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Executive Summary

During the 2008 South Dakota Legislative Session Senate Bill 190, *An Act to provide for regulatory oversight of oil pipelines and to create a task force* was passed into law taking effect July 1, 2008. Section 10 of the Act, now found in South Dakota Codified Law Chapter 34A-18-10, establishes the South Dakota Underground Pipeline Task Force. The Task Force is made up of seven members appointed by the Governor who are to be knowledgeable of existing federal statues and regulations and state statues and rules which govern underground pipeline facilities for the transmission and distribution of water, natural gas, crude oil, ethanol, and refined petroleum products. The appointed members of the Task Force include:

1. Gary Hanson, Commissioner, Public Utilities Commission
2. Dennis Davis, Director, Association of Rural Water Systems
3. Gordon Woods, Vice President and COO, South Dakota Intrastate Pipeline Company
4. Daniel Holli, Environmental and Regulatory Specialist, Plains Pipeline L.P.
5. Pete Bullene, Environmental Health and Safety Director, Glacial Lakes Energy
6. Troy Styer, Pipeline Safety Coordinator, NuStar Energy and President, South Dakota Pipeline Association
7. Mark Anderson, President, South Dakota State Federation of Labor AFL-CIO

Based on SDCL 34A-18-10, the Task Force has two objectives. 1) Review the status of existing and proposed pipelines in South Dakota and 2) assess the adequacy of state laws and regulations relating to pipelines in South Dakota. In addition, the Task Force is to report its findings to the Governor no later than December 1, 2008.

To accomplish its objectives, the Task Force met twice on August 14, 2008 and again on October XX, 2008. The Task Force determined there are existing water pipelines, natural gas pipelines, crude oil pipelines and refined petroleum product lines in operation in South Dakota but no existing ethanol pipelines in the state. In addition, there are several water pipeline projects, a methane gas pipeline project and two crude oil pipeline projects proposed in South Dakota. Finally, the Task Force reviewed existing South Dakota law and rules regulating pipelines and made several recommendations concerning the existing regulatory requirements for pipelines in South Dakota.

Final paragraph will be a summary of the Task Force recommendations.

1.0 Introduction

During the 2008 South Dakota Legislative Session Senate Bill 190, *An Act to provide for regulatory oversight of oil pipelines and to create a task force* was passed into law taking effect July 1, 2008. Section 10 of the Act, now found in South Dakota Codified Law Chapter 34A-18-10, establishes the South Dakota Underground Pipeline Task Force. The Task Force is made up of seven members appointed by the Governor who are to be knowledgeable of existing federal statutes and regulations and state statutes and rules which govern underground pipeline facilities for the transmission and distribution of water, natural gas, crude oil, ethanol, and refined petroleum products. The appointed members of the Task Force include:

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To accomplish its objectives, the Task Force met twice on August 14, 2008 and again on October XX, 2008. This report includes the findings and recommendations of the South Dakota Underground Pipeline Task Force.

2.0 Status of Existing and Proposed Pipelines in South Dakota

The purpose of this section is to review the status of existing and proposed underground pipelines in South Dakota. This section is divided into two groups, existing and proposed pipelines. Within each group, each pipeline type is reviewed.

2.1 Definitions

The purpose of this section is to establish the definitions of existing pipelines and proposed pipelines to be used by the South Dakota Underground Pipeline Task Force.

2.1.1 Existing Pipelines

Existing pipelines includes transmission pipelines that are installed and operational in South Dakota.

2.1.2 Proposed Pipelines

Proposed water pipelines are waterline projects included in the State Water Plan or those that have submitted plans and specifications to the DENR's Drinking Water Program for review.

Proposed natural gas, crude oil, ethanol, and refined petroleum product pipelines include those projects that have applied to the South Dakota Public Utilities Commission for a facility siting permit under the South Dakota Energy Conversion and Transmission Facilities Act or have publicly announced the project in South Dakota.

2.2 Existing Pipelines

Existing pipelines include transmission pipelines that are installed and operational in South Dakota.

2.2.1 Existing Water Pipelines

Existing underground water pipelines transverse many thousands of miles in South Dakota. There are 760 public water systems in South Dakota each utilizing underground pipelines to disperse the water. However, there is no one map available showing all of the water transmission lines. For reference, Figure 1 shows the public water supply systems intakes and Figure 2 is a map of South Dakota's Rural Water system coverage and major distribution lines.

In general, transmission waterlines are buried six feet below grade or deeper and are constructed polyvinyl chloride (PVC) or ductile iron. The operating pressure of the waterlines varies depending on pipeline size and system requirements however, the pressure is normally greater than 20 pounds per square inch (psi) with normal operating pressures of 60 to 80 psi (10 State Standards, 2007).

2.2.2 Existing Natural Gas Pipelines

According to the Federal Pipeline Hazardous Material Safety Administration's Pipeline Mapping System there are approximately 1,458 miles of existing natural gas transmission pipelines in South Dakota. Companies operating natural gas transmission pipelines in South Dakota include: Northern Borders Pipeline, Northern Natural Gas, South Dakota Intrastate Pipeline Company, and the Williston Basin Interstate Pipeline Company. Figure 3 is a map of the natural gas transmission pipelines in South Dakota.

In general, these pipelines are buried with at least 36 inches of cover and are constructed of high strength steel. They range in size from two inches to 36 inches in diameter and have operating pressures ranging from approximately 400 psi – 1,400 psi depending on pipeline size, system requirements and time of year.

2.2.3 Existing Crude Oil Pipelines

Currently, there is only one, existing crude oil pipeline in South Dakota (Figure 4). This pipeline, operated by Plains Pipeline, L.P., is located in Harding County South Dakota and transports crude oil from Harding County oil producers into North Dakota. The system consists of approximately 22 miles of trunk line with pipeline diameters ranging from two to six inches.

The pipeline is constructed of steel and operates at pressures ranging zero to 1,200 psi with a maximum operating pressure of 1,440 psi. This pipeline transports approximately 92,000 barrels of crude oil per year. Because this pipeline is considered a gathering pipeline, it is not required to obtain a siting permit from the South Dakota Public Utilities Commission under the Energy Conversion and Transmission Facilities Act.

2.2.4 Existing Ethanol Pipelines

There are no existing ethanol transmission pipelines in operation in South Dakota.

2.2.5 Existing Refined Petroleum Product Pipelines

According to the Federal Pipeline Hazardous Material Safety Administration's Pipeline Mapping System there are approximately 593 miles of existing refined petroleum products transmission pipelines in South Dakota. Companies operating refined petroleum products transmission pipelines in South Dakota include: Magellan Midstream Partners, L.P., Pacific Energy, and NuStar Energy L.P. Figure 5 is a map of the refined petroleum products transmission pipelines in South Dakota.

In general, these pipelines are buried with at least 36 inches of cover and are constructed of steel. They range in size from six inches to eight inches in diameter and have operating pressures ranging from approximately 1,200 psi – 1,400 psi depending on pipeline size and system requirements. The refined petroleum products pipelines carry products such as gasoline, diesel fuel and jet fuel to bulk storage terminals in South Dakota.

2.3 Proposed Pipelines

Proposed water pipelines are waterline projects included in the State Water Plan or those that have submitted plans and specifications to the DENR's Drinking Water Program for review. Proposed natural gas, crude oil, ethanol, and refined petroleum product pipelines includes those projects that have applied to the South Dakota Public Utilities Commission for a facility siting permit under the South Dakota Conversion and Transmission Facilities Act or have publicly announced the project in South Dakota.

2.3.1 Proposed Water Pipelines

Proposed water pipelines or water projects including pipeline work were considered by the task force if they are part of the State Water Plan or have plans and specifications under review by the DENR's Drinking Water Program. The following sections list the currently proposed water pipeline projects in South Dakota

2.3.1.1 Proposed Projects Listed on the State Water Facilities Plan

The proposed projects on the list below were selected from the 2008 State Water Plan (Appendix A). The proposed projects, each with varying degree of pipeline construction, will be completed in either 2008 or 2009.

Project Sponsor	Project Description
BDM Rural Water	Hecla Area / Internal Expansion
Beresford	East Street Water Main Improvement
Black Hawk WUD	Water Storage and Distribution
Bon Homme – Yankton Water	Douglas County Expansion
Cavour	Waterline Replacement and Meters
DeSmet	Third Street Water Main Replacement
Fall River WUD	Internal Water System Expansion
Green Valley San. District	Water System Construction
Kingbrook RWS	Winfred Water System
Longview San. District	Water Distribution Construction
Menno	Highway 18 Water/Wastewater
Miller	Water Distribution System
Mobridge	Water Main Improvements
Owanka RWS	Construct a New Rural Water System
Pine Cliff Park	Water Distribution
Sioux Falls	Water Distribution Improvements
Spearfish Meadows	Water Distribution System
Tripp County WUD	Water System Expansion
Viewfield Water Association	Rural Water System Construction
Wolsey	Water Distribution
Java	Waterline Replacement
Mid-Dakota RWS	Water Treatment and Distribution

2.3.1.2 Proposed Projects with Plans and Specifications Under Review by the DENR’s Drinking Water Program

As of July 8, 2008, there were no proposed water pipeline projects under review by the DENR’s Drinking Water Program. Please note, projects move on and off this list frequently. To obtain the most current information please contact Mark Mayer with DENR’s Drinking Water Program at (605) 773-3754.

2.3.2 Proposed Natural Gas Pipelines

There are currently no proposed natural gas pipeline projects in South Dakota. There is however, a landfill gas pipeline project proposed in Sioux Falls, South Dakota. This is a joint project between POET and the City of Sioux Falls allowing methane generated from the Sioux Falls Regional Sanitary Landfill to provide energy for POET’s ethanol production facility near Chancellor, South Dakota. The methane will be transported by a 10-mile low-pressure pipeline to be completed by the second quarter 2009.

2.3.3 Proposed Crude Oil Pipelines

There are currently two proposed crude oil pipeline projects in South Dakota, TransCanada Keystone Pipeline and the TransCanada Keystone XL pipeline. These projects are described in more detail below.

2.3.3.1 Proposed TransCanada Keystone Pipeline

The TransCanada Keystone Pipeline is a proposed crude oil pipeline currently under construction in North and South Dakota (Figure 6). The proposed pipeline is a 30-inch diameter crude oil pipeline designed to carry up to 591,000 barrels per day of crude oil from the oil sands in Alberta, Canada to refineries in the Wood River and Patoka Illinois area and to storage facilities in Cushing, Oklahoma. The pipeline will be constructed with high strength steel and will be buried with a minimum four-foot depth of cover. Operating pressures will range up to 1,440 psi. Construction will continue through 2008 into 2009 with the line scheduled to begin operation late in 2009.

This pipeline was required to obtain a siting permit from the South Dakota Public Utilities Commission under their Energy Conversion and Transmission Facilities law 49-41B. A copy of the permit conditions is included as Appendix B.

2.3.3.2 Proposed TransCanada Keystone XL Pipeline

The TransCanada Keystone XL Pipeline is a proposed crude oil pipeline project projected to transport crude oil from Alberta, Canada to refineries along the Gulf Coast in Texas. The 36-inch diameter pipeline, with an initial capacity of 700,000 barrels per day, would enter South Dakota in northwest Harding County and leave the state in southeast Tripp County (Figure 6). The pipeline will be constructed with high strength steel and will be buried with a minimum four-foot depth of cover. Operating pressures will range up to 1,440 psi. Construction in South Dakota is tentatively schedule to begin in 2011 with the line to begin operation later that year.

2.3.4 Proposed Ethanol Pipelines

There are currently no proposed ethanol pipeline projects in South Dakota.

2.3.5 Proposed Refined Petroleum Product Pipelines

There are currently no proposed refined petroleum product pipeline projects in South Dakota.

2.3.6 Proposed Pipelines Associated with the Hyperion Energy Center

The Hyperion Energy Center is a proposed oil refinery and power plant located north of Elk Point in Union County, South Dakota. Although no pipeline projects associated with this facility have been announced it is likely, if built, this facility would require underground pipelines for water, crude oil, and refined petroleum products and may require natural gas and ethanol pipelines.

2.4 General Leak Prevention and Detection Information

In general, underground pipelines in South Dakota employ some or all of the following measures to prevent and detect pipeline leaks. Prior to construction of new pipelines, pipeline companies implement quality control programs at the pipe fabrication plant to ensure the pipeline itself

meets all of their coating and construction standards. During construction, each weld is inspected using x-ray or ultrasonic technology to ensure the integrity of the weld. Prior to operation, the entire pipeline is hydrostatically tested to 125 percent of the maximum allowable operating pressure to make sure the pipe will not break or leak. To prevent corrosion, the entire pipeline is fusion bond epoxy coated and there is an active cathodic protection system. During operation, the pipelines are remotely monitored 24-hours per day, 365 days per year for signs of leaks and pipeline operators use volume balance systems to confirm product volumes. In addition, periodic aerial inspections are done to look for abnormalities and local pipeline staff inspect the right-of-way during their normal activities. To test the internal integrity of the pipeline, pipeline operators perform periodic internal inspections using in-line inspection tools or “smart pigs”. The pipelines participate in South Dakota’s One Call system. Finally, each pipeline operator is required to develop and maintain emergency response and oil spill clean up plans that will be implemented in the event of a pipeline leak.

The table below shows examples of leak detection and prevention methods employed by existing and proposed pipelines in South Dakota

PIPELINE SYSTEM	LEAK PREVENTION AND DETECTION METHODS
Keystone and Keystone XL Pipeline System (proposed crude oil pipelines)	Fusion bond epoxy coated pipelines, field weld inspections, hydrostatic testing, active cathodic protection, 24/365 remote system monitoring and shutdown, volume balance system, aerial inspections 26 time per year, internal inspections using “smart pigs”, use of internal cleaning “pigs”, participate in the one call system, emergency response plan of file with federal and state regulators.
Plains Pipeline System (existing crude oil)	Continuous monitoring of real-time operational data, remote system shut-down, daily over-short balance using SCADA, high pressure shutdowns on pumps, seal failure alarms on pumps, corrosion inhibiting chemicals injected into crude oil stream, use of internal cleaning “pigs”, external pipeline coatings, cathodic protection, aerial inspections 26 times per year, participation in the one call system, emergency response planning.
NuStar Energy Pipeline System (refined products)	Volumetric accounting using SCADA, aerial inspections 26 times per year, internal inspections using “smart pigs”, active cathodic protection and cathodic protection monitoring, participation in the one call system, emergency response planning.
South Dakota Intrastate Pipeline Co. (natural gas)	Flame ionization leak detection, active cathodic protection, SCADA to monitor pressure and gas volume accounting, external and internal corrosion direct assessment, in-line inspection and aerial surveys.

2.5 Incident Summary and Spill Response Funds

The purpose of this section is to review Midwest pipeline incidents and to provide an overview of the South Dakota Regulated Substance Response Fund and the Federal Oil Spill Liability Trust Fund.

2.5.1 Incident Summary

Appendix C provides a summary of significant pipeline incidents occurring between 1998 and 2008 in South Dakota, North Dakota, Minnesota, Iowa, Nebraska, Montana and Wyoming. The data was gathered from the Pipeline and Hazardous Materials Safety Administrations state information web pages. According to the web page, significant pipeline incidents include incidents with any of the following conditions, 1) a fatality or injury requiring in-patient hospitalization, 2) \$50,000 or more in total costs, 3) highly volatile liquid releases of 5 barrels or more or other liquid releases of 50 barrels or more or 4) liquid releases resulting in an unintentional fire or explosion.

Based on the data presented in Appendix C there were 213 significant pipeline incidents between 1998 and 2008 in these seven states resulting in a gross barrel loss of 105,903 barrels. Of the 213 incidents, 23.9% were caused by material failure and 23.5% were caused by excavation damage. The remaining incidents were caused by either human error (7.5%), corrosion (7.5%), natural force damage (10.3%), other outside force damage (8.5%) or other causes (18.8%).

