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1 {York Stenographic Services, Inc.}  
2 RPTS TOOT  
3 HIF034.030

4 ``AMERICAN JOBS NOW: A LEGISLATIVE HEARING ON H.R. 3548, THE  
5 NORTH AMERICAN ENERGY ACCESS ACT''  
6 FRIDAY, FEBRUARY 3, 2012  
7 House of Representatives,  
8 Subcommittee on Energy and Power  
9 Committee on Energy and Commerce  
10 Washington, D.C.

11 The subcommittee met, pursuant to call, at 10:00 a.m.,  
12 in Room 2322 of the Rayburn House Office Building, Hon. Ed  
13 Whitfield [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Whitfield, Sullivan,  
15 Walden, Terry, Burgess, Bilbray, McMorris Rodgers, Olson,  
16 Pompeo, Griffith, Barton, Rush, Dingell, Markey, Engel,  
17 Capps, Gonzalez, and Waxman (ex officio).

18 Staff present: Mike Bloomquist, Deputy General Counsel;

19 Maryam Brown, Chief Counsel, Energy and Power; Allison  
20 Busbee, Legislative Clerk; Garrett Golding, Professional  
21 Staff Member, Energy; Cory Hicks, Policy Coordinator, Energy  
22 and Power; Ben Lieberman, Counsel, Energy and Power; Jeff  
23 Baran, Democratic Senior Counsel; Greg Dotson, Democratic  
24 Energy and Environment Staff Director; Caitlin Haberman,  
25 Democratic Policy Analyst; Angela Kordyak, DOE Detailee;  
26 Billie McGrane, Democratic Assistant Clerk; and Alexandria  
27 Teitz, Democratic Senior Counsel, Environment and Energy.

|  
28           Mr. {Whitfield.} Committee will come to order. Today's  
29 hearing on American Jobs Now, H.R. 3548, the North American  
30 Energy Access Act, is being held pursuant to Rule 11 of the  
31 House Rules at the request of Mr. Rush, Mr. Waxman, and other  
32 members of the minority.

33           Although we gave opening statements at the first hearing  
34 pursuant to an agreement between the minority and the  
35 majority, each side this morning will be given 10 minutes for  
36 opening statements, and at this time I would like to  
37 recognize myself for 5 minutes for the purpose of making of  
38 an opening statement.

39           Like many people I was quite disappointed when the  
40 President decided the Keystone Pipeline was not in the  
41 national interest, and the reason that he gave for making  
42 that decision as that there was not enough time to collect  
43 and review information regarding the route through Nebraska.  
44 We all are very much aware, however, that the application for  
45 the permit was filed in September of 2008. That was almost  
46 3-1/2 years ago.

47           As a matter of fact, as far back as October, 2010, in a  
48 speech at the Commonwealth Club of San Francisco, Secretary  
49 of State Hillary Clinton in response to a question said that  
50 she was inclined to approve the permit for the Keystone

51 Pipeline based on the information she had.

52 I also want the public to know, and I am sure they are  
53 very much aware of this also, that five major labor unions  
54 supported and still support the building of this pipeline.  
55 In an article entitled, ``Labor Civil War over Keystone XL,``  
56 the author reported some of President Barack Obama's biggest  
57 labor supporters are fuming over his decision. Unions  
58 representing construction workers that would directly benefit  
59 from building the pipeline, as he said in his article, feel  
60 stabbed in the back by unions that joined environmental  
61 groups to kill the project. Laborers' International Union of  
62 North America General president Terry O'Sullivan said the  
63 decision was so repulsive and disgusting that he was going to  
64 pull his union out of the Blue Green Alliance, a coalition of  
65 environmental groups and labor unions that represented nearly  
66 all of the groups that signed a statement, a joint statement  
67 supporting the President.

68 Mr. O'Sullivan said unions and environmental groups that  
69 have no equity in this work have kicked our members in the  
70 teeth, and anger is an understatement as to how we feel about  
71 it. We will not sit at the table with people that destroy  
72 our members' livelihood.

73 The labor union supporting the project issued a  
74 particularly forceful statement condemning the decision as

75 politics at its worst, and Mr. Sean Sweeney, who is the  
76 director of Global Labor Institute at Cornell University, who  
77 did a study about the jobs that this would create, made it  
78 very clear when he said that this decision was really about  
79 the President being reelected. The President's reelection is  
80 at stake, and he said there is certainly more at stake here  
81 than a simple pipeline.

82 In closing I would simply like to quote from an  
83 editorial in the ``Chicago Tribune.'' ``Keystone should be  
84 approved. This is a good project. It will give us energy  
85 and give us jobs. You want stimulus? This is it. This is a  
86 \$7 billion project to be done with private dollars. Taxpayer  
87 dollars will not be used. President Obama made a decision  
88 that we think is the wrong decision.''

89 [The prepared statement of Mr. Whitfield follows:]

90 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

91 [H.R. 3548 follows:]

92 \*\*\*\*\* INSERT 2 \*\*\*\*\*

|  
93 Mr. {Whitfield.} And with that I would--does anyone  
94 seek recognition for a minute and 48 seconds?

95 No. I will recognize you later.

96 All right.

97 Mr. {Walden.} Sure, Mr. Chairman.

98 Mr. {Whitfield.} I yield the balance of my time to you,  
99 Mr. Walden.

100 Mr. {Walden.} I thank the gentleman for yielding. I  
101 appreciate his comments. I was just reviewing the testimony  
102 by I believe it is Mr. Pool from the Bureau of Land  
103 Management. I just find it interesting that how much our  
104 government rules and regulations come into play here for so  
105 little land. He says in his testimony the total permanent  
106 right of way on BLM-managed public lands for this Keystone  
107 Project would be approximately 50 feet wide and comprise a  
108 total of approximately 270 acres.

109 Now, let that sink in. You think about how minor a role  
110 the Federal Government is playing in terms of this land and  
111 yet--and they have issued their approval is my understanding.  
112 Final biological assessment has been issued and shows no  
113 jeopardy under the Endangered Species Act. The Federal  
114 Government BLM at least, 270 acres, 50 feet wide. We have  
115 got horrible unemployment problem. It is getting a little

116 better, but, you know, 8.3 percent is nothing to brag about.  
117 You got a \$7 million potential investment here, private  
118 sector funds, that could create thousands of jobs and new  
119 property tax base payments to local governments throughout  
120 that region, and I just think it is time to get this done.

121 So I yield back.

122 [The prepared statement of Mr. Walden follows:]

123 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
124 Mr. {Whitfield.} Thank you, Mr. Walden.

125 At this time I recognize the gentleman from Illinois,  
126 Mr. Rush, for 5 minutes.

127 Mr. {Rush.} Good morning. Thank you, Mr. Chairman, for  
128 holding this important hearing that the minority side  
129 requested in order to hear from some of the important  
130 stakeholders who were not invited to participate in last  
131 week's hearing and to shed light onto some of the  
132 ramifications of the legislation before us, H.R. 3548.

133 Mr. Chairman, this bill is simply another bite at the  
134 apple in the majority's attempt to backdoor the Obama  
135 Administration and green light a project that has not yet  
136 been fully vented in what amount to be an application of the  
137 Federal Government's oversight responsibilities.

138 In fact, why don't we simply call this bill for what it  
139 really is. Instead of the North American Energy Access Act,  
140 this bill should be renamed the Republicans and Congress  
141 Favor to TransCanada Act. This bill does not make sense.  
142 Legally it doesn't make sense. Sensibly it doesn't make  
143 sense because it shifts the responsibility for a cross-water  
144 pipeline from the State Department to FERC, an agency which  
145 has no experience in signing this type of national project,  
146 specifically, or on pipelines generally. This bill does not

147 make sense frankly, and it does not make sense morally.

148         As we heard from the Assistant Secretary of State Kerri-  
149 Ann Jones last week, she--of the Bureau of Oceans and  
150 International Environment and Scientific Affairs, the  
151 recommendations for denying the permit was made simply  
152 because there was not sufficient time for the agencies to  
153 complete its due diligence and perform its legal oversight  
154 responsibility, mainly due to the fact that currently there  
155 is not even a proposed route for the State Department to  
156 review. It would have been a gross negligence and  
157 recklessness for the Obama Administration to approve a permit  
158 for a pipeline that would cut through the heart of the  
159 country where when the policymakers in those very states that  
160 are mostly affected, like Nebraska, haven't even identified  
161 the most appropriate route for the pipeline to move through.

162         While the language the Republicans passed in their  
163 initial efforts to force the Administration to come up with a  
164 decision within 60 days of enactment of the Middle Class  
165 Payroll Tax Extension was inconsiderate and irresponsible, I  
166 must say that the language in this new bill, which was  
167 transferred in the decision to a different and completely  
168 inexperienced agency, FERC, and also implying permission to  
169 make a decision within 30 days or the project will be  
170 automatically approved is even more irrational and more

171 irresponsible.

172           Assistant Secretary of State Kerri-Ann Jones stated at  
173 last week's hearing regarding her agency's recommendation,  
174 and I quote, ``That decision was based on the fact that the  
175 exact amount of the pipeline has yet to be identified in 24  
176 areas. As a result there are unresolved concerns for a full  
177 range of issues including energy security, foreign policy,  
178 economic effects, health, safety, and environmental impacts  
179 among other considerations.''

180           Ms. Jones went on to say, ``The legislation raises  
181 serious questions about legal authorities, questions of  
182 continuing force of much of the federal and all of the state  
183 and local environmental and line use management authority  
184 over the pipeline,' ' and Mr. Chairman, I want to emphasize  
185 this, ``It overrides foreign policy and national security  
186 considerations implicated by a cross border permit which are  
187 properly assessed by the State Department.''

188           Mr. Chairman, with such dire warnings of this bill I  
189 think we owe it to the American public to fully explain the  
190 consequences of this legislation to ensure that the public  
191 interests were taken, and with that I yield back the balance  
192 of my time.

193           [The prepared statement of Mr. Rush follows:]

194 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
195 Mr. {Whitfield.} Thank you, Mr. Rush.

196 At this time I would like to recognize the gentleman  
197 from Texas, Mr. Barton, for the purpose of making an opening  
198 statement, 5 minutes.

199 Mr. {Barton.} I am not--I won't use that much time, Mr.  
200 Chairman, but thank you.

201 This is a continuing hearing. Everything that can be  
202 said about Keystone has been said, but sometimes it needs to  
203 be repeated. This is an extremely important project for our  
204 Nation's future.

205 Just in the last month or so we have had a number of  
206 announcements that refineries in the United States, in the  
207 Northeast, and in the Virgin Islands are going to be closed,  
208 several in Pennsylvania, one in the Virgin Islands, I think  
209 one in Ohio. Altogether they are taking about a million  
210 barrels of refinery production off the books, and while the  
211 Keystone Pipeline is not building a new refinery, it is  
212 bringing additional crude oil to the Gulf Coast where we  
213 still have refinery capacity. That crude oil will be used to  
214 be refined into products that then can be transshipped up  
215 into the Midwest and the Northeast.

216 If you shut down refineries in the Midwest and offshore  
217 that serve that market, and if you don't build Keystone, that

218 is a double whammy. The absolute certainty is that the  
219 prices will go up, shortages will exist, our economy will  
220 suffer.

221 On the other hand, if we build the Keystone Pipeline, we  
222 are going to have additional crude coming into the United  
223 States, approximately 800,000 barrels a day. It doesn't  
224 offset in totality the closure of these other refinery  
225 facilities, but it will alleviate them, and as my good friend  
226 from Oregon, Mr. Walden, just pointed out, to have to go  
227 through the bureaucratic red tape that this project has gone  
228 through for the reasons it has been subjected to it just  
229 doesn't seem to make good sense in any way. In any way.

230 So, Mr. Chairman, I look forward to the hearing. There  
231 is another hearing downstairs on the Chemical Facilities Act,  
232 so I will be shuffling back and forth, but I do appreciate  
233 you holding the hearing, and I obviously appreciate being  
234 allowed to speak.

235 [The prepared statement of Mr. Barton follows:]

236 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
237           Mr. {Barton.} I would like to yield the balance of my  
238 time to Mr. Terry of Nebraska, who has been a strong voice  
239 for this project.

240           Mr. {Terry.} Thank you, Mr. Chairman emeritus. Just to  
241 clarify a few points, the State Department issued three  
242 statements over the summer that they would have all of the  
243 information, and they were doing all of the due diligence to  
244 have a decision made by the end of 2011, and we took them at  
245 their word for that, and it turned out to be not true.

