



July 30, 2019

James E. Moore
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Extension 613

Via e-mail

Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501
patty.vangerpen@state.sd.us

Re: TransCanada Keystone Pipeline Liaison Quarterly Report

Dear Ms. Van Gerpen:

I attach for filing KXL Pipeline Project South Dakota Public Utilities Commission Liaison Quarterly Report for the Second Quarter of 2019.

Yours very truly,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in blue ink that reads 'James E. Moore'.

James E. Moore

Attachment

KXL Pipeline Project
South Dakota Public Utilities Commission
Liaison Quarterly Report
2019

Second Quarter 2019
April 01, to June 30, 2019

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1. Project Overview

The proposed Keystone XL Pipeline project is 36-inch diameter pipeline that will extend 882 miles from the Canadian–U.S. border, to Steele City, Nebraska. The route in South Dakota, will include three or four construction spreads and cover approximately 315 miles of right-of-way (ROW) with 314 landowners. The route crosses Harding, Butte, Perkins, Meade, Pennington, Haakon, Jones, Lyman, and Tripp Counties. In addition, facilities in South Dakota include seven pump stations to be located in Harding, Meade, Haakon, Jones, and Tripp Counties.

The South Dakota Public Utilities Commission (SD-PUC) issued the Notice of Entry- Amended Final Decision and Order for the project on June 29, 2010. These construction conditions ordered Keystone to appoint a Liaison Officer for the KXL project. In 2010 the Commission approved Sarah Metcalf to be the Liaison Officer for the Keystone KXL Project. By statute, if the project does not commence within four years, the company must certify that it still meets the permit conditions. SDCL § 49-41B-27. The four-year mark occurred in June of 2014 and the company proceeded to certify that it continues to meet the permit conditions issued in the 2010 permit. The hearings considering the certification of the project took place throughout 2015 and concluded January 21, 2016, with the issuance of the Final Decision and Order accepting the certification of the Notice of Entry, Doc HP14-001. An appeal from that decision was filed by intervenors on February 19, 2016 in the Sixth Judicial Circuit Court of South Dakota. The Circuit Court affirmed the certification and the South Dakota Supreme Court vacated the court’s decision and dismissed the appeal by order issued June 13, 2018.

On January 24, 2017, President Trump issued a Presidential Memorandum inviting TransCanada to resubmit its application for a Presidential Permit. TransCanada filed its application for approval of the border crossing segment of the KXL pipeline project with the US Department of State (US-DOS) on January 26, 2017 and on March 23, 2017, the Presidential Permit was granted. In May 2017, a pre-construction notification was submitted for the portion of the proposed Project located within the U.S. Army Corps of Engineers Omaha District in South Dakota.

A federal district court in Montana imposed an injunction on November 8, 2018, prohibiting work in furtherance of the project. On June 6, 2019, the U.S. Court of Appeals for the Ninth Circuit entered an order granting TransCanada and the Government’s motions to dismiss the appeals from the 2017 Presidential Permit as moot; granting TransCanada’s motion to vacate the district court’s judgments; dissolving the district court’s permanent injunction orders; and remanding with instructions to dismiss the district court actions as moot.

The order was based on the March 29, 2019 issuance of the new Presidential Permit, which superseded and revoked the 2017 Permit and moots the cases which

challenged that Permit. Dissolution of the district court's injunction orders took effect July 29, 2019.

TransCanada has resumed conducting pre-construction activities that do not involve any ground-disturbing work, like pursuing remaining outstanding permits; interfacing with landowners and acquiring necessary land rights; procuring pipe, materials and equipment, and other long lead-time items; and inspecting and refurbishing workforce camp modules, pipe and associated materials and equipment previously purchased. The company is also engaging with communities, including indigenous communities, as well as federal, state, and local governmental entities, agencies, and other stakeholders. They are also hiring additional Project staff, and soliciting, engaging, and working towards contracting with potential construction contractors, specialty service providers, and suppliers. Additionally, TransCanada has conducted limited field activities including civil surveys; completing public county road upgrade activities as directed by county road superintendents; and maintaining security at Project pipe yard and workforce camps sites to ensure public safety and maintain environmental protections as required by permits and best management practices.

The Field Office located in Rapid City remains open and KXL officials, as well as the Liaison, are available to address landowner and other stakeholder questions and concerns, to provide updates and general information on the project, and to advise of the Project schedule and activities taking place in the state.

2. Issue Tracking and General Liaison Activity

In the second quarter of 2019 there were only a few contacts to the liaison officer. The number increased slightly from the last quarter to 4 calls from interested parties, however there were no landowner or stakeholder contacts, this quarter. All of the contacts this quarter were related to general information regarding the status of the project. There were several calls and correspondences with the SD-PUC staff related to the project status updates, haul routes and surveys being conducted over the quarter. There were no vendor or media calls, nor any meetings with landowners or stakeholders.

There were no new issues reported to the liaison this quarter. There were two issues being tracked by the liaison and the SD-PUC coming into the second quarter. One was regarding a landowner easement, access roads and site security during construction, which has been resolved during the second quarter. Meetings were held between company personnel, the landowners and their representatives, during which the landowner concerns were adequately addressed, and an agreement was reached regarding access roads and security. The second issue regarding a county road in Meade County continues to be followed into the third quarter. Efforts to complete road work during the 1st and 2nd quarters were not fully completed, due to inclement weather and constraints on pre-construction activities on the project. The company continues to work with the Meade County Highway Superintendent in order to maintain the safe passage on the roadway and address any concerns of local residents. The final work to finish the road

surface permanently is anticipated to take place during the third quarter of the year when road contractors are back in the area. The Liaison has remained in contact with the company, highway department and landowner throughout the second quarter. There were no concerns reported regarding the current condition of the road and the county reported that the company has been very responsive to their needs related to maintaining the road until the final resurfacing can be completed. Civil surveys took place in the state during the second quarter and the land department kept the liaison advised of these activities, however there were no issues reported related to these project activities.

The liaison will continue to follow and report on the status of the project and to be available to address landowner questions or concerns throughout the duration of the project.

3. Summary

The number of calls to the liaison office increased slightly this quarter and were all related to status updates on the project. There were no new issues reported this quarter and one existing issue was resolved. There were no landowner contacts this quarter however the liaison did follow up with landowners with existing issues to ensure their concerns were addressed by the company. One issue that has been followed since 2018, related to acquisition of additional access roads and security options for the landowner's property during construction, was resolved during the second quarter. The only issue being followed into the third quarter is the condition of a haul route in Meade County.

TransCanada has resumed conducting pre-construction activities. The company has resumed some limited pre-construction field work such as survey, maintaining security at Project sites to ensure public safety and maintaining environmental protections as required by permits and best management practices. The company is also continuing to engage with communities, including indigenous communities, federal, state, and local governmental entities, agencies, and other stakeholders.

The Liaison Officer remains available to address concerns of landowners and other affected parties. The liaison will continue to report to the SD-PUC on the status of the project and regarding consumer concerns and issues encountered. Reports will be filed quarterly during construction and annually for a period of three years post-construction, as ordered by the SD-PUC in the construction conditions. The liaison will assist landowners, tenants, agencies and other interested parties with any questions, concerns or issues that might arise during or after project.