2.5.2 South Dakota Regulated Substance Response Fund

Appendix D provides additional information on the South Dakota Regulated Substance Response Fund. In general, the fund was established to respond to regulated substance releases where there is either no responsible party or the responsible party refuses to respond. In these situations, the South Dakota Department of Environment and Natural Resources uses the money from the fund to respond by stopping the release and performing any necessary remedial actions. The Department of Environment and Natural Resources is obligated to attempt to cost recover from the responsible party. As of the end of June 2008, the Regulated Substance Response Fund had a balance of \$2,575,500.00.

2.5.3 Federal Oil Spill Liability Trust Fund

Appendix E provides additional information on the Federal Oil Spill Liability Trust Fund. In general, the fund was established to pay for cleanup costs and damages resulting from oil spills into or threatening navigable waters of the United States. The fund, managed by the U.S. Coast Guard, can be accessed by all federal on-scene coordinators. Like South Dakota's fund, the oil spill trust fund can be used when there is no responsible party or the responsible party refuses to respond. After responding, the lead federal agency bills the responsible party for federal response costs. The projected 2008 year-end fund balance is \$1,000,341,353.

3.0 Adequacy of State Laws and Regulations Relating to Pipelines in South Dakota

The purpose of this section is to review the adequacy of South Dakota laws and regulations as they relate to the construction and operation of pipelines in South Dakota. In addition, to address this topic it is necessary to review the federal regulations applicable to pipeline facilities.

3.1 Review of Federal Laws and Regulations Relating to Pipelines in South Dakota

The U.S. Department of Transportation – Pipeline Hazardous Material Safety Administration is the primary regulatory authority for the construction and operation of interstate hazardous materials pipelines (including natural gas, crude oil, ethanol, and refined petroleum products). This office develops regulations to assure safety in design, construction, testing, operations, maintenance, and emergency response for pipeline facilities.

In order to maintain consistent regulation on interstate pipeline projects the federal code limits state authority on interstate pipeline safety regulations. The following excerpt from the federal code describes this limitation.

*Title 49 – Transportation
 Subtitle VIII – Pipelines
 Chapter 601 – Safety
 Sec. 60104 – Requirements and Limitations*

*(c) A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipelines facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. **A state authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation.** Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.*

For intrastate pipelines, as stated above, state authorities may adopt additional or more stringent safety standards on intrastate pipeline facilities as long as those standards are compatible with the minimum standards outlined in the federal regulations. The South Dakota Public Utilities Commission is the regulatory authority on intrastate pipelines in South Dakota.

The following is a list of the Federal Laws and Regulations applicable to hazardous materials pipelines in South Dakota.

LAW	AGENCY	DESCRIPTION
Public Law 109-468—DEC. 29, 2006		Pipeline Inspection, Protection, Enforcement and Safety Act of 2006
Title 49 – Transportation Subtitle VIII – Pipelines Chapter 601 – Safety	US DOT	Pipeline Safety Law
Sec 60101	US DOT	Definitions
Sec 60102	US DOT	General authority
Sec 60103	US DOT	Standards for liquefied natural gas pipeline

		facilities
Sec 60104	US DOT	Requirements and limitations
Sec 60105	US DOT	State pipeline safety program certifications
Sec 60106	US DOT	State pipeline safety agreements
Sec 60107	US DOT	State pipeline safety grants
Sec 60108	US DOT	Inspection and maintenance
Sec 60109	US DOT	High-density population areas and environmentally sensitive areas
Sec 60110	US DOT	Excess flow valves
Sec 60111	US DOT	Financial responsibility for liquefied natural gas facilities
Sec 60112	US DOT	Pipeline facilities hazardous to life and property
Sec 60113	US DOT	Customer-owned natural gas service lines
Sec 60114	US DOT	One-call notification systems
Sec 60115	US DOT	Technical safety standards committees
Sec 60116	US DOT	Public education programs
Sec 60117	US DOT	Administrative
Sec 60118	US DOT	Compliance and waivers
Sec 60119	US DOT	Judicial review
Sec 60120	US DOT	Enforcement
Sec 60121	US DOT	Actions by private persons
Sec 60122	US DOT	Civil penalties
Sec 60123	US DOT	Criminal penalties
Sec 60124	US DOT	Biennial reports
Sec 60125	US DOT	Authorization of appropriations
Sec 60126	US DOT	Risk management
Sec 60127	US DOT	Population encroachment
Sec 60128	US DOT	Dumping within pipeline rights-of-way
RULES	AGENCY	DESCRIPTIONS
Title 49 – Transportation Subtitle B, Chapter 1, Subchapter D – Pipeline Safety	US DOT	Pipeline Safety
Part 190	US DOT	Pipeline Safety Program and Rulemaking Procedures
Part 191	US DOT	Transportation of natural and other gas by pipeline; annual reports, incident reports, and safety related condition reports
Part 192	US DOT	Transportation of natural and other gas by pipeline: Minimum federal safety standards
Part 193	US DOT	Liquefied natural gas facilities: federal safety standards
Part 194	US DOT	Response plans for onshore oil pipelines
Part 195	US DOT	Transportation of hazardous liquids by pipeline

Part 198	US DOT	Regulations for grants to aid state pipeline safety programs
Part 199	US DOT	Drug and alcohol testing

3.2 Review of State Laws and Regulations Relating to Pipelines in South Dakota

The following sections summarize and review the adequacy of state laws and regulations relating to pipelines in South Dakota. To avoid duplication, the hazardous materials pipelines (natural gas, crude oil, ethanol and refined petroleum products) are grouped together.

3.2.1 Water Pipelines

3.2.1.1 Summary of South Dakota Laws and Regulations for Water Pipelines

The following is a list of South Dakota Laws and Regulations applicable to water pipelines in South Dakota

LAW	AGENCY	DESCRIPTION
31-26-22	DOT	Permit to operate on or under state right of ways
34A-2-29	DENR	Plans, Specifications, and Information Required by the Secretary
RULES	AGENCY	DESCRIPTION
70:04:05	DOT	Utility Accommodations on non-Interstate Rights-of-Way
74:53:04	DENR	Works of Sanitary Significance
74:53:04:01	DENR	Copies of plans and specifications to be submitted to department
74:53:04:02	DENR	Plans and specifications to be prepared by competent persons
74:53:04:03	DENR	Revisions of plans and specifications to be submitted
74:53:04:04	DENR	Disposition of approved plans and specifications
74:53:04:05	DENR	Time required for review
74:53:04:06	DENR	Deviation from approved plans and specifications prohibited
74:53:04:07	DENR	Approval void after two years if construction not started
74:53:04:08	DENR	Department to be notified when system or works completed
74:53:05	DENR	Public Water Supply Systems
74:53:05:01	DENR	Definitions
74:53:05:02	DENR	Written approval of plans and specifications required
74:53:05:03	DENR	Approval for operation of public water supply required
74:53:05:04	DENR	Inspections required -- Defects to be corrected
74:53:05:05	DENR	Department to issue minimum requirements to interested persons

3.2.1.2 Review of the Adequacy of the Laws and Regulations for Water Pipelines

To be drafted by the Task Force.

3.2.2 Hazardous Materials Pipelines

3.2.2.1 Summary of Laws and Regulations for Hazardous Materials Pipelines

The following is a list of South Dakota Laws and Regulations applicable to hazardous material pipelines in South Dakota.

LAW	AGENCY	DESCRIPTION
31-26-22	DOT	Permit to operate on or under state right of ways
34A-12-8	DENR	Discharge of regulated substance prohibited--Exception
34A-12-9	DENR	Report of discharge--Rules for reporting
34A-18	DENR	Oil Pipelines
34A-18-1	DENR	Definition of terms
34A-18-2	DENR	Oil spill response plan required
34A-18-3	DENR	Updating of oil spill response plan
34A-18-4	DENR	Consultation with department
34A-18-5	DENR	Time for submission of oil spill response plan
34A-18-6	DENR	Review of oil spill response plan
34A-18-7	DENR	Modifications to oil spill response plan to be submitted
34A-18-8	DENR	Implementation of plan in the event of oil spill
34A-18-9	DENR	Reports regarding spill
49-34B	PUC	Pipeline Safety
49-34B-1	PUC	Definition of terms
49-34B-2	PUC	Rural gathering facility exempt
49-34B-3	PUC	Pipeline safety inspection program created--Program for compliance
49-34B-4	PUC	Promulgation of safety standards--Considerations
49-34B-5	PUC	Noncompliance--Hearing--Corrective action
49-34B-6	PUC	Plan for inspection and maintenance of facility--Inadequate plan--Hearing--Revision
49-34B-7	PUC	Required records and information--Inspection by employee or agent of commission
49-34B-8	PUC	Programs for prevention of damage
49-34B-9	PUC	Inspection fee for intrastate operators--Recovery of unreasonable fees--Pipeline safety account established
49-34B-10	PUC	Calculating inspection fee for intrastate operators
49-34B-11	PUC	Initial inspection fee for intrastate operators--Filing objection--Delinquency fee--Fees credited to pipeline safety account
49-34B-12	PUC	Civil penalty for violations--Maximum penalties--Penalties credited to pipeline safety account--Interstate facilities exempt
49-34B-13	PUC	Conduct in violation of federal act--Authority of commission to pursue remedies
49-34B-14	PUC	Commission as agent of United States Department of Transportation in regulating interstate pipelines
49-34B-15	PUC	Designation of commission's inspectors as federal agents
49-34B-16	PUC	Inspection fee for interstate operators--Objections to fee--Fees deposited in pipeline safety account
49-34B-17	PUC	Calculation of interstate operator's inspection fee

49-34B-18	PUC	Initial inspection fee for interstate operators--Filing objections--Hearings--Delinquency fee
49-34B-19	PUC	Promulgation of inspection and safety rules
49-34B-20	PUC	Promulgation of rules for calculation, assessment, and collection of fees
49-34B-21	PUC	Accident report available in judicial proceedings
49-34B-22	PUC	Trade secrets information confidential
49-34B-23	PUC	Acceptance of federal moneys
49-34B-24	PUC	Waiver of compliance with standards--Reasons to be stated
49-34B-25	PUC	Damaging or tampering with sign or line markers prohibited--Violation as misdemeanor
49-34B-26	PUC	Prohibition against disposing of, destroying or altering pipeline involved in emergency release--Violation as felony
49-34B-27	PUC	Powers of commission in enforcement of chapter
49-41B	PUC	Energy Conversion and Transmission Facilities
49-41B-1	PUC	Legislative findings--Necessity to require permit for facility
49-41B-2	PUC	Definition of terms
49-41B-2.1	PUC	Transmission facility defined
49-41B-3	PUC	Ten-year plan required of utility planning to own or operate energy conversion facilities--Updating of plan—Contents
49-41B-4	PUC	Permit required before construction of facility after certain date
49-41B-4.1	PUC	Trans-state transmission facility--Permit and legislative approval required
49-41B-4.2	PUC	Trans-state transmission line--Criteria required
49-41B-4.3	PUC	Seasonal diversity exchange of electric power
49-41B-4.4	PUC	Trans-state transmission facility--Eminent domain--Acquisition of fee in land contiguous to right-of-way--Divestiture of agricultural land
49-41B-4.5	PUC	Foreclosure on nondivested agricultural land
49-41B-4.6	PUC	Corporate ownership of agricultural land
49-41B-4.7	PUC	Divestiture of less than fair market value not required
49-41B-5	PUC	Notification of intent to apply for permit required before filing application--Time-- Prefiling conference if applicant requests
49-41B-5.2	PUC	Notification of area landowners by mail--Publication of notice of proposed facility--Time for notification
49-41B-11	PUC	Applications for permit--Filing deadline--Form—Contents
49-41B-12	PUC	Deposit required of applicant--Disposition--Minimum and maximum amounts-- Fee for determining environmental impact
49-41B-13	PUC	Denial, return, or amendment of application--Grounds--Applicant permitted to make changes
49-41B-14	PUC	Further data provided prior to hearings if required--Prehearing conference
49-41B-15	PUC	Procedure followed by commission following receipt of application for permit
49-41B-16	PUC	Public hearings held within thirty days after notice
49-41B-17	PUC	Parties to proceedings under chapter
49-41B-17.1	PUC	County auditor as agent for service of process on party--Request for personal service
49-41B-19	PUC	Evidence from state or local agencies relative to environmental, social and

		economic conditions
49-41B-20	PUC	Final report heard by commission at final hearing--Decision on application--Adoption of committee's report
49-41B-21	PUC	Environmental impact statement
49-41B-22	PUC	Applicant's burden of proof
49-41B-22.1	PUC	Reapplication for permit--Applicant's burden of proof--Environmental impact statement not required
49-41B-22.2	PUC	Reapplication for permit--Discussion of commission as to applicant's burden of proof
49-41B-22.3	PUC	Reapplication for permit--Deposits and fees required
49-41B-23	PUC	Waiver of compliance with chapter on grounds of urgency, disaster, or civil disorder
49-41B-24	PUC	Large facility or pipeline permit--Complete findings required by commission within year of receipt of application
49-41B-26	PUC	Accounting for expenditures of applicant's deposit provided by commission--Refund of unused moneys
49-41B-27	PUC	Construction, expansion, and improvement of facilities
49-41B-28	PUC	Supersession of local land use controls by facility permit upon finding by commission
49-41B-29	PUC	Transfer of permit--Commission approval—Rules
49-41B-30	PUC	Circuit court review of commission decision by aggrieved party—Procedures
49-41B-31	PUC	Order not stayed by appeal--Stay or suspension by court
49-41B-32	PUC	Surety bond required if order stayed or suspended--Other security
49-41B-33	PUC	Revocation or suspension of permit—Grounds
49-41B-34	PUC	Violation of permit requirements as misdemeanor--Civil penalty--Continuing offense
49-41B-35	PUC	Promulgation of rules
49-41B-36	PUC	Authority to route or locate facilities not delegated to commission
49-41B-38	PUC	Indemnity bond for damage to roads and bridges
RULES	AGENCY	DESCRIPTION
20:10:31	PUC	Assessment of Fees for Intrastate Gas Pipeline Operators
20:10:31:01	PUC	Definitions
20:10:31:02	PUC	Scope and application
20:10:31:03	PUC	Reduction of support and direct costs
20:10:31:04	PUC	Assessment of direct costs
20:10:31:05	PUC	Assessment of support costs
20:10:31:06	PUC	Assessment of initial inspection fees
20:10:31:07	PUC	Objection to assessment
70:04:05	DOT	Utility Accommodations on non-Interstate Rights-of-Way
74:10:05:11.01	DENR	Immediate notice by telephone or facsimile required of fire, releases, breaks, leaks, or blowouts
74:10:10:03	DENR	Pipeline maps required
74:34:01	DENR	Regulated substance list and reporting of discharge

74:34:01:01	DENR	Definitions
74:34:01:02	DENR	Applicability
74:34:01:03	DENR	Regulated substances list
74:34:01:04	DENR	Report of known discharge – reportable quantities
74:34:01:05	DENR	Reporting of suspected discharges
74:34:01:06	DENR	Discharge report
74:36:08:12	DENR	National emission standards for gasoline distribution facilities (bulk gasoline terminals and pipeline breakout stations)
74:51:01	DENR	Surface water quality standards
74:54:01	DENR	Ground water quality standards
74:56:05	DENR	Remediation criteria for petroleum contaminated soils

3.2.2.2 Review of the Adequacy of the Laws and Regulations for Hazardous Material Pipelines

To be drafted by the Task Force.

4.0 Conclusions

Senate Bill 190, passed by the 2008 South Dakota Legislature, established the South Dakota Underground Pipeline Task Force. The Task Force has two objectives. 1) Review the status of existing and proposed pipelines in South Dakota and 2) assess the adequacy of state laws and regulations relating to pipelines in South Dakota. In addition, the Task Force is to report its findings to the Governor no later than December 1, 2008.

