

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927

Minority (202) 225-3641

August 8, 2012

The Honorable Kerri-Ann Jones, Ph.D.  
Assistant Secretary for Oceans and International  
Environmental and Scientific Affairs  
U.S. Department of State  
2201 C Street NW  
Washington, DC 20520

Dear Dr. Jones:

I am writing regarding the State Department's pending evaluation of the environmental impacts of TransCanada's revised Keystone XL tar sands pipeline proposal. The Department is conducting this analysis to inform its decision on whether approval of the project is in the national interest. After several years of intense controversy over the proposed pipeline, including questions about the thoroughness of the State Department's process for evaluating the pipeline, the State Department now has a new opportunity to do it right. I urge the Department to carefully evaluate the purpose of and need for the revised pipeline as well as the broader implications of this project for climate change.

On June 15, 2012, the State Department published a notice of intent to prepare a supplemental environmental impact statement for the proposed TransCanada Keystone XL pipeline from Phillips, Montana, to Steele City, Nebraska.<sup>1</sup> This pipeline would extend 1,179 miles (of which 329 miles are in Canada) and have an initial capacity of 830,000 barrels per day.<sup>2</sup> The State Department is evaluating this project for purposes of deciding whether to grant TransCanada's application for a presidential permit for a cross-border pipeline. The State Department indicated that it had previously prepared a final EIS for a substantially longer pipeline proposal that would have included a second leg extending from Cushing, Oklahoma, to Port Arthur and Houston in Texas.<sup>3</sup> As TransCanada is now proceeding with

---

<sup>1</sup> Dept. of State, *Notice of Intent to Prepare a Supplemental Environmental Impact Statement (SEIS) and To Conduct Scoping and To Initiate Consultation Under Section 106 of the National Historic Preservation Act for the Proposed TransCanada Keystone LX Pipeline Proposed To Extend From Phillips, MT (the Border Crossing) to Steele City, NE*, 77 Fed. Reg. 36032 (June 15, 2012) (hereinafter *Notice of Intent*).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*; see Dept. of State, *Final Environmental Impact Statement for the Proposed Keystone XL Project* (Aug. 26, 2011) (hereinafter *Final EIS*).

The Honorable Kerri-Ann Jones, Ph.D.  
August 8, 2012  
Page 2

the second leg as an independent project, the application before the State Department today encompasses only the northern portion of the pipeline.<sup>4</sup>

The Keystone XL pipeline project described in the current application is substantially different from the project already evaluated by the State Department. The proposed pipeline is roughly a third shorter, and it would not serve the purpose of moving crude oil or bitumen from the Midwest to the Gulf Coast. It would also follow a different route (which has not yet been finalized) through the State of Nebraska.

External circumstances relevant to evaluating the project have also changed since the Department prepared the final EIS. For example, U.S. crude oil production from the Bakken shale has expanded rapidly.<sup>5</sup> There have also been developments in the prospects for increasing U.S. crude oil production through enhanced oil recovery using CO<sub>2</sub> derived from carbon capture and storage projects at coal-fired power plants.<sup>6</sup> Since the State Department completed the analysis used in the final EIS, a number of other projects have been announced or initiated to build new or expanded crude oil pipelines in the United States.<sup>7</sup> Also, EPA and the Department of Transportation are on the verge of issuing new standards for vehicle tailpipe greenhouse gas emissions and vehicle efficiency that will further reduce projected U.S. oil demand for decades.<sup>8</sup>

In addition, the State Department's final EIS for the longer Keystone XL pipeline was strongly criticized as inadequate. I raised significant concerns about earlier drafts of the EIS, which the final EIS never fully addressed.<sup>9</sup> EPA also identified problems in earlier drafts of the EIS, several of which remain outstanding.<sup>10</sup>

In light of the differences between the project evaluated in the final EIS and the project under consideration today, as well as the changes in circumstances relevant to the project and the outstanding flaws in the final EIS, the State Department must thoroughly re-evaluate the

---

<sup>4</sup> Dept. of State, *Notice of Intent*, 77 Fed. Reg. 36032 (June 15, 2012).

<sup>5</sup> North Dakota Department of Mineral Resources, *ND Monthly Bakken Oil Production Statistics* (online at [www.dmr.nd.gov/oilgas/stats/historicalbakkenoilstats.pdf](http://www.dmr.nd.gov/oilgas/stats/historicalbakkenoilstats.pdf)) (accessed August 7, 2012).

<sup>6</sup> See, e.g., NRG, *NRG's Perspective on CCUS* (July 30, 2012) (power point presentation).

