

produced from the Alberta oil sands, development of the oil sands being contrary to its CO2 reduction objective. Note that the pipeline does not play a role in CO2 produced by oil production, rather, it transports oil once produced.

350.org's issues are not within the Commission's statutory jurisdiction, and are not issues within the scope of Keystone's re-certification request under SDCL § 49-41B-27. The scope of the current proceeding is narrow. It is limited to a determination whether the Keystone XL project "continues to meet the conditions upon which the permit was issued." SDCL § 49-41B-27. The amount of CO2 in the atmosphere is not addressed in the conditions imposed by the PUC in its Amended Final Decision and Order dated June 29, 2010.

Atmospheric CO2 from the production of oil from the Canadian oil sands played no role in the underlying proceedings and has no role in these proceedings. To obtain its permit under SDCL § 49-41B-22, Keystone had to prove, among other things, that *the pipeline, not the production of oil from the Alberta oil sands*, would not pose a threat to the environment or to the social and economic conditions and that *the pipeline, not the production of oil from the Alberta oil sands*, would not substantially impair the health, safety or welfare of South Dakotans.

Even though the scope of this proceeding is much narrower than Keystone's original burden of proof, it is clear that 350.org's interests and focus is much broader than

even the Commission's original inquiry when it granted a permit. Climate change is an issue addressed by the Department of State in the Final Supplemental Environmental Impact Statement. It is not an issue for the Commission.

The standard for party status in SDCL § 49-41B-17 is broad, but it is not broad enough to encompass the mission of 350.org. The statute provides party status for nonprofit organizations formed to protect the environment, § 49-41B-17(3), but the statute cannot reasonably be construed to grant party status to any environmental group, without regard to the issues seeking to be raised by that group. Rather, only those groups with an agenda related to the effects of the proposed project on the environment within the jurisdiction of the Commission, i.e., within South Dakota, meet the statutory definition.

Because 350.org does not advocate for an interest within the jurisdiction of the Commission, because its application does not meet the statutory test for party status, and because granting party status to 350.org would necessarily broaden the issues far beyond what is dictated by SDCL § 49-41B-27 and burden this proceeding with issues that are not germane, Keystone respectfully requests that the request for party status be denied.

Dated this 22nd day of October, 2014.

WOODS, FULLER, SHULTZ & SMITH P.C.

By William Taylor
William Taylor
James E. Moore
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
Email james.moore@woodsfuller.com
bill.taylor@woodsfuller.com
Attorneys for Applicant TransCanada

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of October, 2014, I sent by United States first-class mail, postage prepaid, or e-mail transmission, a true and correct copy of Keystone's Response to Applications of Party Status of 350.org, to the following:

Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501
patty.vangerpen@state.sd.us

Kristen Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501
kristen.edwards@state.sd.us

Brian Rounds
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501
brian.rounds@state.sd.us

Darren Kearney
Staff Analyst South Dakota Public
Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501
darren.kearney@state.sd.us

Tony Rogers, Director
Rosebud Sioux Tribe - Tribal Utility
Commission
153 South Main Street
Mission, SD 57555
tuc@rosebudsiouxtribe-nsn.gov

Jane Kleeb
1010 North Denver Avenue
Hastings, NE 68901
jane@boldnebraska.org

Terry Frisch
Cheryl Frisch
47591 875th Road
Atkinson, NE 68713
tcfrisch@q.com

Lewis GrassRope
PO Box 61
Lower Brule, SD 57548
wisestar8@msn.com

Robert G. Allpress
46165 Badger Road
Naper, NE 68755
bobandnan2008@hotmail.com

Amy Schaffer
PO Box 114
Louisville, NE 68037

Benjamin D. Gotschall
6505 W. Davey Road
Raymond, NE 68428
ben@boldnebraska.org

Cindy Myers, R.N.
PO Box 104
Stuart, NE 68780
csmyers77@hotmail.com

Byron T. Steskal
Diana L. Steskal
707 E. 2nd Street
Stuart, NE 68780
prairierose@nntc.net