The Task Force members, appointed by the Governor, accomplished these objectives with two meetings and the preparation of this findings report. As described above, there are existing water pipelines, natural gas pipelines, crude oil pipelines and refined petroleum product lines in operation in South Dakota but no existing ethanol pipelines in the state. In addition, there are several water pipeline projects, a methane gas pipeline project and two crude oil pipeline projects proposed in South Dakota. Finally, the Task Force reviewed existing South Dakota law and rules regulating pipelines and made several recommendations concerning the existing regulatory requirements for pipelines in South Dakota. These recommendations are presented in section 5.0.

5.0 Recommendations

The following are the recommendations of the South Dakota Underground Pipeline Task Force.

1. Recommendations to be drafted by the task force.

Figure 1.
Regulated Public Water System Wells/Intakes

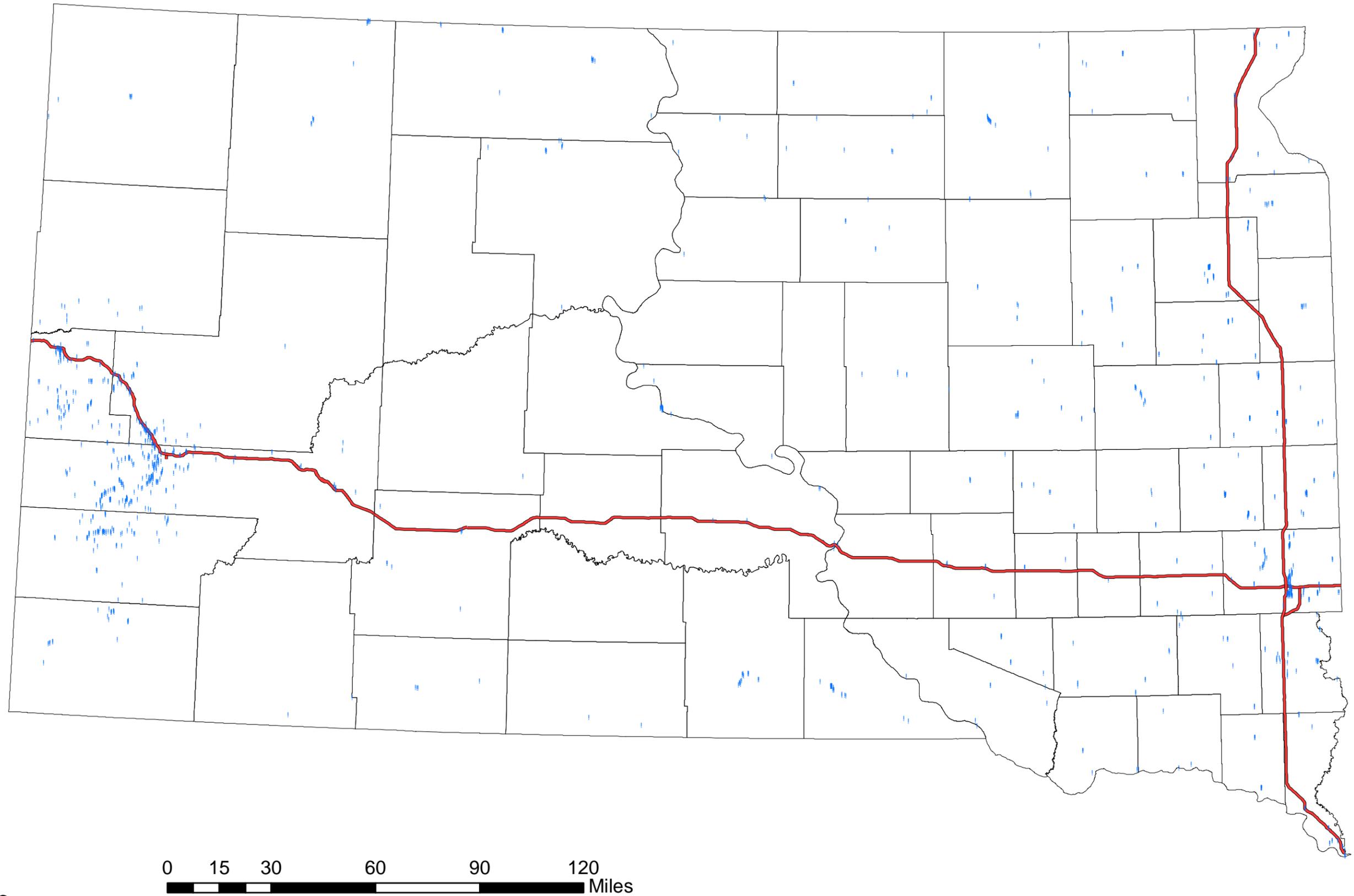
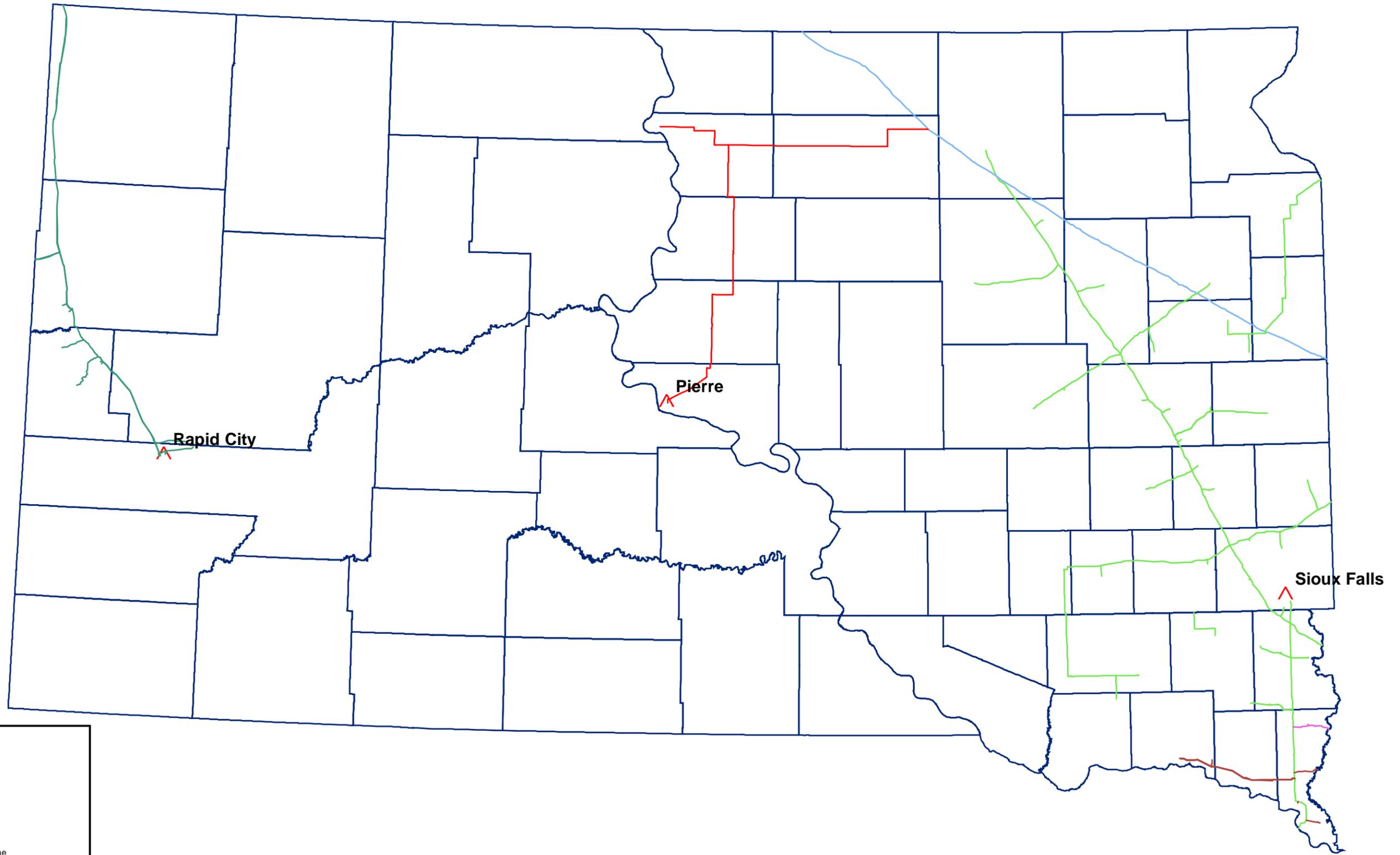


Figure 3. Existing Natural Gas Transmission Pipelines

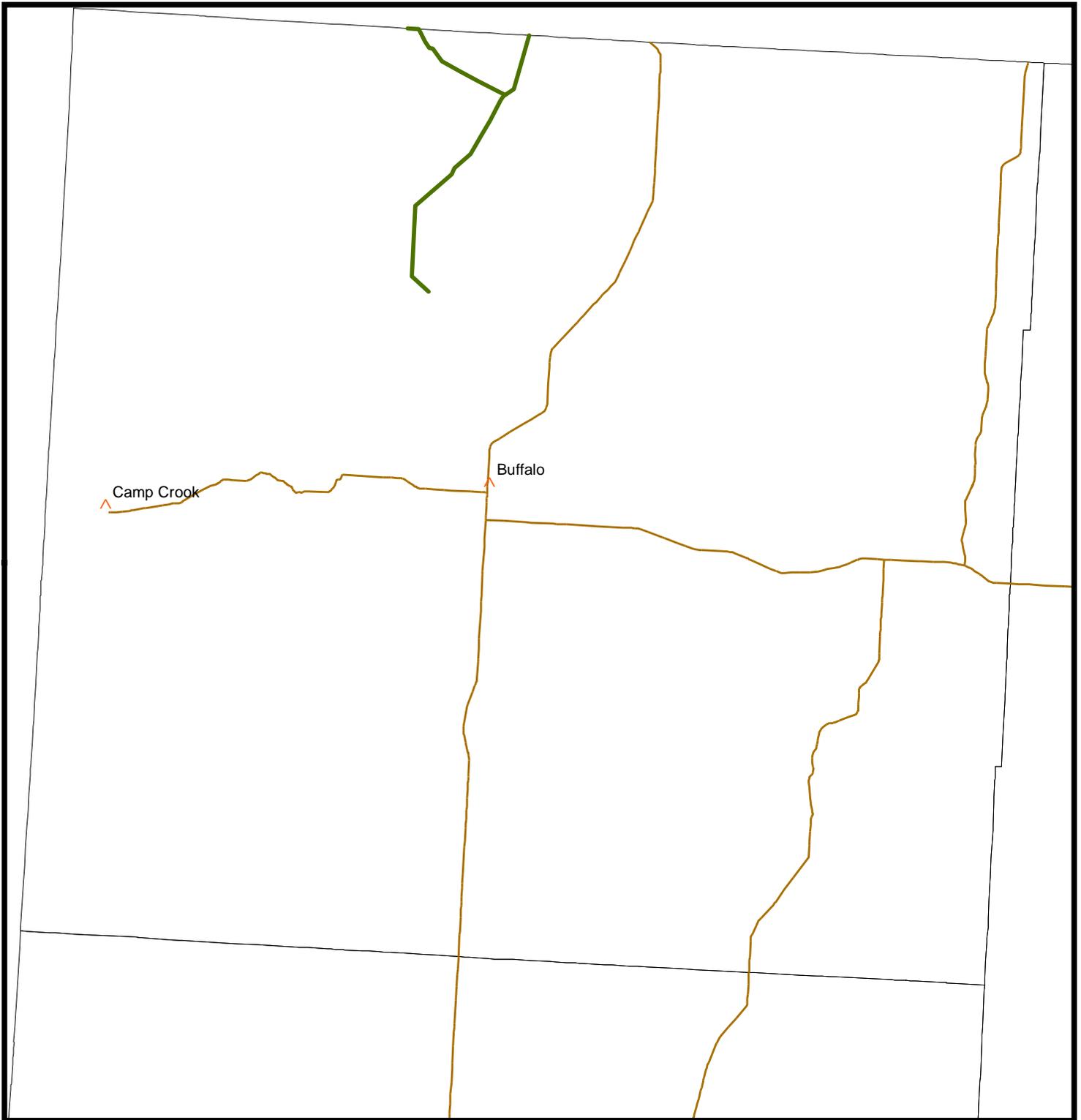


Legend

-  City
-  County
- Natural Gas Company**
-  Northern Borders Pipeline
-  Northern Natural Gas
-  Northern Natural Gas-Neb
-  Northern Natural Gas-SD
-  South Dakota Intrastate Pipeline Company
-  Williston Basin Interstate Pipeline Company

0 20 40 80 120 160 Miles

Figure 4. Existing Crude Oil Pipelines



Legend

- Highways
- Counties
- Plains Pipeline L.P. - Crude Oil Pipeline
- Cities



Figure 5. Existing Refined Petroleum Products Transmission Pipelines



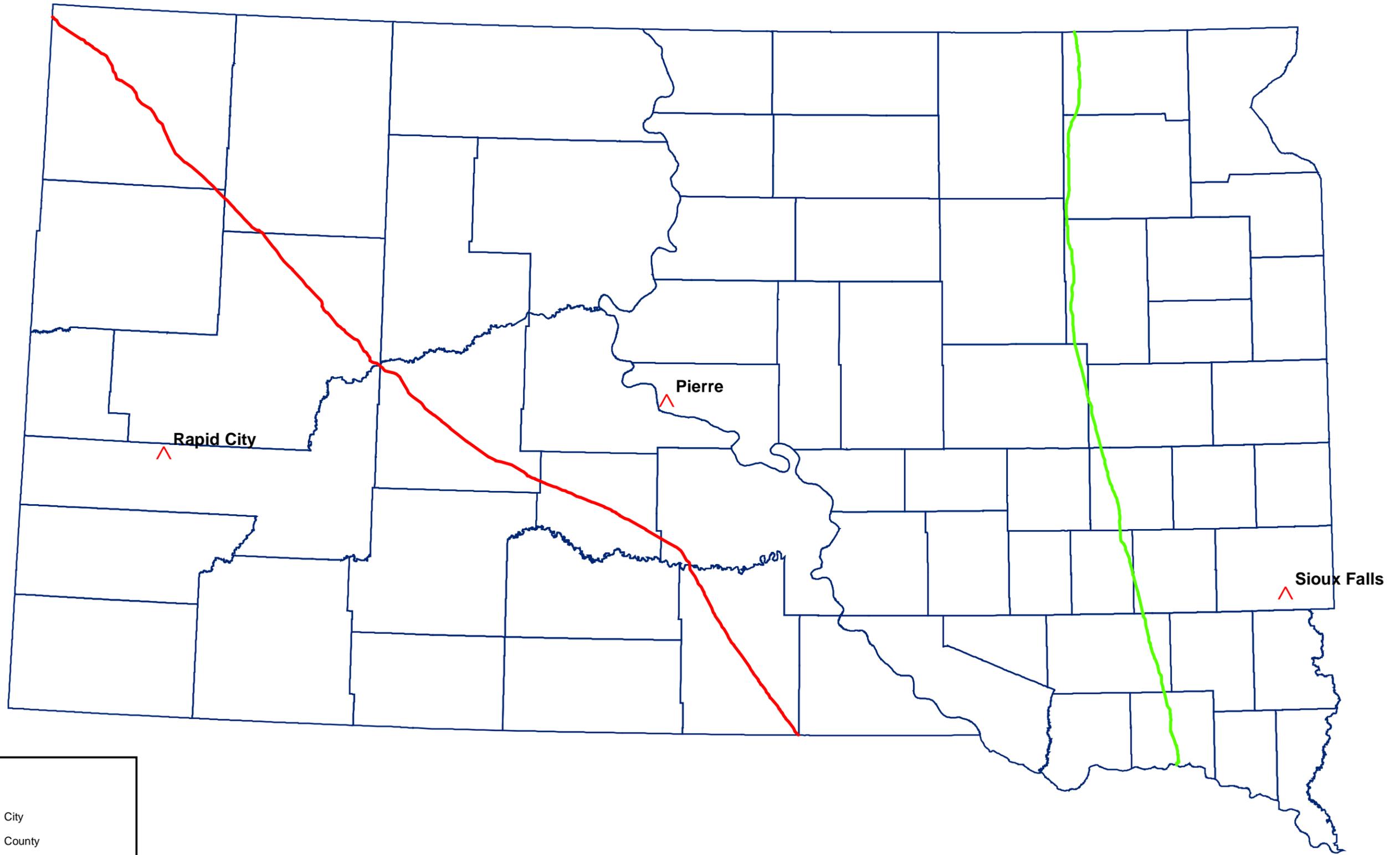
Legend

- City
- County
- Refined Petroleum Company**
- Magellan Midstream Partners
- Pacific Energy
- NuStar Energy



Figure 6.

