

TRANSCANADA KEYSTONE PIPELINE LP

October 22, 2008

Brett Koenecke
May, Adam, Gerdes & Thompson, LLP
P O Box 160
Pierre, SD 57501

NON-ENVIRONMENTAL PERMITS FOR SOUTH DAKOTA QUARTERLY REPORT

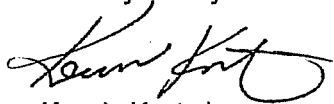
Enclosed is one set of Non –Environmental Permits received from state and local governments in the third quarter of 2008. The permits are being filed as part of the Public Utilities Commission Permit requirements for the Keystone Pipeline.

If you have any questions or need clarification on anything, please contact at the address or phone number listed below:

Kerwin Kostad
Permit Coordinator
7509 NW Tiffany Springs Parkway
Northpointe Circle II, Suite 200
Kansas City, MO 64153

Telephone: 816-880-4609 Ext 133
E-Mail: kkostad@donellis-associates.com

Thank you for your assistance in seeing the permits being filed.



Kerwin Kostad
Permit Coordinator

Enclosure:



JONES LANG
LASALLE.

Jones Lang LaSalle Americas, Inc.
3017 Lou Menk Drive, Suite 100
Fort Worth, Texas 76131-2800
tel +1 817-230-2600, fax +1 817 306-8265

August 1, 2008

Tracking #07-35182

Roger Phillips, Permit Coordinator
Keystone Pipeline Project
7509 N.W. Tiffany Springs Pkwy.
Northpointe Circle II, Suite 200
Kansas City, MO 64153

Dear Mr. Phillips:

Enclosed please find one (1) fully executed Agreement for your file. **A copy of the executed Agreement must be available upon request at the job site allowing authorization to do the work.** Please contact Roadmaster at telephone (605) 229-7225 or cell (605) 228-8456, five (5) days in advance of entry and **BEFORE YOU DIG, CALL 1-800-533-2891.**

If you need additional information please contact me at (817) 230-2634.

Sincerely,

Heather Calhoun
Contract Specialist

Enclosure

cc: Larry Sanders, BNSF, One N. Main St., Aberdeen, SD 57401

PIPELINE LICENSE

THIS LICENSE ("License"), made as of the 1st day of August, 2008 ("Effective Date") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("Licensor") and **TRANSCANADA KEYSTONE PIPELINE, LP**, a Delaware limited partnership, by its agent TC Oil Pipeline Operations Inc. ("Licensee").

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree to the following:

GENERAL

1. Licensor hereby grants Licensee a non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, use rights, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to construct and maintain, in strict accordance with the drawings and specifications approved by Licensor as part of Licensee's application process (the "Drawings and Specifications"), one (1) Pipeline, thirty (30") inches in diameter inside a thirty-six (36") inch steel casing (collectively, the "PIPELINE"), across or along the rail corridor of Licensor at or near the station of Andover, County of Day, State of South Dakota, Line Segment 2004, Mile Post 680.6, as shown on the attached Drawing No. 1-42648, dated December 3, 2007 and revised April 10, 2008, attached hereto as Exhibit "A" and made a part hereof ("Premises").
2. Licensee shall not disturb any improvements of Licensor or Licensor's existing lessees, Licensees, easement beneficiaries or lien holders, if any, or interfere with the use of such improvements.
3. Licensee shall use the Premises solely for construction and maintenance of a PIPELINE in accordance with the Drawings and Specifications carrying crude oil. Licensee shall not use the PIPELINE to carry any other commodity or use the Premises for any other purpose.

Licensee covenants that it will not handle or transport "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any federal, state, or local governmental agency or body through the PIPELINE on Licensor's property. Licensee agrees periodically to furnish Licensor with proof, satisfactory to Licensor that Licensee is in such compliance. Should Licensee not comply fully with the above-stated obligations of this Section, notwithstanding anything contained in any other provision hereof, Licensor may, at its option, terminate this License by serving five (5) days' notice of termination upon Licensee. Upon termination, Licensee shall remove the PIPELINE and restore Licensor's property as herein elsewhere provided.

4. In case of the eviction of Licensee by anyone owning or claiming title to or any interest in the Premises, or by the abandonment by Licensor of the affected rail corridor, Licensor shall not be liable to refund Licensee any compensation paid hereunder, except for the pro-rata part of any recurring charge paid in advance, or for any damage Licensee sustains in connection therewith.

5. Any contractors or subcontractors performing work on the PIPELINE or entering the Premises on behalf of Licensee shall be deemed servants and agents of Licensee for purposes of this License.

TERM

6. This License shall commence on the Effective Date and shall continue for a period of twenty-five (25) years, subject to prior termination as hereinafter described.

COMPENSATION

7. (a) Licensee shall pay Licensor, as compensation for this license, the sum of Two Thousand Five Hundred Fifty-Two and No/100 Dollars (\$2,552.00) for the first year this License is in effect, and the sum of One Thousand Eight Hundred and No/100 Dollars (\$1,800.00) beginning with the second year, payable annually and in advance. Licensor reserves the right to implement a reasonable increase as conditions warrant. Billing or acceptance by Licensor of any rental shall not imply a definite term or otherwise restrict either party from canceling this Permit as provided herein.
- (b) Licensee agrees to reimburse Licensor (within thirty (30) days after receipt of bills therefor) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction and maintenance of the PIPELINE, including but not limited to the furnishing of Licensor's flaggers and any vehicle rental costs incurred. The cost of flagger services provided by Licensor, when deemed necessary by Licensor's representative, will be borne by Licensee. The estimated cost for one (1) flagger is \$600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Licensor and unemployment insurance, public liability and property damage insurance, health and welfare benefits, transportation, meals, lodging and supervision. Negotiations for Licensor labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the flaggers will be used to calculate the actual costs of flagging pursuant to this paragraph.
- (c) All invoices are due thirty (30) days after the date of invoice. In the event that Licensee shall fail to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from thirty (30) days after its invoice date to the date of payment by Licensee at an annual rate equal to (i) the greater of (a) for the period January 1 through June 30, the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2 1/2%), and for the period July 1 through December 31, the prime rate last published in *The Wall Street Journal* in the preceding June plus two and one-half percent (2 1/2%), or (b) twelve percent (12%), or (ii) the maximum rate permitted by law, whichever is less.

COMPLIANCE WITH LAWS

8. (a) Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("Legal Requirements") relating to the construction, maintenance, and use of the PIPELINE and the use of the Premises.
- (b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety-training program at the following Internet Website "<http://www.contractororientation.com>". This training must be completed no more than one year in advance of Licensee's entry on the Premises.

DEFINITION OF COST AND EXPENSE

9. For the purpose of this License, "cost" or "costs" "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.

RIGHT OF LICENSOR TO USE

10. Licensor excepts and reserves the right, to be exercised by Licensor and any other parties who may obtain written permission or authority from Licensor:
- (a) to maintain, renew, use, operate, change, modify and relocate any existing pipe, power, communication lines and appurtenances and other facilities or structures of like character upon, over, under or across the Premises;
- (b) to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; or
- (c) to use the Premises in any manner as the Licensor in its sole discretion deems appropriate, provided Licensor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in Section 3 above.

LICENSEE'S OPERATIONS

11. (a) Licensee shall notify Licensor's Roadmaster at One N. Main St., Aberdeen, SD 57401, telephone (605) 229-7225 or cell (605) 228-8456, at least five (5) business days prior to installation of the PIPELINE and prior to entering the Premises for any subsequent maintenance thereon.
- (b) In performing the work described in Section 3, Licensee shall use only public roadways to cross from one side of Licensor's tracks to the other.

12. (a) Under no conditions shall Licensee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless Licensee has obtained prior written approval from Licensor. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not at any time to be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Licensor, or the safe operation and activities of Licensor. If ordered to cease using the Premises at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.
- (b) Licensee shall, at its sole cost and expense, construct and maintain the PIPELINE in such a manner and of such material that it will not at any time be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Licensor, or the safe operation and activities of Licensor. Licensor may direct one of its field engineers to observe or inspect the construction and/or maintenance of the PIPELINE at any time for compliance with the Drawings and Specifications. If ordered at any time to halt construction or maintenance of the PIPELINE by Licensor's personnel due to non-compliance with the same or any other hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to observe or inspect, or to halt work on, the PIPELINE, it being solely Licensee's responsibility to ensure that the PIPELINE is constructed in strict accordance with the Drawings and Specifications and in a safe and workmanlike manner in compliance with all terms hereof. Neither the exercise nor the failure by Licensor to exercise any right granted by this Section will alter in any way the liability allocation provided by this License. If at any time Licensee shall, in the sole judgment of Licensor, fail to properly perform its obligations under this Section, Licensor may, at its option and at Licensee's sole expense, arrange for the performance of such work as it deems necessary for the safety of its operations and activities. Licensee shall promptly reimburse Licensor for all costs and expenses of such work, upon receipt of an invoice for the same. Licensor's failure to perform any obligations of Licensee shall not alter the liability allocation hereunder.
13. During the construction and any subsequent maintenance performed on the PIPELINE, Licensee shall perform such work in a manner to preclude damage to the property of Licensor, and preclude interference with the operation of its railroad. The construction of the PIPELINE shall be completed within one (1) year of the Effective Date. Upon completion of the construction of the PIPELINE and after performing any subsequent maintenance thereon, Licensee shall, at Licensee's own cost and expense, restore Licensor's Premises to their former state as of the Effective Date of this License.

14. If at any time during the term of this License, Licensor shall desire the use of its rail corridor for railroad purposes in such a manner as would, in Licensor's reasonable opinion, be interfered with by the PIPELINE, Licensee shall, at its sole expense, within ninety (90) days after receiving written notice from Licensor to such effect, make such changes in the PIPELINE as in the sole discretion of Licensor may be reasonably required to avoid interference with the proposed use of Licensor's rail corridor, including, without limitation, the relocation of the existing or the construction of a new PIPELINE(s).
15. (a) Prior to Licensee conducting any boring work on or about any portion of the Premises, Licensee shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided, however, that in lieu of the foregoing, the Licensee shall have the right to use suitable detection equipment or other generally accepted industry practice (e.g., consulting with the Underground Services Association) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Upon Licensee's written request, which shall be made thirty (30) business days in advance of Licensee's requested construction of the PIPELINE, Licensor will provide Licensee any information that Licensor has in the possession of its Engineering Department concerning the existence and approximate location of Licensor's underground utilities and pipelines at or near the vicinity of the proposed PIPELINE. Prior to conducting any such boring work, the Licensee will review all such material. Licensor does not warrant the accuracy or completeness of information relating to subsurface conditions and Licensee's operations will be subject at all times to the liability provisions herein.
- (b) For all bores greater than 26-inch diameter and at a depth less than 10.0 feet below bottom of rail, a soil investigation will need to be performed by the Licensee and reviewed by Licensor prior to construction. This study is to determine if granular material is present, and to prevent subsidence during the installation process. If the investigation determines in Licensor's reasonable opinion that granular material is present, Licensor may select a new location for Licensee's use, or may require Licensee to furnish for Licensor's review and approval, in its sole discretion a remedial plan to deal with the granular material. Once Licensor has approved any such remedial plan in writing, Licensee shall, at its sole cost and expense, carry out the approved plan in accordance with all terms thereof and hereof.
16. Any open hole, boring or well constructed on the Premises by Licensee shall be safely covered and secured at all times when Licensee is not working in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises by Licensee shall be:
- (a) filled in to surrounding ground level with compacted bentonite grout; or
- (b) otherwise secured or retired in accordance with any applicable Legal Requirement. No excavated materials may remain on Licensor's property for more than ten (10) days, but must be properly disposed of by Licensee in accordance with applicable Legal Requirements.

17. Upon termination of this License, Licensee shall, at its sole cost and expense:
- (a) remove the PIPELINE and all appurtenances thereto, or, at the sole discretion of the Licensor, fill and cap or otherwise appropriately decommission the PIPELINE with a method satisfactory to Licensor;
 - (b) report and restore any damage to the Premises arising from, growing out of, or connected with Licensee's use of the Premises;
 - (c) remedy any unsafe conditions on the Premises created or aggravated by Licensee; and
 - (d) leave the Premises in the condition which existed as of the Effective Date of this License.
18. Licensee's on-site supervisions shall retain/maintain a fully executed copy of this License at all times while on the Premises.

LIABILITY

19. (a) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):**
- (i) THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,**
 - (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,**
 - (iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,**
 - (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, OR**
 - (v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,**

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

- (b) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 19(a), LICENSEE SHALL NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT LICENSOR IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PIPELINE FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES AND ONLY FOR CLAIMS RELATED TO LICENSEE'S USE OF THE PREMISES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL NOT IN ANY WAY SUBJECT LICENSOR TO CLAIMS THAT LICENSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS.
- (c) TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE FURTHER AGREES, REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.
- (d) Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

PERSONAL PROPERTY WAIVER

20. ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.

