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Unnecessary Keystone XL Pipeline Delay Obstructs Energy, Jobs

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Abstract: *The Obama Administration has announced that it will delay the decision to approve or reject construction of the proposed Keystone XL oil pipeline until after the presidential election in 2012. The pipeline would carry oil from Canada to U.S. refineries on the Gulf Coast—creating jobs, supplying energy from a secure and friendly source, and spurring much-needed economic growth. The State Department has thoroughly studied potential environmental impacts of the Keystone pipeline, and found minimal risk to soil, water, air, and animal life. Still, environmentalists oppose construction of the pipeline in force. Congress should reject unrealistic claims and authorize construction of the pipeline.*

The Obama Administration announced in November that it would neither approve nor reject the construction of the Keystone XL pipeline, which would provide Americans with an abundant and secure supply of oil, until after the 2012 presidential election. The pipeline, which would be built by TransCanada, would connect a major oil production region in Canada to American Gulf Coast refineries. The permit proposal to build the pipeline pits two of President Barack Obama's largest constituent groups against each other. Environmental activists oppose the construction, arguing that extracting oil from Canada's tar sands, where dense petroleum is buried in a mixture of sand, clay, and water, is harmful to the environment. Labor unions, which would stand to benefit from the

Talking Points

- The Obama Administration announced that it would neither approve nor reject construction of the Keystone XL pipeline—which would transport 700,000 barrels of oil per day from Canada to refineries in Texas, and give a major boost to the U.S. economy—until after the 2012 presidential election.
- The Keystone project pits two of President Obama's largest constituent groups against each other. Environmentalists argue that extracting oil from Canada's tar sands is harmful to the environment; labor unions, which stand to benefit from jobs created by construction of the 1,700-mile pipeline, are pushing for approval.
- The U.S. State Department conducted a three-year environmental review and concluded that the pipeline poses few environmental risks. The State Department, Nebraska officials, and TransCanada, the pipeline firm, even agreed to reroute the pipeline path in Nebraska to avoid an aquifer.
- Congress should authorize the Keystone project—allowing pipeline construction and job creation to begin immediately.

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jobs created by construction of the 1,700-mile-long pipeline, are pushing for approval. Executive Order 13337 states that because the project crosses the U.S. border, TransCanada must submit an application to the U.S. Department of State, with final approval coming from the President.[1] Instead of moving forward with this pro-jobs project, President Obama called for an additional environmental review—to examine the reroute of the pipeline path around a Nebraskan water aquifer.

Since TransCanada and Nebraska politicians have agreed to reroute the pipeline, the focus should now be on completing the reroute design and beginning construction. Congress should recognize the findings in the State Department's "Final Environmental Impact Statement" (which found that the pipeline poses minimal environmental risk),[2] and authorize the application submitted by TransCanada on September 19, 2008. The state of Nebraska can handle the environmental review of the reroute, the path of which does not go beyond state borders.

Energy, Jobs, Revenue

The construction of the Keystone XL pipeline would deliver an additional 700,000 to 830,000 barrels of oil per day to the U.S. from Canada, the U.S.'s largest supplier of oil.[3] Not only is the delay preventing additional imports from Canada, it is also preventing the creation of thousands of private-sector jobs. Building the pipeline would directly create 20,000 truly shovel-ready jobs; the Canadian Energy Research Institute estimates that current pipeline operations and the addition of the Keystone XL pipeline would create 179,000 American jobs by 2035.[4]

Recognizing the need for more energy supply and more jobs, both Democrats and Republicans expressed support for the Keystone XL pipeline, a $20 billion private-infrastructure investment in the United States. The states through which the pipeline would pass—Montana, South Dakota, Nebraska, Kansas, Oklahoma, and Texas—would benefit greatly. The six states are collectively projected to receive $5.2 billion in property taxes from TransCanada in the course of the 100-year operating life of the pipeline.[5]

If Not America, Then Asia

Delaying or even rejecting the construction of the Keystone XL pipeline will not achieve the environmentalists' goal—to shut down Canadian tar sands production itself. Whether the pipeline crosses through the U.S. or not, the oil from Canadian tar sands is not staying in the ground. Canadian Prime Minister Stephen Harper told President Obama that while the U.S. delays its decision, Canada will begin diversifying by shipping its oil to Asian markets. Harper said of the delay: "This highlights why Canada must increase its efforts to ensure it can supply its energy outside the U.S. and into Asia in particu-

