



November 6, 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 Third Quarter of 2019.

Yours very truly,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in cursive script, appearing to read 'James E. Moore', is written in black ink.

James E. Moore

Attachment

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

Third Quarter 2019
July 01, to September 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 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 been conducting non-field work pre-construction activities in the State such as, 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. Additionally, TransCanada has conducted limited field activities which include civil surveys and completing public county road upgrade activities as directed by county road superintendents. Security is being maintained at Project pipe yards and workforce camp sites to ensure public safety.

Environmental protections are also being maintained 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

During the third quarter of 2019 there were more contacts to the liaison officer than previous quarters increasing to 14 calls from interested parties and one landowner. The majority of contacts were related to general information about the project and often coincided with news articles related to the project. There were several calls and correspondences with the SD-PUC staff related to landowner concerns, project status updates, haul routes, as well as regarding surveys, mowing and weed control activities being conducted during the quarter. There were no vendor or media calls, nor any meetings with landowners or stakeholders.

Only one issue was being tracked by the liaison into the third quarter, regarding a county road in Meade County. Efforts to complete road work during the 1st and 2nd quarters were not fully completed, due to inclement weather and project constraints. The Company continued to work with the Meade County Highway Superintendent to maintain the safe passage on the roadway and address any concerns of local residents. The final work to finish the road surface permanently was completed during the third quarter of the year. There were no concerns reported regarding the condition of the road during the third quarter.

Three new concerns were reported to the liaison this quarter. Two were related to pre-construction activities on the ROW. The landowner was concerned with anticipated weed control and mowing activities on their property. The area was avoided by the weed control crews working during the third quarter and no mowing will take place on the property in question until construction activities are more imminent in the area. The third concern reported was regarding a well being drilled in Harding Co., the well in question was a test well being drilled by the City of Buffalo for their purposes. However, the project has held discussions with the City to arrange for the purchase water for the project during construction.

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 this quarter and were all related to preconstruction activities and media stories on the project. There were three new issues reported this quarter and one existing issue was resolved. There are no open issues being tracked into the fourth quarter of the year. One issue that has been followed since 2018, related to the condition of a haul route in Meade County has been resolved and all road repairs completed.

The Company continues to conduct surveys and is maintaining security at Project sites and other activities to ensure public safety, as well as 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 the project.