INSURANCE

21. Licensee shall, at its sole cost and expense, procure and maintain during the life of this License the following insurance coverage:

- A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- ◆ Bodily Injury and Property Damage
 - ◆ Personal Injury and Advertising Injury
 - ◆ Fire legal liability
 - ◆ Products and completed operations

This policy shall also contain the following extensions, which shall be indicated on the certificate of insurance:

- ◆ The employee and workers compensation related exclusions in the above policy shall not apply with respect to claims related to railroad employees.
 - ◆ The definition of Insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
 - ◆ Any exclusions related to explosion, collapse and underground hazards shall be removed.
- B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
 - ◆ Any and all vehicles owned, used or hired
- C. Workers Compensation and Employers Liability Insurance. This insurance shall include coverage for, but not limited to:
- ◆ Licensee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.
- D. Railroad Protective Liability Insurance. This insurance shall name only the Licensor as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The coverage obtained under this policy shall only be effective during the initial installation and/or construction of the

PIPELINE. THE CONSTRUCTION OF THE PIPELINE SHALL BE COMPLETED WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE. If further maintenance of the PIPELINE is needed at a later date, an additional Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:

- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
- ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
- ◆ No other endorsements restricting coverage may be added.
- ◆ The original policy must be provided to the Licensor prior to performing any work or services under this Agreement.

In lieu of providing a Railroad Protective Liability Policy, Licensee may participate in Licensor's Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$1,000.

- I elect to participate in Licensor's Blanket Policy;
- I elect not to participate in Licensor's Blanket Policy.

E. Contractor's Pollution Legal Liability (CPL) Insurance. This insurance shall be in an amount of at least FIVE MILLION DOLLARS (\$5,000,000) per occurrence and TEN MILLION DOLLARS (\$10,000,000) in the aggregate including but not limited to coverage for the following:

- ◆ bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death;
- ◆ property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- ◆ defense costs including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- ◆ Coverage shall apply to sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in BODILY INJURY, PROPERTY DAMAGE, or Remediation Expense.
- ◆ If coverage is purchased on a "claims made" basis, lessee hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation, or termination of this contract. Annually contractor agrees to provide evidence of such coverage as required hereunder.
- ◆ Delete any bodily injury exclusions resulting from lead or asbestos.

- ◆ Amend the Contractual Liability exclusions and employers liability exclusion to provide coverage for liability assumed under contract.
- ◆ Amend the definition of Property Damage to provide coverage for natural resource damage.

In lieu of the above pollution coverage, a parental guarantee is acceptable and attached to this License as Exhibit "B".

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Licensee agrees to waive its right of recovery against Licensor for all claims and suits against Licensor. In addition, its insurers, through policy endorsement, waive their right of subrogation against Licensor for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensor for loss of its owned or leased property or property under its care, custody, or control.

Licensee's insurance policies through policy endorsement must include wording which states that the policy shall be primary and non-contributing with respect to any insurance carried by Licensor. The certificate of insurance must reflect that the above wording is included in evidenced policies.

All policy(ies) required above (excluding Workers' Compensation, Contractor's Pollution Legal Liability and if applicable, Railroad Protective) shall include a severability of interest endorsement and shall name Licensor and Staubach Global Services - RR, Inc. as additional insureds with respect to work performed under this License. Severability of interest and naming Licensor and Staubach Global Services - RR, Inc. as additional insureds shall be indicated on the certificate of insurance.

Licensee is not allowed to self-insure without the prior written consent of Licensor. If granted by Licensor, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensor liabilities that would otherwise, in accordance with the provisions of this License, be covered by Licensee's insurance will be covered as if Licensee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing any work, Licensee shall furnish to Licensor an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensor in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. In the event of a claim or lawsuit involving Licensor arising out of this License, Licensee will make available any required policy covering such claim or lawsuit.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

For purposes of this Section 21, Licensor shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

ENVIRONMENTAL

22. (a) Licensee shall strictly comply with all federal, state and local environmental laws and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA (collectively referred to as the "Environmental Laws"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.
- (b) Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to

promptly respond to any release on or from the Premises. Licensee also shall give Licensors immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.

- (c) In the event that Licensors has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the PIPELINE which occurred or may occur during the term of this License, Licensors may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensors's right-of-way.
- (d) Licensee shall promptly report to Licensors in writing any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensors shall not relieve Licensee of any obligation whatsoever imposed on it by this License. Licensee shall promptly respond to Licensors's request for information regarding said conditions or activities.

ALTERATIONS

- 23. Licensee may not make any alterations to the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Licensors's prior written consent.

NO WARRANTIES

- 24. **LICENSORS'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS LICENSE AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY LICENSORS OTHER THAN THOSE CONTAINED IN THIS LICENSE. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR WHICH MAY EXIST BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

QUIET ENJOYMENT

- 25. **LICENSORS DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.**

DEFAULT

- 26. In addition to and not in limitation of any other termination rights Licensors may have under this License, Licensors has the right, but not the obligation, to terminate this License as provided below:

- (a) If Licensee violates any safety provision contained in this License and fails to (i) commence the cure of such violation immediately and (ii) complete such cure within five (5) calendar days, Licensor may, at its option, terminate this License upon written notice to Licensee;
- (b) In case of any assignment or transfer of this License by operation of law, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee; or
- (c) If default shall be made in any of the other covenants or agreements of Licensee contained in this License for which no termination right is expressly noted for such covenant or agreement, and Licensee shall fail to cure said default within 30 days after written notice is provided to Licensee by Licensor, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee.
- (d) Any waiver by Licensor of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults, nor shall any such waiver in any way affect Licensor's ability to enforce any Section of this License. The remedy set forth in this Section 26 shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.

LIENS AND CHARGES

27. Licensee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Licensee on Premises. Licensor is hereby authorized to post any notices or take any other action upon or with respect to Premises that is or may be permitted by law to prevent the attachment of any such liens to Premises; provided, however, that failure of Licensor to take any such action shall not relieve Licensee of any obligation or liability under this Section 27 or any other Section of this License. Licensee shall pay when due any taxes, assessments or other charges (collectively, "Taxes") levied or assessed upon the Improvements by any governmental or quasi-governmental body or any Taxes levied or assessed against Licensor or the Premises that are attributable to the Improvements.

TERMINATION BY LICENSEE

28. This License may be terminated by Licensee upon execution of Licensor's Mutual Termination Letter Agreement then in effect. Upon expiration of the time specified in such notice, this License and all rights of Licensee shall absolutely cease.

SURRENDER

29. If Licensee fails to surrender to Licensor the Premises, upon any termination of this License, all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered. Termination shall not release Licensee from any liability or obligation, whether of indemnity or otherwise, resulting from any events happening prior to the date of termination.

ASSIGNMENT

30. Neither Licensee, nor the heirs, legal representatives, successors, or assigns of Licensee, nor any subsequent assignee, shall assign or transfer this License or any interest herein, without the prior written consent and approval of Licensor, which shall not be unreasonably withheld.
31. Notwithstanding the above or anything contained in this License to the contrary, however, if: (i) Licensor discovers that this License or any interest therein has been previously assigned or transferred without Licensor's prior written consent and (ii) such assignment or transfer occurred more than five (5) days prior to Licensor's discovery of such assignment or transfer, then Licensor has the right, but not the obligation, to terminate this License upon five (5) days' written notice to Licensee.

NOTICES

32. Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor: Staubach Global Services - RR, Inc.
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131-2800
Attn: Licenses/Permits

with a copy to: BNSF Railway Company
2500 Lou Menk Dr. – AOB3
Fort Worth, TX 76131
Attn: Manager – Land Revenue Management

If to Licensee: TransCanada Keystone Pipeline, LP
450 1st St. SW
Calgary, Alberta T20 5H1

SURVIVAL

33. Neither termination nor expiration will release either party from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the PIPELINE and improvements are removed and the Premises are restored to its condition as of the Effective Date.

RECORDATION

34. It is understood and agreed that this License shall not be placed on public record.

APPLICABLE LAW

35. All questions concerning the interpretation or application of provisions of this License shall be decided according to the substantive laws of the State of Texas without regard to conflicts of law provisions.

SEVERABILITY

36. To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.

INTEGRATION

37. This License is the full and complete agreement between Licensor and Licensee with respect to all matters relating to Licensee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensor harmless in any prior written agreement between the parties.

MISCELLANEOUS

38. In the event that Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.

39. The waiver by Licensor of the breach of any provision herein by Licensee shall in no way impair the right of Licensor to enforce that provision for any subsequent breach thereof.

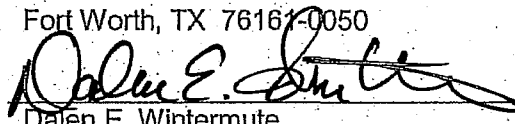
Staubach Global Services – RR, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this License has been duly executed, in duplicate, by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

P.O. Box 961050
Fort Worth, TX 76161-0050

By:



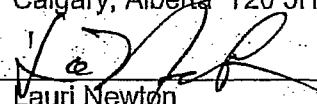
Daren E. Wintermute

Title: Manager – Land Revenue Management

TRANSCANADA KEYSTONE PIPELINE, LP

By its agent: TC Oil Pipeline Operations Inc.
450 1st St. SW
Calgary, Alberta T20 5H1

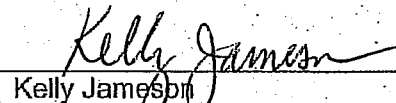
By:



Lauri Newton

Title: Assistant Secretary

By:



Kelly Jameson

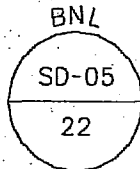
Title: Secretary

EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
 AND

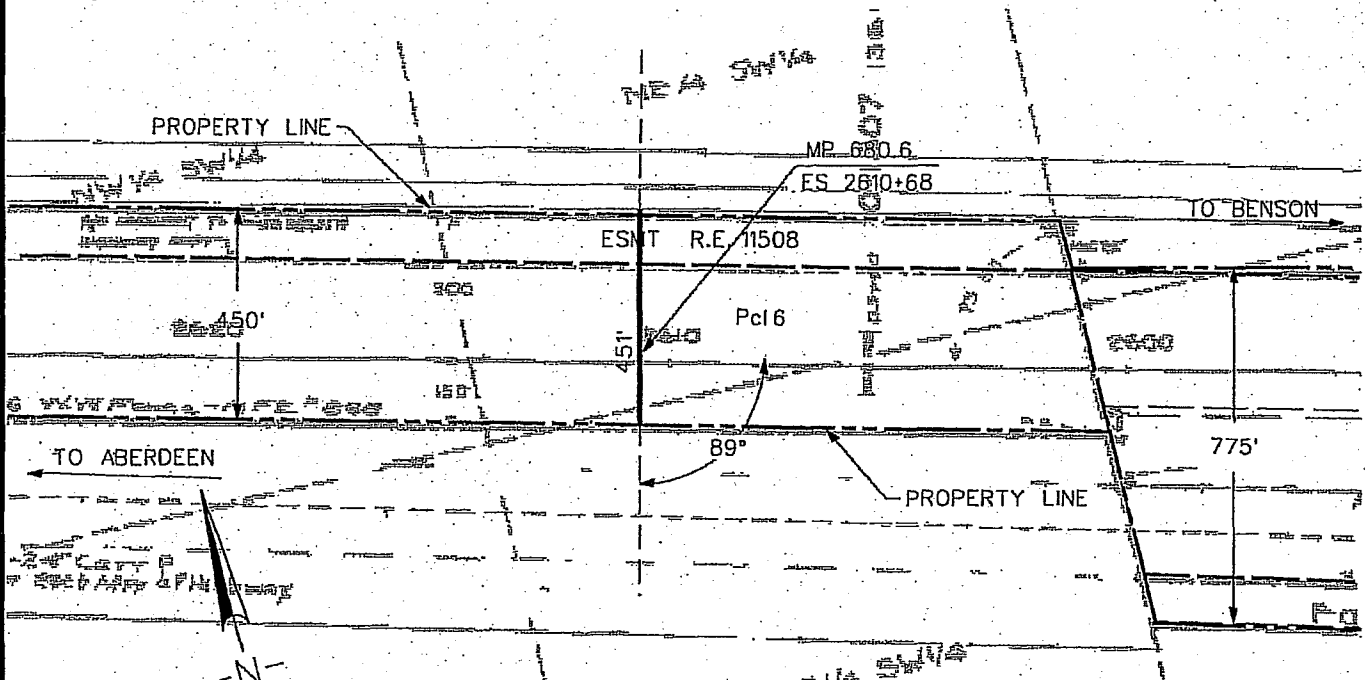
TRANSCANADA KEYSTONE PIPELINE, LP

SCALE: 1 IN. = 400 FT.
 TWIN CITIES DIV.
 APPLETON SUBDIV. L.S. 2004
 DATE 12/03/2007
 REV. DATE 04/10/2008



SECTION: 32
 TOWNSHIP: 123W
 RANGE: 59W
 MERIDIAN: 5PM

MAP REF. C51211



DESCRIPTION OF PIPELINE
 PIPELINE SHOWN BOLD

	CARRIER PIPE	CASING PIPE		CARRIER PIPE	CASING PIPE
SIZE:	30"	36"	LENGTH ON R/W:	451'	451'
CONTENTS:	CRUDE OIL		WORKING PRESSURE:	1440 PSI	
PIPE MATERIAL:	STEEL	STEEL	BURY: BASE/RAIL TO TOP OF CASING	11'	
SPECIFICATION / GRADE:	X-70	GRD-B	BURY: NATURAL GROUND	6'	
WALL THICKNESS:	0.515"	0.531"	BURY: ROADWAY DITCHES	6'	
COATING:	FBE	-	CATHODIC PROTECTION	YES	

VENTS: NUMBER SIZE HEIGHT OF VENT ABOVE GROUND

NOTE: PIPELINE TO BE DIRECTIONAL BORED.