1. Executive Order 13337 designates the Secretary of State to receive applications for "the construction, connection, operation, or maintenance, at the borders of the United States, of facilities for the exportation or importation of petroleum, petroleum products, coal, or other fuels to or from a foreign country." Executive Order 13337 of April 30, 2004, "Issuance of Permits with Respect to Certain Energy-Related Facilities and Land Transportation Crossings on the International Boundaries of the United States," *Federal Register* Vol. 69, No. 87 (May 5, 2004), at *http://edocket.access.gpo.gov/2004/pdf/04-10378.pdf* (December 8, 2011).
2. U.S. Department of State, "Final Environmental Impact Statement," August 26, 2011, at *http://www.state.gov/r/pa/prs/ps/2011/08/171084.htm* (December 8, 2011).
3. U.S. Energy Information Administration, "Crude Oil and Total Petroleum Imports Top 15 Countries," November 29, 2011, at *http://www.eia.gov/pub/oil_gas/petroleum/data_publications/company_level_imports/current/import.html* (December 8, 2011).
4. Afshin Honarvar *et al.*, "Economic Impacts of New Oil Sands Projects in Alberta (2010–2035)," Canadian Energy Research Institute (CERI), June 2011, at *http://www.ceri.ca/images/stories/2011-08-24_CERI_Study_125_Section_1.pdf* (December 8, 2011).
5. The Perryman Group, "The Impact of Developing the Keystone XL Pipeline Project on Business Activity in the US," 2010, p. 24, at *http://www.perrymangroup.com/reports/TransCanada.pdf* (December 9, 2011).

lar. Canada will step up its efforts in that regard and I communicated that clearly to the President."[6]

With China's rapid economic growth, it is no surprise that that country would welcome the opportunity to import more oil from Canada.[7] In fact, Canadian Natural Resource Minister Joe Oliver said that China was "very eager" to import oil from Canada. In addition, Enbridge, another Canadian company, is proposing to build a pipeline from Alberta to British Columbia to ship the oil to refineries in China. From an environmental standpoint, this means that Canada will ship the oil overseas in tankers, a much less efficient method of transporting oil. It also means that China will refine the oil in refineries that are subject to fewer regulations than those in the United States—causing more, not less, environmental harm than if the pipeline were built in the U.S. Furthermore, the U.S. will have to import more oil via tankers from overseas, or carry crude oil from Canada in trucks or rails. The pipeline would also support the dramatic increase in oil production in North Dakota, where pipeline infrastructure is lacking.[8] Shutting down the Keystone XL pipeline project means that the environment—and Americans who would benefit from jobs and economic growth—lose out.

Is a Reroute Necessary?

TransCanada said it would work with the state of Nebraska and the U.S. State Department to examine the path of the pipeline reroute despite the fact the State Department has already conducted a thorough environmental review and concluded that the pipeline poses minimal environmental risk to soil, wetlands, water resources, vegetation, fish, and wildlife, and creates few greenhouse-gas emissions. Keystone XL also met 57 specific pipeline safety standard requirements created by the State Department and the Pipeline and Hazardous Materials Safety Administration (PHMSA).

Much of the concern of environmentalists and Nebraska residents has focused on the original route of the pipeline, particularly the area where the pipeline crosses the Ogallala Aquifer—despite the fact that thousands of miles of pipeline already cross the aquifer.[9] In its "Final Environmental Impact Statement," the State Department studied the pipeline's potential for contaminating groundwater in the entire aquifer system, as well as for 200 public water-supply wells within one mile of the centerline of the pipeline, and for 40 private wells within 100 feet of the centerline of the pipeline, none of which is a sole or principal source of drinking water. The impact statement rated the potential for water contamination as minimal and contained in a limited area.

Oil contamination of drinking water would not be likely in many instances because the soil composition prevents or mitigates the downward migration of oil. The Keystone XL pipeline will be equipped with thousands of sensors to monitor pressure and detect leaks, and will have additional safety systems to prevent a major oil spill. Additionally, in areas where a water table is near land surface, TransCanada will add a waterproof coating and cement casing to the piping. The State Department also notes that "In no spill incident scenario would the entire Northern High Plains Aquifer system [of which the Ogallala Aquifer is a part] be adversely affected."[10] The State Department has already worked with the Bureau of Land Management and state agencies to

6. Rob Gilles, "Canada Steps Up US Pipeline Lobbying Efforts," Associated Press, November 14, 2011, at *http://articles.boston.com/2011-11-14/news/30398174_1_oil-pipeline-keystone-xl-oil-sands* (December 8, 2011).
7. *Ibid.*
8. Energy Information Administration, "Rail Delivery of Crude Oil and Petroleum Products Rising," November 16, 2011, at *http://www.eia.gov/todayinenergy/detail.cfm?id=3930* (December 8, 2011).
9. Nebraska Keystone XL Pipeline, "Ogallala Aquifer and Existing Pipeline Map," at *http://www.keystonexlnebraska.com/resources/2011/09/Ogallala_Aquifer_Map.pdf* (December 8, 2011).
10. U.S. Department of State, "Final Environmental Impact Statement for the Proposed Keystone XL Project," Executive Summary, August 26, 2011, at *http://www.keystonepipeline-xl.state.gov/clientsite/keystonexl.nsf/03_KXL_FEIS_Executive_Summary.pdf?OpenFileResource* (December 8, 2011).

negotiate more than 340 minor route variations to address environmental concerns.[11]

Carbon Dioxide, Endangered Species Already Addressed

In order to generate more opposition to pipeline construction, environmental activists latched on to some Nebraskans' concerns over the pipeline's crossing the aquifer; but no number of reroutes will satisfy the environmentalists who want to see the pipeline permit application rejected. Two of the issues on which radical environmentalists are focusing in an attempt to prevent pipeline construction are allegedly increased carbon dioxide emissions (from extracting and producing oil from Canada's tar sands) and supposed threats to endangered species (from the pipeline construction).

