ADOPTION OF EXISTING ENVIRONMENTAL REVIEW (EA/EIS)

Part I. Proposed Action Description

Applicant/Contact Name & Address: TransCanada Keystone Pipeline LP
717 Texas Street, Suite 2400
Houston, TX 77002

Type of Action: Application for Beneficial Water Use Permit No. 40S-30065511

Location Affected by Action: NE Section 32, T27N, R42E, Valley and McCone Counties

Narrative Summary of Proposed Action: This permit application is for the diversion of a maximum of 6.68 CFS up to 189.65 AF, from points on either side of the Missouri river in the NE Section 32, T27N, R42E, Valley and McCone Counties, for industrial use from January 1-December 31. The industrial use is comprised of horizontal directional drilling (HDD), hydrostatic testing (HST), and dust control (DC). The place of use is generally located within Valley and McCone Counties for all three purposes. The water will be used to complete work on the TransCanada Keystone pipeline; a pipeline transporting oil from Canada to refineries in the southern United States.

Part II. Existing Environmental Review Information

Title: Final Environmental Impact Statement Keystone XL Project
Publication Date: August 26, 2011
Lead Agency: U.S. Department of State
Location Where Interested Parties Can View or Obtain the Document: DNRC Glasgow Water Resources Regional Office

Part III. Criteria for Adopting Existing Environmental Review

X Yes __No	Does the existing environmental review cover an action paralleling or closely related to the proposed action?
X Yes __No	Is the information in the existing environmental review accurate and clearly presented?
X Yes __No	Is the information in the existing environmental review applicable to the action being considered?
X Yes __No	Were all appropriate Agencies consulted during preparation of the existing environmental review?
X Yes __No	Were alternatives to the proposed action evaluated as part of the existing environmental review effort?
X Yes __No	Have all of the impacts of the proposed action been accurately identified as part of the existing environmental review?
X Yes __No	If the existing environmental review identifies any significant impacts as a result of the proposed action, will they be mitigated below the level of significance?

Part IV. Conclusion

If the answers to ALL of the questions listed above are "Yes", the existing environmental review can be considered sufficient to satisfy DNRC's MEPA review responsibilities.
Yes___ No**X** Based on the criteria evaluated in the existing EA, is an EIS required?

Name: Nathaniel T Ward
Title: Water Resource Specialist
Date: July 30, 2013
Signature: _____

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address: TransCanada Keystone Pipeline LP
717 Texas Street
Suite 2400
Houston, TX 77002

2. Type of action: Application for Beneficial Water Use Permit No. 40S-30065511

3. Water source name: Missouri River

4. Location affected by project: NE, Section 32, T27N, R42E, Valley and McCone Counties

5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

This permit application is for the diversion of a maximum of 6.68 CFS up to 189.65 AF, from points on either side of the Missouri river in the NE Section 32, T27N, R42E, Valley and McCone Counties, for industrial use from January 1-December 31. The industrial use is comprised of horizontal directional drilling (HDD), hydrostatic testing (HST), and dust control (DC). The place of use is generally located within Valley and McCone Counties for all three purposes. The applicant will benefit from this use in that it will allow them to pressure test their pipeline for leaks before use, mitigating any potential for environmental contamination. It will also allow them to drill a path for the pipeline under the Missouri River, the least intrusive method for crossing the river. Dust control will also be a beneficial use as it will benefit people working on the project as well as nearby landowners.

The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311 MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:

- Montana Natural Heritage Program
- US Department of Agriculture Web Soil Survey
- Montana Department of Fish, Wildlife, & Parks
- US Fish & Wildlife Service
- Department of Environmental Quality

- Environmental Impact Statement prepared by TransCanada Keystone XL and the finding of no significant impact signed on August 26, 2011. To obtain a copy of this EIS, please contact:
  Montana Department of Natural Resources
  Glasgow Water Resources Office
  PO Box 1269
  Glasgow, MT 59230
  406-228-2561

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity *- Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.*

Determination: The Missouri River is not identified as a chronically or periodically dewatered stream by the Montana Department of Fish, Wildlife & Parks. The DFWP has a water reservation on this portion of the Missouri River for 5178 cfs to maintain instream flows. Issuance of the requested appropriation would have no significant impact on the surface water flows.

Water quality *- Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

Determination: This stretch of the Missouri River is listed on the TMDL 303(d) list as partially supporting aquatic life and fully supporting primary contact recreation, drinking water, and agricultural uses. The impairment on aquatic life is likely due to flow regime alterations and water temperature due to flows being regulated at Fort Peck Dam. Issuance of the requested appropriation would have no significant impact on the surface water quality.

