.
Subject: FW: More About The Explosion Along Clearbrook Pipeline

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From: Richard Starke [mailto:starkef4@srt.com]
Sent: Thursday, November 29, 2007 2:00 AM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin; mike jacobs; mvonpinnon@forumcomm.com; ed bismarck; dave walaker; Jim Jones; brian obenchain
Cc: -Info-Governor's Office
Subject: Fw: More About The Explosion Along Clearbrook Pipeline

FYI You must live with your Conscience for you are ACCOUNTABLE for your decisions, so far WRONG TWICE.You have ONE CHANCE to redeem yourselves. DENY THE APPLICATION GOD HELP YOU.
----- Original Message -----
From: Ramona Klein
To: Undisclosed-Recipient:;
Sent: Wednesday, November 28, 2007 10:34 PM
Subject: Fw: More About The Explosion Along Clearbrook Pipeline

Crude oil pipeline explodes, killing two in Minn.

Explosion along Clearbrook pipeline

By Larry Oakes / StarTribune
startribune.com
updated 25 minutes ago
Two maintenance workers were unaccounted for after an explosion and fire this afternoon along a crude oil pipeline near the northern Minnesota town of Clearbrook.
The Clearwater County Sheriff's office reported that the explosion was reported about 3:50 p.m. at the Enbridge Energy pipeline about a mile south of Clearbrook.
Multiple rural fire departments responded, and residents within a mile radius were evacuated because of smoke.
Enbridge spokesman Larry Springer said a maintenance crew from Superior, Wis., was working on the pipeline at the time. Asked if any were injured or missing as reported by local authorities, he said: "We're trying to confirm that information and won't speculate about that for now."
Springer said the crew was replacing a section of pipe that had developed a small leak. "It had been repaired with a sleeve, and we were removing it so that it could be analyzed," Springer said.
The sheriff's office reported that the explosion resulted in a "spill" from the pipeline that appeared to be "burning itself out," but was expected to burn through the night.
Springer said the pipeline carries crude oil from Canada to Enbridge's Superior, Wis., terminal and storage facilities. He said the section will be explosion is part of the company's Lakehead pipeline system.
Little information was available about the two workers who were unaccounted for.
Residents within close proximity have been evacuated.
The Associated Press contributed to this report.>/I>

Duane I. Hayen
9164 119th Ave. SE
Cogswell, ND 58017-9664

RECEIVED
NOV 26 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

November 20, 2007

PSC Commissioners Wefald, Clark & Cramer

RE: Keystone Pipeline

We finally got a call from Keystone Nov 5, 2007. They stated they had made the changes to the easement but when we received it - it was epactly the same

The next time he came - Nov 19 - the word one pipeline was put in one place and not in the other places. They have no intention of negotiating anything.

We as landowners are clearly at a disadvantage from the start By the time we find out we are affected its too late We are not familiar with the process and we need attorneys to represent us, very few are able to afford one.

This project will deeply affect our livelihood for the rest of our life Large farms may be able to work around it but we can not.

Keystone's plan for abandonment of the pipe is to leave it in the ground when they are finished. Our children or the state will have to clean up the mess afterwards

We feel that if the permit is to be given it should be without the ability to use eminent domain.

Duane & Valera Hayen
Cogswell, ND

November 26, 2007

The Honorable Susan E. Welfald, President
North Dakota Public Service Commission
State Capital
Bismarck, North Dakota 58505

The Honorable Kevin Cramer, Commissioner
North Dakota Public Service Commission
State Capital
Bismarck, North Dakota 58505

The Honorable Tony Clark, Commissioner
North Dakota Public Service Commission
State Capital
Bismarck, North Dakota 58505

RE: Keystone Pipeline

Dear Commissioners Wefald, Cramer and Clark:

From The Forum Monday November 5, 2007 page A10: "However, if something changes in the industry so that these turbines are no longer needed, I want to have something in place that would take care of them." (Susan Wefald)

The above article was addressing wind turbine rules, but for us, landowners affected by the Keystone Pipeline, we are also concerned about the same issues at the end of this pipeline's life. We have tried to "negotiate" items like this. Keystone's reply to that landowner concern has been only to hear the word "condemnation."

It is still our opinion that Transcanada/Keystone's negotiation technique is to only offer their route and prepared easement. If a landowner fails to comply to very limited offers of compromise, the company is content to merely wait for the eminent domain powers ***"the ND PSC is certainly going to give us"*** and force us to comply to their easement terms. Any additional criteria that we as landowners may suggest apparently triggers the company's policy of unilateral determination that the parties won't find middle ground. Therefore they believe condemnation is the only alternative.

In Bismarck on September 6th after your Commissioner's meeting, Transcanada/Keystone attorney John Hunt inquired what additional issues we had with the easement. I related the current easement (see exhibit PM1 in your files) which indicates "<u>and abandoning in place</u>." I was concerned that the easement did not detail when abandonment actually transpires or the potential hazard of leaving the pipe in the ground to disintegrate, leak residual contents and eventually collapse. He reaffirmed was a good understanding of that company's prepared easement term. He acknowledges the land agent assigned to us has no power to negotiate anything on the prepared easement and that he (John Hunt) would be the one to "talk" to us about such matters. On November 9th, a land agent supervisor (Denny Needham) from Kansas City suggested that if we pursued abandonment language in the easement, Transcanada would merely wait for condemnation to force us to accept the company's easement language as already prepared without any changes. As of today, promised deadlines for answers to our questions have passed which has become a usual practice now for this company. If this is the kind of response we get when they need

something (easement) from us, what can we expect when we need help from them like filling in sinkholes or cleaning up after accidental spills? Perhaps that is why the company resists putting a corporate officer's signature to their own prepared easement; just the landowner's.

From The Forum, October 4, 2007: "In some of the letters we're receiving, it just sounds like (TransCanada) is giving (landowners) the easement papers, and they make an offer. We're hearing they won't negotiate. Negotiation is part of the easement process." (Susan Wefald) An independent review should disclose the past practice of the company is still in operation today.

An application for a Minnesota crude oil pipeline known as" MinnCan Project" was just granted in 2007. In a document, prepared by Administrative Law Judge Beverly Jones Heydinger dated November 17, 2006, listed very similar landowner issues we are encountering and suggested conditions be placed on the routing permit. I would hope our ND Public Service Commissioners would review such conditions regarding easements and perhaps offer their own to protect our state landowners.

Today I write this to explain our dilemma. We sense that no state office of officer holder is truly concerned about this easement. For landowners, it is extremely important to know what our responsibilities are. Also, it lets us know what the Company legal intentions are too. This abandonment is merely one issue that highlights our concerns. State law seems to indicate that:

"routes shall be chosen which minimize adverse *human* and *environmental* impact."

It truly feels unfair that individual landowners are carrying undue burden to keep this pipeline safe for the future by trying to incorporate easement terms which should have state oversight. And as we try, the company merely informs us that condemnation will reward them their easement without these concerns ever being addressed.

It is my understanding that in the condemnation process the court is really only concerned with the issue of compensation and that the terms of the easement are not addressed. It would appear that a landowner could spend a lot of money in legal fees trying to fix the particular issues that concern him regarding an unwanted easement and have it amount to nothing in the end. It doesn't feel right that we should have to defend our property against an unwanted intruder and that there is seemingly nothing and no one to help us.

It would seem appropriate for the PSC to intercede for the affected ND landowners. Apparently and ultimately, we are the ones who must accept what is an unwanted intrusion onto our property in order to benefit the most apparent public needs of Illinois and Oklahoma.

Sincerely yours,

Paul Mathews
9066 119th Ave SE
Cogswell, ND 58017-9665
701-724-6470
farmerpost@hotmail.com

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Monday, November 26, 2007 10:25 AM
To: Rafferty, Tom D.
Subject: FW: betrayed the landowners

input

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Friday, November 23, 2007 11:28 PM
To: Clark, Tony T.; Cramer, Kevin
Subject: betrayed the landowners

Evidently you boys have not heard of the Energy act of 2005 which Mandated (that means "you gotta do it) the use of clean burning biofuels to replace our need for foreign petroleum. Also you must have heard that by 2015 we will be EXPORTING (that means we have too much) GASOLINE. where have you been for the last few years? It has become abundantly clear that you intend to sell us out. Have you heard of global warming?

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Wednesday, November 21, 2007 8:06 PM
To: Rafferty, Tom D.
Subject: FW: Are you NUTS?

Public input.
Tc

Mobile email powered by Nokia Intellisync Tony Clark 701-328-2400 office
701-220-5947 mobile

From: Richard Starke <starkef4@srt.com>
Date: 11/21/2007 7:34 PM
To: Wefald, Susan E. <swefald@nd.gov>;Clark, Tony T. <tclark@nd.gov>;Cramer, Kevin <kcramer@nd.gov>
CC: EE Smokey Wright <eewright@srt.com>;-Info-Governor's Office <governor@nd.gov>
Subject: Are you NUTS?

Where in the world do you get the authority to arbitrarily issue an certificate to the enemies of the public to wantonly wreck our PRIVATE PROPERTY? you are the most BRAIN DEAD BUNCH OF misfits that ever crawled out from under a rock!! what sick jokes you are!!!

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, November 19, 2007 9:00 AM
To: Rafferty, Tom D.
Subject: Public INput

Public Input

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Saturday, November 17, 2007 3:07 AM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin; pm@pm.gc.ca; -Info-Governor's Office
Cc: mike jacobs; mvonpinnon@forumcomm.com; ed bismarck; EE "Smokey" Wright; Jerald Burtman; Mike Ferguson; mooneymit@srt.com
Subject: Fw: Un wanted and unnecessary oil line

PSC members, You are contributing to extra global warming by encouraging the use of tar-oil with its triple exhaust of carbon dioxide. Clean burning BIOFUELS are the fuels of the future, WITHOUT QUESTION, **DENY THE KEYSTONE PIPELINE AND PREVENT MORE GLOBAL WARMING.....IT IS ALREADY HERE, wake up !!!!!**
----- Original Message -----
From: Nightly Viewer Mail
To: Richard Starke
Sent: Friday, November 16, 2007 9:15 PM
Subject: RE: Un wanted and unnecessary oil line

Thank you for contacting NBC Nightly News with Brian Williams.
Your feedback is critically important to Nightly News.
We began using our e-mail address in December of 1993. Since then, we have been pleased to receive valuable feedback from our viewers . We are especially encouraged that many of you are suggesting stories you would like us to report or investigate.

Many of our important stories come directly from your letters and we look forward to any ideas and comments you have in the future.

We will try to answer as many of your inquiries as possible, but answers to many of your frequently asked questions can be answered on our website: www.Nightly.MSNBC.com, where you can also watch the NBC Nightly News Netcast, The Early Nightly and watch video or read printed versions of recent stories.

While you're there, you can also read and respond to our blog: www.DailyNightly.MSNBC.com
TRANSCRIPTS - Transcripts for all NBC News Programs are available through the Burrelle Transcript Service by calling 1-800-777-TEXT.

VIDEOTAPES - Segments from NBC News programs are available on vhs cassette through NBC NEWS ARCHIVES. You can purchase a segment for $150 by mailing a request to:

NBC NEWS ARCHIVES
30 Rockefeller Plaza

Room 327W

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, November 19, 2007 8:58 AM
To: Rafferty, Tom D.
Subject: Public Input
Attachments: image001.jpg; image002.gif

Public Input

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Saturday, November 17, 2007 9:05 PM
To: Curt Hohn; lynn@drcinfo.com
Cc: Ramona Starke Klein; Cramer, Kevin; Clark, Tony T.; Wefald, Susan E.; mike jacobs; mvonpinnon@forumcomm.com; ed bismarck; dave walaker; Jim Jones
Subject: Re: Bismarck Tribune Editorial - TransCanada 11 16 07

Citizens, I intend to PROVE that runoff from my farm, WILL CARRY leaked oil to the Sheyenne River in 39 minutes for the river is DOWNHILL TWO HUNDRED FEET in THREE MILES,should the leak occur during spring runoff.

The SOUND IS ANOTHER ISSUE. If it is as intense as the sound made by an oil processing plant several miles south of Rhame ND, (the noise can be heard several miles away through the window of a car) it will be **TOO LOUD** to be coming through the sides and floors of intense traffic at 75 mph a mere FOUR FEET of concrete roadway AWAY.I t will be Much louder than the 85 db that causes PERMANENT HEARING LOSS!!! iN MARGIDAL WEATHER AND AT NIGHT IT WILL DAMAGE THE HEARING of motorists and cause traffic to pile up in MASSIVE ACCIDENTS BECAUSE OF THE UNEXPECTED noise!!!

The solution would be to move the route FIVE miles east to the FIRST CHOICE of Keystone,The Oriska Road ROW aka ND State Highway 32, and build a heavily insulated OVERPASS for the oil OVER the Interstate highway, a project of immense cost toTransCanada, but an absolute necessity or join the Fargo mayor in demanding that the permit be DENIED ! The US ethanol industry will be producing enough clean-burning biofuels to REPLACE foreign oil and make us an EXPORTER OF GASOLINE BY 2015.

. Energy Act of 2005 MANDATE MAJOR RICHARD
BSIE, BSED,USAF (ret'd).
LANDOWNER

----- Original Message -----

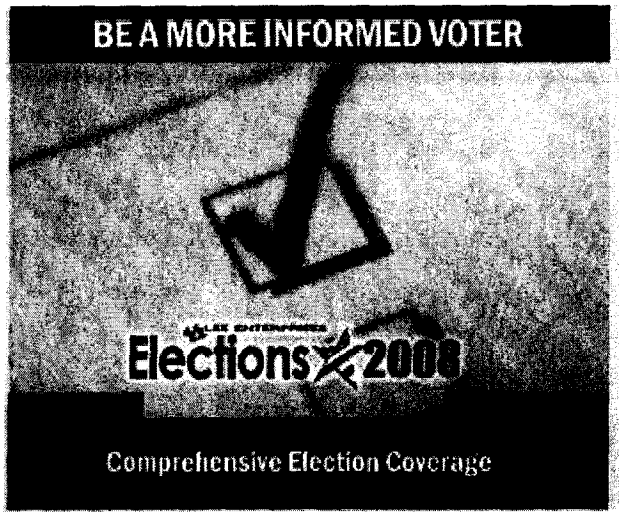
VOTER

From: Curt Hohn
To: Lillian Anderson ; Kent ; James F. Heisinger ; Janie ; Jana Linderman ; Davidson, John ; James Bush ; jbrimmer@mncenter.org ; jsieh@nvc.net ; Joell Fischbach ; jspulling@hotmail.com ; ed ; lynn@drcinfo.com ; Stephanie Chase ; Spader, Dean J ; snbclaus@rushmore.com ; srschuller@nvc.net ; Richard Starke ; GEORGE PIPER ; Carrels ; Curt Hohn ; Sue Sibson
Sent: Saturday, November 17, 2007 9:29 AM
Subject: Bismarck Tribune Editorial - TransCanada 11 16 07

Doing it right with pipelines all important

http://www.bismarcktribune.com/articles/2007/11/16/news/opinion/editorials/142814.txt

LOADING



Nov 16, 2007 - 04:04:09 CST

The oil production industry in North Dakota won't reach its potential without increased pipeline capacity to transport petroleum to refineries.

The Public Service Commission's recent approval of a proposed new stretch of pipeline in McKenzie County was forward-looking and carefully decided after a thorough review. Approvals do not come easily, nor should they.

Only the most biased (and deluded) booster of the oil industry would deny a degree of risk that crude oil could escape into the environment as it makes its way to a refinery. It's in the pipeline company's self-interest to minimize the risk as much as possible.

One of the most controversial aspects of any proposed pipeline is its precise siting. It can be an intensely personal issue - if it's proposed to go through my land.

That's part of the reason that approval of the proposed Keystone pipeline in the eastern part of the state has been so slow in coming - not that slow is all bad. To repeat, the permit process must be carefully decided after a thorough review. But the amount of time it takes should be reasonable, giving all stakeholders an ample opportunity to be heard.

The similarity between two pipeline projects brought before the PSC for its approval is pretty limited to the fact that both are pipes and oil flows through both.

The Keystone project wouldn't be built to carry oil produced in North Dakota to its place of processing. North Dakota is only a route, and only a relatively small part of the route, at that. It's planned to go from Alberta and take Canadian product first to Illinois, and later in another branch, to Cushing, Okla. And the size by volume of Keystone's petroleum superhighway is immense, at least 435,000 barrels of crude every day.

To say that where it's sited is important is an understatement. Landowners from north to south along the proposed route through the eastern part of North Dakota have been wary, some up in arms. When it looked as if concerns had been addressed as much as they're ever going to be to opponents, approval seemed close.

Comes now the city of Fargo, concerned about the water in Lake Ashtabula and the Sheyenne River and its tributaries - in other words,, a source of drinking water for the metropolis. The city so gained the ear of the PSC it got the grace of becoming an intervener, though the deadline for comment had passed. TransCanada Keystone cried foul. A delay would cost millions, perhaps $100 million, the company said. But the time, a delay until late November for another hearing, is not as important as getting it right, the decision to be made.

Almost overlooked now that Fargo's stake is weighed is that one of the state's environmental treasures, the Pembina Gorge, is affected. A strip through its heavily wooded valley would be cleared. That's a lousy prospect. At the very least, if approval is received, Keystone must rethink its routing and spare the gorge.

The PSC's Nov. 27-28 hearing at the Capitol may turn out to be occasion for a courageous, insightful decision. Or it could be a disaster in the making.

News > Opinion

Printer friendly version

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, November 19, 2007 9:22 AM
To: Rafferty, Tom D.
Subject: FW: KeyStone Pipeline Project - Public Input file

Tom – I am not sure if I have already forwarded this to you for public input file.

From: Val [mailto:crec@utma.com]
Sent: Tuesday, November 06, 2007 3:28 PM
To: Wefald, Susan E.
Subject: KeyStone Pipeline Project

Dear Commissioner Wefald:

The Keystone Pipeline Project will be the best thing that ever will happen to North Dakota and the United States. $7.00 wheat is no good for farming if you can't get diesel fuel to operate tractors, combines, trucks, etc.

There is a danger that if the United States does not approve this project soon, the Canadians will build a pipeline to the Canadian west coast and export the oil to China.

We urge you to close the Keystone Pipeline hearing at this time and approve the project.

Neil Romfo
Cavalier County Commission Board Member and Marilyn Romfo
Langdon ND 58249

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, November 19, 2007 10:47 AM
To: Rafferty, Tom D.
Subject: Keystone Pipeline

Gerald Ringdahl called. He lives 9 miles east of Oakes. He is a farmer. He lives 1 mile from the proposed pipeline. He is concerned because he read in the paper that 18 landowners in South Dakota have received condemnation papers from Keystone. I told him that our process in North Dakota is different than the process in SD and Keystone can not issue any condemnation papers in ND until after the Commission acts on the pipeline. He seemed satisfied just to visit about this.

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Saturday, November 17, 2007 9:44 AM
To: Rafferty, Tom D.
Subject: FW: MSNBC.com Article: Study: Warming is stronger, happening sooner

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From: Richard Starke [mailto:starkef4@srt.com]
Sent: Sat 11/17/2007 2:21 AM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin; mike jacobs; mvonpinnon@forumcomm.com; ed bismarck; Wahl, Al
Subject: MSNBC.com Article: Study: Warming is stronger, happening sooner

We must react NOW.. Deny the pipeline!!!!!
Study: Warming is stronger, happening sooner
Just a days after the Nobel prize was awarded for global warming work, an alarming new study finds that warming signals are stronger and happening sooner than expected due to increased human emissions of carbon dioxide and an Earth less able to absorb them.
http://www.msnbc.msn.com/id/21423872/from/ET/

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Saturday, November 17, 2007 9:43 AM
To: Rafferty, Tom D.
Subject: FW: Un wanted and unnecessary oil line

pub. input

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Sat 11/17/2007 3:07 AM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin; pm@pm.gc.ca; -Info-Governor's Office
Cc: mike jacobs; mvonpinnon@forumcomm.com; ed bismarck; EE "Smokey" Wright; Jerald Burtman; Mike Ferguson; mooneymit@srt.com
Subject: Fw: Un wanted and unnecessary oil line

PSC members, You are contributing to extra global warming by encouraging the use of tar-oil with its triple exhaust of carbon dioxide. Clean burning BIOFUELS are the fuels of the future, WITHOUT QUESTION, **DENY THE KEYSTONE PIPELINE AND PREVENT MORE GLOBAL WARMING.....IT IS ALREADY HERE, wake up !!!!!**
----- Original Message -----
From: Nightly Viewer Mail
To: Richard Starke
Sent: Friday, November 16, 2007 9:15 PM
Subject: RE: Un wanted and unnecessary oil line

Thank you for contacting NBC Nightly News with Brian Williams.
Your feedback is critically important to Nightly News.
We began using our e-mail address in December of 1993. Since then, we have been pleased to receive valuable feedback from our viewers . We are especially encouraged that many of you are suggesting stories you would like us to report or investigate.

Many of our important stories come directly from your letters and we look forward to any ideas and comments you have in the future.

We will try to answer as many of your inquiries as possible, but answers to many of your frequently asked questions can be answered on our website: www.Nightly.MSNBC.com, where you can also watch the NBC Nightly News Netcast, The Early Nightly and watch video or read printed versions of recent stories.

While you're there, you can also read and respond to our blog: www.DailyNightly.MSNBC.com
TRANSCRIPTS - Transcripts for all NBC News Programs are available through the Burrelle Transcript Service by calling 1-800-777-TEXT.

VIDEOTAPES - Segments from NBC News programs are available on vhs cassette through NBC NEWS ARCHIVES. You can purchase a segment for $150 by mailing a request to:

NBC NEWS ARCHIVES
30 Rockefeller Plaza

Room 327W

BARNES COUNTY

230 4TH St. NW
VALLEY CITY, NORTH DAKOTA 58072
www.co.barnes.us

RECEIVED
NOV 13 2007
ND PUBLIC SERVICE COMMISSION
SUSAN E. WEFALD

COUNTY OFFICERS
EDWARD R. MCGOUGH
Auditor
845-8500
Fax: 845-8548
VICKI ZINCK
Treasurer
845-8505
Fax: 845-8501
KERSTIN COCHRAN
Recorder
845-8506
Fax: 845-8538
WANDA AUKA
Clerk of District Court
845-8512
Fax: 845-1341
BRADLEY A. CRUFF
States Attorney
845-8526
Fax: 845-8543
EUGENE BJERKE
Sheriff
845-8530
Fax: 845-0002
CORRECTIONS
845-8532
Fax: 845-2495
DR. JAMES B. BUHR
Coroner
845-6000
BETTY KOSLOFSKY
Director of Tax Equalization
845-8515
JAMES VERWEY
Veterans Service Officer
845-8511
KIMBERLY FRANKLIN
Emergency Manager
845-8510
KERRY JOHNSON
Highway Superintendent
845-8508
Fax: 845-8533
JASON THIEL
MIS Manager
845-8545
COUNTY COMMISSION
Dist. 1: CINDY SCHWEHR
Rogers
845-8238
Dist. 2: RHEINHOLD WEBER
Valley City
845-1656
Dist. 3: HARLAN OPDAHL
Litchville
762-4254
Dist. 4: RODGER BERNTSON
Sanborn
646-6159
Dist. 5: DONALD TRIEBOLD
Valley City
845-6994

November 9, 2007

Commissioner Susan Wefald
Commissioner Kevin Cramer
Commissioner Tony Clark
Public Service Commission
600 East Boulevard, Dept 408
Bismarck North Dakota 58505-0480

Subject: TransCanada – Keystone Pipeline Project
Case No: PU-06-142

Dear Commissioners:

The Barnes County Board writes to express our serious concern with the decision of the North Dakota Public Service Commission to grant the City of Fargo's request to reopen the hearing records in connection with the TransCanada Keystone Pipeline Project. We strongly urge the PSC to expedite its consideration of this project. Separately, we urge the Commission to approve it.

Barnes County was represented at the hearings the PSC has already held on this project. We know that the PSC has not overlooked the safety of this pipeline proposed to pass through Barnes County landowners' properties. Nor has the PSC overlooked the safety of the pipeline as it passes adjacent to significant resources in Barnes County such as Lake Ashtabula and the Sheyenne River. It did not take Fargo's late interest in this case for safety to become important to those of us in Barnes County, to Keystone, nor as we know to the Public Service Commission.

We are aware that the design of this pipeline has also been reviewed by federal regulators responsible for pipeline safety. We are aware that the Pipeline Hazardous Materials Safety Administration has reviewed the design for the Keystone Pipeline and found that additional precautions to be taken and additional conditions met will ensure this pipeline "as safe or safer" than other pipelines.

We are also aware of the significant benefits the pipeline stands to bring – locally; throughout North Dakota; and nationally. On a local level, the project stands to generate tax revenues estimated at $1.45 million to $1.8 million per year that will aid Barnes County residents and schools. Barnes County and the rest of eastern North Dakota, including Fargo, will benefit from secondary economic impacts, estimated at near $400 million, associated with a very significant construction project. Additionally, we understand the project has the support of the state's oil producers because it will help solve pipeline bottlenecks that have cost the state more than $16 million in tax revenues according to the Office of Management and Budget. From a national perspective, the project seeks to deliver into the Midwest a stable and secure source of oil, domestic to North America.

We are aware of the estimates of the costs of delay on Keystone and do not think they are warranted, given the record that exists at the state and federal levels regarding safety. We are also concerned about the Commission's action delaying benefits of the project and potentially increasing local impacts if construction or restoration is interrupted.

Therefore, as a matter of public record and with respect, we express our strong opposition to the decision to reopen the Keystone Pipeline proceeding. We urge the PSC to avoid any further delay, and to move forward expeditiously to approve this project.

Sincerely,

Cindy Schwehr, Chairman
Barnes County Commission

DAKOTA VALLEY ELECTRIC COOPERATIVE, INC.

RECEIVED
NOV - 5 2007
ND PUBLIC SERVICE COMMISSION
SUSAN E. WEFALD

November 2, 2007

Commissioner Susan Wefald
North Dakota Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

Dear Commissioner Wefald:

I am writing on behalf of Dakota Valley Electric Cooperative to express concern regarding the Public Service Commission's consideration to reopen, in response to a request from the City of Fargo, the hearing records for the TransCanada Keystone Oil Pipeline Project.

