



October 28, 2020

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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, Docket HP09-001

Dear Ms. Van Gerpen:

I attach for filing KXL Pipeline Project South Dakota Public Utilities Commission Liaison Quarterly Report for the Third Quarter of 2020.

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
2020

Third Quarter 2020
July 01, to Sept 30, 2020

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1. Project Overview

The proposed Keystone XL Pipeline project is a 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 311 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 an 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.

The United States District Court in Montana imposed an injunction on November 8, 2018, prohibiting work in furtherance of the project. President Trump issued a new Presidential Permit to TC Energy on March 29, 2019. 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 Permit as moot; granting TransCanada's motion to vacate the district court's judgments; dissolving the district court's permanent injunction orders; and remanding the cases with instructions to dismiss the district court actions as moot.

Keystone began conducting pre-construction activities such as mowing in March 2020 at all pump stations, pipe yards, work force camps and contractor yards. Fall mowing at these locations started on September 24 in Harding County. Pipe yard deliveries and workforce camp installation began in April 2020 and construction on Pump Station (PS)-20 started on June 1, 2020 in Tripp County. Construction activities that began in the third quarter include construction of PS-18 in Haakon, County and PS-

19 in Jones County. Construction of these facilities is progressing and approximately 50% complete. Construction of 15.2 miles of pipeline was anticipated to begin in August 2020, in Meade/Pennington/Haakon Counties, but pipeline construction has been delayed to a future date. A noxious weed spraying program was conducted in late September 2019 to address the weeds identified in recent surveys. Construction activities continue to be evaluated in light of COVID-19 safety considerations.

The company continues to engage 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, Keystone 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 is closed temporarily out of caution due to current health concerns. However, KXL officials, as well as the Liaison, are available via phone 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 2020, there were 18 contacts to the liaison officer; more than in previous quarters this year. The majority of the calls were from parties with questions about the pipeline construction schedule or general operation inquiries regarding the overall Keystone system. There were two landowner calls; one related to the anticipated construction and the other had questions regarding their easement. One call was related to the existing Keystone line and was directed to operations personnel for information. There were no major concerns or incidents reported during this quarter.

One formal meeting was held via conference call, between the SD-PUC staff and counsel, the Liaison, and Keystone personnel in order to get acquainted with the third-party Construction Monitor for the project. There were no vendor calls or media calls. There were no in person meetings with landowners, officials or stakeholders.

No new concerns were reported to the liaison during this quarter, nor were there any outstanding issues being tracked from the previous quarter.

The Liaison Officer remains available to address the 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.