NEAR ANDOVER
 COUNTY OF DAY

STATE OF SD

KLC

EXHIBIT "B"

GUARANTEE

This Guarantee is made as of the 25th day of July, 2008.

Recitals

- A. BNSF Railway Company, a Delaware corporation (the "Counterparty"), and TransCanada Keystone Pipeline, LP, a Delaware limited partnership (the "Partnership"), by its agent TC Oil Pipeline Operations Inc., will enter into a Pipeline License Agreement dated on or about August 1st, 2008, as may be amended from time to time after this Guarantee, which is referred to as the "Contract".
- B. The Partnership is an indirect partially-owned entity of TransCanada Corporation, a Canadian corporation, and TransCanada PipeLine USA Ltd., a Nevada corporation (individually and collectively, the "Guarantor").
- C. The Guarantor has agreed to guarantee, not merely as surety but as primary obligor, jointly and severally the Partnership's obligations to the Counterparty under Section 21.E of the Contract.

In consideration of the Counterparty's agreement to enter into the Contract with the Partnership, the premises and agreements contained in this Guarantee and other good and valuable consideration (the receipt and sufficiency of which the parties acknowledge), the Guarantor agrees with the Counterparty as follows:

1. **Guarantee.** Subject to Section 3, the Guarantor unconditionally and irrevocably guarantees, not merely as surety but as primary obligor, jointly and severally, unto the Counterparty:
 - (a) all the debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Partnership to the Counterparty or remaining unpaid by the Partnership to the Counterparty under the Contract including, without limitation, purchase prices, commissions, fees, demand charges, commodity charges and any other charge, balancing fees claims, liabilities, fines, penalties, costs, losses, liens, causes of action, suits, demands, judgments and expenses (including court costs, attorneys' fees and costs of investigation, reasonable removal and remediation and governmental oversight costs) environmental or otherwise and damages payable by the Partnership under sections 21.E of the Contract (collectively, the "Obligations"). Counterparty agrees that this Guarantee is provided to Counterparty in lieu of the Partnership's obligation to provide Contractor's Pollution Legal Liability Insurance pursuant to Section 21.E of the Contract; and
 - (b) the full and prompt payment, upon demand by the Counterparty, of all costs and expenses, legal or otherwise (including reasonable attorneys' fees), if any, as shall have been expended or incurred by the Counterparty in the protection or enforcement of any rights, privileges or liabilities in favor of the Counterparty under or in respect of the Contract in connection with a breach by the Partnership of the Obligations thereunder or by the Guarantor under this Guarantee.
2. **Liability as principal debtor.** The Counterparty may recover from the Guarantor as a principal debtor any Obligations that the Counterparty may not recover from the Guarantor as guarantor under Section 1, and the Guarantor agrees to pay all such Obligations to the Counterparty as principal debtor. The provisions of this Guarantee shall apply generally with the necessary changes as to the points of detail to the liability of the Guarantor as principal debtor hereunder
3. **Aggregate liability.** The aggregate liability of the Guarantor under this Guarantee to the Counterparty is limited to US\$ 10 million.
4. **Guarantee absolute.** The liability of the Guarantor is absolute and unconditional and is not affected by:
 - (a) any change in the time, manner or place of payment of the Obligations or in any other term of the Contract or the Partnership's failure to carry out any of its obligations under the Contract;

EXHIBIT "B"

- (b) any force majeure (other than a force majeure under the Contract that relieves the Partnership of liability for the performance of any Obligations) or act of government in relation to, or directly or indirectly affecting, the Contract, the Obligations, the Partnership, the Guarantor or the Counterparty;
- (c) any change in the financial condition of the Guarantor, the Partnership or the Counterparty;
- (d) any change in the corporate existence, structure or ownership of the Partnership;
- (e) if the Counterparty, Partnership or the Guarantor, respectively is a partnership, any change in the membership of the Counterparty, Partnership or the Guarantor through the death or retirement of one or more partners or the introduction of one or more partners or otherwise, any change in the constitution of the Counterparty, Partnership or the Guarantor, or any incorporation of the Counterparty, Partnership or the Guarantor;
- (f) the bankruptcy, winding-up, liquidation, dissolution, insolvency, reorganization or other similar proceeding affecting the Partnership, the Guarantor, or the assets of either or any resulting release, stay or discharge of any Obligations;
- (g) any lack or limitation of power, incapacity or disability on the part of the Partnership or of its directors, partners or agents or any other irregularity, defect or informality on the part of the Partnership in the Obligations; or
- (h) any other law, regulation or other circumstance that might otherwise constitute a defense available to, or a discharge of, the Partnership in respect of any of the Obligations.

provided that the specific enumeration of the above-mentioned acts, failures or omissions shall not be deemed to exclude any other acts, failures or omissions, though not specifically mentioned above, it being the purpose and intent of this Guarantee that the obligations of the Guarantor shall be absolute and unconditional and shall not be discharged, impaired or varied except by the performance of the obligations and indefeasible payment in full of the Obligations, whenever the same shall become due and payable. Without limiting the foregoing, it is understood that repeated and successive demands may be made and recoveries may be had hereunder as and when, from time to time, the Partnership shall default under or in respect of the terms of Section 21.E of the Contract and that notwithstanding recovery hereunder for or in respect of any given default or defaults by the Partnership under the Contract, this Guarantee shall remain in full force and effect and shall apply to each and every subsequent default.

5. **No release.** The liability of the Guarantor is not released, discharged, limited or in any way affected by anything the Counterparty does, suffers or permits in connection with any duties or liabilities of the Partnership to the Counterparty or any security for those duties or liabilities, including without limitation any loss of or in respect of any security received by or from the Partnership or others. The Counterparty, without notifying the Guarantor or releasing, discharging, limiting or otherwise affecting the Guarantor's liability, may:
- (a) grant time, renewals, extensions, indulgences, releases and discharges to the Partnership;
 - (b) take or abstain from taking security or collateral from the Partnership or from perfecting security or collateral of the Partnership;
 - (c) accept compromises from the Partnership;
 - (d) apply all money at any time received from the Partnership, or from security, upon that part of the Obligations as the Counterparty sees fit or change any such application in whole or in part from time to time as the Counterparty sees fit;
 - (e) amend the Contract from time to time after the date of this Guarantee; or

EXHIBIT "B"

- (f) otherwise deal with the Partnership and all other persons and security as the Counterparty sees fit.
6. **No exhaustion of remedies.** The Counterparty is not bound or obliged to exhaust its recourse against the Partnership or any other persons or any security or collateral it may hold or take any other action before being entitled to demand payment from the Guarantor.
7. **No set-off.** Until the Counterparty has received payment in full, the Guarantor may not claim or assert any set-off, deduction, counterclaim or crossclaim against the Counterparty in respect of any liability of the Counterparty to the Guarantor or the Partnership. In addition, all amounts payable by the Guarantor under this Guarantee shall be paid without any deduction or withholding whatsoever unless and to the extent that the Guarantor shall be prohibited by law from doing so, in which case the Guarantor shall pay to Counterparty such additional amount as shall be necessary to ensure that Counterparty receives the full amount it would have received if no such deduction or withholding had been made.
8. **Continuing guarantee.** This Guarantee is a continuing guarantee and is binding as a continuing obligation of the Guarantor. This Guarantee shall apply to and secure any ultimate balance due or remaining due to the Counterparty and the Guarantor shall continue to be bound, despite the repayment, from time to time during the term of this Guarantee, of the whole or any part of the amount owed by the Partnership to the Counterparty. This Guarantee continues to be effective even if at any time payment of any of the Obligations is rendered unenforceable or is rescinded or must otherwise be returned by the Counterparty upon the occurrence of any action or event including, without limitation, the bankruptcy, reorganization, winding-up, liquidation, dissolution or insolvency of the Partnership or otherwise, all as though such payment had not been made.
9. **Representations and warranties.** The Guarantor represents and warrants that:
- (a) its execution, delivery, observance and performance of this Guarantee does not and will not conflict with or result in a breach of the articles, by-laws, constituting documents or other organizational documents of the Guarantor, or of the terms or provisions of any judgment, law, decree, order, statute, rule, regulation or agreement, indenture or instrument to which the Guarantor is a party or by which the Guarantor is bound or to which the Guarantor is subject, or constitute a default under any of them;
 - (b) this Guarantee has been duly authorized, signed and delivered by the Guarantor;
 - (c) this Guarantee constitutes a legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, except as enforceability may be limited by principles of equity, or by bankruptcy, insolvency, reorganization, moratorium or other similar laws;
 - (d) each Guarantor is duly organized and validly existing and in good standing under the laws of jurisdiction where it is organized;
 - (e) no consent, approval or authorization of, or filing or registration with, or other action by or in respect of, any governmental authority is required for the execution, delivery or performance by the Guarantor of the Guarantee;
 - (f) the Guarantor (1) is not insolvent, (2) does not have capital unreasonably small in relation to its business or any contemplated or undertaken transaction, or (3) is able to pay its debts as they mature, in each case within the meaning of the Bankruptcy Code or any other bankruptcy, insolvency, fraudulent conveyance or similar law. The Guarantor does not intend to hinder, delay or defraud its creditors by or through the execution and delivery of, or performance of its obligations under, the Guarantee. For purposes of this Guarantee, "Bankruptcy Code" shall mean the United States Bankruptcy Reform Act of 1978, as amended from time to time, 11 U.S.C. §101 et seq.

EXHIBIT "B"

- (g) to the knowledge of the Guarantor, there are no actions, suits, investigations or proceedings pending or threatened against or affecting the Guarantor in any court or before any arbitrator of any kind or before or by any governmental authority that, individually or in the aggregate, would reasonably be expected to have a material adverse effect on the Guarantor or the transactions contemplated by the Contract;
- (h) the representations and warranties of the Guarantor contained in this Guarantee shall for all purposes survive the date hereof and shall not be deemed to have merged into any of the documents executed or delivered under the Contract; and
- (i) the Guarantor had a tangible net worth of not less than C\$7 billion as at March 31, 2008, the date of its most recent quarterly financial statements prepared in accordance with generally accepted accounting principles in Canada.

10. **Demand for payment.** The Guarantor shall make immediate payment to the Counterparty of the Obligations or any of them after the Counterparty demands such payment from the Guarantor. The Counterparty is entitled to make demand upon the Guarantor at any time upon a default in payment of any amount owing by the Partnership to the Counterparty and upon that default the Counterparty may, at its option, treat all Obligations as immediately due and payable and may forthwith collect from the Guarantor the total amount guaranteed under this Guarantee.

The Guarantor agrees that this Guarantee is an irrevocable, unconditional, absolute and continuing guarantee of payment (not merely of collectibility) and that its undertakings hereunder are not contingent upon the Counterparty bringing any action or other proceeding against the Partnership or resorting to any security or exercising any other right or remedy against the Partnership, and hereby irrevocably waives, to the fullest extent permitted by law, any claim that its undertakings hereunder are so contingent. The Counterparty may, at its option, proceed hereunder against the Guarantor in the first instance to collect monies when due, the payment of which is guaranteed hereby, without first proceeding against the Partnership or any other person and without first resorting to any direct or indirect security for the Obligations or for this Guarantee or any other remedy. The liability of the Guarantor hereunder shall in no way be affected or impaired by any acceptance by the Counterparty of any direct or indirect security for, or other guaranties of, any liability or obligation of the Partnership or any other person to the Counterparty or by any failure, delay, neglect or omission by the Counterparty to realize upon or protect any such guaranties, liability or obligation or any notes or other instruments evidencing the same or any direct or indirect security therefor or by any approval, consent, waiver, or other action taken, or omitted to be taken by the Counterparty.

