

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

=====
IN THE MATTER OF THE APPLICATION OF
TRANSCANADA KEYSTONE PIPELINE, LP FOR A PERMIT UNDER THE SOUTH DAKOTA ENERGY
CONVERSION AND TRANSMISSION FACILITY ACT HP07-001
TO CONSTRUCT THE KEYSTONE PIPELINE PROJECT
=====
Transcript of Proceedings
Pierre, South Dakota
December 6, 2007
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BEFORE THE PUBLIC UTILITIES COMMISSION,
DUSTIN JOHNSON, CHAIRMAN
GARY HANSON, VICE CHAIRMAN
STEVE KOLBECK, COMMISSIONER

COMMISSION STAFF
John J. Smith, Commission Counsel

1 CHAIRMAN JOHNSON: Okay. We've just gone live on the
2 Internet. Welcome to Room 412 of the State Capitol here in
3 Pierre. This is the public comment hearing, the fifth we've had
4 on this docket, which is HP07-001. And that deals with Keystone
5 Pipeline's Application to build a pipeline through this eastern
6 part of South Dakota.

7 The purpose of tonight's hearing is for us to get some
8 feedback from real people, look them eyeball to eyeball, and
9 determine what their thoughts are about this project.

10 Now we also had four of these meetings during the
11 summer in Yankton, Alexandria, Clark, and Britton. The format
12 for tonight will be a little different, but I think the general
13 ground rules will be the same. What we seek is to get as much
14 input in as efficient method as possible from you all, anybody
15 that's here.

16 We are going to ask that you identify yourself, you
17 state your name, and your place of residence. We do have a
18 court reporter here this evening, and so we would ask that you
19 speak loudly and clearly. And for the benefit of the folks that
20 are listening in on the Internet, we would ask that you make
21 sure you sit up here in the witness seat and that you pull that
22 microphone as close to you as possible. That way you won't need
23 to shout or use your speechifying voice. You can just talk
24 conversationally, and everybody will be able to hear you.

25 I think it's important to note tonight's process is

1 TRANSCRIPT OF PROCEEDINGS, held in the above-entitled
2 matter, at the South Dakota State Capitol Building, 500 East
3 Capitol Avenue, Pierre, South Dakota, on the 6th day of December
4 2007, commencing at 7 o'clock p.m.

1 not the totality of what the Commission is doing on this docket.
2 The Commission has been engaged in a multi-month process of
3 evaluating this process. And this week and next we have a very
4 evidentiary-intensive, very time-intensive hearing where people
5 will be sworn in, where evidence will be offered, witnesses will
6 be cross-examined, and objections to evidence will be made.

7 That looks and feels a lot more like a court case.
8 And tonight we want it to feel a little bit more like a town
9 hall meeting so that we can make sure that we hear from people.
10 We do have a few ground rules we'd ask you to kind of help us
11 make sure we get pointed in the direction we want to go.

12 First off, the formal process that I just described is
13 for Interveners, those people who are legally recognized parties
14 to the case. Tonight isn't for them. Tonight is for the real
15 people who didn't file a bunch of fancy legal work but just want
16 to tell us what they think about this project.

17 We would also ask that those people who have long
18 comments, that they wait so that we can let the people who maybe
19 only have 30 seconds or two minutes or five minutes, that those
20 people have an opportunity to speak their mind, they don't have
21 to wait around until 11 o'clock at night before they get their
22 opportunity to say a few words. So, again, we'll request people
23 with short commentary, less than five minutes, go first.

24 We have transcripts of all of the four public hearings
25 that we had this summer. And we would ask that you not repeat

1 commentary or comments or concerns from those meetings. Now a
2 little bit is fine. If you need to set the stage for some new
3 information or new concerns you have, that's great. We want to
4 hear them. We want to hear that. But getting into -- getting
5 your general concerns into the record a second time isn't any
6 better than getting it in once. So please try to avoid too much
7 repetition from what you might have said again in Yankton,
8 Alexandria, Clark, or Britton.

9 With that, we should introduce the folks that are
10 sitting here. I'm Dusty Johnson. I'm a Commissioner with the
11 PUC. We've also got Commissioners Gary Hanson and Steve Kolbeck
12 here.

13 John Smith is serving -- serves as the Commission's
14 General Counsel, and he has been the Hearing Examiner for the
15 formal portion of this two-week hearing. Since there's not a
16 lot of legal speechifying, he decided to take the evening off
17 from running this event.

18 We do have people from TransCanada Keystone Pipeline,
19 the Applicant, here in the room. We've got people from the
20 Public Utilities Commission staff here in the room. Because we
21 want to keep this moving, if you've got a question, I would ask
22 them to make every attempt to try to get to you and get your
23 question answered at a break or after this is done.

24 Some people complained at the public hearings this
25 summer questions were asked and maybe it took too long for staff

1 or Commissioners to answer it, and we didn't get to hear enough
2 concerns from folks. So we'll try to run it that way. If
3 anybody's got any objections or suggestions as to how we can
4 make them better, let's hear them now.

5 For the first time in my life I appear to have
6 approached perfection. I'm sure that thought in my mind will be
7 eradicated in just a moment.

8 With that, let's go ahead and open it up to any
9 non-Interveners who have relatively short comments.

10 MS. DUVALL: Thank you, Commissioner Johnson and other
11 Commissioners.

12 My name is Mary Duvall. I live in Pierre. I work for
13 the South Dakota Farm Bureau. And I just wanted to relate to
14 you very briefly our delegates voted at our annual convention
15 November 16 and 17 in strong support for the Keystone Project.

