

PIPELINES

On Capitol Hill, sacred lands spark fierce debate

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Correction appended.

A House hearing on energy infrastructure yesterday turned fiery as discussion centered on how the Standing Rock Sioux Tribe approached negotiations over the routing of the Dakota Access pipeline on land that, in the words of one GOP lawmaker, "can all be considered sacred in some way."

The tribe at the center of the protests of Dallas-based Energy Transfer Partners' controversial 1,172-mile oil pipeline from North Dakota to Illinois has been criticized for its cold stance toward talking with project developers and regulators during the prescribed tribal consultation process. Tribal members argue that the limited contacts conducted through that process were too late in development to be meaningful and were geared to securing an outward appearance of participation ([Energywire](#), July 29, 2016).

During a House Energy and Commerce Committee hearing on energy infrastructure, Republican Rep. Markwayne Mullin of Oklahoma pointed to his own Cherokee heritage in questions targeted at Chad Harrison, a member of the Standing Rock Sioux tribal council who had testified on the tribe's dissatisfaction with the consultative process led by the Army Corps of Engineers.

"Mr. Harrison, I'm Cherokee, and I understand very well sacred sites, heritage sites. It's our heritage. I want to protect them, too," Mullin said.

But Mullin challenged the idea that the Dakota Access pipeline would bring the tribe risk without any attendant benefits. "We still own the same land that was allotted to my family," Mullin said. "There's a utility easement that goes across it, and I was glad to grant the utility easement, because it's not just about our backyard; it's about the country as a whole. What's good for your backyard is what's good for the country; it's going to create jobs in your backyard, too."

Joey Mahmoud, the pipeline's project director for Energy Transfer Partners, testified that the company had reached out to the tribe numerous times both publicly and privately over two years, and that the Army Corps had attempted to contact the tribe nine times, but that the tribe "declined to participate in any meaningful way."

Mahmoud said the selection of the contested Lake Oahe point to cross the Missouri River was based on an existing utility corridor there that already carries a natural gas pipeline and a

high-voltage electric transmission line. "The site chosen is, by far, the most benign site for the crossing and would reduce impacts to stakeholders and the environment," he said.

The tribe submitted extensive comments on the Army Corps' draft environmental assessment of the river crossing plan.

In his questioning, Mullin called the Standing Rock Sioux Tribe's opposition to crossing the river at that point, and its stance that the pipeline should be rerouted elsewhere, "hypocritical."

"Through[out] the Indian Country, every time we dig up through certain places, because we occupied all the land, it can all be considered sacred, at some point," said Mullin. "You don't want it there; well, where do you want it?"

Harrison struggled to respond to Mullin's verbal attack, repeating quietly that the tribe fears an eventual pipeline breach and spill and that the company's repeated dialing of a tribal phone number did not amount to "an actual dialogue" with tribal members.

Eventually, Mullin's questioning was cut short as California Democratic Rep. Raul Ruiz unleashed his own tirade of criticism at the idea that the tribe had waived its right to oppose the project by not working with the company and regulators.

"I'm so tired of the federal government not respecting the meaningful consultation" portion of the law, Ruiz said. "Notification is not meaningful consultation. Engagement is not meaningful consultation. Asking somebody to come to your meeting so they can check off a box and use that as an excuse to say, 'See, we did consult with these tribes,' is political trickery; it is not meaningful consultation," he added.

'A very lengthy process to wrap your head around'

Also speaking on the panel was Kim Kann, a private citizen who has opposed the construction of the \$2.6 billion Atlantic Sunrise pipeline project under development by a Williams Cos. subsidiary. That project was recently approved by the Federal Energy Regulatory Commission to run 183 miles of new pipeline in Pennsylvania and upgrade equipment and existing pipeline segments in Pennsylvania, Maryland, Virginia, North Carolina and South Carolina ([Energywire](#), Feb. 7).

Kann said opposition to the pipeline in her rural, heavily Republican community largely centered on a desire to protect land that families had owned for years and indignation at the idea that a company could use eminent domain to overturn landowners' decisions around granting access.

"As people speak up on this issue, they almost feel like they are not in keeping with their Republican roots," Kann said. But she described a strong belief in property rights as grounding the community's opposition.

"We get that sometimes land needs to be taken for the benefit of the community," Kann said. "For this project, locally, there was none."

In comments to E&E News, Kann said she is concerned about the current political enthusiasm for streamlining and accelerating regulatory processes like pipeline approvals.

"As an affected landowner, my concern about speeding up the regulatory process is that it took us an entire year to get up to speed," Kann said. "We needed to find out first of all what the project was, what it meant; we needed to actually understand if it was beneficial or if it was harmful, and what kind of balance there was to that — and then, in the event that we found more harms than benefits, then what were our options as affected landowners, community members, local legislators, to do something about that."

"It's a very lengthy process to wrap your head around that kind of information, and it isn't an industry that's known for its transparency," Kann added. "You don't just ask for the information and get it; you have to dig, and dig, and dig, and dig."

Correction: *A previous version of this story misidentified the House member who criticized the Standing Rock Sioux's pipeline opposition. It was Rep. Markwayne Mullin (R-Okla.).*

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