11. **Interest.** The Guarantor shall pay interest from and including the due date until payment is made in full, to the Counterparty on the unpaid portion of the Obligations according to the Contract. If interest is not provided for in the Contract, then the Guarantor shall pay interest to the Counterparty at an annual rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by *The Wall Street Journal*, plus 2% per annum from the due date, or (ii) the maximum applicable lawful interest rate, the rate in either case to be calculated daily from and including the due date.
12. **Stay of acceleration.** If acceleration of the time for payment of any amount payable by the Partnership in respect of the Obligations is stayed on the insolvency, bankruptcy, arrangement or reorganization of the Partnership or on any moratorium affecting the payment of the Obligations, the Guarantor shall nonetheless pay immediately on demand all amounts that would otherwise be subject to acceleration.
13. **Termination.** This Guarantee is a continuing guarantee and may not be terminated except upon; the payment and performance in full of the Obligations by the Partnership under Section 21.E of the Contract, payment in full by the Guarantor under this Guarantee, or replacement of this Guarantee by another financial assurance reasonably acceptable to counterparty including insurance as required under Section 21. E of the Contract, on which event the Guarantor's liability under this Guarantee is fully released and terminated.

EXHIBIT "B"

14. **Subrogation.** The Guarantor has no right to be subrogated to any of the Counterparty's rights in the Obligations until the Counterparty has received payment finally satisfying all Obligations.
15. **Liability for Taxes.** Any and all payments made by the Guarantor to Counterparty shall be made in full, without set-off or counterclaim, and free and clear of and without deduction for any and all present and future taxes, liens, imposts, stamp taxes, deductions, charges or withholdings, and all liabilities with respect thereto and any interest, additions to tax and penalties imposed with respect thereto. If the Guarantor shall be required by law to deduct any taxes, deductions, charges or withholdings from or in respect of any sum payable hereunder to Counterparty (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this section) Counterparty receives an amount equal to the sum it would have received had no such deductions been made and (ii) the Guarantor shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law.
16. **Waivers.** The Guarantor irrevocably waives diligence, division, presentment, protest, notice of acceptance of this instrument and any other notice not expressly required by this Guarantee.
17. **No merger.** Neither an action or proceeding brought under this Guarantee regarding the Obligations nor any judgment or recovery in consequence of that action or proceeding operates as a bar or defence to any further action or proceeding that may be brought under this Guarantee. Any action, proceeding, judgment or recovery does not constitute a merger of any of Counterparty's rights or remedies under this Guarantee. Any judgment obtained by Counterparty in whole or in part of any of the Obligations under this Guarantee does not constitute a merger of this Guarantee into that judgment.
18. **Foreign currency obligations.** The Guarantor shall make payment in the currency (the "Original Currency") in which the Partnership is required to pay its Obligations or any portion of them. If the Guarantor makes payment in a currency other than the Original Currency (whether voluntarily or under an order or judgment of a court or tribunal of any jurisdiction), the payment constitutes a discharge of the Guarantor's liability only to the extent of the amount of the Original Currency that the Counterparty is able to purchase with the amount of the currency it receives on the date of receipt. The Guarantor agrees to indemnify and save the Counterparty harmless from and against any loss arising out of any currency-related deficiency in payment. This indemnity constitutes a separate and independent obligation giving rise to a separate cause of action. An officer's certificate from the Counterparty certifying any deficiency or loss is, in the absence of manifest error, prima facie evidence of that deficiency or loss.
19. **Benefit of the Guarantee.** This Guarantee inures to the benefit of and is binding on the respective executors, administrators, successors and permitted assignees of the Guarantor and the Counterparty.
20. **Entire agreement.** Notwithstanding anything else stated in this Guarantee, this Guarantee constitutes the entire agreement between the Counterparty and the Guarantor with respect to the Guarantee's subject matter and cancels and supersedes any prior understandings and agreements between the Counterparty and the Guarantor. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, expressed, implied or statutory, between the parties other than as expressly stated in this Guarantee.
21. **No Waiver, Remedies.** No failure on the part of the Counterparty to exercise, and no delay in exercising, any right under this Guarantee operates as a waiver of it, nor does any single or partial exercise of any right under this Guarantee preclude the other or further exercise of it or any other right. The remedies in this Guarantee are cumulative and not exclusive of any remedies provided by law.
22. **Severability.** If any provision of this Guarantee is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will apply only to that provision and all other provisions of this Guarantee will continue in full force. If this Guarantee is determined to be invalid or unenforceable for any reason, such invalidity or unenforceability will not apply to any of the representations and warranties provided in Section 9, which is deemed to be a separate and independent legal, valid, binding and enforceable agreement between the Guarantor and the Counterparty and will continue in full force. The

EXHIBIT "B"

Counterparty is entitled to proceed with any remedy available to it as a result of the Guarantor's breach of any of the representations and warranties provided in Section 9.

23. **Notices.** Any notice, demand, request or other communication to be given in connection with this Guarantee must be addressed to the Counterparty at:

BNSF Railway Company
P.O. Box 961050
Fort Worth, TX 76161-0050

Attention: Mr. Orest Dachniwsky
Email: Orest.Dachniwsky@bnsf.com

And to the Guarantor at:

TransCanada Corporation and TransCanada PipeLine USA Ltd.
450 - 1st Street SW
Calgary, Alberta
Canada T2P 5H1

Attention: Vice-President, Risk Management
Fax: (403) 920-2359

Any notice, demand, request or other communication is deemed to have been received by the party to whom it is sent at the time of its delivery if personally delivered, or on the business day following its receipt if mailed by registered mail, or on the business day following its successful transmittal if sent by facsimile transmission or other form of electronic transmission, as the case may be, but if mail, facsimile transmission or other form of electronic transmission is interrupted by force majeure or other cause beyond the control of the parties, then the party sending the notice, demand, request or communication shall use any of the services that have not been so interrupted to deliver the notice, demand, request or other communication, in order to ensure prompt receipt of the notice, demand, request or other communication, by the other party. Each party may notify the other of any change of address in the manner provided above.

24. **Assignment.** The Counterparty may assign its rights under this Guarantee without the prior consent of the Partnership or the Guarantor. The Guarantor may not assign its obligations under this Guarantee.
25. **Governing law.** This Guarantee is governed by and to be construed according to the laws of New York without giving effect to any choice or conflict of law rules or provisions thereof which may direct the application of the laws or rules of another jurisdiction. The Guarantor agrees to the non-exclusive jurisdiction of the New York courts and courts of appeal with respect to any matter arising under this Guarantee. The Guarantor agrees that a judgment, after exhaustion of all available appeals, in any action or proceeding under this Guarantee is conclusive and binding upon the Guarantor and may be enforced in any other jurisdiction by a suit upon that judgment, a certified copy of which is conclusive evidence of the judgment.


To the extent permitted by law, each of the Counterparty and the Guarantor hereby waives, irrevocably and unconditionally, trial by jury in any action brought on, under or by virtue of or relating in any way to this Guarantee or any of the documents executed in connection herewith, the property, or any claims, defenses, rights of set-off or other actions pertaining hereto or to any of the foregoing.

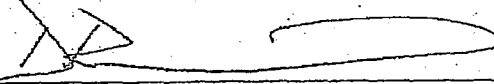
26. **Facsimile Signature.** A signature delivered by facsimile shall be deemed to be an original signature for purposes of the Guarantee and shall be binding upon the Guarantor as an original signature. Notwithstanding that the Guarantor may deliver a signature by facsimile, the Guarantor covenants to deliver an originally executed Guarantee to Counterparty within a reasonable period of time after executing the Guarantee.

EXHIBIT "B"

IN WITNESS WHEREOF the Guarantor has signed and delivered this Guarantee.

TRANSCANADA CORPORATION

Per: 
(Name)
(Title)

Per: 
(Name)
(Title)

TRANSCANADA PIPELINE USA LTD.

Per: _____
(Name)
(Title)

Per: _____
(Name)
(Title)

EXHIBIT "B"


IN WITNESS WHEREOF the Guarantor has signed and delivered this Guarantee.


TRANSCANADA CORPORATION

Per: _____
(Name)
(Title)

Per: _____
(Name)
(Title)

TRANSCANADA PIPELINE USA LTD.

Per: 
(Name) *Les G. Hobbs*
(Title) *President*

Per: 
(Name) *Kelly J. Jamison*
(Title) *Secretary*

SD EForm - 0933 V2

DOT - 295 05/05

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPLICATION FOR PERMIT TO OCCUPY RIGHT-OF-WAY

Highway No. 12 County DAY Approximately 2.50 Miles N S E W

From ANDOVER Section 32 Township 123N Range 59W

(City or well defined point)

Description of occupancy: DRIVEWAY APPROACH ON NORTH AND SOUTH SIDE OF HIGHWAY TO PROVIDE ACCESS FOR EQUIPMENT APPROACH WILL BE ON EXISTING UTILITY CROSSING PERMIT SITE. (SEE ATTACHED UTILITY PERMIT)

Purpose of occupancy: TEMPORARY DRIVEWAY APPROACH, 30 FOOT TOP INSTALLED PER SDDOT REQUIREMENTS

Duration of occupancy: PERMANENT TEMPORARY
If temporary, give the estimated date of removal or completion: 12/31/2008

I, the undersigned, request permission to occupy public right-of-way at the above location and as shown on the attached layout sheet. In consideration for this permission, I agree to abide by all conditions as herein stated.

- To furnish all materials, labor, incidentals and pay all costs involved with this occupancy including restoration of any damage to the roadway and right-of-way to equal or better conditions than existed prior to the occupancy covered by this permit.
- To provide protection to highway traffic during occupancy by the use of proper signs, barricades, flagpersons and lights as prescribed in the "Manual of Uniform Traffic Control Devices."
- To indemnify and hold the State of South Dakota, its Department of Transportation, its officers, agents, and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings of any kind or nature brought because of any injuries or damage received or sustained by any person or property on account of the use or occupancy of right-of-way designated in this application.

SIGNATURE *Kevin Kurtz* DATE 8-1-08

ADDRESS **SEE BELOW KANSAS CITY MO 64153 TELEPHONE (816) 880-4609

REPRESENTING TRANSCANADA KEYSTONE PIPELINE, LP
(Name of individual, Company, Organization, etc.)

To be completed by Department of Transportation

Project (Const) _____ Station _____ Milepost 316.5
Project (Maint) OILE+W - 151 Maintenance Unit 151

1. Prior to commencing occupancy and at completion of occupancy the applicant shall notify at: Aberdeen Telephone PH:1 Dwight 605-626-7885

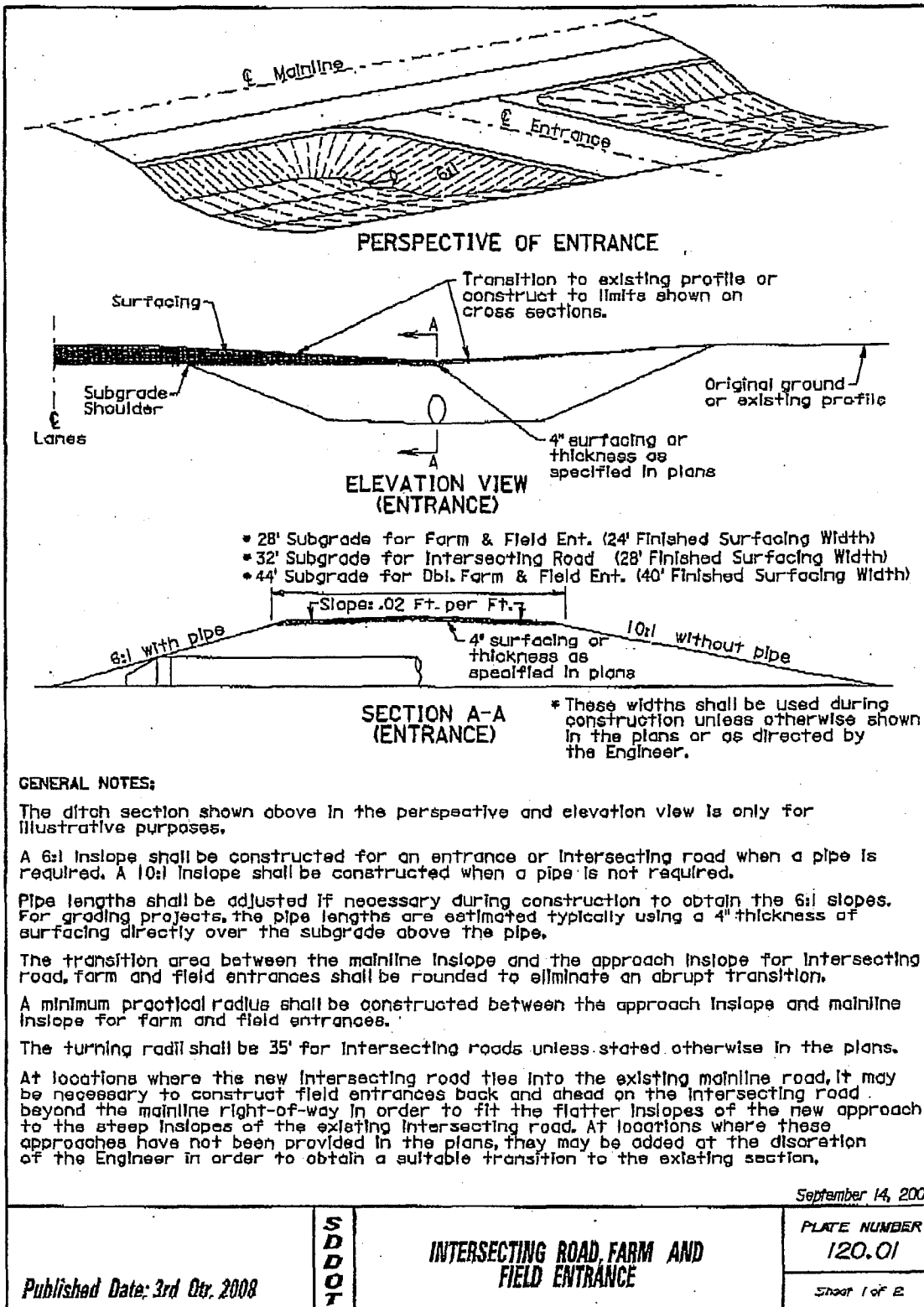
2. Special Conditions while crossing highway with equipment flaggers shall be used as per attached detail.