Proposed TransCanada Keystone Pipeline and TransCanada Keystone XL Pipeline



Legend

-  City
-  County
-  Keystone Pipeline
-  Keystone XL Pipeline



Appendix A

2008 State Water Plan

2008 STATE WATER PLAN

2008 State Water Plan

Overview

The 1972 State Legislature established the State Water Plan to ensure the optimum overall benefits of the state's water resources for the general health, welfare, safety, and economic well-being of the people of South Dakota through the conservation, development, management, and use of those resources. The Legislature placed the responsibility for this plan with the Board of Water and Natural Resources.

The State Water Plan, as established in SDCL 46A-1-2, consists of two components – the State Water Facilities Plan and the State Water Resources Management System. To be considered for the State Water Facilities Plan, projects must meet criteria established by the board. These eligibility criteria are used as guidelines for the board, the department, and the water development districts when considering a project for inclusion on the State Water Facilities Plan. Addition to or deletion from the State Water Resources Management System can only be accomplished by the State Legislature.

State Water Facilities Plan

The State Water Facilities Plan (Facilities Plan) is a list of potential water projects. The Facilities Plan includes projects such as rural, municipal, and industrial water supply, wastewater collection and treatment facilities, storm sewers, groundwater protection, and watershed restoration. The board is responsible for approving the placement of projects on the Facilities Plan. Projects on the Facilities Plan are eligible to seek state and federal financial assistance. The board can provide direct assistance to projects on the plan and placement on the plan may influence federal and other state agency funding decisions.

In November 2007, the board received 43 applications requesting placement on the State Water Plan. The board placed all 43 of the projects on the Facilities Plan, bringing the total number of projects on the 2008 State Water Facilities Plan to 110 (Table 10). The 43 projects placed on the plan in November will remain on the Facilities Plan through 2009. Projects placed on the plan in November 2006, or that were amended onto the plan during calendar year 2007 will remain on the Facilities Plan through 2008. The bolded projects in Table 10 reflect projects that have received either partial or full funding. The bolded amounts on these projects reflect the amount that has been awarded to date. The projects remain on the Facilities Plan and remain eligible to request additional funding.

Additional projects may be placed on the Facilities Plan during the year. Projects placed on the Facilities Plan through the amendment process remain on the plan for the balance of the calendar year and the following year. Once a project is removed from the Facilities Plan, the project sponsor must submit a new state water plan application to be eligible to seek assistance.

Table 10

2008 STATE WATER FACILITIES PLAN

<u>Sponsor</u>	<u>Project Description</u>	<u>On Plan</u>	<u>Proposed Funding Source*</u>			<u>Total Project</u>
		<u>Through</u>	<u>CWFCP</u>	<u>CWSRF</u>	<u>DWSRF</u>	
Aberdeen	Brown County Water Quality Improvements	2008	\$ 18,000	\$ 1,156,259		\$ 1,274,259
Aberdeen	Wastewater Treatment	2008		19,218,859		19,218,859
Armour	Water System Improvements	2008	200,000		\$ 320,000	1,370,000
Aurora	Wastewater Treatment	2008	300,000	600,000		1,200,000
Aurora-Brule RWS	Water Intake Improvements	2009	250,000			4,249,794
BDM Rural Water	Hecla Area/Internal Expansion	2008	325,000			7,490,000
Beresford	East Street Watermain Improvement	2009	125,000			209,000
Big Sioux Comm. Water	Water Supply and Treatment	2009	300,000			2,969,280
Black Hawk WUD	Water Storage and Distribution	2009			1,140,052	1,478,052
Bon Homme-Yankton Water	Douglas Co. Expansion	2009	300,000			557,478
Box Elder	Wastewater Treatment	2008	400,000			3,130,200
Box Elder	Water Supply and Storage Improvements	2009	553,000			7,132,000
Brandt Lake San. District	Wastewater Collection and Treatment	2008	500,000			4,004,000
Britton	Residential Development	2008	200,000			715,000
Canton	Water/Wastewater Improvements	2008		432,770		860,000
Cavour	Waterline Replacement and Meters	2008	80,000		53,011	133,011
Chamberlain	Dredging in American Creek	2008	50,000			400,000
Chamberlain	Water Treatment Improvements	2009	350,000		403,000	953,000
Clark RWS	Water Treatment Plant	2009	666,000		999,000	6,660,000
Copper Oaks I Water Assoc.	Well Facility Improvements	2009	96,550		96,550	193,900
Corsica	Water and Wastewater Improvements	2008	300,000			2,684,625
Crooks	Wastewater Treatment	2008	300,000	255,000		615,000
Dakota Central RC&D	Upper Snake Creek Watershed	2008	75,000			1,473,200
Dell Rapids	Wastewater Lift Station	2008	400,000	716,000		1,216,000
Dell Rapids	Storm Drainage Improvements	2008	300,000	1,062,000		1,551,000
DeSmet	Third Street Water Main Replacement	2008	100,000		100,000	513,000
Edgemont	Water System Improvements	2009	500,000			2,561,000
Elk Point	Washington Street Water/Wastewater	2008	225,000			447,000
Elk Point	Clay Street Water/Wastewater	2009	250,000	128,300	289,700	873,000
Elk Point	Main Street Water/Wastewater	2009	600,000	145,223	625,000	1,471,000
Emery	Wastewater Treatment	2009	50,000			849,626
Faith	Additional Water Supply	2008	225,000			597,000
Fall River WUD	Internal Water System Expansion	2008	300,000		400,000	1,692,830
Fall River WUD	Supplemental Water Supply	2008	200,000			1,716,889
Frankfort	Wastewater Collection Improvements	2009	61,050			183,150
Freeman	Storm Water Improvements	2008		576,000		1,261,000
Ft. Pierre	Storm Water Drainage	2008		374,620		1,124,620
Garretson	Split Rock Creek Lift Station	2008		568,000		568,000
Gary	Wastewater Treatment Improvements	2008	200,000	225,000		425,000
Geddes	Wastewater Improvements	2008	100,000			950,900
Green Valley San. Dist.	Water System Construction	2009	765,300			4,216,002
Green Valley San. Dist.	Wastewater Collection System Construction	2009	900,000	2,092,000		6,009,582
Gregory	Wastewater Improvements	2008	100,000	257,000		557,000
Groton	Wastewater Improvements	2008	50,000			326,776
Hanson Rural Water	Water Supply	2008	300,000			3,435,800
Harrold	Storm Drainage	2008	238,212			388,212
Hartford	Sanitary/Storm Sewer Improvements	2008		583,000		583,000
Hartford	Water and Wastewater Improvements	2008	350,000			1,092,319
Hermosa	Wastewater Collection and Treatment	2009	338,645			2,032,095
Highmore	Wastewater and Storm Water	2009	500,000			2,035,000
Humboldt	Wastewater Treatment and Collection	2008		127,000		127,000
Hurley	Water System Improvements	2009	100,000		71,064	171,064
Irene	Valley Acres Addition	2008	50,000			236,110
Kingbrook RWS	2008 System Improvements	2009	500,000		4,200,000	6,850,000
Kingbrook RWS	Winfred Water System	2009	50,000		70,000	120,000
Kingsbury Cons. District	Kingsbury County Lakes	2008	20,000			51,000
Lead	Julius Street Sanitary/Storm Sewer	2008	200,000	240,000		2,308,900
Lennox	Wastewater System Improvements	2009	600,000	956,400		1,610,400
Lesterville	Water Tower Repair	2008	20,000			37,682
Longview San. Dist.	Water Rights Acquisition	2008	15,000			20,000
Longview San. Dist.	Water Distribution Construction	2008	500,000		640,000	3,695,000
Madison	Wastewater Treatment	2008	500,000	5,343,256		6,559,256
Martin	North Stabilization Pond Improvements	2008		100,000		285,000

<u>Sponsor</u>	<u>Project Description</u>	<u>On Plan Through</u>	<u>Proposed Funding Source*</u>			<u>Total Project</u>
			<u>CWFCP</u>	<u>CWSRF</u>	<u>DWSRF</u>	
Mellette	Water and Wastewater Improvements	2009	75,000		149,020	224,020
Menno	Highway 18 Water/Wastewater	2008	15,000	70,000		135,000
Miller	Water Distribution System	2008	400,000			1,776,990
Mission Hill	Water System Improvements	2009	100,000		332,300	682,300
Mitchell	Lift Station Replacement	2009	500,000	1,000,000		1,650,000
Mobridge	Water Main Improvements	2008			303,500	303,500
Mobridge	Storm Sewer Improvements	2009	454,343	302,896		757,239
Morristown	Water System Rehabilitation	2009				419,880
New Effington	Wastewater Treatment and Collection	2008	250,000			917,000
Owanka RWS	Construct a New Rural Water System	2008	270,000			1,090,575
Parkston	Wastewater Improvements	2008	200,000	650,000		1,174,752
Pine Cliff Park	Water Distribution	2008	148,200			418,000
Presho	Wastewater Improvements	2008	100,000	309,440		331,780
Provo Township	Water System Rehabilitation	2008	200,000			331,780
Pukwana	Water Improvements	2008				771,800
Randall Comm. Water District	Water System Improvements	2009	1,000,000			29,930,000
Randall RC&D	Lewis & Clark Watershed	2008	168,750			1,347,320
Redfield	Southwest Sanitary Sewer	2008		342,755		392,755
Redfield	Water and Wastewater Improvements	2008	50,000		342,755	1,214,590
Scotland	Highway 25 Water/Wastewater	2008	50,000	62,771		332,421
Sioux Falls	Regional Landfill Closure	2008		500,000		2,800,000
Sioux Falls	Wastewater Improvements	2009		5,657,000		5,657,000
Sioux Falls	Eastside Sanitary Sewer	2009		12,100,000		12,100,000
Sioux Falls	Storm Sewer Detention System	2009		2,621,000		2,621,000
Sioux Falls	Water Treatment Improvements	2009			17,848,000	17,848,000
Sioux Falls	Water Supply Improvements	2009			2,200,000	2,200,000
Sioux Falls	Water Distribution Improvements	2009			2,705,600	2,705,600
Spearfish	Wastewater Treatment	2008	100,000	5,163,000		6,669,000
Spearfish Meadows	Water Distribution System	2009	80,000		170,000	250,000
Summerset	Wastewater Treatment Plant Purchase	2009	500,000	2,623,100		3,123,100
Tripp	Storm Sewer	2009	100,000			803,260
Tripp Co. WUD	Water System Expansion	2009	350,000			4,601,000
Tyndall	Wastewater Collection	2008	1,000,000			8,144,829
Tyndall	Storm Sewer Replacement	2008	50,000	500,000		818,800
Vermillion	Wastewater Treatment Phase II	2009	250,000	3,948,000		4,698,000
Viborg	Water System Improvements	2009			249,775	415,500
Viewfield Water Assoc.	Rural Water System Construction	2008	350,000			1,800,300
Wagner	Water and Wastewater Improvements	2008		150,000	175,000	594,750
Wall Lake San. District	Wastewater Facilities Improvements	2009	220,000			396,600
Watertown	Water System Improvements	2009			23,760,000	23,760,000
Weston Heights	Wastewater Treatment	2008		638,300		938,300
Whitewood	Water Supply, Storage, and Treatment	2008				1,941,000
Wolsey	Water Distribution	2008	125,000		251,600	685,600
Woonsocket	Water System Improvements	2008	100,000		390,000	497,343
Woonsocket	Wastewater Treatment Improvements	2009	80,000			1,086,530
Worthing	Water and Wastewater Improvements	2008	450,000	580,000		1,328,274
Yankton	Water System Improvements	2008			1,100,000	1,469,000
TOTALS			\$22,733,050	\$72,374,949	\$59,384,927	\$283,873,359

* CWFCP - Consolidated Water Facilities Construction Program
CWSRF - Clean Water State Revolving Fund Loan Program
DWSRF - Drinking Water State Revolving Fund Loan Program

State Water Resources Management System

The State Water Resources Management System (SWRMS) identifies large, costly water projects that require specific state or federal authorization and financing. These projects are placed on the list when recommended by the board and approved by the Governor and the Legislature. The SWRMS list (Table 11) serves as the preferred priority list to optimize water resources management in the state. Once a project is placed on the SWRMS list, it remains on until removed by legislative action.

At its November 2007 meeting, the board recommended that the James River Improvement Program be deleted from the SWRMS list and that all other projects currently on the SWRMS list be retained. The current SWRMS list is shown below:

Table 11

STATE WATER RESOURCES MANAGEMENT SYSTEM PROJECTS

<u>Project</u>	<u>Description</u>
Big Sioux Flood Control Study	Watertown Flood Control
Black Hills Hydrology & Water Management Study	Black Hills Water Resources
CENDAK Irrigation Project	Irrigation Project - Central SD
Gregory County Pumped Storage Site	Multi-Purpose Water Utilization
James River Improvement Program	Watershed Improvements
Lake Andes-Wagner/Marty II Irrigation Unit	Irrigation - Charles Mix County
Lewis & Clark Rural Water System	Bulk Water System - Southeastern SD
Mni Wiconi Rural Water System	Rural Water System - Western SD
Perkins County Rural Water System	Rural Water System - Northwest SD
Sioux Falls Flood Control Project	Increased Flood Protection
Slip-Up Creek	Proposed Reservoir near Sioux Falls
Southern Black Hills Water System	Rural Water System - Southern Hills
Vermillion Basin Flood Control Project	Flood Control on Vermillion River

SWRMS Project Status

A brief summary of each project and its status is presented on the following pages. The year in the title indicates when the project was placed on the State Water Resources Management System.

Appendix B

South Dakota Public Utilities Commission Permit Conditions for the TransCanada Keystone Pipeline

**HP07-001 APPLICATION BY TRANSCANADA KEYSTONE PIPELINE, LP
FOR A PERMIT UNDER THE SOUTH DAKOTA ENERGY
CONVERSION AND TRANSMISSION FACILITY ACT TO
CONSTRUCT THE KEYSTONE PIPELINE PROJECT**

Permit Conditions

Compliance with Laws, Regulations, Permits, Standards and Commitments

1. Keystone shall comply with all applicable laws and regulations in its construction and operation of the Project. These laws and regulations include, but are not necessarily limited to: the federal Hazardous Liquid Pipeline Safety Act of 1979 and Pipeline Safety Improvement Act of 2002, as amended by the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006, and the various other pipeline safety statutes currently codified at 49 U.S.C. § 60101 et seq. (collectively, the "PSA"); the regulations of the United States Department of Transportation implementing the PSA, particularly 49 C.F.R Parts 194 and 195; temporary permits for use of public water for construction, testing or drilling purposes, SDCL 46-5-40.1 and ARSD 74:02:01:32 through 74:02:01:34.02 and temporary discharges to waters of the state, SDCL 34A-2-36 and ARSD Chapters 74:52:01 through 74:52:11, specifically, ARSD § 74:52:02:46 and the General Permit issued thereunder covering temporary discharges of water from construction dewatering and hydrostatic testing.

