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## Committee formed for pipeline haul route agreement

Use of roads to be considered between county and TransCanada

**By Melanie Wilkinson News Editor | Posted: Wednesday, November 13, 2013 12:00 am**

YORK – A group of people have been appointed to work through a new or revised agreement between the county and TransCanada regarding the use of rural roads should the Keystone XL pipeline be constructed.

“There was an agreement signed between the county and TransCanada in 2011,” York County Commissioner Chairman Kurt Bulgrin reminded the board on Tuesday.

“This agreement outlined the company’s use of county roads during the construction of the pipeline. There is still a question as to whether that agreement is still in effect or if it became null and void when the president denied the permit. TransCanada is willing to work with us to amend that agreement. We have some individuals interested in being involved in the process – such as board members, members of the general public, the highway engineer, the county attorney – so we’d like to appoint members to that committee.

“Mr. (Kevin) Graves, you’ve been active in this area, would you be interested in serving on this committee?” Bulgrin asked the York County landowner, with Graves accepting.

“Also, Jenni (Harrington), would you be interested in serving on the committee as well?” Bulgrin asked another York County landowner.

“I would, but I would like to recommend Bill Dunavan (another landowner) to serve as he has more history in this area,” Harrington said.

Both Graves and Dunavan have been vocal opponents of the proposed Keystone XL pipeline. Each has parcels of farmland that would be affected should the pipeline be constructed.

Dunavan accepted the committee position, but asked, “Is it possible to amend an agreement that has already been cancelled?”

“That is part of what we will discuss on this committee,” Bulgrin responded. “If both parties are willing to amend the agreement, it can be amended.”

“We don’t know, yet, how much the old agreement needs to be changed,” said Commissioner Bill Bamesberger. “We could tweak it. The second agreement could be the same as the first with some new options.”

“My vision is that the committee meets on the county side, to talk about what we’d like to see in a haul route agreement,” Bulgrin said. “Then, Bill (Bamesberger) and myself will take it back to TransCanada to talk about it. After that, Bill and I would go back to the committee – and we’d do that as often as we need to. We’d have the county attorney look at it – and when an agreement has been reached, we would bring it back to the full board to consider for approval.”

“I think this committee could accomplish that in a few meetings,” Commissioner Bamesberger said.

“Regarding whether or not the original agreement is void, we each have our own opinions,” Bulgrin said – acknowledging that while the county felt the original agreement was no longer binding, TransCanada felt

differently and that it was still in place.

“From TransCanada’s perspective, we all agree that the route has changed,” said Jeff Rauh, representing the Keystone XL pipeline project, “and the documentation needs to reflect the new route. The first letter was sent to the county in 2010 in which we said we would be happy to work through the (haul route) process. That agreement was signed in 2011.

“As it is laid out currently, it specifies the use of roads for hauling (equipment and building supplies during pipeline construction),” Rauh continued.

He said that federal and state laws already require the company to have responsibility when it comes to using the rural roads.

“We remain responsible with or without the agreement. While any use of roads in the county is subject to limits, we must obey those just as any party must,” Rauh said. “No agreement (between the two entities) is required, but we sought entering one to provide certainty to the county.

“Prior to construction, we plan to have a good record of the road quality beforehand,” Rauh said.

“That, too, will happen with or without an agreement. And if the project is not built in York County, the county will not be disadvantaged by this agreement because it provides a base of understanding with any company utilizing it. We look forward to participating in the process and working with the county to make sure the county is comfortable and prepared should this project move forward.”

“While looking at the 2011 agreement, I watched a video of the commissioners’ meeting where it was said that if the presidential permit was denied, the agreement would be null and void, ‘a great exercise,’” Harrington said.

“So why does that matter? We appreciate (the county) working with the public on this – but is it null and void or does TransCanada think it is still a good contract? This is important because we want to trust who we are working with. Can we believe what you say? That’s our frustration.”

“It is hoped by the public members of this committee that we will work on a document for the future, not just with TransCanada,” Graves said, referring to other companies in later years.

“This is a valid point,” said Commissioner Paul Buller.

“I agree,” Bulgrin said. “Let’s do this haul agreement and then something permanent for the county to use.”

“With this new agreement, there could be insertion of some penalties” if there was noncompliance, Dunavan said.

“That is something the committee will discuss,” Bamesberger responded.

Zack Hamilton from the Nebraska Farmers Union commented that “I think it would be good to kick of the process with TransCanada releasing the county from the original agreement – to get everyone on the same page and a good starting point.”

Prior to the vote, the proposed committee members were listed: Bulgrin, Bamesberger, Graves, Dunavan, York County Highway Superintendent Mitch Doht, York County Attorney Candace Dick, and Brendan Lilley who is an engineer with Kirkham Michael.

“We will work with TransCanada to draft a new haul route agreement or make a new one,” Bulgrin said.

“Are any of the people being appointed to this committee considered neutral?” asked Commissioner Jack Sikes. “Several are employed by the county, but is anyone else neutral?”

“I’m neutral,” Doht said. “The only thing I want is to protect the roads.”

“None of our intention is for anything but to protect the county from economic loss,” Graves said. “We can

separate the two (meaning the haul route agreement and dislike for the Keystone XL project in general). I agree with Commissioner Sikes – we wouldn't want any issues with the make-up of the committee. And maybe you want to find neutral members or those who are pro-pipeline.”

“This is in no means a way to stop the pipeline,” Bulgrin said. “This is only to protect the county if any of the roads are damaged. But I also see what you are coming from (Commissioner Sikes).”

“We are not going to be talking about the pipeline itself, only the county roads and how they might be affected during the pipeline construction,” Commissioner Bamesberger said.

“Yes, it will not be about what is in the pipeline, climate change or anything else other than the county roads,” Bulgrin said.

The commissioners approved the list of committee members, with the exception of Commissioner Tom Shellington who voted against the list (not specifying his reasoning).

“I would like to get the process rolling,” Commissioner Bulgrin said. “I don't want to rush it, but I want to see something put in place.”

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