16 Agriculture is a huge user of energy. We think that a
17 stable supply is good, not only for America but also for
18 America's farmers and ranchers.

19 We also think that it's good for us to do business
20 with our neighbors to the north. They've demonstrated a
21 capacity to be a very friendly country to us and a very stable
22 country.

23 A couple of other things that we really like about the
24 the Keystone Project are the tax dollars that will help our
25 school systems, the contractor's excise taxes and sales taxes

1 that will benefit the state as a whole. We see that as a
2 positive. We realize that the affected landowners may face some
3 inconveniences, but we found Keystone personnel always willing
4 to meet with us, willing to respect the rights of landowners,
5 and willingness to be good stewards.

6 Our final point very briefly is we think transporting
7 energy via a pipeline is preferable to transporting it over the
8 highways. And that is the conclusion of my comments.

9 Thank you.

10 COMMISSIONER HANSON: Thank you very much, Mary.

11 CHAIRMAN JOHNSON: Thanks, Ms. Duvall. Appreciate
12 that.

13 Yes, sir. Good evening.

14 MR. BARDESON: Good evening, ladies and gentlemen. My
15 name is Pete Bardeson, and I am the business manager for the
16 Laborers' Union Local 620 for the State of South Dakota, and we
17 are based out of Sioux Falls.

18 This pipeline project will be beneficial in many ways
19 to the State of South Dakota. Number one, this project will
20 employ between 100 to 150 South Dakotan laborers to man and
21 complete this project. These are good paying jobs that will
22 also provide health insurance, prescription medication cards,
23 dental, and optical insurance along with a \$10,000 death benefit
24 and a pension plan at no cost to the workers.

25 These benefits not only cover the worker but also the

1 spouse and children. There is also daily travel pay on this
2 project.

3 Number two, this project will bring in a substantial
4 amount of revenue for business owners throughout the State of
5 South Dakota. I would also like to mention that most of the
6 supplies and materials needed will be purchased locally. We
7 feel that this is a win-win situation for South Dakota workers,
8 businesses, and landowners involved.

9 Thank you.

10 (Discussion off the record)

11 CHAIRMAN JOHNSON: Who else would like to make some
12 comments? Yeah. Please come, sir. Good evening.

13 MR. OLSON: Good evening. My name is Byron Olson.
14 I'm the tribal archeologist for the Standing Rock Sioux Tribe.
15 And I wanted to appear this evening to express our concern about
16 the lack of protection of cultural resources along the pipeline.

17 If you look at the corridor of TransCanada Pipeline in
18 North and South Dakota, they will have checked 23 percent of
19 that corridor for cultural resources. The remaining 77 percent
20 will have nothing done on it, which means that anything that's
21 out there, unless it happens to be discovered in the processes
22 of construction will simply be destroyed. And then I'm deeply
23 distressed by the situation.

24 It's worth understanding the process by which that was
25 reached. And I think the process is deeply flawed. The

1 Applicant, TransCanada, hired a consultant, ENTRIX, and ENTRIX
 2 in turn hired an archaeological consulting firm based out of
 3 Bismarck that was Metcalf Archaeological Consultants. And prior
 4 to the involvement of any federal agency whatsoever Metcalf
 5 contacted the North Dakota SHPO and the South Dakota SHPO and
 6 laid out a scope of work for what they're going to do out in the
 7 field, what land will be looked at.

8 Now it's important to understand that the laws
 9 governing cultural resources at the federal level are much
 10 different than those at a state level. Your State Historic
 11 Preservation Office was created as part of the National Historic
 12 Preservation Act, federal business, and if the Feds are
 13 involved, then the SHPO has a lot of authority in telling
 14 construction companies and contractors what they want to see
 15 done out in the field. And that would include, say, looking at
 16 more than 23 percent.

17 If it's, say, state action, I don't know the ins and
 18 outs of South Dakota Law, but I assume you would have
 19 jurisdiction over state lands and maybe, you know, sites that
 20 are listed on the National Register. But it's a much, much,
 21 much more restricted process.

22 So what happened chronologically was TransCanada
 23 contacted the SHPOs before there was any federal involvement.
 24 And it's my understanding from comments I heard from Mrs. Paige
 25 Hoskinson -- she's the review and compliance officer for

1 South Dakota SHPO -- that when Metcalf came in the door that
 2 looked like a private project, not a federal one. And so her
 3 authority is governed by state law, which, you know, if they're
 4 willing to look at land, gosh, this is great because normally,
 5 you know, they wouldn't have to do anything.

6 After Metcalf had talked with both the North Dakota
 7 SHPO and the South Dakota SHPO a month or so later it becomes a
 8 federal project when the Department of State is brought into the
 9 process. And at that point it's a federal deal, but the
 10 Department of State, you know, by their own words they say this
 11 is probably the first and last Presidential Permit they'll ever
 12 do. It's been an arduous thing for them. And they have
 13 absolutely no expertise in cultural resource laws period so
 14 they're relying entirely on ENTRIX.

15 Well, the Department of State just saw these
 16 agreements that had been developed with North Dakota SHPO and
 17 South Dakota SHPO and said looks good to us.