246           I think one of the key points here that has been missed  
247 in the State Department's testimony, in particular in the  
248 basis for their decision, is that they are using Nebraska as  
249 the excuse to deny the permit. The reality is in the  
250 legislation that the President signed specifically exempting  
251 Nebraska out of this, this was going forward on the other  
252 parts of the pipeline in the other states. It carved out a  
253 time that--or a trigger that would review the Nebraska  
254 portion, the 30 or 40 miles that the pipeline would be moved  
255 based upon when the governor certified that it was ready. So  
256 I am amazed at why that hasn't been brought out.

257           Now, I am glad that the Corps of Engineers is here today  
258 because they do play a vital point and in their testimony  
259 raises a valid point that we had already vetted and had

260 planned to change and that is we want to make it clear that  
261 what the legislation does is remove the Presidential  
262 permission part and gives it to the agency, the federal  
263 agency that actually has experience in pipelines. We thought  
264 that was a rational approach with this bill.

265         So I want to let the Corps know that we aren't usurping,  
266 and we will change the language of issuing permits of any  
267 project that crosses the waterway under your jurisdiction.

268         So we knew there were other permits that they would have  
269 to file and receive once the Presidential authorization was  
270 made. I am disappointed that we invited the Corps of  
271 Engineers and the BLM to our hearing last week, and they  
272 denied or refused to come, but yet when Henry Waxman asks to  
273 testify in opposition, you are here loaded forebear. So that  
274 concerns me.

275         One last point in my 6 seconds is I think the message  
276 that the President's denial of this permit sent the world is  
277 that the far left of the environmental community is now in  
278 charge of our energy and foreign policy.

279         I yield back.

280         [The prepared statement of Mr. Terry follows:]

281 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
282           Mr. {Whitfield.} At this time I recognize the gentleman  
283 from California, Mr. Waxman, for 5 minutes for the purpose of  
284 an opening statement.

285           Mr. {Waxman.} Mr. Chairman, today we are holding a  
286 legislative hearing on a bill to mandate approval of  
287 TransCanada Tar Sands Pipeline Keystone XL. This tar sands  
288 pipeline is hugely controversial and for good reason. The  
289 American people will bear the risks, and big oil will reap  
290 the rewards. With this pipeline we get more carbon  
291 pollution, more dangerous oil spills, land seizures by a  
292 foreign country, and higher oil prices in the Midwest.

293           Big oil gets the ability to extract more profits from  
294 the Midwest, a conduit for exporting tar sands products to  
295 China, and the green line to exploit the tar sands at maximum  
296 speed regardless of the consequences.

297           President Obama listened to differing views of American  
298 citizens and made a responsible decision. He would not  
299 approve the pipeline through the ecologically-fragile sand  
300 hills area of Nebraska, but the State Department would  
301 consider an alternative route. Nebraska is taking the time  
302 to find a route that is acceptable, and the President is  
303 making sure that he has all the information he needs to make  
304 the right decision.

305           This bill takes the opposite approach. It gives the  
306 pipeline an unprecedented regulatory earmark. It directs the  
307 Federal Energy Regulatory Commission, directs them to approve  
308 the pipeline, even though we don't yet know what route it  
309 will take through the State of Nebraska. It exempts the  
310 pipeline from the requirements to obtain permits from the  
311 Corps of Engineers before crossing rivers and wetlands. It  
312 takes away the Department of Interior's authority to protect  
313 sensitive public lands.

314           For a year I have been asking a simple question. Who  
315 benefits from this extraordinary Congressional intervention  
316 in the regulatory process? Last year Reuters reported that  
317 Coke Industries would be one of the big winners from this  
318 earmark, and there is evidence to support this. We know that  
319 Coke is one of the largest crude oil exporters in Canada. We  
320 know it owns an oil terminal in Hardisty, Canada, where the  
321 pipeline would begin, and we know it has a refinery in Texas  
322 near where the pipeline is going to end.

323           Last May I contacted Coke to inquire about the nature of  
324 its interest in the pipeline, and Coke responded that despite  
325 this evidence to the contrary it had no financial interest in  
326 whether the pipeline was built or not, and I accepted that  
327 answer. But then I learned that Coke had told the Canadian  
328 government that the company had a ``direct and substantial

329 interest'' in the pipeline. I want to know why Coke would  
330 tell the U.S. Congress one thing and the Canadian government  
331 the exact opposite.

332 So I asked Chairman Upton and Chairman Whitfield to  
333 invite Coke Industries to testify today. Well, they refused,  
334 and Coke refused to appear without an invitation from the  
335 chairman. So we are left with unanswered questions. Why is  
336 Coke Industries being placed in a witness protection program?  
337 What does the company have to hide? And why does the company  
338 get special treatment while the American people get left in  
339 the dark?

340 I also asked the chairman to invite the operator of the  
341 pipeline, TransCanada. Members on our side want to ask  
342 TransCanada reasonable questions like what route it plans to  
343 follow in Nebraska. We also want to know about these claims  
344 of jobs. State Department testified that we would get five  
345 to 6,000 temporary jobs if this pipeline is approved. These  
346 jobs would be around for 2 years. TransCanada said it is  
347 going to be 20,000 jobs, over 100,000, and where do they get  
348 the number 100,000? Well, that is looking at the lifetime of  
349 the pipeline for 100 years. This is the Republican Jobs  
350 Bill. Twenty-thousand jobs they say. Maybe 100,000 jobs and  
351 yet the State Department did an analysis, and there is five  
352 to 6,000 jobs for 2 years.

353 I regret that Coke and TransCanada are not here today,  
354 and I ask the chairman to refrain from moving this bill until  
355 they are available to testify. I am glad we have excellent  
356 witnesses here today who are going to give us their views.  
357 The departments, two departments that are going to be  
358 excluded from giving their usual review of the project. That  
359 might change I am pleased to hear, and two gentlemen who have  
360 special insight at what this project will mean.

361 Thank you, Mr. Chairman, for this 7 seconds beyond the  
362 time, and I yield back whatever time I have left.

363 [The prepared statement of Mr. Waxman follows:]

364 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
365 Mr. {Whitfield.} Thank you, Mr. Waxman.

366 Today we have two panels of witnesses. On the first  
367 panel if you--those of you on the first panel would come  
368 forward, that is Ms. Margaret Gaffney-Smith, who is Chief  
369 Regulatory for the U.S. Army Corps of Engineers, and Mr. Mike  
370 Pool, who is Deputy Director of Bureau of Land Management,  
371 U.S. Department of the Interior. We appreciate both of you  
372 being here with us this morning, and as you know, we are  
373 going to ask each of you to give a 5-minute opening statement  
374 and at the end of that time then questions will be asked.

375 I might also point out that we have been told that there  
376 will be five or six votes on the House Floor somewhere around  
377 11:00 or so, but we are going to proceed as long as we can  
378 and then we will vote and then we will come back. So thank  
379 you all for being with us this morning.

380 At this time, Ms. Gaffney-Smith, I would like to  
381 recognize you for 5 minutes for the purpose of an opening  
382 statement, and be sure and turn your microphone on, and I  
383 guess that little box there on the table, a red light will  
384 come on when the 5 minutes is up. So you are now recognized.

|  
385 ^STATEMENTS OF MARGARET GAFFNEY-SMITH, CHIEF, REGULATORY,  
386 U.S. ARMY CORPS OF ENGINEERS; AND MIKE POOL, DEPUTY DIRECTOR,  
387 BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

|  
388 ^STATEMENT OF MARGARET GAFFNEY-SMITH

389 } Ms. {Gaffney-Smith.} Thank you, sir. Chairman  
390 Whitfield and members of the committee, I am Meg Gaffney-  
391 Smith, Chief of the Regulatory Program for the U.S. Army  
392 Corps of Engineers. Thank you for the opportunity to discuss  
393 the Corps' regulatory authority under Section 404 of the  
394 Clean Water Act and Section 10 of the Rivers and Harbors Act  
395 related to utility line projects and to discuss our  
396 regulatory involvement in the proposed Keystone XL Pipeline.

397 Section 10 of the Rivers and Harbors Act requires  
398 authorization from the Corps for the construction of any  
399 structure such as the Keystone Pipeline in, under, or over  
400 any navigable water of the U.S. Section 404 of the Clean  
401 Water Act requires authorization from the Corps for the  
402 discharge of dredged or fill material into waters of the  
403 United States.

404 Utility line projects may require 404 permits for  
405 temporary fills such as access roadways, storage and work

406 areas, as well as temporary or permanent impacts associated  
407 with grading, bank stabilization, or the cross itself. When  
408 discharges of dredged or fill material are associated with  
409 activities of a similar nature and are expected to cause no  
410 more than minimal effects, individually or cumulatively, they  
411 may be authorized by a general permit.

412       Activities that do not meet the criteria for a general  
413 permit are typically processed through the Corps individual  
414 standard permit procedures. When implementing the Corps  
415 Regulatory Program, the Corps is neither an opponent or a  
416 proponent of any specific project. Our responsibility is to  
417 make fair, objective, and timely decisions that protect the  
418 aquatic environment and are not contrary to the public  
419 interest. The authority to make the final decisions on  
420 permit applications rests with out 38 district commanders.

421       Nationwide permit 12 is a general permit promulgated  
422 under Section 404(e) of the Clean Water Act that may be used  
423 to authorize utility line construction. The permit  
424 authorizes the discharge of dredged and or fill material in  
425 association with temporary or permanent activities related to  
426 the construction, repair, maintenance, and removal of utility  
427 lines provided the activity does not result in the loss of  
428 greater than one-half acre of waters including wetlands for a  
429 single and complete project.

430 Under Nationwide Permit 12 there are seven notification  
431 requirements, and if any one of these are triggered, a  
432 project proponent must submit a preconstruction notification  
433 request to the appropriate Corps district office before they  
434 begin work in waters of the United States.

435 Other statutes impact the ability of the Corps to  
436 authorize activities under a nationwide permit. In  
437 accordance with the nationwide permit rules and the  
438 Endangered Species Act, no activity may be authorized that  
439 would be likely to jeopardize the continued existence of  
440 threatened or endangered species or destroy or adversely  
441 modify the critical habitat of such species.

442 In addition, no activity may be authorized by a  
443 nationwide permit until the requirements of Section 106 of  
444 the National Historic Preservation Act have been fulfilled.

445 Further, the Corps nationwide permits do not obviate the  
446 need to obtain other federal, state, or local permits,  
447 approvals, or authorizations that are required by law.

448 In September and October, 2011, TransCanada submitted  
449 preconstruction notifications to our Corps districts in  
450 Galveston, Fort Worth, and Tulsa and requested that work in  
451 waters of the U.S. in association with the Keystone XL  
452 Pipeline be verified under Nationwide Permit 12. In November  
453 and December each of the three districts made decisions to

454 exercise their discretionary authority and suspended  
455 Nationwide Permit 12 for all work and discharges of dredge or  
456 fill material into waters of the United States associated  
457 with the Keystone XL Pipeline application. These decisions  
458 were made because of concerns identified by the Department of  
459 State that could not be addressed until a final decision was  
460 made on the pending Presidential permit application.

461 The President has since determined that based on the  
462 State Department's view that 60 days was an insufficient  
463 period to obtain and assess the necessary information, that  
464 the Keystone XL Pipeline project as presented and analyzed at  
465 that time would not serve the national interest. Should  
466 circumstances change in the future our districts will process  
467 any future requests that are submitted for Department of Army  
468 permits in accordance with the appropriate procedures based  
469 on our statutory authorities and implementing regulations.

470 If H.R. 3548 is enacted, only the Federal Energy  
471 Regulatory Commission and not the Corps would be responsible  
472 for issuing any permit required in conjunction with  
473 construction, operation, and maintenance of the pipeline. At  
474 present only the Corps has a statutory mandate to review  
475 projects like Keystone XL for the permit under the provisions  
476 of Section 10 of the Rivers and Harbors Act and Section 404  
477 of the Clean Water Act.

478           However, none of these statutory reviews would be  
479 allowed for this project under the language in Section 4(a)  
480 of this bill, and no Corps permit would be required.

481           I appreciate the opportunity to be here today, and I  
482 would be happy to answer any questions you may have.

483           [The prepared statement of Ms. Gaffney-Smith follows:]

484           \*\*\*\*\* INSERT 1 \*\*\*\*\*

|  
485           Mr. {Whitfield.} Thank you very much, Ms. Gaffney-  
486 Smith.

487           Mr. Pool, you are now recognized for 5 minutes for the  
488 purpose of making an opening statement.

|  
489 ^STATEMENT OF MIKE POOL

490 } Mr. {Pool.} Thank you, Mr. Chairman, and thank you for  
491 inviting the Department of Interior to this hearing on H.R.  
492 3548, the North American Energy Access Act.

493         Legislation directs the Federal Energy Regulatory  
494 Commission to approve the Keystone XL Pipeline Project. The  
495 Department has concerns with several provisions of the  
496 legislation.