2. Keystone shall obtain and shall thereafter comply with all applicable federal, state and local permits, including but not limited to: Presidential Permit from the United States Department of State, Executive Order 11423 of August 16, 1968 (33 Fed. Reg. 11741) and Executive Order 13337 of April 30, 2004 (69 Fed. Reg. 25229), for the construction, connection, operation, or maintenance, at the border of the United States, of facilities for the exportation or importation of petroleum, petroleum products, coal, or other fuels to or from a foreign country; Clean Water Act § 404 and Rivers and Harbors Act Section 10 Permits; Special Permit issued by the Pipeline and Hazardous Materials Safety Administration; Temporary Water Use Permit, General Permit for Temporary Discharges and federal, state and local highway and road encroachment permits. Any of such permits not previously filed with the Commission shall be filed with the Commission upon their issuance.

3. Keystone shall comply with and implement the Recommendations set forth in the Final Environmental Impact Statement issued by the United States Department of State on January 11, 2008.

4. The permit granted by this Order shall not be transferable without the approval of the Commission pursuant to SDCL 49-41B-29.

5. Keystone shall undertake and complete all of the actions that it and its affiliated entities committed to undertake and complete in its Application and in its testimony before the Commission at the hearing.

Reporting and Relationships

6. The most recent and accurate depiction of the Project route and facility locations is found in hearing Exhibits A and C, 2 Sept 06, to the Application, Ex TC 1A and 1C, as modified by the valve and pump station relocations described in Ex TC 1C, 5 March 07, Risk Assessment, “6 Overview Valve and Pump Station Relocation (Overview of the Valve and Pump Station Relocation Rationale March 2007)” and “7 Facility Relocation 070328 (Valve and Pump Station Relocation Rationale Keystone Pipeline Project March 22, 2007)” and the route deviation maps introduced into evidence at the hearing. Ex TC 13 and TC 14. The testimony of Keystone’s witness, Buster Gray, indicated that the land acquisition and precise route finalization process was on-going at the time of the hearing. Keystone shall notify the Commission and all affected landowners, utilities and local governmental units as soon as practicable if material deviations are proposed to the route. At such time as Keystone has finalized the pre-construction route, Keystone shall file maps with the Commission depicting the final pre-construction route. If material deviations from this route must be made during construction, Keystone shall advise the Commission and all affected landowners, utilities and local governmental units prior to making such changes and afford the Commission the opportunity to review and approve such modifications. At the conclusion of construction, Keystone shall file detail maps with the Commission depicting the final as-built location of the Project facilities.

7. Keystone shall provide a public liaison officer, approved by the Commission, to facilitate the exchange of information between Keystone, including its contractors, and landowners, local communities and residents and to promptly resolve complaints and problems that may develop for landowners, local communities and residents as a result of the Project. Keystone shall file with the Commission its proposed public liaison officer’s credentials for approval by the Commission prior to the commencement of construction. The public liaison officer shall be afforded immediate access to Keystone’s on-site project manager, its executive project manager and to contractors’ on-site managers and shall be available at all times to the Commission’s Staff via mobile phone to respond to complaints and concerns communicated to the Staff by concerned landowners and others. Keystone shall also implement and keep an up-dated web site covering the planning and implementation of construction and commencement of operations in this state as an informational medium for the public. As soon as the Keystone’s public liaison officer has been appointed and approved, Keystone shall provide contact information for him/her to all landowners crossed by the Project and to law enforcement agencies and local governments in the vicinity of the Project. The public liaison officer’s contact information shall be provided to landowners in each subsequent written communication with them.

8. Until construction of the Project is completed, Keystone shall submit quarterly progress reports to the Commission that summarize the status of land acquisition and route finalization, the status of construction, the status of environmental control activities, including permitting status and Emergency Response Plan and Integrity Management

Plan development, the implementation of the other measures required by these conditions, and the overall percent of physical completion of the project and design changes of a substantive nature. Each report shall include a summary of consultations with the South Dakota Department of Environment and Natural Resources and other agencies concerning the issuance of permits. The reports shall list dates, names, and the results of each contact and the company's progress implementing prescribed construction, land restoration, environmental protection, emergency response and integrity management regulations, plans and standards. The first report shall be due for the period ending June 30, 2008. The reports shall be filed within 31 days after the end of each quarterly period and shall continue until the project is fully operational.

9. Until construction of the Project is completed, Keystone's public liaison officer shall report quarterly to the Commission on the status of the Project from his/her independent vantage point. The report shall detail problems encountered and complaints received. For the period of three years following completion of construction, Keystone's public liaison officer shall report to the Commission annually regarding post-construction landowner and other complaints, the status of road repair and reconstruction and land and crop restoration and any problems or issues occurring during the course of the year.

10. As soon as practicable following the issuance of the permit, Keystone shall commence a program of contacts with state, county and municipal emergency response, law enforcement and highway, road and other infrastructure management agencies serving the Project area in order to educate such agencies concerning the planned construction schedule and the measures that such agencies should begin taking to prepare for construction impacts and the commencement of project operations.

11. Keystone shall conduct a preconstruction conference prior to the commencement of construction to ensure that Keystone fully understands the conditions set forth in this order. At a minimum, the conference shall include a Keystone representative, Keystone's construction supervisor and Commission staff.

12. Once known, Keystone shall inform the Commission of the date construction will commence, report to the Commission on the date construction is started and keep the Commission updated on construction activities as provided in Condition 7.

Construction

13. Except as otherwise provided in the conditions of this Order and Permit, Keystone shall comply with all mitigation measures set forth in the Construction Mitigation and Reclamation Plan (CMR) as set forth in Ex TC 1A as modified in the Final EIS Record of Decision.

14. Keystone shall incorporate environmental inspectors into its Construction Mitigation and Reclamation Plan and obtain follow-up information reports from such inspections upon the completion of each construction spread to help ensure compliance with this Order and Permit and all other applicable laws and rules.

15. During the course of the hearing, Keystone submitted TC 28, a Construction Agreement it executes with all affected landowners. The Construction Agreement includes a landowner option regarding trenching and topsoil removal methods. Keystone shall provide landowners with an explanation regarding these options and shall follow the landowner's selected preference as documented on the Construction Agreement. At a minimum, however, Keystone shall separate topsoil from subsoil in agricultural areas, including shelter belts in agricultural areas and grasslands, as provided in Keystone's Construction Mitigation and Reclamation Plan. Keystone shall utilize slope breakers to prevent erosion at a 2 to 4 percent gradient rather than Keystone's proposed 2 to 8 percent gradient. Keystone's cleanup and reclamation efforts shall commence immediately following backfill operations. Except where practicably infeasible, final grading and topsoil replacement and installation of permanent erosion control structures shall be completed in non-residential areas within 20 days after backfilling the trench and within 10 days in residential areas. In the event seasonal or other weather conditions prevent compliance with the time frames, temporary erosion controls shall be maintained until conditions allow completion of cleanup and reclamation.

16. Keystone shall cover open-bodied dump trucks carrying sand or soil while on paved roads and cover open-bodied dump trucks carrying gravel or other materials having the potential to be expelled onto other vehicles or persons while on all public roads.

17. Herbicides or pesticides shall not be used in or within 100 feet of a water body except as allowed by the landowner and appropriate land management or state agency.

18. Rock excavation from the trench may be used to backfill the trench only to the top of the existing bedrock profile. All other rock shall be considered construction debris.

19. Mulch shall be applied on all slopes concurrent with or immediately after seeding where necessary to stabilize the soil surface and to reduce wind and water erosion. Keystone shall implement Staff's recommendations regarding liquid mulch binders and specifications for mulch use set forth in Staff Exhibit 7.

20. Erosion control matting fabric shall be installed on water body banks at the time of final bank re-contouring, unless riprap or other bank stabilization methods are employed in accordance with federal, state and local permits and approvals.

21. If trees are to be removed that have commercial or other value to affected landowners, Keystone shall compensate the landowner for the fair market value of the trees to be cleared and/or allow the landowner the right to retain ownership of the felled trees. The environmental inspection in Condition 14 shall include forested lands.

22. Unless a wetland is actively cultivated or rotated cropland or unless non-cohesive soil conditions require utilization of greater width, the width of the construction right-of-way shall be limited to 75 feet or less in standard wetlands.

23. Unless a wetland is actively cultivated or rotated cropland, extra work areas shall be located at least 50 feet away from wetland boundaries except where site-specific conditions render a 50-foot setback infeasible.

24. Vegetation clearing shall be limited between extra work areas and the edge of the wetland to the construction right-of way.

25. Wetland boundaries and buffers shall be clearly marked in the field with signs and/or highly visible flagging until construction-related ground disturbing activities are complete.

26. Extra work areas near water bodies shall be located at least 50 feet from the water's edge, except where the adjacent upland consists of actively cultivated or rotated cropland or other disturbed land or where site-specific conditions render a 50-foot setback infeasible. Clearing of vegetation between extra work space areas and the water's edge shall be limited to the construction right-of-way.

27. In water body areas, work area boundaries and buffers shall be clearly marked in the field with signs and or highly visible flagging until construction-related ground disturbing activities are complete.

28. Spoil from minor and intermediate water body crossings and upland spoil from major waterway crossings shall be placed in the construction right of way at least 10 feet from the water's edge or in additional extra work areas, except that in-stream spoil from streams greater than 30 feet in width may be temporarily stored in-stream when stream flow conditions warrant such treatment.

29. Vegetation maintenance adjacent to water bodies shall be conducted in such manner to allow a riparian strip at least 25 feet wide as measured from the water body's mean high water mark to permanently re-vegetate with native plant species across the entire construction right-of way.

30. The width of the clear cuts through any windbreaks and shelterbelts shall be limited to 50 feet or less. The width of clear cuts through extended lengths of wooded areas shall be limited to 85 feet or less.

31. Keystone shall follow all of Staff's recommendations regarding road protection and bonding. Such recommendations include:

a) Keystone shall coordinate road closures with state and local governments and emergency responders.

b) Keystone shall implement a regular program of road maintenance and repair through the active construction period to keep paved and gravel roads in an acceptable condition for residents and the general public.

- c) After construction, Keystone shall repair and restore any deterioration caused by construction traffic such that the roads are returned to at least their preconstruction condition.
- d) Keystone shall use appropriate preventative measures as needed to prevent damage to paved roads and to remove excess soil or mud from such roadways.
- e) Pursuant to SDCL 49-41B-38, Keystone shall obtain and file with the Commission a bond in the amount of \$3 million in 2008 and \$12 million in 2009 to ensure that any damage beyond normal wear to public roads, highways, bridges or other related facilities will be adequately compensated. Such bonds shall name the Commission as obligee in favor of, and for the benefit of, such townships, counties, or other governmental entities whose property is crossed by the Project. Each bond shall remain in effect until released by the Commission, which release shall not be unreasonably denied following completion of the construction and repair period. Either at the contact meetings required by Condition 10 or by mail, Keystone shall give notice of the existence and amount of these bonds to all counties, townships and other governmental entities whose property is crossed by the Project.

32. Due to the nature of residential property, Keystone shall implement the following protections in addition to those set forth in its Construction Mitigation and Reclamation Plan in areas where the Project passes within 500 feet of a residence:

- a) To the extent feasible, Keystone shall coordinate construction work schedules with affected residential landowners prior to the start of construction in the area of the residences.
- b) Keystone shall maintain access to all residences at all times, except for periods when it is infeasible to do so or except as otherwise agreed between Keystone and the occupant. Such periods shall be restricted to the minimum duration possible and shall be coordinated with affected residential landowners and occupants, to the extent possible.
- c) Keystone shall install temporary safety fencing, when reasonably requested by the landowner or occupant, to control access and minimize hazards associated with an open trench and heavy equipment in a residential area.
- d) Keystone shall notify affected residents in advance of any scheduled disruption of utilities and limit the duration of such disruption.
- e) Keystone shall repair any damage to property that results from construction activities.
- f) Keystone shall restore all areas disturbed by construction to at least their preconstruction condition.

33. Keystone shall coordinate project activities with the South Dakota State Fair Administration to make best use of fair resources for traditional users as well as construction workers.

34. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.

35. Reclamation and clean-up along the right-of-way must be continuous and coordinated with ongoing construction.

36. All pre-existing roads and lanes used during construction must be restored to a condition that will accommodate their previous use, and areas used as temporary roads during construction must be restored to their original condition, except as otherwise requested or agreed to by the landowner or any governmental authority having jurisdiction over such roadway.

37. Keystone shall, prior to any construction, file with the Commission a list identifying private and new access roads that will be used or required during construction and file a description of methods used by Keystone to reclaim those access roads.

38. In the event the winter season delays successful completion of de-compaction, topsoil replacement or seeding until the following spring, Keystone shall prepare and obtain a winterization plan. The Commission and affected landowners and/or governmental units shall be notified.

39. Keystone shall construct and operate the pipeline in the manner described in the application and at the hearing, including in Keystone's exhibits, and in accordance with the conditions of this permit, the PHMSA Special Permit and the conditions of this Order and the construction permit granted herein.

40. Keystone shall require compliance by its shippers with its crude oil specifications in order to minimize the potential for internal corrosion.

41. Keystone's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the pipeline.

Pipeline Operations, Detection and Emergency Response

42. In accordance with 49 C.F.R. 195, Keystone shall continue to evaluate and perform assessment activities regarding high consequence areas. Prior to Keystone commencing operation, all unusually sensitive areas as defined by 49 CFR 195.6 that may exist, whether currently marked on DOT's HCA maps or not, should be identified and added to the Emergency Response Plan and Integrity Management Plan. In its continuing assessment and evaluation of environmentally sensitive and high consequence areas,

Keystone shall seek out and consider local knowledge, including the knowledge of the South Dakota Geological Survey, the Department of Game Fish and Parks and local landowners and governmental officials.

43. The evidence in the record demonstrates that in some reaches of the Project in northern Marshall County, the Middle James Aquifer is present at or very near ground surface and is not overlain by sufficient impermeable material to isolate it from surficial infiltration of contaminants. The evidence also demonstrates that this aquifer serves as the water source for at least one significant public water supply system and several domestic farm wells. Keystone shall identify the Middle James Aquifer area in Marshall County as a hydrologically sensitive area in its Integrity Management and Emergency Management Plans, except in areas where Keystone can demonstrate that the aquifer is overlain by sufficient unoxidized glacial till or other impermeable material to isolate it from infiltration of contaminants in the event of a release from the Project. Keystone shall similarly treat any other surficial aquifers of which it becomes aware during construction and continuing route evaluation.

44. Prior to putting the Keystone Pipeline into operation, Keystone shall prepare, file with PHMSA and implement an emergency response plan as required under 49 CFR 194 and a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies as required under 49 CFR 195.402. Keystone shall also prepare and implement a written integrity management program in the manner and at such time as required under 49 CFR 195.452. At such time as Keystone files its Emergency Response Plan and Integrity Management Plan with PHMSA or any other state or federal agency, it shall also file such documents with the Commission. The Commission's confidential filing rules found at ARSD 20:10:01:41 may be invoked by Keystone with respect to such filings to the same extent as with all other filings at the Commission. If information is filed as "confidential," any person desiring access to such materials or the Commission Staff or the Commission may invoke the procedures of ARSD 20:10:01:41 through 20:10:01:43 to determine whether such information is entitled to confidential treatment and what protective provisions are appropriate for limited release of information found to be entitled to confidential treatment.

45. To facilitate periodic pipeline leak surveys during operation of the facilities in wetland areas, a corridor centered on the pipeline and up to 15 feet wide shall be maintained in an herbaceous state. Trees within 15 feet of the pipeline greater than 15 feet in height may be selectively cut and removed from the permanent right-of-way.

46. To facilitate periodic pipeline leak surveys in riparian areas, a corridor centered on the pipeline and up to 10 feet wide shall be maintained in an herbaceous state.

47. At the hearing, Keystone's expert witness, Brian Thomas, testified that there do not currently exist any viable and cost effective remote sensing or monitoring systems that could either be installed along the pipeline, particularly at sensitive locations, or employed in aerial and/or ground surveillance activities to detect volatile organic

compounds or other indicators of potential leaks. The Commission believes that such technologies, when available, could increase the effectiveness of visual surveillance and augment the SCADA system and mass balance and other leak detection methods that Keystone will employ. The Commission accordingly directs Keystone to keep abreast of the latest developments in such technologies and report to the Commission on the status of innovation in such pipeline leak detection equipment and methods on or before April 1, 2010 and at such additional times thereafter until 2019 as the Commission shall specifically request, but in no case more frequently than once every three years.

