

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

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

Case No, PU-06-421

**SUPPLEMENTAL AFFIDAVIT OF LOYS A. GRAY, III**

**IN SUPPORT OF KEYSTONE'S REQUEST FOR EXPEDITED APPROVAL OF ROUTE  
REFINEMENTS**

LOYS A. GRAY, III, BEING FIRST DULY SWORN, ON OATH, DEPOSES AND STATES, AS FOLLOWS

- I have previously included a copy of my resume with my educational background and qualifications.
- I have served in various pipeline engineering and construction management positions including engineering manager, construction manager, and project director on a variety of large diameter pipeline projects throughout the United States and in foreign countries. The larger projects range from 200 to 2,500 miles in length with diameters from 30 to 40 inches. From this experience, I am very familiar with the impacts of the unavailability of continuous right of way on construction of large diameter pipeline.
- I am filing this supplemental affidavit in support of Keystone's request for an expedited hearing and ruling on these route refinements prior to the currently scheduled May 21 formal hearing.
- Exhibit A filed with my affidavit dated March 31, 2008 is a list of the route refinements that have been identified since Keystone's application for permit on February 19, 2007. The attached Exhibit A has been revised to include information regarding the status of land acquisition and agency concurrences with these route refinements. As reflected on Exhibit A, these route refinements have been proposed to accommodate landowner or agency preferences and have received landowner or agency concurrence, as indicated.
- At the Public Service Commission Hearing on September 6, 2007, Commissioner Wefald expressed to Keystone that it was the Commission's expectations that Keystone work with landowners and make efforts to not utilize the eminent domain rights provided under the PSC Certificate (reference Exhibit B – PSC hearing transcript page 568 lines 18 – 25 and page 569 lines 1 - 3). The route refinements made at the request of landowners are highlighted in yellow on Exhibit A.
- There is a high likelihood that, if the landowner requested route refinements are denied by the PSC, Keystone will be required to use eminent domain to acquire from these landowners.
- The US Fish & Wildlife Service requested route refinements to minimize impacts to wetland easements. Other route refinements were made to minimize impacts to stream crossings by minimizing the lengths of the crossings. These route refinements are highlighted in Exhibit A in green.
- Keystone has developed other route refinements due to engineering or constructability issues that were discussed and agreed upon when acquiring easements from the affected landowners. These route refinements are highlighted in Exhibit A in pink.

- At the Public Service Commission Hearing on September 5, 2007, I testified that, during pipeline construction, contractors can encounter unidentified obstructions or issues that require route refinements. I requested that Keystone not be required to return to the PSC for approval of these route refinements due to my concern with the time it would take the PSC to approve the route refinements and the impact that would have on construction. The Commission advised that route refinements submitted to PSC staff could be reviewed quickly and acted upon in a matter of two or three days. (reference Exhibit C – PSC hearing transcript pages 233 - 234).
- Keystone has based its construction plan and schedule on the expectation that the PSC would review and rule on route refinements in an expedient manner, as stated at the hearing.
- Exhibit B filed with my affidavit dated March 31, 2008 consists of construction march charts for the contractors on Spreads 1 and 2 in North Dakota. These march charts reflect the progression of each construction crew, based on a May 19, 2008, start of construction. This exhibit has been revised to reflect the locations of the route refinements being for which Keystone is requesting approval from the PSC and included as Exhibit D.
- Exhibit D clearly demonstrates the disruption of the continuity of work crews that would result if the PSC does not act expediently on the request for approval of the route deviations.
- It is my opinion that Keystone has acted in good faith as expected by the PSC to develop route deviations as requested by landowners to minimize the need to utilize its eminent domain rights and as requested by governmental agencies to minimize impacts to the environment.
- It is also my opinion that Keystone has relied upon the commitment from the Commission that review and ruling on reroute requests could be completed expediently in a matter a few days.

