

**South Dakota Public Utilities Commission**  
**Frequently Asked Questions about the TransCanada Keystone Pipelines in South Dakota**

Feb. 29, 2016

**GENERAL**

**What information is available from the PUC about the first Keystone Pipeline that was constructed in South Dakota?**

The PUC approved a construction permit with 57 conditions on March 11, 2008, for the Keystone Pipeline. The final order was issued on April 25, 2008. The pipeline, which is in operation, extends across portions of Marshall, Day, Clark, Beadle, Kingsbury, Miner, Hanson, McCook, Hutchinson and Yankton counties in South Dakota. The full docket, HP07-001, is accessible from the PUC's website, [www.puc.sd.gov](http://www.puc.sd.gov).

**What information is available from the PUC about the Keystone XL Pipeline project in South Dakota?**

The commission granted the construction permit for the Keystone XL Pipeline (Docket HP09-001) on March 12, 2010, with 50 conditions. Parties to the docket requested certain conditions be reconsidered, and as such, the commission approved an amended final decision and order on June 29, 2010. The conditions can be found as Exhibit A of the Amended Final Order.

Because TransCanada did not begin construction on the Keystone XL Pipeline in South Dakota within four years of the permit being issued, according to SDCL 49-41B-27, they were required to certify to the PUC that the facility continued to meet the conditions upon which the permit was granted. TransCanada filed a certification docket, HP14-001, with the PUC in September 2014. The PUC determined the certification was valid on Jan. 5, 2016, and the resulting order was issued on Jan. 21, 2016.

On Feb. 19, 2016, the PUC was notified about the appeal of the PUC's decision in docket HP14-001 to the Sixth Judicial Circuit Court by a number of parties. See the filings and related documents on the PUC website.

TransCanada applied to the U.S. Department of State for a presidential permit authorizing the construction, operation and maintenance of its proposed Keystone XL Pipeline project. On Nov. 6, 2015, the presidential permit was denied.

**What is the length of the Keystone XL Pipeline and what counties is it proposed to cross?**

Keystone XL is proposed to stretch 1,202 miles, from Hardisty, Alberta, Canada, to Steele City, Nebraska. The South Dakota portion of the project will be approximately 315 miles and will extend from Montana to Nebraska, crossing the South Dakota counties of Harding, Butte, Perkins, Meade, Pennington, Haakon, Jones, Lyman and Tripp.

**PUC INVOLVEMENT**

**What is the role of the PUC in the construction of the Keystone XL crude oil pipeline?**

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 South Dakota. See SDCL Chapter 49-41B and ARSD 20:10:22.

**How will local roads be affected by the Keystone XL project?**

As a condition of the permit granted by the PUC in June 2010, all roads impacted by the construction of the pipeline are required to be repaired to the condition they were in before construction, taking into account normal wear and tear. An indemnity bond is held to ensure this is completed; otherwise counties

can call on the bond to fulfill this work. Details of the bonding requirement for Keystone XL can be found under Condition 23 of the PUC order in HP09-001.

**What about the land that is displaced by the construction?**

The permit issued in June 2010 for the construction of the Keystone XL Pipeline addresses construction and reclamation in Condition 16 of the PUC order. After construction is completed, the land is to be returned to pre-construction condition, including separating soil types, re-seeding prior crops or vegetation, and undertaking erosion control measures.

**What is the role of the PUC in monitoring the operation, maintenance and safety of the pipelines during operation?**

The PUC's authority over the Keystone and Keystone XL Pipelines is limited to the issuance or denial of a permit to construct the pipeline in South Dakota. Much of the activities surrounding the pipeline that occur during the construction, operation and maintenance of the pipeline are under the jurisdiction of other state and federal agencies.

**LEAKS**

**If a leak occurs after the Keystone and Keystone XL Pipelines are in operation, what is the responsibility of the landowner who signed the easement with the company?**

Landowners should direct questions about easements and protections to their own attorneys. South Dakota law provides that owners and operators of pipelines are responsible for remediating contamination caused by pipeline leaks and compensating those damaged, with liability also potentially lying with persons whose actions caused the leak (such as those striking the line with construction equipment). See SDCL Chapter 34A-12 and Conditions 48 and 49 of the PUC order for the Keystone XL Pipeline and Conditions 56 and 57 of the order for the Keystone Pipeline.

**What protection does the PUC provide to South Dakotans, particularly landowners and owners of other infrastructure, if the Keystone Pipelines experience a leak?**

Some of the conditions the PUC placed upon the permit for the first Keystone Pipeline (approved in April 2008) and for Keystone XL (approved on reconsideration in June 2010) address disturbed or damaged property and TransCanada's responsibility to repair or pay for certain damages. Additionally, a damaged landowner could seek recourse outside the PUC for any damages to private property that result. All property rights and recourses located in South Dakota Codified Law are applicable in this situation.

**If a leak occurs on a Keystone Pipeline that contaminates an aquifer in South Dakota, what authority does the PUC have over TransCanada?**

The PUC's authority over the Keystone Pipeline is limited to the issuance or denial of a permit to construct the pipeline in South Dakota. Much of the activities surrounding the pipeline that occur during the construction, operation and maintenance of the pipeline are under the jurisdiction of other state and federal agencies. The South Dakota Department of Environment and Natural Resources (DENR) has jurisdiction over contamination of ground water resources in South Dakota, including contamination caused by a pipeline. Certain aquifer contamination is also under the jurisdiction of the federal Environmental Protection Agency and/or the Coast Guard.

**How much is the average leak?**

Evidence in the Keystone XL construction permit hearing stated if a spill were to occur on the Keystone XL pipeline, federal Pipeline and Hazardous Materials Safety Administration (PHMSA) data indicate the spill is likely to be three barrels or less. According to DENR records, four spills were reported along the first Keystone pipeline in South Dakota. All have occurred at Keystone pumping stations, and were contained and cleaned up on-site. Only Keystone property was affected. However, three spills were 10 gallons or less. The fourth was larger; approximately 100 gallons of crude oil were released over an area of 60 feet by 110 feet. All spills were contained on-site and all affected soil and water was removed. Each spill was cleaned up at TransCanada's expense according to DENR requirements.

**How long until a leak can be detected?**

The time required for detection of a leak varies according to the size of the leak and other factors such as location. Keystone will operate the Keystone XL Pipeline using a state of the art Supervisory Control and Data Acquisition system with 24/7 monitoring of the SCADA leak detection systems. Keystone will also be required to do fly over visual inspections and other on-the-ground visual inspections on a regular basis in accordance with federal regulations and the permit conditions. Testimony by Brian Thomas from the first Keystone pipeline proceedings describes the leak detection systems in more detail.

Additionally, all interstate pipelines are subject to federal (PHMSA) regulation. As such, the PUC ordered all required plans, programs, and procedures be prepared and filed by TransCanada with PHMSA before the pipeline was able to be in operation.