

**U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY  
SUBCOMMITTEE ON ENVIRONMENT  
SUBCOMMITTEE ON ENERGY**

**HEARING CHARTER**

***Keystone XL Pipeline: Examining Scientific and Environmental Issues***

Tuesday, May 7, 2013  
10:00 a.m. – 12:00 p.m.  
2318 Rayburn House Office Building

**PURPOSE**

On Tuesday, May 7 at 10:00 a.m. in Room 2318 of the Rayburn House Office Building, the Subcommittee on Environment and the Subcommittee on Energy of the Committee on Science, Space and Technology will hold a hearing entitled *Keystone XL Pipeline: Examining Scientific and Environmental Issues*. The purpose of this hearing is to examine the scientific and environmental aspects of the Keystone XL Pipeline, with a focus on the State Department's recently released Supplemental Draft Environmental Impact Statement.

**WITNESS LIST**

- **Mr. Lynn Helms**, Director, Department of Mineral Resources, North Dakota Industrial Commission
- **Mr. Brigham A. McCown**, Principal and Managing Director, United Transportation Advisors LLC
- **Mr. Anthony Swift**, Attorney, International Program, Natural Resources Defense Council
- **Mr. Paul “Chip” Knappenberger**, Assistant Director, Center for the Study of Science, Cato Institute

**BACKGROUND**

*History*

In 2008, TransCanada announced the Keystone XL pipeline expansion project, which would deliver Canadian oil sands to the Texas Gulf Coast refining complex in Nederland, Texas. The proposed project is 875 miles long, and would allow the transport of up to 830,000 barrels per day of crude oil from Alberta and the Bakken shale.<sup>1</sup> Because the proposed project crosses an

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<sup>1</sup> U.S. Department of State, Executive Summary--Draft Supplemental Environmental Impact Statement, Keystone XL Project. Accessible at: <http://keystonepipeline-xl.state.gov/draftseis/index.htm>

international boundary, it is subject to the requirements of Executive Order 13337<sup>2</sup>, which requires the Secretary of State to determine if a project is in the “national interest” before a Presidential Permit can be granted.

The TransCanada Corporation submitted an application for the Presidential Permit in September 2008, and the State Department conducted an extensive environmental review called an Environmental Impact Statement (EIS). In April 2010, the State Department’s draft EIS was released, which found that the project would have “no significant impacts to most resources along the proposed route”.<sup>3</sup> The Department took public comment on the draft EIS, and released a final version in August 2011, which supported approval of the project.

However, in January 2012, President Obama announced that he would reject the construction of the pipeline in its current form, calling for a “full assessment of the pipeline’s impact, especially the health and safety of the American people, as well as our environment.”<sup>4</sup> The following month, TransCanada announced it would split the pipeline into two projects, and proceeded with plans to construct the Southern segment from Cushing, Oklahoma to the Gulf Coast, referred to as the Gulf Coast Project. In May 2012, TransCanada submitted a new Presidential Permit Application for the remaining international half of the pipeline, from the Canadian border to Steele City, Nebraska.<sup>5</sup>

#### *Re-Route*

The Presidential Permit application submitted in May 2012 included a new route through Nebraska that avoided the ecologically sensitive Sand Hills region and alleviated concerns regarding the Ogallala aquifer.<sup>6</sup> The Nebraska Department of Environmental Quality conducted an analysis of the new route, and concluded that the pipeline could be built and operated safely. The State of Nebraska approved the revised route in January of this year, and Governor Dave Heineman sent a letter to President Obama and Secretary Clinton that summarized the findings of the DEQ report and expressed this approval.<sup>7</sup>

#### *Current Status*

On March 1<sup>st</sup>, the State Department released its Draft Supplemental Environmental Impact Statement (SEIS), which built and expanded on the 2011 Final Environmental Impact Statement and included analysis of the new route through Nebraska.<sup>8</sup> The expanded analysis considered economic effects, impacts from potential releases or spills, impacts related to climate change, and cumulative effects from the proposed project in combination with other projects. The State Department also re-examined and expanded evaluation of project alternatives,

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<sup>2</sup> <http://www.gpo.gov/fdsys/pkg/WCPD-2004-05-10/pdf/WCPD-2004-05-10-Pg723.pdf>

<sup>3</sup> U.S. Department of State, Final Draft Environmental Impact Statement, Section 3.15 Environmental Analysis, Summary of Findings. Accessible at: <http://keystonepipeline-xl.state.gov/documents/organization/182070.pdf>

