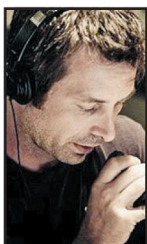


# FERC Commissioner says real victim in Keystone XL is the rule of law

Although the Federal Energy Regulatory Commission doesn't have much day-to-day authority in the Keystone



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For Bakken Breakout  
Weekly

XL Pipeline Project, commissioner Tony Clark stepped outside his regulatory role to opine about the pipeline project.

"I would say this, to me the real victim in the whole Keystone XL debacle is the rule of law," Clark said. "Certainly relations with Canada have been harmed, there are other victims in a sense that have fallen by the wayside in this, but I would say the greatest one is the sense that we have probably violated the rule of law in terms of this particular permitting process."

Clark said FERC is the agency that tells the pipeline what they can charge their customers to ship over the pipeline and is strictly an economic regulator of oil and liquid pipelines. However, attempting to take emotion out of the equation, Clark points to timelines and judicial processes in order to demonstrate how simple the outcome could be.

"Whether you are for Keystone or admittedly opposed to Keystone XL, it would seem like everyone could agree that the developer should be able to get an answer in less than seven years," Clark said. "It doesn't take that long to develop a particular record."

According to Clark, advancing the project would allow the local and state courts to begin their rumored litigation. Lawsuits have been attached to the Keystone since it was proposed in 2009.

"If the state department approves it, that can be taken to court, a judge can look at it and make a decision up or down whether they did a good job or whether it is blocked," Clark said. "Then the developer can take it to court and a judge



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ND Governor Jack Dalryple, US Senator John Hoeven, FERC Commissioner Tony Clark, US Congressman Kevin Cramer and US Senator Heidi Heitkamp at the 9th Annual Empower Energy Conference in Bismarck, ND.

can look and see if the state department has acted arbitrarily and capriciously. But simply not doing anything or acting on an application for seven years really undermines the rule of law in terms of how infrastructure is supposed to be developed.

And when you can't even get an answer, that's problematic."

Clark continued saying the problem runs deeper as political influences are showing their true colors more and more.

"If political influences can undermine that logical regulatory process that should take place and circumvent the judicial review that should take place, there is an issue,"

Clark said. "If it can be done with this project, then it can be done with another project. It can be done with a transmission line, and it becomes harder and harder to cite anything in this country in terms of getting infrastructure in this country developed."

Clark sees the ripple extending beyond the political posturing and into the consumer's pocketbooks.

"And then you've got a real problem in terms of reliability and affordability," Clark said. "Due process is what has been violated in this case. At least make a decision."

In addition to his comments on the Keystone XL Pipeline, Clark discussed several other topics of interest at the 9th annual Great Plains & EmPower ND Energy Conference. For example, Clark reminded those in attendance that natural gas had surpassed coal in electricity generation for the first time in our nation's history.

"The interesting thing now is you can't talk about electricity without talking about natural gas. And you can't talk about natural gas without talking about electricity. At this point those markets are intertwined,"

Clark said. "In fact for the first time in April of this year, natural gas produced more electric generation across the country than coal did. For the first time in history, over 35 percent is now produced by gas."

A shift in energy means a shift in distribution. Pipelines can take time to develop. Clark was asked whether the current infrastructure could handle the change.

"We've been able to manage with incremental upgrades to this point, but what we are seeing now is a wave of pipeline projects proposed," Clark said. "Because

if we are going to go where markets and EPA is, and where the EPA is especially pushing us in terms of energy generation, there will likely be many more pipeline projects proposed."

Another revelation from the Empower Energy Conference was the anomalous behavior of natural gas trends. In the past, natural gas would follow the trend of crude oil. Oil went up, so did natural gas.

When the shale revolution came with \$100 oil, the price of gas went down. This was a new phenomenon to the industry.

Then the anomalous behavior seems to become a new normal. Natural gas prices remained steady and low.

"Natural gas really cannot get much lower than it is already," Clark said. "It is being produced in certain regions of the country, the Marcellus, at less than \$3, which is dirt cheap gas and it is still being produced."

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