

STATE PIPELINE TAXATION

Exaggerated Promises and Future Risks

DO PIPELINES PAY TAXES?

- Yes, they pay property taxes, but property taxes for pipelines are not the same as home property taxes
- Pipeline developers always argue that potential tax revenues justify new pipeline construction
- While tax revenue provides a benefit, data from reports filed by TransCanada Keystone Pipeline, LP, the owner of the Keystone oil pipeline in ND, SD, NE, KS, and MO, indicates that during permitting it substantially overestimated potential tax revenue

HOW DO STATE PIPELINE TAXES WORK?

- State tax assessments are based on statutes, regulations and court decisions that are different in each state
- Generally, states follow standard appraisal methodologies but allow considerable flexibility
- States may grant tax relief before or during a pipeline's operation, and pipeline operators should be expected to lobby and/or sue for such relief

APPRAISAL OF REAL ESTATE, 14TH EDITION

- The standard reference book for property assessment is the Appraisal of Real Estate (ARE), 14th Edition, published by the Appraisal Institute
- The ARE identifies three appraisal methodologies:
 - “Cost” approach
 - “Sales comparison” approach
 - “Income capitalization” approach
- These approaches can produce dramatically different property valuations and tax assessments

COST APPROACH

- Pipeline valuation under this approach is based on replacement cost minus depreciation (wear and tear) plus land value
- One could say this is the book value of a pipeline
- Pipeline companies report a version of this value to the federal government as “net carrier property”

SALES COMPARISON APPROACH

- Based on comparison of the sale amounts of similar properties recently sold in the market
- Used to assess the value of residential homes
- Since pipelines are infrequently sold and each pipeline is an unique asset, this approach is rarely if ever applied to pipelines

INCOME CAPITALIZATION APPROACH

- Assesses value by investigating a pipeline's income earning potential and then estimating what a willing buyer would pay for the pipeline based on this potential
- Assessed amounts may vary based on changing market conditions (*e.g.*, “economic obsolescence) and a pipeline owner's management decisions

State Tax Law Assessment Methodology

- A state's tax law may select one of these approaches or require consideration of both through a weighting process
- Changes in assessment methodology can have dramatic impacts on assessed value and county tax revenue
- States perform the valuation assessment and then calculate a taxable amount for each taxing entity (cities, counties, school districts, etc.)

INTERSTATE PIPELINE VALUATION

- States assess the total value of a pipeline system in all states and then determine how much of that value is resident within the state
- It is necessary to start from the total value of an entire pipeline system in all states, because the “cost” and “income” approaches are based on, respectively, total replacement cost and total income earning potential
- Pipelines are essentially a single very large piece of machinery

NEBRASKA TAX ASSESSMENT

- NRS § 77-801.01(3) states that pipelines are taxed as “public service entities,” which is the same category as electric and natural gas utilities
- NRS § 77-802 generally requires use of the “cost” approach, but a pipeline company may submit a petition to consider other assessment approaches
- NRS § 77-802.01 requires that the State determine the taxable value of a pipeline and assign proportional values to each county, which then include this value on their personal property tax roll and send out tax bills to pipeline companies

MINNESOTA TAX ASSESSMENT

- MAR 8100.0300 includes taxes pipelines as public utilities and allow use of both the “cost” and “income” approaches, with a default 50/50 weighting, but this may be challenged and changed
- MAR 8100.0200 requires the State to assess and MAR 8100.0400 requires it to allocate the value in Minnesota
- MAR 8100.0600 requires the State to apportion the value of the pipeline to counties
- Counties then the provide tax statements to pipeline companies