3. Failure to accomplish the occupancy in accordance with the provisions of this permit will automatically render this permit null and void and where applicable, constitute grounds for its removal and/or full restoration of the occupancy site all at the applicant's expense.

This permit to occupy right-of-way is granted to all conditions as herein stated on this 6th day of August, 20 08.

**** 7509 NW Tiffany Springs Parkway
North Pointe Circle II, suite 200
Kansas City, MO 64153

[Signature]
Region Engineer
Area



The signs illustrated are not required if the work space is behind a barrier, more than 2 feet behind the curb, or 15 feet or more from the edge of any roadway.

The signs illustrated shall be used where there are distracting situations, such as: vehicles parked on shoulder, vehicles accessing the work site via the highway, and equipment traveling on or crossing the roadway to perform work operations.

The ROAD WORK AHEAD sign may be replaced with other appropriate signs, such as the SHOULDER WORK sign. The SHOULDER WORK sign may be used for work adjacent to the shoulder.

* If the work space is on a divided highway, an advance warning sign should also be placed on the left side of the directional roadway.

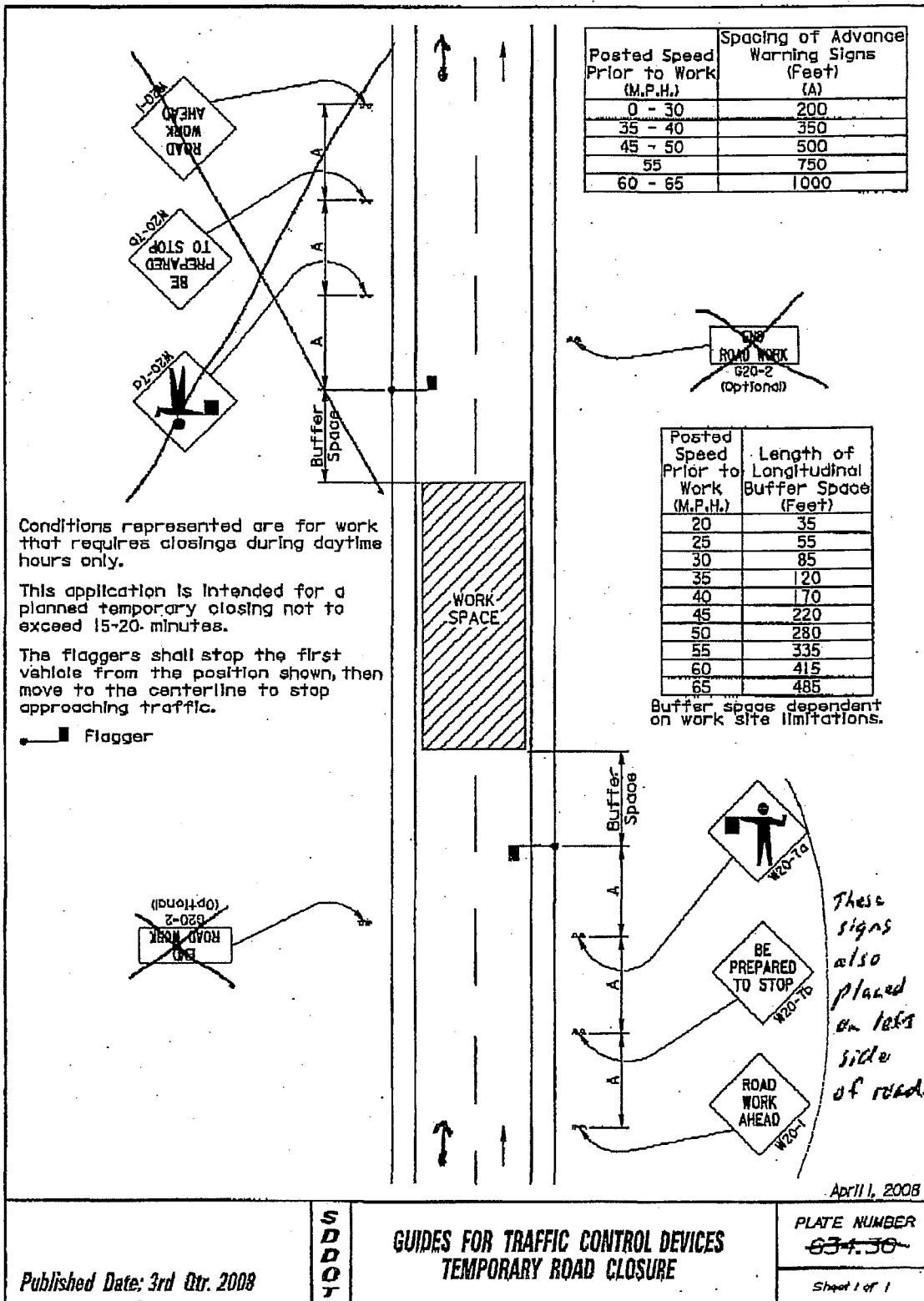
For short term, short duration, or mobile operations, all signs and channelizing devices may be eliminated if a vehicle with an activated flashing or revolving yellow light is used.



Posted Speed Prior to Work (M.P.H.)	Spacing of Advance Warning Signs (Feet) (A)
0 - 30	200
35 - 40	350
45 - 50	500
55	750
60 - 75	1000



July 1, 2005



Published Date: 3rd Qtr. 2008

SDDOT

GUIDES FOR TRAFFIC CONTROL DEVICES
TEMPORARY ROAD CLOSURE

PLATE NUMBER

63430

Sheet 1 of 1

SD EForm - 0933 V2

DOT - 295 05/05

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPLICATION FOR PERMIT TO OCCUPY RIGHT-OF-WAY

Highway No. 10 County MARSHALL Approximately 6.20 Miles N S E W
From BRITTON Section 23/26 Township 127N Range 59W
(City or well defined point)

Description of occupancy: DRIVEWAY APPROACH ON NORTH AND SOUTH SIDE OF HIGHWAY TO PROVIDE ACCESS FOR EQUIPMENT APPROACH WILL BE ON EXISTING UTILITY CROSSING PERMIT SITE. (SEE ATTACHED UTILITY PERMIT)

Purpose of occupancy: TEMPORARY DRIVEWAY APPROACH, 30 FOOT TOP INSTALLED PER SDDOT REQUIREMENTS

Duration of occupancy: PERMANENT TEMPORARY
If temporary, give the estimated date of removal or completion: 12/31/2008

I, the undersigned, request permission to occupy public right-of-way at the above location and as shown on the attached layout sheet. In consideration for this permission, I agree to abide by all conditions as herein stated.

- To furnish all materials, labor, incidentals and pay all costs involved with this occupancy including restoration of any damage to the roadway and right-of-way to equal or better conditions than existed prior to the occupancy covered by this permit.
- To provide protection to highway traffic during occupancy by the use of proper signs, barricades, flagpersons and lights as prescribed in the "Manual of Uniform Traffic Control Devices."
- To indemnify and hold the State of South Dakota, its Department of Transportation, its officers, agents, and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings of any kind or nature brought because of any injuries or damage received or sustained by any person or property on account of the use or occupancy of right-of-way designated in this application.

SIGNATURE *Kenn Fort* DATE 8-1-08

ADDRESS **SEE BELOW KANSAS CITY MO 64153 TELEPHONE (816) 880-4609

REPRESENTING TRANSCANADA KEYSTONE PIPELINE, LP
(Name of Individual, Company, Organization, etc.)

To be completed by Department of Transportation

Project (Const.) _____ Station _____ Milepost 315.00
Project (Maint.) 010-151 Maintenance Unit 151

1. Prior to commencing occupancy and at completion of occupancy the applicant shall notify at ~~605-626-7885~~ Aberdeen Telephone Phil Dwight 608-626-7885

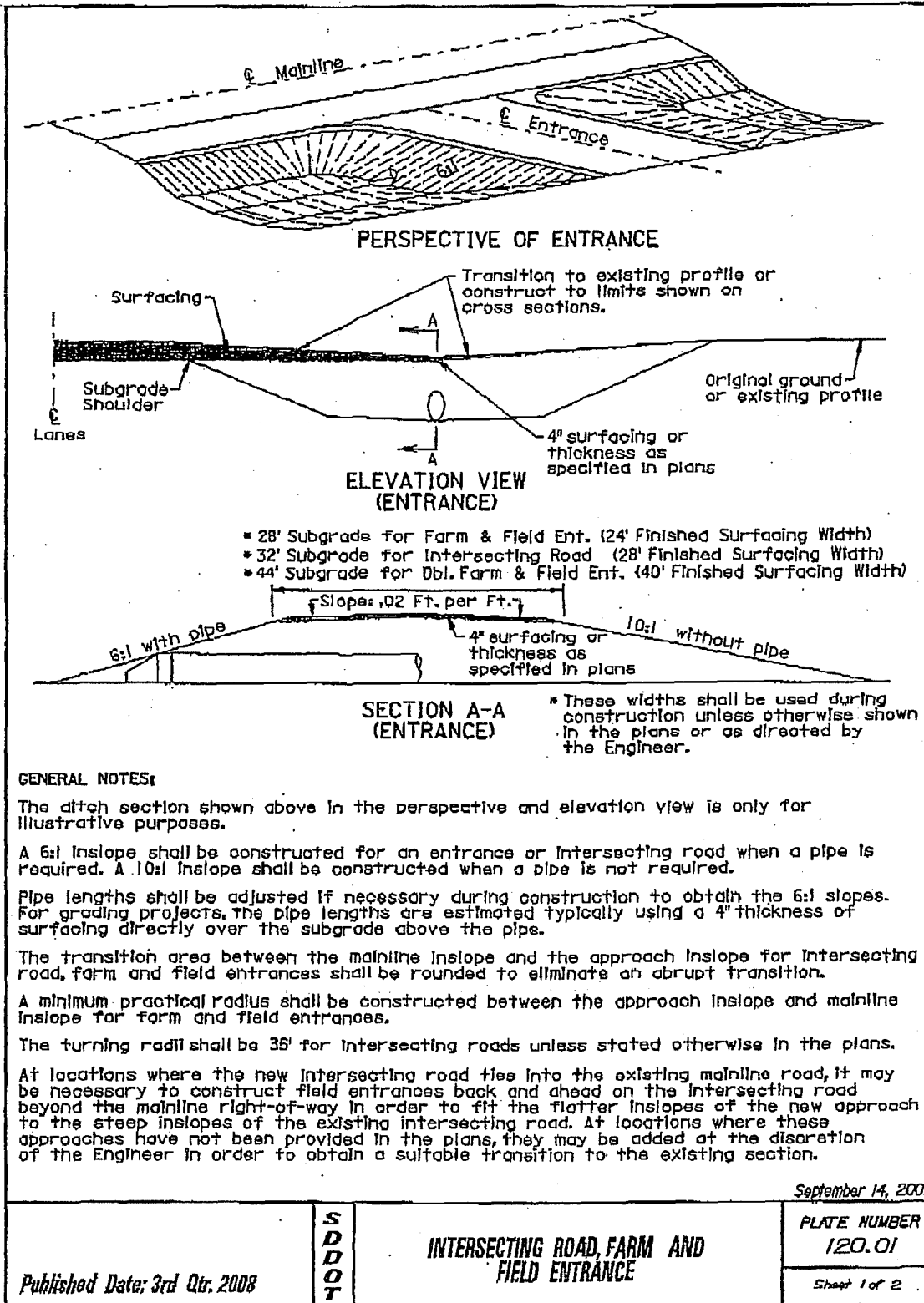
2. Special Conditions While crossing highway with equipment flaggers shall be used as per attached detail.

