



# THE COMMITTEE ON ENERGY AND COMMERCE

## MEMORANDUM

September 17, 2013

To: Members of the Subcommittee on Commerce, Manufacturing, and Trade  
From: Majority Committee Staff  
Re: Hearing on “Keystone’s Red Tape Anniversary: Five Years of Bureaucratic Delay and Economic Benefits Denied”

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### I. Summary

The Subcommittee on Commerce, Manufacturing, and Trade will hold an oversight hearing on “Keystone’s Red Tape Anniversary: Five Years of Bureaucratic Delay and Economic Benefits Denied” on Thursday, September 19, 2013, at 10:15 a.m. in 2322 Rayburn House Office Building. Witnesses are by invitation only.

### II. Witnesses

#### Panel I

*The Honorable Steve Daines*, Member of Congress

*The Honorable Ted Poe*, Member of Congress

*The Honorable John Hoeven*, Member of Senate

#### Panel II

*David Delie*, President, Welspun Tubular LLC

*The Honorable Karen Harbert*, President & CEO, Institute for 21<sup>st</sup> Century Energy,  
U.S. Chamber of Commerce

*Dennis Houston*, President and CEO, Norfolk Area Chamber of Commerce

*Ron Kaminski*, Business Manager, Laborers Local 1140

*Lucian Pugliaresi*, President, Energy Policy Research Foundation

*Jane Fleming Kleeb*, Executive Director, Bold Nebraska

*Anthony Swift*, Attorney, International Program, Natural Resources Defense Council

### III. Background

The Alberta oil sands region contains established reserves of crude bitumen that place it third behind Saudi Arabia and Venezuela.<sup>1</sup> According to a 2013 report by the Canadian Energy Research Institute, the 2012 growth of the oil sands project led to increased production to 1.7 million barrels per day of crude bitumen and a financial boost to the Alberta government of \$4.5 billion.<sup>2</sup> Both of these numbers highlight the promise of the Keystone pipeline: economic growth and national security through development and transportation of a secure, stable energy source from our nearby ally.

#### *The Keystone Pipeline System*

The Keystone Pipeline System consists of four construction phases, the first three of which are already either operational or under construction, traversing 1,817 miles in the U.S. The first phase, the Keystone Pipeline, carries oil from Hardisty, Alberta to Pakota and Wood River, Illinois, stretching over 1,084 miles of U.S. land and began operating in 2010. The second phase, the Keystone Cushing Extension, extended the pipeline 298 miles from Steele City, Nebraska to Cushing, Oklahoma and began operating in 2011. The third and fourth phases comprise the “Keystone XL” pipeline. The third phase is under construction and will extend the pipeline 435 miles from Cushing, Oklahoma to the Gulf Coast. The last phase of the project crosses the U.S.-Canada border to carry oil between Hardisty, Alberta and Steele City, Nebraska, traversing 852 miles of U.S. soil.<sup>3</sup> In addition to carrying Canadian crude, the fourth phase will pass through Montana and North Dakota, where American-produced oil from the Bakken supply basin can be added to the pipeline.<sup>4</sup>

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<sup>1</sup> Canadian Energy Research Institute (CERI), Economic Impacts of New Oil Sands Projects in Alberta (2010 – 2035) at 5 (2011), [http://www.ceri.ca/images/stories/2013-06-10\\_CERI\\_Study\\_133\\_-\\_Oil\\_Sands\\_Update\\_2012-2046.pdf](http://www.ceri.ca/images/stories/2013-06-10_CERI_Study_133_-_Oil_Sands_Update_2012-2046.pdf).

<sup>2</sup> CERI, Canadian Oil Sands Supply Costs and Development Projects (2012 – 2046) at 1 (2013), [http://www.ceri.ca/images/stories/2013-06-10\\_CERI\\_Study\\_133\\_-\\_Oil\\_Sands\\_Update\\_2012-2046.pdf](http://www.ceri.ca/images/stories/2013-06-10_CERI_Study_133_-_Oil_Sands_Update_2012-2046.pdf).

<sup>3</sup> TransCanada, Keystone Pipeline System (2011), <http://prod-http-80-800498448.us-east-1.elb.amazonaws.com/w/images/8/84/Keystone.pdf>. See also Keystone XL Pipeline Project, <http://www.transcanada.com/keystone.html> (last visited September 16, 2013) and Merrill Matthews, Keystone Pipeline Mysteries, USA Today (Sept. 4, 2013, 7:07pm), <http://www.usatoday.com/story/opinion/2013/09/04/keystone-pipeline-obama-us-economy-column/2768185/>.

<sup>4</sup> Application of TransCanada Keystone Pipeline, L.P. for a Presidential Permit Authorizing the Construction, Connection, Operation, and Maintenance of Pipeline Facilities for the Importation of Crude Oil to be Located at the United States-Canada Border at 7(2012), <http://keystonepipeline-xl.state.gov/documents/organization/189504.pdf>.



