

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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WASHINGTON, DC 20515-6301

(202) 225-6371
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February 13, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy,

The Committee on Science, Space, and Technology is conducting oversight of the integrity, accuracy, and independence of comments provided by the Environmental Protection Agency (EPA) to the Department of State. As part of this oversight, I am writing to request documents and information relating to the letter EPA sent the Department on February 2, 2015, regarding the Final Supplemental Environmental Impact Statement (“Final SEIS”) for the Keystone XL Project.¹

EPA’s letter raises concerns regarding the integrity of its analysis of the Final SEIS and the agency’s independence. In its letter, EPA argues that the recent decline in the price of oil is sufficient to call into question the State Department’s assessment, which concluded that the Keystone XL Pipeline will not impact development of the Canadian oil sands or demand for oil at refineries in the United States.² Instead, EPA concludes that one pipeline will “result in increased oil sands production, and the accompanying greenhouse gas emissions, over what would otherwise occur.”³ The State Department’s final SEIS, however, clearly anticipates volatility in oil prices,⁴ but EPA chose to ignore this analysis without adequate justification. Indeed, the Canadian Ambassador to the U.S. described EPA’s letter as including “significant distortion and omission” in a letter to the Secretary of State.⁵

¹ See Letter from EPA Assistant Administrator Cynthia Giles to Special Envoy Amos Hochstein and Acting Assistant Secretary of State Judith Garber, February 2, 2015, [hereinafter, Giles Letter].

² Final SEIS Executive Summary, p. ES-16.

³ Giles Letter, p. 3.

⁴ “Oil prices are volatile, particularly over the short-term. In addition, long-term trends, which drive investment decisions, are difficult to predict. Specific supply cost thresholds, Canadian production growth forecasts, and the amount of new capacity needed to meet them are uncertain. As a result, the price threshold above which pipeline constraints are likely to have a limited impact on future production levels could change if supply costs or production expectations prove different than estimated in this analysis.” Final SEIS Executive Summary, p. ES-13.

⁵ Luiza Ch. Savage, *Harper Government Sends Terse Note on Keystone*, MACLEANS, Feb. 11, 2015, available at <http://www.macleans.ca/politics/washington/harper-government-sends-terse-note-on-keystone/>.

EPA's letter appears to be an attempt to provide cover for the President's continuing opposition to the Keystone XL Project despite its overwhelming public support and multiple reviews. According to news reports, the EPA's letter is an "important twist" regarding whether the Keystone XL pipeline will gain approval from the government.⁶ The *Los Angeles Times* reported that the "EPA gives Obama new reason to reject Keystone pipeline: low oil prices."⁷ President Obama has reportedly stated several times since 2013 that he will reject the Keystone XL pipeline if it would "significantly exacerbate" the problem of carbon pollution.⁸ Moreover, environmental groups who oppose the pipeline appear to find the EPA's letter significant because they believe it will likely result in the pipeline being rejected.⁹

Given the Committee's responsibility to ensure the adherence to sound science and objective analysis, greater detail about how the EPA came to these conclusions is warranted.¹⁰ In order to assist the Committee with its oversight, please produce the following documents, in electronic format:

1. All documents and communications, internal and external, referring or relating to the EPA's February 2, 2015, letter to the State Department, including but not limited to communication between or among individuals at EPA, Executive Office of President, other federal agencies and outside organizations. Please include all e-mail, text messages, logs of telephone conversations, telephone records, meeting notes, memoranda, and other documents.
2. All documents and communications referring or relating to any causal link between short-term fluctuations in the global price of oil and the likelihood of future oil sands development, including all assumptions used in modeling forecasts of global oil markets over the anticipated 50-year lifetime of the project and beyond.
3. All documents and communications referring or relating to the Nebraska court case referred to in EPA's February 2, 2015 letter to the State Department.

⁶ Ben German, *EPA Questions Finding of Limited Climate Impact of Keystone XL*, NAT'L JOURNAL, Feb. 3, 2015, available at <http://www.nationaljournal.com/energy/epa-questions-finding-of-limited-climate-impact-of-keystone-xl-20150203>.

⁷ Evan Halper, *EPA Gives Obama New Reason to Reject Keystone Pipeline: Low Oil Prices*, L.A. TIMES, Feb. 3, 2015, available at <http://www.latimes.com/nation/la-na-epa-keystone-pipeline-oil-prices-20150203-story.html>.

⁸ Amy Harder, *EPA Says Low Oil Prices Should Be Weighed In Keystone Decision*, THE WALL STREET JOURNAL, Feb. 3, 2015, available at <http://www.wsj.com/articles/epa-says-low-oil-prices-should-be-weighed-in-keystone-decision-1422992571>.

⁹ See Coral Davenport, *EPA Says Pipeline Could Spur Emission*, N.Y. TIMES, Feb. 3, 2015, available at <http://www.nytimes.com/2015/02/04/us/politics/epa-review-of-keystone-pipeline-notes-potential-rise-in-greenhouse-gases.html>.

¹⁰ The Science Committee has jurisdiction over the core technical and scientific issues underpinning the proposed project. The Committee's authority includes: all energy research, development and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories; environmental research and development; and, the commercial application of energy technology. House Rule X(1)(p).

Additionally, I request the EPA make the following individuals available for transcribed interviews:

1. Cynthia Giles, Assistant Administrator, Office of Enforcement and Compliance Assurance
2. Joe Goffman, Associate Assistant Administrator & Senior Counsel
3. Shannon Kenny, Principal Deputy Associate Administrator, Office of Policy
4. Susan Bromm, Director, Office of Federal Activities

In addition, the Committee requests that you designate officials within the EPA to provide a briefing to the Committee staff on or before 5:00 p.m. on Friday, February 20, 2015.

We request that you provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on Friday, February 27, 2015. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Rachel Jones of the Committee Staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Lamar Smith
Chairman

cc: The Honorable Eddie Bernice Johnson, Ranking Minority Member