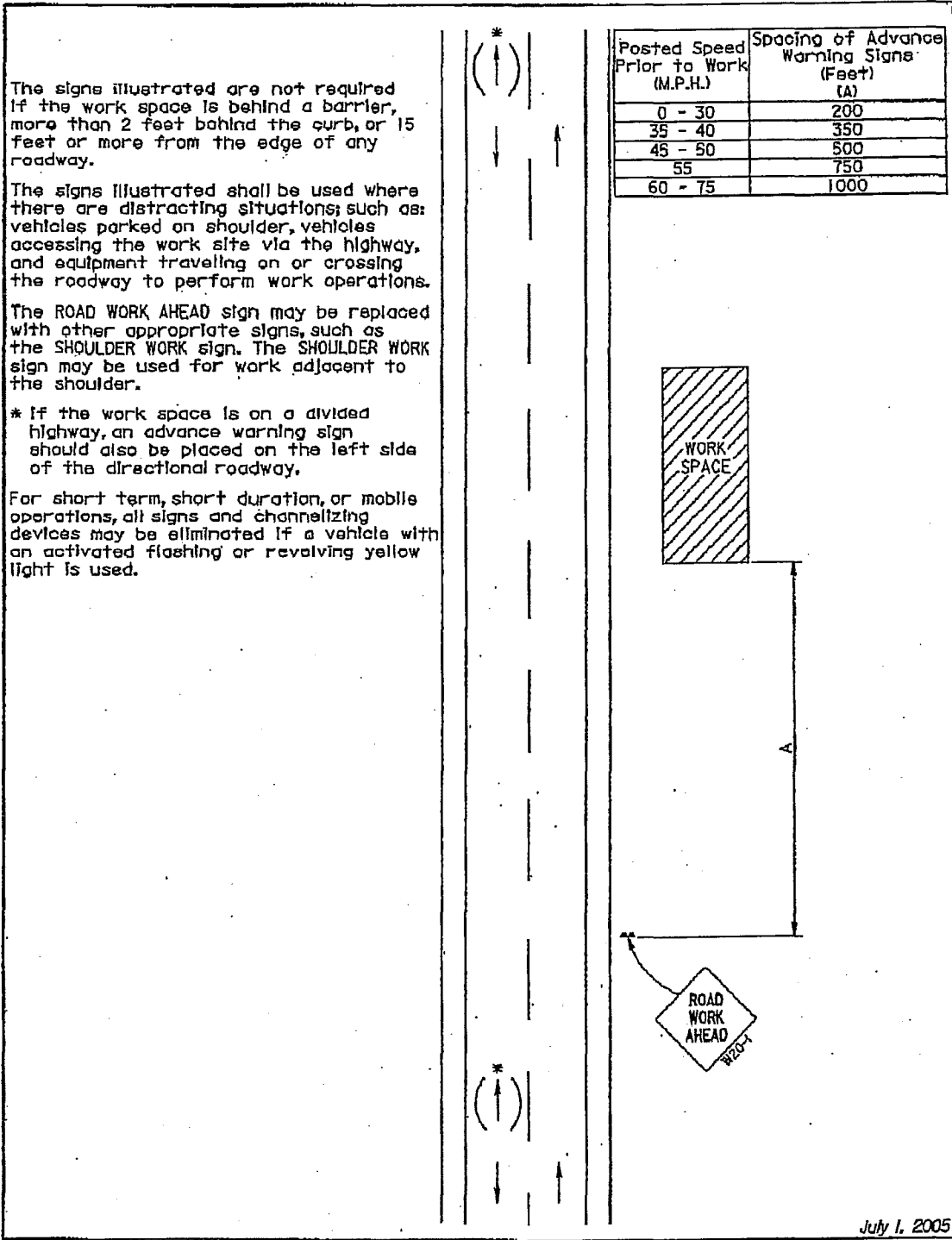
3. Failure to accomplish the occupancy in accordance with the provisions of this permit will automatically render this permit null and void and where applicable, constitute grounds for its removal and/or full restoration of the occupancy site all at the applicant's expense.

This permit to occupy right-of-way is granted to all conditions as herein stated on this 6th day of August, 2008.

*** 7509 NW Tiffany Springs Parkway
North Pointe Circle II, Suite 200
Kansas City, MO 64153*

Jim Mc...
Region Engineer
Area





The signs illustrated are not required if the work space is behind a barrier, more than 2 feet behind the curb, or 15 feet or more from the edge of any roadway.

The signs illustrated shall be used where there are distracting situations, such as vehicles parked on shoulder, vehicles accessing the work site via the highway, and equipment traveling on or crossing the roadway to perform work operations.

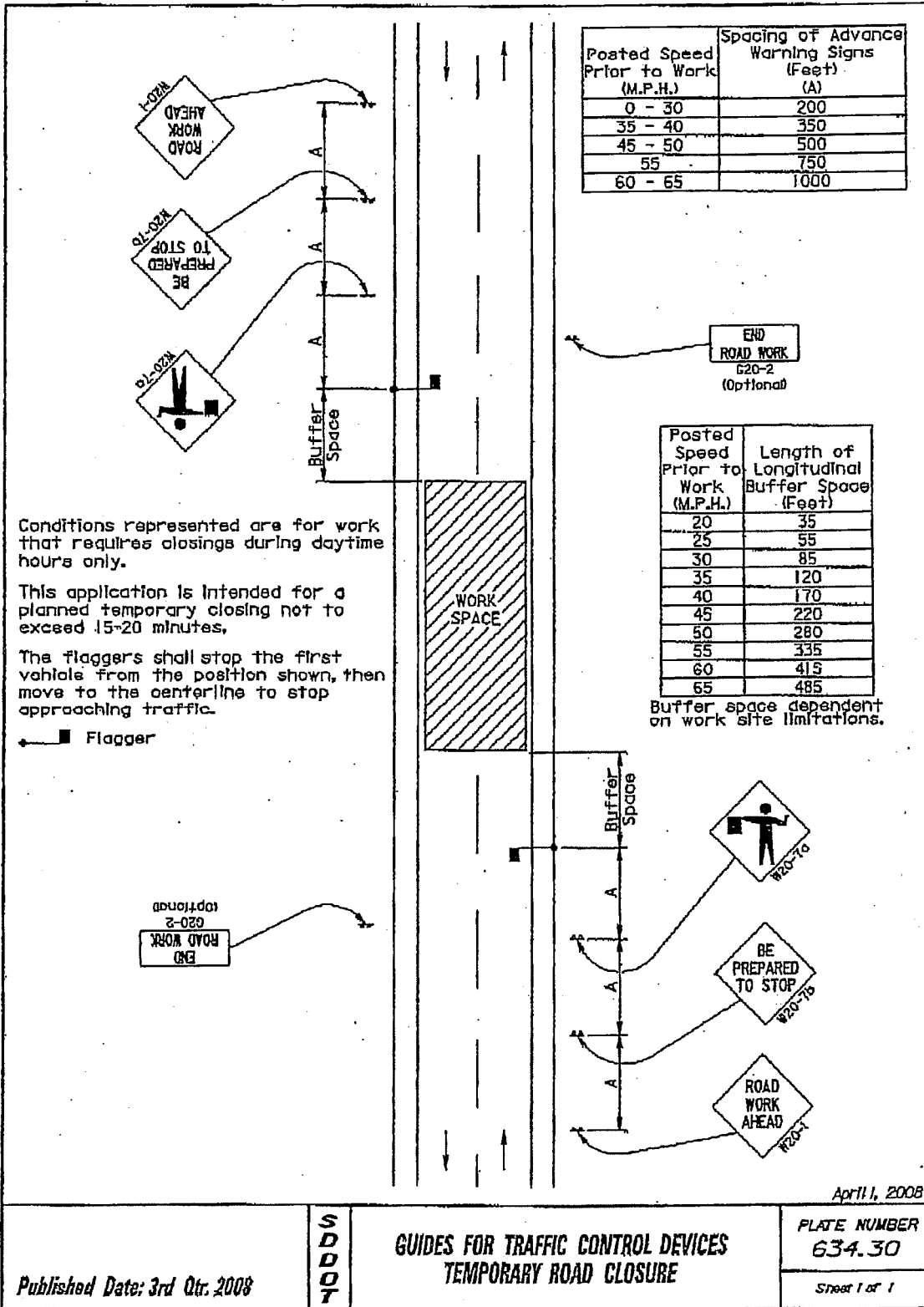
The ROAD WORK AHEAD sign may be replaced with other appropriate signs, such as the SHOULDER WORK sign. The SHOULDER WORK sign may be used for work adjacent to the shoulder.

* If the work space is on a divided highway, an advance warning sign should also be placed on the left side of the directional roadway.

For short term, short duration, or mobile operations, all signs and channelizing devices may be eliminated if a vehicle with an activated flashing or revolving yellow light is used.

Posted Speed Prior to Work (M.P.H.)	Spacing of Advance Warning Signs (Feet) (A)
0 - 30	200
35 - 40	350
45 - 50	500
55	750
60 - 75	1000

July 1, 2005



Posted Speed Prior to Work (M.P.H.)	Spacing of Advance Warning Signs (Feet) (A)
0 - 30	200
35 - 40	350
45 - 50	500
55	750
60 - 65	1000

END ROAD WORK
G20-2
(Optional)

Posted Speed Prior to Work (M.P.H.)	Length of Longitudinal Buffer Space (Feet)
20	35
25	55
30	85
35	120
40	170
45	220
50	280
55	335
60	415
65	485

Buffer space dependent on work site limitations.

Conditions represented are for work that requires closings during daytime hours only.

This application is intended for a planned temporary closing not to exceed 15-20 minutes.

The flaggers shall stop the first vehicle from the position shown, then move to the centerline to stop approaching traffic.

Flagger

END ROAD WORK
G20-2
(Optional)

April 1, 2008

Published Date: 3rd Qtr. 2008

SDDOT

GUIDES FOR TRAFFIC CONTROL DEVICES
TEMPORARY ROAD CLOSURE

PLATE NUMBER
634.30

Sheet 1 of 1

APPENDIX F

APPLICATION FOR CONDITIONAL USE FROM ZONING ORDINANCE

MARSHALL COUNTY
STATE OF SOUTH DAKOTA

DATE 7-24-08

TO: Marshall County Planning and Zoning Commission

The undersigned do hereby request a conditional use from the Marshall County Zoning ordinance as provided by Article 4 Section 406 for the purpose of a valve site for operation of the TransCanada Keystone pipeline.

Legal Description: .027 acres in the SW¼ of Section 23 and NW¼ of Section 26, Township 125 North, Range 59 West of the 5th P.M., Marshall County, South Dakota.

Reason: Applicant requests a conditional use permit for the purpose of constructing and operating a valve site for the TransCanada Keystone pipeline.

APPLICANT'S SIGNATURE:

TransCanada Keystone Pipeline, LP
By its Agent:
TC Oil Pipeline Operations, Inc.

By: *Vern Meier*
Its: Vern Meier
Vice President

Date 7/24/08

By: *Kelly J. Jameson*
Its: Kelly J. Jameson
Secretary

Date 7/24/08

Inspection
Report _____

Date _____

Planning Commission Action Approved

Bela Olson

Date 9-2-08

MARSHALL COUNTY
Building Permit Application
PO Box 9, Britton SD 57430
605-448-5291

Applicant: TransCanada Keystone Pipeline, LP
7509 NW Tiffany Springs Parkway
Northpointe Circle II, Suite 200
Kansas City, MO 64153

Permit No. 88-2008

Daytime Phone # 816-880-4881
Attn. Kerwin Kostad
4411 Hwy. 12 East
Aberdeen, SD 57401
(605) 225-0203

Builder: Michels Corporation Address: _____

Project Location: NW1/4 of Sec. 26, Twp.125N, Range 59W

Do You Own This Property? YES NO If Not, Owner's Names: Evelyn Nelson,
Michael B. Nelson, and Marlene A. Nelson

Is This Project NEW CONSTRUCTION X or REMODELING _____

Type of Building: valve site for the TransCanada Keystone pipeline

Will There Be Any Buildings Removed? YES NO If Yes,
Describe _____

Total Cost Estimate or Actual Cost: \$ 400,000.00 - \$500,000.00

Zoning District of Project (Circle One): Ag Residential Lake-Front Resid. Commercial Other

Sketch of Project, indicating distance from roads, lot lines, and high-water marks if applicable:
(REQUIRED)

Date: TransCanada Keystone Pipeline, LP
By its agent:
TC Oil Pipeline Operations Inc.

By Laur Newton
Its Assistant Secretary

By Kelly J. Jameson
Its Secretary

Project must be started within one year of permit approval or permit becomes null and void.