Dakota Valley provides electrical service to rural cooperative customers in Sargent County as well as all or parts of seven other counties in southeast North Dakota. The proposed Keystone pipeline route extends through part of our service territory in Sargent County, and Dakota Valley will provide electric service to a pipeline pumping station planned for a location between and south of the towns of Ludden and Brampton.

We have been working with TransCanada for the last year on service agreement details and preliminary preparation for the significant amount of electric transmission facilities we need to construct in order to provide our electric service. At this stage of the project, we are moving ahead with inter-connection agreements, landowner meetings associated with transmission line easements, and proposals to purchase long-lead time equipment. As you may understand, this work has to be accomplished now in order for us to take advantage of the 2008 summer and fall construction season.

While we respect the interests of the City of Fargo and do not wish to minimize their issues, we are concerned that reopening the public process will bring delays to the project to the extent we miss much of the construction season advantage and endure additional expense from delays and off-season construction.

We have found TransCanada to be open and forthcoming with their information, both at public meetings held months ago at numerous locations and in other discussion with us. We

7296 Highway 281 • Edgeley, ND 58433-9503 • (701) 493-2281 • Fax: (701) 493-2454
14051 Highway 13 • Milnor, ND 58060-9700 • (701) 427-5242 • Fax: (701) 427-5244
Toll Free: 1-800-342-4671 • E-Mail: dvec@dakotavalley.com • Web Site: www.dakotavalley.com

A Touchstone Energy® Cooperative

appreciated the Public Service Commission's earlier public process review of the project, and question whether additional benefit will be derived through a reopening of that process.

Thank you for your consideration of our concerns

Sincerely,

DAKOTA VALLEY ELECTRIC COOPERATIVE

Jay Jacobson
Alliance Manager

Cc: Commissioner Tony Clark
Commissioner Kevin Cramer

Richard Starke

From: "Lynn C Wolff" <lynn@drcinfo.com>
To: "Janell Cole" <forumcap@bblnet.net>
Sent: Friday, July 27, 2007 11:45 AM
Subject: FW: Emailing: Pipeline Operations

FYI,

Attached is information on the Proline Global website regarding leaks and spills on the ALYSEKA PIPELINE.
TransCanada claims no leaks in 9,000 years.

This REAL pipeline had REAL LEAKS, totaling 1,360,248 gallons with leaks EVERY YEAR from 1977 to 2002.
(see the bottom of the page). Note that the operating pressure is only 1,180 psi. TransCanada Keystone will be 1,400 psi at 435,000 barrels and 1,700 psi at 590,000 barrels. I'd rather you didn't share this with Transcanada just now as we plan to use this as testimony before the PUC.

Source: http://www.proline-global.com/main6.htm and http://www.alyeska-pipe.com/pipelinefacts/PipelineOperations.html

Pipeline Facts

Pipeline Operations

Basic Information

- Maximum daily throughput — 2.136 million bbl., avg. (With 11 pump stations operating). Rates exceeding 1,440,000 bbl./day assume drag reduction agent (DRA) injection.
- Maximum daily throughput — 2000 (with 7 pump stations operating) — .99 million bbl., avg. Rates exceeding 1,000,000 bbl./day assume DRA injection
- Fuel required for all operations (fuel oil equivalent) — 210,000 gal/day (also see fuel requirements under Pump Stations, and Marine Terminal).
- Pressure —
  - Design, maximum — 1,180 psi
  - Operating, maximum — 1,180 psi
- Pump Station facilities in original design — 12 pump stations with 4 pumps each.
- Pump Stations operating, Nov. 1, 1998 — 7: PS 1, 3, 4, 5, 7, 9, 12. PS 5 is a relief station only. PS 11 is a security site. PS 8 placed in standby June 30, 1998. PS 10 placed in standby July

Pipeline Leaks: TransCanada claims that the Keystone pipeline, which will operate at 1,700 psi, won't leak in 900 years. Yet the Trans-Alaska (Alyeska) Pipeline which operates at 1,180 psi has had leaks, failures and shut downs every year for 25 years, from 1977 to 2002. Below is a summary of the oil leaks on the Trans-Alaska Pipeline – Operations Report from their official website which proves that leaks or spills are common place on crude oil pipelines. *Last updated June 23, 2004.*

Year	*No.*	*Gallons Leaked*	*Barrels*
1977	34	93,778 gal	2,232 bbls
1978	24	672,576 gal	16,013 bbls
1979	43	233,800 gal	5,566 bbls
1980	55	149,495 gal	3,531 bbls
1981	32	63,371 gal	1,508 bbls
1982	30	1,653 gal	39 bbls
1983	17	174 gal	4 bbls
1984	32	3,260 gal	77 bbls
1985	31	1,138 gal	27 bbls
1986	40	1,607 gal	38 bbls
1987	37	172 gal	4 bbls
1988	35	600 gal	14 bbls
1989	26	10,572,207 gal	258,855 bbls (ExxonValdez)
1990	31	277 gal	6 bbls
1991	54	460 gal	11 bbls
1992	55	822 gal	19 bbls
1993	65	361 gal	8 bbls
1994	44	13,610 gal	324 bbls
1995	06	90 gal	2 bbls
1996	12	34,185 gal	814 bbls
1997	05	80 gal	2 bbls
1998	05	22 gal	0.5 bbls
1999	08	16 gal	0.39 bbls
2000	06	165 gal	4 bbls
2001	15	287,980 gal	6,856 bbls
2002	09	16 gal	0..39 bbls
Total Leaks / Spills		12,131,915 gallons	
Avg. Per Year Leaks / Spills		*485,277 gallons*	

Shutdowns & Pipe Failures :

1977 — Jul 8 — MP 489.24 — pump building at PS 8 destroyed in an explosion and fire
Aug 2 — equipment malfunction — 40 min.
Aug 15 — PS 9 sump overflow — 110 hrs., 11 min.
Sep 20 — equipment malfunction — 59 min.
1978 — Jan 5 — equipment malfunction — 1 hr.
Jan 10 — equipment malfunction — 4 hrs.
Jan 16 — equipment malfunction — 4 hrs., 22 min.
Jan 17 — equipment malfunction — 3 hrs., 41 min.
Feb 15 — sabotage, Steele Creek — 21 hrs., 31 min.
May 6 — equipment malfunction — 7 hrs., 18 min.
May 30 — equipment malfunction — 2 hrs., 22 min.
Sep 4 — equipment malfunction — 3 hrs.
Dec 17 — equipment malfunction — 2 hrs., 8 min.

Major mainline pipe repairs

1977 — Jul 8 — MP 489.24 — pump building at PS 8 destroyed in an explosion and fire;

- 1979 —
- June – MP 166.43 — north side Atigun Pass; hairline crack caused by buckle. Covered with 56-in. dia., 6-ft. welded split sleeve; 19 steel supports installed. Pipe reburied.
- June – MP 734.16 — 1 mi. north of PS 12; hairline crack caused by buckle in pipe. Covered with 56-in. dia., 6.1-ft. welded split sleeve; 7 steel supports installed. Pipe reburied.
- September – MP 157.62 to MP 157.65 — instrument pig ("Super Pig") lodged in line at check valve 29. Stopple and bypass installed, valve bonnet lifted, pig removed. Pipe reburied.
- 1980 —
- June – MP 416.00 — approx. 2 mi. south of PS 7; pipe settlement. Approx. 430-ft. excavation; 8 steel supports installed. Pipe not reburied.
- August – MP 752.00 — flash flood, 900 ft. of overburden washed out;
- 1982 —
- August – MP 166.03 — north side Atigun Pass; pipe buckle. Pipe reburied.
- 1983 —
- April – MP 200.24 — Dietrich River channel; pipe buckle. River channel redirected.
- October – MP 45.87 — pipe settlement. Approx. 200-ft. excavation; concrete slurry added beneath pipe. Pipe reburied.
- 1984 —
- March – removal of stuck scraper pig at CV4 and relocation trap .

(For a complete list check the internet call or write us)
http://www.alyeska-pipe.com/about.html

The Forum Newspaper
Fargo, North Dakota
Published since 1878 A Pulitzer Prize-winning

Record of system crude oil leaks and spills of 100 bbl. or more on land or water*

	Location	bbl.	Cause
1977			
July 8	PS 8	300	Explosion
July 19	CV7	1,800	Construction damage
1978			
Feb 15	Steele Creek	16,000	Sabotage
1979			
June 10	Atigun Pass	1,500	Pipe settlement, hairline crack
June 15	MP 734	4,000	Pipe settlement, hairline crack
1980			
Feb 11	Terminal/V746	3,200	Leaking valve, east tank farm
May 12	PS 10	238	Tank valve
1981			
Jan 1	CV 23	1,500	Drain connection failure
1989			
Jan 3	*Thompson Pass*	1,700	Hull crack
March 24	*Exxon Valdez*	260,000	Vessel ran aground
1996			
April 20	CV 92	880	Loose thread fitting on buried piping
2001			
Oct 4	MP 400	6,800	Bullet Hole

System crude oil leaked or spilled* by year, number and amount

Year	*No.*	*Amount*
1977	34	93,778 gal/2,232 bbls
1978	24	672,576 gal/16,013 bbls
1979	43	233,800 gal/5,566 bbls
1980	55	149,495 gal/3,531 bbls
1981	32	63,371 gal/1,508 bbls
1982	30	1,653 gal/39 bbls
1983	17	174 gal/4 bbls
1984	32	3,260 gal/77 bbls
1985	31	1,138 gal/27 bbls
1986	40	1,607 gal/38 bbls
1987	37	172 gal/4 bbls
1988	35	600 gal/14 bbls
1989	26	10,572,207 gal/258,855 bbls

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Thursday, November 15, 2007 9:01 AM
To: Rafferty, Tom D.
Subject: FW: RE:Fargo intervenes in pipeline route plan

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Thursday, November 15, 2007 2:28 AM
To: lynn@drcinfo.com; mike jacobs; mvonpinnon@forumcomm.com; ed bismarck
Cc: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Subject: Fw: RE:Fargo intervenes in pipeline route plan

----- Original Message -----
From: Richard Starke
To: editor@dailycommercialnews.com ; mike jacobs ; mvonpinnon@forumcomm.com ; ed bismarck ; Jim Jones
Cc: Susan Wefalnd ; Tony Clark ; kevin cramer ; EE "Smokey" Wright ; Tom Brown ; tim vanhal ; senator@conrad.senate.gov ; Dorgan, Senator (Dorgan) ; JOHN HOEVEN ; George Bush
Sent: Thursday, November 15, 2007 2:07 AM
Subject: RE:Fargo intervenes in pipeline route plan

To the editor: If construction, which I disapprove of due to their frequent spills (572 in 6 years) occurs they will destroy many acres of my farm, which is 3 miles east of Valley City's Sheyenne river. In runoff which occurs in the spring, the oil will reach the river in 39 minutes, something Fargo cannot tolerate. The solution is to move the site to the State Highway 32 ROW, Keystone's first choice , or I-29's 400 foot wide state owned right of way. The State DOT objection due to 'safety" is NOT VALID!!

In her testimony Keystone's "Expert witness"Heidi Tilquit perjured herself, a felony offense, saying that "the land was flat from the pipeline to Valley City" when IN TRUTH it drops 200 ft in three miles. At 5 miles per hour the three miles are covered in 39 minutes by a spill.. Likewise, witness Buster Grey lied under oath saying that "he had called the "Forest Service" and been told that because of the heavy forests in western North Dakota it was not advisable to take a western route". I called State Forrester Larry Kotchman and he said he had never heard of Mr Grey and expressed disappointment with Grey and said "there aren't ANY trees in the west".

So the PSC has these lies upon which to decide whether or not to deny the request. When the nation's I65 biodiesel plants producing 1.85 billion gallons per year are joined by the 80 plants under construction, the 2.696 billion gallons will satisfy the need for foreign oil and the United States will become an EXPORTER OF GASOLINE!! The decision is CLEAR....DENY THE REQUEST.

Sincerely,
Major Richard Starke
BSIE, BSED,
USAF, (ret'd)
Landowner.

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Friday, November 09, 2007 2:47 PM
To: Rafferty, Tom D.
Subject: FW: Keystone - Fargo

Did this get docketed?

-----Original Message-----
From: Moch, Alan G.
Sent: Monday, November 05, 2007 11:05 AM
To: -Grp-PSC Commissioners
Subject: FW: Keystone - Fargo

FYI

-----Original Message-----
From: Harold.Winnie@dot.gov [mailto:Harold.Winnie@dot.gov]
Sent: Monday, November 05, 2007 10:41 AM
To: ivan.huntoon@dot.gov
Cc: Karen.Butler@dot.gov; Leonard.Steiner@dot.gov; Moch, Alan G.
Subject: FW: Keystone - Fargo

Ivan,

Following the meeting with the City of Fargo, I believe there are three items that need to be covered.

1) The city would like to know if they could make some pipeline design recommendations or safety recommendations to PHMSA and if they did would PHMSA consider them or would they just ignore the recommendations?

2) The engineering firm that is working on the project for the City of Fargo has identified Caesar De Leon as a consultant to work on the pipeline safety recommendations.

3) The environmental consultant being used by Houston Engineering has stated that the crude being transported is a Synthetic Crude and may have some unusual characteristics.

* His concerns were that the synthetic crude may separate into LNAPL and DNAPL meaning a portion floats and a portion sinks into the water causing difficulties in cleanup.

* It may contain naphthenic acids that are not will understood when allowed into the water

* What is the water soluble BTEXN fraction by weight of this product?

* What is the diluent they use the thin the product and how does that affect the water soluble components such as BTEX and Naphthalenes?

Harold Winnie

CATS Project Manager

816-329-3836

From: Schlipp, Allen [mailto:aschlipp@houstonengineeringinc.com]
Sent: Friday, November 02, 2007 2:27 PM
To: Winnie, Harold <PHMSA>
Subject: RE: Keystone - Fargo

Thanks very much for coming to Fargo. You have a tough job but you handle it quite well.

From: Harold.Winnie@dot.gov [mailto:Harold.Winnie@dot.gov]
Sent: Tuesday, October 30, 2007 5:13 PM
To: Schlipp, Allen
Subject: RE: Keystone - Fargo

Allen,

Schedule is set arrive in Fargo at 5:55 PM (if flight is on time), staying at the Homewood Suites and leaving at 2:55 PM on Friday.

Harold Winnie

CATS Project Manager

816-329-3836

From: Schlipp, Allen [mailto:aschlipp@houstonengineeringinc.com]
Sent: Tuesday, October 30, 2007 11:01 AM
To: Winnie, Harold <PHMSA>
Cc: Schlipp, Allen
Subject: FW: Keystone - Fargo

From: Schlipp, Allen
Sent: Tuesday, October 30, 2007 10:54 AM
To: 'winnie.harold@dot.gov'
Cc: Schlipp, Allen
Subject: Keystone - Fargo

Harold:

I just now left you a voice message to call me. The Fargo group is anxious to have you come up and talk with them.

Is it possible for you or someone from your office to come up here on Thursday of this week, spend the night and participate

in a conference call on Friday @ 10:30? I have been assigned the task of setting this up and hope I can make this happen.

Thanks,

Allen.

Allen Schlipp

Houston Engineering, Inc.
Leave Nothing to ChanceTM

6901 East Fish Lake Road, Suite 140
Maple Grove, MN 55369
Phone: 763.493.4522 / Fax: 763.493.5572
Email: aschlipp@houstonengineeringinc.com <mailto:aschlipp@houstonengineeringinc.com>
Website: www.houstonengineeringinc.com <http://www.houstonengineeringinc.com/>

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Rafferty, Tom D.

From: Clark, Tony T.
Sent: Friday, November 09, 2007 1:10 PM
To: Rafferty, Tom D.
Subject: FW: Oil spills

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Saturday, November 03, 2007 11:39 PM
To: glunn@nrcan.gc.ca; -Info-Governor's Office; mvonpinnon@forumcomm.com; mike jacobs; Jim Jones; Cramer, Kevin; Clark, Tony T.
Cc: lynn@drcinfo.com
Subject: Oil spills

The letter from the Keystone Pipeline official is full of lies. Here is the truth. My land stretches from the Soo Line railroad just southeast of Valley City to the Peak interchange which is four miles east of the city along Interstate 94. The elevation of my land is 1400 feet above sea level as is the Valley City Airport. The Valley City Surveyor stated that the Sheyenne river elevation is 1200 feet above sea level, a difference of 200 feet in three miles. Every spring during snow melt the runoff crosses my farm on its way to the Sheyenne river at Valley City, which is 200 feet DOWNHILL!! At 5 miles per hour it will kctake THIRTY NINE minutes to reach the river in Valley City then down the Sheyenne to the Red river just north of Fargo, then into the Winnipeg river and Lake Winnipeg.

By the year 2017 the ethanol industry will be producing enough clean burning biofuels to furnish enough to more than replace foreign oil imports and the US will be an EXPORTER of GASOLINE. The end of petroleum product burning will halt the melting of the ice caps and stop the rising of the oceans, hopefully in time.

The media conveniently ignore the presence of the biofuels industry but we are HERE TO STAY. Get used to the FUELS OF THE FUTURE and hydrogen burning cars.

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Friday, November 09, 2007 1:10 PM
To: Rafferty, Tom D.
Subject: FW: WORCexpress - News from the Region, November 2007

Public input

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Sunday, November 04, 2007 12:24 AM
To: WORC; Wefald, Susan E.; Cramer, Kevin; Clark, Tony T.
Cc: Tollefson, Ben C.
Subject: Re: WORCexpress - News from the Region, November 2007

tHANKS FOR THE UPDATE. wE ARE tryimg to get the PSC to do its job PROTECT NORTH DAKOTA FROM BIG OIL

----- Original Message -----
From: WORC
To: starkef4@srt.com
Sent: Saturday, November 03, 2007 9:04 AM
Subject: WORCexpress - News from the Region, November 2007

If you have trouble viewing this message, please see the web version.

News from the WORC network

Hi Richard,

Members have been busy voicing their opinions on key Congressional decisions recently, and we're gearing up for another grassroots push for fair livestock markets, responsible energy, and fair trade beginning on Monday.

WORC Aims at Livestock Market Reform in Senate

The Senate Agriculture Committee added important livestock competition provisions to the Farm Bill. First, the Committee approved a ban on packer ownership of livestock 14 days prior to slaughter.

Second, we won several changes in the "Livestock Title" of the bill, including

- Creating an Office of Special Counsel on Agricultural Competition at the U.S. Department of Agriculture for the enforcement of the Packers and Stockyards Act and Agricultural Fair Practices Act
- The House version of Mandatory Country of Origin Labeling with minor changes that require labels of mixed meat rather than leaving it to USDA's discretion;
- Expands the Agricultural Fair Trade Practices Act to allow producer members of associations or cooperatives;
- Makes arbitration in livestock and poultry contracts voluntary;
- Provides USDA enforcement authority over live poultry dealers; and
- Amends the Animal Health Protection Act to make unauthorized use of information obtained through an animal identification system unlawful.

We're looking forward to adding the Captive Supply Reform Act to the Farm Bill when the Senate debate begins next week. Senators Enzi and Dorgan will offer the amendment. For more information on other potential amendments, visit our website.

WORC Cheers 1872 Mining Law Reform

On November 1, House of Representatives passed the Hardrock Mining and Reclamation Act of 2007, HR 2262, on a vote of 244-166 to overhaul the 1872 Mining Law. The bill would:

- Give federal land managers the authority to balance other public land uses – such as for drinking water, recreation, hunting, fishing, and wildlife habitat – when deciding whether to permit a mine.
- Prohibit mines that would cause perpetual water pollution.
- Provide a fair return to the U.S. Treasury on minerals taken from our public lands.
- Begin to fund the $50 billion cleanup of America's hundreds of thousands of abandoned hardrock mines.
- Protect core wildlife habitat, roadless national forest lands, wild and scenic rivers from irresponsible mining.
- Give local governments the ability to petition to put lands off limited to mining.
- Allow Native American tribes to petition for the withdrawal from mining of lands containing their sacred sites.
- Offer additional protections to National Parks and Monuments to assure that large mines do not adversely affect these important natural treasures.

The Senate is expected to consider the bill next year. We'll keep you posted.

WORC Gears Up for Energy Bill

The House and Senate are still figuring out how to proceed on and the substance of the energy bill. Some key Senators who had been opposed to a formal House-Senate conference committee, Senators Levin (D-MI), Stabenow (D-MN), Domenici (R-NM), Stevens (R-AK) and Inhofe (R-OK)), agreed to let the bill to move forward, only to have Senator Hutchison (R-TX) step in and object. In this case, one Senator is enough to hold up the bill.

In the meantime, House and Senate staffs have been meeting to settle the differences between the House

Annual Meetings

Powder River Basin Resource Council
35th Annual Meeting
Sheridan Holiday Inn
November 3
Sheridan, WY
307-672-5809

Northern Plains Resource Council
36th Annual Meeting
Crowne Plaza
November 9-10
Billings, MT
406-248-1154

Donate to WORC

Job opportunities

Western Organization of Resource Councils
220 South 27th Street, Suite B, Billings, Montana 59101
phone: 406.252.9672 | fax: 406.252.1092 | email:billings@worc.org

If you no longer wish to receive these mailings, you can unsubscribe here.

Rafferty, Tom D.

From: Bauske, Shelly A.
Sent: Friday, November 09, 2007 2:57 PM
To: Rafferty, Tom D.; Jeffcoat-Sacco, Illona
Subject: FW: Keystone Pipeline Hearings

-----Original Message-----
From: caweixel@toast.net [mailto:caweixel@toast.net]
Sent: Friday, November 09, 2007 2:11 PM
To: -Info-Public Service Commission
Subject: Keystone Pipeline Hearings

I am writing this to express my disappointment at your opening the hearings again. I feel you are doing it causes future license requests and future projects to be in jeopardy. Why spend all the time putting notices in papers and doing all you require if someone can come in late and delay the process? Time is money and I think you have done a disfavor to Keystone by putting them off. You should have a policy that causes people/agencies that come in late to do so with some financial concerns. If people/agencies come in late they should have to pay something for the privilege, if only for the costs of the travel to the meetings but possibly a share of what is going to be lost to the project. Keystone seems to be liable to lose far more with this delay.
Please see to trying to come to a decision as close to the original date as possible to be fair.
In our October 25 report in The Jamestown Sun, Fargo seemed to be egotistical in its approach to this, in spite of the notice publications in their local paper and their lateness.
Thanks.
Clifford Weixel
Jamestown, ND
caweixel@toast.net

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Wednesday, November 07, 2007 4:12 PM
To: Rafferty, Tom D.
Subject: FW: Keystone Pipeline Project

-----Original Message-----
From: Rich Rogers [mailto:rich.rogers@sendit.nodak.edu]
Sent: Monday, November 05, 2007 12:07 PM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Subject: Keystone Pipeline Project

Public Service Commissioners:

I am writing in support of the Keystone Pipeline Project. In reading Mr. Cramer's article in the Forum (October 30, 2007) it appears there have been several opportunities over the last two years for anyone with concerns with the project to have their voices heard. As the Langdon Area School Superintendent and a member of the Cavalier County Job Development Association I support safe, fair and well planned out opportunities to generate new tax dollars for our school and county. The Pipeline Project appears to be one of those opportunities. Thank you for your consideration.

Rich Rogers
Langdon Area School Superintendent

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Wednesday, November 07, 2007 1:25 PM
To: Rafferty, Tom D.
Subject: FW: Keystone Pipeline Project

From: Val [mailto:crec@utma.com]
Sent: Tuesday, November 06, 2007 3:46 PM
To: Clark, Tony T.
Subject: Keystone Pipeline Project

Dear Commissioner Clark:

The Keystone Pipeline Project will be the best thing that ever will happen to North Dakota and the United States. $7.00 wheat is no good for farming if you can't get diesel fuel to operate tractors, combines, trucks, etc.

There is a danger that if the United States does not approve this project soon, the Canadians will build a pipeline to the Canadian west coast and export the oil to China.

We urge you to close the Keystone Pipeline hearing at this time and approve the project.

Neil Romfo
Cavalier County Commission Board Member and Marilyn Romfo
Langdon ND 58249

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Wednesday, November 07, 2007 1:14 PM
To: Rafferty, Tom D.
Subject: FW: Keystone Pipe Line

Public input

From: Ole & Marge Nowatzki [mailto:olemarge@utma.com]
Sent: Tuesday, November 06, 2007 1:01 PM
To: Wefald, Susan E.
Cc: Cramer, Kevin; Clark, Tony T.
Subject: Keystone Pipe Line

Dear Commissioners
I think it would be wrong to re-open hearings on this issue as there was ample time for Fargo or anyone else to be heard at the various public meetings. To re-open the hearing would set a precident that will have far reaching consequences for any hearings in the future as it would jeopardize the entire hearing process.
We have a system in place that works very well & I don't think we should destroy it just because Fargo wants to be heard when the had every opportunity to do so. Thank you for your time. Sincerely,

Harold Nowatzki
Langdon, N.D.

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Wednesday, November 07, 2007 9:33 AM
To: Rafferty, Tom D.
Subject: FW: Keystone Pipeline project

From: Val [mailto:crec@utma.com]
Sent: Tuesday, November 06, 2007 11:09 AM
To: Clark, Tony T.
Subject: Keystone Pipeline project

Dear Commissioner Clark:

The Public Service Commission hearing is scheduled to convene at 10 am tomorrow - Wednesday, October 7 regarding the Keystone Pipeline project.

Cavalier County is in favor of this project for the tax revenues that will be paid.

The State of North Dakota would enjoy between $7 - 9.5 M in tax revenue each year.

But most important:
A. The Keystone Pipeline will transport nearly 600 million barrels of Canadian crude oil into this country each year.
B. Canada is a reliable source of crude oil rather than the unpredictable Middle East.
C. Gasoline in Langdon has just gone over $3.00/gallon. Diesel fuel has gone well over $3.00/gallon.
D. Delays in approving the Keystone application will only delay the delivery of crude oil into the United States resulting in increased costs.

We encourage you to vote in favor of closing the hearing on the Keystone Pipeline project and approving it.