In that vein, NASA scientist James Hansen claims that "exploitation of tar sands would make it implausible to stabilize climate and avoid disastrous global climate impacts."[12] But the State Department's impact statement did not draw any such conclusion from two thorough studies on increases in greenhouse gas emissions as a result of extracting and producing oil from Canada's tar sands.[13]

Environmental groups are also challenging the U.S. Fish and Wildlife Service's (USFWS) conclusion that the Keystone XL pipeline is "not likely to adversely affect" endangered species. The State Department and the USFWS face litigation in U.S. courts brought by environmental groups on the grounds that the pipeline would harm the American burying beetle. Of course, State and the USFWS already studied the environmental effects on this species and 11 others. The agencies recognized that construction of the pipeline would directly impact the American burying beetle, so

> conservation measures were developed that include Keystone providing funding for conservation efforts and monitoring of American burying beetle habitat restoration, and the establishment of a performance bond for supplemental habitat reclamation if initial reclamation efforts are unsuccessful.[14]

Fast-Track Approval

In July, the House of Representatives passed the North American-Made Energy Security Act (H.R. 1938) that would have forced the Administration to make a decision on the Keystone XL pipeline by November 1, 2011, stating that

> There has been more than 2 years of consideration and a coordinated review by more than a dozen Federal agencies of the technical aspects and of the environmental, social, and economic impacts of the proposed pipeline project known as the Keystone XL from Hardisty, Alberta, to Steele City, Nebraska, and then on to the United States Gulf Coast through Cushing, Oklahoma.[15]

The Senate never passed companion legislation, and the Administration dismissed the House bill as unnecessary, claiming it would announce a decision by the end of the year. Both the House of

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11. *Ibid.*
12. James Hansen, "Silence is Deadly," Columbia University paper, June 3, 2011, at *http://www.columbia.edu/~jeh1/mailings/2011/20110603_SilenceIsDeadly.pdf* (December 8, 2011).
13. From U.S. Department of State, "Final Environmental Impact Statement for the Proposed Keystone XL Project": "Department of Energy's National Environmental Technology Lab (NETL) study indicated that the life-cycle greenhouse gas emissions of gasoline produced from Canadian oil sands crude are approximately 17 percent higher than gasoline from the 2005 average mix of crude oil consumed in the U.S. The NETL study serves as a key input for analyses conducted by EPA and DOE. In comparison, a study conducted by TIAX, LLC, found that the greenhouse gas emissions from gasoline produced from Canadian oil sands crude are only 2 percent higher when compared to gasoline from Venezuelan heavy crude, a type of crude oil that is similar to the crude oil that would be transported by the proposed Project and is currently refined in large quantities by Gulf Coast refineries."
14. *Ibid.*
15. H.R. 1938: North American-Made Energy Security Act, 112th Congress, 2011–2012, at *http://www.govtrack.us/congress/bill.xpd?bill=h112-1938* (December 8, 2011).

Representatives and the Senate are now considering legislation to fast-track a decision on Keystone.[16] A simple, effective approach would be for Congress to authorize the pipeline application as submitted by TransCanada pursuant to its authority to regulate commerce with other nations. Since there is no federal entity that sites and authorizes interstate petroleum pipeline construction, the state of Nebraska could site and approve an alternative route, following the Pipeline and Hazardous Materials Safety Administration's construction codes.

Don't Delay–Act Now

The construction of the Keystone pipeline means thousands of jobs and more energy from a friendly supplier with minimal environmental impact. Congress should approve the construction of the pipeline, which would allow state agencies to address any routing concerns. As for President Obama, delaying any Keystone XL pipeline verdict until after next year's election may be a smart political move. But for a country struggling to create jobs and meet energy demands, it is not a suitable decision.

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16. Senator Richard Lugar (R–IN) introduced a bill (S. 1932) that recognizes and accepts the extensive environmental review that the State Department conducted on the pipeline and the national interest in increasing jobs and increasing access to Canadian oil. The North American-Made Energy Security Act would require the State Department to issue a permit within 60 days of passage unless the President determines that the pipeline is not in the United States' national interest. The permit approval would require the reconsideration of the pipeline's route in Nebraska and provides time to review the route without delaying construction of the pipeline elsewhere. The governor of Nebraska would then submit the approved route to the Administration for approval, upon which the President has 10 days to approve or reject it. Failure on the part of the President to make a decision within 10 days, will count as approval. Representative Lee Terry (R–NE) introduced legislation (H.R. 3548) that would move the final permit approval from the Department of State and the White House, instead requiring the Federal Energy Regulatory Commission (FERC), which traditionally handles gas pipelines, to approve a TransCanada application consistent with the route determined in the State Department's "Final Environmental Impact Statement," with the exception of the Nebraska reroute, within 30 days. Pipeline construction could commence immediately after approval. The Nebraska Department of Environmental Quality would conduct an environmental review of the rerouted section, and, once approved by Nebraska's governor, FERC would have 30 days to approve the reroute.