Environmental

48. Except to the extent waived by the owner or lessee in writing or to the extent the noise levels already exceed such standard, the noise levels associated with Keystone's pump station and other noise-producing facilities will not exceed the L10=55dbA standard at the nearest occupied, existing residence, office, hotel/motel or non-industrial business not owned by Keystone. The point of measurement will be within 100 feet of the residence or business in the direction of the pump station facility. Post-construction operational noise assessments will be completed by an independent third-party noise consultant, approved by the Commission, to show compliance with the noise level at each pump station or other noise-producing facility. The noise assessments will be performed in accordance with applicable American National Standards Institute standards. The results of the assessments will be filed with the Commission. In the event the noise level exceeds the limits set forth in this condition at any pump station or other noise producing facility, Keystone shall promptly implement noise mitigation measures to bring the facility into compliance with the limits set forth in this condition and shall report to the Commission concerning the measures taken and the results of post-mitigation assessments demonstrating that the noise limits have been met.

49. At the request of any landowner or public water supply system that offers to provide the necessary access to Keystone over his/her property or easement(s) to perform the necessary work, Keystone shall replace at no cost to such landowner or public water supply system, any polyethylene water piping located within 500 feet of the Project. Keystone shall not be required to replace that portion of any piping that passes through or under a basement wall or other wall of a home or other structure. At least forty-five (45) days prior to commencing construction, Keystone shall publish a notice in at least one newspaper of general circulation in each county through which the Project will be constructed advising landowners and public water supply systems of this condition.

50. If during construction, Keystone or its agents discover what may be an archaeological resource, cultural resource, paleontological resource, historical resource or gravesite, Keystone or its agents shall immediately cease work at that portion of the site and notify the Commission and the State Historical Preservation Office. If the SHPO determines a protectable resource is present, Keystone shall develop a plan that is acceptable to the SHPO to salvage, avoid or protect the archaeological resource. If such a plan will require a different route than that approved by the Commission, Keystone shall obtain Commission approval for the new route before proceeding with any further construction.

51. Keystone shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species that Keystone becomes aware of and that were not previously reported to the Commission.

52. Keystone shall keep a record of drain tile system information throughout construction. Location information shall be collected using a sub-meter accuracy global positioning system where available or, where not available by accurately documenting the pipeline station numbers of each exposed drain tile. Keystone shall maintain the drain tile location information and tile specifications and incorporate it into its Emergency Response and Integrity Management Plans where drains might be expected to serve as contaminant conduits in the event of a release.

Liability for Damage

53. Keystone shall repair or replace all property removed or damaged during all phases of construction and operation of the proposed transmission facility, including but not limited to, all fences, gates and irrigation or drainage systems. Keystone shall compensate the owners for damages or losses that cannot be fully remedied by repair or replacement, such as lost productivity and crop and livestock losses.

54. In the event that a person's well is contaminated as a result of the pipeline operation, Keystone shall pay all costs associated with finding and providing a permanent water supply that is at least of similar quality and quantity; and any other related damages including but not limited to any consequences, medical or otherwise, related to water contamination.

55. Any damage that occurs as a result of soil disturbance on a persons' property shall be paid for by Keystone.

56. No person will be held responsible for a pipeline leak that occurs as a result of his/her normal farming practices over the top of or near the pipeline.

57. Keystone shall pay commercially reasonable costs and indemnify and hold the landowner harmless for any loss, damage, claim or action resulting from Keystone's use of the easement, except to the extent such loss, damage claim or action results from the gross negligence or willful misconduct of the landowner or its agents.

Appendix C

Pipeline and Hazardous Materials Safety Administration Pipeline Incident Summary

South Dakota All Pipeline Systems: 1998-2008 YTD										
Date	City	Operator	Cause	Fatalities	Injuries	Property Damage (B) (C)	Gross Barrels Lost	Barrels Recovered	Net Barrels Lost	
04/04/1998		KANEB PIPELINE CO	EXCAVATION DAMAGE	0	0	\$48,484	195	0	195	
05/30/1998	SPENCER	NORTHWESTERN PUBLIC SERVICE CO	NATURAL FORCE DAMAGE	0	0	\$90,907	0	0	0	
08/10/1998		KANEB PIPELINE CO	CORROSION	0	0	\$36,363	123	0	123	
10/11/2004	RAPID CITY	MONTANA - DAKOTA UTILITIES CO	OTHER OUTSIDE FORCE DAMAGE	0	0	\$110,266	0	0	0	
12/28/2004	WOONSOCKET	KANEB PIPE LINE OPERATING COMPANY LP	EXCAVATION DAMAGE	0	0	\$196,835	193	154	39	
03/08/2007	MITCHELL	NORTHWESTERN ENERGY	EXCAVATION DAMAGE	0	0	\$471,362	0	0	0	
03/29/2007	BERESFORD	NORTHERN NATURAL GAS COMPANY	CORROSION	0	0	\$476,430	0	0	0	
08/24/2007	ABERDEEN	NORTHWESTERN ENERGY	OTHER OUTSIDE FORCE DAMAGE	0	0	\$225,268	0	0	0	
02/20/2008	PIERRE	MONTANA - DAKOTA UTILITIES CO	MATERIAL FAILURE	0	0	\$150,000	0	0	0	
Totals				0	0	\$1,805,915	511	154	357	

North Dakota All Pipeline Systems: 1998-2008 YTD										
Date	City	Operator	Cause	Fatalities	Injuries	Property Damage (B) (C)	Gross Barrels Lost	Barrels Recovered	Net Barrels Lost	
04/21/1998		PORTAL PIPELINE CO	ALL OTHER CAUSES	0	0	\$12,121	175	170	5	
10/07/1999	TIOGA	AMOCO PIPELINE CO	ALL OTHER CAUSES	0	0	\$0	90	85	5	
11/19/2000	TIOGA	DAKOTA GASIFICATION COMPANY	ALL OTHER CAUSES	0	0	\$435,072	83	0	83	
04/01/2001		DOME PIPELINE CORP	EXCAVATION DAMAGE	0	0	\$1,014,109	27,660	0	27,660	
07/16/2003	VALLEY CITY	DOME PIPELINE CORP	CORROSION	0	0	\$1,341,652	7,324	0	7,324	
08/04/2003	VALLEY CITY	DOME PIPELINE CORP	MATERIAL FAILURE	0	0	\$103,449	3,283	0	3,283	
06/08/2004	CENTER	TESORO - HIGH PLAINS PIPELINE COMPANY	CORROSION	0	0	\$880,290	400	0	400	
12/15/2004	MANTADOR	DOME PIPELINE CORPORATION	MATERIAL FAILURE	0	0	\$183,714	2,500	0	2,500	
09/27/2005		ENBRIDGE PIPELINES (NORTH DAKOTA) LLC	EXCAVATION DAMAGE	0	0	\$378,011	350	320	30	
09/21/2006	MCGREGOR	DAKOTA GASIFICATION COMPANY	MATERIAL FAILURE	0	0	\$526,213	100	0	100	
01/25/2007	STANLEY	ENBRIDGE PIPELINES (NORTH DAKOTA) LLC	HUMAN ERROR	0	0	\$75,750	215	200	15	
07/17/2007	VALLEY CITY	KINDER MORGAN COCHIN LLC	CORROSION	0	0	\$102,306	0	0	0	
11/24/2007	MAXBASS	ENBRIDGE PIPELINES (NORTH DAKOTA) LLC	HUMAN ERROR	0	0	\$10,300	84	84	0	
01/11/2008	ALEXANDER	BELLE FOURCHE PIPELINE CO	EXCAVATION DAMAGE	0	0	\$5,739	265	260	5	
01/27/2008	MANDAN	MONTANA - DAKOTA UTILITIES CO	ALL OTHER CAUSES	0	0	\$355,500	0	0	0	
03/30/2008	BISMARCK	MONTANA - DAKOTA UTILITIES CO	OTHER OUTSIDE FORCE DAMAGE	0	0	\$250,250	0	0	0	
04/10/2008	GRAND FORKS	VIKING GAS TRANSMISSION CO	CORROSION	0	0	\$302,000	0	0	0	
Totals				0	0	\$5,976,476	42,529	1,119	41,410	

Minnesota All Pipeline Systems: 1998-2008 YTD

Date	City	Operator	Cause	Fatalities	Injuries	Property	Gross	Barrels	Net Barrels
						Damage (B) (C)	Barrels Lost	Recovered	Lost
03/29/1998	ST PETER	MINNEGASCO INC	NATURAL FORCE DAMAGE	0	0	\$90,907	0	0	0
08/19/1998		AMOCO PIPELINE CO	EXCAVATION DAMAGE	0	0	\$0	1,300	700	600
08/25/1998	LITTLE FALLS	MINNESOTA PIPELINE CO	ALL OTHER CAUSES	0	0	\$121,209	200	133	67
09/06/1998	CLOQUET	GREAT LAKES GAS TRANSMISSION CO	ALL OTHER CAUSES	0	0	\$1,713,900	0	0	0
09/16/1998		LAKEHEAD PIPE LINE CO INC	EXCAVATION DAMAGE	0	0	\$121,209	5,700	5,415	285
10/19/1998		LAKEHEAD PIPE LINE CO INC	EXCAVATION DAMAGE	0	0	\$121,209	950	0	950
12/11/1998	ST. CLOUD	NORTHERN STATES POWER CO	EXCAVATION DAMAGE	4	1	\$6,060,465	0	0	0
02/22/1999		LAKEHEAD PIPE LINE CO INC	ALL OTHER CAUSES	0	0	\$59,819	400	385	15
04/23/1999	FERGUS FALLS	AMOCO PIPELINE CO	EXCAVATION DAMAGE	0	0	\$0	600	150	450
08/25/1999		LAKEHEAD PIPE LINE CO INC	ALL OTHER CAUSES	0	0	\$0	1	0	1
10/29/1999		WILLIAMS PIPE LINE COMPANY	ALL OTHER CAUSES	0	0	\$149,549	200	0	200
11/09/1999		WILLIAMS PIPE LINE COMPANY	CORROSION	0	0	\$239,278	300	260	40
02/07/2000		LAKEHEAD PIPE LINE CO INC	MATERIAL FAILURE	0	0	\$225,158	25	10	15
02/23/2000		LAKEHEAD PIPE LINE CO INC	ALL OTHER CAUSES	0	0	\$117,270	10	5	5
04/26/2000		WILLIAMS PIPE LINE COMPANY	EXCAVATION DAMAGE	0	0	\$152,451	50	17	33
05/06/2000	ROGERS	AMOCO PIPELINE CO	EXCAVATION DAMAGE	0	0	\$351,810	425	300	125
07/22/2000		LAKEHEAD PIPE LINE CO INC	ALL OTHER CAUSES	0	0	\$358,846	50	10	40
10/23/2000	EAGAN	PEOPLES NATURAL GAS	MATERIAL FAILURE	0	1	\$1,172,700	0	0	0
11/16/2000	ST PAUL	NORTHERN STATES POWER CO	EXCAVATION DAMAGE	0	1	\$152,451	0	0	0
11/18/2000	OSAKIS	NORTHERN NATURAL GAS CO (ENRON)	CORROSION	0	0	\$151,278	0	0	0
01/01/2001	MINNETONKA	MINNEGASCO INC	NATURAL FORCE DAMAGE	0	0	\$1,145,886	0	0	0
01/25/2001		LAKEHEAD PIPE LINE COMPANY, LP	ALL OTHER CAUSES	0	0	\$229,177	25	10	15
03/04/2001		LAKEHEAD PIPE LINE COMPANY, LP	MATERIAL FAILURE	0	0	\$229,177	25	15	10
04/24/2001		MINNESOTA PIPELINE CO	ALL OTHER CAUSES	0	0	\$173,096	2	2	0
04/24/2001	NORTHFIELD	NORTHERN STATES POWER CO	ALL OTHER CAUSES	0	0	\$286,472	0	0	0
08/18/2001	EDEN PRAIRIE	MINNEGASCO INC	EXCAVATION DAMAGE	0	0	\$458,355	0	0	0
02/13/2002	ROCHESTER	PEOPLES NATURAL GAS	EXCAVATION DAMAGE	0	0	\$157,636	0	0	0
02/14/2002	CASS LAKE	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	EXCAVATION DAMAGE	0	0	\$11,373	50	45	5
02/22/2002	CLEARBROOK	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	HUMAN ERROR	0	0	\$135,117	50	50	0
03/29/2002	CLEARBROOK	KOCH PIPELINE COMPANY, L.P.	MATERIAL FAILURE	0	0	\$118,227	180	165	15
04/24/2002		MAGELLAN PIPELINE COMPANY LLC	MATERIAL FAILURE	0	0	\$703,733	725	311	414
07/04/2002	COHASSET	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	MATERIAL FAILURE	0	0	\$6,302,405	6,000	2,574	3,426
11/04/2002	FLOODWOOD	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	MATERIAL FAILURE	0	0	\$168,896	4	1	3
01/23/2003	BRECKENRIDGE	GREAT PLAINS NATURAL GAS CO	NATURAL FORCE DAMAGE	0	0	\$553,944	0	0	0
02/10/2003	SILVER BAY	NORTHERN NATURAL GAS CO	CORROSION	0	0	\$1,790,089	0	0	0
03/16/2003	CLEARBROOK	KOCH PIPELINE COMPANY, L.P.	NATURAL FORCE DAMAGE	0	0	\$97,885	1	0	1
04/14/2003	TRAIL	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	MATERIAL FAILURE	0	0	\$1,107,889	125	75	50
05/26/2003	CLEARBROOK	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	MATERIAL FAILURE	0	0	\$22,158	100	100	0
06/12/2003	WAKEFIELD	MINNEGASCO INC	ALL OTHER CAUSES	0	1	\$19,942	0	0	0
01/13/2004	ROYALTON	NORTHERN STATES POWER CO	NATURAL FORCE DAMAGE	0	1	\$218,706	0	0	0
02/19/2004	GRAND RAPIDS	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	NATURAL FORCE DAMAGE	0	0	\$1,191,717	1,003	9	994
02/19/2004	BUFFALO	CENTERPOINT ENERGY MINNEGASCO	ALL OTHER CAUSES	0	0	\$216,519	0	0	0
05/10/2004	HOPKINS	CENTERPOINT ENERGY MINNEGASCO	ALL OTHER CAUSES	0	1	\$164,030	0	0	0
05/20/2004	CLEARBROOK	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	MATERIAL FAILURE	0	0	\$109,353	0	0	0
06/15/2004	BRANDON	MAGELLAN PIPELINE COMPANY, LLC	MATERIAL FAILURE	0	0	\$93,033	2	0	2
09/29/2004	SHELDON	NORTHERN NATURAL GAS CO	EXCAVATION DAMAGE	0	0	\$296,330	0	0	0
11/27/2004	RED WING	STATES POWER COMPANY DBA XCEL ENERGY	NATURAL FORCE DAMAGE	0	1	\$2,188	0	0	0
12/07/2004	ALEXANDRIA	CENTERPOINT ENERGY	OTHER OUTSIDE FORCE DAMAGE	0	0	\$563,167	0	0	0
12/28/2004	RAMSEY	DBA CENTERPOINT ENERGY MINNESOTA GAS	NATURAL FORCE DAMAGE	3	1	\$328,059	0	0	0
04/06/2005	JACKSON	NORTHERN NATURAL GAS COMPANY	HUMAN ERROR	0	0	\$111,553	0	0	0
08/15/2005	ROVE HEIGHTS	ENTERPRISE PRODUCTS OPERATING LP	HUMAN ERROR	0	0	\$65,108	500	0	500
10/04/2005	OTTAGE GROVE	STATES POWER COMPANY D/B/A XCEL ENERGY	NATURAL FORCE DAMAGE	0	2	\$280,808	0	0	0
01/25/2006	ST. PAUL	STATES POWER COMPANY DBA XCEL ENERGY	OTHER OUTSIDE FORCE DAMAGE	0	0	\$183,953	0	0	0
03/02/2006	ANNANDALE	NORTHERN NATURAL GAS COMPANY	OTHER OUTSIDE FORCE DAMAGE	0	0	\$114,691	0	0	0
05/31/2006	MINNEAPOLIS	D/B/A CENTERPOINT ENERGY MINNESOTA GAS	HUMAN ERROR	0	2	\$1,000	0	0	0
06/27/2006	LITTLE FALLS	KOCH PIPELINE COMPANY, LP	OTHER OUTSIDE FORCE DAMAGE	0	0	\$4,250,045	3,200	1,750	1,450
10/12/2006	BUFFALO	NORTHERN NATURAL GAS COMPANY	ALL OTHER CAUSES	0	0	\$510,980	0	0	0
03/07/2007	OTTAGE GROVE	KOCH PIPELINE COMPANY, LP	OTHER OUTSIDE FORCE DAMAGE	0	0	\$101	0	0	0
08/19/2007	BURNSVILLE	DBA CENTERPOINT ENERGY MINNESOTA GAS	NATURAL FORCE DAMAGE	0	0	\$151,000	0	0	0
11/28/2007	CLEARBROOK	ENBRIDGE ENERGY, LIMITED PARTNERSHIP	ALL OTHER CAUSES	2	0	\$2,607,375	325	0	325
12/24/2007	MOORHEAD	XCEL ENERGY	NATURAL FORCE DAMAGE	0	0	\$100,000	0	0	0
03/12/2008	ROCHESTER	MINNESOTA ENERGY RESOURCES CORPORATION	ALL OTHER CAUSES	0	0	\$325,000	0	0	0
03/23/2008	CLEARBROOK	KOCH PIPELINE COMPANY, L.P.	NATURAL FORCE DAMAGE	0	0	\$572,000	1,600	1,500	100
04/14/2008	DULUTH	CITY OF DULUTH PUBLIC WORKS & UTILITIES	ALL OTHER CAUSES	0	0	\$400,000	0	0	0
Totals				9	12	\$37,927,682	24,128	13,992	10,136