Duane Otto
Manager
Cavalier Rural Electric Coop
Langdon ND 58249
701-256-5511
701-256-5513 (fax)
crec@utma.com

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Wednesday, November 07, 2007 9:32 AM
To: Rafferty, Tom D.
Subject: FW: Keystone pipeline

From: Michael Granlund [mailto:mgfmbank@utma.com]
Sent: Tuesday, November 06, 2007 6:07 PM
To: Clark, Tony T.
Subject: Keystone pipeline

Commissioner Tony Clark:

This email is in opposition to reopening the TransCanada Keystone Pipline route case. I feel there is no need to reopen the hearings since everyone had an equal opportunity to voice support or concern for the project. Reopening would only delay the project and delay the US from receiving crude oil from Canada. The price of gas in Langdon is over $3.00 per gallon and crude oil is now over $96 which equates to $4.00 per gallon at the pump. As energy prices go higher, the US economy will slow. We need this source of energy now and your vote to reopen these hearings would only delay this project and a source of energy for the US economy.

Michael Granlund
1123 16th Ave
Langdon, ND 58249

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Wednesday, November 07, 2007 9:10 AM
To: Rafferty, Tom D.
Subject: FW: Keystone Pipeline hearings

Public input

From: Richard [mailto:rflander@utma.com]
Sent: Tuesday, November 06, 2007 8:42 PM
To: Clark, Tony T.
Subject: Fw: Keystone Pipeline hearings

Subject: Keystone Pipeline hearings

Tony Clark,

I encourage you to not reopen hearings on the Keystone pipeline. All parties, including Fargo, had ample time and advertising to offer any information and testimony. Extending the hearing deadline may result in setting a precedent that will invite other dissenting parties to ask for hearing extensions on future PSC opinions. "Opening the door just a bit" will undoubtedly let more people into your room than you can handle. I also understand that you can recognize concerns from ALL parties even after the hearing deadlines have transpired. Sounds good enough to me.

I realize that your commission has a very difficult decision to consider. You have my sympathy in that regard. I also know that all pertinent facts will be given timely consideration. Good luck!

One last parting thought, "if you extend this one, how can you say NO to the next similar request and call it fair.

Thank you for your time.

Cavalier County farmer and county commissioner,
Richard Flanders

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Tuesday, November 06, 2007 2:37 PM
To: Rafferty, Tom D.
Subject: FW: Keystone Pipe Line

Pipeline Public Input file.

From: Wefald, Susan E.
Sent: Tuesday, November 06, 2007 2:37 PM
To: 'Ole & Marge Nowatzki'
Subject: RE: Keystone Pipe Line

Mr. and Mr. Nowatzki – Thank you for your letter and for expressing your thoughts on this important issue. Your letter will be placed in the public input file of this case.
Best Wishes,
Commissioner Susan Wefald
President, North Dakota Public Service Commission

From: Ole & Marge Nowatzki [mailto:olemarge@utma.com]
Sent: Tuesday, November 06, 2007 1:01 PM
To: Wefald, Susan E.
Cc: Cramer, Kevin; Clark, Tony T.
Subject: Keystone Pipe Line

Dear Commissioners
I think it would be wrong to re-open hearings on this issue as there was ample time for Fargo or anyone else to be heard at the various public meetings. To re-open the hearing would set a precident that will have far reaching consequences for any hearings in the future as it would jeopardize the entire hearing process.
We have a system in place that works very well & I don't think we should destroy it just because Fargo wants to be heard when the had every opportunity to do so. Thank you for your time. Sincerely,
Harold Nowatzki
Langdon, N.D.

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Tuesday, November 06, 2007 1:23 PM
To: Rafferty, Tom D.
Subject: FW: Pipeline Input

Please place in public input - thanks

From: Richard Starke [mailto:starkef4@srt.com]
Sent: Tuesday, November 06, 2007 12:28 AM
To: Wefald, Susan E.
Subject: Worth

MS.Wefald, Pp 2.5 in the Presidential EIS CLEARLY TELLS of the TWO outlets from the pipeline.,(Not COMMON carrier)!! Can you order that extruded (like railroad rails) STAINLESS steel be used? No more corrosion -induced blowouts or "pig" use needed.

Sincerely
Major Richard Starke
BSED,BSIE,
USAF, (ret'd).

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Monday, November 05, 2007 4:06 PM
To: Rafferty, Tom D.
Subject: FW: Keystone Pipeline Project

-----Original Message-----
From: Rich Rogers [mailto:rich.rogers@sendit.nodak.edu]
Sent: Monday, November 05, 2007 12:07 PM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Subject: Keystone Pipeline Project

Public Service Commissioners:

I am writing in support of the Keystone Pipeline Project. In reading Mr. Cramer's article in the Forum (October 30, 2007) it appears there have been several opportunities over the last two years for anyone with concerns with the project to have their voices heard. As the Langdon Area School Superintendent and a member of the Cavalier County Job Development Association I support safe, fair and well planned out opportunities to generate new tax dollars for our school and county. The Pipeline Project appears to be one of those opportunities. Thank you for your consideration.

Rich Rogers
Langdon Area School Superintendent

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Monday, November 05, 2007 2:54 PM
To: Rafferty, Tom D.
Subject: FW: Re-opening of hearings

From: Carol Goodman [mailto:goodman@utma.com]
Sent: Monday, November 05, 2007 2:00 PM
To: Cramer, Kevin; Wefald, Susan E.; Clark, Tony T.
Subject: Re-opening of hearings

Dear Commissioners Cramer, Wefald and Clark,

I hope this e-mail isn't too late, but I'm sending it to you to encourage you to NOT re-open the Public Service Commission hearings regarding the Keystone Pipeline Project. Fargo is bringing their concerns to the table very late in the process, and considering the extent of the resources in our largest ND community, they certainly had as much or more opportunity to study the issue and offer their input than most communities. North Dakota has a very competent process in place and does a good job of thoroughly studying every issue, which should be respected by all concerned.

Obviously, the Keystone project will be good for Cavalier County in addition to the tax revenue for North Dakota. I offer my comments not from a selfish point of view, but rather from the fact that the public process is the time for input and should not be circumvented.

Thank you for considering my thoughts—

Carol Goodman, Exec. Dir.
Cavalier County Job Development Authority
901 3rd St. – Langdon, ND 58249
701.256.3475
Goodman@utma.com

Nodak
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November 2, 2007

RECEIVED
NOV - 5 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Ms. Susan Wefald, Commissioner
Mr. Kevin Cramer, Commissioner
Mr. Tony Clark, Commissioner
North Dakota Public Service Commission
State Capitol
600 E Blvd., Dept. 408
Bismarck, ND 58505-0480

Dear Commissioners:

We have read with interest some of the editorials and public comments about the manner in which TransCanada is conducting business in an effort to keep the Keystone Oil Pipeline Project on schedule. One South Dakota newspaper characterized the actions as "pushing its plan through the state like the proverbial bull in a China closet."

We would like to go on record as a company who has had a very positive experience with all of the people at TransCanada. We have been attending public forums, soliciting information from the company, and working out electric energy service agreements with this company for the last 18 months. Without exception, they have always been forthcoming with any information we have needed, and they have been understanding about the issues associated with bringing large power requirements to the sites of their various pumping stations.

Our cooperative is a business which will benefit substantially when the Keystone Pipeline Project is complete. We are fortunate to be in the position to serve the electrical needs of three of the five pumping stations in North Dakota. These pumping stations have very large electric power requirements. As Public Service Commissioners, I don't need to explain to you the benefit to our utility when we can spread our fixed operating costs over more kilowatt-hour sales. In essence, it translates into lower electric rates for all of our member/owners in northeastern North Dakota. I recently wrote in our internal newsletter that nothing has had this level of impact on our energy sales since the Grand Forks Air Force Base was built in the mid 1950s.

With all of this in mind, we were naturally disappointed when we read that the City of Fargo has requested to reopen the PSC public hearing process. It appears that their oversight of the process not only puts the Public Service Commission in a difficult position, but may delay all of the benefits this project will bring to the state. Among other things, the benefits of course will be in the form of energy sales, tax revenues, and construction jobs.

In summary, we want to go on record stating we think the Public Service Commission has done a good job providing opportunity for citizens to give public input into the process. We fully expect that the Public Service Commission will, as always, look out for the best interests of the citizens of North Dakota. We hope, however, the process will not be delayed unnecessarily, and we will begin to reap the benefits of Keystone Pipeline as soon as possible.

Sincerely,

George Berg
President & CEO

GB/ks

DAKOTA VALLEY ELECTRIC COOPERATIVE, INC.

November 2, 2007

RECEIVED
NOV - 5 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Commissioner Kevin Cramer
North Dakota Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

Dear Commissioner Cramer:

I am writing on behalf of Dakota Valley Electric Cooperative to express concern regarding the Public Service Commission's consideration to reopen, in response to a request from the City of Fargo, the hearing records for the TransCanada Keystone Oil Pipeline Project.

Dakota Valley provides electrical service to rural cooperative customers in Sargent County as well as all or parts of seven other counties in southeast North Dakota. The proposed Keystone pipeline route extends through part of our service territory in Sargent County, and Dakota Valley will provide electric service to a pipeline pumping station planned for a location between and south of the towns of Ludden and Brampton.

We have been working with TransCanada for the last year on service agreement details and preliminary preparation for the significant amount of electric transmission facilities we need to construct in order to provide our electric service. At this stage of the project, we are moving ahead with inter-connection agreements, landowner meetings associated with transmission line easements, and proposals to purchase long-lead time equipment. As you may understand, this work has to be accomplished now in order for us to take advantage of the 2008 summer and fall construction season.

While we respect the interests of the City of Fargo and do not wish to minimize their issues, we are concerned that reopening the public process will bring delays to the project to the extent we miss much of the construction season advantage and endure additional expense from delays and off-season construction.

We have found TransCanada to be open and forthcoming with their information, both at public meetings held months ago at numerous locations and in other discussion with us. We

7296 Highway 281 • Edgeley, ND 58433-9503 • (701) 493-2281 • Fax: (701) 493-2454
14051 Highway 13 • Milnor, ND 58060-9700 • (701) 427-5242 • Fax: (701) 427-5244
Toll Free: 1-800-342-4671 • E-Mail: dvec@dakotavalley.com • Web Site: www.dakotavalley.com

A Touchstone Energy® Cooperative

appreciated the Public Service Commission's earlier public process review of the project, and question whether additional benefit will be derived through a reopening of that process.

Thank you for your consideration of our concerns

Sincerely,

DAKOTA VALLEY ELECTRIC COOPERATIVE

Jay Jacobson
Alliance Manager

Cc: Commissioner Susan Wefald
Commissioner Tony Clark

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, November 05, 2007 10:29 AM
To: 'Greg Goodman'
Cc: Rafferty, Tom D.
Subject: RE: Keystone Pipeline

Dear Mr. Goodman – thank you so much for taking the time to write to the Commission with your thoughts on the Keystone Pipeline. Your letter will be placed in the public input file for the Keystone Case.
Best Wishes, Commissioner Susan Wefald
President, North Dakota Public Service Commission

From: Greg Goodman [mailto:gregg@choicefinancialgroup.com]
Sent: Monday, November 05, 2007 10:06 AM
To: Cramer, Kevin; Wefald, Susan E.; Clark, Tony T.
Subject:

Dear President Wefald, Commissioner Cramer, and Commissioner Clark:

I am contacting you this morning in support of the Keystone Pipeline Project. I understand that you have an important meeting this afternoon regarding the status of Keystone's approval from your agency.

As you are aware, Cavalier County has had a tremendous year in terms of economic activity. The driving force behind this activity is due in large part to the Langdon Wind, LLC project headed by Florida Power and Light, with partners Ottertail Power and Minnkota Power. Your agency did an excellent job in the approval of this project. I cannot begin to describe to you the benefits that this project has had on our community. The county will recognize a significant increase in their annual budget (income) and the landowners are being compensated. The amount of money flowing through our community right now is similar to that of the early 1970's, when the ABM site was being constructed in Nekoma. The jobs generated, along with growth in our retail and industrial sectors, are a residual effect of this project.

The Keystone Pipeline will have a similar effect to that of the wind project. It will allow our country to efficiently import oil from a friendly neighbor, rather than a distant foe. I understand that Cavalier County will recognize annual tax revenue of $200,000 to $250,000, with the state number between $7-9.5 million. The jobs created throughout the state in the construction phase and beyond will benefit the 8 counties involved in the Keystone Project. I would expect that the other 7 counties will have a chance to experience the economic activity that our community has had via the wind project this year. From the local café, gas stations, motels, hospitals, to the welding shops, hardware stores, and grocery stores, the boost to the local economy is quite significant.

Fargo has had every opportunity to review and voice their concerns about the project. They had equal time that our community had to attend the meetings and develop their stance on the project. I cannot support giving their leadership special privileges due to their lack of foresight.

Again, thank you for your work earlier this year with the wind project and also for your work in our community on the Keystone Pipeline. I hope we will be able to benefit as a community and a state from both of them.

Thank you for your time.

Gregory G. Goodman
President/Chief Credit Officer
Choice Financial
210 8th Ave
Langdon, ND 58249
701-256-2141

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, November 05, 2007 9:17 AM
To: 'Hetty Walker'
Cc: Rafferty, Tom D.
Subject: RE: pipeline.

Dear Hetty – Thank you so much for your letter regarding the Keystone Pipeline. It will be placed in the public input file for the Keystone Pipeline Case.
Best Wishes, Commissioner Susan Wefald
President, North Dakota Public Service Commission

From: Hetty Walker [mailto:hwalker@polarcomm.com]
Sent: Monday, November 05, 2007 9:06 AM
To: Wefald, Susan E.
Subject: pipeline.

Susan Wefald;
I am writing personally to ask you to continue work as scheduled on the pipeline, I am confident of the construction plans and delay will only add to the expense and time line of construction. . A lot of times problems are related to uncertainty . Uncertainty creates apprehension .And the way to allevate apprehension is through communication. Communication with you and your committee has been out standing!
I want to take this time to thank you for all you do and improve our economical outlook.
Hetty Walker
Pembina County commissioner District 1

Hetty Walker
Pembina Parcel Service
276 S Cavalier St
Pembina ND 58271
701-825-6205

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, November 05, 2007 9:32 AM
To: 'Chalmer Dettler'
Cc: Rafferty, Tom D.
Subject: RE: Re-opening of Keystone Pipeline Hearings
Attachments: image001.gif

Dear Chalmer, Thank you so much for your letter. It will be placed in the public input file for the Keystone Pipeline Case.
Best wishes,
Commissioner Susan Wefald
President, ND Public Service Commission

From: Chalmer Dettler [mailto:cdfmbank@utma.com]
Sent: Monday, November 05, 2007 9:23 AM
To: Wefald, Susan E.
Cc: Clark, Tony T.; Cramer, Kevin
Subject: Re-opening of Keystone Pipeline Hearings

Dear Public Service Commissioners,

It is my understanding that you will be meeting this afternoon to discuss the possibility of further delaying the Keystone Pipeline Project. I also understand that the main reason for considering a further delay is that the City of Fargo has expressed concerns about the safety of its drinking water supply.

It is my further understanding that safety and environmental issues have been addressed by the appropriate government agencies, and that the City of Fargo had the opportunity to express their concerns at earlier hearings.

There is no need to remind you of the economic and other benefits that the pipeline will provide for the state of North Dakota. If the safety and environmental issues have already been satisfactorily addressed, there is no reason to re-open the hearings, and I would urge you to proceed with approval of the project, without any further delays.

CHALMER DETTLER, PRESIDENT
FARMERS AND MERCHANTS STATE BANK
816 Third Street, Langdon, ND 58249
701-256-5431 701-256-3838(FAX)

Rafferty, Tom D.

From: Clark, Tony T.
Sent: Monday, November 05, 2007 7:15 AM
To: Rafferty, Tom D.
Subject: FW: Keystone Pipeline

for public input

From: JAY [mailto:gellner@utma.com]
Sent: Sun 11/4/2007 6:42 PM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Subject: Keystone Pipeline

Greetings

We are encouraging your Public Service Commission to close the hearings on The Keystone Pipeline Project. Everyone, every entity of concern has had ample time to voice their concerns. Further delay should not be allowed for those that failed their civic responsibility by failing to review and respond to sufficient public notices especially the City of Fargo who have adequate personnel to monitor legal notices, etc.

The Keystone Pipeline Project will provide an abundant and reliable supply of crude oil to the U. S. North Dakota has a responsiblity to support our nation to obtain crude oil.

Crude oil prices are at an all time high over Ninety dollars per barrel. An unheard of price even a year ago.

North Dakota will receive between $7,6050,000. and $9,385,000. per year in tax revenue.

The Keystone Project is supported by the North Dakota Industrial Commission and the North Dakota Pipeline Authority.

We strongly urge your committe to close the hearings at this time and approve this project which will be good for all America!

Cavalier Rural Electric Cooperative, Inc.

Duane L. Otto, Manager

Rafferty, Tom D.

From: Wefald, Susan E.
Sent: Monday, November 05, 2007 8:53 AM
To: 'JAY'
Cc: Rafferty, Tom D.
Subject: RE: Keystone Pipeline

Duane – Thank you for your letter on the Keystone Pipeline. It will be placed in our public input file for the Keystone Case.
Best Wishes, Commissioner Susan Wefald

From: JAY [mailto:gellner@utma.com]
Sent: Sunday, November 04, 2007 6:42 PM
To: Wefald, Susan E.; Clark, Tony T.; Cramer, Kevin
Subject: Keystone Pipeline

Greetings

We are encouraging your Public Service Commission to close the hearings on The Keystone Pipeline Project. Everyone, every entity of concern has had ample time to voice their concerns. Further delay should not be allowed for those that failed their civic responsibility by failing to review and respond to sufficient public notices especially the City of Fargo who have adequate personnel to monitor legal notices, etc.

The Keystone Pipeline Project will provide an abundant and reliable supply of crude oil to the U. S. North Dakota has a responsiblity to support our nation to obtain crude oil.

Crude oil prices are at an all time high over Ninety dollars per barrel. An unheard of price even a year ago.

North Dakota will receive between $7,6050,000. and $9,385,000. per year in tax revenue.

The Keystone Project is supported by the North Dakota Industrial Commission and the North Dakota Pipeline Authority.

We strongly urge your committe to close the hearings at this time and approve this project which will be good for all America!

Cavalier Rural Electric Cooperative, Inc.

Duane L. Otto, Manager

Rafferty, Tom D.

From: Fahn, Patrick J.
Sent: Friday, November 02, 2007 8:18 AM
To: Rafferty, Tom D.
Subject: FW: keystone-fargo-grandforks, ect.

Public input

Patrick Fahn
Utility Analyst
Email: pfahn@nd.gov
Phone: (701) 328-4077

North Dakota Public Service Commission
600 E Boulevard
Bismarck ND 58505-0480
Fax: (701) 328-2410

-----Original Message-----
From: corey.bergsrud@und.nodak.edu [mailto:corey.bergsrud@und.nodak.edu]
Sent: Friday, October 26, 2007 2:44 PM
To: Fahn, Patrick J.
Cc: corey.bergsrud@und.nodak.edu
Subject: keystone-fargo-grandforks, ect.

Dear Pat Fahn,
The city of Fargo is right in doing this caution. If it were up to me I would have the keystone members go to fargo and to grandforks and every other place in ND, to each citizens house and notifiy them that if this pipeline is built, the peoples dependent water sources could suffer contaimination. So one could not drink from there dependent water no more for some time if a disaster does happen. The key idea is that it only takes one disaster and then many cities of ND could be out of water since so many depend on the sheynne and the red.
If this pipeline is built and there is an accident, who is going to bring these people water...certainly not keystone...so ND would have to figure out what to do to get clean drinking water to the majority of the population of the state...this is peoples water we are risking...there is something wrong with this picture...and if this pipeline is oked, then the future is not bright for ND since we always have to have a lingering factor of containating the very necesitty of life; water.

Please lets have common sense here, for this is all this is about...
thank you for your time
CAM

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.
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November 15, 2007

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

RECEIVED
NOV 16 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Re: TransCanada - Keystone Pipeline Project
Corridor Certificate and Route Permit Applications
Case No: PU-06-421
OAH File No. 20070181

Dear Ms. Jeffcoat-Sacco:

This letter is to request a copy of the updated Docket Sheets for the Corridor Certificate and Route Permit Application file as referenced above. The last set of Docket Sheets were current through entry no. 244 as of October 30, 2007.

In addition, please forward a copy of any letter or other documents that have been filed since the last update through October 30, 2007 .

If you have any questions, please feel free to contact Thomas D. Kelsch or me.

Sincerely,

Todd D. Kranda

Todd D. Kranda

TK:ls
c: TransCanada Keystone
Erik Johnson, Esq. (Fax 1-701-280-1902)
Nicholas Delaney, Esq. (Fax 1-370-656-3500)

KRK
ATTORNEYS AT LAW
Kelsch, Kelsch, Ruff & Kranda

PU-06-421

TransCanada Keystone Pipeline, LP
30-Inch Crude Oil Pipeline/Cavalier to Sargent Cty
Siting Application — Catagory Pipeline
Filed 09/22/2006 Open — Closed 00/00/0000
Portfolio Kevin Cramer — Advisory Staff Patrick J. Fahn

Doc#	Filed		Pages	
271	11/16/2007	Email from Richard Starke Requesting Intervenor Status By Wefald Public Service Commission	1	W
272	11/16/2007	Letter Requesting Docket & Documents By Kelsch Kelsch Ruff & Kranda	1	W
273	11/15/2007	Letter re Concerns re Pipeline Impacts on Water Quality By Lake Agassiz Water Authority Public Service Commission	2	W
274	11/19/2007	Email and Prehearing Order from ALJ Wahl By Public Service Commission	4	W
275	11/16/2007	Fax Notice of Motion-Motion for Withdrawal as Counsel By Rinke Noonan Attorneys at Law	15	W
276	11/19/2007	Original Notice of Motion-Motion for Withdrawal of Counsel By Rinke Noonan Attorneys at Law	14	W
277	11/19/2007	Letter from Intervenor Klein w Newspaper Article By Public Service Commission	3	W
278	11/16/2007	Returned Registered Envelope to D Cowling/TransCanada By Public Service Commission	2	W
279	11/16/2007	Faxed Order for Expedited Hearing to D Cowling/TransCanada By Public Service Commission	3	W
280	11/16/2007	Affidavit of Service by Registered Mail to Send Order to Cowling By Public Service Commission	1	W
281	11/16/2007	Letter Notification of Starke Email By Public Service Commission	4	W
282	11/21/2007	Motion to Admit Attorney By Public Service Commission .	1	W
283	11/21/2007	Motion to Continue Hearings By Dakota Resource Council Public Service Commission	6	W
284	11/19/2007	Original Prehearing Order By ALJ Wahl Public Service Commission	4	W
285	11/21/2007	Email to ALJ Wahl re Hwy Patrol Investigation re Perjury Allegations By Public Service Commission	1	W
286	11/21/2007	Objection to Starke Request to Intervene By Kelsch Kelsch Ruff & Kranda	6	W
287	11/20/2007	Motion for Admission to Practice Pro Hac Vice By Dakota Resource Council Public Service Commission	7	W
288	11/23/2007	Original of Motion to Continue Hearing By Dakota Resource Council Public Service Commission	6	W

PU-06-421

TransCanada Keystone Pipeline, LP
30-Inch Crude Oil Pipeline/Cavalier to Sargent Cty
Siting Application — Catagory Pipeline
Filed 09/22/2006 Open — Closed 00/00/0000
Portfolio Kevin Cramer — Advisory Staff Patrick J. Fahn

Doc#	Filed		Pages
289	11/26/2007	DOCKETED IN ERROR By Public Service Commission	1 W
290	11/20/2007	Letter to State Dept re Water Quality Concerns By Upper Sheyenne River Water Re: Public Service Commission	1 W
291	11/23/2007	Letter to Rauh & Kranda re Concerns re Project By Upper Sheyenne River Water Re: Public Service Commission	2 W
292	11/23/2007	Letter Requesting Security at Hearings By Kelsch Kelsch Ruff & Kranda	1 W
293	11/23/2007	TransCanada Response Resisting Request for Continuance By Kelsch Kelsch Ruff & Kranda	8 W
294	11/23/2007	Email from Capp to ALJ Wahl re Starke Intervenor Status By Public Service Commission	1 W
295	11/24/2007	Email from Klein to ALJ Wahl re Starke Intervenor Status By Public Service Commission	1 W
296	11/26/2007	Motion Requesting Permission to Appear Pro Hac Vice By Patricia Madsen Public Service Commission	5 W
297	11/26/2007	Email Response to Objections to Motion to Continue Hearings By Dakota Resource Council Public Service Commission	9 W
298	11/27/2007	Letter Requesting Opportunity to Examine & Present Evidence By Kelsch Kelsch Ruff & Kranda	2 W
299	11/23/2007	Fargo Response to DRC Motion to Continue Hearings By Duncan Ostrander Dingess Public Service Commission	5 W
300	11/27/2007	Signed Order Denying Motion to Continue Hearings By Public Service Commission	6 W
301	11/27/2007	Motion for Admission to Practice Pro Hac Vice (Lindeman) By Public Service Commission	7 W
302	11/27/2007	Order Granting Motion to Pro Hac Vice (Lindeman) By ALJ Wahl Public Service Commission	3 W
303	11/21/2007	Affidavit of Service Regular, Inside, Email By Public Service Commission	6 W
304	11/27/2007	Motion to Extend Time to Designate Route and Corridor By Public Service Commission	1 W
305	11/27/2007	Motion to Adopt Order Denying Motion to Continue Hearing By Public Service Commission	1 W
306	11/27/2007	Motion By Public Service Commission .	1 W

Public Service Commission
Case File / Docket Card Report

PU-06-421

TransCanada Keystone Pipeline, LP
30-Inch Crude Oil Pipeline/Cavalier to Sargent Cty
Siting Application — Catagory Pipeline
Filed 09/22/2006 Open — Closed 00/00/0000
Portfolio Kevin Cramer — Advisory Staff Patrick J. Fahn

Doc#	Filed		Pages	
307	11/27/2007	Order Denying Intervention By Public Service Commission .	3	W
308	11/30/2007	Aff; 1 Motion Extend Time 2 Orders Deny Intervention, Deny Continuance By Public Service Commission	12	W
309	11/28/2007	Affidavit Resend Docs to Montplaisir Cass County By Public Service Commission	2	W
310	12/3/2007	Affidavit to Shimanek Same as Docket 309 By Public Service Commission	11	W
311	12/3/2007	Returned Affidavit Docket 309 Mailed to Cowling @ Keystone Canada By Public Service Commission	3	W
312	11/3/2007	Affidavit Replacement Mailing to Cowling @ TransCanada By Public Service Commission	1	W
313	12/3/2007	Request for Documents Filed in Public Input File By Kranda Kelsch Kelsch Ruff & Kranda	2	W
314	11/19/2007	Documents and Docket Sheets to Applicant and Intervenors By Public Service Commission	197	W
315	12/5/2007	Receipt# 7,038 $72.16 11/08 Open Records Copies By Duncan Ostrander & Dingess	1	
316	12/6/2007	Stipulated Late Filed Exhibit Fargo 14 By City of Fargo	55	W
317	12/10/2007	Letter from USDOE to Richard Starke By US Dept of Energy .	1	W
318	12/7/2007	Late Filed Exhibit T-46 Report on Quantification of High Consequence Areas By Todd Kranda TransCanada Keystone Pipeline, LP	7	W
319	12/14/2007	Response to PHMSA Special Permit Information, Item 203 By TransCanada Keystone Pipeline, LP	13	W
320	11/7/2007	Affidavit Order Motions to Intervene and Reopen By Public Service Commission	2	W
321	12/10/2007	Invoice 97666 $3,679.99 By North Dakota Newspaper Association	7	W

Total Pages: 3057

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

STIPULATED LATE FILED EXHIBIT

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, and Jana Linderman, Plains Justice Center on behalf of 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

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

---

The city of Fargo, North Dakota (Fargo), Intervenor herein, respectfully submits to the Public Service Commission (PSC) and moves for the admission of the attached Stipulated Late Filed Exhibit "Fargo – 14." Undersigned counsel for Fargo states attorneys for Applicant TransCanada Keystone Pipeline, LP, Dakota Resources Council, Ramona Klein, Merle Linette Kratochvill and Mark Novak, and pro se parties Janie and John Capp had the opportunity to review the attached Exhibit Fargo 14 and that all parties have stipulated to its admission.