497         The proposed \$7 billion pipeline project would span more  
498 than 1,700 miles between Hardisty, Alberta, Canada, and  
499 multiple destinations in Oklahoma and Texas. Under Executive  
500 Order 13337, all proposed oil pipeline projects that cross  
501 the U.S. borders require a Presidential permit, including a  
502 determination that the proposed cross-border pipeline is in  
503 the national interest.

504         The State Department reviews applications for a  
505 Presidential permit and consults with eight other agencies  
506 including the Department of Interior in its review. The  
507 State received an application for Keystone XL Project from  
508 TransCanada Keystone Pipeline in September of 2008. The  
509 proposed 1,700-mile pipeline crosses through eastern Montana  
510 for 228 miles and includes approximately 42 miles of

511 scattered parcels of federal land managed by the BLM. The  
512 BLM was a cooperating agency with the State Department as was  
513 the U.S. Fish and Wildlife Service and the National Park  
514 Service in the preparation of an environmental impact  
515 statement to address the environmental effects of the  
516 proposed pipeline construction and operation activities.

517 The BLM identified pipeline routes across federal lands  
518 in Montana that would minimize environmental impacts of  
519 pipeline construction. The final EIS was issued on August  
520 26, 2011.

521 In addition, under the Mineral Leasing Act the BLM is  
522 authorized to issue rights of ways for crude oil pipelines  
523 that cross federal lands. TransCanada Keystone Pipeline  
524 filed rights of way applications with the BLM in 2008. The  
525 Keystone Project would include a permanent 50-foot right of  
526 way along the scattered 42 miles of BLM-managed lands in  
527 Montana and comprise a total of 270 acres.

528 Applications were also filed for temporary use permits  
529 and for electrical transmission lines on public lands in  
530 Montana to supply power to the proposed pumping stations.  
531 Temporary rights of ways for construction purposes would  
532 comprise of 200 additional acres dispersed on BLM-managed  
533 tracts of land and would be used for a period of 3 years then  
534 reclaimed by Keystone. These permit applications have not

535 been withdrawn. Their processing is on hold.

536           The North American Energy Access Act appears to make the  
537 Federal Energy Regulatory Commission the sole federal agency  
538 responsible for the project. It would also give the  
539 commission sole authority to permit construction, operations,  
540 and maintenance for the pipeline and related facilities. The  
541 legislation is not clear on how these--how the pipeline  
542 construction, operation, and maintenance would be carried out  
543 on federal lands and what role, if any, the BLM would have  
544 with regard to spills on federal lands from the pipeline.

545           This departure from current law would also preclude the  
546 BLM from collecting rents and cost recovery related to the  
547 pipeline and rights of way on federal lands.

548           Thank you for the opportunity to testify before the  
549 subcommittee. I am pleased to answer any questions.

550           [The prepared statement of Mr. Pool follows:]

551 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
552 Mr. {Whitfield.} Mr. Pool, thank you very much, and at  
553 this time I will recognize myself for 5 minutes for  
554 questions.

555 There has been a lot of discussion on the Keystone  
556 Pipeline about the Coke Brothers, and the Coke Brothers have  
557 indicated that they have no financial--direct financial  
558 interest in this pipeline, and for that reason we have never  
559 really called them as a witness. And I might say that we  
560 know that the Burlington Northern Santa Fe Railroad has  
561 direct routes right into Canada and Alberta and that if the  
562 pipeline is not built, that maybe some of that oil will move  
563 by rail into the U.S., and, of course, the owner of that  
564 railroad is Warren Buffet of Berkshire Hathaway.

565 We have not made any effort to call Warren Buffet to  
566 testify in this hearing because even though his company might  
567 benefit if the pipeline is not built, we do not think he has  
568 a direct financial interest in it, and I really in my view do  
569 not view Warren Buffet and the Coke Brothers any different on  
570 this situation.

571 So I simply wanted to mention that. I would also say  
572 that the State Department when it issued its final  
573 environmental impact statement in August of 2011 actually  
574 made the comment that it would be better to build this

575 pipeline than to not build the pipeline. If you were looking  
576 at these two options, it would be better to build it than not  
577 to build it.

578         And so other pipeline projects requiring the  
579 Presidential permit usually take 18 to 24 months to review  
580 and approve. Keystone is now in its 40th month. So when  
581 these additional delays appear to be mounting early in 2011,  
582 the U.S. House passed bipartisan legislation with 47  
583 Democrats voting yes that simply instructed President Obama  
584 to make a final decision one way or the other on the  
585 Presidential permit by November 1, 2011. At the time the  
586 White House stated the legislation was unnecessary because  
587 the State Department would be making the decision by the end  
588 of 2011.

589         But as President Obama's campaign began to warm up for  
590 President, the President's political advisors realized that  
591 the environmental groups would be quite upset if the  
592 President said yes to this pipeline. On the other hand, the  
593 labor unions were going to be quite upset, at least five or  
594 six of them, if the President said no to the pipeline.

595         So at that time the President instead of making a  
596 decision said that he would wait until after the election to  
597 make a decision. So from our perspective this really was  
598 nothing but a political decision, and since we have had 40

599 months of detailed study and analysis on this, we felt like  
600 that there was no reason to delay anymore, because we do need  
601 to be less dependent upon foreign oil. We can bring in this  
602 oil from our friendly neighbor to the north, Canada, and we  
603 can create jobs as well.

604         So I wanted to just make that comment about the Coke  
605 Brothers and the fact that I don't see that they are in much  
606 of a different position than Warren Buffet is except they are  
607 on different sides of the issue perhaps.

608         And I yield back the balance of my time, and Mr. Rush, I  
609 will recognize you for 5 minutes for questions.

610         Mr. {Rush.} Mr. Chairman, I would just suggest that  
611 maybe you should invite Warren Buffet and the Coke Brothers  
612 here. That would be a dandy old hearing.

613         Mr. {Whitfield.} That would.

614         Mr. {Rush.} Right.

615         Mr. {Whitfield.} We would get a lot of press.

616         Mr. {Rush.} Right. I want to ask Mr. Pool regarding  
617 the Bureau of Land Management's current role in--how--I think  
618 you hit on it, but I want you to expound on this. How does  
619 this bill affect the role of your agency? How does this bill  
620 affect the role of your agency?

621         Mr. {Pool.} It does raise concerns. The BLM has a long  
622 history of issuing the rights of ways under the Mineral

623 Leasing Act, approximately 32,000. We have experience, we  
624 have the practitioners in the field that are familiar with  
625 the right-of-way program and the importance of working  
626 through NEPA and taking into account any cultural biological  
627 concerns.

628         So and we have got that experience. We have dealt with  
629 pipelines many times in the past, so the bill the way it is  
630 worded seems to confer all of our responsibility under the  
631 Mineral Leasing Act to FERC, and some of the accelerated  
632 timeframes in the bill it begs the question whether or not if  
633 there is any additional consultation requirements under  
634 Section 106 of the National Archeological Protection Act or  
635 any additional consultations that may be required through the  
636 Fish and Wildlife Service if that is possible.

637         I think the other thing that I think is very important  
638 is the BLM has established relationships in the west. We  
639 have many offices geographically in the west. We are  
640 accustomed to working with county, local governments, state  
641 governments. We work with our federal counterparts as well.  
642 So we have been in this process for 3 years as it relates to  
643 our right of way, the right away application in Montana, so  
644 we have an already-established relationship with our federal  
645 and state entities as we work through, you know, this  
646 particular project or future projects.

647           And I think that helps ensure ourselves and with the  
648 involvement of the federal agencies that we are fulfilling,  
649 you know, our Congressional mandates.

650           Mr. {Rush.} As far as you are concerned does FERC have  
651 the same vast foot front in the west to make similar  
652 decisions?

653           Mr. {Pool.} Well, I know from a jurisdictional  
654 ownership standpoint they do not. They are a regulatory  
655 entity. I mean, you know, when it comes to transcontinental  
656 natural gas line, FERC usually assumes that lead, and when  
657 they are in that role, we are a cooperating agency.

658           But it is important to point out that, you know, and the  
659 more recent example being the Ruby Pipeline in the west, they  
660 had the lead, but all our other mandates regarding segments  
661 that cross public lands or other federal jurisdictions, that  
662 was administered and authorized under the Mineral Leasing  
663 Act, and all other mandates were also required as well.

664           Mr. {Rush.} Ms. Gaffney-Smith, the Army Corps of  
665 Engineers has a role in this submitting process and  
666 concerning this--so your responsibilities and some of your  
667 activities regarding this matter. Would you care to expound  
668 more on how this bill will affect your role?

669           Ms. {Gaffney-Smith.} Our interpretation and  
670 understanding of the bill as it is currently proposed would

671 eliminate any opportunity for the Corps of Engineers to  
672 process any applications related to Section 404 of the Clean  
673 Water Act or Section 10 of the Rivers and Harbors Act, and so  
674 we would have under the current language within the bill we  
675 would have no authority to regulate the activities in waters  
676 that are under our jurisdiction under those two laws.

677 Mr. {Rush.} So this would aggregate your significant  
678 responsibilities and dilute the authority and the experience  
679 the Army Corps of Engineers have built up over centuries?

680 Ms. {Gaffney-Smith.} Yes. It would remove all of our  
681 authority and remove any existing experience that we could  
682 lend to the review of the proposal.

683 Mr. {Rush.} All right. Can either of you tell the  
684 committee on the provision of this bill which agency or  
685 agencies would then be responsible for enforcing the terms of  
686 the environmental impact statement?

687 Ms. {Gaffney-Smith.} From the Corps of Engineers  
688 perspective it looks like the entire responsibility would be  
689 provided to the Federal Energy Regulatory Commission.

690 Mr. {Rush.} Do you agree, Mr. Pool?

691 Mr. {Pool.} That is the way the bill comes across to us  
692 as well. It is the transfer of authority that we currently  
693 have at BLM in terms of, you know, issuing the rights of ways  
694 from the Mineral Leasing Act, and that would be conferred to

695 FERC.

696 I think it is also important to point out that in terms  
697 of, you know, BLM's Rights of Way Program, that these are  
698 cost reimbursement programs for--so the work that we perform,  
699 the studies that may be necessary depending on where any  
700 pipeline may be right across public land, industry provides a  
701 cost reimbursable account. So that account would, under this  
702 bill would pretty much, you know, we would not happen  
703 anymore. We would be out of the picture.

704 Mr. {Rush.} Thank you, Mr. Chairman.

705 Mr. {Whitfield.} At this time I recognize the gentleman  
706 from Oklahoma, Mr. Sullivan, for 5 minutes.

707 Mr. {Sullivan.} Thank you, Chairman Whitfield.

708 During this State of the Union address President Obama  
709 turned his back on the Keystone Pipeline. He actually  
710 rejected the advice of his own Jobs Council who recommended  
711 an all-in approach to energy policy that included expediting  
712 energy projects like pipelines.

713 Like many Americans I was surprised that the primary  
714 reason the President stated for his denial saying Congress  
715 forced his decision with an arbitrary deadline. If excuses  
716 were barrels of oil, this Administration would have filled  
717 out strategic petroleum reserves several times over.

718 The truth of the matter is the Administration had 3

719 years to reach a decision on Keystone XL but failed to do so.  
720 If more than 1,100 days is not enough time, then exactly how  
721 much time do you need to secure our energy future, Mr.  
722 President?

723         This begs the question of just who is in control of our  
724 national, Nation's energy agenda. Time and time again we  
725 hear about President Obama's commitment to American-made  
726 energy that creates jobs and reduces our dependence on  
727 foreign oil, yet he rejects a no-brainer like Keystone XL.  
728 The truth is he made a calculated political decision to  
729 reject it to keep his anti-jobs environmental base happy in  
730 an election year.

731         By rejecting the pipeline President Obama turned his  
732 back on American jobs. What logical reason could there be to  
733 say no to 20,000 new private sector jobs and potentially  
734 100,000 indirect jobs while our Nation's unemployment rate  
735 remains above 8 percent? It is in both our economic and  
736 national security interests to use the oil and gas reserves  
737 right here in our own backyard.

738         Mr. President, why not embrace bolstering our energy  
739 supply with a stable source of oil from Canada and North  
740 Dakota instead of politically tumultuous OPEC nations.  
741 Unlike the trillion dollar failed Stimulus Law, the Keystone  
742 Project is privately funded and does not cost the taxpayers

743 one dime. The Keystone XL Pipeline is a game changer for  
744 energy security. The pipeline when fully complete would  
745 transport nearly 1.3 million barrels of oil per day from  
746 Alberta and North Dakota to refineries in the Midwest and  
747 Gulf Coast.