Iowa All Pipeline Systems: 1998-2008 YTD

Date	City	Operator	Cause	Fatalities	Injuries	Property Damage (B) (C)	Gross Barrels Lost	Barrels Recovered	Net Barrels Lost
01/05/1998	ST DES MOINES	MIDAMERICAN ENERGY CO	ALL OTHER CAUSES	0	0	\$242,419	0	0	0
01/13/1998		KINDER MORGAN GP, INC.	MATERIAL FAILURE	0	0	\$606	15	0	15
07/11/1998	DES MOINES	KINDER MORGAN ENERGY PARTNERS, L.P.	MATERIAL FAILURE	0	0	\$606	14	0	14
02/13/1999		WILLIAMS PIPELINE CO	ALL OTHER CAUSES	0	0	\$95,711	670	528	142
05/01/1999	PLEASANT HILL	KOCH PIPELINE COMPANY, L.P.	EXCAVATION DAMAGE	0	0	\$1,914,222	3,663	3,662	1
05/24/1999		WILLIAMS PIPELINE CO	MATERIAL FAILURE	0	0	\$338,578	73	0	73
08/06/1999	SIOUX CITY	WILLIAMS PIPE LINE COMPANY	HUMAN ERROR	0	0	\$89,729	100	38	62
08/27/1999		WILLIAMS PIPE LINE COMPANY	MATERIAL FAILURE	0	0	\$358,917	98	4	94
10/06/1999	DES MOINES	KINDER MORGAN GP, INC.	HUMAN ERROR	0	1	\$0	0	0	0
11/11/1999	OELWEIN	NORTHERN NATURAL GAS CO (ENRON)	EXCAVATION DAMAGE	1	1	\$173,696	0	0	0
12/28/1999		KINDER MORGAN GP, INC.	ALL OTHER CAUSES	0	0	\$1,196	13	0	13
02/26/2000		WILLIAMS PIPE LINE COMPANY	ALL OTHER CAUSES	0	0	\$469,080	756	566	190
09/26/2000	DES MOINES	KINDER MORGAN ENERGY PARTNERS, L.P.	HUMAN ERROR	0	0	\$1,173	13	0	13
12/07/2000	HUBBARD	I E S UTILITIES, INC.	NATURAL FORCE DAMAGE	0	0	\$1,172,700	0	0	0
04/07/2001	CONCORD	KOCH PIPELINE COMPANY, L.P.	NATURAL FORCE DAMAGE	0	0	\$7,620	176	0	176
08/23/2001		KINDER MORGAN ENERGY PARTNERS, L.P.	HUMAN ERROR	0	0	\$401	16	0	16
11/19/2001		KANEB PIPE LINE CO	EXCAVATION DAMAGE	0	0	\$11,459	150	0	150
12/14/2001		KOCH PIPELINE COMPANY, L.P. AMMONIA	EXCAVATION DAMAGE	0	1	\$2,291,773	1,442	0	1,442
01/02/2002	DES MOINES	WILLIAMS PIPE LINE COMPANY	MATERIAL FAILURE	0	0	\$5,630	0	0	0
02/03/2002	IOWA CITY	WILLIAMS PIPE LINE COMPANY	MATERIAL FAILURE	0	0	\$7,659	80	79	1
04/17/2002	EDGEWOOD	BP PIPELINE (NORTH AMERICA) INC.	EXCAVATION DAMAGE	0	0	\$651,151	200	150	50
07/16/2002	CLEAR LAKE	KOCH PIPELINE COMPANY, L.P.	MATERIAL FAILURE	0	0	\$135,116	20	0	20
10/08/2002	KELLOGG	NORTHERN NATURAL GAS CO	EXCAVATION DAMAGE	0	0	\$181,886	0	0	0
12/27/2002	GILMORE CITY	GILMORE CITY MUNICIPAL GAS SYSTEM INC	ALL OTHER CAUSES	0	0	\$146,376	0	0	0
03/11/2003	BUS JUNCTION	NATURAL GAS PIPELINE CO OF AMERICA (KMI)	HUMAN ERROR	0	1	\$0	0	0	0
03/25/2004	WOODWARD	NORTHERN NATURAL GAS CO	EXCAVATION DAMAGE	0	0	\$269,276	0	0	0
05/31/2004	CEDAR RAPIDS	MIDAMERICAN ENERGY COMPANY	NATURAL FORCE DAMAGE	0	0	\$433,164	0	0	0
11/01/2004	RED OAK	MIDAMERICAN ENERGY COMPANY	HUMAN ERROR	0	1	\$1,094	0	0	0
12/02/2004	DAVENPORT	KINDER MORGAN ENERGY PARTNERS LP	ALL OTHER CAUSES	0	0	\$3,502	52	0	52
03/17/2005	GRINNELL	MAGELLAN PIPELINE COMPANY LP	EXCAVATION DAMAGE	0	0	\$231,451	81	81	0
06/01/2005	BERNARD	ENTERPRISE PRODUCTS OPERATING L.P.	MATERIAL FAILURE	0	0	\$60,698	81	0	81
06/03/2005	DANBURY	ENTERPRISE PRODUCTS OPERATING L.P.	MATERIAL FAILURE	0	0	\$134,345	3	0	3
07/04/2005	MONTICELLO	NORTHERN NATURAL GAS COMPANY	MATERIAL FAILURE	0	0	\$98,781	0	0	0
08/19/2005	CAMANCHE	ENTERPRISE PRODUCTS OPERATING LP	MATERIAL FAILURE	0	0	\$795	10	0	10
08/26/2005	SALIX	ENTERPRISE PRODUCTS OPERATING LP	CORROSION	0	0	\$320,510	9	0	9
11/09/2005	BELLEVUE	NORTHERN NATURAL GAS COMPANY	EXCAVATION DAMAGE	0	1	\$321,294	0	0	0
12/29/2005	LEE	VALERO, LP DBA KANEB PIPE LINE	MATERIAL FAILURE	0	0	\$27,936	7	0	7
07/27/2006	WINFIELD	WINFIELD MUNICIPAL GAS	OTHER OUTSIDE FORCE DAMAGE	0	0	\$154,360	0	0	0
07/28/2006	ONAWA	ENTERPRISE PRODUCTS OPERATING LP	MATERIAL FAILURE	0	0	\$89,595	0	0	0
08/03/2006	NEW VIRGINIA	NATURAL GAS PIPELINE CO. OF AMERICA	MATERIAL FAILURE	0	0	\$233,025	0	0	0
12/30/2007	DUBUQUE	ENTERPRISE PRODUCTS OPERATING LLC	ALL OTHER CAUSES	0	0	\$206,600	100	0	100
01/25/2008	DES MOINES	MAGELLAN PIPELINE COMPANY, LP	NATURAL FORCE DAMAGE	0	0	\$110,732	2	2	0
03/01/2008	MONTEZUMA	MAGELLAN PIPELINE COMPANY, LP	MATERIAL FAILURE	0	0	\$2,557	11	0	11
04/11/2008	RED OAK	MIDAMERICAN ENERGY COMPANY	ALL OTHER CAUSES	0	2	\$0	0	0	0
Totals				1	8	\$10,997,419	7,855	5,110	2,745

Nebraska All Pipeline Systems: 1998-2008 YTD										
Date	City	Operator	Cause	Fatalities	Injuries	Property Damage (B) (C)	Gross Barrels Lost	Barrels Recovered	Net Barrels Lost	
02/24/2000		KANEB PIPELINE CO	EXCAVATION DAMAGE	0	0	\$205,223	5,808	5,808	0	
02/22/2002	SIoux FALLS	NORTHERN NATURAL GAS CO (ENRON)	OTHER OUTSIDE FORCE DAMAGE	0	0	\$146,416	0	0	0	
05/20/2002	COZAD	ENERGY INC(KANSAS NEBRASKA GAS CO) (KMI)	ALL OTHER CAUSES	0	1	\$67,558	0	0	0	
07/22/2002	LODGEPOLE	K N INTERSTATE GAS TRANSMISSION CO	CORROSION	0	0	\$153,133	0	0	0	
12/09/2002	NEHAWKA	KINDER MORGAN ENERGY PARTNERS, L.P.	EXCAVATION DAMAGE	0	0	\$75,839	1,047	0	1,047	
02/20/2003	OMAHA	METROPOLITAN UTILITIES DISTRICT	ALL OTHER CAUSES	0	0	\$110,789	0	0	0	
02/20/2003	OMAHA	METROPOLITAN UTILITIES DISTRICT	NATURAL FORCE DAMAGE	0	0	\$110,789	0	0	0	
02/11/2004	HOLDREGE	JAYHAWK PIPELINE LLC	MATERIAL FAILURE	0	0	\$44,649	10	0	10	
08/22/2004	BENNINGTON	METROPOLITAN UTILITIES DISTRICT	OTHER OUTSIDE FORCE DAMAGE	0	0	\$765,470	0	0	0	
08/22/2004	BENNINGTON	METROPOLITAN UTILITIES DISTRICT	ALL OTHER CAUSES	0	0	\$765,470	0	0	0	
09/27/2004	BLAIR	ENTERPRISE PRODUCTS OPERATING LP	EXCAVATION DAMAGE	0	0	\$342,051	895	895	0	
11/08/2004	DAVENPORT	K N INTERSTATE GAS TRANSMISSION CO	EXCAVATION DAMAGE	0	0	\$102,983	0	0	0	
01/19/2005	OMAHA	METROPOLITAN UTILITIES DISTRICT	OTHER OUTSIDE FORCE DAMAGE	0	1	\$756,023	0	0	0	
06/22/2005	FRANKLIN	KINDER MORGAN INTERSTATE GAS TRANSMISSION	EXCAVATION DAMAGE	0	0	\$176,857	0	0	0	
09/13/2005	OMAHA	METROPOLITAN UTILITIES DISTRICT	OTHER OUTSIDE FORCE DAMAGE	2	2	\$75,602	0	0	0	
05/23/2006	VALLEY	ENTERPRISE PRODUCTS OPERATING LP	MATERIAL FAILURE	0	0	\$170,769	2	0	2	
03/29/2007	YUTAN	ENTERPRISE PRODUCTS OPERATING LLC	EXCAVATION DAMAGE	0	0	\$684,240	1,725	28	1,697	
10/07/2007	PHILLIPS	SOURCEGAS LLC	OTHER OUTSIDE FORCE DAMAGE	0	1	\$4,609	0	0	0	
12/27/2007	RTH LAS VEGAS	SOUTHWEST GAS CORP	EXCAVATION DAMAGE	1	0	\$2,494	0	0	0	
02/22/2008	NORTH PLATTE	NORTHWESTERN ENERGY LLC	OTHER OUTSIDE FORCE DAMAGE	0	0	\$207,010	0	0	0	
03/19/2008	BEATRICE	AQUILA NETWORKS	HUMAN ERROR	0	0	\$156,851	0	0	0	
05/29/2008	KEARNEY	NORTHWESTERN ENERGY LLC	NATURAL FORCE DAMAGE	0	0	\$100,385	0	0	0	
06/18/2008	MCCOOK	SOURCEGAS LLC	OTHER OUTSIDE FORCE DAMAGE	0	2	\$16,322	0	0	0	
Totals				3	7	\$5,241,532	9,487	6,731	2,756	

Montana All Pipeline Systems: 1998-2008 YTD										
Date	City	Operator	Cause	Fatalities	Injuries	Property Damage (B) (C)	Gross Barrels Lost	Barrels Recovered	Net Barrels Lost	
06/23/1998		PORTAL PIPELINE CO	MATERIAL FAILURE	0	0	\$8,485	100	95	5	
12/28/1998	ALZADA	EQUILON PIPELINE COMPANY LLC	NATURAL FORCE DAMAGE	0	0	\$72,726	190	160	30	
09/20/1999	BOULDER	MONTANA POWER CO	EXCAVATION DAMAGE	0	0	\$136,388	0	0	0	
08/02/2000		CONOCO INC (AKA CONOCO PIPE LINE)	EXCAVATION DAMAGE	0	0	\$586,350	383	0	383	
10/19/2000	CUT BANK	CONOCO INC (AKA CONOCO PIPE LINE)	MATERIAL FAILURE	0	0	\$469,080	1,390	102	1,288	
12/13/2000	HELENA	CONOCO INC (AKA CONOCO PIPE LINE)	HUMAN ERROR	0	0	\$879,525	1,247	42	1,205	
02/04/2001	HELENA	MONTANA POWER CO	EXCAVATION DAMAGE	0	0	\$171,883	0	0	0	
06/01/2002	BUTTE	NORTHWESTERN ENERGY LLC	EXCAVATION DAMAGE	0	1	\$11,260	0	0	0	
09/20/2002	GLENDIVE	CENEX PIPELINE	EXCAVATION DAMAGE	0	0	\$0	997	502	495	
06/10/2003	ALZADA	BELLE FOURCHE PIPELINE CO	MATERIAL FAILURE	0	0	\$7,201	120	115	5	
09/22/2004	WALKERSVILLE	NORTHWESTERN ENERGY	EXCAVATION DAMAGE	0	1	\$131,223	0	0	0	
09/15/2005	LIVINGSTON	NORTHWESTERN ENERGY	EXCAVATION DAMAGE	0	1	\$541,097	0	0	0	
04/08/2007	BUTTE	NORTHWESTERN ENERGY	ALL OTHER CAUSES	0	1	\$120,000	0	0	0	
10/09/2007	BILLINGS	CONOCOPHILLIPS PIPE LINE CO.	ALL OTHER CAUSES	0	0	\$17,120	267	267	0	
05/18/2008	BRIDGER	KINDER MORGAN PIPELINES (USA) INC	MATERIAL FAILURE	0	0	\$418,841	119	119	0	
Totals				0	4	\$3,571,179	4,813	1,402	3,411	