Respectfully submitted this 6th day of December, 2007.

DUNCAN OSTRANDER & DINGESS, P.C.

By: _____

John M. Dingess, ND 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 6th day of December, 2007, a true and correct copy of the foregoing **STIPULATED LATE FILED EXHIBIT** 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
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(AWahl@ND.gov)

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(Dakota Resources Council, Ramona Klein, Merle and Linette Kratochvill, Janie and John Capp, and Mark Novak)

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Derrick@svogellaw.com

Lynn Wolff
(Lynn@DRCInfo.com)

Patricia E. Sullivan

John Dingess

From: Sauer, Mike T. [msauer@nd.gov]
Sent: Friday, November 30, 2007 2:27 PM
To: John Dingess; kranda@kelschlaw.com
Subject: PSC Hearing request
Attachments: WQ Standards 2006 33-16-02.1.pdf

Gentlemen: Attached is Chapter 33-16-02.1 Standards of Quality for Waters of the State. The Sheyenne River is classified IA (Page 24). This classification is defined as "The quality of the waters in this class shall be the same as the quality of a class I streams, except that treatment for municipal use may also require softening to meet the drinking water requirements of the department". (Page 8) Lake Ashtabula has the same criteria as a Class I stream. (Page 10, e. (1)). The Dept. of Health regulates the beneficial use of surface water for municipal supply at the intake structure. Michael T. Sauer, Senior Scientist, Div. of Water Quality, ND Dept. of Health 701.328.5237

Exhibit
Fargo – 14
52 Pages

CHAPTER 33-16-02.1
STANDARDS OF QUALITY FOR WATERS OF THE STATE

Section	
33-16-02.1-01	Authority
33-16-02.1-02	Purpose
33-16-02.1-03	Applicability
33-16-02.1-04	Definitions
33-16-02.1-05	Variances
33-16-02.1-06	Severability
33-16-02.1-07	Classification of Waters of the State
33-16-02.1-08	General Water Quality Standards
33-16-02.1-09	Surface Water Classifications, Mixing Zones, and Numeric Standards
33-16-02.1-10	Ground Water Classifications and Standards
33-16-02.1-11	Discharge of Wastes

33-16-02.1-01. Authority. These rules are promulgated pursuant to North Dakota Century Code chapters 61-28 and 23-33; specifically, sections 61-28-04 and 23-33-05, respectively.

History: Effective June 1, 2001.
General Authority: NDCC 61-28-04
Law Implemented: NDCC 23-33, 61-28

33-16-02.1-02. Purpose.

1. The purposes of this chapter are to establish a system for classifying waters of the state; provide standards of water quality for waters of the state; and protect existing and potential beneficial uses of waters of the state.

2. The state and public policy is to maintain or improve, or both, the quality of the waters of the state and to maintain and protect existing uses. Classifications and standards are established for the protection of public health and environmental resources and for the enjoyment of these waters, to ensure the propagation and well-being of resident fish, wildlife, and all biota associated or dependent upon these waters, and to safeguard social, economical, and industrial development. Waters not being put to use shall be protected for all reasonable uses for which these waters are suitable. All known and reasonable methods to control and prevent pollution of the waters of this state are required, including improvement in quality of these waters, when feasible.

   a. The "quality of the waters" shall be the quality of record existing at the time the first standards were established in 1967, or later records if these indicate an improved quality. Waters with existing quality that is higher than established standards will be maintained at the higher quality unless affirmatively demonstrated, after full

satisfaction of the intergovernmental coordination and public participation provisions of the continuing planning process, that a change in quality is necessary to accommodate important social or economic development in the area in which the waters are located. In allowing the lowering of existing quality, the department shall assure that existing uses are fully protected and that the highest statutory and regulatory requirements for all point sources and cost-effective and reasonable best management practices for nonpoint sources are achieved.

b. Waters of the state having unique or high quality characteristics that may constitute an outstanding state resource shall be maintained and protected.

c. Any public or private project or development which constitutes a source of pollution shall provide the best degree of treatment as designated by the department in the North Dakota pollutant discharge elimination system. If review of data and public input indicates any detrimental water quality changes, appropriate actions will be taken by the department following procedures approved by the environmental protection agency. (North Dakota Antidegradation Implementation Procedure, Appendix IV.)

History: Effective June 1, 2001.
General Authority: NDCC 61-28-04, 61-28-05
Law Implemented: NDCC 23-33, 61-28-04

33-16-02.1-03. Applicability. Nothing in this chapter may be construed to limit or interfere with the jurisdiction, duties, or authorities of other North Dakota state agencies.

History: Effective June 1, 2001.
General Authority: NDCC 61-28-04
Law Implemented: NDCC 23-33, 61-28

33-16-02.1-04. Definitions. The terms used in this chapter have the same meaning as in North Dakota Century Code chapter 61-28, except:

1. "Acute standard" means the one-hour average concentration does not exceed the listed concentration more than once every three years.

2. "Best management practices" are methods, measures, or procedures selected by the department to control nonpoint source pollution. Best management practices include, but are not limited to, structural and nonstructural measures and operation and maintenance procedures.

3. "Chronic standard" means the four-day average concentration does not exceed the listed concentration more than once every three years.

4. "Consecutive thirty-day average" is the average of samples taken during any consecutive thirty-day period. It is not a requirement for thirty consecutive daily samples.

5. "Department" means the North Dakota state department of health.

6. A standard defined as "dissolved" means the total quantity of a given material present in a filtered water sample, regardless of the form or nature of its occurrence.

7. "Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor. Pollution includes discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state that will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or livestock, wild animals, birds, fish, or other aquatic biota.

8. "Site-specific standards" mean water quality criteria developed to reflect local environmental conditions to protect the uses of a specific water body.

9. A standard defined as "total" means the entire quantity of a given material present in an unfiltered water sample regardless of the form or nature of its occurrence. This includes both dissolved and suspended forms of a substance, including the entire amount of the substance present as a constituent of the particulate material. Total recoverable is the quantity of a given material in an unfiltered aqueous sample following digestion by refluxing with hot dilute mineral acid.

10. "Water usage". The best usage for the waters shall be those uses determined to be the most consistent with present and potential uses in accordance with the economic and social development of the area. Present principal best uses are those defined in subdivisions a, b, c, d, and e. These are not to be construed to be the only possible usages.

    a. Municipal and domestic water. Waters suitable for use as a source of water supply for drinking and culinary purposes after treatment to a level approved by the department.

    b. Fish and aquatic biota. Waters suitable for the propagation and support of fish and other aquatic biota and waters that will not adversely affect wildlife in the area. Low flows or natural physical and chemical conditions in some waters may limit their value for fish propagation or aquatic biota.

c. Recreation. Waters suitable for recreation where direct body contact is involved, such as bathing and swimming, and where secondary activities such as boating, fishing, and wading are involved. Natural high turbidities in some waters and physical characteristics of banks and streambeds of many streams are factors that limit their value for bathing.

d. Agricultural uses. Waters suitable for irrigation, stock watering, and other agricultural uses, but not suitable for use as a source of domestic supply for the farm unless satisfactory treatment is provided.

e. Industrial water. Waters suitable for industrial purposes, including food processing, after treatment. Treatment may include that necessary for prevention of boiler scale and corrosion.

History: Effective June 1, 2001; amended effective October 1, 2006.
General Authority: NDCC 61-28-04, 61-28-05
Law Implemented: NDCC 23-33, 61-28

33-16-02.1-05. Variances. Upon written application by the responsible discharger, the department finds that by reason of substantial and widespread economic and social impacts the strict enforcement of state water quality criteria is not feasible, the department can permit a variance to the water quality standard for the affected segment. The department can set conditions and time limitations with the intent that progress toward improvements in water quality will be made. This can include interim criteria which must be reviewed at least once every three years. A variance will be granted only after fulfillment of public participation requirements and environmental protection agency approval. A variance will not preclude an existing use.

History: Effective June 1, 2001.
General Authority: NDCC 61-28-04, 61-28-05
Law Implemented: NDCC 23-33, 61-28

33-16-02.1-06. Severability. The rules contained in this chapter are severable. If any rules, or part thereof, or the application of such rules to any person or circumstance are declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter.

History: Effective June 1, 2001.
General Authority: NDCC 61-28-04
Law Implemented: NDCC 23-33, 61-28

33-16-02.1-07. Classification of waters of the state. General. Classification of waters of the state shall be used to maintain and protect the present and future beneficial uses of these waters. Classification of waters of

the state shall be made or changed whenever new or additional data warrant the classification or a change of an existing classification.

History: Effective June 1, 2001.
General Authority: NDCC 61-28-04
Law Implemented: NDCC 23-33, 61-28

33-16-02.1-08. General water quality standards.

1. **Narrative standards.**

   a. The following minimum conditions are applicable to all waters of the state except for class II ground waters. All waters of the state shall be:

      (1) Free from substances attributable to municipal, industrial, or other discharges or agricultural practices that will cause the formation of putrescent or otherwise objectionable sludge deposits.

      (2) Free from floating debris, oil, scum, and other floating materials attributable to municipal, industrial, or other discharges or agricultural practices in sufficient amounts to be unsightly or deleterious.

      (3) Free from materials attributable to municipal, industrial, or other discharges or agricultural practices producing color, odor, or other conditions to such a degree as to create a nuisance or render any undesirable taste to fish flesh or, in any way, make fish inedible.

      (4) Free from substances attributable to municipal, industrial, or other discharges or agricultural practices in concentrations or combinations which are toxic or harmful to humans, animals, plants, or resident aquatic biota. For surface water, this standard will be enforced in part through appropriate whole effluent toxicity requirements in North Dakota pollutant discharge elimination system permits.

      (5) Free from oil or grease residue attributable to wastewater, which causes a visible film or sheen upon the waters or any discoloration of the surface of adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines or prevents classified uses of such waters.

   b. There shall be no materials such as garbage, rubbish, offal, trash, cans, bottles, drums, or any unwanted or discarded material disposed of into the waters of the state.

c. There shall be no disposal of livestock or domestic animals in waters of the state.

d. The department shall propose and submit to the state engineer the minimum streamflows of major rivers in the state necessary to protect the public health and welfare. The department's determination shall address the present and prospective future use of the rivers for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses.

e. No discharge of pollutants, which alone or in combination with other substances, shall:

(1) Cause a public health hazard or injury to environmental resources;

(2) Impair existing or reasonable beneficial uses of the receiving waters; or

(3) Directly or indirectly cause concentrations of pollutants to exceed applicable standards of the receiving waters.

f. If the department determines that site-specific criteria are necessary and appropriate for the protection of designated uses, procedures described in the environmental protection agency's Water Quality Standards Handbook 1994 or other defensible methods may be utilized to determine maximum limits. Where natural chemical, physical, and biological characteristics result in exceedences of the limits set forth in this section, the department may derive site-specific criteria based on the natural background level or condition. All available information shall be examined, and all possible sources of a contaminant will be identified in determining the naturally occurring concentration. All site-specific criteria shall be noticed for public comment and subjected to other applicable public participation requirements prior to being adopted.

2. **Narrative biological goal.**

a. Goal. The biological condition of surface waters shall be similar to that of sites or water bodies determined by the department to be regional reference sites.

b. Definitions.

(1) "Assemblage" means an association of aquatic organisms of similar taxonomic classification living in the same area. Examples of assemblages include fish, macroinvertebrates, algae, and vascular plants.

(2) "Aquatic organism" means any plant or animal which lives at least part of its life cycle in water.

(3) "Biological condition" means the taxonomic composition, richness, and functional organization of an assemblage of aquatic organisms at a site or within a water body.

(4) "Functional organization" means the number of species or abundance of organisms within an assemblage which perform the same or similar ecological functions.

(5) "Metric" means an expression of biological community composition, richness, or function which displays a predictable, measurable change in value along a gradient of pollution or other anthropogenic disturbance.

(6) "Regional reference sites" are sites or water bodies which are determined by the department to be representative of sites or water bodies of similar type (e.g., hydrology and ecoregion) and are least impaired with respect to habitat, water quality, watershed land use, and riparian and biological condition.

(7) "Richness" means the absolute number of taxa in an assemblage at a site or within a water body.

(8) "Taxonomic composition" means the identity and abundance of species or taxonomic groupings within an assemblage at a site or within a water body.

c. Implementation. The intent of the state in adopting a narrative biological goal is solely to provide an additional assessment method that can be used to identify impaired surface waters. Regulatory or enforcement actions based solely on a narrative biological goal, such as the development and enforcement of North Dakota pollutant discharge elimination system permit limits, are not authorized. However, adequate and representative biological assessment information may be used in combination with other information to assist in determining whether designated uses are attained and to assist in determining whether new or revised chemical-specific permit limitations may be needed. Implementation will be based on the comparison of current biological conditions at a particular site to the biological conditions deemed attainable based on regional reference sites. In implementing a narrative biological goal, biological condition

may be expressed through an index composed of multiple metrics or through appropriate statistical procedures.

History: Effective June 1, 2001.
General Authority: NDCC 61-28-04
Law Implemented: NDCC 23-33, 61-28

33-16-02.1-09. Surface water classifications, mixing zones, and numeric standards.

1. **Classifications.** Procedures for the classifications of streams and lakes of the state shall follow this subsection. Classifications of streams and lakes are listed in appendix I and appendix II, respectively.

   a. Class I streams. The quality of the waters in this class shall be suitable for the propagation or protection, or both, of resident fish species and other aquatic biota and for swimming, boating, and other water recreation. The quality of the waters shall be suitable for irrigation, stock watering, and wildlife without injurious effects. After treatment consisting of coagulation, settling, filtration, and chlorination, or equivalent treatment processes, the water quality shall meet the bacteriological, physical, and chemical requirements of the department for municipal or domestic use.

   b. Class IA streams. The quality of the waters in this class shall be the same as the quality of class I streams, except that treatment for municipal use may also require softening to meet the drinking water requirements of the department.

   c. Class II streams. The quality of the waters in this class shall be the same as the quality of class I streams, except that additional treatment may be required to meet the drinking water requirements of the department. Streams in this classification may be intermittent in nature which would make these waters of limited value for beneficial uses such as municipal water, fish life, irrigation, bathing, or swimming.

   d. Class III streams. The quality of the waters in this class shall be suitable for agricultural and industrial uses. Streams in this class generally have low average flows with prolonged periods of no flow. During periods of no flow, they are of limited value for recreation and fish and aquatic biota. The quality of these waters must be maintained to protect secondary contact recreation uses (e.g., wading), fish and aquatic biota, and wildlife uses.

   e. Wetlands. These water bodies, including isolated ponds, sloughs, and marshes, are to be considered waters of the state and will be protected under section 33-16-02-08.

f. Lakes and reservoirs. The type of fishery a lake or reservoir may be capable of supporting is based on the lake's or reservoir's geophysical characteristics. The capability of a lake or reservoir to support a fishery may be affected by seasonal or climatic variability or other natural occurrences which may alter the physical and chemical characteristics of the lake or reservoir.

Class	Characteristics
1	Cold water fishery. Waters capable of supporting growth of cold water fish species (e.g., salmonids) and associated aquatic biota.
2	Cool water fishery. Waters capable of supporting natural reproduction and growth of cool water fishes (e.g., northern pike and walleye) and associated aquatic biota. These waters are also capable of supporting the growth and marginal survival of cold water species and associated biota.
3	Warm water fishery. Waters capable of supporting natural reproduction and growth of warm water fishes (e.g., largemouth bass and bluegill) and associated aquatic biota. Some cool water species may also be present.
4	Marginal fishery. Waters capable of supporting a fishery on a short-term or seasonal basis (generally a "put and take" fishery).
5	Not capable of supporting a fishery due to high salinity.

2. **Mixing zones.** North Dakota mixing zone and dilution policy is contained in appendix III.

3. **Numeric standards.**

a. Class I streams. Unless stated otherwise, maximum limits for class I streams are listed in table 1 and table 2.

b. Class IA streams. The physical and chemical criteria shall be those for class I, with the following exceptions:

Substance or Characteristic	Maximum Limit
Chlorides (total)	175 mg/l (30-day arithmetic average)
Sodium	60% of total cations as mEq/l
Sulfate (total)	450 mg/l (30-day arithmetic average)

c. Class II streams. The physical and chemical criteria shall be those for class IA, with the following exceptions:

Substance or Characteristic	Maximum Limit
Chlorides (total)	250 mg/l (30-day arithmetic average)
pH	6.0-9.0 (up to 10% of representative samples collected during any 3-year period may exceed this range provided that lethal conditions are avoided)

d. Class III streams. The physical and chemical criteria shall be those for class II, with the following exceptions:

Substance or Characteristic	Maximum Limit
Sulfate (total)	750 mg/l (30-day arithmetic average)

e. Lakes and reservoirs.

(1) The beneficial uses and parameter limitations designated for class I streams shall apply to all classified lakes or reservoirs. However, specific background studies and information may require that the department revise a standard for any specific parameter.

(2) In addition, these nutrient parameters are guidelines for use as goals in any lake or reservoir improvement or maintenance program:

Parameter	Limit
NO_3 as N	.25 mg/l
PO_4 as P	.02 mg/l

(3) The temperature standard for class I streams does not apply to Nelson Lake in Oliver County. The temperature of any discharge to Nelson Lake shall not have an adverse effect on fish, aquatic biota, recreation, and wildlife.

(4) A numeric temperature standard of not greater than fifty-nine degrees Fahrenheit [15 degrees Celsius] shall be maintained in the hypolimnion of class I lakes and reservoirs during periods of thermal stratification.

(5) The numeric dissolved oxygen standard of five mg/l as a daily minimum does not apply to the hypolimnion of class III and IV lakes and reservoirs during periods of thermal stratification.

(6) Lake Sakakawea must maintain a minimum volume of water of five hundred thousand-acre feet [61674-hectare meters] that has a temperature of fifty-nine degrees Fahrenheit [15 degrees Celsius] or less and a dissolved oxygen concentration of not less than five mg/l.

History: Effective June 1, 2001; amended effective October 1, 2006.
General Authority: NDCC 61-28-04
Law Implemented: NDCC 23-33, 61-28

TABLE 1

MAXIMUM LIMITS FOR SUBSTANCES IN
OR CHARACTERISTICS OF CLASS I STREAMS

CAS No.	Substance or Characteristic	Maximum Limit
		Acute Standard
7429905	Aluminum	750 ug/l
		Chronic Standard
		87 ug/l Where the pH is equal to or greater than 7.0, and the hardness is equal to or greater than 50 mg/l as $CaCO_3$ in the receiving water after mixing, the 87 ug/l chronic total recoverable aluminum criterion will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute total recoverable aluminum criterion.
		Acute Standard
7446-41-7	Ammonia (Total as N)	The one-hour average concentration of total ammonia (expressed as N in mg/l) does not exceed, more often than once every three years on the average, the numerical value given by the following formula: $\frac{0.411}{1 + 10^{7.204-pH}} + \frac{58.4}{1+10^{pH-7.204}}$, where salmonids are absent; or $\frac{0.275}{1 + 10^{7.204-pH}} + \frac{39.0}{1 + 10^{pH-7.204}}$, where salmonids are present.
		Chronic Standard
		The 30-day average concentration of total ammonia (expressed as N in mg/l) does not exceed, more often than once every three years on the average, the numerical value given by the following formula; and the highest 4-day average concentration of total ammonia within the 30-day averaging period does not exceed 2.5 times the numerical value given by the following formula: $= \left(\frac{0.0577}{1 + 10^{7.688-pH}} + \frac{2.487}{1 + 10^{pH-7.688}} \right) \bullet CV;$ where CV = 2.85, when T ≤ 14° C; or

CAS No.	Substance or Characteristic	Maximum Limit
		$CV = 1.45 \times 10^{0.028 \cdot (25-T)}$, when $T > 14°$ C.
		Site-Specific Chronic Standard
		The following site-specific standard applies to the Red River of the North beginning at the 12th Avenue North bridge in Fargo, North Dakota, and extending approximately 32 miles downstream to its confluence with the Buffalo River, Minnesota. This site-specific standard applies only during the months of October, November, December, January, and February. During the months of March through September, the statewide chronic ammonia standard applies.
		The 30-day average concentration of total ammonia (expressed as N in mg/l) does not exceed, more often than once every three years on the average, the numerical value given by the following formula; and the highest 4-day average concentration of total ammonia within the 30-day averaging period does not exceed 2.5 times the numerical value given by the following formula:
		$= \left(\frac{0.0577}{1 + 10^{7.688-pH}} + \frac{2.487}{1 + 10^{pH-7.688}} \right) \bullet CV;$
		where $CV = 4.63$, when $T \leq 7°$ C; or
		$CV = 1.45 \times 10^{0.028 \cdot (25-T)}$, when $T > 7°$ C.
7440-39-3	Barium (Total)	1.0 mg/l (one-day arithmetic average)
	Boron (Total)	.75 mg/l (30-day arithmetic average)
16887-00-6	Chlorides (Total)	100 mg/l (30-day arithmetic average)
7.782-50-5	Chlorine Residual (Total)	Acute .019 mg/l Chronic .011 mg/l
7782-44-7	Dissolved Oxygen	5 mg/l as a daily minimum (up to 10% of representative samples collected during any 3-year period may be less than this value provided that lethal conditions are avoided)

CAS No.	Substance or Characteristic	Maximum Limit
	Fecal Coliform[2]	Not to exceed 200 organisms per 100 ml as a geometric mean of representative samples collected during any 30-day consecutive period, nor shall more than 10 percent of samples collected during any 30-day consecutive period individually exceed 400 organisms per 100 ml. For assessment purposes, the 30-day consecutive period shall follow the calendar month. This standard shall apply only during the recreation season May 1 to September 30.
	E. coli[2]	Not to exceed 126 organisms per 100 ml as a geometric mean of representative samples collected during any 30-day consecutive period, nor shall more than 10 percent of samples collected during any 30-day consecutive period individually exceed 409 organisms per 100 ml. For assessment purposes, the 30-day consecutive period shall follow the calendar month. This standard shall apply only during the recreation season May 1 to September 30.
14797-55-8	Nitrates (N) (Diss.)[1]	1.0 mg/l (up to 10% of samples may exceed)
	pH	7.0-9.0 (up to 10% of representative samples collected during any three-year period may exceed this range, provided that lethal conditions are avoided)
32730	Phenols (Total)	0.3 mg/l (organoleptic criterion) (one-day arithmetic average)
	Sodium	50 percent of total cations as mEq/l
	Sulfates (Total as SO_4)	250 mg/l (30-day arithmetic average)
	Temperature	Eighty-five degrees Fahrenheit [29.44 degrees Celsius]. The maximum increase shall not be greater than five degrees Fahrenheit [2.78 degrees Celsius] above natural background conditions.
	Combined radium 226 and radium 228 (Total)	5 pCi/l (30-day arithmetic average)

CAS No.	Substance or Characteristic	Maximum Limit
	Gross alpha particle activity, including radium 226, but excluding radon and uranium	15 pCi/l (30-day arithmetic average)

[1]The standard for nitrates (N) is intended as an interim guideline limit. Since each stream or lake has unique characteristics which determine the levels of these constituents that will cause excessive plant growth (eutrophication), the department reserves the right to review this standard after additional study and to set specific limitations on any waters of the state. However, in no case shall the concentration for nitrate plus nitrite N exceed 10 mg/l for any waters used as a municipal or domestic drinking water supply.

[2]Where the fecal coliform or E. coli criteria, or both, are exceeded and there are natural sources, the criteria may be considered attained, provided there is reasonable basis for concluding that the indicator bacteria density attributable to anthropogenic sources is consistent with the level of water quality required by the criteria. This may be the situation, for example, in headwater streams that are minimally affected by anthropogenic activities.