<sup>7</sup> See, e.g., Reuters, *Enbridge plans huge Canada, US pipeline expansion* (May 17, 2012) (online at: <http://www.reuters.com/article/2012/05/17/us-enbridge-idUSBRE84G0HE20120517>).

<sup>8</sup> U.S. Environmental Protection Agency, U.S. Department of Transportation, *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards; Proposed Rule*, 76 Fed. Reg. 74854 (Dec. 1, 2011) (online at: <http://epa.gov/otaq/climate/regs-light-duty.htm>).

<sup>9</sup> Letter from Henry A. Waxman, Chairman, Energy and Commerce Committee, U.S. House of Representatives to Hillary Rodham Clinton, Secretary of State, U.S. Dept. of State (July 2, 2010); Letter from Henry A. Waxman, Chairman, Energy and Commerce Committee, U.S. House of Representatives to Elizabeth Orlando, Keystone XL Project Manager, U.S. Dept. of State (July 2, 2010).

<sup>10</sup> See, e.g., Letter from Cynthia Giles, U.S. Environmental Protection Agency, to Mr. Jose W. Fernandez, Assistant Secretary, Economic, Energy and Business Affairs and Dr. Kerri-Ann Jones, Assistant Secretary, Oceans and International Environmental and Scientific Affairs, U.S. Dept. of State (June 6, 2011).

environmental impacts of the actual current Keystone XL pipeline application. The most straightforward way to do this would be to develop a new environmental impact statement that incorporates all relevant information from the previous final EIS. Evidently, the State Department has decided instead to prepare what it calls a “supplemental EIS,” although the notice of intent provided no explanation or justification for that decision.<sup>11</sup> Regardless of how the analysis is characterized, however, the State Department must start from scratch on several critical aspects of the analysis.

The evaluation of purpose and need for the pipeline and the evaluation of alternatives to meet that need were not adequate in the final EIS and are now clearly inapplicable. The Keystone XL pipeline now will bring tar sands bitumen from Canada to Nebraska. The EIS must evaluate whether the United States actually needs this carbon-intensive source of fuel for vehicles or whether our transportation and other needs for oil can be met through alternative means.

In particular, the evaluation of purpose and need must consider the excess pipeline capacity that currently exists and is under development for bringing tar sands bitumen into the U.S.<sup>12</sup> It must consider the many alternative sources of oil, including U.S. sources, as well as alternative means of meeting our transportation needs, including the pending and future tailpipe and efficiency standards for light-duty and heavy-duty vehicles. In addition, the evaluation of purpose and need must include a thorough examination of the extent to which the imported tar sands bitumen or the refined products will be exported from Gulf Coast refineries, rather than being used in the U.S. I initially requested in July 2010 that you examine this issue of exports and many stakeholders have since reiterated that request, but the final EIS still did not adequately address this question.<sup>13</sup>

The most critical issue that the State Department must evaluate in the EIS is the Keystone XL tar sands pipeline’s implications for climate change. Extraction of tar sands bitumen requires far more energy than extraction of conventional oil, and over its lifecycle, tar sands bitumen produces substantially greater greenhouse gas emissions than conventional oil. For example, the final EIS highlights a DOE study indicating that tar sands crude produces 17% higher greenhouse gas emissions over its lifecycle compared to the U.S. 2005 average fuel, while other studies have somewhat higher or lower estimates.<sup>14</sup>

The final EIS recognizes that the Keystone XL pipeline will import large volumes of tar sands crude oil with higher lifecycle greenhouse gas emissions and it calculates the

---

<sup>11</sup> See Dept. of State, *Notice of Intent*, 77 Fed. Reg. 36032 (June 15, 2012).

<sup>12</sup> Dept. of State, *Supplemental Draft EIS, Appendix A, Ensys Report: Keystone XL Assessment*, 7 (Dec. 23, 2010).

<sup>13</sup> Letter from Henry A. Waxman, Chairman, Energy and Commerce Committee, U.S. House of Representatives to Elizabeth Orlando, Keystone XL Project Manager, U.S. Dept. of State (July 2, 2010).

<sup>14</sup> Dept. of State, *Final EIS*, 3.14-50 (Aug. 26, 2011).

incremental greenhouse gas emissions from these tar sands crudes compared to reference crudes. It concludes that “the reliance on oil sands crudes for transportation fuels would likely result in an increase in incremental GHG emissions” of up to 21 MMTCO<sub>2</sub>e annually, which is equivalent to the annual GHG emissions from 4 million vehicles.<sup>15</sup>

However, the final EIS fails to address in any meaningful way the broader climate change implications of this tar sands pipeline. Climate change is the greatest environmental threat facing the earth today. According to NOAA scientists, the devastating heat waves, droughts, and fires we are experiencing this summer have very likely been exacerbated by human-caused climate change, and as the earth continues to warm, the damage will rise.<sup>16</sup> The International Energy Agency warned last November that the world has just five years before a failure to shift to investments in clean energy will commit the world to large temperature increases and likely devastating effects.<sup>17</sup>

