

South Dakota

TransCanada Keystone XL Pipeline Hearing Delayed

BY BOB MERCER
State Capitol Bureau

PIERRE — The tribal governments and organizations trying to stop the TransCanada Keystone XL pipeline from crossing South Dakota won more time Monday from the state Public Utilities Commission.

The commission agreed to postpone the evidentiary hearing that had been scheduled for May 5-8. The commission will decide Thursday on the new dates for the hearing.

The two possibilities discussed Monday by commissioners were the final week of July and the first week of August.

TransCanada received a permit from the PUC in 2010 to construct the pipeline through western and south-central South Dakota.

The project has been on hold because President Obama's administration hasn't granted permission for the pipeline to pierce the Canada-U.S. border.

TransCanada wants to transport tar sands oil from Alberta through Montana and South Dakota into Nebraska where the pipeline would connect with the existing distribution network.

South Dakota law requires a permit-holder to certify that a project can still meet the permit conditions if the project hasn't commenced within four years.

Individual persons as well as lawyers and representatives for various opposition parties argued Monday they couldn't be ready for the May 5 start of the evidentiary hearing.

They said they need more time to finish analyzing thousands of pages of information recently released by TransCanada.

TransCanada's lead lawyer in South Dakota, Bill Taylor of Sioux Falls, said the various opponents let two months lapse before any one filed a motion asking the PUC to compel TransCanada to turn over certain information.

That was on March 25. The commission received other similar motions since then.

Bruce Ellison, a Rapid City lawyer representing Dakota Rural Action, and other lawyers for the opponents said they are concerned about the outstanding discovery requests that haven't been fulfilled.

"We just need more time," Ellison said. "It is a monumental task."

"There may be a little bit of fault on both sides that has ultimately brought us to the situation we're have today."

CHRIS NELSON

Kristen Edwards, a PUC staff attorney, said the staff has the information it needs and has witnesses arranged.

But the staff wasn't taking a position on the request for the continuance, Edwards said.

He said TransCanada met the commission's order on April 17 to release additional information by posting documents on two Internet sites for confidential and non-confidential use.

He said there was a round-robin telephone conference on April 20, followed by moving the confidential documents to a new site that could be more easily used.

Taylor said the only documents that weren't produced were for all communications with all government agencies.

He said that would have required searching records of approximately 1,000 people in three days.

"The commission set a schedule. Everybody knew what the schedule was," Taylor said. "We have fulfilled our obligations completely and fully."

He renewed his argument this proceeding isn't a re-trial but is to determine whether the 2010 conditions can still be met.

Matt Rappold, a lawyer representing the Rosebud Sioux Tribe, said "all relevant evidence" should be part of discovery.

Ellison said "a couple months" would be needed to get through all of TransCanada's documents.

"This is not an unusual occurrence in civil matters," Ellison said. Commission chairman Chris Nelson said he's troubled that two months were "wasted" before motions were filed to compel discovery.

"We're all very busy. I'm a sole practitioner. I have no staff," Ellison replied.

Commissioner Gary Hanson suggested that the start of the evidentiary hearing be delayed until July 27.

Hanson said the two months of delay before filing motions to compel by the interveners "troubles me greatly" and stressed he wouldn't tolerate further delays.

Taylor said TransCanada has 20 non-refundable motel rooms scheduled for next week and 15 to 20 airline tickets.

Taylor said the week of July 27 would be "very difficult" for Taylor and his co-counsel James Moore. Taylor said he doesn't know how others from TransCanada's side would be affected.

Taylor asked whether the commission could wait until its Thursday meeting to set a date. The three commissioners informally agreed.

Nelson said there isn't a lot of flexibility this summer in the commission's schedule.

"There may be a little bit of fault on both sides that has ultimately brought us to the situation we're have today," Nelson said.

He agreed with Hanson there shouldn't be any reason for an additional delay.

"This needs to be the priority, because we are going to have the hearing," Nelson said.

Burbank Woman Dies Following Crash

VERMILLION (AP) — The South Dakota Highway Patrol says a 75-year-old woman has died from the injuries she sustained in a two-vehicle crashed in Vermillion.

The woman has been identified as Rosie Roegiers, of Burbank. The Highway Patrol on Monday said Roegiers died Friday at a Sioux Falls hospital.

Authorities say the incident happened Thursday evening at the intersection of South Dakota Highway 50 bypass and Dakota Street. Roegiers was the front passenger of a 2005 Honda CRV that collided with a 2004 Buick Century.

The Honda's driver and another passenger sustained minor injuries.

The Highway Patrol says charges are pending against the 81-year-old driver of the Buick, who was treated for serious, non-life threatening injuries.

Authorities say alcohol was not a factor in the crash, which remains under investigation.

Judge: Man Must Remain At Hospital

OMAHA, Neb. (AP) — A Nebraska judge has ruled that a man committed to a state psychiatric hospital after a shooting spree at an Omaha club in 1977 must remain there for at least another year.

The *Omaha World-Herald* reports it was determined Monday that 70-year-old Ulysses Cribbs continues to be a danger to himself and others and therefore must stay at the Lincoln Regional Center. Another review has been scheduled for next year.

In 1977, Cribbs fired six shots at Omaha's Club 89, killing a Douglas County sheriff's captain and injuring 25 people. A judge found him not guilty by reason of insanity, and he was ordered to the regional center.

Cribbs' attorney says it's believed that his client's instability likely stems from Agent Orange exposure during his service in Vietnam.