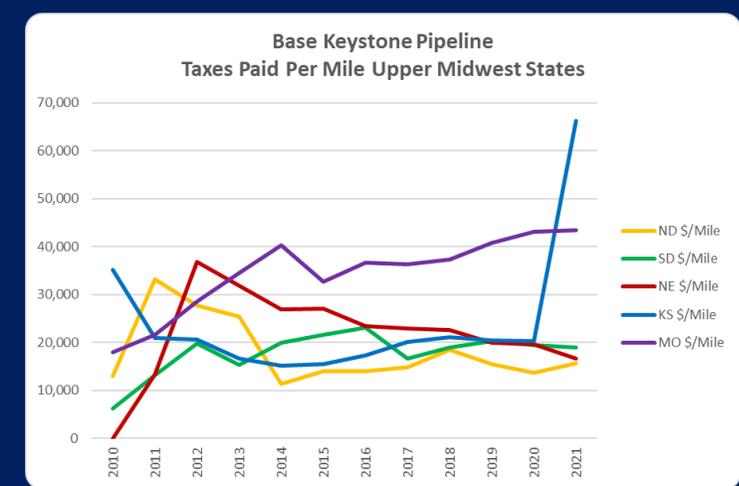
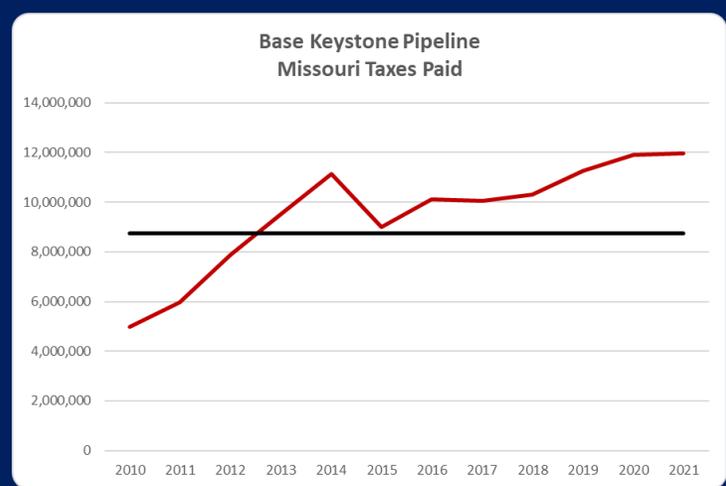
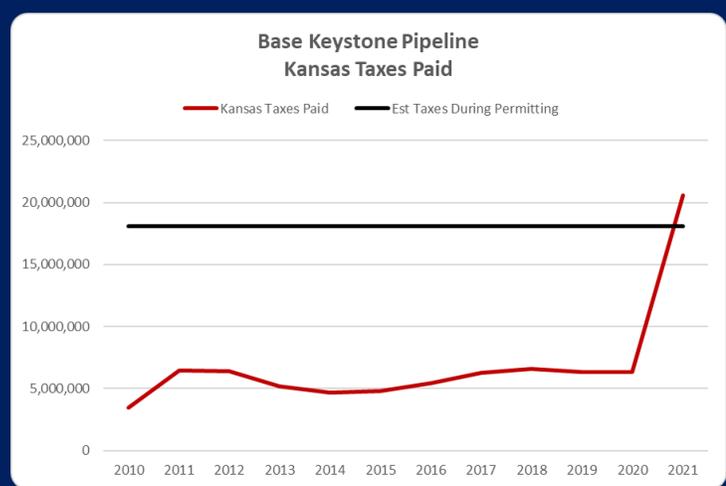
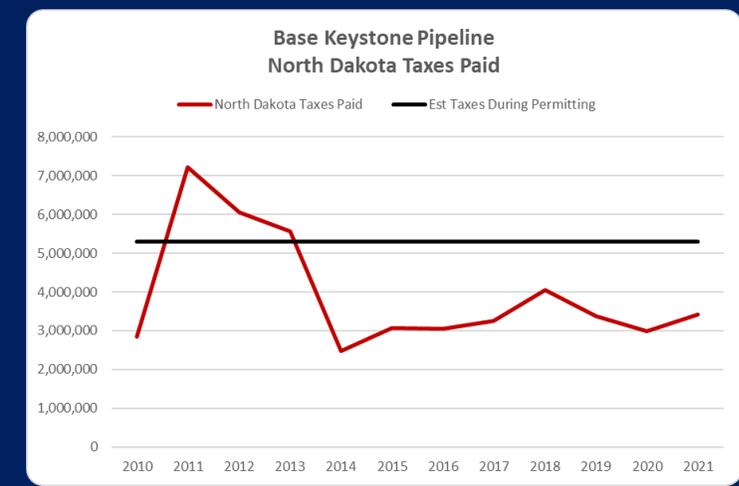
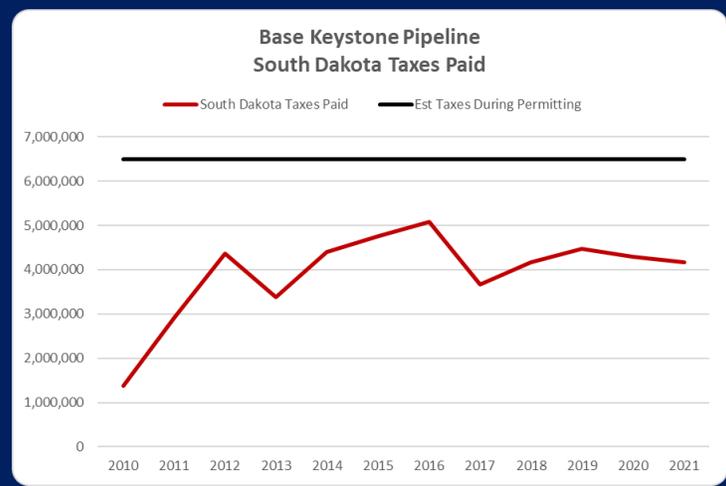
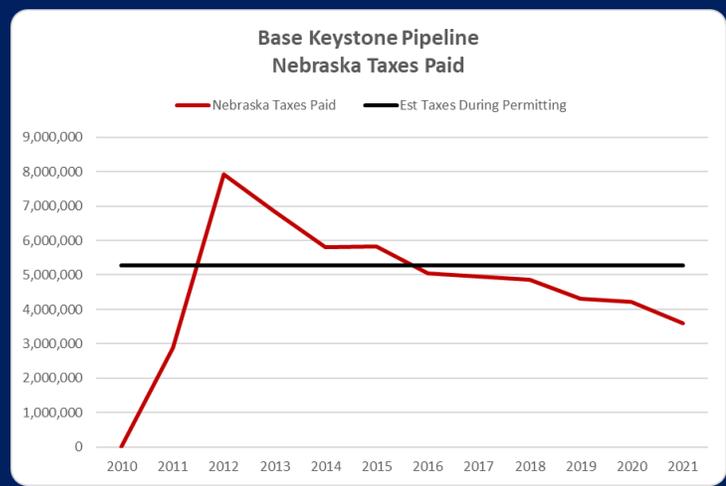
WHAT CAN GO WRONG?

- A pipeline company may challenge the value assessment methodology, and if it is successful the pipeline company may be due a massive refund
 - Enbridge successfully argued for an 20/80 weighting between the “cost” and “income” approaches and was owed tens of millions of dollars by low-population rural counties that would have been bankrupted, so the state government paid the bill
- A state legislature may reduce tax rates for pipelines, which appears to have happened in Kansas and North Dakota

DO PIPELINES PAY AS MUCH IN TAXES AS THE CLAIM DURING PERMITTING?

Keystone Pipeline Tax Payments to Upper Midwest States	Average Annual Taxes Paid 2012-2021	Estimated Annual Taxes from FEIS	Percent Above/Below Estimate
North Dakota	3,728,737	5,296,423	-30%
South Dakota	4,278,832	6,497,301	-34%
Nebraska	5,335,540	5,278,796	1%
Kansas	7,263,412	18,087,394	-60%
Missouri	10,313,286	8,736,001	18%

CHARTS OF KEYSTONE PIPELINE TAX PAYMENTS BY STATE



THANK YOU!

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