TABLE 2

WATER QUALITY CRITERIA[1]
(MICROGRAMS PER LITER)

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III Acute	Aquatic Life Value Classes I, IA, II, III Chronic	Human Health Value Classes I, IA, II[2]	Human Health Value Class III[3]
83-32-9	Acenaphthene			670	990
107-02-8	Acrolein			190	290
107-13-1	Acrylonitrile[4]			0.051	0.25
71-43-2	Benzene[4]			2.2	51
92-87-5	Benzidine[4]			0.000086	0.00020
56-23-5	Carbon tetrachloride[4] (Tetrachloromethane)			0.23	1.6
108-90-7	Chlorobenzene (Monochlorobenzene)			100[7]	1,600
120-82-1	1,2,4-Trichlorobenzene			35	70
118-74-1	Hexachlorobenzene[4]			0.00028	0.00029
107-06-2	1,2-Dichloroethane[4]			0.38	37
71-55-6	1,1,1-Trichloroethane			200[7]	
67-72-1	Hexachloroethane[4]			1.4	3.3
79-00-5	1,1,2-Trichloroethane[4]			0.59	16
79-34-5	1,1,2,2-Tetrachloroethane[4]			0.17	4.0
111-44-4	Bis(2-chloroethyl) ether[4]			0.030	0.53
91-58-7	2-Chloronaphthalene			1,000	1,600
88-06-2	2,4,6-Trichlorophenol[4]			1.4	2.4
59-50-7	p-Chloro-m-cresol (4-Chloro-3-methylphenol)			3000	
67-66-3	Chloroform (HM)[4] (Trichloromethane)			5.7	470
95-57-8	2-Chlorophenol			81	150
95-50-1	1,2-Dichlorobenzene[7]			420	1,300
541-73-1	1,3-Dichlorobenzene			320	960
106-46-7	1,4-Dichlorobenzene[7]			63	190
91-94-1	3,3'-Dichlorobenzidine[4]			0.021	0.028
75-35-4	1,1-Dichloroethylene[4]			7[7]	7,100
156-60-5	1,2-trans-Dichloroethylene[7]			100[7]	10,000
120-83-2	2,4-Dichlorophenol			77	290
542-75-6	1,3-Dichloropropylene (1,3-Dichloropropene) (cis and trans isomers)			0.34	21
78-87-5	1,2-Dichloropropane			0.50	15
105-67-9	2,4-Dimethylphenol			380	850
121-14-2	2,4-Dinitrotoluene[4]			0.11	3.4

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III Acute	Aquatic Life Value Classes I, IA, II, III Chronic	Human Health Value Classes I, IA, II[2]	Human Health Value Class III[3]
122-66-7	1,2-Diphenylhydrazine[4]			0.036	0.20
160-41-4	Ethylbenzene[7]			530	2,100
206-44-0	Fluoranthene			130	140
39638-32-9	Bis(2-chloroisopropyl) ether			1400	65,000
75-09-2	Methylene chloride (HM)[4] (Dichloromethane)			4.6	590
74-83-9	Methyl bromide (HM) (Bromomethane)			47	1,500
75-25-2	Bromoform (HM)[5] (Tribromomethane)			4.3	140
75-27-4	Dichlorobromomethane (HM)[5]			0.55	17
124-48-1	Chlorodibromomethane (HM)[5]			0.40	13
87-68-3	Hexachlorobutadiene[4]			0.44	18
77-47-4	Hexachlorocyclopentadiene			40	1,100
78-59-1	Isophorone[4]			35	960
98-95-3	Nitrobenzene			17	690
51-28-5	2,4-Dinitrophenol			69	5,300
534-52-1	4,6-Dinitro-o-cresol (4,6-Dinitro-2-methylphenol)			13	280
62-75-9	N-Nitrosodimethylamine[4]			0.00069	3.0
86-30-6	N-Nitrosodiphenylamine[4]			3.3	6.0
621-64-7	N-Nitrosodi-n-propylamine[4]			0.005	0.51
87-86-5	Pentachlorophenol	19[9]	15[9]	0.27	3.0
108-95-2	Phenol			21000	1,700,000
117-81-7	Bis(2-ethylhexyl)phthalate[4]			1.2	2.2
85-68-7	Butyl benzyl phthalate			1,500	1,900
84-74-2	Di-n-butyl phthalate			2,000	4,500
84-66-2	Diethyl phthalate			17,000	44,000
131-11-3	Dimethyl phthalate			270,000	1,100,000
56-55-3	Benzo(a)anthracene (PAH)[4] (1,2-Benzanthracene)			0.0038	0.018
50-32-8	Benzo(a)pyrene (PAH)[4] (3,4-Benzopyrene)			0.0038	0.018
205-99-2	Benzo(b)fluoranthene (PAH)[4] (3,4-Benzofluoranthene)			0.0038	0.018
207-08-9	Benzo(k)fluoranthene (PAH)[4] (11,12-Benzofluoranthene)			0.0038	0.018
218-01-9	Chrysene (PAH)[4]			0.0038	0.018
120-12-7	Anthracene (PAH)[5]			8,300	40,000
86-73-7	Fluorene (PAH)[5]			1,100	5,300
53-70-1	Dibenzo(a,h)anthracene (PAH)[4] (1,2,5,6-Dibenzanthracene)			0.0038	0.018

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III Acute	Chronic	Human Health Value Classes I, IA, II[2]	Class III[3]
193-39-5	Indeno(1,2,3-cd)pyrene (PAH)[4]			0.0038	0.018
129-00-0	Pyrene (PAH)[5]			830	4,000
127-18-4	Tetrachloroethylene[4]			0.69	3.3
108-88-3	Toluene			1,000[7]	15,000
79-01-6	Trichloroethylene[4]			2.5	30
75-01-4	Vinyl chloride[4] (Cloroethylene)			0.025	2.4
309-00-2	Aldrin[4]	1.5		0.000049	0.000050
60-57-1	Dieldrin[4]	0.24	0.056	0.000052	0.000054
57-74-9	Chlordane[4]	1.2	0.0043	0.00080	0.00081
80-29-3	4,4'-DDT[4]	0.55[13]	0.001[13]	0.00022	0.00022
75-55-9	4,4'-DDE[4]			0.00022	0.00022
72-54-8	4,4'-DDD[4]			0.00031	0.00031
115-29-7	alpha-Endosulfan	0.11[12]	0.056[12]	62	89
115-29-7	beta-Endosulfan	0.11[12]	0.056[12]	62	89
1031-07-8	Endosulfan sulfate			62	89
72-20-8	Endrin	0.09	0.036	0.059	0.060
7421-93-4	Endrin aldehyde			0.29	0.30
76-44-8	Heptachlor[4]	0.26	0.0038	0.000079	0.000079
1024-57-3	Heptachlor epoxide[4]	0.26	0.0038	0.000039	0.000039
319-84-6	alpha-BHC[4] (Hexachlorocyclohexane-alpha)			0.0026	0.0049
319-85-7	beta-BHC[4] (Hexachlorocyclohexane-beta)			0.0091	0.017
58-89-9	gamma-BHC (Lindane)[4] (Hexachlorocyclohexane-gamma)	0.95		0.2[7]	1.8
319-86-8	delta-BHC[4] (Hexachlorocyclohexane-delta)				
1336-36-3	PCB 1242 (Arochlor 1242)[4]		0.014[11]	0.000064[11]	0.000064[11]
1336-36-3	PCB-1254 (Arochlor 1254)[4]		0.014[11]	0.000064[11]	0.000064[11]
1336-36-3	PCB-1221 (Arochlor 1221)[4]		0.014[11]	0.000064[11]	0.000064[11]
1336-36-3	PCB-1232 (Arochlor 1232)[4]		0.014[11]	0.000064[11]	0.000064[11]
1336-36-3	PCB-1248 (Arochlor 1248)[4]		0.014[11]	0.000064[11]	0.000064[11]
1336-36-3	PCB-1260 (Arochlor 1260)[4]		0.014[11]	0.000064[11]	0.000064[11]
1336-36-3	PCB-1016 (Arochlor 1016)[4]		0.014[11]	0.000064[11]	0.000064[11]
8001-35-2	Toxaphene[4]	0.73	0.0002	0.00028	0.00028
7440-36-0	Antimony			5.6	640
7440-38-2	Arsenic[7]	340[10]	150[10]	10[7]	
1332-21-4	Asbestos[4 7]			7,000,000 f/l	7000000 f/l
7440-41-7	Beryllium[4]			4[7]	

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III		Human Health Value	
		Acute	Chronic	Classes I, IA, II[2]	Class III[3]
7440-43-9	Cadmium	2.1[6]	0.27[6]	5[7]	
7440-47-3	Chromium (III)	1800[6]	86[6]	100(total)[7]	
	Chromium (VI)	16	11	100(total)[7]	
7440-50-8	Copper	14.0[6]	9.3[6]	1000	
57-12-5	Cyanide (total)	22	5.2	140	140
7439-92-1	Lead	82[6]	3.2[6]	15[7]	
7439-97-6	Mercury	1.7	0.012	0.050	0.051
7440-02-0	Nickel	470[6]	52[6]	100[7]	4,200
7782-49-2	Selenium	20	5	50[7]	
7440-22-4	Silver	3.8[6]			
7440-28-0	Thallium			0.24	0.47
7440-66-6	Zinc	120[6]	120[6]	7,400	26,000
1746-01-6	Dioxin (2,3,7,8-TCDD)[4]			5.0E-9	5.1E-9
15972-60-8	Alachlor			2[7]	
1912-24-9	Atrazine			3[7]	
1563-66-2	Carbofuran			40[7]	
94-75-7	2,4-D			70[7]	
75-99-0	Dalapon			200[7]	
103-23-1	Di(2-ethylhexyl)adipate			400[7]	
333-41-5	Diazinon	0.17	0.17		
84852-15-3	Nonylphenol (Isomer mixture)[14]	28	6.6		
96-12-8	Dibromochloropropane			0.2[7]	
156-59-2	Dichloroethylene (cis-1,2-)			70[7]	
88-85-7	Dinoseb			7[7]	
85-00-7	Diquat			20[7]	
145-73-3	Endothall			100[7]	
106-93-4	Ethylene dibromide (EDB)			0.05[7]	
107-83-6	Glyphosate			700[7]	
72-43-5	Methoxychlor			40[7]	
23135-22-0	Oxamyl (Vydate)			200[7]	
1918-02-1	Picloram			500[7]	
122-34-9	Simazine			4[7]	
100-42-5	Styrene			100[7]	
1330-20-7	Xylenes			10,000[7]	
7782-41-4	Fluoride			4,000[7]	
14797-65-0	Nitrite			1,000[7]	
12587-47-2	Beta/photon emitters			4 mrem/yr[7]	
7440-61-1	Uranium			30[7]	

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III Acute	Chronic	Human Health Value Classes I, IA, II[2]	Class III[3]
15541-45-4	Bromate			10[7]	
	Chlorite			1,000[7]	
	Halocetic acids[15]			60[7]	

CAS No. Chemical Abstracts Service Registry Number

1 Except for the aquatic life values for metals, the values given in this appendix refer to the total (dissolved plus suspended) amount of each substance. For the aquatic life values for metals, the values refer to the total recoverable method for ambient metals analyses.

2 Based on two routes of exposure - ingestion of contaminated aquatic organisms and drinking water.

3 Based on one route of exposure - ingestion of contaminated aquatic organisms only.

4 Substance classified as a carcinogen, with the value based on an incremental risk of one additional instance of cancer in one million persons.

5 Chemicals which are not individually classified as carcinogens but which are contained within a class of chemicals, with carcinogenicity as the basis for the criteria derivation for that class of chemicals; an individual carcinogenicity assessment for these chemicals is pending.

6 Hardness dependent criteria. Value given is an example only and is based on a $CaCO_3$ hardness of 100 mg/l. Criteria for each case must be calculated using the following formula:

CMC = exp (ma [ln (hardness)] + ba)

	ma	ba
Cadmium	1.0166	-3.924
Copper	0.9422	-1.700
Chromium (III)	0.8190	3.7256
Lead	1.273	-1.460
Nickel	0.8460	2.255
Silver	1.72	-6.59
Zinc	0.8473	0.884

CMC = Criterion Continuous Concentration (acute exposure value)
The threshold value at or below which there should be no unacceptable effects to freshwater aquatic organisms and their uses if the one-hour concentration does not exceed that CMC value more than once every three years on the average.

CCC = exp (mc [ln (hardness)] + bc)

	mc	bc
Cadmium	0.7409	-4.719
Copper	0.8545	-1.702
Chromium	0.8190	0.6848
Lead	1.273	-4.705
Nickel	0.8460	0.0584
Silver	—	—
Zinc	0.8473	0.884

CCC = Criterion Continuous Concentration (chronic exposure value)
The threshold value at or below which there should be no unacceptable effects to freshwater aquatic organisms and their uses if the four-day concentration does not exceed that CCC value more than once every three years on the average.

7 Safe Drinking Water Act (MCL).

8 Note 8 intentionally omitted.

9 Freshwater aquatic life criteria for pentachlorophenol are expressed as a function of pH. Values displayed in the table correspond to a pH of 7.8 and are calculated as follows:

CMC = exp [1.005 (pH) - 4.869] CCC = exp [1.005 (pH) - 5.134]

10 This criterion applies to total arsenic.

11 This criterion applies to total PCBs (i.e., the sum of all congener or all isomer or homolog or Arochlor analyses).

12 This criterion applies to the sum of alpha-endosulfan and beta-endosulfan.

13 This criterion applies to DDT and its metabolites (i.e., the total concentration of DDT and its metabolites should not exceed this value).

14 The nonylphenol criteria address CAS numbers 84852-15-3 and 25154-52-3.

15 The criterion is for a total measurement of 5 haloacetic acids, dichloroacetic acid, trichloroacetic acid, monochloroacetic acid, bromoacetic acid, and dibromoacetic acid.

33-16-02.1-10. Ground water classifications and standards.

1. Class I ground waters. Class I ground waters shall have a total dissolved solids concentration of less than 10,000 mg/l. Class I ground waters are not exempt under the North Dakota underground injection control program in section 33-25-01-08.

2. Class II ground waters. Class II ground waters shall have a total dissolved solids concentration of 10,000 mg/l or greater. Class II ground waters are exempt under the North Dakota underground injection control program in section 33-25-01-08.

History: Effective June 1, 2001.
General Authority: NDCC 61-28-04, 61-28-05
Law Implemented: NDCC 61-28-04

33-16-02.1-11. Discharge of wastes. On-surface discharges. The following are general requirements for all waste discharges or chemical additions:

1. No untreated domestic sewage shall be discharged into the waters of the state.

2. No untreated industrial wastes or other wastes which contain substances or organisms which may endanger public health or degrade the water quality of water usage shall be discharged into the waters of the state.

3. The department must be notified at least twenty days prior to the application of any herbicide or pesticide to surface waters of the state for control of aquatic pests. Only certified applicators are allowed

to apply chemicals. The notification must include the following information:

a. Chemical name and composition.

b. Map which identifies the area of application and aerial extent (e.g., acres or square feet).

c. A list of target species of aquatic biota the applicant desires to control.

d. The calculated concentration of the active ingredient in surface waters immediately after application.

e. Name, address, and telephone number of the certified applicator.

4. Any spill or discharge of waste which causes or is likely to cause pollution of waters of the state must be reported immediately. The owner, operator, or person responsible for a spill or discharge must notify the department as soon as possible (701-328-5210) or the North Dakota hazardous materials emergency assistance and spill reporting number (1-800-472-2121) and provide all relevant information about the spill. Depending on the severity of the spill or accidental discharge, the department may require the owner or operator to:

a. Take immediate remedial measures;

b. Determine the extent of pollution to waters of the state;

c. Provide alternate water sources to water users impacted by the spill or accidental discharge; or

d. Any other actions necessary to comply with this chapter.

History: Effective June 1, 2001; amended effective October 1, 2006.
General Authority: NDCC 61-28-04
Law Implemented: NDCC 23-33, 61-28

APPENDIX I

STREAM CLASSIFICATIONS

The following intrastate and interstate streams are classified as the class of water quality which is to be maintained in the specified stream or segments noted. There are a number of minor or intermittently flowing watercourses, unnamed creeks, or draws, etc., which are not listed. All tributaries not specifically mentioned are classified as Class III streams.

RIVER BASINS, SUBBASINS, AND TRIBUTARIES	CLASSIFICATION
Missouri River, including Lake Sakakawea and Oahe Reservoir	I
Yellowstone	I
Little Muddy Creek near Williston	II
White Earth River	II
Little Missouri River	II
Knife River	II
Spring Creek	IA
Square Butte Creek below Nelson Lake	IA
Heart River	IA
Green River	IA
Antelope Creek	II
Muddy Creek	II
Apple Creek	II
Cannonball River	II
Cedar Creek	II
Beaver Creek near Linton	II
Grand River	IA
Spring Creek	II
Souris River	IA

RIVER BASINS, SUBBASINS, AND TRIBUTARIES	CLASSIFICATION
Des Lacs River	II
Willow Creek	II
Deep River	III
Mauvais Coulee	I
James River	IA
Pipestem	IA
Cottonwood Creek	II
Beaver Creek	II
Elm River	II
Maple River	II
Bois de Sioux	I
Red River	I
Wild Rice River	II
Antelope Creek	III
Sheyenne River	IA
Baldhill Creek	II
Maple River	II
Rush River	III
Elm River	II
Goose River	IA
Turtle River	II
Forest River	II
North Branch	III
Park River	II
North Branch	III

RIVER BASINS, SUBBASINS, AND TRIBUTARIES	CLASSIFICATION
South Branch	II
Middle Branch	III
Cart Creek	III
Pembina River	IA
Tongue River	II

APPENDIX II

LAKE AND RESERVOIR CLASSIFICATION

Lakes and reservoirs are classified according to the water characteristics which are to be maintained in the specified lakes and reservoirs. The beneficial water uses and parameter limitations designated for Class I streams shall apply to all classified lakes and reservoirs.

COUNTY	LAKE	CLASSIFICATION
Adams	Mirror Lake	3
Adams	N. Lemmon Lake	1
Barnes	Lake Ashtabula	3
Barnes	Moon Lake	2
Barnes	Clausen Springs	3
Benson	Wood Lake	2
Benson	Graves	3
Benson	Reeves	3
Bottineau	Lake Metigoshe	2
Bottineau	Long Lake	2
Bottineau	Pelican Lake	3
Bottineau	Carbury Dam	2
Bottineau	Cassidy Lake	4
Bottineau	Strawberry Lake	2
Bowman	Bowman-Haley Dam	3

COUNTY	LAKE	CLASSIFICATION
Bowman	Gascoyne Lake	3
Bowman	Kalina Dam	3
Bowman	Lutz Dam	2
Bowman	Spring Lake	3
Burke	Powers Lake	3
Burke	Short Creek Dam	2
Burke	Smishek Dam	2
Burke	Northgate Dam	2
Burleigh	McDowell Dam	3
Burleigh	Mitchell Lake	3
Burleigh	New Johns Lake	2
Cass	Casselton Reservoir	3
Cass	Brewer Lake	2
Cavalier	Mt. Carmel Dam	2
Dickey	Moores Lake	3
Dickey	Pheasant Lake	3
Dickey	Wilson Dam	3

COUNTY	LAKE	CLASSIFICATION
Divide	Baukol-Noonan Dam	2
Divide	Baukol-Noonan East Mine Pond	2
Divide	Skjermo Dam	2
Dunn	Lake Ilo	3
Eddy	Battle Lake	3
Eddy	Warsing Dam	3
Emmons	Braddock Dam	3
Emmons	Nieuwsma Dam	2
Emmons	Rice Lake	3
Foster	Juanita Lake	3
Golden Valley	Camel Hump Dam	1
Golden Valley	Odland Dam	3
Grand Forks	Fordville Dam	2
Grand Forks	Kolding Dam	3
Grand Forks	Larimore Dam	2
Grant	Heart Butte Dam (Lake Tschida)	2
Grant	Niagara Dam	3

COUNTY	LAKE	CLASSIFICATION
Grant	Raleigh Reservoir	2
Grant	Sheep Creek Dam	2
Griggs	Carlson-Tande Dam	3
Griggs	Red Willow Lake	2
Hettinger	Blickensderfer Dam	2
Hettinger	Castle Rock Dam	4
Hettinger	Indian Creek	2
Hettinger	Larson Lake	3
Hettinger	Mott Watershed Dam	3
Kidder	Alkaline Lake	2
Kidder	Cherry Lake	3
Kidder	Crystal Springs	3
Kidder	Frettum Lake	2
Kidder	George Lake	5
Kidder	Horsehead Lake	2
Kidder	Lake Isabel	3
Kidder	Lake Josephine	2
Kidder	Lake Williams	3

COUNTY	LAKE	CLASSIFICATION
Kidder	Round Lake	2
LaMoure	Heinrich-Martin Dam	3
LaMoure	Kalmbach Lake	3
LaMoure	Kulm-Edgeley Dam	3
LaMoure	Lake LaMoure	3
LaMoure	Lehr Dam	3
LaMoure	Limesand-Seefeldt Dam	3
LaMoure	Schlecht-Thom Dam	3
LaMoure	Schlecht-Weix Dam	3
Logan	Beaver Lake	3
Logan	Mundt Lake	3
Logan	Rudolph Lake	3
McHenry	Cottonwood Lake	3
McHenry	George Lake	3
McHenry	Round Lake	3
McHenry	Buffalo Lodge Lake	3
McIntosh	Blumhardt Dam	2
McIntosh	Clear Lake	3
McIntosh	Coldwater Lake	3

COUNTY	LAKE	CLASSIFICATION
McIntosh	Dry Lake	2
McIntosh	Green Lake	2
McIntosh	Lake Hoskins	3
McKenzie	Arnegard Dam	4
McKenzie	Leland Dam	2
McKenzie	Sather Dam	2
McLean	Brush Lake	3
McLean	Crooked Lake	3
McLean	Custer Mine Pond	2
McLean	East Park Lake	2
McLean	Lake Audubon	2
McLean	Lake Brekken	2
McLean	Lake Holmes	2
McLean	Lightning Lake	1
McLean	Long Lake	4
McLean	Riverdale Spillway Lake	1
McLean	Strawberry Lake	3
McLean	West Park Lake	2
Mercer	Harmony Lake	3

COUNTY	LAKE	CLASSIFICATION
Morton	Crown Butte Dam	3
Morton	Danzig Dam	3
Morton	Fish Creek Dam	1
Morton	Nygren Dam	2
Morton	Sweetbriar Dam	2
Mountrail	Clearwater Lake	3
Mountrail	Stanley City Pond	3
Mountrail	Stanley Reservoir	3
Mountrail	White Earth Dam	2
Nelson	McVille Dam	2
Nelson	Tolna Dam	2
Nelson	Whitman Dam	2
Oliver	East Arroda Lake	2
Oliver	Nelson Lake	3
Oliver	West Arroda Lake	2
Pembina	Renwick Dam	3
Pierce	Balta Dam	3

COUNTY	LAKE	CLASSIFICATION
Pierce	Buffalo Lake	3
Ramsey	Cavanaugh Lake	3
Ramsey	Devils Lake	2
Ransom	Dead Colt Creek Dam	3
Renville	Lake Darling	2
Richland	Lake Elsie	3
Richland	Mooreton Pond	3
Rolette	Belcourt Lake	2
Rolette	Carpenter Lake	2
Rolette	Dion Lake	2
Rolette	Gordon Lake	2
Rolette	Gravel Lake	2
Rolette	Hooker Lake	2
Rolette	Island Lake	3
Rolette	Jensen Lake	3
Rolette	School Section Lake	2
Rolette	Upsilon Lake	2
Rolette	Shutte Lake	2
Sargent	Alkali Lake	3
Sargent	Buffalo Lake	3

COUNTY	LAKE	CLASSIFICATION
Sargent	Lake Tewaukon	3
Sargent	Silver Lake	3
Sargent	Sprague Lake	3
Sheridan	Hecker Lake	2
Sheridan	South McClusky Lake (Hoffer Lake)	2
Sioux	Froelich Dam	2
Slope	Cedar Lake	3
Slope	Davis Dam	2
Slope	Stewart Lake	3
Stark	Belfield Pond	1
Stark	Dickinson Dike	1
Stark	Patterson Lake	3
Steele	North Golden Lake	3
Steele	North Tobiason Lake	3
Steele	South Golden Lake	3
Stutsman	Arrowwood Lake	4
Stutsman	Bader Lake	3
Stutsman	Barnes Lake	3

COUNTY	LAKE	CLASSIFICATION
Stutsman	Clark Lake	3
Stutsman	Crystal Springs	3
Stutsman	Hehn-Schaffer Lake	3
Stutsman	Jamestown Reservoir	3
Stutsman	Jim Lake	4
Stutsman	Spiritwood Lake	3
Stutsman	Pipestem Reservoir	3
Towner	Armourdale Dam	2
Towner	Bisbee Dam	2
Walsh	Bylin Dam	3
Walsh	Homme Dam	3
Walsh	Matejcek Dam	3
Ward	Hiddenwood Lake	3
Ward	Makoti Lake	4
Ward	North-Carlson Lake	3
Ward	Rice Lake	3
Ward	Velva Sportsmans Pond	1
Wells	Harvey Dam	3

COUNTY	LAKE	CLASSIFICATION
Wells	Lake Hiawatha (Sykeston Dam)	4
Williams	Blacktail Dam	3
Williams	Cottonwood Lake	3
Williams	East Spring Lake Pond	3
Williams	Epping-Springbrook Dam	3
Williams	Iverson Dam	2
Williams	Kettle Lake	2
Williams	Kota-Ray Dam	1
Williams	McCleod (Ray) Reservoir	3
Williams	McGregor Dam	1
Williams	Tioga Dam	3
Williams	Trenton Lake	2
Williams	West Spring Lake Pond	3
	Lake Oahe	1
	Lake Sakakawea	1

APPENDIX III

MIXING ZONE AND DILUTION POLICY AND IMPLEMENTATION PROCEDURE

PURPOSE

This policy addresses how mixing and dilution of point source discharges with receiving waters will be addressed in developing chemical-specific and whole effluent toxicity discharge limitations for point source discharges. Depending upon site-specific mixing patterns and environmental concerns, some pollutants/criteria may be allowed a mixing zone or dilution while others may not. In all cases, mixing zone and dilution allowances shall be limited, as necessary, to protect the integrity of the receiving water's ecosystem and designated uses.

MIXING ZONES

Where dilution is available and the discharge does not mix at a near instantaneous and complete rate with the receiving water (incomplete mixing), an appropriate mixing zone may be designated. In addition, a mixing zone may only be designated if it is not possible to achieve chemical-specific standards and whole effluent toxicity objectives at the end-of-pipe with no allowance for dilution. The size and shape of a mixing zone will be determined on a case-by-case basis. At a maximum, mixing zones for streams and rivers shall not exceed one-half the cross-sectional area or a length 10 times the stream width at critical low flows, whichever is more limiting. Also, at a maximum, mixing zones in lakes shall not exceed 5 percent of lake surface area or 200 feet in radius, whichever is more limiting. Individual mixing zones may be limited or denied in consideration of designated beneficial uses or presence of the following concerns in the area affected by the discharge:

1) There is the potential for bioaccumulation in fish tissues or wildlife.
2) The area is biologically important, such as fish spawning/nursery areas.
3) The pollutant of concern exhibits a low acute to chronic ratio.
4) There is a potential for human exposure to pollutants resulting from drinking water use or recreational activities.
5) The effluent and resultant mixing zone results in an attraction of aquatic life to the effluent plume.
6) The pollutant of concern is extremely toxic and persistent in the environment.
7) The mixing zone would prohibit a zone of passage for migrating fish or other species (including access to tributaries).
8) There are cumulative effects of multiple discharges and their mixing zones.