18 And the problem, of course, was the SHPOs, I think
 19 they were kind of left in the dark as to whether this was a
 20 private project or one that's governed by federal law. And when
 21 Mrs. Hoskinson spoke at a meeting at Prairie Knights Casino six
 22 weeks back I guess, roughly speaking, she said if she had known
 23 that she had the authority to intervene, and I think she means
 24 she had the authority granted under the federal law, under
 25 National Historic Preservation Act, she would have done

1 different than what she did when it just appeared to be her
 2 authority was limited to state law.
 3 And my comment right now is, first of all, I would
 4 urge the South Dakota SHPO to reopen that issue because I don't
 5 think they actually were given a fair shake in the deal.
 6 TransCanada really jumped the gun and went ahead and did these
 7 consultations without any federal involvement, period, even when
 8 they knew it was going to come.

9 I believe that everything along the pipeline corridor
 10 should be looked at. We don't really know what's out there.
 11 The records indicate -- you know, people that have to do file
 12 searches say what's been found out there before?

13 Well, they looked at 700 and roughly 26 square miles
 14 along the two-mile-wide corridor along the pipeline in
 15 South Dakota, and what's been found in the past is exactly
 16 10 prehistoric sites.

17 Obviously many, many more are out there. But that's
 18 the state of our knowledge right now. It's just very, very
 19 limited. It's just a part of the state where a lot of kind of
 20 work isn't done so it would be valuable for everybody to have
 21 some of this done.

22 Aside too, I would urge the State to reopen it. I
 23 would urge the State to have 100 percent of the corridor looked
 24 at. And I would urge you as Commissioners to support the State
 25 SHPO, if they choose to take that course because I think it's

1 the proper way to go. Thank you so much.

2 CHAIRMAN JOHNSON: Thanks, Mr. Olson. Commissioner
 3 Kolbeck, you're as much the boss as I am. Ask any questions you
 4 like, sir.

5 COMMISSIONER KOLBECK: Do you feel we can remediate --
 6 that's probably a bad word. Do you think that if that was done,
 7 it would put your mind at ease, a 100 percent walk-through?

8 MR. OLSON: Oh, I think that would be a very valuable
 9 thing to do.

10 COMMISSIONER KOLBECK: And where is Standing Rock?
 11 I'm sorry.

12 MR. OLSON: Standing Rock includes Sioux County in
 13 North Dakota and Corson County in South Dakota.

14 COMMISSIONER KOLBECK: Corson.

15 MR. OLSON: And the bigger portion of our reservation
 16 is in South Dakota. The Tribe really has had two concerns. I
 17 am versed in archeology so that's why I'm speaking on that
 18 issue.

19 The only tribal concern, and I think there was a
 20 letter from our Chairman that was submitted to me earlier, was
 21 what happens if the pipe breaks. You know, there's been some
 22 waivers on wall thickness and waivers on pressure in the pipe.
 23 And just creates concern because that stuff breaks and we know
 24 how valuable water is and what happens if you pollute it.

25 COMMISSIONER KOLBECK: Absolutely.

1 MR. OLSON: But I would -- if you would reopen it and
2 say, well, we'll look at 100 percent, gosh, I'd give you thumbs
3 up on that one.

4 COMMISSIONER KOLBECK: Thank you.

5 MR. OLSON: Thank you. And I wrote comments if you
6 would like those.

7 COMMISSIONER HANSON: Appreciate it. Yes.

8 CHAIRMAN JOHNSON: If you would provide those to the
9 court reporter, I think that might be helpful. And if others of
10 you have brought information it's not an exhibit in the
11 traditional evidence sense but we would certainly take it and
12 are happy to post that information on our website and make it
13 available to interested persons.

14 I should mention we don't want this to turn into an
15 alternating public comment/TransCanada response, but at the end
16 of the evening certainly if TransCanada has any comment with
17 regard to what gross mischaracterizations or concerns they've
18 got about something people have said, we'd give the Applicant an
19 opportunity to respond.

20 MR. OLSON: Yes. I summarized my points and the
21 source of much of that information is a letter that was written
22 by the Department of State to the Advisory Council on Historic
23 Places and I attached that. It has pertinent statements in
24 there about when the Applicant first approached the SHPOs and
25 that kind of stuff.

1 CHAIRMAN JOHNSON: Mr. Olson, if you would, please,
2 let the Chairman of Standing Rock Sioux Reservation Tribe -- let
3 him know that we appreciate his letter and the concerns that you
4 and he have offered up.

5 MR. OLSON: Thank you much. Appreciate the
6 opportunity.

7 CHAIRMAN JOHNSON: Again, looking for commenters.
8 Generally in the short nature to start with.

9 MR. LAWRENCE: Hi. Being a former broadcaster, I
10 think this is 3 minutes and 37 seconds.

11 Okay. Good evening. My name is Craig Lawrence, and I
12 live in Sioux Falls. My great-great-grandfather homesteaded
13 near Onida in 1887, and then after three years of grasshoppers
14 and drought retreated to become an engineer, plat the City of
15 Parker, and then purchase the farm which remains in our family
16 today. I just say those things to say I'm rooted here.

17 So as I sat here today and listened to the frustration
18 of landowners who are told they must allow someone to dig a
19 trench across their land, I understand that hurt. And I know
20 you understand that hurt too, as we go through that.

21 Nevertheless, I'm here to speak in defense of the
22 pipeline, despite but respecting the pain which it causes the
23 good people who have testified here today. And here's why I'm
24 in support, perhaps even in passionate support.

