

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

---

IN THE MATTER OF THE PETITION OF	)	Docket 14-001
TRANSCANADA KEYSTONE PIPELINE,	)	
LP FOR ORDER ACCEPTING	)	<b>TESTIMONY OF PAUL F.</b>
CERTIFICATION OF PERMIT ISSUED IN	)	<b>SEAMANS</b>
DOCKET HP09-001 TO CONSTRUCT THE	)	
KEYSTONE XL PIPELINE	)	

---

**Statement for the South Dakota Public Utilities Commission:**

My name is Paul F. Seamans. I ranch south of Draper and the Keystone XL route crosses my land.

**Eminent Domain:**

First and foremost my biggest problem with TransCanada is their use of the threat of eminent domain. The first time that TransCanada’s land agents came on my place they told me that I had just as well sign an agreement now as this would be the best offer that I would get, their next offer would probably be less, and oh, by the way, they have the power of eminent domain and they could condemn my land if I refuse to sign. I consider myself one of the lucky ones in that the Universal Field Services land agent in my area is a friend from the Kennebec area who realizes that he has to live around here and treated landowners with some respect. I have talked to friends from other areas that weren’t quite so lucky.

During the past year TransCanada has stated in the press that they had 100% of the landowners in South Dakota and Montana willingly sign easements. The key word here is “willingly”. Dakota Rural Action and their sister organization in Montana, Northern Plains Resource Council, issued a joint press release soon after this claim and in part questioned the use of the word “willingly”. DRA and NPRC pointed out that most landowners signed under duress knowing that most court cases that challenge eminent domain are rarely successful. TransCanada’s claim of not having used eminent domain in South Dakota is also false. A landowner one mile east of my land would not sign an easement and TransCanada had his land condemned in a Jones County jury trial. There may be other cases of this happening of which I am not aware.

**TransCanada’s promise of huge property tax revenues:**

Local citizens will usually welcome TransCanada’s pipelines fully expecting windfall yearly property tax revenues. Over the past couple of years TransCanada has been promising yearly property tax payments of \$10.3 million to the counties along the route in South Dakota. They have recently almost doubled this promise to \$20 million per year for the 313 miles of pipeline in South Dakota.

As part of my first round discovery I requested to know the total yearly property tax payments made to counties along the Keystone 1 route in South Dakota. The figures provided to me by TransCanada for the 200 miles of route are: \$2,954,846 for 2010; \$3,145,207 for 2011; \$3,435,037 for 2012; and \$3,934,669 for 2013. This four year average figures out to be \$3,367,439 per year. TransCanada had promised \$9 million per year. The counties are receiving 37.5% of the taxes that they were promised.

Figuring taxes paid by TransCanada on a per mile basis would give \$16,839 per mile. To make an estimate of what the property taxes paid by TransCanada would be for the 313 miles of Keystone XL in South Dakota one could multiply the \$16,839 of taxes paid per mile times the 313 miles of KXL pipeline. This would give a figure of \$5,270,000 in new property tax revenue received by counties along the route. TransCanada has been promising \$20 million per year. This is a huge difference and goes directly to TransCanada's credibility – or more appropriately, their lack of credibility.

### **Threats to our drinking water:**

I feel that some of the biggest threats to our drinking water come from where the Keystone XL crosses major tributaries of the Missouri River. In South Dakota I feel the biggest problems could arise where the pipeline crosses the Cheyenne River and the White River. Both of these rivers have a wide river bottom and will carry huge amounts of water during flood stage. A pipeline break during flood stage would be nearly impossible to clean up. The soils in the river breaks of both rivers are highly susceptible to slides. Unless horizontal directional boring is started at the top of the breaks quite a distance back from the edge then there is a possibility of a pipe being broken by a large slide. I don't think that TransCanada fully realizes the enormity of these slides.

The latest route maps of the Keystone XL available on the PUC website show mainline check valves (mlv) for where the pipeline crosses the Cheyenne River. The mlv on the north side of the Cheyenne River in Meade County is at mile post (mp) 415. The next mlv is on the south side of the river in Haakon County at mp 431. This is a distance of 16 miles. There are 279,190 gallons of dilbit in one mile of 36" pipe. For sixteen miles of pipe this would be 4,467,032 gallons in the pipeline. In case of a break a conservative estimate is that 40% of the oil in the pipe would drain back after the valves are closed. This means that 1,786,000 gallons could drain back into the Cheyenne River in case of a major break.

With the addition of the Lewis and Clark water project now serving the Sioux Falls metro area combined with all the other rural water systems dependent upon the Missouri River for water I would estimate that at least 50% of South Dakota's population relies on the Missouri River for their drinking water. A major pipeline spill in the Cheyenne River that flows into the Missouri River could have major consequences.

### **Emergency Response Plans and High Consequence Area's**

I have told TransCanada in discovery that I would like to see their Emergency Response Plan (ERP) for the Keystone 1 pipeline. TransCanada has informed me that their ERP is covered by a confidentially clause. I then told TransCanada that I wanted to see the list of High Consequence Areas (HCA's) and that I wanted to know why the total length of HCA's in South Dakota along the Keystone XL route has decreased from 34.3 miles in the Draft EIS down to 19+ miles in the FSEIS. I was told by TransCanada that the HCA's are addressed in the ERP and that again the ERP is considered confidential information. I feel that all portions of the ERP that can't be considered proprietary information should be made available to the public. Without this information, there is no way the public can be fully informed about the risks posed to our water resources.

I hereby affirm under penalty of perjury that the above testimony is true and correct.

Paul F. Seamans  
PAUL F. SEAMANS

April 2, 2015  
(date)