APPROVAL DATE: 9-16-08 SIGNED: Jo Ann Greeson
Zoning Administrator

No Fee
 \$100.00 Fine for Failure to Obtain Permit
 \$100.00 Variance Fee, Plus Postage
Disapproval Date: _____ Reason for Disapproval: _____
City Foreman

Haul Route Agreement

THIS AGREEMENT, made and entered into by and between Dayton Township, a political subdivision of the State of South Dakota, of Marshall County, South Dakota, hereafter referred to as the "Township" and Trans Canada Keystone Pipeline LP, hereinafter referred to as the "Contractor" as follows

WHEREAS, the Contractor plans to use Township roads in transporting any item, including but not limited to products, equipment, materials, and/or supplies over township roads; and

WHEREAS, the Township is responsible under South Dakota law for constructing, altering, improving, and maintaining Township roads under the supervision and direction of its Board of Supervisors; and

WHEREAS, the Township and the Contractor anticipate that, as a result of the Contractor's use of Township roads, accelerated deterioration may occur. Thus, repairs or improvements and additional maintenance expenses will be required; and

WHEREAS, Contractor is willing to pay for repairs, improvements, and addition maintenance expense caused by its operations;

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, it is mutually agreed as follows:

1. PURPOSE:

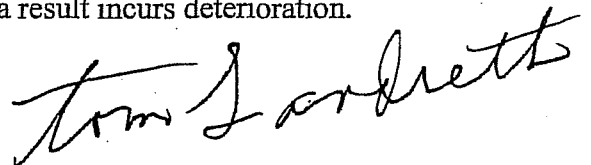
This Haul Route Agreement applies to existing, new, and expanded hauling operations that may cause accelerated deterioration of township roads. These hauling operations shall include but not be limited to: contractors, subcontractors and developers.

2. DEFINITIONS:

A. Additional Maintenance. "Additional Maintenance" means grading, reshaping, repair, and/or modification performed on township roads in excess of the same operations performed as routine maintenance by the Township.

B. Township Road. "Township Road" means a street, road, or other public way, including shoulders, and right-of way designated for the purpose of vehicular traffic and under the jurisdiction of the Township.

C. Haul Road. "Haul Road" means any Township road, bridge, or other structure which is used for transporting items including but not limited to products, equipments, materials and /or supplies and as a result incurs deterioration.



D. Haul Route. "Haul Route" means the system of haul roads between a source site and the destination and/or the source site and the nearest major intersection as determined by the Township.

E. Improvements. "Improvements" mean roadway improvements required by the Township because of the Contractor's use of the haul road.

3. GENERAL AGREEMENT AS TO ROAD USE:

The Contractor understands and agrees that, although the haul roads covered by this Agreement are on the Township Road System and are subject to normal traffic use the Contractor, by virtue of its use of the road as a haul route, assumes responsibility for repairs, additional maintenance, and signing costs on such roads resulting from its use of such roads as a haul route.

The Township hereby agrees to the Contractor's use of the haul roads covered by this Agreement subject to the conditions contained herein. The Contractor shall be responsible for obtaining any other permits or licenses which the Township or any other governmental entity may require to operate or move its vehicles on township roads. This Agreement shall not serve to relieve any operator of a Contractor's vehicle from complying with applicable speed limits, weight restrictions, or other posted restrictions.

Any improvements to or widening of the road necessitated by the Contractor's operations, including modification of roadway approaches to accommodate transport vehicles, shall be considered incidental to the hauling performed, shall be made at the Contractor's sole expense unless otherwise authorized in addendum to this Agreement. Any such improvement shall be authorized by County permit.

4. GENERAL TERMS:

a. Compliance with Laws and Regulations

The Contractor shall comply with all Federal, State, and local laws and regulations.

b. Severability

If any portion of this Agreement is held invalid, it shall have no effect upon the validity of the remaining portions of this Agreement.

c. Scope and Construction of Terms

The definitions in this Agreement shall control the meaning of terms used herein. Where no definition is expressly stated herein, a term shall have that meaning clearly indicated by, or reasonably implied from, the context in which such term is used.

d. Notification

On behalf of the Township:

Tom Landreth
Dennis Swenson

{ 41366 104th St.
Britton So. State 57430

On behalf of the TRANSCANADA KEYSTONE PIPELINE, LP, by its agent, TC OIL PIPELINE OPERATIONS INC.

7509 NW Tiffany Springs Pkwy.
North Pointe Circle II
Kansas City, MO 64153

IN WITNESS WHEREOF, the Parties hereto executed this Haul Route Agreement as of the first date hereinabove written.

TRANSCANADA KEYSTONE PIPELINE, LP, By
Its Agent, TC OIL PIPELINE OPERATIONS INC.

Township

Signed: Tom Landreth

Signed: Dennis Swenson

Name: Tom Landreth

Name: _____

Title: Supervisor of
Dayton Twp.

Title: Supervisor

Signed: Lauri Newton

Name: Lauri Newton

Title: Asst. Secretary



TransCanada PipeLines Limited
GTN, NBP & Tuscarora Systems
1400 SW Fifth Avenue, Suite 900
Portland, OR 97201

tel 503.833.4274

fax 503.833.4918

email Luna_Prado@transcanada.com

web www.gastransmissionnw.com

memo

Date: 8-6-08
Attention: Felicia Webb
Location: Ellis & Associates
TransCanada Keystone Pipeline
Cc:
From: Luna Prado, Legal Asst.
Subject: Keystone – Haul Route & Haul Road Agreements

MESSAGE:

Enclosed please find two, fully executed Agreements. One is a Haul Route Agreement with Marshall County, South Dakota and the other is an Agreement for Use and Restoration of Haul Road with Spink County, South Dakota.

If you have any questions, feel free to contact me or Lauri.

Thanks,

**APPLICATION FOR OCCUPANCY
OF TWP. ROAD AND RIGHT - OF - WAY**

To: The township board of Stena Township, Britton, South Dakota
Application is made by: Trans Canada - Keystone Pipeline for
Occupancy of: Section 35 & 2, Township 128 N & 127 N, Range 59 W
Marshall County, South Dakota 106th Street

A Sketch showing the approximate location and approximate elevation is to be attached.

The following information is pertinent to the proposed installation:

1. Intended usage: Crude Oil Pipeline
2. Size and Type: 30" Steel Pipe
3. Outside diameter: 30"
4. Method of installation: Bore

Applicant will ensure the township road and ditch will be properly restored to original condition and the necessary safety precautions will be taken during construction work. The work to be completed, if required in the future will be at no further expense to the township. The township board or their designate will determine, in good faith, when road and ditch are properly restored to original condition. Applicant will provide township with proof of liability coverage and shall hold township harmless from any claims arising from work done by applicant.

This installation will comply with the national safety code. A marker sign will be installed where appropriate.

Recommended for Approval

Submitted: _____

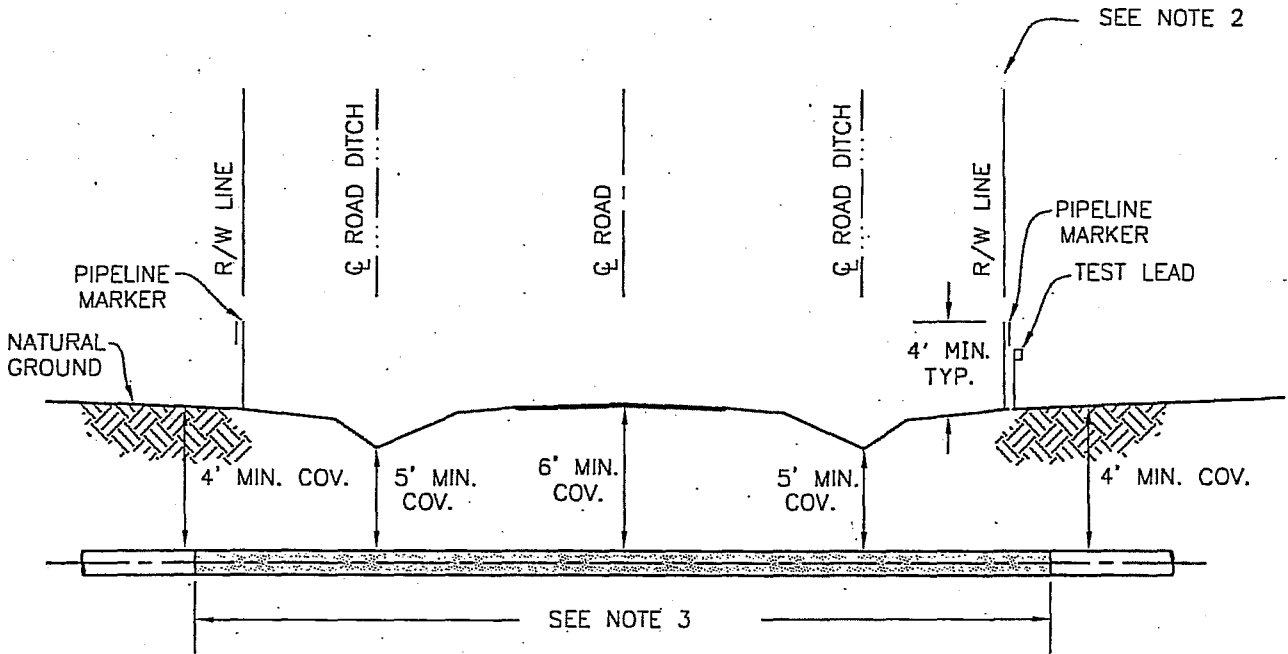
Engineer- Design J.P. Siller

Approved: Jerry J. Berger

Township Board: Alle G. Krutinger

Larry Waldner

106th Street T128N-R59W-SEC. 35
 T127N-R59W-SEC. 2





PROFILE
 N.T.S.

NOTES:

1. CROSSING SHALL BE CONSTRUCTED IN ACCORDANCE WITH PERMIT REQUIREMENTS.
2. BENDS SHALL NOT BE PERMITTED WITHIN THE ROAD R.O.W. THE PIPE SHALL HAVE A MINIMUM OF 4.0 FT. OF COVER EXCEPT UNDER ROAD DITCHES AS SHOWN.
3. MAXIMUM JOINT LENGTHS SHALL BE USED TO MINIMIZE NUMBER OF WELDS IN THE ROAD R.O.W.
4. CONTRACTOR TO NOTIFY RESPONSIBLE PERMITTING AUTHORITY PRIOR TO INSTALLATION.

PRODUCT: CRUDE OIL
 CARRIER PIPE: 30"O.D. X 0.515" W.T.,
 API 5LX-70 DSAW PIPE W/12 TO 14 MILS
 FUSION BONDED EPOXY AND
 26 MILS URETHANE EPOXY COATING
 MINIMUM TEST PRESSURE: 1,801 PSIG
 MAXIMUM OPERATING PRESSURE: 1,440 PSIG
 CARRIER PIPE TO BE EXTERNALLY COATED
 FOR CORROSION CONTROL
 PIPELINE TO BE CATHODICALLY PROTECTED
 PIPELINE DESIGN AS PER REQUIREMENTS OF PART 195
 OF THE CODE OF FEDERAL REGULATIONS(LATEST EDITION)
 TRAFFIC TO BE MAINTAINED DURING INSTALLATION
 PIPELINE TO BE INSTALLED BY BORING TECHNIQUE.

	 <p>TransCanada <i>In business to deliver</i></p>
<p>KEYSTONE PIPELINE PROJECT</p>	

**TYPICAL BORED CROSSING OF
 COUNTY ROAD BY UNCASSED PIPELINE**

REVISIONS						DRAWN BY: UEI		DATE: 12/19/07		APPROVED	
NO.	DATE	DESCRIPTION	BY	CHKD	APPR	CHKD. BY:	DATE:	ENGINEERING MANAGER			
						APPR. BY:	DATE:	DRAWING NO.		REV.	

**APPLICATION FOR OCCUPANCY
OF TWP. ROAD AND RIGHT - OF - WAY**

To: The township board of Stena Township, Britton, South Dakota
Application is made by: Trans Canada-Keystone Pipeline for
Occupancy of: Section 2 & 11, Township 127 N, Range 59 W
Marshall County, South Dakota 107th Street

A Sketch showing the approximate location and approximate elevation is to be attached.

The following information is pertinent to the proposed installation:

1. Intended usage: Crude Oil Pipeline
2. Size and Type: 30" Steel Pipe
3. Outside diameter: 30"
4. Method of installation: Open Cut

Applicant will ensure the township road and ditch will be properly restored to original condition and the necessary safety precautions will be taken during construction work. The work to be completed, if required in the future will be at no further expense to the township. The township board or their designate will determine, in good faith, when road and ditch are properly restored to original condition. Applicant will provide township with proof of liability coverage and shall hold township harmless from any claims arising from work done by applicant.