### *Timeline and Permitting Process*

Phases 1 and 2 of the Keystone project were constructed without national controversy. TransCanada submitted a Presidential Permit application for both phases in April 2006. After 23 months, the State Department granted the permit in March 2008.<sup>5</sup> TransCanada filed its original application for a Presidential Permit for Phases 3 and 4, the Keystone XL pipeline, on September 19, 2008.<sup>6</sup> After the Nebraska legislature passed new siting requirements, TransCanada proposed an amended Keystone XL route. The State Department denied TransCanada the Presidential Permit on February 3, 2012, because it determined there was “an insufficient period to obtain and assess the necessary information” to make a determination of whether the rerouted pipeline would serve the national interest before a Congressional deadline passed.<sup>7</sup>

TransCanada reapplied for a Presidential Permit for Phase 4 of the Keystone XL pipeline on May 4, 2012.<sup>8</sup> In the interim, TransCanada began construction on phase 3, the Gulf Coast Project – the portion of the Keystone XL pipeline that does not cross any international borders – in August 2012.<sup>9</sup> Nebraska Governor Heineman approved the altered route in January 2013. The State Department released a revised Draft Environmental Impact Statement (EIS) on March 1, 2013. The Environmental Protection Agency (EPA) triggered the 45-day comment period on the Draft EIS on March 8, 2013, and the State Department received more than 1.2 million comments in response.<sup>10</sup> The State Department gave notice that it will post all comments received in batches on a weekly basis to Regulations.gov prior to posting the Final EIS. It has now been over 1,824 days since TransCanada submitted their original application for Keystone XL.

### *Economic Benefits*

Many of the jobs the Keystone pipeline project will create or support are the very infrastructure-related jobs the Obama Administration declared as essential to the Nation’s middle class as recently as September 9.<sup>11</sup> Those infrastructure jobs translate to the purchase of

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<sup>5</sup> Notice of Availability of the Record of Decision and National Interest Determination and the Programmatic Agreement for the Proposed TransCanada Keystone Pipeline Project, 73 Fed. Reg. 11,456 (2008).

<sup>6</sup> See Application of TransCanada Keystone Pipeline, L.P. for a Presidential Permit Authorizing the Construction, Operation, and Maintenance of Pipeline Facilities for the Importation of Crude Oil to be Located at the United States-Canada Border (2008), <http://keystonepipeline-xl.state.gov/documents/organization/181769.pdf>.

<sup>7</sup> In the Matter of the Keystone XL Pipeline, 77 Fed. Reg. 5,614 (2012). The Temporary Payroll Tax Cut Continuation Act of 2011 required a determination within 60 days of enactment of whether the Keystone XL pipeline project would serve the national interest.

<sup>8</sup> Application of TransCanada Keystone Pipeline, L.P., supra note 4. TransCanada limited the application to Phase 4 only because Phase 3 does not cross an international border and thus does not require a Presidential Permit.

<sup>9</sup> Gulf Coast Pipeline Project, <http://www.transcanada.com/gulf-coast-pipeline-project.html> (last visited Sept. 16, 2013).

<sup>10</sup> Dep’t of State, New Keystone XL Pipeline Application, <http://www.keystonepipeline-xl.state.gov/> (last visited Sept. 16, 2013).

<sup>11</sup> Vice President Biden described infrastructure jobs at the Port of Baltimore in Maryland on September 9, 2013: “We’re about creating jobs you can raise a family on, middle class jobs, jobs that you can have the knowledge that

construction materials, worker spending in every-day businesses in the pipeline communities, and an additional \$65 million in revenue for States and localities.<sup>12</sup> Additionally, States and localities can expect a significant increase in property tax revenues.<sup>13</sup>

The jobs extend beyond the communities the pipeline traverses to equipment manufacturers and monitoring software developers, for example. According to TransCanada, the company has contracted with more than 50 suppliers in 18 States.<sup>14</sup> Phase 3, which is currently under construction, employs 4,000 Americans; Phase 4, the Keystone XL, will require 9,000 skilled workers.<sup>15</sup> The U.S. Chamber of Commerce estimates Keystone XL will create 20,000 direct and indirect American jobs.<sup>16</sup> The State Department estimates Keystone XL will create 42,100 jobs (taking into account direct, indirect, and induced effects) and \$2.05 billion in earnings over the construction period.<sup>17</sup>

The Canadian Energy Research Institute projects that as oil sands production increases in Canada, in part as a result of the additional pipeline routes, the demand for U.S. goods and services will boost GDP by \$5.8 to \$7.2 billion by 2015, \$12.9 to \$19.3 billion in 2020, and \$26.6 to \$41.3 billion in 2025.<sup>18</sup>

#### IV. Questions for Consideration

- How will continued delay of the project translate into missed economic opportunity?
- What impact would denial of the KXL permit have on the U.S. and Canada trade relationship?
- How can agency reviews be limited in time without shortchanging needed analysis?

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Please contact Brian McCullough, Gib Mullan, or Shannon Taylor at ext. 5-2927 with any questions.

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you can be able to buy your home not just rent it, be able to live in a safe neighborhood, be able to send your kid to a decent school[.]” Vice President Biden, Governor O’Malley Announce Port of Baltimore Investment, <http://mdbiznews.choosemaryland.org/2013/09/10/vice-president-biden-governor-omalley-announce-port-of-baltimore-investment/>, (last visited Sept. 16, 2013).

<sup>12</sup> Dep’t of State, Executive Summary – Draft Supplemental EIS, at 14 (2013), <http://keystonepipeline-xl.state.gov/documents/organization/205719.pdf>.

<sup>13</sup> The State Department projected \$140 million in additional property tax revenue over 2006 figures. Dep’t of State, Final EIS at 3.10-93 (2011), <http://keystonepipeline-xl.state.gov/documents/organization/182065.pdf>.

<sup>14</sup> TransCanada, Jobs & Economic Benefits, <http://keystone-xl.com/about/jobs-and-economic-benefits/> (last visited Sept. 16, 2013).

<sup>15</sup> See id.

<sup>16</sup> Institute for 21<sup>st</sup> Century Energy, <http://www.energyxxi.org/keystone-xl-background> (last visited Sept. 16, 2013).

<sup>17</sup> Dep’t of State, supra note 11 at 13.

<sup>18</sup> CERI, supra note 1 at 30.