Keystone Still Running Strong In Oklahoma, Texas

CUSHING, Okla. (AP) — A federal appeals court Wednesday said a lower court was correct when it refused to temporarily stop construction of what is intended to be the southern end of the Keystone XL pipeline and carry oil from Oklahoma to refineries along the Gulf Coast. The Sierra Club, Clean Energy Future of Oklahoma and the East Texas Sub Regional Planning Commission had sued the U.S. Army Corps of Engineers, saying the project posed significant environmental hazards and shouldn't have been approved. The groups sought an order that would have stopped work on the pipeline while the lawsuit was being heard, but a district court denied that request last year.

In a split decision, a panel of judges on the 10th U.S. Circuit Court of Appeals in Denver upheld the ruling, saying the groups couldn't prove that potential environmental harm would surpass concrete economic harm that the pipeline's builders would see. Referring to the lower court, the panel said the judge "found that the harm an injunction would cause TransCanada was significant." By an August 2012 hearing, TransCanada had spent in excess of $500 million on the pipeline and it was "undisputed that further delay (would) cost hundreds of thousands of dollars each day."

The court also said that the Sierra Club and the other groups could not post a bond to cover TransCanada's losses if the pipeline builder ultimately wins the lawsuit. The judges also rejected an argument that TransCanada's potential losses were "self-inflicted" because of its own deadlines for construction. The Keystone pipeline was designed to carry tar sands oil from Canada across Montana, South Dakota, Nebraska, Kansas, Oklahoma and Texas. Concerns were raised in Nebraska by plans to route the line through the fragile Sandhills region.

Because the Keystone XL pipeline will cross the Canada-U.S. border, federal approval is required. President Barack Obama visited Cushing in 2012 and urged construction of the pipeline's 485-mile southern portion from Cushing to Port Arthur, Texas. Judge William J. Martinez said in a dissent that the lower court didn't adequately assess whether the Sierra Club and the others could win their lawsuit against the regulators and that he would have sent the case back for more proceedings. He said the groups could perhaps win their argument that environmental assessments were insufficient. He said the pipeline will cross water five times each mile — a total of 2,227 times — and that the lower court didn't consider the full impact of building the pipeline.

The construction right of way, 85 feet wide, will be cleared of trees, vegetation and topsoil while some wetlands are filled in, Martinez wrote.

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