This installation will comply with the national safety code. A marker sign will be installed where appropriate.

Recommended for Approval _____

Submitted: _____

Engineer- Design J.B. Sellen

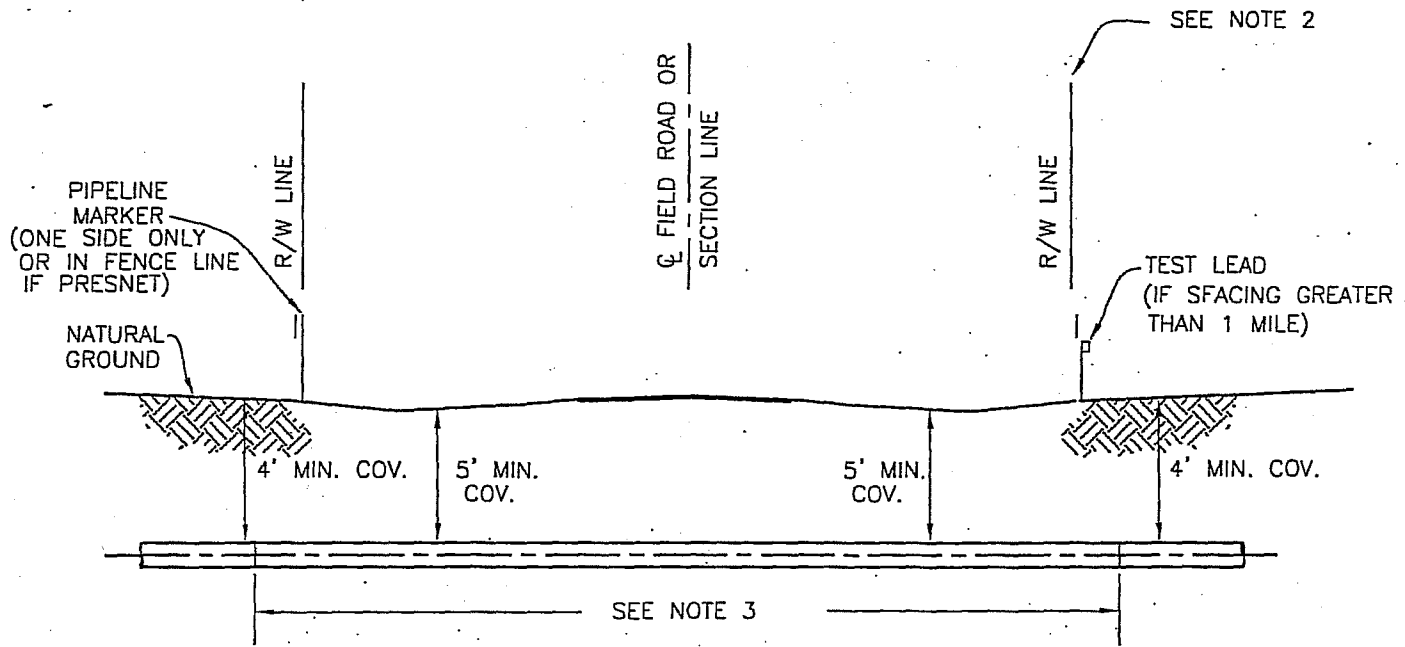
Approved: Jerry J. Burger

Township Board: Allen D. Kaulsinger

Harry Waldner

102th Street
Sectionline

T127N-R39W-Sec. 2 & 11

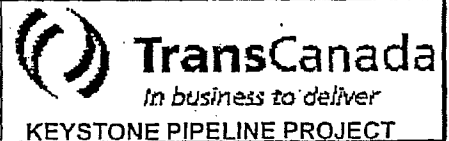


PROFILE
N.T.S.

NOTES:

1. CROSSING SHALL BE CONSTRUCTED IN ACCORDANCE WITH PERMIT REQUIREMENTS.
2. BENDS SHALL NOT BE PERMITTED WITHIN THE ROAD R.O.W. THE PIPE SHALL HAVE A MINIMUM OF 4.0 FT. OF COVER EXCEPT WITHIN ROW AS SHOWN.
3. MAXIMUM JOINT LENGTHS SHALL BE USED TO MINIMIZE NUMBER OF WELDS IN THE ROAD R.O.W.
4. CONTRACTOR TO NOTIFY RESPONSIBLE PERMITTING AUTHORITY PRIOR TO INSTALLATION.

PRODUCT: CRUDE OIL
 CARRIER PIPE: 30"O.D. X 0.515" W.T.,
 API 5LX-70 DSAW PIPE W/12 TO 14 MILS
 FUSION BONDED EPOXY
 MINIMUM TEST PRESSURE: 1,801 PSIG
 MAXIMUM OPERATING PRESSURE: 1,440 PSIG
 CARRIER PIPE TO BE EXTERNALLY COATED
 FOR CORROSION CONTROL
 PIPELINE TO BE CATHODICALLY PROTECTED
 PIPELINE DESIGN AS PER REQUIREMENTS OF PART 195
 OF THE CODE OF FEDERAL REGULATIONS(LATEST EDITION)
 TRAFFIC TO BE MAINTAINED DURING INSTALLATION
 PIPELINE TO BE INSTALLED BY OPEN CUT



TYPICAL OPEN CUT CROSSING OF
FIELD ROAD OR SECTION LINE
BY UNCASD PIPELINE

REVISIONS

NO.	DATE	DESCRIPTION	BY	CHKD	APPR

DRAWN BY: UEI	DATE: 12/31/07	APPROVED
CHKD. BY:	DATE:	ENGINEERING MANAGER
APPR. BY:	DATE:	DRAWING NO.

**APPLICATION FOR OCCUPANCY
OF TWP. ROAD AND RIGHT - OF - WAY**

To: The township board of Stena Township, Britton, South Dakota
Application is made by: TransCanada - Keystone Pipeline for
Occupancy of: Section 14 & 23, Township 127 N, Range 59 W
Marshall County, South Dakota 109th Street

A Sketch showing the approximate location and approximate elevation is to be attached.

The following information is pertinent to the proposed installation:

1. Intended usage: Crude Oil Pipe line
2. Size and Type: 30" Steel Pipe
3. Outside diameter: 30"
4. Method of installation: Bore

Applicant will ensure the township road and ditch will be properly restored to original condition and the necessary safety precautions will be taken during construction work. The work to be completed, if required in the future will be at no further expense to the township. The township board or their designate will determine, in good faith, when road and ditch are properly restored to original condition. Applicant will provide township with proof of liability coverage and shall hold township harmless from any claims arising from work done by applicant.

This installation will comply with the national safety code. A marker sign will be installed where appropriate.

Recommended for Approval _____

Submitted: _____

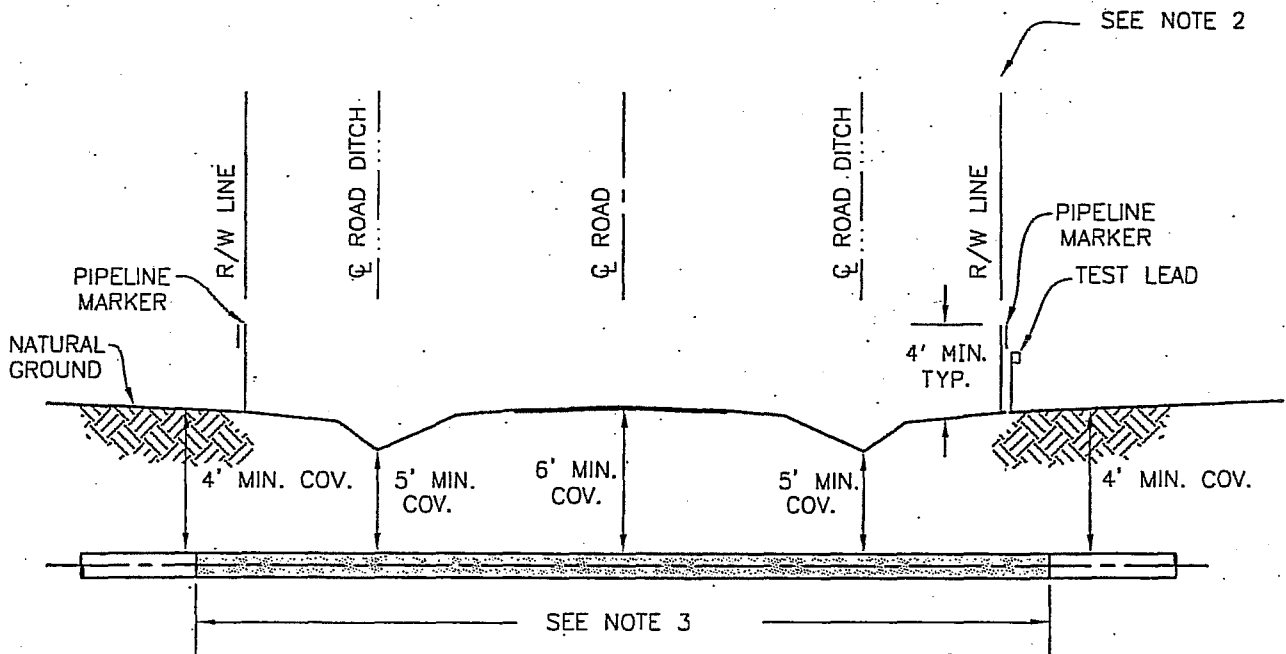
Engineer- Design J. B. Sellen

Approved: Jerry J. Burger

Township Board: Allen D. Kutsinger

Harry Waldner

109th Street T127N-R59W-Sec. 1423





PROFILE
N.T.S.

NOTES:

1. CROSSING SHALL BE CONSTRUCTED IN ACCORDANCE WITH PERMIT REQUIREMENTS.
2. BENDS SHALL NOT BE PERMITTED WITHIN THE ROAD R.O.W. THE PIPE SHALL HAVE A MINIMUM OF 4.0 FT. OF COVER EXCEPT UNDER ROAD DITCHES AS SHOWN.
3. MAXIMUM JOINT LENGTHS SHALL BE USED TO MINIMIZE NUMBER OF WELDS IN THE ROAD R.O.W.
4. CONTRACTOR TO NOTIFY RESPONSIBLE PERMITTING AUTHORITY PRIOR TO INSTALLATION.

PRODUCT: CRUDE OIL
 CARRIER PIPE: 30" O.D. X 0.515" W.T.,
 API 5LX-70 DSAW PIPE W/12 TO 14 MILS
 FUSION BONDED EPOXY AND
 26 MILS URETHANE EPOXY COATING
 MINIMUM TEST PRESSURE: 1,801 PSIG
 MAXIMUM OPERATING PRESSURE: 1,440 PSIG
 CARRIER PIPE TO BE EXTERNALLY COATED
 FOR CORROSION CONTROL
 PIPELINE TO BE CATHODICALLY PROTECTED
 PIPELINE DESIGN AS PER REQUIREMENTS OF PART 195
 OF THE CODE OF FEDERAL REGULATIONS (LATEST EDITION)
 TRAFFIC TO BE MAINTAINED DURING INSTALLATION
 PIPELINE TO BE INSTALLED BY BORING TECHNIQUE.

	 <p>TransCanada In business to deliver</p>
<p>KEYSTONE PIPELINE PROJECT</p>	

**TYPICAL BORED CROSSING OF
COUNTY ROAD BY UNCASSED PIPELINE**

REVISIONS						DRAWN BY: UEI		DATE: 12/19/07		APPROVED	
NO.	DATE	DESCRIPTION	BY	CHKD	APPR	CHKD. BY:	DATE:	ENGINEERING MANAGER			
						APPR. BY:	DATE:	DRAWING NO.		REV.	
						SCALE: N.T.S.		JOB NO.: 0147000			

**APPLICATION FOR OCCUPANCY
OF TWP. ROAD AND RIGHT - OF - WAY**

To: The township board of Stena Township, Britton, South Dakota
Application is made by: TransCanada - Keystone Pipeline for
Occupancy of: Section 26 & 35, Township 127N, Range 59W
Marshall County, South Dakota 111th Street

A Sketch showing the approximate location and approximate elevation is to be attached.

The following information is pertinent to the proposed installation:

1. Intended usage: Crude Oil Pipeline
2. Size and Type: 30" Steel Pipe
3. Outside diameter: 30"
4. Method of installation: Open Cut

Applicant will ensure the township road and ditch will be properly restored to original condition and the necessary safety precautions will be taken during construction work. The work to be completed, if required in the future will be at no further expense to the township. The township board or their designate will determine, in good faith, when road and ditch are properly restored to original condition. Applicant will provide township with proof of liability coverage and shall hold township harmless from any claims arising from work done by applicant.

This installation will comply with the national safety code. A marker sign will be installed where appropriate.

Recommended for Approval

Submitted: _____

Engineer- Design J.P. Siller

Approved: _____

Township Board: _____