



Moody County Commissioner

101 E Pipestone Ave. • Suite F • Flandreau, SD 57028

Phone: 605-997-3161 • Fax: 605-997-9996 • www.moodycounty.net • email: martys@moodycounty.net

Via E-Filing

April 5, 2022

RECEIVED

APR 07 2022

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Mr. Chris Nelson, Chairman
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501-5070

RE: *Moratorium on Pipeline Conditional Use Permits
in Moody County, South Dakota- HP22001*

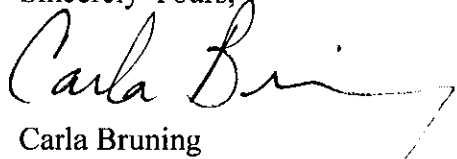
Dear Chairman Nelson,

On March 24, 2022, a public meeting of the Board of Moody County Commissioners, sitting as the Planning and Zoning Commission, was convened for the purpose of determining if the County had sufficient performance standards in its zoning ordinance that addressed pipelines needing approval by the South Dakota Public Utilities Commission. After carefully reviewing what little text could be found in the Moody County Zoning Ordinance pertaining to pipelines, it was quickly determined that the County had no performance standards associated with, arising from, or pertaining to the issuance of either pipeline conditional use permits or pipeline building permits. Simply put, as it pertains to pipelines requiring approval by the South Dakota Public Utilities Commission, Moody County currently lacks the proper zoning safeguards necessary to ensure that public and private lands are appropriately and beneficially used from the standpoint of the whole community. Therefore, in order to put into place a series of standards that will promote the stability of existing land uses, and protect existing land uses from inharmonious influences and harmful intrusions, the Board of Commissioners enacted a resolution imposing a temporary moratorium on the issuance of conditional use permits and building permits for pipelines located within the territorial jurisdiction of Moody County. Attached for your review and recordkeeping is a copy of said resolution.

During the next twelve months, the Moody County Planning and Zoning Commission will be working diligently to put into place appropriate pipeline zoning safeguards, and it is the sincere hope of the Moody County Commission that, during these next twelve months, the South Dakota Public Utilities Commission will forbear from approving the application of any and all parties desiring to place new pipelines traversing through, or upon, the unincorporated lands of Moody County.

Thank you for your kind consideration of this letter, and should you, or any of your fellow Commissioners, have any questions, comments, or concerns pertaining to this letter, please do not hesitate to contact me.

Sincerely Yours,

A handwritten signature in cursive script that reads "Carla Bruning". The signature is written in black ink and is positioned above the printed name and title.

Carla Bruning
Chair, Moody County Commission

Encls.

RESOLUTION 22032401

A RESOLUTION ESTABLISHING A TEMPORARY MORATORIUM ON THE ISSUANCE OF CONDITIONAL USE PERMITS AND BUILDING PERMITS ON PIPELINES IN MOODY COUNTY, SOUTH DAKOTA.

WHEREAS, in order to promote the health, safety, and general welfare of the County, the Board of Commissioners for Moody County adopted Ordinance 2020-02, amending Ordinance 2013-02, for the purpose of establishing zoning regulations upon all land within the unincorporated areas of Moody County, South Dakota; and

WHEREAS, Ordinance 2020-02, otherwise known as the Moody County Zoning Ordinance, categorizes all land within the unincorporated areas of Moody County into Districts, with each District having its own unique set of permitted uses, conditional uses, and prohibited uses; and

WHEREAS, Article V of the Moody County Zoning Ordinance defines conditional use as a use of land that would not be appropriate unless controlled in a manner that promotes the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare of the County, and, as such, a conditional use is therefore subject to evaluation and approval by the Moody County Board of Adjustment in accordance with the procedures contained in Section 3.04.01 of the zoning ordinance; and

WHEREAS, Moody County Zoning Ordinance Chapter 2.04, Section 2.04.05(14), and Moody County Zoning Ordinance Chapter 4.36 identifies pipelines, particularly those requiring the approval of the South Dakota Public Utilities Commission, as requiring a conditional use permit, issued by the Moody County Board of Adjustment, prior to being built; and

WHEREAS, no pipeline requiring the approval of the South Dakota Public Utilities Commission has been constructed in Moody County since the enactment of either Moody County Ordinance 2013-02 or Moody County Ordinance 2020-02, the Moody County Board of Adjustment has never been tasked with establishing performance standards necessary for the granting of a pipeline conditional use permit; and

WHEREAS, pipelines, particularly those requiring the approval of the South Dakota Public Utilities Commission, can impact the health, safety, and general welfare of a large portion of this County's population, Moody County has begun the process of compiling, studying, reviewing, and composing performance standards that it believes are necessary to safeguard the public prior to the issuance of a pipeline conditional use permit.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Moody County Commissioners does hereby impose a moratorium on the issuance of any and all permits, licenses, or approvals for the construction, installation, or use of any pipeline, particularly those pipelines requiring the approval of the South Dakota Public Utilities Commission, traversing those lands contained within the unincorporated areas of Moody County, South Dakota, with said moratorium running for such a length of time that will give the Planning and Zoning Commission an opportunity to complete their review process, however, in no case will the moratorium last longer than one (1) year from the date this Resolution is ratified.

BE IT FURTHER RESOLVED, that this Resolution reflects a concern for the health, safety, and welfare of the County, and shall become effective upon passage.

Dated at Flandreau, South Dakota, this _____ day of March, 2022.

MOODY COUNTY COMMISSION

Carla Bruning

Carla Bruning – Chairperson

ATTEST:

Tawny Heinemann

Tawny Heinemann – County Auditor