25 Since the terror of 9/11 struck our country

1 South Dakotans have responded in greater measure to defend our
2 land than any other state in America. In fact, this afternoon I
3 received confirmation from Major Orson Ward of the South Dakota
4 National Guard in Rapid City that our state has had since 9/11 a
5 higher percentage of national guardsmen deployed to the Mideast
6 than any other state in America.

7 Our young men and women are serving over there.
8 Unfortunately, many are dying over there and returned to us in
9 flag-draped coffins, and we weep.

10 Why are they dying? In reality we know it is to
11 assure our nation will continue to receive that to which our
12 President says we are unfortunately addicted: Mideast oil. Our
13 sons and daughters are dying for oil. For our supply.

14 This is a terrible burden for all of us. We want a
15 way out. We all want alternative sources of energy for
16 tomorrow. Indeed, our state is a pioneer in the production of
17 ethanol. But Jeff Broin of Broin Industries, who you know, and
18 Broin Industries being a South Dakota company recognized as the
19 leader in U.S. production of ethanol, Jeff reminds me that even
20 if every bushel of American corn were used to produce ethanol,
21 only 20 percent of America's energy needs would be provided.
22 It's a fact. We're going to need massive supplies of oil for
23 many decades to come.

24 Mideast oil comes to us at the great price of the
25 lives of our sons and daughters but also at a great economic

1 price. We are watching the economic future of our children and
2 grandchildren being sucked through a gas pump connected to the
3 sheiks of Arabia.

4 In its 2007 fact book the Clean Fuels Development
5 Coalition reports that America spends \$49 billion a year just to
6 protect the pipelines and terminals that deliver Persian Gulf
7 oil. They say if these costs were reflected in the price we
8 pay, the price at the pumps in Pierre today would rise by over a
9 dollar a gallon.

10 Canada has the second largest reserves of crude oil on
11 our planet. A pipeline is the cheapest and safest way to get it
12 here, far safer than super tankers who ram the Golden Gate
13 Bridge. Our thrust for oil has placed our nation in a desperate
14 war in the Middle East.

15 Our Governor, our President, our leaders in Congress
16 all recognize America's need to be weaned of Mideast oil. It's
17 an urgent and pressing need.

18 Tonight like it or not South Dakota is center stage in
19 the fight to free us from Mideast oil. Tonight responsibility
20 rests here in our nation's great quest to say to the Mideast, to
21 say to them, we don't need your crude anymore.

22 Mr. Commissioners, I know we can trust you to make
23 this pipeline the safest ever built. I know we can trust you to
24 ensure that our landowners continue to be treated fairly and
25 with dignity. That's what we elected you to do. And that's

1 what we see you doing commendably in these hearings.
 2 But for America and for our national guardsmen about
 3 to awaken to another lonely and dangerous day,
 4 Mr. Commissioners, say yes to Canadian crude. Let it flow
 5 through the Keystone Pipeline in South Dakota.
 6 Thank you.
 7 CHAIRMAN JOHNSON: Thank you, Mr. Lawrence. Sorry.
 8 Go ahead, Commissioner.
 9 COMMISSIONER HANSON: Very well said. Appreciate your
 10 testimony.
 11 CHAIRMAN JOHNSON: Other comments? That's a hard act
 12 to follow.
 13 MR. HELMS: I was just thinking what the gentleman
 14 said.
 15 Terry Helms, Aberdeen, South Dakota. I'll make this
 16 short and brief. By profession I'm in the engineering land
 17 surveying business. I was fortunate enough to be retained by
 18 TransCanada to survey the north third of this project for their
 19 easements.
 20 In my dealings with TransCanada two things came to the
 21 forefront before I could get a contract with them. And they
 22 beat this into our heads. That landowners' rights were first
 23 and all above everything else that we were going to do. We were
 24 not allowed on anybody's property without getting TransCanada's
 25 permission three days ahead of time.

1 They went to the landowners, sought permission, access
 2 points, permission for us to use all-terrain vehicles, and if
 3 they weren't allowed, then we had to walk that portion of the
 4 project. And if we had any incident, if we damaged a fence
 5 post, we had to report that to TransCanada immediately.
 6 The second thing that I think they stressed almost as
 7 hard was the safety issue from what our worker's compensation
 8 ratings were to our company safety manual. We had to implement
 9 safety issues within our company to satisfy them that we
 10 continue to use this day because they are very good safety
 11 issues.
 12 Again, they told us if they found one of our employees
 13 driving down the road talking on a cell phone, our participation
 14 with them would be terminated because that was not a safe act.
 15 From the day they started with us safety was the highest
 16 priority right along with landowners' rights.
 17 Over the years -- I've been in this profession since
 18 1971. My company has had the opportunity to work with power
 19 companies, natural gas companies, water companies, highways,
 20 railroads, ethanol plants. None of them hold a candle to the
 21 requirements that TransCanada put on us. We've worked for WEB
 22 Rural Water, East River Electric, Basin Electric, Northern
 23 Border Pipeline. Nobody came close to that.
 24 So as I look to the future of this pipeline being
 25 built through South Dakota, I believe the safety issues will be

1 there.
 2 Now I take off my surveyor's hat and put on my
 3 engineer's hat, and as we walk -- or as we have talked for a
 4 year concerning water sources, potable water sources, if we look
 5 at where that pipeline goes through the State of South Dakota
 6 from the Missouri River east probably two-thirds of the way to
 7 Interstate 90 most of those communities by the end of this
 8 decade will receive their water from the Missouri River.
 9 Those from the Jim River Valley east, most of those
 10 people are going to get it out of the Big Sioux River Aquifer
 11 area, City of Sioux Falls, City of Brookings. You get north up
 12 in the Sisseton area, and they'll take it out of the Peever
 13 aquifer. So they've really kind of split the two water sources
 14 in the State of South Dakota in my opinion.
 15 Thank you.
 16 CHAIRMAN JOHNSON: Thank you very much, Mr. Helms.
 17 Other comments?
 18 We would be happy to take longer comments at this
 19 point if somebody has something more than five minutes,
 20 10 minutes, 20 minutes?
 21 MR. CUNNINGHAM: You're getting there.
 22 CHAIRMAN JOHNSON: Good evening, sir.
 23 MR. CUNNINGHAM: Glenn Cunningham, Mitchell,
 24 South Dakota. Born and raised there. Moved back there after
 25 40 years of pipeline engineering design and construction.

