



January 27, 2021

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**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](mailto: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 Fourth 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**

**Fourth Quarter 2020**  
**October 01, to December 31, 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 80% complete. Construction activities and schedule 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 fourth quarter of 2020 there were 4 contacts to the liaison officer, fewer than in previous quarters this year. Two calls were from parties with questions about the pipeline construction and schedule plans. There were two landowner contacts. One related to security and protests of the project near their property. The company will hold meetings with the affected individuals in the area during the first quarter of the New Year in order to update security plans, in advance of construction in the area. The other call was a Nebraska landowner who had questions about an easement on a property they planned to purchase, they were referred to the company land personnel in that state. There is one landowner issue being followed into the New Year, related to potential protests of the project and security of private land in the vicinity.

No formal meetings were held with the SD-PUC staff and counsel, however, there were multiple calls and emails related to the general project status and landowner concerns. There were no vendor calls or media calls this quarter. No in person meetings with landowners, officials or stakeholders were held due to safety precautions all meetings were conducted over the phone or video conference.

One new concern was reported to the liaison during the quarter and it will be followed into the New Year. There were no outstanding issues being tracked into the fourth quarter. The liaison will continue to follow and report on the status of the project and to be available to address any landowner questions or concerns throughout the duration of the project.

### **3. Summary**

The number of calls to the liaison office decreased this quarter and were primarily related to the general status and schedule of the project. Two landowners had made contact to the liaison, although one was an out of state land owner. There were multiple correspondences between the liaison and SD-PUC staff and counsel, related to construction status and landowner inquiries. One landowner concern is being followed into the New Year and meetings related to the situation will be held in the First Quarter of the year. There were no existing issues being followed from the previous quarters of the year.

Keystone continued the limited construction activities along the project corridor which began in the second quarter of 2020. The company continues to conduct pre-construction field work such as survey, maintaining security at Project sites to ensure public safety and 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 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.