Competency Exam Ordered After Rant

MADISON, Neb. (AP) — A competency evaluation has been ordered after a courtroom rant by a Norfolk woman charged with trying to burn down a mobile home in Norfolk last October.

Norfolk radio station KNEB reports that 27-year-old Cassie Zoubek represented herself Monday at a Madison County District Court hearing on pretrial motions.

Zoubek already has pleaded not guilty to an arson charge, but she told Judge James Kube that she was going to plead guilty to that charge and to one of being a habitual criminal. Zoubek then ranted about what she said was a corrupt court system, including in her wide-ranging comments a reference to the number of tattoos she has.

Madison County Attorney Joe Smith then asked Kube to order a competency evaluation for Zoubek. The judge granted the request.

Omaha Group Considering New Policy

OMAHA, Neb. (AP) — A nonprofit organization dedicated to building and managing public event venues in Omaha is writing a formal policy about the information it makes public amid transparency concerns.

Officials with the Metropolitan Entertainment and Convention Authority will vote Tuesday on a proposal requiring the organization to offer detailed information at public board meetings, including annual financial reports.

Board chairman Dana Bradford tells the *Omaha World-Herald* that the organization has made an effort to increase transparency since Mayor Jean Stothert initially raised the issue last year. He says the proposed policy lays out what the organization already has done to be more transparent.

But the group refuses to provide some information requested by Stothert because it believes certain things, such as its budget and vendor contracts, must be kept private to keep a competitive advantage.

SDSU Frats Could Infringe On Arboretum

BROOKINGS (AP) — The expansion of fraternities and sororities at South Dakota State University could threaten a pristine swath of trees.

Planning documents approved earlier this month by the state Board of Regents include potential housing lots in the South Dakota State Arboretum. The collection of tree species was paid for by donors and planted for academic purposes.

Retired horticulture instructor Norm Evers designed the 45-acre arboretum decades ago and tells the *Argus Leader* newspaper that it should be treated like a museum and given protection.

SDSU officials say there are no immediate plans to develop the sites. Associate vice president Doug Wermedal says even if student housing is built on the lots, the university could move the trees or build around them.

Legislature Tabs County Revenue, High School Activities For Studies

BY BOB MERCER
State Capitol Bureau

PIERRE — Analyzing revenue shortfalls plaguing county governments and investigating the authority of the South Dakota High School Activities Association were selected Monday as topics for two legislative committees to study later this year.

The Legislature's Executive Board selected them from a list of 19 possibilities for interim studies. They received the highest totals in a survey distributed to lawmakers.

A delegation representing county commissioners and sheriffs, including several members of the Minnehaha County Commission, appeared before the board.

Ken McFarland, the administrative officer for Minnehaha County, said the combination of rising costs for law enforcement and the decline in bank tax revenue point "a train wreck coming for us."

Property taxes aren't keeping pace and allowing county governments to have some sales-tax revenue and some alcohol-tax revenue are possible steps, McFarland said.

Law enforcement expenses take 53 percent of Minnehaha County's \$71 million budget, he said.

Rep. Roger Hunt, R-Brandon, suggested SDHSAA's rule-making authority be



Hunt

studied. Hunt spoke forcefully during the 2015 legislative session against the SDHSAA's policy adopted last year to

allow transgender students to participate in athletic competition as members of the opposite sex.

The House of Representatives twice approved measures declaring the policy void, but both bills died in the Senate.

Last week four legislators and various other opponents of the policy spoke at the association's meeting. The board of directors agreed to survey schools whether they prefer a statewide policy or a school by school approach.

The directors also plan to reconsider the language of the policy and meetings are planned with leaders of the Associated School Boards of South Dakota and the School Superintendents of South Dakota.

Several members of the Legislature's Executive Board spoke against making

the SDHSAA a study topic. The vote was 10-4 in favor.

"These people need some direction," Sen. David Omdahl, R-Sioux Falls, said.

Rep. Jim Bolin, R-Canton, spoke at the association meeting last week. He led the push for the legislation that attempted to void the policy. "This is a relevant topic for the present time," Bolin said.

The Executive Board has funding available for three interim studies but decided to wait until its May 18 meeting to choose the third one.

Sen. Corey Brown, R-Gettysburg, said it wouldn't be productive for the Legislative Planning Committee to continue forward on its two-year study of education, because the governor has named a blue-ribbon committee on education.

Brown, the Senate president pro tem, raises the related question of whether the planning committee is still needed. "I do think we probably need to take a long, hard look whether we continue with that committee," he said.

House Republican leader Brian Gosch of Rapid City agreed with the Brown remarks and suggested it

be discussed at the next meeting.

Senate Democratic leader Billie Sutton of Burke suggested workforce development combined with career and technical education could be a joint topic for the planning committee.

"I think they run hand in hand when you're talking about developing your future workforce," Sutton said. "You're paving the way for the field they should go into."

Sen. Scott Parsley, D-Madison, said South Dakota has maybe been sending the right messages to businesses but has been sending the wrong one to workers.

But the board rejected Sutton's motion 10-4. The board voted next to defer action on the third topic until the next board meeting.

Brown said the planning committee's chair and vice-chair should be invited to the meeting. They were Rep. Scott Munsterman, R-Brookings, and Sen. Mike Vehle, R-Mitchell, last year.

The planning committee isn't listed under the 2015 sections of the Legislature's web site.

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