1 Mr. Hard Act To Follow here covered a lot of my
 2 points. But I would like to point out that South Dakota is a
 3 100 percent taker when it comes to petroleum energy. We're the
 4 benefits of the risks that other states take with their
 5 95,000 miles of crude oil gathering and transmission systems.
 6 Probably 200,000 miles of refined product systems.
 7 Those systems were all built basically under the same
 8 kind of arrangements that TransCanada proposes for this project.
 9 Most of those -- a lot of those projects are over 50 years old
 10 and still operating.
 11 Every new pipeline project benefits from those that
 12 went before. And in the last 15 years instrumentations such as
 13 that used for leak detection, corrosion monitoring, and all of
 14 that sort of thing has gone up by magnitudes of 10. And those
 15 will be applied to this project.
 16 I would like to think that this project that they're
 17 proposing gives South Dakota the opportunity to contribute to
 18 the energy situation. And in the cleanest, safest, least
 19 intrusive way possible. No production fields. No processing
 20 plants, no tank farms, no terminals, just a long, welded steel
 21 tube running the length of this state where not even a gallon of
 22 it is taken off for any purpose whatsoever.
 23 Thank you.
 24 CHAIRMAN JOHNSON: Thank you, Mr. Cunningham. Now
 25 that wasn't 20 minutes. You had us all nervous.

1 MR. CUNNINGHAM: He took part of my time.
 2 CHAIRMAN JOHNSON: Other comments of any length?
 3 Good evening.
 4 MR. MCLAURY: Good evening. My name is Kim McLaury
 5 from Elk Point, South Dakota. I'm here as a citizen and
 6 engineer that also has worked for the TransCanada Pipeline as
 7 Mr. Helms has. And I would like to reiterate everything that
 8 Terry has said from the safety aspect to landowners' rights.
 9 It was -- it was very impressive how their corporation
 10 pushes those issues. And, like he said, Terry said, I've never
 11 worked for anybody that has had that type of corporate
 12 citizenship you might call it to protect the landowners, protect
 13 the employees, and the safety of everybody involved.
 14 I'm excited about the project. I think it's a good
 15 thing for the nation big picture-wise, as Mr. Lawrence said. I
 16 was in Iraq during the war, and it's not a fun place over there.
 17 And we need to grab this. Otherwise, it's going to end up in
 18 China. So thank you.
 19 CHAIRMAN JOHNSON: Thank you, Mr. McLaury. Right?
 20 Elk Point. This likely won't be the last big energy project you
 21 think about.
 22 Other comments?
 23 Good evening, sir.
 24 MR. AUMLET: Yes, sir. My name is Jim Aumlet
 25 (phonetic). I'm from Brookings, South Dakota.

1 And I guess what I'd like to say in that is that
 2 assuming that you grant the permit, I fully believe they should
 3 end up with having bonding take and set in case of that remote
 4 chance that there is a leak any place along our pipeline and
 5 have a substantial enough bond to take and cover it for
 6 inflation, et cetera, like that over a period of years.
 7 Thank you.
 8 CHAIRMAN JOHNSON: Thank you for the suggestion.
 9 Mr. Aumlet.
 10 (Discussion off the record)
 11 CHAIRMAN JOHNSON: Other comments?
 12 We have somebody that we feel like we were forced to
 13 slight earlier today. So, Ms. Sibson -- I feel like we already
 14 got to hear from you. Your husband was a marionette today I
 15 feel like.
 16 If you would like to make a comment, we'd certainly be
 17 happy to give you that opportunity. This will help Mr. Smith
 18 feel like not quite such a bad guy.
 19 MS. SIBSON: Mr. Smith, you're not a bad guy.
 20 CHAIRMAN JOHNSON: Now you don't know that positively.
 21 MS. SIBSON: But I could give you the names of a lot
 22 of bad guys I do know.
 23 COMMISSIONER KOLBECK: It's a good thing you're not
 24 under oath when you say something like that.
 25 MS. SIBSON: You can ask me later.