Within the mixing zone designated for a particular pollutant, certain numeric water quality criteria for that substance may not apply. However, all mixing zones shall

meet the general conditions set forth in Section 33-16-02-08 of the State Water Quality Standards.

While exceedences of acute chemical specific numeric standards are not allowed within the entire mixing zone, a portion of the mixing zone (the zone of initial dilution or ZID) may exceed acute chemical-specific numeric standards established for the protection of aquatic life. The ZID shall be determined on a case-by-case basis where the statement of basis for the discharge permit includes a rationale for concluding that a zone of initial dilution poses no unacceptable risks to aquatic life. Acute whole effluent toxicity (WET) limits shall be achieved at the end-of-pipe with no allowance for a ZID.

DILUTION ALLOWANCES

An appropriate dilution allowance may be provided in calculating chemical-specific acute and chronic and WET discharge limitations where: 1) the discharge is to a river or stream, 2) dilution is available at low-flow conditions, and 3) available information is sufficient to reasonably conclude that there is near instantaneous and complete mixing of the discharge with the receiving water (complete mixing). The basis for concluding that such near instantaneous and complete mixing is occurring shall be documented in the statement of basis for the NDPDES permit. In the case of field studies, the dilution allowance for continuous dischargers shall be based on the critical low flow (or some portion of the critical low flow). The requirements and environmental concerns identified in the paragraphs above may be considered in deciding the portion of the critical low flow to provide as dilution. The following critical low flows shall be used for streams and effluents:

Stream Flows	
Aquatic life, chronic	4-day, 3-year flow (biologically based*)**
Aquatic life, acute	1-day, 3-year flow (biologically based)
Human health (carcinogens)	harmonic mean flow
Human health (non-carcinogens)	4-day, 3-year flow (biologically based) or 1-day, 3-year flow (biologically based)

Effluent Flows	
Aquatic life, chronic	Mean daily flow
Aquatic life, acute	Maximum daily flow
Human health (all)	Mean daily flow

* Biologically based refers to the biologically based design flow method developed by EPA. It differs from the hydrologically based design flow method in that it directly uses the averaging periods and frequencies specified in the aquatic life water quality criteria for individual pollutants and whole effluents for determining design flows.

** A 30-day, 10-year flow (biologically based) can be used for ammonia or other chronic standard with a 30-day averaging period.

For chemical-specific and chronic WET limits, an appropriate dilution allowance may also be provided for certain minor publicly owned treatment works (POTWs) where allowing such dilution will pose insignificant environmental risks. For acute WET limits, an allowance for dilution is authorized only where dilution is available and mixing is complete.

For controlled discharges, such as lagoon facilities that discharge during high ambient flows, the stream flow to be used in the mixing zone analysis should be the lowest statistical flow expected to occur during the period of discharge.

Where a discharger has installed a diffuser in the receiving water, all or a portion of the critical low stream flow may be provided as a dilution allowance. The determination shall depend on the diffuser design and on the requirements and potential environmental concerns identified in the above paragraphs. Where a diffuser is installed across the entire river/stream width (at critical low flow), it will generally be presumed that near instantaneous and complete mixing is achieved and that providing the entire critical low flow as dilution is appropriate.

OTHER CONSIDERATIONS

Where dilution flow is not available at critical conditions (i.e., the water body is dry), the discharge limits will be based on achieving applicable water quality criteria (i.e., narrative and numeric, chronic and acute) at the end-of-pipe; neither a mixing zone or an allowance for dilution will be provided.

All mixing zone dilution assumptions are subject to review and revision as information on the nature and impacts of the discharge becomes available (e.g., chemical or biological monitoring at the mixing zone boundary). At a minimum, mixing zone and dilution decisions are subject to review and revision, along with all other aspects of the discharge permit upon expiration of the permit.

For certain pollutants (e.g., ammonia, dissolved oxygen, metals) that may exhibit increased toxicity or other effects on water quality after dilution and complete mixing is achieved, the waste load allocation shall address such effects on water quality, as necessary, to fully protect designated and existing uses. In other words, the point of compliance may be something other than the mixing zone boundary or the point where complete mixing is achieved.

The discharge will be consistent with the Antidegradation Procedure.

IMPLEMENTATION PROCEDURE

This procedure describes how dilution and mixing of point source discharges with receiving waters will be addressed in developing discharge limitations for point source discharges. For the purposes of this procedure, a mixing zone is defined as a designated area or volume of water surrounding or downstream of a point

source discharge where the discharge is progressively diluted by the receiving water and numerical water quality criteria may not apply. Based on site-specific considerations, such a mixing zone may be designated in the context of an individual permit decision. Discharges may also be provided an allowance for dilution where it is determined that the discharge mixes with the receiving water in near instantaneous and complete fashion. Such mixing zones and allowances for dilution will be granted on a parameter-by-parameter and criterion-by-criterion basis as necessary to fully protect existing and designated uses.

The procedure to be followed is composed of six individual elements or steps. The relationship of the six steps and an overview of the mixing zone/dilution procedure is shown in Figure 1.

Step 1 - No Dilution Available During Critical Conditions

Where dilution flow is not available at critical low flow conditions, discharge limitations will be based on achieving applicable narrative and numeric water quality criteria at the end-of-pipe.

Step 2 - Dilution Categorically Prohibited for Wetland Discharges

Permit limitations for discharges to a wetland shall be based on achieving all applicable water quality criteria (i.e., narrative and numeric, chronic and acute) at end-of-pipe.

Step 3 - Procedure for Certain Minor POTWs

Minor POTWs that discharge to a lake or to a river/stream at a dilution greater than 50:1 qualify for this procedure. Minor POTWs with dilution ratios less than 50:1 may also qualify (at the discretion of the permit writer) where it can be adequately demonstrated that this procedure poses insignificant environmental risks. For the purposes of this procedure, the river/stream dilution ratio is defined as the chronic low flow of the segment upstream of the POTW discharge divided by the mean daily flow of the POTW. For controlled discharges from lagoon facilities (discharging during high flows), the river/stream dilution ratio is defined as the lowest upstream flow expected during the period of discharge divided by the mean daily flow of the discharge.

For minor POTWs that qualify for this procedure and discharge to lakes, the allowance for dilution for chemical-specific and chronic WET limits will be determined on a case-by-case basis. Dilution up to 19:1 (5 percent effluent) may be provided.

For minor POTWs that qualify for this procedure and discharge to a river/stream segment, dilution up to the full chronic aquatic life, acute aquatic life, and human health critical flows may be provided.

Step 4 - Site-Specific Risk Considerations

Where allowing a mixing zone or a dilution allowance would pose unacceptable environmental risks, the discharge limitations will be based on achieving applicable narrative and numeric water quality criteria at the end-of-pipe. The existence of environmental risks may also be the basis for a site-specific mixing zone or dilution allowance. Such risk determinations will be made on a case-by-case and parameter-by-parameter basis. These decisions will take into account the designated and existing uses and all relevant site-specific environmental concerns, including the following:

1. Bioaccummulation in fish tissues or wildlife
2. Biologically important areas such as fish spawning areas
3. Low acute to chronic ratio
4. Potential human exposure to pollutants resulting from drinking water or recreational areas
5. Attraction of aquatic life to the effluent plume
6. Toxicity/persistence of the substance discharged
7. Zone of passage for migrating fish or other species (including access to tributaries)
8. Cumulative effects of multiple discharges and mixing zones

Step 5 - Complete Mix Procedures

For point source discharges to rivers/streams where available data are adequate to support a conclusion that there is near instantaneous and complete mixing of the discharge with the receiving water (complete mix) the full critical low flow or a portion thereof may be provided as dilution for chemical-specific and WET limitations. Such determinations of complete mixing will be made on a case-by-case basis using best professional judgement. Presence of an effluent diffuser that covers the entire river/stream width at critical low flow will generally be assumed to provide complete mixing. Also, where the mean daily flow of the discharge exceeds the chronic low stream flow of the receiving water, complete mixing will generally be assumed. In addition, where the mean daily flow of the discharge is less than or equal to the chronic low flow of the receiving water, it will generally be assumed that complete mixing does not occur unless otherwise demonstrated by the permittee. Demonstrations for complete mixing should be consistent with the study plan developed in cooperation with the states/tribes and EPA Region VIII. Near instantaneous and complete mixing is defined as no more than a 10 percent difference in bank-to-bank concentrations within a longitudinal distance not greater than two river/stream widths. For controlled discharges (lagoon facilities), the test of near instantaneous and complete mixing will be made using the expected rate of effluent discharge and the lowest upstream flow expected to occur during the period of discharge.

The following critical low flows shall be applied for streams and effluents:

Stream Flows

Aquatic life, chronic	4-day, 3-year flow (biologically based*)**
Aquatic life, acute	1-day, 3-year flow (biologically based)
Human health (carcinogens)	Harmonic mean flow
Human health (non-carcinogens)	4-day, 3-year flow (biologically based) or 1-day, 3-year flow (biologically based)

Effluent Flows

Aquatic life, chronic	Mean daily flow
Aquatic life, acute	Maximum daily flow
Human health (all)	Mean daily flow

* Biologically based refers to the biologically based design flow method developed by EPA. It differs from the hydrologically based design flow method in that it directly uses the averaging periods and frequencies specified in the aquatic life water quality criteria for individual pollutants and whole effluents for determining design flows.

** A 30-day, 10-year flow (biologically based) can be used for ammonia or other chronic standard with a 30-day averaging period.

Where complete mixing can be concluded and the environmental concerns identified in step 4 do not justify denying dilution, but are nevertheless significant, some portion of the critical low flows identified above may be provided as dilution. Such decisions will take site-specific environmental concerns into account as necessary to ensure adequate protection of designated and existing uses.

Step 6 - Incomplete Mix Procedures

This step addresses point source discharges that exhibit incomplete mixing. Because acute WET limits are achieved at the end-of-pipe in incomplete mix situations, this step provides mixing zone procedures for chronic aquatic life, human health, and WET limits, and ZID procedures for acute chemical-specific limits. Where a ZID is allowed for chemical limits, the size of the ZID shall be limited as follows:

Lakes:	The ZID volume shall not exceed 10 percent of the volume of the chronic mixing zone.
Rivers and Streams:	The ZID shall not exceed 10 percent of the chronic mixing zone volume or flow, nor shall the ZID exceed a maximum downstream length of 100 feet, whichever is more restrictive.

The following provides guidelines for determining the amount of dilution available for dischargers that exhibit incomplete mixing.

Default Method

This method addresses situations where information needed for modeling is not available or there are concerns about potential environmental impacts of allowing a mixing zone. The default method provides a conservative dilution allowance.

Stream/River Dischargers: Dilution calculation which uses up to 10 percent of the critical low flow for chronic aquatic life limits or human health limits. However, this allowance may be adjusted downward on a case-by-case basis depending upon relevant site-specific information, designed and existing uses of the segment, and especially the uses of the segment portion affected by the discharge.

Lake/Reservoir Dischargers: Dilution up to 4:1 ratio (20 percent effluent) may be provided for chronic aquatic life analyses or human health analyses. However, this allowance may be adjusted downward on a case-by-case basis depending upon discharge flow, lake size, lake flushing potential, designated and existing uses of the lake, and uses of the lake portion affected by the discharge.

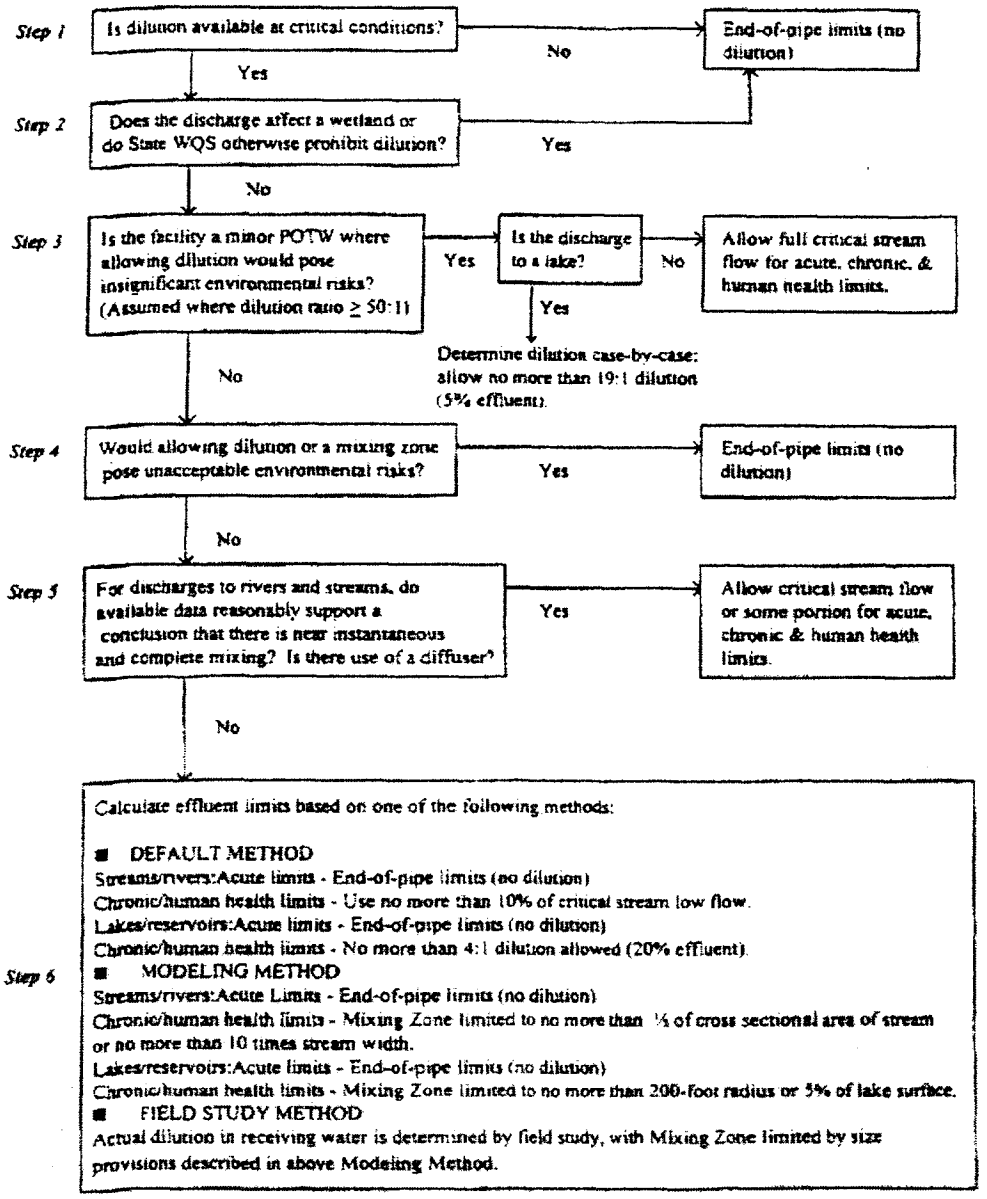
Modeling Method

An appropriate mixing zone model is used to calculate the dilution flow that will allow mixing zone limits to be achieved at the critical low flow. Prior to initiating modeling studies, it should be determined that compliance with criteria at the end-of-pipe is not practicable.

Field Study Method

Field studies which document the actual mixing characteristics in the receiving water are used to determine the dilution flow that will allow mixing zone size limits to be achieved at the critical low flow. For the purposes of field studies, "near instantaneous and complete mixing" is operationally defined as no more than a 10 percent difference in bank-to-bank concentrations within a longitudinal distance not greater than two stream/river widths.

FIGURE 1
NORTH DAKOTA MODEL MIXING ZONE/DILUTION PROCEDURE*



* This procedure is applied to both chemical-specific and WET limits. In the case of complex discharges, the dilution or mixing zone may vary parameter-by-parameter.

APPENDIX IV

NORTH DAKOTA ANTIDEGRADATION PROCEDURE

I. INTRODUCTION

This antidegradation implementation procedure delineates the process that will be followed by the North Dakota State Department of Health for implementing the antidegradation policy found in the Standards of Water Quality for the State of North Dakota, Rule 33-16-02.

Under this implementation procedure, all waters of the state are afforded one of three different levels of antidegradation protection. All existing uses, and the water quality necessary for those uses, shall be maintained and protected. Antidegradation requirements are necessary whenever a regulated activity is proposed that may have some effect on water quality. Regulated actions include permits issued under Section 402 (NDPDES) and 404 (Dredge and Fill) of the Clean Water Act (CWA), and any other activity requiring Section 401 water quality certification. Nonpoint sources of pollution are not included. When reviewing 404 nationwide permits, the department will issue 401 certifications only where it determines that the conditions imposed by such permits are expected to result in attainment of the applicable water quality standards, including the antidegradation requirements. However, it is anticipated that the department will exclude certain nationwide permits from the antidegradation procedures for Category 1 waters on the basis that the category of activities covered by the permit is not expected to have significant permanent effects on the quality and beneficial uses of those waters, or the effects will be appropriately minimized and temporary.

II. EXISTING USE PROTECTION FOR CATEGORY 1, 2, AND 3 WATERS

Existing use means a use that was actually attained in the water body on or after 1967, whether or not it is included in the water quality standards. This procedure presumes that attainment of the criteria assigned to protect the current water body classification will serve to maintain and protect all existing uses. However, where an existing use has water quality requirements that are clearly defined, but are not addressed by the current classification and criteria, the department will ensure that such existing uses are protected fully, based on implementation of appropriate numeric or narrative water quality criteria or criteria guidance. In some cases, water quality may have improved in the segment since the classification was assigned, resulting in attainment of a higher use. In other cases, the classification may have been assigned based on inadequate information, resulting in a classification that does not describe or adequately protect actual uses of the segment. In such cases, the department will develop

requirements necessary to protect the existing uses and, where appropriate, recommend reclassification of the segment.

III. ANTIDEGRADATION REVIEW PROCEDURE

The department will complete an antidegradation review for all proposed regulated activities. The findings of these reviews will be summarized using an antidegradation worksheet. A statement of basis for all conclusions will be attached to the completed worksheet. The level of detail of the review will depend upon the antidegradation protection applicable to the various classes of water.

In conducting an antidegradation review, the Division of Water Quality will sequentially apply the following steps:

A. Determine which level of antidegradation applies.

B. Determine whether authorizing the proposed regulated activity is consistent with antidegradation requirements.

C. Review existing water quality data and other information submitted by the project applicant.

D. Determine if additional information or assessment is necessary to make a decision.

E. A preliminary decision is made by the department and subsequently distributed for public participation and intergovernmental coordination.

- The content of public notices will be determined case by case. In preparing a public notice, the department may address: a) the department's preliminary antidegradation review conclusions; b) a request for public input on particular aspects of the antidegradation review that might be improved based on public input (e.g., existing uses of a segment that needs to be protected); c) notice of the availability of the antidegradation review worksheet; d) notice of the availability of general information regarding the state antidegradation program; and e) a reference to the state antidegradation policy.

- The antidegradation review findings will be available for public comment; however, publication of a separate notice for purposes of antidegradation is not necessary. For example, the antidegradation preliminary findings may be included in the public notice issued for purposes of an NDPDES permit or CWA § 401 certification.

The department will ensure appropriate intergovernmental coordination on all antidegradation reviews. At a minimum, the department will provide copies of the completed antidegradation review worksheet and/or the public notice to appropriate local, state, and federal government agencies, along with a written request to provide comments by the public comment deadline.

F. Comments are considered.

G. The department determines if the change in quality is necessary to accommodate important economic or social development.

H. The department makes a final decision.

The level of antidegradation protection afforded each water body in the state is consistent with beneficial uses of those water bodies. Appendix I and Appendix II of the Standards of Water Quality for the State of North Dakota identify rivers, streams, and lakes in the state with their classification. The classification shall be consistent with the following categories:

Category 1: Very high level of protection that automatically applies to Class I and Class IA streams and Class I, II, and III lakes, and wetlands that are functioning at their optimal level. In addition, Category 1 is presumed to apply to Class II and Class III streams. Particular Class II and Class III streams may be excluded from Category 1 if, at the time of the antidegradation review, it is determined that one or both of the following criteria are applicable: 1) there is no remaining assimilative capacity for any of the parameters that may potentially be affected by the proposed regulated activity in the segment in question, or 2) an evaluation submitted by the project applicant demonstrates (based on adequate and representative chemical, physical, and biological data) that aquatic life and primary contact recreation uses are not currently being attained because of stressors that will require a long-term effort to remedy. Evaluations in response to Criterion #2 must include more than an identification of current water quality levels. They must include evidence of the current status of the aquatic life and primary contact recreation uses of the segment.

Category 2: Class IV and Class V lakes and particular wetlands after antidegradation review. In addition, Class II and Class III streams or wetlands meeting one of the criteria identified above at the time of the antidegradation review shall be included in Category 2.

Category 3: Highest level of protection; Outstanding State Resource Waters.

Public Service Commission
Receipt of Payment

Receipt# 7038

Received: 12/5/2007 Check# 15210 for $72.16

Docket # PU-06-421

Subject: 11/08 Open Records Copies

Duncan Ostrander & Dingess
3600 S Yosemite St #500
Denver CO 80237

315 **PU-06-421** Pages: 1

Receipt# 7,038 $72.16 11/08 Open Records Copies
by Duncan Ostrander & Dingess

12/05/2007

Public Service Commission
State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona 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

November 19, 2007

Todd D. Kranda, Esq.
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan, ND 58554-1266

John M. Dingess
Special Counsel to the City of Fargo
Duncan Ostrander & Dingess, PC
3600 South Yosemite Street, Suite 500
Denver, CO 80237-1829

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

Mark Novak
PO Box 122
Lankin, ND 58250

Erik R. Johnson
Attorney to the City of Fargo
Erik R. Johnson & Associates
505 Broadway Street North, Suite 206
Fargo, ND 58102

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

Ramona Klein
3340 123rd Avenue SE
Oriska, ND 58663

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

Re: TransCanada Keystone Pipeline, LP
Case No. 06-421
Route Corridor & Route Permit Applications

Dear Sirs/Madams:

On November 15, 2007 the applicant requested copies of the docket sheets in the captioned case as well as copies of all docketed items subsequent to October 30, 2007. Since the letter does not indicate that a copy of the request letter was sent to all intervenors, a copy is included with this mailing. Also included in this mailing are the copies of the docket and the docketed items requested by the applicant.

Please note that in a previous mailing dated November 7, 2007, Notice of Intent to Consider Materials Not Considered at Previous Hearing, the intervenors received a large packet of materials which was subsequently docketed to our file as item number 248. Because item 248 contains a variety of documents with many docket numbers, it has been set apart in its entirety by blue slip sheets in an effort to avoid confusing the reader.

If you have questions or need additional information, please contact me.