748 I believe this is in our national interest to move  
749 forward with this pipeline, and the State Department's 3-year  
750 delay is considering--in considering this pipeline is a  
751 national travesty. Three years into the Obama's Presidency  
752 he has severely limited access to both on and offshore oil  
753 and gas reserves, pushed the most expensive environmental  
754 regulatory agenda in history, and sent a half billion dollars  
755 of taxpayer money to Solyndra, a now bankrupt solar company.

756 The fact of the matter is that our country needs all the  
757 energy we can get to continue growing our economy. With gas  
758 prices expected to rise in the coming months, his decision to  
759 reject the Keystone Pipeline means that our energy security  
760 is now in the hands of China, Iran, and other OPEC nations;  
761 not a good choice.

762 Mr. Chairman, the Keystone Pipeline is the right thing  
763 to do to create jobs and make our Nation more energy secure.  
764 I would like to yield the balance of my time to Congressman  
765 Lee Terry from Nebraska.

766 Mr. {Terry.} If the gentleman doesn't mind, can I

767 reject that since I only have a minute 30 left?

768 Mr. {Sullivan.} Yes, you can.

769 Mr. {Terry.} But I appreciate that opportunity.

770 Mr. {Sullivan.} Yes, sir.

771 Mr. {Whitfield.} The gentleman yields back his time.

772 At this time I will recognize the gentleman from  
773 California, Mr. Waxman, for 5 minutes.

774 Mr. {Waxman.} Mr. Chairman, the topic that we are  
775 discussing is the Keystone Pipeline, but I must say the  
776 Republicans are like Keystone cops in the way they have  
777 handled this whole issue. They have been going way out on a  
778 limb to get this pipeline approved, even to the point where a  
779 tax cut for middle class Americans and unemployment benefits  
780 and money for physicians was--a bill was held up to make sure  
781 that there was a provision that gives special treatment to  
782 the Keystone Pipeline.

783 But these brilliant people put in a provision that said  
784 the President has to decide the issue within a certain period  
785 of time. They forgot to tell him how he had to decide it,  
786 and the President said, how long are you going to hold the  
787 facts first? And I am not going to approve it in this  
788 timeframe.

789 So now they have come up with a bill. This is a  
790 remarkable bill. This bill says--I wish people would read

791 it. This--it says--this is a--the pipeline in this bill is  
792 the Keystone XL Pipeline. No question about it, and they are  
793 exempted from review except for 30 days, but if the FERC  
794 doesn't give them a permit in 30 days, then they will be  
795 deemed approved. They are not taking any chances now.

796 And in addition they say that the two other agencies and  
797 all the other agencies that might be involved in reviewing  
798 this bill will no longer have the power to review the bill.  
799 So we have witnesses here from two of the agencies that  
800 ordinarily would review any legislation, not legislation, any  
801 application for something that would go over public lands,  
802 over waterways. Suddenly they are out. They can't review  
803 it.

804 So when we found out, when Mr. Terry found out that was  
805 the case, he just said to us for the first time this morning,  
806 oh, we are not going to do that. We are going to put them  
807 back in the bill.

808 So the application has to be approved in 30 days, or it  
809 is approved. If they want to make a modification, they can  
810 ask for a review for 30 days, but if it is not approved in 30  
811 days, it is approved. For this one project.

812 Now, we wanted to find out what interest the Coke  
813 Industries had. Now, why did we want to find that out?  
814 Well, the Coke Industries is one of the largest crude oil

815 exporters in Canada. The Coke Industries own the terminal in  
816 Canada where the pipeline would begin. The Coke Industries  
817 has a refinery near where the pipeline would end, and the  
818 chairman said they--he would take their word for it they  
819 don't have any interest, even though there is evidence to the  
820 contrary.

821 But then he throws out a real herring as no one better  
822 than a Keystone cop could do, and his argument, oh, well,  
823 wait a minute. There is another guy who agrees with the  
824 Democrats some of the time, who owns a railroad, and they  
825 might put the coal, tar sands on the railroad. So really  
826 what the Democrats are doing is fronting for another  
827 industry. Boy, does that make sense. You got the crude oil  
828 owner with the pipeline and a refinery, and we should just  
829 take their word for they have no interest, but we should then  
830 point the finger at Warren Buffet's company.

831 And then what did they do? They say in hearings, well,  
832 we know what is going on. We are attributing the worst  
833 possible motives to the President of the United States. It  
834 is all political. Well, that is quite a statement. How did  
835 they get into the President's head? What the President said  
836 is I want to get information before I approve it, and they  
837 said, aha. What is really going on is the President is  
838 trying to take care of the environmentalists, and he is going

839 to annoy them. They have got it all written down. They  
840 could be on 24-hour news radio. They have figured it all out  
841 without getting more information.

842 Well, we have two witnesses right now, and before acting  
843 we should get some further information about this special  
844 interest bill. It directs the FERC to deal with the matter,  
845 but Ms. Gaffney-Smith, under the Section 404 of the Clean  
846 Water Act, the U.S. Army Corps of Engineers have a permitting  
847 process to ensure that wetlands are protected from discharges  
848 of dredge or fill material.

849 Now, doesn't this bill take away jurisdiction of your  
850 agency over this pipeline?

851 Ms. {Gaffney-Smith.} It appears to do so. Yes.

852 Mr. {Waxman.} And Mr. Pool, the--your agency has to do  
853 with wildlife. Tell me what your agency would ordinarily  
854 review and whether you have that ability to review it.

855 Mr. {Pool.} Congressman, we--all these type actions we  
856 review them per land-use plans. That is the Congressional  
857 mandate under--

858 Mr. {Waxman.} And now are you being taken, is that  
859 jurisdiction being taken away from you?

860 Mr. {Pool.} It appears it would, that we would no  
861 longer apply those other Congressional--

862 Mr. {Waxman.} We used to have a party in this county

863 called the know nothings, and the people that are pushing  
864 this bill want us to know nothing about this pipeline except  
865 what the proponents want us to know, and if the Coke Brothers  
866 are proponents and are going to benefit, I would like to know  
867 about it, and the American people ought to know about it as  
868 well.

869 My time has expired, and I hope we have another round.

870 Mr. {Whitfield.} At this time we will recognize the  
871 gentleman from Oregon, Mr. Walden, for 5 minutes.

872 Mr. {Walden.} I thank the gentleman very much.

873 Mr. Pool, tell me again the agency you are with.

874 Mr. {Pool.} Bureau of Land Management.

875 Mr. {Walden.} And tell me how many acres are at play  
876 and that you have reviewed as part of the Keystone Pipeline  
877 review process?

878 Mr. {Pool.} Congressman, the majority of that acreage  
879 is in Montana.

880 Mr. {Walden.} Yes.

881 Mr. {Pool.} A little over 42-mile segment and it  
882 comprises given the linear width 50 feet, it comprises about  
883 250 acres with an additional 900 acres that would be needed  
884 probably for staging during the construction phase.

885 Mr. {Walden.} Yes. I was thinking, I was looking for  
886 it here in your testimony. I thought it was actually 270

887 acres is what your testimony is but it is the same.

888 Mr. {Pool.} Yeah.

889 Mr. {Walden.} Two fifty, 270. And you have done the  
890 environmental work on that. Right? The review process  
891 through NEPA already?

892 Mr. {Pool.} Our segment was reviewed through the NEPA  
893 process. That was led by the State Department, and so the  
894 segment that we are associated with through our mandates was  
895 evaluated, and as a result of the final EIS that came out in  
896 August we did not identify any major constraints to that  
897 segment in terms of authorization.

898 Mr. {Walden.} So you have done the full review, you  
899 have been through the EIS, the SEIS, the final environmental  
900 impact statement, and this is all about a 50-foot wide swath  
901 that covers 278. Now, the other land that you talked about,  
902 did you say 900, roughly 900 acres?

903 Mr. {Pool.} You know, we issue--

904 Mr. {Walden.} Temporary in and out.

905 Mr. {Pool.} It is. It is, you know, temporary use for  
906 grants to facilitate staging during the construction phase.

907 Mr. {Walden.} And then that would revert back.

908 Mr. {Pool.} That is for a 3-year period.

909 Mr. {Walden.} Okay, and then talk to me about any  
910 issues related to the work that your fine agency did on the

911 biological opinions related to the Endangered Species Act.

912 Did you find any threat to threatened or endangered species?

913 Mr. {Pool.} I think the initial biological opinion that  
914 was provided indicated there would not likely be a jeopardy  
915 to the existence of threatened or endangered species.

916 Mr. {Walden.} Uh-huh.

917 Mr. {Pool.} Obviously it was subsequently withdrawn  
918 and--

919 Mr. {Walden.} But it was an FEIS as well. Right? I  
920 mean, it had gone through the full--

921 Mr. {Pool.} That is correct. It was issued after the  
922 issuance of the FEIS.

923 Mr. {Walden.} Right. So your agency, your biologists,  
924 all the people that do this work have thoroughly reviewed the  
925 Keystone part that would cross federal land over which you  
926 have jurisdiction.

927 Mr. {Pool.} That is correct.

928 Mr. {Walden.} And found no--not--no likely jeopardy of  
929 any threatened or endangered specie, and you are talking  
930 about a total of 270 acres roughly for the full pipeline.  
931 Correct? So the State Department had all that information.

932 Mr. {Pool.} Yes, they do.

933 Mr. {Walden.} On the public lands.

934 Mr. {Pool.} Yeah. We were very cooperative to the

935 State Department, one of many, so--

936 Mr. {Walden.} Right.

937 Mr. {Pool.} --that is the area that we were responsible  
938 is where it crosses public land.

939 Mr. {Walden.} All right.

940 Mr. {Pool.} I think we have got a sliver, about a mile  
941 and a half, in South Dakota, but the majority of that  
942 crossing of public land occurs in Montana.

943 Mr. {Walden.} All right. All right. I appreciate  
944 that. I think that is important for the record because we  
945 have heard a lot of spin-up rhetoric here, and I just want to  
946 get to the facts. I went through some of the FEIS in the  
947 last hearing we had, and, you know, we hear about this jobs  
948 number. It gets batted all over, you know. I think we would  
949 want private sector investment, and this is \$7 billion, I  
950 believe, in shovel ready, private sector construction jobs,  
951 and there are estimates of 20,000.

952 Now, I think what Mr. Waxman referenced was actually  
953 only the construction jobs during the phase of the  
954 construction, but I know having been a small business owner  
955 for more than 2 decades that when you get involved in a big  
956 project, it is not--I mean, we were just in the radio  
957 business, but, you know, if I bought a transmitter, somebody  
958 had to build that thing, and I had to hire an engineer to

959 install it, and I had to go through a lot of other efforts.

960           There were a lot of other indirect jobs associated, and  
961 I think that is maybe where the difference of opinion here is  
962 on the jobs. If you only looked at just exactly the, you  
963 know, several thousands of jobs that would be there for 2  
964 years in an industry that has been devastated over the last 3  
965 years I would take whatever jobs we could, and if there is no  
966 environmental impact on the federal lands, and it doesn't  
967 appear there would be.

968           I think we can make the change Mr. Terry recommended to  
969 deal with the issue that Ms. Gaffney-Smith, if we change this  
970 bill to allow you to continue to have your statutory  
971 authority, that wouldn't be a problem, would it?

972           Ms. {Gaffney-Smith.} No. We would evaluate all the  
973 crossings and impacts under the current authority, statutory  
974 authorities in our--

975           Mr. {Walden.} And have you done that already?

976           Ms. {Gaffney-Smith.} No, we haven't done it. We have  
977 only received preconstruction notifications for certain  
978 aspects of the pipeline.

979           Mr. {Walden.} I see. My time has expired. Thank you  
980 very much.

981           Mr. {Whitfield.} At this time we will recognize the  
982 gentleman from Texas, Mr. Gonzalez, for 5 minutes.

983           Mr. {Gonzalez.} Thank you very much, Mr. Chairman, and  
984 welcome to the witnesses, and we had a witness from FERC that  
985 the way I recall his testimony was, one, they weren't really  
986 equipped to do it, two, the timeline that is being imposed by  
987 this particular bill, 3548, was not realistic. And I believe  
988 what you are providing and what you bring to the equation of  
989 building this pipeline safely is invaluable and essential,  
990 and I don't believe that this bill is the best method of  
991 accomplishing the building out of the Keystone Pipeline,  
992 which I support. I just don't think this is the way to do  
993 it.

994           My greater fear and we are going to have some other  
995 witnesses that may address some other implications, and that  
996 is unrealistic expectations of what this pipeline is going to  
997 provide this country. I am going to do this as briefly as I  
998 can.

