

Bruce G. Hlubek

Mitchell S. Oak. 57301

South Dakota Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, S.D. 57501

H.P.14-001XL

RECEIVED

JUN 15 2015

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Dear Members of the P.U.C.

I write you today to make some comments on the construction of the Keystone Pipeline. I have been seriously concerned about one major concept of the legality of this act strictly because of the national origin of the pipeline company itself. Allowing a foreign nation the right and privilege to condemn land in the U.S., not just buy it for such a purpose, I feel, is outrageous. The federal government, nor your body of regulation, cannot and should not allow foreign citizens the rights of our own citizens and I also mean corporations as well, since corporations are legal individuals and citizens thereby.

The U.S. constitution has a place for this type of thing. The 11th amendment shows that foreign nations have no place in our courts in suits of law or equity against our citizens, because they are not U.S. citizens. This sets the ~~precedent~~ precedent, then, that non-U.S. citizens have no right to apply their laws to us in suits and we have no authority to grant them the same rights as we have in court cases involving any suit in law or equity. ~~moreover~~. Under these circumstances, I would ask, what are the feds thinking? Furthermore, since the P.U.C. is not the federal authorities here, the constitution of the State of South Dakota applies. ~~Also~~, Our constitution says, under Corporations, Subsection 18, and I quote, "Equal Privileges or immunities. No law shall be passed granting to any citizen, class of citizens or corporations, privileges or immunities which upon the same terms, shall not equally belong to all citizens or corporations."

I, as a private citizen, do not have the right to declare the need for access to a neighbors land, ~~for~~ for instance, for a right of way and if he refuses to sell, condemn his land by eminent domain, but, as far as I can tell, the state allows corporations to do so. This, according to SS 18 is incorrect. Letting a foreign corporation do this, especially one not from the United States, is a double violation of SS 18.

I, realize that the P.U.C. is not passing any laws here, but the policy of eminent domain, itself, is a violation of the constitution of South Dakota and the United States.

In spite of these facts, I have seen the usual lack of attention paid to our constitutions of both entities by bureaucrats in Washington and in South Dakota, over money, I'm sure. Our national legislators are so ready to have this thing put through, they all are obviously indicting themselves for the financial acceptance of campaign funds, which is ~~inevitable~~.

People, we cannot have citizens in our state or any state, threatened by corporations foreign or domestic, to take our land or else. It's just wrong as could be, and it's illegal.

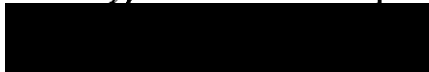
For the record, I do not own any land which is being taken for this pipeline. Keystone should be forced to pay any price a landowner wants and also be forced to pay a monthly royalty to each landowner they put that line across. If they won't do that, tell them to go back home.

Thank you for the opportunity to make these comments.

Sincerely,

Bing Atkins.

Bing Tibbitts

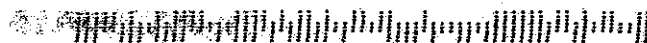


Mitchell, S.D. 57301



S.D. Public Utilities Commission H.P.14-601XL  
500 E. Capitol Ave.  
Pierre, S.D. 57501

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Chris Nelson, Chairperson  
Kristie Fiegen, Vice Chairperson  
Gary Hanson, Commissioner



## PUBLIC UTILITIES COMMISSION

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June 15, 2015

Bruce Albrecht

[REDACTED]  
Mitchell, SD 57301

Dear Mr. Albrecht:

Thank you for your comments to the Public Utilities Commission regarding the proposed Keystone XL pipeline. As you are likely aware, the PUC is in the process of reviewing a request from TransCanada, the pipeline project's owner, to certify the construction permit granted in 2010.

The PUC has no authority over land acquisition for such projects. By law, that must be addressed by the circuit court and not by the commission. However, I will nonetheless provide some information in response to matters you raised in your letter.

You reference the pipeline company's national origin. TransCanada has Canadian and U.S. shareholders. This is an excerpt from the company's original construction permit application for the project as filed with the PUC, available on the commission's website:

### 1.5 Project Participants

The permit applicant is TransCanada Keystone Pipeline, LP, a limited partnership, organized under the laws of the State of Delaware, and owned by affiliates of TransCanada Corporation, a Canadian public company organized under the laws of Canada, and ConocoPhillips Company (ConocoPhillips), a Delaware corporation. Keystone's primary business address is 450 1st Street, S.W., Calgary, Alberta, Canada T2P 5H1.

It is legal for foreign investors to own property including common carrier property in the U.S. As far as eminent domain, as discussed above, that is not an issue over which the commission has jurisdiction. The PUC has authority to issue permits for certain pipelines. The South Dakota Energy Conversion and Transmission Facilities Act gives the PUC authority to grant, deny, or grant with conditions a permit to construct the crude oil pipeline in the state. See SDCL Chapter 49-41B and ARSD 20:10:22. Pipelines for which the commission has siting jurisdiction include those designed to transport coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide. The commission's primary duty is to ensure the location, construction and operation of the pipeline will produce minimal adverse effects on the environment and citizens and it must rely on definitions, standards and references our state's Codified Laws and Administrative Rules. Any decision of the commission can be appealed to circuit court, and ultimately, to the South Dakota Supreme Court.

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The construction permit requested is for a pipeline of common carrier status, and thus, is deemed to be of value to consumers the common carrier serves. That delineates it from a land transaction in which one citizen wishes to purchase the land of another, but it is not for common carrier use or other such legal authority which allows eminent domain to acquire property in order to do so. The commission is not involved in any easement acquisitions and does not have a role in the eminent domain process, which is handled by the circuit court system. Landowners with concerns about these issues should refer such questions and seek counsel from their personal attorneys.

You are correct that the commission is not passing laws here, but is instead, following laws that provide for the PUC's legal authority. The commission is advised by four attorneys on staff. They assist in interpreting laws and advising the commission of the state and federal laws by which the commission must comply regarding the handling of and decisions on dockets.

The commission is currently processing the Keystone XL docket, HP14-001. I refer you to the Pipeline Siting Info Guide posted on our website's home page, [www.puc.sd.gov](http://www.puc.sd.gov), and the Keystone XL Pipeline Updates which includes a Frequently Asked Questions document providing some answers you may be seeking regarding legal authority. I urge you to read the key documents and legal cites in the pipeline dockets dealing with TransCanada's projects on the commission's website. Reference the original Keystone docket, HP07-001, the original Keystone XL docket, HP09-001, and the current Keystone XL docket, HP14-001.

Your letter and this response will be posted in the official HP14-001 docket record online so that commissioners and other parties to the docket may read them. Please feel free to contact the PUC should you have any more questions or concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristen Edwards".

Kristen Edwards, Staff Attorney