Wyoming All Pipeline Systems: 1998-2008 YTD

Date	City	Operator	Cause	Fatalities	Injuries	Property Damage (B) (C)	Gross Barrels Lost	Barrels Recovered	Net Barrels Lost
03/31/1998		MAPCO INC	EXCAVATION DAMAGE	0	0	\$75,526	3,358	0	3,358
06/09/1998		CONOCO INC (AKA CONOCO PIPE LINE)	ALL OTHER CAUSES	0	0	\$6,303	265	255	10
07/21/1998	GILLETTE	WILLISTON BASIN INTERSTATE PIPELINE CO	ALL OTHER CAUSES	0	0	\$503,443	0	0	0
09/19/1998		CONOCO INC (AKA CONOCO PIPE LINE)	HUMAN ERROR	0	0	\$6,060	75	0	75
11/23/1998	RIVERTON	K N ENERGY INC(KANSAS NEBRASKA GAS CO)	MATERIAL FAILURE	0	0	\$121,209	0	0	0
01/29/1999	CHEYENNE	CHEYENNE LIGHT FUEL & POWER	MATERIAL FAILURE	0	0	\$119,639	0	0	0
03/19/1999		SINCLAIR PIPELINE CO	ALL OTHER CAUSES	0	0	\$179,458	3,370	2,019	1,351
07/03/1999		CONOCO INC (AKA CONOCO PIPE LINE)	ALL OTHER CAUSES	0	0	\$119,639	4,700	3,700	1,000
02/18/2000		BELLE FOURCHE PIPELINE CO	EXCAVATION DAMAGE	0	0	\$23,454	400	300	100
03/03/2000		BELLE FOURCHE PIPELINE CO	CORROSION	0	0	\$35,181	100	0	100
11/14/2000		CONOCO INC (AKA CONOCO PIPE LINE)	MATERIAL FAILURE	0	0	\$527,715	900	4	896
06/25/2001	DEAVER	FRANNIE - DEAVER UTILITIES	EXCAVATION DAMAGE	2	1	\$45,835	0	0	0
02/05/2002	WYOMING	COLORADO INTERSTATE GAS CO	MATERIAL FAILURE	0	0	\$177,798	0	0	0
03/03/2002	SWEETWATER	BP PIPELINE (NORTH AMERICA) INC.	NATURAL FORCE DAMAGE	0	0	\$4,189	60	40	20
03/14/2002	WORLAND	MARATHON ASHLAND PIPE LINE LLC	MATERIAL FAILURE	0	0	\$140,747	633	595	38
03/26/2002	RAWLINS	COLORADO INTERSTATE GAS CO	MATERIAL FAILURE	0	0	\$281,318	0	0	0
04/14/2002	SINCLAIR	CONOCO INC (AKA CONOCO PIPE LINE)	EXCAVATION DAMAGE	0	0	\$315,273	522	0	522
02/11/2003	SUBLETTE	ROCKY MOUNTAIN PIPELINE SYSTEM, LLC	CORROSION	0	0	\$46,975	350	300	50
03/21/2003	PLATTE	ROCKY MOUNTAIN PIPELINE SYSTEM, LLC	CORROSION	0	0	\$20,851	230	80	150
03/26/2003	ELK MOUNTAIN	SINCLAIR PIPELINE CO	OTHER OUTSIDE FORCE DAMAGE	0	0	\$444,263	528	52	476
04/03/2003		KERN RIVER GAS TRANSMISSION CO (WGP)	ALL OTHER CAUSES	0	0	\$136,270	0	0	0
07/24/2003	SINCLAIR	COLORADO INTERSTATE GAS CO	EXCAVATION DAMAGE	0	0	\$11,078	225	0	225
10/08/2003		TERASEN PIPELINE (USA) INC	EXCAVATION DAMAGE	0	0	\$11,079	70	70	0
11/08/2003	KEMMERER	NORTHWEST PIPELINE CORP (WGP)	MATERIAL FAILURE	0	0	\$103,684	0	0	0
12/09/2003	CASPER	TERASEN PIPELINE (USA) INC	HUMAN ERROR	0	4	\$0	0	0	0
01/02/2004	GRANGER	NORTHWEST PIPELINE CORP (WGP)	MATERIAL FAILURE	0	0	\$134,144	0	0	0
01/16/2004	CHEYENNE	KANE PIPE LINE CO	NATURAL FORCE DAMAGE	0	0	\$72,173	250	0	250
05/03/2004	GUERNSEY	TERASEN PIPELINE (USA) INC	MATERIAL FAILURE	0	0	\$20,777	130	130	0
09/24/2004	LAMONT	SINCLAIR PIPELINE CO	EXCAVATION DAMAGE	0	0	\$6,015	55	48	7
03/03/2005		BELLE FOURCHE PIPELINE	EXCAVATION DAMAGE	0	0	\$3,240	50	30	20
08/15/2005	WAMSUTTER	ROCKY MOUNTAIN PIPELINE SYSTEM LLC	CORROSION	0	0	\$3,791	54	50	4
08/28/2005		TERASEN PIPELINES (USA) INC.	CORROSION	0	0	\$27,000	70	70	0
09/29/2005	ROCK SPRINGS	COLORADO INTERSTATE GAS	MATERIAL FAILURE	0	0	\$235,523	0	0	0
12/05/2005	CASPER	CONOCOPHILLIPS PIPE LINE CO.	ALL OTHER CAUSES	0	0	\$34,009	55	4	51
12/08/2005	GREEN RIVER	NORHTWEST PIPELINE COMPANY	MATERIAL FAILURE	0	0	\$1,282,203	0	0	0
12/08/2005		COLORADO INTERSTATE GAS	OTHER OUTSIDE FORCE DAMAGE	0	0	\$103,195	0	0	0
02/01/2006	CASPER	TERASEN PIPELINES (USA) INC	MATERIAL FAILURE	0	0	\$236,073	50	50	0
11/11/2006	BORIE	COLORADO INTERSTATE GAS	EXCAVATION DAMAGE	1	0	\$0	0	0	0
12/15/2006	OPAL	NORTHWEST PIPELINE	MATERIAL FAILURE	0	0	\$151,609	0	0	0
11/09/2007	WHEATLAND	ROCKY MOUNTAIN PIPELINE SYSTEM, LLC	MATERIAL FAILURE	0	0	\$97,769	10	0	10
06/03/2008	CASPER	KINDER MORGAN PIPELINES (USA) INC	MATERIAL FAILURE	0	0	\$183,120	70	70	0
Totals				3	5	\$6,047,628	16,580	7,867	8,713

Appendix D

South Dakota Regulated Substance Response Fund

REGULATED SUBSTANCE RESPONSE FUND

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

CONTACTS:

Steve Pirner, Secretary
Tim Tollefsrud, Director

INTENT / USE / PURPOSE:

The money in the Regulated Substance Response Fund is continuously appropriated to provide funding for the clean up of regulated substance discharges. The Secretary of the Department of Environment and Natural Resources may expend funds from the response fund to provide for the costs of investigations, **emergency remedial efforts**, corrective actions, and managerial or administrative activities associated with such activities.

SUMMARY:

In 1988 SDCL: 34A-12-3 created the Regulated Substance Response Fund. The fund was created through an appropriation from general fund, a one-time contribution from the petroleum release compensation fund, and a temporary pesticide registration fee.

On going deposits into the fund come from; money from civil action or administrative proceedings for violation of environmental statutes or upon damage to the environment, including actions for administrative expense recoveries, civil penalties, compensatory damages, and money paid pursuant to any agreement, stipulation, or settlement in such actions or proceedings; and interest attributable to investment of the money in the response fund. Before the fund can be used, there must be a discharge of a regulated substance, but then the money is continuously appropriated to provide funds for the clean up of regulated substance discharges. The department may file civil actions or liens on property owned by the responsible person to cost recover.

REQUIREMENTS:

The Secretary of the Department of Environment and Natural Resources may expend funds from the response fund to provide for the costs of investigations, **emergency remedial efforts**, corrective actions, and managerial or administrative activities associated with discharges of regulated substances. For a substance to be classified as a regulated substance, it must be defined in either statute or rule. SDCL 34A-12-1 exempts sewage and sewage sludge from being classified as a regulated substance.

The secretary's use of the response fund shall be based upon the following:

- (1) In the case of an investigation, when the secretary determines that a discharge requiring an emergency remedial effort may have occurred and that the general operating budget of the department for such purposes is not adequate to cover the costs of the necessary investigatory activities;

(2) In the case of an emergency remedial effort, when the secretary determines that a discharge has occurred and that corrective actions shall be immediately undertaken to protect an imminent threat to the public health or safety or to contain a discharge which, if not immediately contained, shall in time pose a significantly greater threat to public health or safety or to the environment of this state than if such action is not immediately taken;

(3) In the case of a discharge not of an emergency nature when the secretary determines that a discharge has occurred, that a responsible party or liability fund capable of performing the corrective actions either cannot be identified or refuses to undertake corrective actions, and that corrective actions shall be undertaken to protect the public health, safety, welfare, or environment of the state.

SDCL 34A-12-12 makes the responsible person strictly liable for any corrective action costs expended from the Regulated Substance Response Fund, and the department may file either civil actions or liens on property owned by responsible persons to cost recover.

STATUTES:

34A-12-3. Regulated substance response fund established - Purpose - Source of funds - Continuous appropriation - Informational budget - Annual legislative review --

There is hereby established in the state treasury an operating fund to be known as the regulated substance response fund for the purpose of providing funds for the clean up of regulated substance discharges. In addition to the money from the petroleum release cleanup fund as provided in § [34A-12-2](#) and the temporary pesticide registration fee increase provided by § 38-20A-9, funds from the following sources shall be deposited into the response fund:

- (1) Direct appropriations to the response fund from the general fund;
- (2) Money, other than criminal fines assessed in criminal actions, recovered by the state in any action or administrative proceeding based upon violation of the state's environmental statutes or upon damage to the environment, including actions for administrative expense recoveries, civil penalties, compensatory damages, and money paid pursuant to any agreement, stipulation, or settlement in such actions or proceedings;
- (3) Interest attributable to investment of the money in the response fund;
- (4) Money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for the purposes of the response fund.

All money in the response fund is continuously appropriated for the purposes specified in § [34A-12-4](#). All money received by the department for the response fund shall be set forth in an informational budget pursuant to § [4-7-7.2](#) and be annually reviewed by the Legislature.

Source: SL 1988, ch 291, § 4.

34A-12-2. One-time contribution from petroleum release compensation fund to response fund - Annual contribution to groundwater protection fund --

The petroleum release compensation fund established pursuant to § [34A-13-18](#), shall make a one time contribution of three hundred fifty thousand dollars, to the response fund within one year after March 1, 1988, and shall contribute one hundred thousand dollars annually for five years to the groundwater protection fund to fund the groundwater research and education program established pursuant to § [46A-1-85](#). Source: SL 1988, ch 291, § 3; 1989, ch 306, § 55.

34A-12-4. Expenditure of funds by secretary - Grounds for expenditures -- When necessary in the performance of the secretary's duties under §§ [23A-27-25](#), [34A-1-39](#), [34A-2-75](#), [34A-6-1.4](#), [34A-6-1.31](#), [34A-11-9](#), [34A-11-10](#), [34A-11-12](#), [34A-11-14](#), [34A-12-1](#) to [34A-12-15](#), inclusive, [45-6B-70](#), [45-6C-45](#), [45-6D-60](#), and [45-9-68](#) and [Title 34A](#) relative to discharges, the secretary may expend funds from the response fund to provide for the costs of investigations, emergency remedial efforts, corrective actions, and managerial or administrative activities associated with such activities. The secretary's use of the response fund shall be based upon the following:

- (1) In the case of an investigation, when the secretary determines that a discharge requiring an emergency remedial effort may have occurred and that the general operating budget of the department for such purposes is not adequate to cover the costs of the necessary investigatory activities;
- (2) In the case of an emergency remedial effort, when the secretary determines that a discharge has occurred and that corrective actions shall be immediately undertaken to protect an imminent threat to the public health or safety or to contain a discharge which, if not immediately contained, shall in time pose a significantly greater threat to public health or safety or to the environment of this state than if such action is not immediately taken;
- (3) In the case of a discharge not of an emergency nature when the secretary determines that a discharge has occurred, that a responsible party or liability fund capable of performing the corrective actions either cannot be identified or refuses to undertake corrective actions, and that corrective actions shall be undertaken to protect the public health, safety, welfare, or environment of the state. Source: SL 1988, ch 291, § 5; 1992, ch 158, § 55A; 1999, ch 182, § 3.

34A-12-12. Strict liability for costs of corrective action. Any person who has caused a discharge of a regulated substance in violation of § [34A-12-8](#) is strictly liable for the corrective action costs expended by the department pursuant to §§ [23A-27-25](#), [34A-1-39](#), [34A-12-1](#) to [34A-12-15](#), inclusive, [38-20A-9](#), [45-6B-70](#), [45-6C-45](#), [45-6D-60](#), and [45-9-68](#). Source: SL 1988, ch 291, § 13.

CURRENT STATUS

The Department of Environment and Natural Resources currently has six (6) contracts in place with environmental consulting firms to provide response capabilities. These contracts are 4 year contracts with extension provisions. Currently the department has contracts with the following firms: Geotek Engineering & Testing Services (Sioux Falls); Leggette, Brashears & Graham (Sioux Falls); Terracon Consultants (Rapid City and Omaha); West Central Environmental (Morris, Minnesota); BayWest (St. Paul, Minnesota); and American Engineering Testing Services (Pierre and Rapid City).

The balance of the Regulated Substance Response Fund as of 06/30/2008 was \$ 2,575,500.00.

Appendix E

Federal Oil Spill Liability Trust Fund

The Oil Spill Liability Trust Fund

Introduction

The Oil Spill Liability Trust Fund (fund) was created by Congress in 1986 and its use was authorized by the signing of the Oil Pollution Act in 1990. The fund, managed by the U.S. Coast Guard, is established as a funding source to pay for cleanup costs and damages resulting from oil spills or threats of oil spills to navigable waters of the United States. For the purposes of this fund “navigable waters” is defined in § 300.5 of the National Contingency Plan.

The fund has two major components. First, the emergency fund. The emergency fund is available for Federal On-Scene Coordinators to respond to oil discharges and for Federal natural resource trustees to initiate natural resource damage assessments. This portion of the fund receives an annual \$50 million apportionment. The Coast Guard has the authority to advance an additional \$100 million into the emergency fund each year to supplement shortfalls. Second, the remaining Principal Fund balance is used to pay claims and to fund appropriations by Congress to Federal agencies to administer the provisions of the Oil Pollution Act and support research and development.

Who Can Access the Fund?

- All Federal On-Scene Coordinators
- Other Federal, State, Local, and Indian tribal government agencies that assist the Federal On-Scene Coordinator can be reimbursed for their costs.
- Natural Resource Trustees
- Claimants – individuals, corporations, and governments can submit claims for uncompensated removal costs and damages if the responsible party does not satisfy their claim.

Limitations to Accessing the Fund

- The release or threat of release must be into or on the navigable waters of the United States or adjoining shorelines or the Exclusive Economic Zone
- The discharge must be oil
- In general, the maximum amount expendable from the fund per incident is \$1 billion.

Responsibility of the Responsible Party to a Spill

- When an oil spill occurs, the responsible party is responsible for complete cleanup of the spill.
- If the responsible party does not fully remove the spill and the Federal On-Scene Coordinator responds to the spill the responsible party will be later billed for all Federal response costs.

Funding

- The fund balance on April 27, 2006 was \$662 million.
- As of March 18, 2008, the following is the projected end of year fund balance based on the barrel tax and historical expenditures:

2008 - \$1,030,009,455

2009 - \$1,107,363,831

2010 - \$1,227,242,256

2011 - \$1,345,434,782

2012 - \$1,468,866,674

2013 - \$1,601,770,189

2014 - \$1,744,565,195

EPA’s Use of the Fund in South Dakota

In the early 1990's EPA used monies from the fund to cleanup a coal tar spill in the Big Sioux River at Fawick Park in Sioux Falls.