

February 16, 2010

Dear Ms. Langle;

Thank you for sending your comments to the PUC regarding TransCanada's request to construct the Keystone XL hydrocarbon pipeline. In order for the Commissioners and others interested in the siting case to see your comments, they will be made part of the official docket. The docket and its filings are posted online at [www.puc.sd.gov](http://www.puc.sd.gov). Click on "Commission Actions," "Commission Dockets," "Hydrocarbon Dockets," "2009 Hydrocarbon Dockets," and "HP09-001." If you do not wish your comments made part of the docket, please respond to me and I will remove them. Since this is an open docket and Commissioners will need to make a decision on it after reviewing the files, communication with them regarding the docket must be available to the public.

Pipeline siting and safety regulation involves both the federal and state government. Current regulations allow the construction and operation of pipelines within specific and extensive regulation. I understand your concern, but wish to assure you the SD PUC does not grant a permit to build and the federal government does not allow the operation of a pipeline unless the facility meets all siting and safety standards. You may be interested in South Dakota siting regulation found at SDCL 49-41B. The chapter requires detailed study and findings with regard to threats to the environment, health, safety and welfare of inhabitants. "Necessity," however, is not an element within the applicant burden of proof (SDCL 49-41B-22).

Specifically, I understand you have concerns related to the EIS, or the Environmental Impact Study. The EIS is a study performed by the federal government to comply with NEPA, the National Environmental Policy Act. The EIS is intended as a mechanism to study environmental impacts on a national scale. The PUC on the other hand has jurisdiction on a state level only. South Dakota siting regulations require a state specific environmental study. The applicant in this case completed the study in ample time for expert and commission review. I understand your concern and want to assure you an environmental study was done. The SD PUC studied a South Dakota specific environmental assessment.

You also question the status of the Emergency Response Plan. Interstate Hazardous Liquid pipeline safety and operations are regulated by the federal government through the Pipeline Hazardous Materials Safety Administration (PHMSA). The 8th Circuit Court of Appeals and the US District Court found the federal government has exclusive authority and state or local regulation in these areas is strictly preempted. Emergency Response plans are required by the federal pipeline safety code thus expressly regulated by the federal government. Before this or any other federally regulated pipeline can be operated, it must submit the emergency plan to (PHMSA). PHMSA examines the plan and will not allow operation of the pipeline until it is sufficient. The state of SD cannot impose regulations regarding this plan as we are strictly preempted by the federal government.

South Dakota siting regulations require this Commission issue a decision within one year of receipt of an application. We are approaching that one year deadline. While various federal processes are still in progress, I assure you, the PUC did not rush the process within its jurisdiction. Thank you for taking the time to write. The PUC Commissioners appreciate hearing from the affected consumers about issues before them.

Sincerely,  
Kara Semmler

SD Public Utilities Commission, Staff Attorney  
500 E. Capitol  
Pierre, SD 57501

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**From:** Langle, Deanna  
**Sent:** Tuesday, February 16, 2010 7:51:43 AM  
**To:** PUC  
**Subject:** Concerns about the proposed Keystone XL Pipeline  
**Auto forwarded by a Rule**

To the South Dakota PUC:

I would like to express my concerns about the proposed Keystone XL Pipeline, and I ask that these concerns be taken into consideration at your meeting this Friday, February 18, 2010.

I am confused about how the PUC can take any credible action on the proposed pipeline before reviewing a complete Environmental Impact Statement. My understanding is that an EIS is currently being drafted for Keystone XL. When will this EIS be released for public review and comment?

Why has Transcanada not yet filed an Emergency Response Plan? It would appear dangerous, unwise, and irresponsible to approve the Keystone XL Pipeline without such a plan in place.

And, finally, what evidence does the SD PUC have that would confirm the necessity of yet another pipeline? Some governmental units as well as independent oil companies are now arguing that there is too much pipeline capacity from Canada that is already unused.

I urge you to consider the impact of your decisions beyond simply the economic impact, and I ask that you do not approve the Keystone XL Pipeline until making public the EIS statement and securing an Emergency Response Plan. To act without attention to these details is premature and would demonstrate a lack of care for the people and the land of South Dakota who have to live with your decisions.

Thank you for hearing my concerns.

Sincerely,

Deanna Langle  
Elk Point, SD 57025