

3



Indiana Farm Bureau Inc.

225 S. East Street • P.O. Box 1290 • Indianapolis, IN 46206

Legal Affairs

Telephone: (317) 692-7851 • Toll Free: (800) 327-6287

FAX: (317) 692-8451 • www.infarmbureau.org

06-1142-GA-BLN

January 9, 2008

Federal Energy Regulatory Commission

888 First Street, N.E., Room 1A
Washington, DC 20426

RE: Docket No. CP07-208-000
Rockies Express-East Draft EIS

Dear Commission Members,

RECEIVED-DOCKETING DIV
2008 JAN 10 AM 11:40
PUCO

Indiana Farm Bureau, Inc. appreciates the extensive work that the staff of FERC have put into the draft EIS and are thankful for the opportunity to comment on it. We represent approximately 280,000 members in Indiana with many of them impacted by the project. We have been involved in this issue since Rockies Express indicated its intention to locate the pipeline in Indiana. Furthermore, we were involved in revisions to the Agricultural Impact Mitigation Plan (AIMP) and have commented upon the Pipeline Construction Guidelines created by the Indiana Utility Regulatory Commission. Additionally, our staff attended the scoping meetings and raised our concerns about the proposed project.

After reviewing the draft EIS, we are very pleased with the recommendations of the FERC staff and would like to offer our comments and support on a few key issues. Those issues will generally pertain to agricultural impacts, although some will be broad in scope.

First, we support the requirement found in Recommendation 15 that storage of topsoil take place within the 125 foot construction easement. Until recently, our understanding was that additional workspace for topsoil storage would only be needed in special circumstances, such as major excavations and hill cuts. That was also the understanding of many of our members who contacted us with concerns about the additional temporary workspace upon learning about the plan.

Our members have serious concerns about compaction, rutting of fields, and mixture of topsoil and subsoil caused by working in wet conditions. We commend FERC for recommending the creation of an Agricultural Wet Weather Contingency Plan to address these concerns, which is found in Recommendation 47.

A related issue about which much discussion has occurred but which has seen little in the way of resolution is the depth of the pipeline. As noted by FERC, REX has made different recommendations for different states. It is not entirely clear why these distinctions have been made. What is clear, though, is that there is a desire to place this pipeline as shallow as possible without much concern for current or future impacts upon drainage. In the easements that have been presented to landowners by REX agents, REX is stating that the minimum cover will be at least 36". This has caused serious concern on the part of several landowners who know that 36" is not deep enough. We support Recommendation 102 which states that the minimum depth where the pipeline crosses prime soils be 5 feet. However, we would also like to point out that soils which are not prime soils could be made much more productive with the use of drainage tile. As more land is developed and a greater demand is placed upon the remaining agricultural lands, the incentive to use tile on more of the non-prime farmland will likely exist.

We have also been told that REX would like to locate the pipeline at a depth equal to that of parallel utilities. This is unacceptable for several reasons. First, while it may be possible to maneuver a tile around a small pipeline or other utility, it would be nearly impossible to compensate for a 42" pipeline placed in the location where a drain tile should be installed. Placing the pipeline at a proper depth such as five feet will likely allow the use of drain tile in the REX easement, although that may not always be the case as tile does occasionally go deeper than five feet. Furthermore, allowing REX to take advantage of improper procedures when previous utilities were installed will only add more hardship to landowners,

Indiana Farm Bureau is dedicated to promoting agriculture

This is to certify that the images improving the quality of life of members.

accurate and complete reproduction of a case file
document delivered in the regular course of business
Technician _____ Date Processed 1-10-08

some of whom continue to experience lost yields and drainage problems decades after previous utilities were installed. Moreover, if REX were allowed to perpetuate bad practices, that would establish precedent for the next company to seek a shallow depth when installing their utilities in an adjoining easement.

Furthermore, we are aware that REX would like significant, detailed documentation about any future drainage plans before they will consider them in determining the depth of the pipeline on a particular tract. Placing the pipeline at a depth of five feet will help alleviate some concerns about landowners being required to submit detailed plans which likely will not exist until the time the landowner is prepared to make the expenditure to install the tile.

Related to this issue is the concern about proper repair of drain tile and correct marking of its location so that the area can be monitored for failures. Recommendation 101, which states that tile locations shall be marked, is critical because many tile repairs will fail, even when appropriate steps are taken to repair tile. It is not uncommon for tile repairs to fail twenty years after being made. This points out that post-construction monitoring will be critical. We support any extension of the time period for post-construction monitoring. However, we also note REX will need to be responsive to complaints made into the future and not just in the immediate time after construction.

Protection of forest land and the maintenance of the integrity of forests are crucial to biodiversity. Several recommendations address forest protection issues, and we support them. However, Recommendation 68 deserves special mention because it addresses Classified Forests. It is imperative that Rockies Express reach an agreement with the Indiana Department of Natural Resources that protects our forests and also provides assurances that landowners will not bear any costs or penalties for non-compliance with the program.

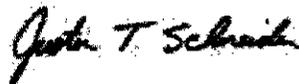
We also agree with Recommendation 12, which would require REX to revise its construction plans to overlap the existing Panhandle Eastern permanent right-of-way for spoil storage purposes. Anything that can be done to limit the footprint of the easements and to provide for the least amount of land being disturbed over time is needed.

Related to this is Recommendation 13, which states that REX should center the pipeline within the right-of-way rather than have it ten feet from the edge. Several members voiced concerns that the pipeline would be to one side of the right of way, which they found confusing and unnecessary. As noted by FERC, this is more likely to allow accidental encroachment into close proximity to the pipeline.

Of all the recommendations that the FERC staff has made, one does raise some concern. Recommendation 81 states that REX should not use herbicides or pesticides for maintenance of the right-of-way for the life of the project. There may be some situations in which the use of such products is needed to control a pest because they are the best control method. If a product is labeled for use along or in forested habitat, its use should not be prevented. We will not disagree that there could be some limitations placed upon their use, but an out-right ban is excessive.

Once again, we thank FERC for its attention to this matter and for the consideration of our comments. The staff of Indiana Farm Bureau, Inc. is available to discuss these comments or address any questions that the staff of FERC may have.

Respectfully submitted,



Justin Schneider
Staff Attorney
Indiana Farm Bureau, Inc.

Submission Contents

IndianaFBDraftEIS.pdf..... 1-2