

Comments before the Public Utilities Commission Public Hearing of November 3, 2009, Capitol Building, Pierre re. HP 09-001 (Keystone XL Project)

I am a landowner in Haakon County. The proposed Keystone pipeline route will cross my land in two places for a total of about 1 1/4 miles.

- A. Conservation/Remediation. About 1 mile of the proposed route through my property will cross pasture that is native prairie. Of course, by definition, there is no remediation possible that would return this ground to native pasture once it is disturbed.
- B. Proposed Compensation. Assuming Keystone prevails and obtains the necessary permits, the landowners will be subject to condemnation proceedings. Amendment V to the Constitution (incorporated in the Bill of Rights) contains the admonition "...nor shall private property be taken for public use without just compensation." Assuming the pipeline succeeds in applying an eminent domain taking for the pipeline right of way, the issue then becomes one of determining "just compensation".

The formula proposed by Keystone is based on a surface-acre calculation. Example: a 50ft easement through a section of land (1 mile or 5280ft) produces about six surface-acres of easement area -- 50ft wide X 5280ft long = 264000sq ft; divide by 43560sqft/acre to get 6 surface-acres. A land value factor would then be applied to 6 acres to calculate the value of the easement: \$500 per acre would result in a \$3000 value.

- C. Alternative Compensation. The pipeline as proposed in South Dakota would traverse 313 miles, cost \$920 million (\$3 million/mile) to construct and would produce \$14 million (\$45,000/mile) in annual tax receipts.
- 1) Fraction of cost. If private landowners were to receive a small fraction of the cost of the project, say 2-3%, then the one-time payment per mile of easement would be in the range of \$60-\$90,000.
 - 2) Fraction of annual revenue. If private landowners were to receive a small fraction of the annual revenue, say 2-3%, then the annual payment per mile of easement would be in the range of \$900 - \$1350.

D. Safeguards. According to the PUC's recent notice of this meeting, Keystone must show, among other things, that the pipeline will "...not pose a threat of serious injury to the environment, nor to the social and economic condition of inhabitants or expected inhabitants in the siting area..." If the PUC approves the proposed pipeline, the PUC has an obligation to the "inhabitants in the siting area", namely citizens of South Dakota, to mandate a bonding and claims procedure which will allow citizens reasonable redress taking into account the disproportionate size, capabilities and expected benefits of the landowner vis-à-vis the pipeline.



N Beverley Tucker
P O Box 785
Philip, SD 57567

November 3, 2009