1 I'm Sue Sibson. I'm from Howard, South Dakota. Thank
 2 you for mentioning that. I did have a comment that I wanted to
 3 make.
 4 First of all, I'd like to say we've heard from people
 5 tonight that are really in favor of the project and that's their
 6 opinion and that is good. And you've heard our testimony this
 7 afternoon that the experiences that we have had with land
 8 agents.
 9 And it really upsets me that we must have got the bad
 10 employees at our house or something because for a company that's
 11 supposed to have these high standards and these super employees,
 12 there's a lot of landowners in South Dakota that have not seen
 13 these qualities come out in the land agents that they've had to
 14 deal with.
 15 And as a suggestion to you, I would like you to have
 16 some land agents come in and testify under oath of what they've
 17 done to landowners. I would really like to see that.
 18 The comment that I have to make is I'm going to do
 19 part of a quote. "What we do to the land we do to ourselves.
 20 It makes me wonder as we leave our land for our children and our
 21 grandchildren what will they have to live with because of what
 22 we let happen to the land. That's why we are here today
 23 fighting for our land." Thank you.
 24 And having it on the Internet is wonderful. We'll be
 25 able to sit at home and listen to who chews gum when they talk

1 and who doesn't. It's been real interesting. Thank you.
 2 COMMISSIONER HANSON: Thank you very much, Sue. I
 3 think we'd rather have you testify than your hubby.
 4 MR. SIBSON: I agree.
 5 CHAIRMAN JOHNSON: Ms. Sibson, you're right. There
 6 was just a tremendous demand out there for greater coverage of
 7 regulatory events on the Internet. So happy to make it
 8 available.
 9 We haven't got any Internet numbers yet. In fact,
 10 we'll check. It wouldn't surprise me if we've got dozens and
 11 hundreds of people listening at any given time to this
 12 proceeding.
 13 Other comments?
 14 We'll give you one more minute to think about it. And
 15 during that time I will just mention that if you do go to
 16 www.puc.sd.gov, you'll be able to find literally thousands of
 17 pages of information about the project as well as hundreds of
 18 letters and e-mails from citizens both in favor and opposed to
 19 the project.
 20 You'll also be able to hear audio archives from three
 21 of the four public comment meetings we had this summer as well
 22 as the other Commission meetings where we've taken preliminary
 23 actions on this particular docket. And you can listen tomorrow
 24 and all of the days next week where we are still dealing with
 25 this issue.

1 Any other comments?
 2 Please. No. That's fine. We were just buying folks
 3 like yourself time so they could kind of gather their thoughts
 4 and determine what they wanted to say.
 5 Go ahead.
 6 MR. BURGHARDT: My name is Richard Burghardt. I'm
 7 from Fedora, South Dakota. I live in Miner County. I have two
 8 quarters and an 80 that I own and an 80 that I rent that this
 9 line runs across.
 10 At this point in time I feel like I am being invaded
 11 by a foreign country, which would be comparable to a hostile
 12 corporate takeover. I feel the State of South Dakota has
 13 abandoned the producer of the state by allowing contact with
 14 landowners before any South Dakota permits are allowed. I think
 15 they shot the gun too early.
 16 But in defense of that it has drawn our attention to
 17 the fact of what these people are and how they function and
 18 peaked our interest in finding information out of which we've
 19 learned a lot, especially for those of us that haven't signed
 20 any easements yet. So it's been a benefit to its sort.
 21 Part of the way I feel because of how I feel about how
 22 they've come across the border after us that we should not be
 23 responsible with dealing or bearing the expense of defending our
 24 own land, at least not bear it all totally on ourselves. I
 25 think they share responsibility in that if they are going to

1 share responsibilities in those matters.
 2 In regard to the line and how it affects me, one of
 3 the big issues is I have four dugouts within a half-mile of this
 4 line. And when that line breaks and if it breaks on my
 5 property, it will pollute those four watering dugouts which are
 6 the only source of water within the pastures that I have
 7 livestock in. That in turn affects over 50 percent of my
 8 pasture available to me. Cattle being my primary source of
 9 income.
 10 I was told that if that happened, I would be
 11 reimbursed for the damages. But this does not replace the
 12 water. So effectively what would happen, you would put me out
 13 of business. Two of those dugouts are spring fed.
 14 And as I understand the way the laws are written, when
 15 these older dugouts were dug, and most of these dugouts were
 16 older dugouts, there was government support money when they were
 17 conducted. And consequently if the -- and you see these dugouts
 18 in fields that used to be pastures that are now worked ground.
 19 The government requires that those not be filled back in again.
 20 And they're using them for a water fowl thing.
 21 And I have a problem with this polluting of my water
 22 supply. Am I going to have to be responsible for fencing that
 23 off even after cleanup so those cattle -- even if I get an
 24 alternative source of water, I'm going to have to keep them out
 25 of that one. And I don't think I should have to do this all on

1 my own.
 2 I have had conversations with the agent at various
 3 times, a couple different agents at this point in time. Within
 4 the conversations I've had -- requested route changes and such,
 5 route changes especially on going diagonally across the crop
 6 ground.
 7 It's difficult to farm around that. Even if it's done
 8 at a noncropping year or a part of the year you're still not
 9 going to be able to crop it normally for -- until that land
 10 settles down so you can even go across it.
 11 As I understand it from the land agents, the only
 12 negotiating power -- at least this is what I was told -- that
 13 they possess is the price of the crop.
 14 And my other request -- and I have made several since
 15 day one since the first routing survey was taken. And
 16 especially on the field boundary thing, I've learned that those
 17 requests I never hear a response back as to yes or no or why yes
 18 or no.
 19 So I've learned that when I ask -- and I make this
 20 request every time I meet somebody new from the company and I
 21 already know the answer because they get kind of a blank look on
 22 their face and then I know the answer's no. So it's basically
 23 a -- kind of a my way or the highway attitude.
 24 Another point that bothers me -- and I was to the Alex
 25 meeting this summer, and the question was brought up to the PUC

