

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 ORDINARY MAIL & ELECTRONIC MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Claire Tipton** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **23<sup>rd</sup> day of January, 2008**, she delivered via electronic mail and also deposited in the United States Mail, Bismarck, North Dakota, five envelopes by first class mail, fully prepaid, securely sealed and containing a photocopy of:

Notice of Intent to Consider Information Not Presented at a Hearing

The envelopes and electronic mails were addressed as follows respectively:

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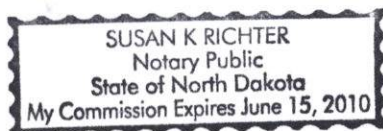
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Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this **23<sup>rd</sup> day of January, 2008**.

SEAL



*Claire Tipton*

*Susan K Richter*

Notary Public

378 PU-06-421 Filed: 1/23/2008 Pages: 9  
Affidavit Regular & Email Notice Intent to Consider  
Info Not Presented at Hearing

**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**

**NOTICE OF INTENT TO CONSIDER INFORMATION NOT PRESENTED AT A HEARING**

**January 23, 2008**

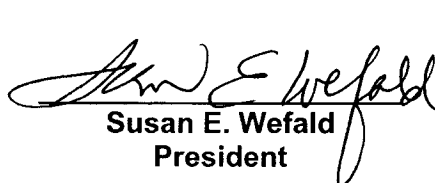
Pursuant to N.D.C.C. §28-32-25, the Public Service Commission ("Commission") gives notice that it intends to consider information in its possession that was not presented as evidence at a hearing and that has been filed in this proceeding by TransCanda Keystone Pipeline LP ("Keystone"), Docket Nos. 372 and 373. The information in Docket No. 372 is identified as a letter and drawing filed on January 17, 2008 confirming that horizontal directional drilling method will be used to drill under the Sheyenne River as well as the trees and shrubs on either side of the Sheyenne River. The filing provides a drawing showing the start point and end point of the drilling. The information in Docket No.373 is a letter from Keystone filed January 22, 2008, stating it will install 0.72 pipe instead of 0.80 pipe in the losing steam reach area of the Fordville Aquifer from mile post 45.6 to mile post 47.9, and where the pipeline crosses intermittent streams in the area of Lake Ashtabula from mile post 126.7 to mile post 128.1. Copies of the filings in Docket Nos. 372 and 373 are attached.

You are hereby advised that you have the right, upon written request, to examine the information or evidence and to present your own information or evidence and to cross-examine the person furnishing the information or evidence. Any such written request must be filed within ten (10) days of the date of this Notice.

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; of Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify Illona A. Jeffcoat-Sacco, Executive Director at least 24 hours in advance.

**PUBLIC SERVICE COMMISSION**

  
Tony Clark  
Commissioner

  
Susan E. Wefald  
President

  
Kevin Cramer  
Commissioner

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Pages: 8

Notice of Intent Consider Information Not  
Presented @ Hearing  
by Public Service Commission  
01/23/2008

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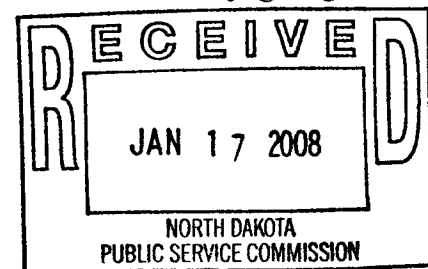
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January 17, 2008

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](mailto:ijs@nd.gov)



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

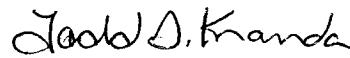
Dear Ms. Jeffcoat-Sacco:

As you may recall, Keystone previously indicated at the hearings that Keystone would HDD the crossing of the Sheyenne River if the geo-technical testing results indicated that it would be feasible to do so. The testing has been completed for the Sheyenne River crossing. Based on the results, Keystone can now confirm that it will HDD the crossing as stated in the prior testimony that was presented at the hearings.

Enclosed with this letter is an original and seven (7) copies of the Sheyenne River HDD Installation drawing which is preliminary design drawing for the Sheyenne River crossing area.

This is being filed electronically as well and has been served by mail 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 should you have any questions.

Sincerely,

  
Todd D. Kranda

TDK;dr

Enc

c: TransCanada Keystone



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Pages: 3

Letter & Drawing re Sheyenne River  
Horizontal Directional Drill Installation  
by TransCanada Keystone Pipeline, LP

01/17/2008

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 17<sup>th</sup> day of January, 2008, 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:

January 17, 2008 Letter to ND PSC;  
Sheyenne River HDD Installation drawing (Preliminary).

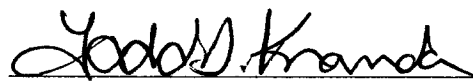
That a copy of the above document(s) was securely enclosed in an envelope with postage duly prepaid, and addressed as follows:

WILLIAM BINEK  
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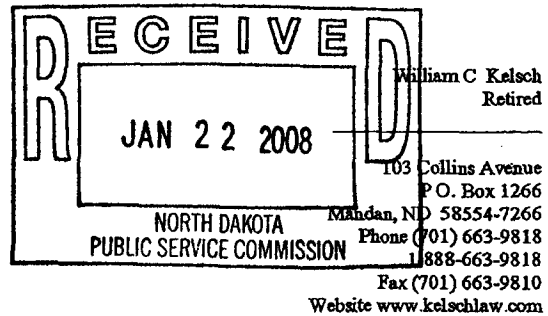
# Kelsch Kelsch Ruff & Kranda

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1890-1987

Attorneys at Law  
Mandan, North Dakota

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January 22, 2008

MS ILLONA A JEFFCOAT-SACCO  
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HAND DELIVERED &  
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[ijs@nd.gov](mailto: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

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Letter re Pipeline Thickness

by TransCanada Keystone Pipeline, LP  
01/22/2008

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.

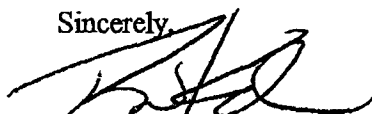
This proposed condition is submitted for the purpose of expediting the Commission's prompt approval of the Keystone's pipeline permit. Keystone requests the Commission approve the permit at its earliest convenience preferably as soon after the scheduled February 4, 2008 work

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.

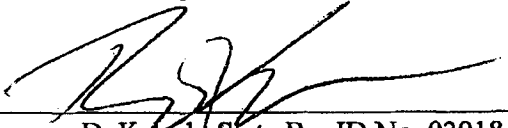
That a copy of the above document(s) was emailed as follows:

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