The Keystone XL pipeline is one of the largest investments in carbon-intensive energy currently being contemplated in the United States. The incremental additional greenhouse gas emissions from the fuel transported by this pipeline each year could be roughly equivalent to the annual emissions of five coal-fired power plants.<sup>18</sup> The pipeline is expected to last from 50 to 100 years.<sup>19</sup>

While the final EIS provides information on the incremental greenhouse gas emissions from the tar sands crude transported by the pipeline, it fails to put this information in context. There is no discussion of the significance of the projected increase in the carbon-intensity of U.S. fuel supplies in the context of our efforts to reduce greenhouse gas emissions. Nor is there any consideration of whether and how these effects might be mitigated.

The final EIS also fails to provide any information on how expansion of tar sands production may affect climate change. The final EIS relies on a study prepared by a Department of Energy contractor to find that “under *most scenarios* the proposed Project would not substantially influence the rate or magnitude of oil extraction activities in Canada, or the overall volume of crude oil transported to the United States or refined in the United

---

<sup>15</sup> *Final EIS* at 3.14-55.

<sup>16</sup> Peterson, et al, *Explaining Extreme Events of 2011 from a Climate Perspective*, Bulletin of the American Meteorological Society, 1041-1067 (July, 2012); National Research Council, *America's Climate Choices* (2010) (online at: [http://www.nap.edu/catalog.php?record\\_id=12781](http://www.nap.edu/catalog.php?record_id=12781)); see also Thomas Karl, director of the National Climatic Data Center on PBS Newshour, *Extreme Weather Records 'Like a Baseball Player on Steroids'* (July 10, 2012) (online at: [http://www.pbs.org/newshour/bb/weather/july-dec12/weather\\_07-10.html](http://www.pbs.org/newshour/bb/weather/july-dec12/weather_07-10.html)).

<sup>17</sup> International Energy Agency, *World Energy Outlook 2011* (Nov. 2011).

<sup>18</sup> U.S. EPA, *Greenhouse Gas Equivalencies Calculator* (online at: <http://www.epa.gov/cleanenergy/energy-resources/calculator.html#results>) (based on the estimate that the oil transported by the pipeline could produce an incremental 21 MMTCO<sub>2</sub>e annually).

<sup>19</sup> See The Perryman Group, *The Impact of Developing the Keystone XL Pipeline Project on Business Activity in the U.S.*, 11 (June 2010) (calculating benefits based on “the 100-year life of the project”) (report commissioned by TransCanada) (online at: <http://www.transcanada.com/keystone.html>).

The Honorable Kerri-Ann Jones, Ph.D.  
August 8, 2012  
Page 5

States” (emphasis added).<sup>20</sup> The final EIS then concludes, “[t]hus, from a global perspective, the decision whether or not to build the Project will not affect the extraction and combustion of [Canadian] oil sands crude on the global market.”<sup>21</sup>

The final EIS dismisses the possibility that the pace and extent of tar sands production could be affected by construction of a pipeline that would provide substantial new capacity to transport increased tar sands production to market for decades to come. But there are significant barriers and higher costs, which could prove insurmountable, in bringing tar sands crude to the global market through alternative routes. The State Department’s conclusion is also contradicted by the finding in the EIS itself that under a scenario in which other pipelines or rail transport are not constructed, a decision not to approve the Keystone XL pipeline could affect the rate or magnitude of tar sands extraction.<sup>22</sup>

In July 2010, I urged the State Department to give greater consideration to the climate impacts of a new pipeline. The points I made then are even more applicable today. Nothing has occurred in the past two years to suggest that the problem of climate change is less urgent than it was then, that the quantity of greenhouse gas emissions associated with the tar sands does not pose a significant threat of exacerbating climate change, or that the nations of the world are on track to addressing this problem.

The revised Keystone XL tar sands pipeline proposal presents the question of whether it is in the national interest of the United States to approve a project to significantly increase imports of one of the most carbon-intensive sources of transportation fuel in the world. Much of the intense public opposition to the pipeline stems from concerns about its effects on climate change. For these reasons, I again urge the State Department to conduct a thorough and meaningful analysis of how approval of this project might affect the threat of climate change.

Sincerely,



Henry A. Waxman  
Ranking Member

---

<sup>20</sup> *Final EIS* at 3.14-52.

<sup>21</sup> *Id.*

<sup>22</sup> *See* Dept. of State, *Final EIS* at 3.14-62.