999           First of all, when it comes to price, fuel prices  
1000 reduces economic growth at a very, very sensitive time in  
1001 this country. High gas prices reduced economic growth in  
1002 this country in 2012, by 0.5 percent when we know that total  
1003 growth for the year we are looking at around 2 percent. So  
1004 it was substantial.

1005           I do not believe that the Keystone Pipeline would reduce  
1006 fuel prices, and that is what we are telling the American

1007 public, and we keep going on. I wish we had a hearing that  
1008 would really explore the impact on price, because eventually  
1009 it will be our constituents that will be dumbfounded when we  
1010 complete the pipeline and they are still paying an  
1011 extraordinary amount of money for a gallon of gasoline.

1012 Gasoline supplies are being exported to the highest  
1013 bidder. I said this last week. Leading all exports in this  
1014 country was fuel last year. So it is a global market. That  
1015 is what we are in competition with, and this is from Tom  
1016 Kloza, Chief Oil Analyst at Oil Price Information Service,  
1017 which he said it is a world market and will go to the highest  
1018 bidder.

1019 At a Senate hearing the president of Shell back in May  
1020 of last year said, simply stated, oil is a global commodity,  
1021 and oil companies are price takers, not price makers. That  
1022 is the same lesson that is going to be imposed on refiners.  
1023 It is a global market.

1024 So who owns all the oil that is coming and is going to  
1025 be stored somewhere? Well, that is really curious, and maybe  
1026 we can understand global markets and how the prices are  
1027 arrived at. This is a story, Dallas Morning News, 15th of  
1028 May last year, some 70 percent of contracts for future oil  
1029 delivery are now bought by financial speculators, largely big  
1030 investment banks, and hedge funds who never take control of

1031 the oil. They just flip the contract for a quick profit.  
1032 Only about 30 percent of oil contracts are bought by a  
1033 purchaser that actually intends to use the oil such as an  
1034 airline. That is according to the Commodity Futures Trading  
1035 Commission which regulates trade in those contracts.

1036 Michael McMasters, Wall Street investor, testified  
1037 before Congress repeatedly that speculators are pushing  
1038 prices well beyond what the supply and the demand warrant.

1039 And then I want to end this by--until the early 1990s  
1040 the ratio of speculative trades to trades made by commercial  
1041 users of oil was tilted heavily towards the users of oil, but  
1042 from 1991, forward the big financial players such as Goldman  
1043 Sachs and J.P. Morgan won exemptions that freed them from  
1044 limits on how much they could speculate in future markets.

1045 Now, we have attempted to do something about that, but  
1046 the majority party has fought us tooth and nail on this,  
1047 whether it is Dodd-Frank or anything else that addresses some  
1048 sort of a regulatory scheme that will now allow the play in  
1049 of futures and commodities to the detriment of the American  
1050 consumers. This is all part of it, but we seem to be  
1051 ignoring a holistic approach.

1052 Now what really concerns me is we are going to have a  
1053 witness that is going to tell us that this may not be the  
1054 answer to national security. Now, I think that it can be

1055 depending on how we use the raw product and the refined  
1056 product that we derive from oil. But if, in fact, it is a  
1057 global market, the only way you maintain that edge is somehow  
1058 making sure that there is available, accessible, and  
1059 affordable supply in the United States.

1060 But if you have investors that are charged with the  
1061 fiduciary duty of making a good profit for their investors,  
1062 and that is the American way, and I have no problem with  
1063 that, what do you do? Do you keep it in the domestic market,  
1064 or do you export it?

1065 So there is not just about the safety of the pipeline.  
1066 I believe that I would rather be dependent on Mexico and  
1067 Canada than Saudi Arabia and Venezuela. I mean, there is no  
1068 doubt about that. Venezuela. But the problem we have is not  
1069 a realistic approach, and I guess that is what really  
1070 concerns me, and I am hoping to return for the witnesses that  
1071 are going to be touching on some of the subject matter that I  
1072 just touched on. I appreciate your testimony today. I think  
1073 you are invaluable to this whole equation of building a safe  
1074 Keystone Pipeline.

1075 Thank you, Mr. Chairman.

1076 Mr. {Whitfield.} At this time I recognize the  
1077 gentleman, Mr. Terry.

1078 Mr. {Terry.} Thank you, and I guess I am one that would

1079 like to submit items for the record, so Mr. Chairman, I ask  
1080 unanimous consent that I may submit for the record a  
1081 memorandum from the U.S. State Department, Mr. Keith Dennis,  
1082 dated June 22, 2011.

1083         And on the issue that my friend from St.--not St. Louis,  
1084 San Antonio, a little further south, mentioned, it is on the  
1085 record from the State Department's review of this pipeline  
1086 that eliminating transportation constraints from Cushing to  
1087 Houston would not adversely affect Midwest gasoline  
1088 consumers. In fact, it goes on and says that it would help  
1089 crude prices decline considering that the transportation is  
1090 consistent, reliable, and less expensive.

1091         Let us keep in mind that what we are talking about is  
1092 around 700,000 barrels initially going up to a million  
1093 barrels that would completely offset the need for us to send  
1094 tankers to Venezuela and fill up with their heavy crude and  
1095 ship it up here. It defies logic--

1096         Mr. {Whitfield.} I might just say without objection  
1097 that--

1098         Mr. {Terry.} Thank you. I submit that so I will put it  
1099 up here.

1100         [The information follows:]

1101 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
1102           Mr. {Terry.} But it simply defies logic to me that when  
1103 you have a transportation system that the State Department  
1104 even testified was safer, the safest means of transport, the  
1105 most environmentally safe transport that there be arguments  
1106 that it not add to our energy security.

1107           And then secondly on the jobs, you know, it befuddles  
1108 most Americans as polling has shown that this President  
1109 denied the permit, and the jobs that would be created if you  
1110 look into the union hall at the--for the laborers or the  
1111 IBEW, there is people sitting on the bench waiting to have  
1112 their names on the list to be called that when this starts  
1113 they go to work. Right now in Nebraska there is an  
1114 engineering company that has ceased doing work because of the  
1115 denial of this permit on the Nebraska route.

1116           And, yes, it befuddles me and most of Americans when my  
1117 friends on the other side of the aisle say that, geez, 6,000  
1118 direct jobs out on the pipeline is not enough for them, and  
1119 by the way it is only temporary. Well, I don't know an  
1120 infrastructure project that isn't temporary. So evidently we  
1121 are against all infrastructure now. It just--it befuddles me  
1122 why they would oppose it.

1123           Now, Ms. Gaffney-Smith, I appreciate your testimony here  
1124 today and with the help of the State Department you have made

1125 some valid points that we realized and have decided before  
1126 this hearing today, even after last week, that we needed to  
1127 make sure that we are clear in the fact that the intent of  
1128 this bill was the Presidential authority needed to be moved  
1129 away from the White House to an agency that had expertise in  
1130 pipelines to make a decision on whether it is safety and  
1131 soundness of the pipeline versus the politics that seem to  
1132 have overwhelmed this issue.

1133 Now, with that making that correction that recognizes  
1134 that we aren't usurping the Corps of Engineers powers, we  
1135 want you to make that review. Do you have any objections to  
1136 this legislation?

1137 Ms. {Gaffney-Smith.} I can't speak to legislation where  
1138 I haven't seen the actual language, but it would be  
1139 appropriate, I think, for us to look at that and see if it,  
1140 in fact, puts us back.

1141 Mr. {Terry.} Can I ask why when we asked the Corps of  
1142 Engineers last week why--

1143 Mr. {Whitfield.} Your microphone.

1144 Mr. {Terry.} That you didn't want to be here, but you  
1145 are here to be an opposing, hostile witness.

1146 Ms. {Gaffney-Smith.} I am not aware that an official  
1147 invitation was provided.

1148 Mr. {Terry.} Let me ask you, Mr. Pool, in the State of

1149 Nebraska--thank you. I hear it now. In the State of  
1150 Nebraska what federal lands did the original route take? Did  
1151 the original route go through an federal lands?

1152 Mr. {Pool.} Yes, Congressman. There was a small piece  
1153 of land administered by BOR, Bureau of Reclamation, had to do  
1154 with the canal area, that we would have--

1155 Mr. {Terry.} That was South Dakota, wasn't it?

1156 Mr. {Pool.} No. That is Nebraska.

1157 Mr. {Terry.} Okay.

1158 Mr. {Pool.} Yeah, and so--

1159 Mr. {Terry.} All right. My time is up. I am sorry. I  
1160 will have to get--I will submit that one for the record for  
1161 you to get back to me on.

1162 Mr. {Pool.} I will do.

1163 Mr. {Terry.} All right.

1164 Mr. {Whitfield.} At this time I recognize the gentleman  
1165 from Michigan, Mr. Dingell, for 5 minutes.

1166 Mr. {Dingell.} Mr. Chairman, I thank you for your  
1167 courtesy. I would like to make a couple quick observations.

1168 In 1970, Scoop Jackson and I wrote the National  
1169 Environmental Policy Act. It was to depoliticize the  
1170 approval of projects and to see to it that we had the  
1171 information we needed when we were going into those kinds of  
1172 questions. So it required an environmental impact statement.

1173 That can be speeded up and properly so. But I would caution  
1174 that if you speed it up too fast you are going to re-  
1175 politicize this and make a fine mess out of the thing and  
1176 cause no end of trouble and litigation. So I would beg you  
1177 not to do this.

1178 I say that parenthetically I want to support this  
1179 legislation. I think the Canadians are going to do this  
1180 whether we like it or not, and they are either going to build  
1181 a pipeline going west or going south, and it is better in my  
1182 view that if that pipeline goes anywhere, it goes south to  
1183 the United States. It will be a much more dependable source  
1184 of energy for the United States.

1185 So I would urge my colleagues not to drive away members  
1186 like me by moving too fast on this, because if you do, you  
1187 will just simply create a wealth of litigation. The lawyers  
1188 will have a fine time, make lots of money, and the business  
1189 of the country will be, in fact, delayed by carelessness in  
1190 this committee.

1191 Having said that, first question here to Mr. Pool, did  
1192 the State Department refer the application to your Department  
1193 or to the BLM? Yes or no?

1194 Mr. {Pool.} Say again, sir.

1195 Mr. {Dingell.} Did the State Department refer the  
1196 application to your Department or to the BLM? Which?

1197 Mr. {Pool.} The--well, the application that we received  
1198 was from the applicant for the segment of public land that  
1199 was coming across Montana. It is a right-of-way application.

1200 Mr. {Dingell.} Now, Ms. Gaffney-Smith, did the State  
1201 Department refer the application to the Corps?

1202 Ms. {Gaffney-Smith.} No. Like the Department of  
1203 Interior the application came from the applicant.

1204 Mr. {Dingell.} Okay. Did BLM provide views on the  
1205 permit application? Answer yes or no.

1206 Mr. {Pool.} Provide what, sir?

1207 Mr. {Dingell.} Did BLM provide views on the permit  
1208 application? Please answer yes or no.

1209 Mr. {Pool.} We were part of the environmental impact  
1210 process that was led by the State Department, and so the  
1211 mandates that we have obligations with in terms of issuing a  
1212 right-away grant in Montana then we did review the  
1213 application in the context of the overall NEPA product.

1214 Mr. {Dingell.} Now, Ms. Gaffney-Smith, did the Corps  
1215 provide views on the permit application?

1216 Ms. {Gaffney-Smith.} In three Corps districts in  
1217 Galveston, Fort Worth, and Tulsa District we received a  
1218 preconstruction notification for Nationwide Permit 12. We  
1219 initiated coordination with other agencies, and we did  
1220 provide a response to the applicant in accordance with our

1221 Nationwide Permit rules based on comments we received from  
1222 the Department of State.

1223 Mr. {Dingell.} So your answer is yes?

1224 Ms. {Gaffney-Smith.} Yes.

1225 Mr. {Dingell.} Under H.R. 3548 environmental review  
1226 process would need to be completed within 30 days. Even  
1227 though BLM would no longer be involved in the permit review  
1228 process under this bill, is 30 days enough time for BLM to do  
1229 the necessary due diligence on submitting its views for the  
1230 Keystone Pipeline? Yes or no?

1231 Mr. {Pool.} Congressman, I would say no, it is not  
1232 enough time.

1233 Mr. {Dingell.} Very good. Ms. Gaffney-Smith, the same  
1234 question to you. Is 30 days enough time for the Corps to  
1235 submit its views?

1236 Ms. {Gaffney-Smith.} No, I don't believe so.

1237 Mr. {Dingell.} Do you believe--this goes to both, yes  
1238 or no. Do you believe that FERC has the experience that BLM  
1239 has to review a permit of this scope? Please answer yes or  
1240 no.