<sup>4</sup> Statement by the President on the Keystone XL Pipeline, January 18, 2012. Accessible at:

<http://www.whitehouse.gov/the-press-office/2012/01/18/statement-president-keystone-xl-pipeline>

<sup>5</sup> TransCanada Keystone XL Timeline, Accessible at:

[http://www.transcanada.com/social/responsibility/2011/keystone\\_xl/timeline/](http://www.transcanada.com/social/responsibility/2011/keystone_xl/timeline/)

<sup>6</sup> New Keystone XL Pipeline Application: <http://www.keystonepipeline-xl.state.gov/>

<sup>7</sup> Letter from Governor Dave Heineman to President Barack Obama, Secretary Hillary Rodham Clinton, January 22, 2013. Accessible at: [http://www.governor.nebraska.gov/news/2013/01/docs/0122\\_Pipeline\\_Approval.pdf](http://www.governor.nebraska.gov/news/2013/01/docs/0122_Pipeline_Approval.pdf)

<sup>8</sup> <http://www.state.gov/r/pa/prs/ps/2013/03/205548.htm>

including other possibilities for crude oil transport such as rail. The release of the SEIS was noticed in the Federal Register on March 27<sup>th</sup>, which specified that the 45 day public comment period began on March 8<sup>th</sup>.<sup>9</sup>

Several key findings from the Draft SEIS:

- **Environmental Impacts:** “The analyses of potential impacts associated with construction and normal operation of the proposed Project suggest that there would be no significant impacts to most resources along the proposed Project route [assuming Keystone complies with all laws and required conditions and measures].”
- **Market Analysis:** “The 2011 FEIS concluded that the project is unlikely to significantly affect the rates of extraction in the oil sands or in US refining activities. Changes in the petroleum markets since 2011 are not anticipated to alter the outlook for the crude oil market in a manner that would lead to a change in the key conclusions reached in the 2011 FEIS.”
- **Potential Releases:** “Comparison of incident data from Alberta pipeline systems with data from U.S. pipeline systems indicates that Alberta pipelines that have likely shipped diluted bitumen (dilbit), synthetic crude oil (SCO), or Bakken shale oil are not more prone to failure than other pipeline systems carrying conventional crude oils.”
- **Indirect Cumulative Impacts and Life-Cycle GHG Emissions:** “It is unlikely that the proposed Project construction would have a substantial impact on the rate of WCSB [Western Canada Sedimentary Basin] oil sands development. Even when considering the incremental cost of non-pipeline transport options, should the proposed Project be denied, a 0.4 to 0.6 percent reduction in WCSB production could occur by 2030, and should both the proposed Project and all other proposed pipeline projects not be built, a 2 to 4 percent decrease in WCSB oil sands production could occur by 2030.”
- **No Action Alternative:** “Given that production of WCSB and Bakken crude oil will proceed with or without the proposed Project, the denial of a Presidential Permit would likely result in actions by other firms in the United States (and global) petroleum market, such as use of alternative modes to transport WCSB and Bakken crude oil.”

On April 22<sup>nd</sup>, the public comment period on the Draft SEIS closed, and the State Department will now review the comments and make revisions before publishing a final SEIS.<sup>10</sup> After publication of the final document, the State Department will consult with other agencies before determining whether or not issuing a Presidential Permit is in the national interest. This decision, referred to as the National Interest Determination (NID), requires consideration of many factors, including energy security, environmental, cultural, and economic impacts, foreign policy, and compliance with federal regulations. The Department has stated it intends to provide additional opportunity for public comment during the NID period.

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<sup>9</sup> Federal Register Volume 78, Number 59, Wednesday, March 27, 2013. Accessible at: <http://www.gpo.gov/fdsys/pkg/FR-2013-03-27/html/2013-07072.htm>

<sup>10</sup> U.S. Department of State, Keystone XL Pipeline Project, Project Information. Accessible at: <http://www.keystonepipeline-xl.state.gov/>

Following the National Interest Determination, EO 13337 requires the Secretary of State to issue or deny the permit in accordance with the NID, unless notified by another cabinet official that they disagree with the proposed determination and request the Secretary to refer the application to the President. In the event of such a disagreement, the Secretary of State is required to consult with the official who expressed it, and refer the application to the President for consideration and a final decision.<sup>11</sup>

