

February 16, 2010

Dear Mr. Spader;

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. 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. Without regulatory change, the siting process is legally available to all applicants such as TransCanada. 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. You may also be interested in the many hours of public input afforded interested individuals. Additionally, you may be interested in the information available on our website produced through the discovery and hearing process. Your statement regarding lack of "adequate information" and "public input" is simply inaccurate.

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. The Emergency Response Plan for the eastern TransCanada pipeline was submitted and approved by PHMSA.

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. I am sure you appreciate the legal confines in which the Commission must act and understand the Commission's emphasis on regulatory compliance. The PUC regulates many utilities and in expecting them to follow current regulations the Commission must as well. 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

From: Spader, Dean J]
Sent: Tuesday, February 16, 2010 9:47:07 AM
To: PUC
Subject: Keystone XL Pipeline: Stupidity on Stilts
Auto forwarded by a Rule

Once again, it appears that you, as SD officials, are making a decision without adequate information, public input, and long-term concern for climate change. Human beings have become the most invasive and destructive species on this planet, and your decisions are taking us to the brink of eco-system collapse.

1. Where is the EIS for this pipeline?
2. Where is the Emergency Response Plan for Keystone 1 and Keystone XL?
3. Where is the need for this pipeline when oil companies are suing each other to get out of paying their fees already owed on existing pipeline capacity?

Your rush to bring the dirtiest, most fossil-fuel intensive, most environmentally destructive, oil into and through South Dakota threatens present and future generations (and over 200 of my family in SD), not too mention the diversion of scarce investment monies into outdated and unneeded sources of energy that will exacerbate climate change.

Our environment is a "goner" if you continue down this course. We need both environmental and economic regulators, not narrow-minded, tunnel-blinded, one-factor economic regulators.

Regretfully Skeptical
Dean J. Spader