1 and the TransCanada Pipeline people at that point in time about
 2 when their construction in the pasture with livestock in it --
 3 that those installation work ground areas be fenced off from
 4 existing livestock.
 5 The response at that meeting, the response at a later
 6 meeting, and a response that I heard today was we are not going
 7 to fence livestock out of our work process area. It's just not
 8 company policy. And I am deeply offended by that attitude.
 9 It's back to my way or the highway again.
 10 And if -- the problem with that is if you lose
 11 livestock in that trench, then you've got a valuation question
 12 that we're going to get in an argument about because they're not
 13 going to value it the same as I do. So I have a problem with
 14 that.
 15 And I have problems with other, but I'm not prepared
 16 to go into that.
 17 A couple things for the PUC to consider, and this was
 18 brought up just a minute ago: Posting bond in case of a cleanup
 19 necessary within the state. I have seen companies similar to
 20 this set up shell companies with no finances to do this with.
 21 And words are not -- are just words.
 22 And as they have said before, the bond should be high
 23 enough that if it isn't high enough for cleanup and they're not
 24 there to do it, you're going to break counties. County budgets
 25 are just going to be gone.

1 There could in my opinion be more a safety-conscious
2 approach to this. Not being an engineer, it's just a personal
3 observation. They seem to be willing to live with a certain
4 amount of leaks in the line, being cheaper to clean up than
5 putting a pipe inside of a pipe. And we may be first in the --
6 first in line in the state of many lines coming, but we better
7 be careful about the environment.

8 Thank you.

9 CHAIRMAN JOHNSON: Thank you very much, Mr. Burghardt.
10 Commissioner Kolbeck, did you have a question?

11 COMMISSIONER KOLBECK: Rich, I have a map up here.
12 Could you help me quick?

13 For anybody who doesn't know, I've been trying to keep
14 a map of everyone that speaks and where they are on the route.
15 I'm just going to ask him that.

16 CHAIRMAN JOHNSON: Okay. Mr. Burghardt and
17 Commissioner Kolbeck have finished their conversation. Other
18 comments?

19 Good evening, sir.

20 MR. FISHER: I'm Don Fisher from Britton,
21 South Dakota. And the only comment I want to make is that in
22 support of this gentleman with the green vest on, I don't recall
23 his name, about the posting of substantial bond, when it's left
24 up to somebody else to decide how much money is going to be
25 spent to clean up a mess somehow or another takes years.

1 And I've got a mile of this pipeline going through my
2 very good farmland. And I sure don't want a mess not being
3 cleaned up because somebody thinks they haven't got money enough
4 to do it. I really think that that should be one of your
5 primary projects is to make sure that there's some money there
6 to get the job done, you know.

7 That's about all. Somebody else over here mentioned a
8 bond too. So that's just in support of them.

9 CHAIRMAN JOHNSON: Thanks very much, Mr. Fisher.
10 Appreciate that.

11 Other comments? Other comments?

12 At this time -- my thought for the conclusion of the
13 evening would be two-fold. And, of course, if somebody kind of
14 has some comments that they want to offer after that, that's
15 fine. If something's occurred to you or if you got up the
16 courage to step up, we'd be happy to hear you at any time
17 tonight.

18 But if there isn't anybody else who wants to talk, my
19 thought would be we would defer to the Applicant, Keystone
20 Pipeline, see if they have any comments. And, secondly, we
21 would see if the Commissioners had any final comments, closing
22 comments for this evening.

23 As long as that road map isn't objectionable to
24 anybody, we will go ahead and move that way.

25 Mr. Koenecke, anything for your client?

1 MR. KOENECKE: Just briefly, Commissioner. The hour
2 is late. It's been a long day for all of us, and we've had more
3 time at the microphone than anybody.

4 I appreciate the Commissioners' time and attention
5 this week and certainly here tonight, and I appreciate the
6 honest and thoughtful opinions of people from all across the
7 state who are either parties or not and who have driven out here
8 tonight or during this week to offer it to us.

9 You know, that first morning Robert Jones,
10 Vice President in charge of the Keystone Project, said Keystone
11 will commit to comply and follow all applicable laws and rules.

12 And that's the case tonight. He just feels that from
13 the very inside of him and wanted to make sure that I got up
14 here and told you that and said that to the people who were
15 listening behind me. We've talked this week about the use of
16 high-strength steel and fusion bond epoxy coating and just a
17 whole host of advancements that are going to be incorporated
18 into the Keystone Pipeline.

19 But most importantly I think Keystone is here tonight
20 to listen to these concerns which have been aired, and we'll
21 take them very seriously. Look forward to being a part of this
22 community in South Dakota for a long time. Understand that
23 they're newcomers here, but it's a very heartfelt process of
24 becoming a part of this community and looking forward to it.

25 Thank you.

1 CHAIRMAN JOHNSON: Thank you, Mr. Koenecke. We're
2 approaching last call for comments.

3 Okay. With that, we would -- Commissioner Kolbeck,
4 any final thoughts, comments on your part?

5 COMMISSIONER KOLBECK: Common theme through the whole
6 deal has been that some people think that we should look for new
7 energy. Some people think we should be bringing in different
8 energy.

9 And some things that we do at the Commission is
10 actually save energy. And I just wanted to mention that fact.
11 We at the Commission understand that new is important, but we
12 also understand that save is important. That's why we recently
13 launched our SD Energy Smart Website. And if there's
14 energy-saving tips, we're very committed to South Dakota's
15 energy needs. And hopefully that includes saving them.

16 It's just been a very common theme, and I kind of
17 wanted to get our commercial in there for that, that some people
18 just think that we should go away from the old ways of what we
19 do. And we understand that. And we understand new. And we're
20 trying to make the best of both.

