

February 17, 2010

Dear Mr. Trujillo;

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 and the information available on our website produced through the discovery and hearing process.

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

From: Sierra Club Membership Services on behalf of Tome Trujillo
Sent: Tuesday, February 16, 2010 3:48:56 PM
To: PUC
Subject: Please Wait on the Vote on Keystone XL
Auto forwarded by a Rule

Feb 16, 2010

South Dakota Public Utilities Commission

Dear Public Utilities Commission,

I am writing to urge you to hold off on making a decision about the Keystone XL pipeline permit.

PLESAE DONT DO IT! Is this afghanistan where we steal peoples lands and

oil at gun point so that oil companies can make record profits from the exploitation of oil which does not belong to them? I hope not. This theft from under such poverty stricken peoples from their lands must stop. You have no rights to do this no matter what the 'treaties' say no matter what people say and if you attempt to do this you invite a huge public outcry. Count on it. This is just the beginning. We are done with the exploitation. We are done with the profiteering. We are done supporting the theft of oil to support corporate profits and unhealthy infrastructures which do not even pretend to support U.S. interests. Between 2002 and 2005 more than 50 pipeline "incidents" were serious enough to warrant public evacuations. Pipeline experts indicate that each year there are over 150 incidents related to pipelines, and more than 6 million gallons of dangerous liquids spill and leak annually from pipelines.

Yet TransCanada has offered no emergency response plan, and we have yet to see an Environmental Impact Statement. Since the PUC held a hearing last fall, information about the marketplace has surfaced indicating that this pipeline is not needed. Without substantive analysis, including current and forecasted oil industry models, it could be that you will be acting prematurely in permitting this pipeline.

Please postpone your decision on Keystone XL until late March, or until an Environmental Impact Statement has been issued and TransCanada has offered a thoughtful emergency response plan. I also encourage you to conduct a fair and thorough examination on whether this pipeline is even necessary.

Sincerely,

Mr. Tome Trujillo
Vashon, WA 98070-2111