1241 Mr. {Pool.} I don't believe they do.

1242 Mr. {Dingell.} Thank you. Madam.

1243 Ms. {Gaffney-Smith.} No, sir.

1244 Mr. {Dingell.} All right. Now, Ms. Gaffney-Smith, do

1245 you believe that FERC has the experience that the Corps has  
1246 to review a permit of this scope? That is practically the  
1247 same question as the prior one, but it is a little more  
1248 subtle. Yes or no?

1249 Ms. {Gaffney-Smith.} No.

1250 Mr. {Dingell.} Now, and I want to thank you and  
1251 apologize for the fact that I curtailed you in your time.

1252 Mr. Chairman, we could hurry this process in a way which  
1253 is going to create lots of trouble and wind up ultimately  
1254 with a delay or veto or profound litigation that could go on  
1255 for years. If that occurs, we will then find ourselves in  
1256 the splendid position of having to reenter this issue with  
1257 all of the politics that goes to it and all the difficulty,  
1258 or we could begin moving to try to work this thing out. I  
1259 would like to move in that direction. I hope the committee  
1260 will exceed to that kind of view, and we can begin working on  
1261 this in that way rather than getting ourselves in a splendid  
1262 fight which will generate monstrous ill will and create a  
1263 situation where there will actually be more delay rather than  
1264 less.

1265 Thank you, Mr. Chairman.

1266 Mr. {Whitfield.} Thank you, Mr. Dingell.

1267 We do have votes on the Floor, but we do have about 6  
1268 minutes left, so Ms. Capps, I believe you were here, so I

1269 would recognize you for a period of 5 minutes.

1270 Mrs. {Capps.} Thank you, Mr. Chairman, and because I  
1271 know Mr. Markey also was here and wants to speak, I am asking  
1272 Mr. Markey, do you want some of my time? Would you like some  
1273 of my time? Maybe it is not--okay. I will do it.

1274 I am--I come from an area that is energy producing as  
1275 well, and I am very impressed with--I have one image in my  
1276 mind because it was you, Mr. Pool, when you were in charge of  
1277 the BLM and for the State of California, and I was newly  
1278 elected, who escorted me for the first time to see what we  
1279 call the Shangri-La of the West, the Carrizo Plain, eastern  
1280 portion of San Luis Obispo County, fragile ecosystem that is  
1281 remnant of the way the land was 300 years ago, in which the--  
1282 all of the vested interest, the mineral rights, the cattle  
1283 ranchers, and all of the stakeholders have found a way to  
1284 preserve the natural history under the leadership of the BLM.  
1285 And also make that an economically-viable area.

1286 Oil and gas industry have all--have their wall there,  
1287 and I picture this pipeline going through the Carrizo Plain,  
1288 and I am very concerned that we take the time that is needed  
1289 to preserve in the Midwest what I know from my area to be the  
1290 possibility of protecting the land as well as furthering  
1291 economic interest. And I see this latest attempt by House  
1292 Republicans to short-circuit the review process, and I want

1293 to ask you because I know your expertise, Mr. Pool, and I  
1294 also have a number of Army Corps projects in my district as  
1295 well and have had the pleasure of working with that agency.

1296 Mr. Pool, would it make sense for the Bureau of Land  
1297 Management or the Fish and Wildlife Service to issue permits  
1298 for a pipeline with an unknown route, which is what we have  
1299 before us today?

1300 Mr. {Pool.} Congresswoman, I can only speak to the  
1301 segment in Montana that we are knowledgeable of that area,  
1302 and the application is very precise as to where it will be  
1303 located.

1304 Mrs. {Capps.} Right, but now for the further part of it  
1305 you have no knowledge exactly where the precise, about the  
1306 preciseness. Is that correct?

1307 Mr. {Pool.} Generally speaking we do on a map. I mean,  
1308 we see the whole delineation of the pipeline from north to  
1309 south, but if it doesn't fall within public land  
1310 jurisdiction, then it is not going to pertain to BLM.

1311 Mrs. {Capps.} Okay. Would you like to respond and then  
1312 I want to turn to my colleague?

1313 Ms. {Gaffney-Smith.} Can you repeat the question,  
1314 please?

1315 Mrs. {Capps.} Does it make sense for the--does the Army  
1316 Corps of Engineers typically provide permits for pipeline

1317 projects when the route of the pipeline is unknown?

1318 Ms. {Gaffney-Smith.} No. We only evaluate permits for  
1319 applications that have been submitted by project applicants  
1320 that have a project.

1321 Mrs. {Capps.} And I would like to yield the balance of  
1322 my time to Mr. Markey.

1323 Mr. {Markey.} I thank the gentlelady. Under this bill  
1324 are there any guarantees that all of the friendly Canadian  
1325 oil that is sent through the pipeline will be sold here in  
1326 the United States? No. No. So let me get this plan right.

1327 Step one. TransCanada puts the dirtiest oil on the  
1328 planet into the brand new pipeline that the Republicans are  
1329 giving them.

1330 Step two. TransCanada sends that oil to the Gulf Coast  
1331 where they can make billions more than where they currently  
1332 sell it in the Midwest.

1333 Step three. Refineries in the Gulf Coast re-export it  
1334 to other countries at world oil prices and don't pay any  
1335 taxes for doing it.

1336 Step four. Americans get higher gas prices and no  
1337 increase in energy security.

1338 And step five. TransCanada and the sheiks in Saudi  
1339 Arabia laugh all the way to the bank.

1340 That is pretty much what this bill allows. Make no

1341 mistake. This bill is not about energy security. It is not  
1342 about jobs. It is about oil company profits plain and  
1343 simple. This bill just turns the United States into a  
1344 middleman in a multi-national oil deal between Canada, South  
1345 America, Europe, or China.

1346 The Republican slogan last year was drill here, drill  
1347 now, pay less. Now we are letting Canada drill here, ship  
1348 here, and re-export so all we have to do is pay more both in  
1349 terms of money at the gas pump and costs to the environment.

1350 Today I along with Mr. Waxman and Congressman Cohen and  
1351 Connolly and Welsh will introduce a bill to require that if  
1352 this pipeline is permitted, the oil will stay here to benefit  
1353 Americans. If we are going to go to the extreme lengths of  
1354 legislating the construction of an environmentally-  
1355 destructive pipeline to benefit a Canadian company, we should  
1356 at least be sure that we in the United States can realize the  
1357 energy security and consumer benefits that we have been told  
1358 the project will bring. Let us play it straight about the  
1359 strengths of the moves. Without my bill this pipeline will  
1360 not do a thing to enhance the security of our country or of  
1361 our brave men and women stationed all over the world for  
1362 purposes of protecting our fossil fuel interests.

1363 We need a bill, if it does pass, that guarantees the oil  
1364 from this pipeline stays here in the United States. The CEO

1365 of TransCanada sat right there and said he would not support  
1366 that legislation. That is all we have to know about our  
1367 relationship with this TransCanada company. This oil is to  
1368 be exported around the world, not to keep prices lower here  
1369 in the United States.

1370 I yield back the balance of my time, Mr. Chairman.

1371 Mr. {Whitfield.} I might say that of all the U.S.  
1372 petroleum products today we are currently exporting less than  
1373 5 percent.

1374 At this time--

1375 Mr. {Markey.} The number one export for the United  
1376 States in 2011, was oil petroleum products. That was the  
1377 number one export of all products in the United States.

1378 Mr. {Whitfield.} We want to increase our exports and--

1379 Mr. {Markey.} Not of oil. Not our security.

1380 Mr. {Whitfield.} All the members are gone. We still  
1381 have a vote on the Floor, so I am going to release this  
1382 panel. Ms. Gaffney-Smith, thank you for being here. Mr.  
1383 Pool, thank you for being here.

1384 We will recess for about I would say 35 or 40 minutes,  
1385 and then we will come back, and we will begin with panel two.  
1386 Thank you. We are in recess.

1387 [Whereupon, at 11:22 a.m., the subcommittee recessed, to  
1388 reconvene at 11:57 a.m. the same day.]

1389 Mr. {Whitfield.} I will call the hearing back to order,  
1390 and before I introduce the witnesses I--as we were finishing  
1391 up with the first panel there was a lot of back and forth  
1392 about whether or not we were going to release the first  
1393 panel, and in consultation with the majority, a decision was  
1394 made to release them, but I had already told Mr. Bilbray  
1395 before he left that he could come back and ask them  
1396 questions, and since they are not here, I am going to  
1397 recognize Mr. Bilbray for 3 minutes to say whatever he wanted  
1398 to say about the Corps of Engineers or whatever the issue  
1399 was.

1400 Mr. {Bilbray.} Thank you, Mr. Chairman, and Mr.  
1401 Chairman, I appreciate you giving me the time. It is  
1402 frustrating that you, you know, think you have an agreement  
1403 and I think some of these questions are important, but I will  
1404 raise them even with the Army Corps here because I have got a  
1405 little experience in 404 permit. I was actually cited or  
1406 given my Miranda rights for a potential violation of the 404  
1407 permit because I was involved in damming up sewage coming in  
1408 from Mexico, and they constituted a sewage break as possible  
1409 navigable waters. So it very near and dear.

1410 Also, Mr. Chairman, there is a lot of talk here in  
1411 Washington, DC, about certain jobs, aggressive job programs  
1412 by the Federal Government, and the Tennessee Authority was

1413 one of them that has been cited again and again, and I would  
1414 like to point out to everybody that the Tennessee Authority,  
1415 though it crossed thousands of so-called navigable waterways,  
1416 never received one 404 permit because there was no such thing  
1417 as a 404 permit there.

1418         So when we talk about all these great job programs as  
1419 ways of stimulating the economy that were in the past, we  
1420 have got to remember just how much regulatory oversight and  
1421 regulatory obstructionism de facto has occurred since then,  
1422 that there were things that we have done in the past that  
1423 would not be legal to do under today's regulations, and we  
1424 need to address that.

1425         The other issue I wanted to raise was the fact that  
1426 though it takes a 404 permit to build a--put a pipeline over  
1427 a navigable waterway to transport oil, there is no 404 permit  
1428 required to transport the same oil by truck over a bridge  
1429 that spans a navigable waterway, the same way there is no  
1430 requirement for a 404 permit for a train to go across a  
1431 bridge that spans a navigable waterway, even though  
1432 statistically the risk of having spills caused by truck and  
1433 train transport into those navigable waterways is much  
1434 higher. There is also the issue of the fact that no one  
1435 talks about is they look at the risk of the pipeline but  
1436 don't look at the no-project option risk that if you

1437 transport the same oil that 1,700 miles, it is 87 times more  
1438 dangerous to human life that an accident would occur than  
1439 with transport by oil.

1440         So as--when we get into these issues, if somebody has  
1441 worked in environmental agencies, have had the privilege of  
1442 being a regulator, I think the environmental impact of the  
1443 no-project option is one that any reasonable person who  
1444 really cares about the environment has to understand. And  
1445 the fact that the State Department has admitted that the  
1446 transport of this oil by alternative sources on the same  
1447 route or in any route related to it would be many times more  
1448 polluting than the use of a pipeline, I am shocked that the  
1449 same State Department, though, cannot quantify how many  
1450 metric tons a year would be admitted by going to those other  
1451 alternative transports, the truck and the train.

1452         I mean, coming from California and working on the Air  
1453 Resources Board we would tell you down to the minute of what  
1454 it is because we use good science to make those decisions.  
1455 The State Department admits that the air pollution impacts  
1456 for transport by the alternatives are higher than the  
1457 transport of this pipeline. So I think in all fairness the  
1458 adverse environmental impact of the no-project option has not  
1459 been given a fair hearing, has not been identified and  
1460 quantified in a responsible way. And before you start

1461 turning down these projects, you have got to look at what is  
1462 going to be the impact to the environment before you do that.

1463 And let me just close. One of the things I am really  
1464 concerned about is that Canada is being treated like we can't  
1465 trust Canada with their environment. I think their history  
1466 on environmental issues is something that really puts into  
1467 question why we approved the many crossings in Mexico and we  
1468 are holding up this one to Canada.

