

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

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IN THE MATTER OF THE PETITION OF	)	Docket 14-001
TRANSCANADA KEYSTONE PIPELINE, LP	)	
FOR ORDER ACCEPTING CERTIFICATION OF	)	<b>REBUTTAL TESTIMONY OF JOHN</b>
PERMIT ISSUED IN DOCKET HP09-001 TO	)	<b>HARTER ON BEHALF OF DAKOTA</b>
CONSTRUCT THE KEYSTONE XL PIPELINE	)	<b>RURAL ACTION</b>
	)	
	)	

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1. This is my testimony in rebuttal to the pre-filed testimony of TransCanada Keystone Pipeline, LP (“TransCanada”) officer Corey Goulet, in Paragraph 15 of his pre-filed testimony, in which he claimed that TransCanada “is or will be able to satisfy all the conditions imposed by the Commission.” My testimony is about how this is not the case.
2. Contrary to what TransCanada has publicly stated, it does not have an agreement with me. By letter dated 10/17/14 I terminated all agreements as a result of a breach of contract by TransCanada of its settlement agreement with respect to the forced taking of my property through eminent domain. At this point, any entry on my property will be deemed trespassing.
3. The State of South Dakota has allowed the Keystone 1 pipeline to be built and is considering recertification of the permit for the proposed Keystone XL pipeline primarily so the state can have an ongoing flow of revenue from TransCanada. The State of South Dakota has engaged in this while denying its residents who are having the pipelines forced upon them through a taking of their private property the ability to do the same. I am of the opinion that the State’s permitting TransCanada to exercise eminent domain to take citizens’ private property is unconstitutional.
4. My wife and I will have a loss of income as a result of the proposed KXL pipeline crossing our land. We will be unable to use our own property during construction and reclamation, resulting in losses in excess of \$35,000 per year. TransCanada’s use of eminent domain enabled it to leverage landowners to prevent them from being made whole for the economic losses that would be incurred should the pipeline cross their property.
5. Because I will have to travel to the property to check cattle and the land much more than normal, which will add thousands of dollars to my annual expenses. TransCanada was unwilling to compensate for these losses, even though they state that the property owners are their first eyes on the ground.
6. I informed Tim Irons, a TransCanada land agent, that I wanted to be fairly compensated for each day I was unable to use my own private property. I was told that TransCanada did not do business that way, meaning that TransCanada was not willing to negotiate with me in fair and good faith. Being unwilling to sign an easement I believed to be fundamentally unfair, TransCanada simply took my private property using eminent domain.
7. During Commission meetings held in Winner, SD, and in western South Dakota, TransCanada stated they would use almost 3/4 inch pipe under the roads and in high consequence areas. However, TransCanada has downgraded the pipe wall thickness from this baseline. The Commission witnessed these statements. TransCanada’s subsequent actions demonstrate that it does not intend

on building the safest pipeline, or to comply with their agreements.

8. I had a conversation with an employee of the South Dakota Department of Environment and Natural Resources, and asked why they allowed TransCanada to build a pipeline so close to the City of Colome's water source. I was told that it must have just been overlooked.
9. With respect to reclamation of land, based on TransCanada's conduct, we do not believe it intends to reclaim our land back to the condition it was in prior to their taking of our private property.
10. TransCanada stated in public documents (including the FSEIS) that they rely on property owners to provide oversight on the pipelines. I suggest this demonstrates that TransCanada's SCADA system does not detect the leaks to the extent needed.
11. When asked, TransCanada has no answer as to how they will clean up a spill into an aquifer. Eight years into their effort, with no emergency response plan disclosed to date, TransCanada has no answer for this question. Recent pipeline spills into waterways have demonstrated that South Dakota cannot risk our agriculture and tourism industries.
12. As it is not possible to cover all topics in this pre-filed testimony that may arise during a hearing, I reserve the right to rebut any additional testimony presented during the hearing by TransCanada.

Dated this 26<sup>th</sup> day of June, 2015.

/s/ John Harter

John Harter