21 CHAIRMAN JOHNSON: Commissioner Hanson.

22 COMMISSIONER HANSON: Thank you, Commissioner Johnson.

23 Ladies and gentlemen, I'm sure each one of the
24 Commissioners truly appreciates the fact that you came here this
25 evening. And I recognize, we recognize, that a lot of you

1 traveled a good distance to be here and staying overnight and
2 spending some extra dollars going through a process that you
3 would prefer not to necessarily go through.

4 We also recognize that there are -- there's a reason
5 for this, that there are significant challenges our country
6 faces. And that's why I made the comment I did when
7 Craig Lawrence spoke his piece. I thought he made a very good
8 emotional standpoint and a very good sensible, practical,
9 factual statement about the challenges that we have in the
10 Middle East. Something that isn't anything that the three of us
11 can do anything about directly, but certainly the use of oil,
12 et cetera, is affecting that relationship we have.

13 At the same time, as strongly, as emotional as that is
14 our sons are daughters are fighting for oil. The fact is that a
15 lot of landowners went through a tremendous amount of turmoil
16 and challenges in their lives and in their ancestors' lives in
17 order to gain control of land from a standpoint of growing the
18 crops and fighting the weather and all of the other challenges
19 financially that goes along with that. For generations they've
20 worked that land.

21 We take that into consideration too, and we recognize
22 how important that is. None of us here are first generation to
23 South Dakota. We all in one sense or another have been part of
24 the soil. We have generations that have homesteaded here, and
25 we recognize how important that is to each and every one of you.

1 We still have people working the farms and ranches in different
2 parts of our state.

3 And the fact is we want to do what's right. And we
4 will weigh things as best as we possibly can. And I know my
5 colleagues will, as I will, vote the way we believe is the right
6 way after we've assessed all of that.

7 We know that we never gain friends it seems like when
8 we go through situations of this nature. But, you know, nobody
9 came up to us and said you have to take that job. We ran for
10 this office, and we asked for it. And so now we get the
11 opportunity to make the tough decisions. And we just want you
12 to know that our door will always be open to either side.

13 And regardless of how we vote on this -- as a matter
14 of fact, I don't know -- none of us know. We do believe in the
15 open meetings law, and so we don't sit around and talk about
16 this. So I'm sure we're each very eager to find out what the
17 other has to say about it when we get to that point, to that
18 juncture. And I just wanted to let you know that we will
19 definitely vote from the standpoint of what we think is right.

20 And there may not be a left and right on this. There
21 may be some issues that were presented this evening and
22 certainly in the previous four meetings we've had and the
23 hearings we've had where we may -- we'll see how -- what the
24 discussion is and how we reach conclusions here but may very
25 well be some middle ground in some areas and look forward to

1 that opportunity to have that discussion with my colleagues.

2 So thank you all very, very much for the trouble
3 you've taken and the tremendous amount of time that you've taken
4 and expense to make your presentations to us.

5 CHAIRMAN JOHNSON: Any final comments before we close
6 the public comment meeting tonight?

7 Mr. Jones.

8 MR. JONES: Thank you, Commissioners. I'd like to
9 also thank everybody that showed up here tonight and tell them
10 that I was thinking of them and listening and --

11 CHAIRMAN JOHNSON: Mr. Jones, I'm sorry. Could you
12 let folks know who you are.

13 MR. JONES: Thank you very much, Dusty.

14 Robert Jones, Vice President of the Keystone Pipeline
15 Project. And I don't want to repeat anything that's been said
16 already. But thank you for inviting me to be here today and
17 listening to these folks. And, you know, I was listening, and I
18 want to commit to them that this is a growing process, that it's
19 for me to take back and see if we can improve our process as
20 well. Because I've heard a lot of feedback today. So I just
21 wanted to thank you.

22 CHAIRMAN JOHNSON: Thank you very much, Mr. Jones. By
23 way of closing comment, I would just mention that I certainly
24 support those things that Commissioners Kolbeck and Hanson have
25 mentioned.

1 I don't think for anybody -- whether you're the
2 Applicant or landowners or regulators, this has been frustrating
3 and it has been painful for some of you and I know it's not fun
4 for anyone and it's not easy for anyone. But we do appreciate
5 the fact that at this time in history and this place on this
6 continent people care about what's going on and they want to
7 make their voice heard. And that has not always been the case
8 in all places in all times.

9 Thank you very much for your patience, your travel
10 time, and your concern.

11 Mr. Smith, anything else we need to do this evening
12 before we adjourn?

13 MR. SMITH: No.

14 CHAIRMAN JOHNSON: Thank you very much. We stand
15 adjourned.

16 (The proceeding is adjourned at 8 o'clock p.m.)
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1 STATE OF SOUTH DAKOTA)

2 :SS CERTIFICATE

3 COUNTY OF HUGHES)

4

5 I, CHERI MCCOMSEY WITTLER, a Registered Professional
6 Reporter, Certified Realtime Reporter and Notary Public in and
7 for the State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings had in
10 the above-entitled matter on the 6th day of December 2007, and
11 that the attached is a true and correct transcription of the
12 proceedings so taken.

13 Dated at Pierre, South Dakota this 2nd day of January
14 2008.

15

16

17

18 _____
19 Cheri McComsey Wittler,
20 Notary Public and
21 Registered Professional Reporter
22 Certified Realtime Reporter

23

24

25