Groundwater *- Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: As this is a surface water diversion, it should not have any impact on the groundwater quality or supply.

DIVERSION WORKS *- Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: Horizontal Directional Drilling will be implemented at the Missouri River crossing to limit the impact on the environment by allowing the Applicant to install the oil pipeline under the riverbed. Some ground disturbances will occur while pump installation and removal occurs, however no significant impact will occur from the diversion works.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species *- Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."*

Determination: The Montana Natural Heritage Program identified 2 animal species of concern potentially located within the project area. The piping plover is listed as "threatened" by the US Fish and Wildlife Service, and the Pallid Sturgeon is listed as "endangered."

TransCanada plans to use screens around their pump intakes which will reduce intake velocity to prevent entrainment of small or larval fish. To achieve an approach velocity of less than 0.36 feet per second for a withdrawal rate of 3000 GPM, a #60 wedge wire screen with a mesh opening of 0.10 inches and an open area of 63% would require a 3'x2.5'x2.5' rectangular box screen to prevent entrainment of fish with a subcarangiform (pallid sturgeon) swimming mode.

Consultation with the USFWS in the Billings Ecological Services Field Office indicates that historical surveys have failed to identify nesting piping plovers within the project area and additional surveys were not recommended in Montana (Keystone XL FEIS 3.8-26).

Wetlands *- Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

Determination: The only wetland in the proposed project area is the Missouri River itself.

Ponds *- For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.*

Determination: The project area does not have any ponds within its boundaries.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE *- Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.*

Determination: The Keystone XL FEIS provided by TransCanada identified that potentially unstable soils or geologic formations are present at the Missouri River crossing. As identified in the draft, contractors will be required to construct and maintain sediment barriers across the entire construction right-of-way at flowing waterbody crossings (Appendix B 4.5.2). Upon completion at the project area, the contractor will remove any debris along the river banks that was from the project, and they will recontour and stabilize banks where needed. There were three soil types located within the project area that were listed as slightly saline (up to 8.0

mmhos/cm). Due to the size of the Missouri River and the low salinity of soils present near the river, this project will not significantly increase salinity in the Missouri River.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Determination: No vegetation was listed as endangered or threatened by the USFWS for the project area. The contractor for the project site will be required to clean all construction equipment prior to moving equipment to the job site to prevent the transportation of noxious weeds (Keystone XL FEIS Appendix B 2.13).

AIR QUALITY - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

Determination: No significant deterioration of air quality will occur due to this project.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

Determination: The project is not located on state or federal land therefore this section is not applicable.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

Determination: No significant impacts to other environmental resources were identified.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

Determination: No known environmental plans or goals will be impacted by this project.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

Determination: This project will not have any significant impact on the quality of recreational or wilderness activities.

HUMAN HEALTH - *Assess whether the proposed project impacts on human health.*

Determination: The project will have no significant impact on human health.

PRIVATE PROPERTY - *Assess whether there is any government regulatory impacts on private property rights.*
Yes___ No X_ If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

Determination:

OTHER HUMAN ENVIRONMENTAL ISSUES - *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

Impacts on:

(a) *Cultural uniqueness and diversity?* No significant impact identified

(b) *Local and state tax base and tax revenues?* No significant impact identified

(c) *Existing land uses?* No significant impact identified

(d) *Quantity and distribution of employment?* No significant impact identified

(e) *Distribution and density of population and housing?* No significant impact identified

(f) *Demands for government services?* No significant impact identified

(g) *Industrial and commercial activity?* No significant impact identified

(h) *Utilities?* No significant impact identified

(i) *Transportation?* No significant impact identified

(j) *Safety?* No significant impact identified

(k) *Other appropriate social and economic circumstances?* No significant impact identified

2. ***Secondary and cumulative impacts on the physical environment and human population:***

   Secondary Impacts None Identified

   Cumulative Impacts None Identified

3. ***Describe any mitigation/stipulation measures:*** None at this time

4. ***Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*** Under the no action alternative, TransCanada would not be able to efficiently

install the oil pipeline or test the integrity of their pipeline for leaks which could have significant environmental impacts.

PART III. Conclusion

1. ***Preferred Alternative*** Issue a beneficial water use permit if the applicant proves the criteria in 85.2.302, MCA are met.

2 ***Comments and Responses***

3. ***Finding:***
Yes___ No_X_ Based on the significance criteria evaluated in this EA, is an EIS required?

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:

No significant impacts were identified in this environmental assessment of the proposed project. Furthermore an EIS has already been completed by TransCanada.

Name of person(s) responsible for preparation of EA:

Name: Nathaniel T. Ward
Title: Water Resource Specialist
Date: July 15, 2013