Arthur R. Tanderup
52343 857th Road
Neligh, NE 68756
atanderu@gmail.com

Carolyn P. Smith
305 N. 3rd Street
Plainview, NE 68769
peachie-1234@yahoo.com

Jeff Jensen
14376 Laflin Road
Newell, SD 57760
jensen@sdplains.com

Louis T. (Tom) Genung
902 E. 7th Street
Hastings, NE 68901
tg64152@windstream.net

Nancy Hildring
6300 West Elm
Black Hawk, SD 57718
nhilshat@rapidnet.com

Elizabeth Lone Eagle
593 Bridger/PO Box 160
Howes, SD 57748
bethcbest@gmail.com

John H. Harter
28125 307th Avenue
Winner, SD 57580
johnharter11@yahoo.com

Peter Capossela
Peter Capossela, P.C.
PO Box 10643
Eugene, OR 97440
pscapossela@nu-world.com

South Dakota Wildlife Federation
PO Box 7075
Pierre, SD 57501
sdwf@mncomm.com

Jerry P. Jones
22584 US Hwy 14
Midland, SD 57552

Debbie J. Trapp
24952 US Hwy 14
Midland, SD 57552
mtdt@goldenwest.net

Douglas Hayes
Sierra Club
1650 38th St., Suite 102W
Boulder, CO 80301
doug.hayes@sierraclub.org

Paul F. Seamans
27893 249th Street
Draper, SD 57531
jackknife@goldenwest.net

Viola Waln
PO Box 937
Rosebud, SD 57570
waln ranch@goldenwest.net

Wrexie Lainson Bardaglio
9748 Arden Road
Trumansburg, NY 14886
wrexie.bardaglio@gmail.com

Kevin C. Keckler
Cheyenne River Sioux Tribe
PO Box 590
Eagle Butte, SD 57625
kevinckeckler@yahoo.com

Cody Jones
21648 US Hwy 14/63
Midland, SD 57552

Gena M. Parkhurst
2825 Minnewsta Place
Rapid City, SD 57702
gmpgb@hotmail.com

Joye Braun
PO Box 484
Eagle Butte, SD 57625
jmbraun57625@gmail.com

Duncan Meisel
20 Jay St., #1010
Brooklyn, NY 11201
duncan@350.org

The Yankton Sioux Tribe
Robert Flying Hawk, Chairman
PO Box 1153
Wagner, SD 57380
robertflyinghawk@gmail.com
Thomasina Real Bird
Attorney for Yankton Sioux Tribe
trealbird@ndnlaw.com

Bruce Ellison
Attorney for Dakota Rural Action
518 6th Street #6
Rapid City, SD 57701
belli4law@aol.com

Chastity Jewett
1321 Woodridge Drive
Rapid City, SD 57701
chasjewett@gmail.com

RoxAnn Boettcher
86061 Edgewater Avenue
Bassett, NE 68714
boettcherann@abbnebraska.com

Bruce Boettcher
86061 Edgewater Avenue
Bassett, NE 68714
boettcherann@abbnebraska.com

Bonny Kilmurry
47798 888 Road
Atkinson, NE 68713

Ronald Fees
17401 Fox Ridge Road
Opal, SD 57758

Intertribal Council on Utility Policy
PO Box 25
Rosebud, SD 57570
bobgough@intertribalCOUP.org

Tom BK Goldtooth
PO Box 485
Bemidji, MN 56619
ien@igc.org

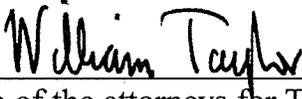
Dallas Goldtooth
38731 Res Hwy 1
Morton, MN 56270
goldtoothdallas@gmail.com

Gary F. Dorr
27853 292nd
Winner, SD 57580
gfdorr@gmail.com

Case Number: HP 14-001

Name of Document: Keystone's Response to Applications of Party Status of 350.org

Rosebud Sioux Tribe
RST Tribal Historic Preservation Office
RST Sicangu Oyate Land Office
Cyril Scott, President
PO Box 430
Rosebud, SD 57570
cscott@gwtc.net
ejantoine@hotmail.com



One of the attorneys for TransCanada