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January 22, 2008

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

HAND DELIVERED &
ELECTRONIC MAIL
ijs@nd.gov

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

Dear Ms. Jeffcoat-Sacco:

At the Public Service Commission work sessions held this month, the Commissioners indicated concern about potential impact to public water supplies in the Fordville Aquifer and Lake Ashtabula, in the unlikely event of a leak from the Keystone pipeline. In particular, the Commissioners indicated concern with the application of the Special Permit issued to Keystone by the Department of Transportation Pipeline and Hazardous Materials Safety Administration, (PHMSA) in certain areas near the Fordville Aquifer and Lake Ashtabula.

While the Commission acknowledged it is pre-empted by federal law from requiring Keystone to utilize 0 72 pipe, one of the solutions the Commission discussed to address its concern was to ask Keystone to voluntarily agree not to use the PHMSA special permit in the area where the pipeline crosses tributaries of the northern portion of the North Branch of the Forest River that contribute to the losing stream reach of the Fordville Aquifer, as identified on Exhibit T-22

In responding to this request herein, Keystone reiterates its view that it has proven through testimony and exhibits submitted to the Commission in six days of hearings that its pipeline application meets all of the requirements set forth in North Dakota statutes and regulations and that the applications for a certificate of corridor compatibility and route permit should be granted.

Keystone also submits that the Special Permit should not be of concern to the Commission. After a thorough, rigorous, and public review of Keystone's application for the special permit, the federal regulatory responsible for pipeline safety, PHMSA, found in issuing the special permit that it will provide the Keystone Pipeline "with a level of safety equal to, or greater than, that which would be provided if the pipelines were operated under existing regulations." PHMSA granted the Special Permit on the basis that:

- "Keystone's Special Permit application describes actions for the life cycle of each proposed pipeline addressing pipe and material quality, construction quality control, pre-in service strength testing, Supervisory Control and Data Acquisition (SCADA) system inclusive of leak detection, operations and maintenance and integrity management. The aggregate affect of these actions and PHMSA's (51) conditions provide for more inspections, monitoring and oversight than would occur on pipelines installed under existing regulations; and
- The Conditions contained in this special permit grant require Keystone to more closely inspect and monitor the pipelines over its operational life than similar pipelines installed without a special permit."

Keystone has previously shown to the Commission the need for the Commission to act promptly in approving the Keystone's permit and the significant damages Keystone will suffer if it is unable to meet its construction schedule.

However, in an effort to ease both the Commission's concern and Keystone's concern with still further delay in an already delayed permit approval process, Keystone is willing to agree to the following condition to its application for pipeline permit:

Keystone agrees to condition its application for route permit in the above case as follows:

1. Keystone agrees to install 0.72 pipe instead of 0.80 pipe in the area where the pipeline crosses tributaries of the northern portion of the North Branch of the Forest River that contribute to the losing stream reach of the Fordville Aquifer, as identified on Exhibit T-22. The 0.72 pipe includes the contributory pipeline segments running from mile post 45.6 to mile post 47.9.
2. Keystone agrees to install 0.72 pipe instead of 0.80 pipe in the area where the pipeline crosses intermittent streams in the area of Lake Ashtabula located on page 2 of Exhibit T-24. The 0.72 pipe includes the contributory pipeline segments running from mile post 126.7 to mile post 128.1.

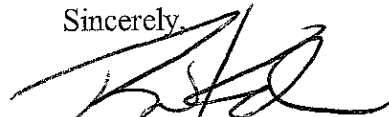
This proposed condition is submitted for the purpose of expediting the Commission's prompt approval of the Keystone's pipeline permit. Keystone requests the Commission approve the permit at its earliest convenience preferably as soon after the scheduled February 4, 2008 work

session as possible. If the Commission grants the permit within a reasonable time frame and inserts the above provisions into the Commission's order, Keystone agrees not to challenge the Commission's authority to condition the permit on Keystone installing 0 72 pipe in these areas, or to raise federal pre-emption on the terms of this amendment.

I am enclosing 10 additional copies of this proposed letter with the proposed condition in the above case. This is being filed electronically and has been served by email on the parties as shown on the attached Certificate of Service.

Thank you for your attention to this matter. Please feel free to contact me or Todd D. Kranda should you have any questions.

Sincerely,



Thomas D. Kelsch

TDK

Enc

c: TransCanada Keystone

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 22 day of January, 2008, the undersigned emailed a true and correct copy of the following document(s) in the above-captioned action:

January 22, 2008, Letter with Conditions for the TransCanada Keystone Pipeline LP Route Permit and Corridor Certificate to install 0.72 pipe in limited areas.

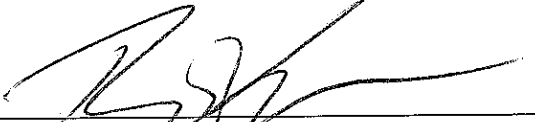
That a copy of the above document(s) was emailed as follows:

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