

Dakota Pipeline Fight Reaches Capitol Hill

By Jeremy Dillon, CQ Roll Call

A controversial 1,100-mile crude oil pipeline, originating in the Bakken region of North Dakota, has generated news headlines as Native American tribes and environmental groups attempt to stop the project's permitting and construction. Now the fight has made its way to Capitol Hill, with Sen. Bernie Sanders seeking to add a new hurdle through an amendment to the water projects bill on the Senate floor.

Sanders, I-Vt., on Thursday filed an amendment to the water projects bill (S 2848), itself an update to the Water Resources Development Act, that would slow the development of the Dakota Access Pipeline, proposed by Dallas-based Energy Transfer Partners.



Sanders (AI Drago/CQ Roll Call)

The line would stretch across four states from North Dakota to Illinois. Energy Transfer Partners needs an easement from the federal government to construct and maintain the pipeline across Army Corps of Engineers land surrounding and through the Lake Oahe reservoir and the Oahe dam in South Dakota. That easement review is still pending.

Sanders' amendment would “prohibit the granting of a certain easement until the date on which an environmental impact statement with respect to the easement is completed,” the amendment text said, referring to permitting of the pipeline at the Lake Oahe crossing.

“The amendment is germane to WRDA and timely,” Sanders spokesman Josh Miller-Lewis said in an email. “The senator is going to do as much as he can to stop the pipeline.”

Sanders has compared the Dakota pipeline to the Keystone XL oil pipeline, which was the subject of high-profile political battles on Capitol Hill. President Barack Obama denied a construction permit for that project last year, and also vetoed legislation to approve it outright.

Sanders said last month that he would seek to stop the Dakota Access Pipeline regardless of the outcome of a challenge filed in federal court by the Standing Rock Sioux Tribe, which would have placed a temporary order to stop construction while the tribe appeals the Army Corps permitting decisions. A judge on Friday denied the request.

Following the ruling, the federal government, including the Justice Department, the Interior Department, and Army, said in a joint statement that it would pause the Lake Oahe easement review while it determines if it properly considered environmental law.

“The Army will not authorize constructing the Dakota Access pipeline on Corps land bordering or under Lake Oahe until it can determine whether it will need to reconsider any of its previous decisions regarding the Lake Oahe site under the National Environmental Policy Act (NEPA) or other federal laws,” the statement said. “Therefore, construction of the pipeline on Army Corps land bordering or under Lake Oahe will not go forward at this time.”

Sanders will continue pushing his amendment, Miller-Lewis said, even with the Army’s announcement, which he nonetheless called “a very positive step.” The Sanders amendment would require a full environmental review of the easement, compared to the federal government’s statement that it would determine if a reconsideration is needed.

His amendment joins others that have been filed for potential consideration, although some may not come to a vote because they could be challenged as not germane to the legislation, if cloture is invoked on a substitute text amendment in a floor vote scheduled for 5:30 p.m. on Monday.

One from Sen. John McCain, R-Ariz., would exempt individuals in areas served by fewer than two health insurance providers from the individual mandate of the 2010 healthcare law (PL 111-148, PL 111-152). Another from Sen. Rand Paul, R-Ky., would express the need for “explicit authority for the President to conduct military operations against ISIS.”

“We are working through all amendments at this point,” an Environment and Public Works majority staffer said Friday.

Sanders' Dakota pipeline opposition — and the growing Democratic opposition to the pipeline — could also affect the separate energy policy bill (S 2012) that is currently the subject of a conference between the House and Senate.

Sanders is a conferee to those negotiations, and Republicans on the conference spent a large portion of their opening statements on Thursday backing natural gas infrastructure investments as key to any deal.

“He will absolutely continue to push against any effort that increased our dependence of fossil fuels,” Miller-Lewis said about the energy conference. “In his statement for the record for the energy conference meeting he lists fighting these projects as one of his top priorities.”

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