



South Dakota drops pipeline protest laws after lawsuit

BY RACHEL FRAZIN - 10/24/19 03:27 PM EDT

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South Dakota has agreed to stop enforcing laws seen as curtailing protests over the construction of oil pipelines after a lawsuit claimed it violated First Amendment rights, according to a settlement announced Thursday.

Legislation signed by South Dakota Gov. Kristi Noem (R) earlier this year allowed the state to sue people or groups for "riot boosting," or encouraging protests where violence eventually occurs, even if the defendant does not participate in rioting. It was passed in anticipation of the construction of the Keystone XL Pipeline.

That led to a lawsuit from the American Civil Liberties Union (ACLU) of South Dakota on behalf of several groups, arguing that it infringed on free speech.

Noem and Attorney General Jason Ravnsborg (R) agreed to a settlement agreeing not to enforce that part of the legislation, which had previously temporarily been blocked by a judge. The settlement had not yet been signed by a judge as of Thursday afternoon.

The governor had included the riot boosting measure as part of a broader set of bills regarding the construction of oil pipelines, calling it "a legislative solution to ensure the safety and efficiency of pipeline construction in South Dakota."

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ACLU Racial Justice Program attorney Stephen Pevar said that the law on riot boosting was "plainly unconstitutional" in a Thursday statement.

"This settlement helps ensure that no one has to fear the government coming after them for exercising their First Amendment right to protest," Pevar said.

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The ACLU suit was brought on behalf of the Sierra Club, NDN Collective, Dakota Rural Action, and the Indigenous Environmental Network.

The ACLU said in its statement that the laws were meant to "prohibit protected speech and are aimed at suppressing protests against the Keystone XL pipeline."

Noem acknowledged the settlement in a [Thursday statement](#).

"If the court approves our agreement, the state can begin work to update crimes that have been on the books since South Dakota became a state. We remain focused on preserving law and order while protecting the right to free speech and peaceful assembly. It's important to note that it is still illegal to riot in South Dakota. No one has the right to incite violence," Noem said.

"My team and I are continuing to work to protect people, property, and the environment, all while making sure the crimes on our books are in line with current constitutional law," she added.

Environmental and Native American groups have opposed the construction of oil pipelines, contending that they can run through tribal lands and questioning its possible environmental impacts.

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