Best regards,

Illona Jeffcoat-Sacco
Executive Director
Director, Public Utilities Division

Enclosure

PU-06-421
Open

TransCa .a Keystone Pipeline, LP
30-Inch Crude Oil Pipeline/Cavalier to Sargent Cty
Siting Application Filed 9/22/2006
Kevin Cramer Patrick J. Fahn

273 11/15/2007 Letter re Concerns re Pipeline Impacts on Water Quality
Public Service Commission
ByLake Agassiz Water Authority
Exhibit: Pages 2 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\273.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

272 11/16/2007 Letter Requesting Docket & Documents
Kelsch Kelsch Ruff & Kranda
By
Exhibit: Pages 1 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\272.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

271 11/16/2007 Email from Richard Starke Requesting Intervenor Status
Public Service Commission
ByWefald
Exhibit: Pages 1 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\271.doc
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270 11/8/2007 Emails to NDNA to Request/Confirm Publication w Notice of Expedited Hearing
Public Service Commission
By
Exhibit: Pages 6 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\270.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

269 11/14/2007 Affidavit of Service w Order for Expedited Hearing
Public Service Commission
By
Exhibit: Pages 4 Certified 0

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\\Regulator\Case Mgmt\OrderLib\2006\060421\

268 11/14/2007 Letter & Request for Prehearing Conference
Kelsch Kelsch Ruff & Kranda
By:
Exhibit: Pages 3 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\268.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

267 11/9/2007 Fax of Return to Notice of Withdrawal
Kelsch Kelsch Ruff & Kranda
By:
Exhibit: Pages 8 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\267.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

266 11/8/2009 Notice of Further Hearing on Expedited Time Frame
Public Service Commission
By:
Exhibit: Pages 1 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\266.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

265 11/9/2007 Original of Notice of Withdrawal
Rinke Noonan Attorneys at Law
By TransCanada Keystone Pipeline, LP
Exhibit: Pages 5 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\265.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

264 11/13/2007 Affidavit of Service Notice of Intent-Notice of Expedited
Public Service Commission
By:
Exhibit: Pages 2 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\264.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

263 11/9/2007 Affidavit of Service by Certified & Registered Mail
Public Service Commission
By:
Exhibit: Pages 2 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\263.doc
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262 11/8/2007 Affidavit of Service by Certified & Registered Mail
Public Service Commission
By:
Exhibit: Pages 2 Certified 0

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261 11/8/2007 Motion to Issue Notice of Further Hearing on Expedited Time Frame
Public Service Commission
By:
Exhibit: Pages 1 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\261.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

260 11/7/2007 Affidavit of Service by Certified & Registered Mail
Public Service Commission
By:
Exhibit: Pages 2 Certified 0

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\\Regulator\Case Mgmt\OrderLib\2006\060421\

259 11/7/2007 Motion to Adopt Order to Intervene and Repoen
Public Service Commission
By:
Exhibit: Pages 1 Certified 0

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\\Regulator\Case Mgmt\OrderLib\2006\060421\

258 11/9/2007 Letter, Return to Notice of Withdrawal & Affidavit
Kelsch Kelsch Ruff & Kranda
By:
Exhibit: Pages 6 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\258.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

257 11/8/2007 Order for Hearing on Expedited Notice
Public Service Commission
By:
Exhibit: Pages 2 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\257.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

256 11/13/2007 Letter re Court Reporter for Nov 27-27 Hearing
Kelsch Kelsch Ruff & Kranda
By:
Exhibit: Pages 1 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\256.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

255 11/6/2007 Letter Opposing Reopening Hearings
Public Service Commission
By Cavalier County Commission
Exhibit: Pages 1 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\255.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

254 11/8/2007 Motion to Adopt Order for Hearing on Expedited Notice
Public Service Commission
By:
Exhibit: Pages 1 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\254.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

253 11/8/2007 Motion to Issue Notice of Further Hearing on Expedited Time Frame
Public Service Commission
By:
Exhibit: Pages 1 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\253.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

252 11/9/1997 Notice of Further Hearing on Expedited Time Frame
Public Service Commission
By:
Exhibit: Pages 1 Certified 0

251 11/9/2007 Fax of Notice to Withdraw from Case
Rinke Noonan Attorneys at Law
By:
Exhibit: Pages 5 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\251.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

250 11/7/2007 Orders on Motion to Intervene and Reopen
Public Service Commission
By:
Exhibit: Pages 9 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\250.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

249 11/6/2007 Notice of Prehearing Conference & Affidavit
Public Service Commission
By ALJ Al Wahl
Exhibit: Pages 2 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\249.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

PU-06-421
Open

TransCa. .a Keystone Pipeline, LP
30-Inch Crude Oil Pipeline/Cavalier to Sargent Cty
Siting Application Filed 9/22/2006
Kevin Cramer Patrick J. Fahn

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248 11/7/2007 Motion & Notice of Intent to Consider Information Not Presented At Hearing
Public Service Commission
By:
Exhibit: Pages 95 Certified 0

W

\\Regulator\Case Mgmt\Orderlib\2006\060421\248.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

247 11/8/2007 Original Letter re Scheduling of Hearing
Public Service Commission
By City of Fargo
Exhibit: Pages 2 Certified 0

W

\\Regulator\Case Mgmt\Orderlib\2006\060421\247.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

246 11/8/2007 Email from ALJ to Capp re Atty Delaney Withdrawal from Case
Public Service Commission
By Al Wahl
Exhibit: Pages 1 Certified 0

W

\\Regulator\Case Mgmt\Orderlib\2006\060421\246.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

245 11/8/2007 Email from ALJ Wahl to Atty Delaney re Withdrawal From Case
Public Service Commission
By:
Exhibit: Pages 1 Certified 0

W

\\Regulator\Case Mgmt\Orderlib\2006\060421\245.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

244 11/7/2007 Letter re Scheduling of Hearing
Public Service Commission
By City of Fargo
Exhibit: Pages 2 Certified 0

W

\\Regulator\Case Mgmt\Orderlib\2006\060421\244.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

243 11/6/2007 Letter to Cramer re Reopening of Hearings
Kelsch Kelsch Ruff & Kranda
By Kranda
Exhibit: Pages 3 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\243.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

242 11/6/2007 Letter to Wefald re Reopening of Hearings
Kelsch Kelsch Ruff & Kranda
By Kranda
Exhibit: Pages 3 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\242.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

241 11/6/2007 Letter to Clark re Reopening Hearings
Kelsch Kelsch Ruff & Kranda
By Kranda
Exhibit: Pages 3 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\241.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

240 11/6/2007 Original Response to Supp Objection/Motion for Intervention/Motion to Reopen
Public Service Commission
By City of Fargo
Exhibit: Pages 6 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\240.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

239 11/2/2007 Letter re Concerns/Use of Thinner Material on Pipeline & Route
Public Service Commission
By Capp
Exhibit: Pages 2 Certified 0

\\Regulator\Case Mgmt\Orderlib\2006\060421\239.doc
\\Regulator\Case Mgmt\OrderLib\2006\060421\

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 15, 2007

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

RECEIVED
NOV 16 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Re: TransCanada - Keystone Pipeline Project
Corridor Certificate and Route Permit Applications
Case No: PU-06-421
OAH File No. 20070181

Dear Ms. Jeffcoat-Sacco:

This letter is to request a copy of the updated Docket Sheets for the Corridor Certificate and Route Permit Application file as referenced above. The last set of Docket Sheets were current through entry no. 244 as of October 30, 2007.

In addition, please forward a copy of any letter or other documents that have been filed since the last update through October 30, 2007 .

If you have any questions, please feel free to contact Thomas D. Kelsch or me.

Sincerely,

Todd D. Kranda

Todd D. Kranda

TK:ls
c: TransCanada Keystone
Erik Johnson, Esq. (Fax 1-701-280-1902)
Nicholas Delaney, Esq. (Fax 1-370-656-3500)

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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DANIEL NAGLE
*Also Licensed in Minnesota

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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 30, 2007

RECEIVED
DEC - 3 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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:

This letter is to request copies of any documents that have been received by the Public Service Commission and placed into the Public Input File regarding the Keystone Pipeline Project since October 31, 2007 through the hearings that took place November 27 and 28, 2007.

I am also enclosing an Affidavit of Service which indicates that this request letter is being provided to Attorney Erik Johnson who is legal counsel for the City of Fargo, Attorney Jana Linderman who is legal counsel of record for the Intervenors of Dakota Resource Council et al as well as to Intervenors John and Janie Capp.

If you have any questions, please feel free to contact Thomas D. Kelsch or me.

Sincerely,

Todd D. Kranda

TK:ls
Enc
c: TransCanada Keystone

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)

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

That on the 30 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:

November 30, 2007 request letter for Documents from the Public Input File since October 31, 2007 through the hearings that took place November 27 and 28, 2007

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

JANA LINDERMAN
ATTORNEY AT LAW
100 1st STREET SW
CEDAR RAPIDS IA 52404

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

Lori Spencer
LORI SPENCER

Subscribed and sworn to before me this 30 day of November, 2007.

Mary Kay Duchsherer
Notary Public, State of North Dakota

(SEAL)

MARY KAY DUCHSHERER
Notary Public
State of North Dakota
My Commission Expires May 11, 2009

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

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

Case No. PU-06-421

AFFIDAVIT OF SERVICE BY REGISTERED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Lisa Zeimer deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **3rd day of December, 2007,** she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with registered postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

MOTION TO EXTEND TIME FOR DESIGNATION OF CORRIDOR AND ROUTE
ORDER DENYING INTERVENTION
ORDER DENYING MOTION TO CONTINUE HEARINGS

The envelope was addressed as follows:

Dean Cowling, Project Manager
Keystone TransCanada Pipelines Limited
PO Box 1000, Station M
450 First Street SW
Calgary, Alberta
CANADA T2P 5H1

Registered No. RR 047 608 690 US

This mailing replaces the exact item mailed on November 30, 2007, Registered No. RR 047 608 709 which was returned undelivered by the post office.

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

Subscribed and sworn to before me
this **3rd day of December, 2007**

SEAL

SHELLY A BAUSKE
Notary Public
State of North Dakota
My Commission Expires July 22, 2010

Notary Public

312 PU-06-421

Pages: 1

Affidavit Replacement Mailing to Cowling @ TransCanada
by Public Service Commission
11/03/2007

Name and Address of Sender

PSC

Check type of mail or service:

- ☐ Certified
- ☐ COD
- ☐ Delivery Confirmation
- ☐ Express Mail
- ☐ Insured
- ☐ Recorded Delivery (International)
- ☑ Registered
- ☐ Return Reciept for Mechandise
- ☐ Signature Confirmation

Affix Stamp Here (If issued as a certificate of mailing, or for additional copies of this bill) Postmark and Date of Receipt

Article Appears to have been opened And resealed. Refused for dispatch

Line	Article Number	Addressee Name, Street, and PO Address	Postage	Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	DC Fee	SC Fee	SH Fee	RD Fee	RR Fee
1	RR047608709US	DEAN COWLING											
2		TRANSCANADA PIPELINES											
3		PO BOX 1000											
4		STATION M											
5		450 1ST ST SW											
6		CALGARY, ALBERTA											
7		CANADA T2P 5H1											
8													
9													
10													
11													
12													
13													
14													
15													

Delivery Confirmation | Signature Confirmation | Special Handling | Restricted Delivery | Return Receipt

BISMARCK ND NOV 30 2007 USPS 58504-9997

BISMARCK ND NOV 30 2007 REGISTRY

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1

Postmaster, Per (Name of receiving employee)

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is $500 per piece subject to additional limitations for multiple pieces lost or damages in a single catastrophic occurrence. The maximum indemnity payable on Express Mail merchandise insurance is $500, but optional Express Mail Service merchandise insurance is available for up to $5,000 to some, but not all countries. The maximum indemnity payable is $25,000 for registered mail. See *Domestic Mail Manual* R900, S913, and S921 for limitations of coverage on insured and COD mail. See *International Mail Manual* for limitations of coverage on international mail. Special handling charges apply only to Standard Mail (A) and Standard Mail (B) parcels.

PS Form **3877**, August 2000

Complete by Typewriter, Ink, or Ball Point Pen

Refused for dispatch:- Article opened And resealed
PS Form 3877 Not completed.

Take resistered mail to Post Office.

Pages: 3

311 PU-06-421

Returned Affidavit Docket 309 Mailed to Cowling @ Keystone Canada

Public Service Commission
State of North Dakota

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

United States Postal Service
REGISTERED MAIL

RR 047 608 709 US

Label 200, July 1999 (102595) 99-M-1904

Dean Cowling, Project Manager
TransCanada Pipeline Limited
PO Box 1000, Station M
450 First Street SW
Calgary Alberta
CANADA T2P 5H1

RETURN RECEIPT REQUESTED

UNITED STATES POSTAGE
PITNEY BOWES
$15.30
02 1A
0004367783 NOV 30 2007
MAILED FROM ZIP CODE 58505

Completed by the office of origin. (*A remplir par le bureau d'origine.*)	Item Description (*Nature de l'envoi*)	☑ Registered Article (*Envoi recommandé*)	☐ Letter (*Lettre*)	☐ Printed Matter (*Imprimé*)	☐ Other (*Autre*)
		☐ Recorded Delivery (*Envoi à livraison attestée*)	☐ Express Mail International		
	☐ Insured Parcel (*Colis avec valeur déclarée*)	Insured Value (*Valeur déclarée*)	Article Number RR 047 608 709 US		
	Office of Mailing (*Bureau de dépôt*)		Date of Posting (*Date de dépôt*) 30 November 2007		
	Addressee Name or Firm (*Nom ou raison sociale du destinataire*) Dean Cowling, Keystone TransCanada Pipelines Limited				
	Street and No. (*Rue et No.*) PO Box 1000, Station M, 450 1st Street SW				
	Place and Country (*Localité et pays*) Calgary, Alberta, CANADA T2P 5H1				
Completed at destination. (*A compléter à destination.*)	This receipt must be signed by: (1) the addressee; or, (2) a person authorized to sign under the regulations of the country of destination; or, (3) if those regulations so provide, by the employee of the office of destination. This signed form will be returned to the sender by the first mail. (*Cet avis doit être signé par le destinataire ou par une personne y autorisée en vertu des règlements du pays de destination, ou, si ces règlements le comportent, par l'agent du bureau de destination, et renvoyé par le premier courrier directement à expéditeur*).				Postmark of the office of destination (*Timbre du bureau de destination*)
	☐ The article mentioned above was duly delivered. (*L'envoi mentionné ci-dessus a été dûment livré.*)		Date		
	Signature of Addressee (*Signature du destinataire*)	Office of Destination Employee Signature (*Signature de l'agent du bureau du destination*)			

PS Form **2865**, February 1997 (*Reverse*) 06-421

supervisor or manager who is knowledgeable in registry procedures and regulations.

The performance cluster registry coordinator is responsible for the following:

a. Coordinate all registry activities.

b. Prepare standard operating procedures.

c. Coordinate security matters with the security control officer.

d. Arrange for training for employees who handle Registered Mail functions [e.g., mail acceptance, rates and classification, processing and distribution, Collect on Delivery (COD), transfer of Registered Mail].

e. Ensure that yearly audits are conducted at the processing and distribution center/facility and airport mail center/facility registry operations within each performance cluster.

f. Ensure that all registry procedures comply with current official guidelines.

1-1.2 Description

1-1.2.1 Purpose

Registered Mail provides added protection for valuable and important customer and internal mail with evidence of mailing and delivery. Postal insurance is provided against loss, damage, or rifling up to $25,000. Postal insurance for international mail is limited (see IMM 934.2).

1-1.2.2 Eligibility

All mailable matter may be registered if postage is prepaid at the First-Class™ or Priority Mail® rates or International Letter post rates and it meets the requirement stated in Chapters 1 and 2 of this handbook.

1-1.2.3 Prohibitions

Mail may not be registered if it is:

a. Placed in a street letterbox or a mail drop in a public building, Post Office™, or self-service postal unit.

b. Addressed to a Post Office to which it cannot be transported safely.

c. Prepared improperly or packaged inadequately to withstand normal handling.

d. Tied or fastened to another article, unless enclosed in the same envelope or wrapper.

e. Contained in an envelope or package that appears to have been opened or resealed.

f. Presented in a padded bag or self-sealing envelope. (***Exception:*** Padded bags are permitted for international registered articles.)

g. Placed in an envelope or mailer manufactured of plastic, glossy paper, spun-bonded olefin, (e.g.,Tyvek), or substances that will not absorb an ink seal (see DMM 911.14 and 911.36).

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

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

Case No. PU-06-421

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Lisa Zeimer deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **3rd day of December, 2007,** she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

MOTION TO EXTEND TIME FOR DESIGNATION OF CORRIDOR AND ROUTE
ORDER DENYING INTERVENTION
ORDER DENYING MOTION TO CONTINUE HEARINGS

The envelope was addressed as follows:

Matthew Shimanek, Esq.
Hammarback, Dusek & Associates
712 DeMers Avenue
PO Box 4
East Grand Forks, MN 56721

Certified No. 7007 2560 0001 6057 8169

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

Subscribed and sworn to before me
this **3rd day of December, 2007**

Notary Public

SEAL

CHARLENE A MAGSTADT
Notary Public
State of North Dakota
My Commission Expires Jan 7, 2010

310 PU-06-421

Pages: 11

Affidavit to Shimanek Same as Docket 309

by Public Service Commission
12/03/2007

APPROVED
DATE: 11-27-07

MOTION

November 27, 2007

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

Case No. PU-06-421

I move the Commission for just cause extend the time for designation of a corridor and a route to a date to be determined at a future time in TransCanada Keystone Pipeline, LP's application to construct a 30-inch crude petroleum pipeline in Cavalier to Sargent Counties, Case No. PU-06-421.

WWB

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 DENYING INTERVENTION

November 27, 2007

Background

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 (Keystone Pipeline) in Cavalier, Pembina, Walsh, Nelson, Steele, Barnes, Ransom, and Sargent Counties of North Dakota, Case No. PU-06-421.

On November 15, 2007 Richard Starke filed a request to intervene in the captioned proceeding. Starke states on his request that he would like to be awarded intervenor 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 . . . ." Mr. Starke does not state what he would contribute to the hearing.

On November 20, 2007, TransCanada filed an objection to the request. TransCanada states that the initial hearings in the proceeding where held on July 23 and 24, 2007 and continued on September 5 and 6, 2007, and that Starke had notice of those hearings and appeared and participated in the hearings in Valley City and Bismarck. He now seeks to intervene in the reopened record 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." TransCanada states that the request was not filed ten (10) days before the hearings and that the request is in direct violation of Section 69-02-02-05 of the North Dakota Administrative Code.

TransCanada argues that Starke has not demonstrated good cause for his late and untimely request to intervene in this proceeding. TransCanada asserts that Starke has not alleged that material changes in fact or law have occurred since the prior hearings. TransCanada also asserts that Starke is not affected by the limited issue involved in the reopened proceeding.

Discussion

Section 69-02-02-05 of the North Dakota Administrative code provides in part that "[a]ny person with a substantial interest in a proceeding may petition to intervene in that proceeding by complying with this section. An intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding, and intervention would not unduly broaden the issues or delay the proceeding."

Subsection 1 of section 69-02-02-05 states in part that the petition to intervene must set forth the grounds for intervention and what the petitioner would contribute to the hearing.

The issues that have been established for this reopened proceeding are 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. Mr. Starke has appeared and has testified as a landowner and member of the public in the previous hearings held in Valley City and Bismarck. Mr. Starke is not a resident of the City of Fargo and has not shown that he has any interest in the limited issues of this reopened proceeding. Mr. Starke has repeatedly sent rude, sarcastic and inflammatory e-mail messages to the Commissioners.

We find that Mr. Starke's request fails to set forth any grounds for intervention and fails to state what he would contribute to the hearing. We also find that Mr. Starke's request for intervention is untimely and unnecessary, and would likely unduly broaden the issues or delay the proceeding.

Order

The Commission orders that the request for intervention filed by Richard Starke is DENIED.

PUBLIC SERVICE COMMISSION

Tony Clark	**Susan E. Wefald**	**Kevin Cramer**
Commissioner	**President**	**Commissioner**

DISSENTING OPINION
Commissioner Susan E. Wefald

November 27, 2007

TransCanada Keystone Pipeline
30-Inch Crude Oil Pipeline/
Cavalier to Sargent County
Siting Application

Case No. PU-06-421

I concur with the Commission's order to deny Mr. Starke intervention. However, the main reason I would deny Mr. Starke intervention is not mentioned in this order. Mr. Starke has not petitioned to intervene in this case in a timely manner. On November 7 I voted to deny late intervention to the City of Fargo for important procedural reasons, and these same procedural issues make it important to deny late intervention to Mr. Starke today.

Also, the present order lists a number of reasons Mr. Starke should be denied intervention. I agree with all of these reasons except for two. I do not agree that Mr. Starke should be denied intervention status because he is not a citizen of the city of Fargo. The Commission has granted intervention to other people who are not citizens of Fargo in this case. I also do not agree that Mr. Starke should not be granted intervention because he has written threatening communications to the Commission. Although it is unfortunate that Mr. Starke has not controlled his behavior in this regard, his behavior does not relate to his right to be granted or denied intervention.

Susan E. Wefald, Commissioner

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.

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 Intervenors, 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 Intervenors want 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 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.

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 Intervenors; 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 Intervenors 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 it 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 Intervenors 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 Intervenors' 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 Intervenors 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 Intervenors, 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 Intervenors 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 Intervenors 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**

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

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

Case No. [redacted]

TransCanada Keystone Pipeline, LP
Keystone Pipeline
Public Convenience & Necessity

Case No. PU-07-152

AFFIDAVIT OF SERVICE BY REGULAR MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Shelly A. Bauske deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **28th day of November, 2007**, she deposited 1 envelope in the United States Mail, Bismarck, North Dakota, postage fully prepaid, securely sealed containing a photocopy of:

Order on Motion to Intervene and Reopen
Order for Hearing on Expedited Notice (PU-06-421)
Notice of Further Hearing on Expedited Time Frame (PU-06-421)

The envelope was addressed as follows:

Michael Montplaisir
Cass County Auditor
PO Box 2806
Fargo ND 58108-2806

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

Shelly A Bauske

Subscribed and sworn to before me
this **28th day of November, 2007**

Notary Public

309 PU-06-421 Pages: 2

Affidavit Resend Docs to Montplaisir Cass County
by Public Service Commission
11/28/2007

CHARLENE A MAGSTADT
Notary Public
State of North Dakota
My Commission Expires Jan 7, 2010

PUBLIC SERVICE COMMISSION
600 E BOULEVARD AVE
DEPT 408
BISMARCK ND 58505-0480

NOV 26 2007

PUBLIC SERVICE COMMISSION

Michael Montplaisir
Cass County Auditor
PO Box 2806
Fargo ND 58108-2806

RETURNED FOR LACK OF POSTAGE = - Resent 11/28/07 -

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

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

Case No. PU-06-421

AFFIDAVIT OF SERVICE BY CERTIFIED & REGISTERED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Lisa Zeimer deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **30th day of November, 2007,** she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with registered postage and **thirteen** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

MOTION TO EXTEND TIME FOR DESIGNATION OF CORRIDOR AND ROUTE
ORDER DENYING INTERVENTION
ORDER DENYING MOTION TO CONTINUE HEARINGS

The envelopes were addressed as follows:

Todd Kranda
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan, ND 58554-1266

Certified No. 7007 0710 0003 6056 8969

Thomas D. Kelsch, Esq.
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan, ND 58554-1266

Certified No. 7007 0710 0003 6056 8952

Gary R. Leistico, Esq.
Rinke Noonan, Attorneys at Law
1015 West Germain Street #300
PO Box 1497
St. Cloud, MN 56302-1497

Certified No. 7007 0710 0003 6056 8945

Nicholas Delaney, Esq.
Rinke Noonan, Attorneys at Law
1015 West Germain Street #300
PO Box 1497
St. Cloud, MN 56302-1497

Certified No. 7007 0710 0003 6056 8938

APPROVED
DATE: 11-27-07

MOTION

November 27, 2007

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

Case No. PU-06-421

I move the Commission for just cause extend the time for designation of a corridor and a route to a date to be determined at a future time in TransCanada Keystone Pipeline, LP's application to construct a 30-inch crude petroleum pipeline in Cavalier to Sargent Counties, Case No. PU-06-421.

WWB

Lynn Wolff
Dakota Resource Council
118 Broadway Street North #801
Fargo, ND 58102

Certified No. 7007 0710 0003 6056 8921

Erik R. Johnson, Esq.
Erik R. Johnson & Associates
505 Broadway Street North #206
Fargo, ND 58102

Certified No. 7007 0710 0003 6056 8914

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

Certified No.7007 0710 0003 6056 8907

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

Certified No.7007 0710 0003 6056 8976

Ramona Klein
3340 123rd Avenue SE
Oriska, ND 58663

Certified No.7007 0710 0003 6056 8853

Mark Novak
PO Box 122
Lankin, ND 58250

Certified No.7007 0710 0003 6056 8891

John M. Dingess, Esq.
Duncan Ostrander & Dingess PC
3600 South Yosemite Street #500
Denver, CO 82037-1829

Certified No.7007 0710 0003 6056 8884

Patricia Madsen, Esq.
Duncan Ostrander & Dingess PC
3600 South Yosemite Street #500
Denver, CO 82037-1829

Certified No.7007 0710 0003 6056 8877

Jana Linderman, Esq.
Plains Justice
100 First Street SW
Cedar Rapids, IA 52404

Certified No. 7007 0710 0003 6056 8860

Dean Cowling, Project Manager
Keystone TransCanada Pipelines Limited
PO Box 1000, Station M
450 First Street SW
Calgary, Alberta
CANADA T2P 5H1

Registered No. RR 047 608 709 US

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

Subscribed and sworn to before me
this **30th day of November, 2007**

Notary Public

SEAL

ESTHER JANGULA
Notary Public
State of North Dakota
My Commission Expires Dec. 21, 2012

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 DENYING INTERVENTION

November 27, 2007

Background

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 (Keystone Pipeline) in Cavalier, Pembina, Walsh, Nelson, Steele, Barnes, Ransom, and Sargent Counties of North Dakota, Case No. PU-06-421.

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TransCanada argues that Starke has not demonstrated good cause for his late and untimely request to intervene in this proceeding. TransCanada asserts that Starke has not alleged that material changes in fact or law have occurred since the prior hearings. TransCanada also asserts that Starke is not affected by the limited issue involved in the reopened proceeding.

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Subsection 1 of section 69-02-02-05 states in part that the petition to intervene must set forth the grounds for intervention and what the petitioner would contribute to the hearing.

The issues that have been established for this reopened proceeding are 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. Mr. Starke has appeared and has testified as a landowner and member of the public in the previous hearings held in Valley City and Bismarck. Mr. Starke is not a resident of the City of Fargo and has not shown that he has any interest in the limited issues of this reopened proceeding. Mr. Starke has repeatedly sent rude, sarcastic and inflammatory e-mail messages to the Commissioners.

We find that Mr. Starke's request fails to set forth any grounds for intervention and fails to state what he would contribute to the hearing. We also find that Mr. Starke's request for intervention is untimely and unnecessary, and would likely unduly broaden the issues or delay the proceeding.

Order

The Commission orders that the request for intervention filed by Richard Starke is DENIED.

PUBLIC SERVICE COMMISSION

Tony Clark **Commissioner**	**Susan E. Wefald** **President**	**Kevin Cramer** **Commissioner**

DISSENTING OPINION
Commissioner Susan E. Wefald

November 27, 2007

TransCanada Keystone Pipeline
30-Inch Crude Oil Pipeline/
Cavalier to Sargent County
Siting Application

Case No. PU-06-421

I concur with the Commission's order to deny Mr. Starke intervention. However, the main reason I would deny Mr. Starke intervention is not mentioned in this order. Mr. Starke has not petitioned to intervene in this case in a timely manner. On November 7 I voted to deny late intervention to the City of Fargo for important procedural reasons, and these same procedural issues make it important to deny late intervention to Mr. Starke today.

Also, the present order lists a number of reasons Mr. Starke should be denied intervention. I agree with all of these reasons except for two. I do not agree that Mr. Starke should be denied intervention status because he is not a citizen of the city of Fargo. The Commission has granted intervention to other people who are not citizens of Fargo in this case. I also do not agree that Mr. Starke should not be granted intervention because he has written threatening communications to the Commission. Although it is unfortunate that Mr. Starke has not controlled his behavior in this regard, his behavior does not relate to his right to be granted or denied intervention.

Susan E. Wefald, Commissioner

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

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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.

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 Intervenors, 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 Intervenors want 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 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.

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 Intervenors; 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 Intervenors 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 it 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 Intervenors 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 Intervenors' 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 Intervenors 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 Intervenors, 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 Intervenors 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 Intervenors 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**

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 DENYING INTERVENTION

November 27, 2007

Background

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 (Keystone Pipeline) in Cavalier, Pembina, Walsh, Nelson, Steele, Barnes, Ransom, and Sargent Counties of North Dakota, Case No. PU-06-421.

On November 15, 2007 Richard Starke filed a request to intervene in the captioned proceeding. Starke states on his request that he would like to be awarded intervenor 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 . . . ." Mr. Starke does not state what he would contribute to the hearing.

