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Will the Keystone XL Pipeline Finally Flow?

by Joseph Donovan

Several significant events transpired today related to the much-discussed Keystone XL pipeline project to connect Canadian oil fields to the U.S. and international markets. First, the Nebraska Supreme Court issued an order reversing a lower court ruling that blocked legislation favoring the pipeline. Interestingly, the Court was divided and could not reach the required five-judge threshold to issue a substantive decision on the merits. Under Nebraska law, when a majority cannot be reached, the underlying legislation stands by default. As a result of reversing the lower court, the legislation stands and, by default, the court allowed a route for the pipeline to cross the state. This ruling was the last significant hurdle from the states standing in the way of building the pipeline, and clears the way for the federal government to act.

On that note, two additional items of interest occurred today. First, the U.S. House of Representatives advanced a bill that would approve construction of the Keystone XL pipeline and bypass White House review of the project. As you may recall, the project is still undergoing a review by the U.S. State Department, which issued an environmental study a year ago. Proponents of the pipeline have accused the administration of delaying unnecessarily the release of its final report.

Second, new Senate Majority Leader Mitch McConnell announced today that the U.S. Senate will begin voting on companion legislation to approve the Keystone XL pipeline on Monday (Jan. 12, 2015). Debate on the bill could last into late January as the body considers numerous amendments that are likely to be proposed. President Obama has indicated he will veto the legislation in favor of letting the executive branch's own review play out without interference from Congress. ■



If you would like more information about the Keystone XL pipeline project, contact Joseph Donovan at 202.507.5151 or jdonovan@stradley.com.