**Additional Reading:**

- U.S. Department of State, Executive Summary—Draft Supplemental Environmental Impact Statement for the Keystone XL Project, March 2013. Accessible at: <http://keystonepipeline-xl.state.gov/documents/organization/205719.pdf>
- IHS CERA, The Role of the Canadian Oil Sands in the U.S. Market: Energy Security, Changing Supply Trends, and the Keystone XL Pipeline, Special Report. Accessible at: <http://a1024.g.akamai.net/f/1024/13859/1d/ihsgroup.download.akamai.com/13859/ihs/cera/The-Role-of-the-Canadian-Oils-Sands-in-the-US-Market.pdf>
- Keystone XL Timeline: See Appendix 1.

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<sup>11</sup> <http://www.gpo.gov/fdsys/pkg/FR-2004-05-05/pdf/04-10378.pdf>

## Appendix 1. Keystone XL Timeline<sup>12</sup>

- **September 19, 2008:** TransCanada submits an application to the State Department for a Presidential Permit for the Keystone XL pipeline. The State Department announced it will conduct an Environmental Impact Statement (EIS).
- **January –June 2009:** The State Department conducts 20 “scoping” meetings in communities along the proposed route to explore issues to be examined in the EIS, and consults with federal and state agencies and Native American tribes impacted by the pipeline.
- **April 2010:** The State Department issues its Draft Environmental Impact Statement, and opens a 45 day public comment period, which will later be extended. The Draft EIS finds that the project would have “limited adverse environmental impacts during both construction and operation.”
- **April-September 2010:** The State Department solicits comments on the proposed project, and twice extends the public comment period on the Draft EIS.
- **October 2010:** When asked, Secretary of State Clinton says we [State Department] are “inclined to approve” the Keystone XL project.
- **January 2011:** TransCanada agrees to 57 additional safety features requested by the State Department and the Pipeline and Hazardous Materials Safety Administration relating to the construction, operation, and design of the pipeline.
- **April 2011:** The State Department releases a Supplemental Draft EIS, which it notes “does not alter the conclusions” of the draft issued a year previous.
- **April-June 2011:** Public comment period for the Supplemental Draft EIS
- **August 2011:** The State Department releases its Final EIS, which supports moving forward with the pipeline. It also opens a 90 day review period.
- **August-October 2011:** The State Department conducts its National Interest Determination, and solicits public comment and holds meetings in six states and the District of Columbia.
- **November 2011:** The State Department suspends the permitted process for Keystone XL until the re-route to avoid the Sand Hills region in Nebraska is complete. TransCanada works with the state of Nebraska to identify an alternative route, and Nebraska codifies a

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<sup>12</sup> Information included in this timeline was gathered from several sources and existing timelines. Sources include timelines from the State Department, the Congressional Research Service, the Heritage Foundation, and TransCanada.

process for approval of the route, which involved the state's Department of Environmental Quality.

- **December 2011:** The House and Senate approve and the President signs the payroll tax bill, which requires the President approve or deny the Keystone XL permit within 60 days.
- **January 2012:** In response to the 60 day requirement included in PL.112-78, President Obama announces he will not approve the construction of the Keystone XL Pipeline in its current form, but will allow TransCanada to re-apply for a Presidential Permit.
- **February 2012:** TransCanada announces it is dividing the Keystone XL project into two parts. The lower half of the project, from Cushing, Oklahoma, to the Gulf, does not cross an international border and thus does not require an international permit.
- **March 2012:** President Obama states his support for the Gulf Coast Project and that he will expedite the permitting.
  - Construction of the Gulf Coast Project proceeds.
- **April 2012:** TransCanada submits a re-route of the pipeline to the state of Nebraska for review.
- **May 2012:** TransCanada submits a new Presidential Permit application to the State Department for the Keystone XL pipeline project running from the U.S.-Canada border in Montana to Steele City, Nebraska.
- **June 2012:** The State Department publishes a Notice of Intent to prepare a Supplemental EIS for the second Keystone XL Presidential Permit application.
- **January 2013:** Governor Dave Heineman gives notice of Nebraska's approval of the reroute through Nebraska.
- **March 2013:** The State Department issues its draft Supplemental EIS (SEIS) for the Keystone XL permit application, which includes the re-route through Nebraska. The findings in the SEIS build upon and largely confirm those in the FEIS issued in August of 2011.
  - **March 8-April 22<sup>nd</sup>:** 45 day public comment period on the SEIS.