1469 And I yield back, Mr. Chairman.

1470 Mr. {Whitfield.} Thank you, Mr. Bilbray.

1471 At this time I would like to--

1472 Mr. {Waxman.} Mr. Chairman.

1473 Mr. {Whitfield.} Yes, sir.

1474 Mr. {Waxman.} I understand Mr. Engel would like to have  
1475 his 3 minutes on our side as well--

1476 Mr. {Whitfield.} Sure.

1477 Mr. {Waxman.} --and I hope he can be recognized.

1478 Mr. {Whitfield.} Absolutely.

1479 Mr. Engel, you are recognized for 3 minutes.

1480 Mr. {Waxman.} Would the gentleman yield to me?

1481 Mr. {Engel.} Yes. Yes. I will yield to the--

1482 Mr. {Waxman.} I want--I thank you for yielding because  
1483 this last statement by my colleague from California made no  
1484 sense to me. He is criticizing the different alternatives of

1485 bringing these tar sands down from Canada and saying if it is  
1486 done by railroad as opposed to a pipeline. The real issue is  
1487 whether they are going to do these tar sands at all because  
1488 if they can't bring it into the United States, they are not  
1489 going to develop those tar sands, and in developing those tar  
1490 sands, which is the dirtiest source of coal, they have to  
1491 spend so much energy to refine it sufficiently to have it go  
1492 through a pipeline and maybe on a train. At some point it is  
1493 going to have to be refined, and the energy used to refine it  
1494 adds to the greenhouse gases.

1495         So I just want people to understand there is not just a  
1496 question of how it is going to be transported. If it is  
1497 going to be transported, a pipeline is a way we often use to  
1498 transport these things. We have pipelines, by the way. We  
1499 are not against pipelines but any pipeline ought to be  
1500 reviewed by the appropriate agencies, and the two witnesses  
1501 we had on the first panel who are going to be taken out of  
1502 their opportunity to review any proposal, and, of course,  
1503 this bill isn't about pipelines. It is only about one  
1504 specific pipeline that is going to be given a treatment that  
1505 no other pipeline has had, and that is--nobody reviews it.  
1506 If they review it, they have 30 days, and they got to come up  
1507 with the right conclusion.

1508         That is a special interest bill earmarked for this one

1509 project, and it is really troubling because we have had--we  
1510 are going to be adding to the greenhouse gases which not just  
1511 affects Canada but the whole world at a time when we ought to  
1512 be reducing greenhouse gases. We are going to be committed  
1513 to that source of energy where we ought to be looking for  
1514 other ways to use less energy and make us more independent.  
1515 I think our witnesses on the second panel have more to say  
1516 about that issue.

1517 I thank the gentleman for yielding part of his time.

1518 Mr. {Engel.} I would like to reclaim my time and say,  
1519 you know, I have an open mind in general about the whole  
1520 issue of Keystone, but I have--I am very concerned about  
1521 this. Removing all federal review of all agencies except  
1522 FERC and then mandating that FERC issues the permit to me  
1523 doesn't sound like we are really weighing the pros and cons.  
1524 We are rushing to make a decision on one side.

1525 The health and safety of the American people is  
1526 paramount, and if we are not going to take that seriously, it  
1527 really troubles me.

1528 The other thing that troubles me is that I have, you  
1529 know, I would feel much more comfortable if I knew that the  
1530 oil that was coming down to be refined from Canada to be  
1531 refined in Texas went for domestic consumption in the United  
1532 States. I sat through hearings that this committee has had,

1533 and I am still not satisfied or convinced that that oil isn't  
1534 going to get shipped to China or some other place.

1535         So those are some of the questions that I have about  
1536 this.

1537         Mr. {Waxman.} Mr. Chairman, just for the record I  
1538 misstated. I said the word coal. I didn't mean coal. I  
1539 meant oil. This is the dirtiest source of oil from these tar  
1540 sands, and that is what I meant to say.

1541         Mr. {Whitfield.} I am glad you were not talking about  
1542 coal.

1543         Mr. {Waxman.} Yes. We are not. I wouldn't want to  
1544 take you on on that issue.

1545         Mr. {Whitfield.} At this time I would like to introduce  
1546 the panel, the second panel. We have with us Retired  
1547 Brigadier General Steven Anderson, United States Army. He  
1548 was originally from California, and we have Mr. Randall  
1549 Thompson, who is a rancher in Nebraska, and we welcome you to  
1550 the hearing. We appreciate your being here very much, and at  
1551 this time, General Anderson, I will recognize you for your 5  
1552 minute opening statement, and I think the little box on the  
1553 table there, a red light will come on when the 5 minutes is  
1554 up. So you are recognized for 5 minutes.

|  
1555 ^STATEMENTS OF STEVEN M. ANDERSON, BRIGADIER GENERAL  
1556 (RETIRED), UNITED STATES ARMY; AND RANDALL F. THOMPSON,  
1557 NEBRASKA RANCHER

|  
1558 ^STATEMENT OF STEVEN M. ANDERSON

1559 } General {Anderson.} Thank you, Mr. Chairman. I am  
1560 Steve Anderson, a concerned citizen and part owner of a  
1561 service-disabled veteran-owned small business based in  
1562 Knoxville, Tennessee. I would like to begin by thanking the  
1563 subcommittee for this opportunity as well as thanking my  
1564 President for the courageous decision he made to deny the  
1565 Keystone XL Pipeline.

1566 Frankly, as a political conservative and a long-time  
1567 registered Republican, I don't often agree with President  
1568 Obama, but on this matter he absolutely got it right. I  
1569 strongly oppose the Keystone XL Pipeline because it will  
1570 degrade our national security. The critical element is  
1571 simply this. The pipeline keeps our great Nation addicted to  
1572 oil, a dependence that makes us both strategically and  
1573 operationally vulnerable. As a retired general officer with  
1574 over 31 years of service, I believe that I am fully qualified  
1575 to comment on both of these vulnerabilities.

1576           The pipeline will keep us dependent upon outside sources  
1577 to meet most of our energy needs. In reality Keystone only  
1578 addresses a symptom of our illness, the source of our oil.  
1579 It does nothing to cure the disease itself, which is our  
1580 overreliance on oil, and as nations like China and India  
1581 continue to demand more oil themselves, competition will  
1582 increase and such international tension threatens our  
1583 security and stability that we enjoy today.

1584           Additionally, continued carbon-based energy consumption  
1585 drives CO2 emissions that will lead to climate change and  
1586 increasingly catastrophic weather events. The potential  
1587 instability puts us all at risk.

1588           Furthermore, the pipeline keeps us strategically  
1589 vulnerable because our economy will remain petrocentric, and  
1590 many thousands of companies developing clean energy  
1591 technologies and providing renewable energy solutions won't  
1592 grow capacity and capability as quickly as America needs. I  
1593 believe Keystone will set back the alternative energy  
1594 industry in this country 20 years.

1595           Now, 2 weeks ago I read that Dubai will invest \$2.7  
1596 billion in solar energy next year. Now, Dubai is an emirate  
1597 surrounded by the world's largest oil fields. Their economy  
1598 is 250 times smaller than ours, yet they are astute enough to  
1599 see the consequences of an oil-dependent economy and are

1600 willing to invest now in renewable energy in a big way. Why  
1601 aren't we? And because we are not fully committed to  
1602 developing renewable energy capabilities, our soldiers in  
1603 harm's way are operationally vulnerable, too.

1604         Serving for 15 months as General Petraeus's senior  
1605 logistician in Iraq, I struggled with the challenge of  
1606 providing three million gallons of fuel every day to sustain  
1607 our forces. I saw the huge impact of not having any  
1608 renewable energy systems and being completely dependent upon  
1609 oil-based power generation.

1610         In consideration of the fully-burdened cost of fuel in  
1611 the combat zone, taxpayers have been spending well over \$30  
1612 billion annually for our fuel needs. That is with a B,  
1613 billion, and now that Pakistan has cut off our access to  
1614 Afghanistan it will be even higher this year. But the dollar  
1615 cost doesn't concern me near as much as the human cost.

1616         Over 1,000 American troops have been killed during the  
1617 wars in Iraq and Afghanistan executing fuel missions. We  
1618 should all be outraged by this loss of life, and to make  
1619 matters worse, our oil addiction is empowering our enemy.  
1620 Our long supply lines provide thousands of convenient  
1621 targets, and the revenues from satiating our oil habit bring  
1622 the enemy the resources they use to kill us.

1623         Imagine the benefits to our military if they were

1624 fighting a much less-capable enemy. Imagine leveraging  
1625 solar, wind, and geothermal technologies to end the war  
1626 sooner to save billions of dollars and soldier lives.

1627 Now, allow me also to comment on the jobs issues  
1628 associated with this pipeline. As a former soldier I am  
1629 extremely concerned of the high employment rates for our  
1630 vets. Of course I want more in employment opportunities for  
1631 my brethren, but they need jobs with staying power. They  
1632 need careers. America is best served by an economic climate  
1633 that generates jobs for vets for 100 years, not 100 days, and  
1634 every job that the pipeline produces a clean energy economy  
1635 could produce a thousand.

1636 Bottom line, the pipeline feeds an addiction that makes  
1637 us less secure and enables our enemies. Now is the time to  
1638 make the hard choices and deal with this disease head on and  
1639 put our future economic prosperity in the capable hands of  
1640 middle America rather than big oil. I stand before you today  
1641 absolutely convinced that the national mission and focus that  
1642 put a man on the moon 42 years ago can once again prevail.  
1643 Stopping this pipeline today will help set the conditions  
1644 needed such that our innate American will to win and  
1645 entrepreneurial drive will succeed in breaking our terrible  
1646 addiction to oil.

1647 Thank you, Mr. Chairman.

1648 [The prepared statement of General Anderson follows:]

1649 \*\*\*\*\* INSERT 3 \*\*\*\*\*

|  
1650           Mr. {Whitfield.} Thank you, General Anderson.  
1651           Mr. Thompson, you are recognized for 5 minutes for your  
1652 opening statement.

|  
1653 ^STATEMENT OF RANDALL F. THOMPSON

1654 } Mr. {Thompson.} My name is Randy Thompson. I am from  
1655 Martell, Nebraska. I am here as a Nebraska citizen and  
1656 landowner. I would like to thank the chairman and the  
1657 committee for the opportunity to be here today.

1658 I would like to start my testimony today by thanking  
1659 President Obama for making the right decision by denying the  
1660 permit for the Keystone XL Pipeline. I am proud to think  
1661 that the voices of Nebraskans had an impact on his decision.  
1662 Those of us who live and work along the proposed path of this  
1663 pipeline applaud him for placing our welfare ahead of the  
1664 interests of big oil companies.

1665 As a lifelong Nebraskan I can honestly tell you that I  
1666 have never witnessed any project that has stirred the  
1667 emotions of my fellow Nebraskans like the Keystone XL has.  
1668 Contrary to what you may have heard from some of our elected  
1669 officials, I can assure you that the dust has not settled in  
1670 Nebraska on this issue.

1671 TransCanada has built a mountain of distrust among the  
1672 ordinary citizens of our State and either with their  
1673 voluntary agreement to move the pipeline out of the Sandhills  
1674 we remain very skeptical. Many Nebraskans, including myself,

1675 view TransCanada as an overly-aggressive company who thought  
1676 they could come in and intimidate and bully their way across  
1677 our State, and having witnessed TransCanada's actions during  
1678 the application process has made us weary of what they would  
1679 do if they were empowered by a pre-mature permit. And I fear  
1680 that an early permit would place a tremendous amount of  
1681 pressure on the State of Nebraska to hurry through its review  
1682 process.

1683         TransCanada has been granted plenty of free passes and  
1684 now they seek yet another. They want their political allies  
1685 to free them from the tangled mess that they themselves help  
1686 to create. Perhaps it is time for the free passes to come to  
1687 an end. If the Keystone XL truly has merit, then it should  
1688 be able to withstand a rigorous and comprehensive review that  
1689 it deserves and has not gotten.

1690         If this pipeline is built, thousands of us in the  
1691 heartlands will have to live and work next to it for the rest  
1692 of our lives and probably for the rest of my kids and my  
1693 grandkids' lives. It will cross hundreds of our waterways,  
1694 our lakes and streams, and it will only get riskier with the  
1695 passage of time.

1696         Short circuiting the review process would be an  
1697 injustice and, in fact, a gross injustice to all of us that  
1698 have to live and work along the proposed path of this

1699 pipeline. Many of us feel that approval of this project  
1700 would strip us of our individual property rights. We do not  
1701 feel that a foreign corporation has any right to take our  
1702 land for their private use and gain, especially when there  
1703 has been no determination that this project is in the  
1704 national interest. We have seen no evidence that this  
1705 pipeline is anything other than export pipeline, providing  
1706 access to the world oil market for Canadian tar sands.  
1707 Outside of providing a few months of temporary employment for  
1708 some Americans, it yields few other benefits.

1709         Mr. Terry himself in a speech a week or 2 weeks ago in  
1710 the State of Nebraska said there would be no more than 30  
1711 permanent jobs as a result--in the State of Nebraska as a  
1712 result of the pipeline project, and we are being asked to  
1713 risk some of our greatest national resources and a lot of  
1714 folks' livelihoods, and we are going to get 30 permanent  
1715 jobs.

