

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of)	Application No. OP-0003
TransCanada Keystone Pipeline, L.P.)	
For Route Approval of the Keystone XL)	MOTION TO RECONSIDER
Pipeline Project Pursuant to the Major Oil)	ORDER OF MARCH 31, 2017,
Pipeline Siting Act)	AND SET FOR HEARING
)	

The Sierra Club, Nebraska Chapter, hereinafter referred to as the Nebraska Sierra Club, hereby moves the Nebraska Public Service Commission for an order reconsidering the order of the Hearing Officer dated March 31, 2017, to reschedule the scheduling conference call set for April 10, 2017 and to set this motion for hearing before the Commission. In support of its motion the Nebraska Sierra Club states as follows:

1. Rule 015.01C states: “A formal intervenor shall be entitled to participate in the proceeding **to the extent of his/her express interest in the matter.** (emphasis added)
Such participation shall include, **without limitation,** presentation of evidence and argument, cross-examination of witnesses and submission of rebuttal evidence.”
(emphasis added)
2. The Nebraska Sierra Club has unique interests in this matter which cannot be represented by any other parties as set forth in its Petition for Intervention, including the following.
 - a. The Nebraska Sierra Club has members who own real estate located on or near the proposed pipeline route whose property could be adversely affected by this decision.
 - b. The Nebraska Sierra Club has more than 2,000 members who are taxpayers of the State of Nebraska and its political subdivisions that are within the scope of statutorily required comment who would be adversely affected by the economic and social

impacts of this decision in addition to the natural resource impacts. These taxpayers have standing in this matter of great public interest.


3. The Nebraska Sierra Club has expertise and interest in a great number of matters related to the public interest, which is the standard by which this matter is being reviewed.
4. The Nebraska Sierra Club has a unique interest and ability to present evidence related to protecting threatened and endangered species which would not otherwise be presented in this proceeding.
5. The March 31st Order, on page 1 in the text adjacent to footnote 1, incorrectly cited Neb. Rev. Stat. 57-1407 as using the conjunctive "however": the correct conjunctive is "but". But is a conjunctive that negates the preceding clause; however is a conjunctive that contrasts with the preceding clause. This substitution of conjunctive substantially alters the roles and importance of 57-1407's subparagraphs (a) through (h). Within the confines of subparagraphs (a) through (h) the safety of the pipeline is relevant; otherwise the words like "mitigate" and the tasks required by those subparagraphs would substantially alter their ordinary meanings.
6. The March 31st Order, on page 7 the second paragraph's first sentence starts "Although none of the Natural Resource Petitioners have asserted a legally cognizable real property interest in the land of the proposed route ...". This is inaccurate as applied to the Sierra Club. In the Sierra Club's March 22nd Petition to Formal Intervention on page 2 the Sierra Club in paragraphs 3 and 10 and 11 expressly claimed interests in real estate; and in paragraphs 1 through 11 made implied claims in real estate. Without justification, the PSC's March 31st Order made a finding that these Sierra Club claimed interests in real estate are not "legally cognizable". Accordingly, the Sierra Club ought to have been

included in the category of Formal Interveners that the PSC's March 31st Order referred to on page 4 as Landowner Petitioners.

WHEREFORE, the Nebraska Sierra Club hereby respectfully moves the Commission, for the reasons described above, for an order reconsidering the Order of the Hearing Officer dated March 31, 2017, to continue the scheduling conference set for April 10, 2017 and to set this motion for hearing before the Commission.

Dated this 10th day of April 2017.

By:



James P. Cavanaugh # 16533
Cavanaugh Law Firm, PC LLO
For the Sierra Club, Nebraska Chapter
6035 Binney Street, Suite 100
Omaha, NE 68104
402-341-2020
cavanaughlawfirm@aol.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Motion was served on this 10th day of April 2017 upon the following:

By hand delivery:

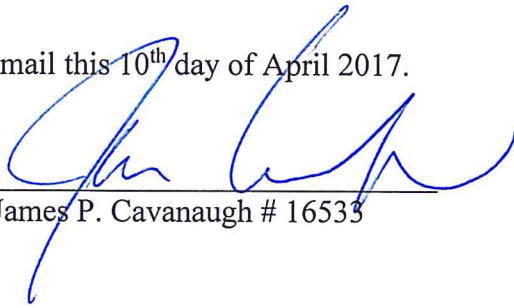
Jeff Pursley
Nebraska Public Service Commission
1200 N St., Suite 300
Lincoln, NE 68508
Jeff.pursley@nebraska.gov

By email:

James G. Powers
jpowers@mcgrathnorth.com
Patrick D. Pepper
McGrath North Mullin & Kratz
First National Tower, Suite 3700

1601 Dodge St.
Omaha, NE 68102

All other named intervenors were served by email this 10th day of April 2017.



James P. Cavanaugh # 16533