On November 20, 2007, TransCanada filed an objection to the request. TransCanada states that the initial hearings in the proceeding where held on July 23 and 24, 2007 and continued on September 5 and 6, 2007, and that Starke had notice of those hearings and appeared and participated in the hearings in Valley City and Bismarck. He now seeks to intervene in the reopened record 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." TransCanada states that the request was not filed ten (10) days before the hearings and that the request is in direct violation of Section 69-02-02-05 of the North Dakota Administrative Code.

TransCanada argues that Starke has not demonstrated good cause for his late and untimely request to intervene in this proceeding. TransCanada asserts that Starke has not alleged that material changes in fact or law have occurred since the prior hearings. TransCanada also asserts that Starke is not affected by the limited issue involved in the reopened proceeding.

Discussion

Section 69-02-02-05 of the North Dakota Administrative code provides in part that "[a]ny person with a substantial interest in a proceeding may petition to intervene in that proceeding by complying with this section. An intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding, and intervention would not unduly broaden the issues or delay the proceeding."

Subsection 1 of section 69-02-02-05 states in part that the petition to intervene must set forth the grounds for intervention and what the petitioner would contribute to the hearing.

The issues that have been established for this reopened proceeding are 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. Mr. Starke has appeared and has testified as a landowner and member of the public in the previous hearings held in Valley City and Bismarck. Mr. Starke is not a resident of the City of Fargo and has not shown that he has any interest in the limited issues of this reopened proceeding. Mr. Starke has repeatedly sent rude, sarcastic and inflammatory e-mail messages to the Commissioners.

We find that Mr. Starke's request fails to set forth any grounds for intervention and fails to state what he would contribute to the hearing. We also find that Mr. Starke's request for intervention is untimely and unnecessary, and would likely unduly broaden the issues or delay the proceeding.

Order

The Commission orders that the request for intervention filed by Richard Starke is DENIED.

PUBLIC SERVICE COMMISSION

Tony Clark **Commissioner**	**Susan E. Wefald** **President**	**Kevin Cramer** **Commissioner**

DISSENTING OPINION
Commissioner Susan E. Wefald

November 27, 2007

TransCanada Keystone Pipeline
30-Inch Crude Oil Pipeline/
Cavalier to Sargent County
Siting Application

Case No. PU-06-421

I concur with the Commission's order to deny Mr. Starke intervention. However, the main reason I would deny Mr. Starke intervention is not mentioned in this order. Mr. Starke has not petitioned to intervene in this case in a timely manner. On November 7 I voted to deny late intervention to the City of Fargo for important procedural reasons, and these same procedural issues make it important to deny late intervention to Mr. Starke today.

Also, the present order lists a number of reasons Mr. Starke should be denied intervention. I agree with all of these reasons except for two. I do not agree that Mr. Starke should be denied intervention status because he is not a citizen of the city of Fargo. The Commission has granted intervention to other people who are not citizens of Fargo in this case. I also do not agree that Mr. Starke should not be granted intervention because he has written threatening communications to the Commission. Although it is unfortunate that Mr. Starke has not controlled his behavior in this regard, his behavior does not relate to his right to be granted or denied intervention.

Susan E. Wefald, Commissioner

APPROVED
DATE: 11-27-07
EJ

MOTION

November 27, 2007

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

Case No. PU-06-421

I move the Commission adopt the Order Denying Intervention in TransCanada Keystone Pipeline, LP's application to construct a 30-inch crude petroleum pipeline in Cavalier to Sargent Counties, Case No. PU-06-421.

PJF

DATE: 11-27-07

MOTION

November 27, 2007

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

Case No. PU-06-421

I move the Commission adopt the Order Denying Motion to Continue Hearing in TransCanada Keystone Pipeline, LP's application to construct a 30-inch crude petroleum pipeline in Cavalier to Sargent Counties, Case No. PU-06-421.

PJF

APPROVED
DATE: 11-27-07

MOTION

November 27, 2007

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

Case No. PU-06-421

I move the Commission for just cause extend the time for designation of a corridor and a route to a date to be determined at a future time in TransCanada Keystone Pipeline, LP's application to construct a 30-inch crude petroleum pipeline in Cavalier to Sargent Counties, Case No. PU-06-421.

WWB

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**
TransCanada Keystone Pipeline, LP **Keystone Pipeline** **Public Convenience & Necessity**	**Case No. PU-07-152**

AFFIDAVIT OF SERVICE BY REGULAR, EMAIL OR INSIDE MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Shelly A. Bauske deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **21st day of November, 2007**, she deposited envelopes in the United States Mail, Bismarck, North Dakota, postage fully prepaid, securely sealed, or via inside or email and each containing a copy of:

Order on Motion to Intervene and Reopen
Order for Hearing on Expedited Notice (PU-06-421)
Notice of Further Hearing on Expedited Time Frame (PU-06-421)
Findings of Fact, Conclusions of Law and Order (PU-07-152)

The envelopes/emails were addressed as follows:

See Attached List

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

Shelly A Bauske

Subscribed and sworn to before me
this **26th day of November, 2007**

Esther Jangula
Notary Public

SEAL

ESTHER JANGULA
Notary Public
State of North Dakota
My Commission Expires Dec. 21, 2012

303 PU-06-421 Pages: 6

81 PU-07-152 Pages: 6

Affidavit of Service Regular, Inside, Email

by Public Service Commission
11/21/2007

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M E M O R A N D U M

RECEIVED
NOV 27 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

DATE: November 26, 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 order granting motion for admission to practice *pro hac vice* for the captioned matter.

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

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

Jana M. Linderman, an attorney admitted to practice in the state of Iowa, having moved for admission to practice *pro hac vice* for the representation of the intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil, and Mark Novak for this matter, and having complied with the requirements of ND Admission to Practice R. 3, it is

Ordered, that Jana M. Linderman shall be, and she hereby is, admitted to practice *pro hac vice*, pursuant to and in accordance with the provisions of ND Admission to Practice R. 3, and granted leave to appear as counsel for the intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil, and Mark Novak for all further proceedings to be had for this matter.

Dated at Bismarck, North Dakota, this 23rd day of November, 2007.

State of North Dakota
Public Service Commission

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 **ORDER GRANTING MOTION FOR ADMISSION TO PRACTICE *PRO HAC VICE*** to which this Certificate of Service is attached were served on the 23 day of November, 2007, by email addressed to:

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Al. Wahl, Administrative Law Judge

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RECEIVED
NOV 26 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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,

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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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 Intervenors 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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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
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Erik R. Johnson
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William W. Binek
Chief Counsel
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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.

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 Intervenors, 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 Intervenors want 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 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.

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 Intervenors; 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 Intervenors 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 it 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 Intervenors 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 Intervenors' 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 Intervenors 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 Intervenors, 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 Intervenors 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 Intervenors 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

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Donald M. Ostrander
John M. Dingess
Austin Hamre

Lynn B. Obernyer - 2003
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Stephanie Neitzel
Patricia A. Madsen

November 23, 2007

RECEIVED
NOV 23 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

VIA E-MAIL (IJS@ND.gov)

Ms. 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 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)

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 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

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 Intervenors Dakota Resource Council, Janie Capp, John Capp, Ramona Klein, Linette Kratochvil, Merle Kratochvil, and Mark Novak (DRC Intervenors). 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.

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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
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WBinek@ND.gov)
(Public Service Commission)

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(Applicant TransCanada Keystone Pipeline, LP)

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(Dakota Resources Council, Ramona Klein, Merle and Linette Kratochvill, Janie and John Capp, and Mark Novak)

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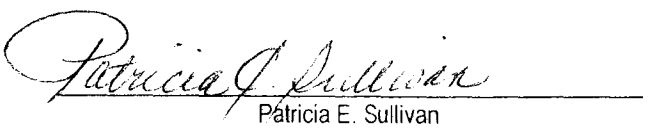
(Lynn@DRCInfo.com)



Patricia E. Sullivan

Kelsch Kelsch Ruff & Kranda

C.F. Kelsch
1890-1987

Attorneys at Law
Mandan, North Dakota

William C. Kelsch
Retired

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ARLEN M. RUFF, P.C.
THOMAS D. KELSCH, P.C.
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DANIEL NAGLE
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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

RECEIVED
NOV 27 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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 Intervenors of Dakota Resource Council et al as well as to Intervenors 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

Todd D. Kranda

TK:ls
Enc

298 PU-06-421

Pages: 2

Letter Requesting Opportunity to Examine & Present Evidence
by 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 27th 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

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

PLAINS JUSTICE
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)

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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	:	

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

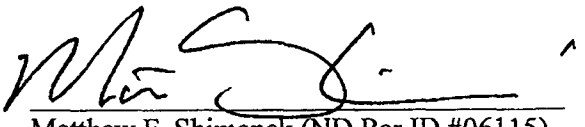
Council could not participate at all in these new hearings if new counsel had not been retained. After the formal withdrawal of Intervenors' previous counsel, the Intervenors acted promptly to obtain new counsel. Unfortunately, in light of the timeframe of the upcoming hearings even prompt action by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



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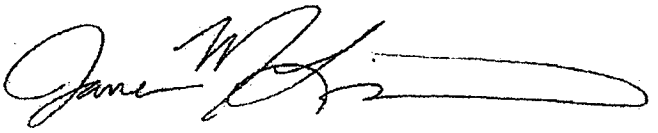


Jana M. Linderman (IA #AT00004750)
Plains Justice
100 1st Street SW
Cedar Rapids, IA 52404
Phone: (319) 362-2120
Facsimile: (866) 484-2373
E-mail: jlinderman@plainsjustice.org

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

RECEIVED
NOV 26 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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, Intervenors

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.

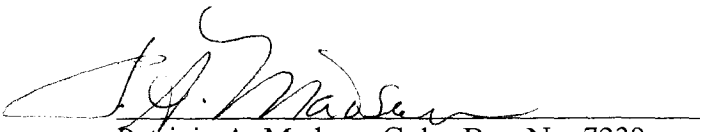
4. Copies of this Motion and Affidavit are being filed with the State Board of Law Examiners at the same time they are filed with the hearing officer of the Public Service Commission.

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

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The above and foregoing Affidavit of Patricia A. Madsen, a person personally known to me, was sworn and signed before me this 21st day of November, 2007.

Notary Public.

My commission expires: June 13, 2009

S E A L

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

3218

82-7512/3020
96

Date 11-19-07

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

Three Hundred Eighty & no/100 Dollars

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CSECU

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

For Colo Bar 7239 pro hac vice P A Madsen MP

⑆302075128⑆1030000343970⑈03218

©Clarke American

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

Email from Klein to ALJ Wahl re Starke Intervenor Status
by Public Service Commission
11/24/2007

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

294 **PU-06-421** Pages: 1

Email from Capp to ALJ Wahl re Starke Intervenor Status
by Public Service Commission
11/23/2007

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

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1-888-663-9818
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 Intervenors.
If you have any questions, please feel free to contact me.

Sincerely,

Thomas D. Kelsch

encs.
Cc:

William Binek	wbinek@nd.gov
Al Wahl, Administrative Law Judge	awahl@nd.gov
Lynn Wolf, Dakota Resource Council	lynn@drcinfo.com
Mr. & Mrs. Kratochvil	lckgoats@polarcomm.com
Mr. Novak	Neptune@polarcomm.com
Mrs. Klein	ramonak@daktel.com

M & M Capp	janiecapp@csb100.com
Derrick Braaten	derrick@svogellaw.com
Jana Linderman	jlinderman@plainsjustice.org
Erik Johnson	ejohnson@lawfargo.com
John Dingess	jdingess@dodpc.com
Pat Madsen	poolpat@dodpc.com
Matt Shimanek	Matt@hdalawyers.com

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

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 Intervenors 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 Intervenors did not object when the issue was raised by Keystone on November 16, 2007. These Intervenors 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

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1890-1987

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Website www.kelschlaw.com

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
ijs@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

Todd D. Kranda

TK:ls

c: ALJ 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: ncwrd@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

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: ncwrd@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 19, 2007

Jeff Rauh VIA E-MAIL
Keystone Project Team
Public Consultation

Todd D. Kranda VIA E-MAIL
103 Collins Ave.
P.O. Box 1266
Mandan, ND 58554-7266

Dear Mr. Rauh and Mr. Kranda:

The Upper Sheyenne River Joint Water Resource Board wishes to thank you for your presentation on the Keystone Pipeline Project at our October 17, 2007 meeting in Sheyenne, North Dakota. The board seemed more settled in some of the discussion pertaining to the project. With that, we support the need for energy development in our region.

The Joint Board concurred that this letter also continue to impress on your company and those allowing or granting permits, to continue to help move the pipeline away from those pathways that may endanger or destroy historic areas and ground water areas. They also want to stress concern of the Forest River area connections and the pipeline design east of Lake Ashtabula.

The board continues its concern on the pipeline qualit -- We stand in guarded support with route relocation where necessary.

Again, thank you for your presentation and time with us

follow up

Sincerely,

Ben Varnson, Chairman
Upper Sheyenne River Joint
Water Resource Board

Copy: Public Service Commission

BAV:ckv

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: ncwrd@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, ~~2~~007

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

289 PU-06-421 Pages: 1

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

RECEIVED
NOV 23 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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,

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)

288 PU-06-421 Pages: 6
Original of Motion to Continue Hearing
by Public Service Commission by Dakota Resource Counc
11/23/2007

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

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

RECEIVED
NOV 20 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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,

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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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:

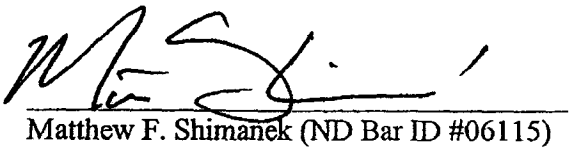
1. The undersigned, an attorney in good standing admitted and licensed to practice law in the State of North Dakota, will serve as co-counsel for Ms. Linderman in this matter;
2. A sworn affidavit of Ms. Linderman, affirming that she has been admitted to the practice of law in the State of Iowa since 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 Intervenors 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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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. Shimanek

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

RECEIVED
NOV 21 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

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

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 reopend 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.

Starks 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 26th day of October, 2007.

Respectfully submitted,
TransCanada Keystone Pipeline, LP

By Todd D. Kranda

Thomas D. Kelsch, Sate 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

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

RAMONA KLEIN
3340 123RD AVE SE
ORISKA ND 58663

MARK NOVAK
PO BOX 122
LANKIN ND 58250

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

LINETTE AND MERLE KRATOCHVIL
6355 COUNTY RD 14
LANKIN ND 58250

DAKOTA RESOURCE COUNCIL
118 BROADWAY - STE 801
FARGO ND 58107

THOMAS D. KELSCH

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

(SEAL)

TODD D. KRANDA
Notary Public
State of North Dakota
My Commission Expires Aug. 10, 2013

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

M E M O R A N D U M

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

RECEIVED
NOV 19 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

284 PU-06-421
Pages: 4
Original Prehearing Order
by Public Service Commission by ALJ Wahl
11/19/2007

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

RECEIVED
NOV 21 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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,

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)

283 PU-06-421 Pages: 6
Motion to Continue Hearings
by Public Service Commission by Dakota Resource Counc
11/21/2007

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

	:	**OAH File No. 20070181**
TransCanada Keystone Pipeline, LP	:	
	:	
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

APPROVED
DATE: 11-21-07
SG

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
Illona 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

Todd D. Kranda, Attorney
For TransCanada Pipeline
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan, ND 58554-1266

Thomas D. Kelsch, Attorney
For TransCanada Pipeline
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan, ND 58554-1266

Gary R. Leistico, Attorney for
The Dakota Resource Council
Rinke Noonan, Attorneys at Law
1015 W. Germain St.
Suite 300, US Bank Plaza
PO Box 1497
St. Cloud, MN 56302-1497

Nicholas Delaney, Attorney for
The Dakota Resource Council
Rinke Noonan, Attorneys at Law
1015 W. Germain St.
Suite 300, US Bank Plaza
PO Box 1497
St. Cloud, MN 56302-1497

Erik R. Johnson, Attorney for City of Fargo
Erik R. Johnson & Associates
505 Broadway Street North, Ste 206
Fargo, ND 58102

John M. Dingess, Special Counsel
to City of Fargo
Duncan Ostrander & Dingess, P.C.
3600 S. Yosemite St., Ste 500
Denver, CO 80237-1829

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

Ramona Klein
3340 123rd Avenue SE
Oriska, ND 58663

Mark Novak
PO Box 122
Lankin, ND 58250

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

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-Saccio
Executive Director

Enclosures

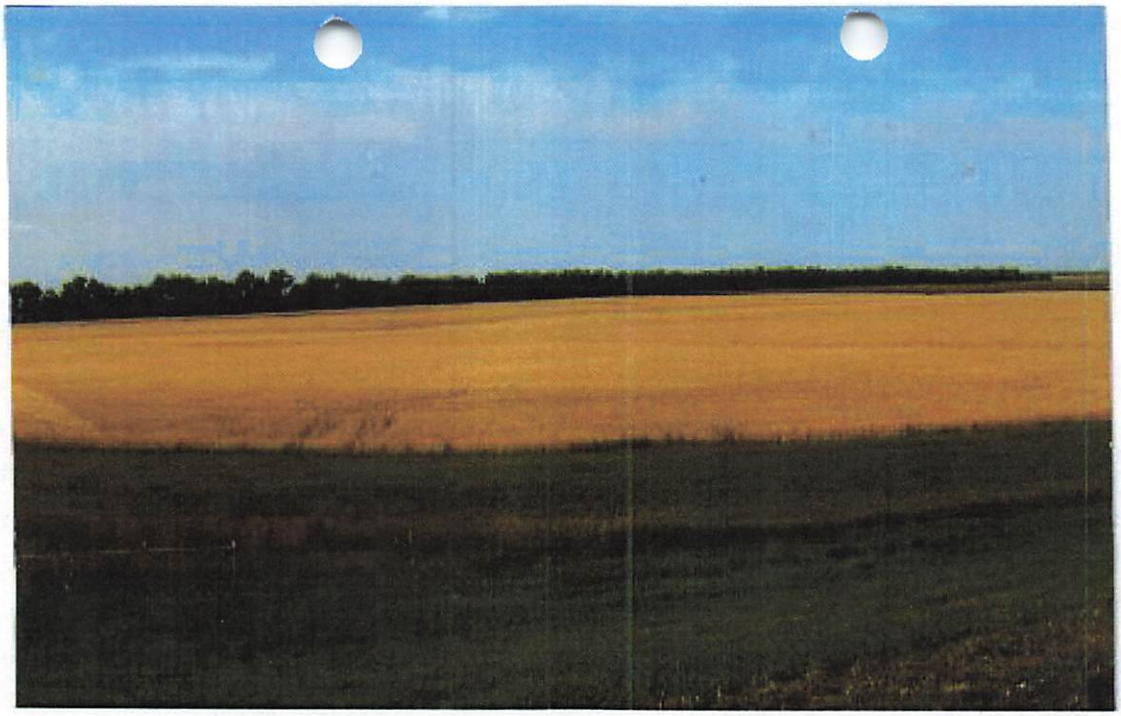
cc: Judge Al Wahl, Richard Starke

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, t 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 con* cerning 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 defendable 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.

Paula Kent

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

Shelly A Bauske
Notary Public

SEAL

SHELLY A BAUSKE
Notary Public
State of North Dakota
My Commission Expires July 22, 2010

280 PU-06-421

Pages: 1

Affidavit of Service by Registered Mail to Send
Order to Cowling
by Public Service Commission
11/16/2007

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: ~~4~~ 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**

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2.													
3.													

06-421

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 047 608 575 US

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See Privacy Act Statement on Reverse

n **3877**, February 2002 *(Page 1 of 2)*

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278 **PU-06-421**

Returned Registered Envelope to D Cowling/TransCanada by Public Service Commission

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

UNITED STATES POSTAGE
PITNEY BOWES
$ 12.34
02 1B
0004367783 NOV 14 2002
MAILED FROM ZIP CODE 58501

RECEIVED
NOV 19 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

277 PU-06-421 Pages: 3

Letter from Intervenor Klein w Newspaper Article
by Public Service Commission
11/19/2007

Thursday, November 8, 2007
Barnes County - Home of Lorraine Larson

HI-LINERS IN TOURNEY HUNT
- SPORTS, page 8

Award-winning
Valley City 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
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sh
off
By
Vall
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 at 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

RECEIVED
NOV 19 2007
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

SEE ATTACHED SERVICE LIST

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

Ladies and Gentlemen:

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

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

If you have any questions, please contact our office.

Sincerely,

Nicholas R. Delaney
NRD/lmh

Enclosures

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

D. Michael Noonan
William A. Smoley[1]
Kurt A. Deter[1]
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. Lenzner[3]
Gary R. Leistico[4,5]
John C. Kolb
Scott G. H
Pamela A. St
Stefanie L. I
Tonya T. Hinl
Ryan J. He

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
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

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 **Case No. PU-06-421**
Our File No. 20555.001

Thomas D. Kelsch
Todd Kranda
Kelsch, Kelsch, Ruff & Kranda
P.O. Box 1266
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P.O. Box 122
Lankin, ND 58250
SENT VIA CERTIFIED MAIL

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

Ramona Klein
3340 - 123rd Avenue SE
Oriska, ND 58663
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 **Case No. PU-06-421**
30-Inch Crude Oil Pipeline/Cavalier to Sargent
Counties Siting Application

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

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

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

Dated: November 16, 2007

RINKE-NOONAN

By _____

Nicholas R. 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 **Case No. PU-06-421**
30-Inch Crude Oil Pipeline/Cavalier to Sargent
Counties Siting Application

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

STATE OF MINNESOTA)
) AFFIDAVIT OF SERVICE
COUNTY OF STEARNS)

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.

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

Notary Public

ANGIE M. BENGTSON
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2010

PNovember 16, 2007 C2006 06 14
F:\DATA\20555\001\Pleadings\Affidavit of Service 2007 11 16.wpd bml

SERVICE LIST

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

Thomas D. Kelsch
Todd Kranda
Kelsch, Kelsch, Ruff & Kranda
P.O. Box 1266
Mandan, ND 58554-7266
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William Binek
Public Service Commission
State Capitol
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1707 North 9th Street
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Executive Secretary
Public Service Commission
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600 East Boulevard, Department 408
Bismarck, ND 58505-0480
SENT VIA FAX AT 701-328-2410 AND CERTIFIED MAIL

Erik R. Johnson
City of Fargo
505 Broadway Street North, Suite 206
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Lynn C Wolff - Organizer
Dakota Resource Council
118 Broadway, Suite 801
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Mark Novak
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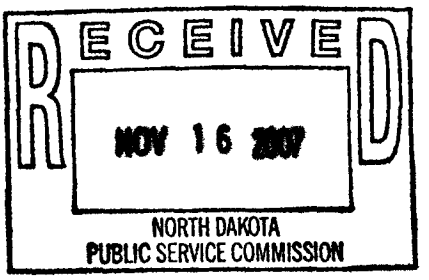
Linette & Merle Kratochvil
6355 Co Rd 14
Lankin ND 58250
SENT VIA CERTIFIED MAIL

Ramona Klein
3340 - 123rd Avenue SE
Oriska, ND 58663
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 Binek	**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 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\Letter\Letter All Parties 11 16 2007.wpd lmh

RINKE NOONAN SMOLEY DEEP COLOMBO WIANT VUE KOFFI & HOBBS LTD

D. Michael Noonan, William A. Smoley[1], Kurt A. Deter[1], Barrett L. Colombo, James L. Wiant, Gerald W. Von Korff, Sharon G. Hobbs, David J. Meyers[1,2,3], John J. Meyers, Roger C. Justin[2,4], John J. Babcock, Jill A. Adkins, Igor S. Lenzner[1], Gary R. Leisteen[1,2], John C. Kolb, Scott C. Hamak, Pamela A. Stuckman, Stefanie L. Brown, Tonya T. Hinkemeyer, Ryan J. Hatton[1], Benjamin B. Bobmback[3], Tim A. Sime[1], James A. Mogen, Nicholas R. Delaney[4], Chad D. Miller, Adam A. Ripple, Prodie L. Miller, Sarah E. Fisher

1. Qualified neutral under Rule 114. 2. A Real Property Law Specialist certified by the Minnesota State Bar Association. 3. Admitted to practice law in Wisconsin. 4. Admitted to practice law in [illegible]

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

William Binck
Public Service Commission
State Capitol
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
SENT VIA FAX AT 701-328-2410 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

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Erik R. Johnson
City of Fargo
505 Broadway Street North, Suite 206
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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

Mark Novak
P.O. Box 122
Lankin, ND 58250
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Linette & Merle Kratochvil
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3340 - 123rd Avenue SE
Oriska, ND 58663
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Janie & John Capp
12466 60th St NE
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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

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

Case No. PU-06-421

NOTICE OF MOTION AND MOTION FOR WITHDRAW AS COUNSEL

November 16, 2007

TO: THE ATTACHED SERVICE LIST

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

Dated: November 16, 2007

RINKE-NOONAN

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

SERVICE LIST

TransCanada Keystone Pipeline, LP
Our File No. 20555.001

Case No. PU-06-421

Thomas D. Kelsch
Todd Kranda
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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

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

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

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

Dated: November 16, 2007

RINKE-NOONAN

By _____

Nicholas R. Delancy, # 06198
Attorneys for 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 **Case No. PU-06-421**
30-Inch Crude Oil Pipeline/Cavalier to Sargent
Counties Siting Application

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

STATE OF MINNESOTA)
) AFFIDAVIT OF SERVICE
COUNTY OF STEARNS)

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.

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

Notary Public

ANGIE M. BENGTSON
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2010

SERVICE LIST

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

Thomas D. Kelsch
Todd Kranda
Kelsch, Kelsch, Ruff & Kranda
P.O. Box 1266
Mandan, ND 58554-7266
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William Binck
Public Service Commission
State Capitol
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1707 North 9th Street
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Oriska, ND 58663
SENT VIA CERTIFIED MAIL

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:

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

Nicholas R. Delaney
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Janie Capp
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Erik R. Johnson
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William W. Binek
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Public Service Commission
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Lynn Wolff
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lynn@drcinfo.com

Ramona Klien
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Merle Kratochvil
Linette Kratochvil
lckgoats@polarcomm.com

Mark Novak
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OFFICE OF ADMINISTRATIVE HEARINGS

Al. Wahl, Administrative Law Judge