1716         Completion of the pipeline would actually increase the  
1717 price of the oil we are currently importing from Canada.  
1718 This is an undisputed fact. I mean, really, does this make  
1719 any sense? We help them build the pipeline, and as a result  
1720 we end up with higher oil and fuel prices in the Midwest?  
1721 You know, why don't we just take the gun out and shoot  
1722 ourselves in the foot. That would make more sense to me.

1723           Perhaps it is just my Nebraska logic, but from my  
1724 perspective it appears that the United States is getting the  
1725 short end of the stick on this deal. Canada and the big oil  
1726 companies are reaping all the rewards while Americans are  
1727 being left behind to fix the fences.

1728           Thank you very much.

1729           [The prepared statement of Mr. Thompson follows:]

1730           \*\*\*\*\* INSERT 4 \*\*\*\*\*

|  
1731           Mr. {Whitfield.} Thank you, Mr. Thompson. I appreciate  
1732 your opening statement.

1733           I am going to defer my 5 minutes of questions and at  
1734 this time recognize Mr. Pompeo of Kansas for his 5 minutes of  
1735 questions.

1736           Mr. {Pompeo.} Great. Thank you, Mr. Chairman. Mr.  
1737 Chairman, I begin by asking unanimous consent to enter into  
1738 the record an article that appeared in the ``Wall Street  
1739 Journal'' February 4 written by Ted Olson. Thank you.

1740           [The information follows:]

1741 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

1742           Mr. {Pompeo.} You know, I understand that Mr. Waxman  
1743 doesn't like this pipeline. He called this hearing. He  
1744 asked for witnesses to come, but the incredible political  
1745 nature of it became really apparent when he had his chance to  
1746 ask questions. He had 5 minutes. I watched the clock. He  
1747 spent 4 minutes and 31 seconds testifying. So he drug two  
1748 folks out from the United States Government, brought them  
1749 here this morning ostensibly because he was keenly  
1750 interested. He thought it was absolutely critical that this  
1751 committee hear from them, and he got between two and two and  
1752 a half questions depending on how you count them. Twenty-  
1753 nine seconds. It didn't appear to me that there was anything  
1754 but blatant politics, a chance for him to speak a little bit  
1755 more about some folks who are constituents of mine, and he  
1756 has implied this new standard.

1757           Mr. Waxman now has the benefit standard. His notion of  
1758 legislation, apparently, is that you decide a piece of  
1759 legislation depending on who benefits.

1760           Mr. {Waxman.} Mr. Chairman, I want to make a point of  
1761 order. I know the rules on the House Floor would not permit  
1762 the gentleman to make such a personal attack on members'  
1763 motivations or actions. I am happy to answer it when I get  
1764 my turn, but if I answer it and don't have enough time for

1765 questions to these witnesses, he will say I didn't ask them  
1766 enough questions. And I think it is inappropriate, and I  
1767 make a point of order that the words be stricken.

1768 Mr. {Pompeo.} Mr. Waxman, I--

1769 Mr. {Whitfield.} Would the gentleman hold for 1 minute?

1770 Mr. {Pompeo.} Certainly.

1771 Mr. {Waxman.} Unless the gentleman wants to withdraw  
1772 those comments, and then he can go on with his questions.

1773 Mr. {Pompeo.} Well, I am happy to withdraw them so that  
1774 we can proceed this morning. That is fine. I am happy to  
1775 withdraw the comments.

1776 Mr. {Waxman.} Then I withdraw my point of order.

1777 Mr. {Whitfield.} The gentleman withdraws--

1778 Mr. {Waxman.} Appreciate the gentleman--

1779 Mr. {Whitfield.} --at his point.

1780 Mr. {Waxman.} --withdrawing his personal statements.

1781 Mr. {Pompeo.} Certainly. We have now this standard  
1782 that is apparently being applied by folks across the aisle.  
1783 The folks across the aisle have this we try and decide  
1784 whether there is a personal benefit, whether someone would or  
1785 would not benefit from a particular stance. This is a  
1786 private investment. Seven billion dollar private investment.

1787 But, you know, I watched. I wasn't here, but I watched  
1788 this committee last year as we were debating and discussing--

1789 it was a little different. We didn't have hearings like this  
1790 very often, but I watched them on the Floor debate Obama Care  
1791 and the Stimulus Package, and there was no discussion from  
1792 the left about who might or might benefit from those takings  
1793 from the taxpayer, those enormous government programs. And I  
1794 just think it is intellectually desperate, dishonest to now  
1795 for us to all have this different standard. We should have a  
1796 standard about policy. We ought all to do that and not have  
1797 a standard that--where we say, hey, we are looking to see who  
1798 benefits or who does not benefit from a particular piece of  
1799 legislation.

1800 And with that I yield back my time.

1801 Mr. {Whitfield.} The gentleman yields back the balance  
1802 of his time.

1803 At this time I recognize the gentleman from California  
1804 for 5 minutes for questions.

1805 Mr. {Waxman.} Mr. Chairman, before I get to questions I  
1806 want to point out that since it has been commented that I am  
1807 being political, the chairman of the subcommittee raised the  
1808 issue of whether the President is in the full campaign mode  
1809 trying to respond to these extremists in the environmental  
1810 side, attributing his motives for that, and so this is all  
1811 Presidential politics and suggested that perhaps we ought to  
1812 look at Mr. Soros who has a train that could take this tar

1813 sands oil down to Texas instead of using a pipeline. Well,  
1814 my point was never that--

1815 Mr. {Whitfield.} Warrant Buffet, not Mr. Soros.

1816 Mr. {Waxman.} Excuse me. The other guy that you don't  
1817 like, Mr. Buffet. Mr. Soros, Mr. Buffet. So I consider that  
1818 a political kind of argument.

1819 But my Republican colleagues and the American Petroleum  
1820 Institute make several arguments for building this pipeline.  
1821 They say we need the oil, it will lower gas prices, it will  
1822 make us more secure as a Nation, but the facts just don't  
1823 support these claims.

1824 The Energy Information Agency, which is part of the  
1825 Department of Energy, is projecting that what America, that  
1826 America's oil consumption is no longer growing. It is no  
1827 longer growing, and the reason it is no longer growing is  
1828 because we have insisted on more efficient automobiles that  
1829 have better fuel mileage. The standards for these model  
1830 years 2017, through 2025, will further reduce our oil  
1831 dependence.

1832 So with growth and consumption now in check, I don't  
1833 think we have to be stampeded into something like this oil  
1834 tar sands deal from Canada. This pipeline will not reduce  
1835 gas prices. In fact, last year TransCanada admitted to this  
1836 subcommittee that the pipeline will raise crude oil prices in

1837 the Midwest. There is a debate over how much it will raise  
1838 those prices, but certainly it won't lower them.

1839 So that leaves the question of national security as a  
1840 reason why we need to go along with this pipeline, and we  
1841 have General Anderson, could you just briefly state what your  
1842 experience, your relevant military experience has been?

1843 General {Anderson.} Thirty-one years service in the  
1844 Army. I am a professional logistician most recently served  
1845 in the Pentagon for 2 years as a chief of logistics  
1846 operations and readiness in the Pentagon and before that I  
1847 was general David Petraeus's senior logistics officer at the  
1848 multi-national force in Iraq C-4.

1849 Mr. {Waxman.} In your statement you said that you  
1850 didn't think this pipeline was in our national security  
1851 interest. You said that America's oil dependence threatens  
1852 our national security. Is this a controversial view among  
1853 national security experts?

1854 General {Anderson.} I don't think so. Certainly  
1855 although I am not sure if I would call myself a national  
1856 security expert, I am an expert in regards to experiencing  
1857 the operational impacts of our oil addiction in Iraq and  
1858 Afghanistan, and I still do work in Afghanistan. I have  
1859 spent quite a bit of time over there with my private  
1860 interests, and I can tell you that we haven't changed at all

1861 in 10 years over there. We are still incredibly wasteful and  
1862 inefficient, and we don't have any of the renewable energy  
1863 technologies that I believe we need to save soldiers' lives.

1864 Mr. {Waxman.} This is not oil that is coming out of  
1865 Canada that is going to be put through a pipeline through the  
1866 United States. This is a different kind of oil. It comes  
1867 from tar sands, and therefore, can have problems in the  
1868 pipeline.

1869 The TransCanada has already one pipeline. It has been  
1870 around for I think a year and a half, and they have already  
1871 had 14 spills over the last year and a half. So a lot of  
1872 people are concerned about the safety of the pipeline, but  
1873 that is a pipeline that is not carrying these--this crude oil  
1874 tar sands if I am--if I understand the situation. It is not  
1875 going to carry this kind of tar sands, and to get the tar  
1876 sands ready to go through any pipeline there has to be such a  
1877 use of energy to refine it sufficiently to go through the  
1878 pipeline that it is going to cause us more greenhouse gases  
1879 adding to climate change problems. Is that the way you see  
1880 it?

1881 General {Anderson.} That is exactly the way I see it,  
1882 sir, and I think that it is very detrimental to this Nation  
1883 to continue the CO2 emissions that we are doing and will no  
1884 doubt do with the encouragement of this pipeline because I

1885 believe that it ultimately brings about climate change and  
1886 global instability. And when that happens, I think the  
1887 likelihood that soldiers like myself will have to fight and  
1888 die in order to protect the stability of the world is much  
1889 more likely.

1890           Mr. {Waxman.} The threat of tar sands oil spills from  
1891 TransCanada's pipeline is another reason why people oppose  
1892 it, and Mr. Michael Klink, who is an engineer and a safety  
1893 inspector for TransCanada's first Keystone Pipeline that had  
1894 those 14 spills, wrote an op-ed in the ``Lincoln Journal  
1895 Star,' ' which I would like to have put into the record, and  
1896 he describes seeing the first Keystone Pipeline constructed  
1897 with cheap foreign steel that cracked when workers tried to  
1898 weld it.

1899           I would like to ask unanimous consent that article be--  
1900           [The information follows:]

1901 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
1902           Mr. {Waxman.} And I also have a letter, this is--in  
1903 addition to his op-ed I also have a letter from Mr. Klink  
1904 that I would also ask unanimous consent to put in the record.  
1905           Mr. {Whitfield.} Without objection.  
1906           [The information follows:]

1907 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
1908           Mr. {Waxman.} My time has expired. I want to thank the  
1909 two gentlemen, Mr. Thompson and General Anderson, for their  
1910 testimony. I think that we ought to hear another side to  
1911 this issue, not have it ram-roaded through the Congress, not  
1912 have it given special interest treatment. This is a big  
1913 decision. We are going to be living with the consequences  
1914 for maybe 50 to 100 years, and it is in the wrong direction  
1915 that it is going to take our Nation in terms of greenhouse  
1916 gases, in terms of carbon emissions, in terms of pipeline  
1917 safety, in terms of danger to the people around the pipeline,  
1918 and the taking of the property from those people whose  
1919 property is going to be taken for this special interest  
1920 purpose.

1921           I yield back the balance of my time.

1922           Mr. {Whitfield.} The gentleman from Virginia, Mr.  
1923 Griffith, is recognized for 5 minutes.

1924           Mr. {Griffith.} Thank you, Mr. Chairman, and I do  
1925 appreciate you gentlemen taking your time to be with us  
1926 today. We may disagree on some of this but do appreciate you  
1927 all's American citizen success and your rights under our  
1928 constitution to speak to your government and do commend you  
1929 for being here.

1930           I do have some issues with some of the comments about

1931 jobs, you know. We can always argue over the numbers, but  
1932 one thing that I find just really interesting is is that if  
1933 you accept the argument that folks are going to--the oil is  
1934 going to come in and then the oil is going to go to other  
1935 countries, and this is just a pipeline to send the oil  
1936 somewhere else, if that argument is accepted, you also have  
1937 to accept the argument that before it goes to the other  
1938 countries, it is going to be refined in the United States,  
1939 thus adding value. To do that you have to add jobs to add  
1940 that value, and when you add that value you add strength in  
1941 our economy and tax dollars.

1942         So I recognize the situation you have, Mr. Thompson,  
1943 being personal and the property rights involved, and I have  
1944 not personally looked at that, but what I do see is a  
1945 significant situation where it has been studied for a long  
1946 time, and I do believe that there are jobs that are created  
1947 by having the Keystone XL Pipeline, and I think a lot of the  
1948 opposition, not necessarily yours but others, are folks who  
1949 do not feel that we should continue to use carbon-based  
1950 energy. I think that the general falls into that category,  
1951 and I don't agree with that.

1952         Coming from a coal ridge and a natural ridge area of the  
1953 United States, I would be remiss if I didn't tell you that I  
1954 think that at least for the foreseeable future we are going

1955 to need to use oil, we are going to need to use coal, we are  
1956 going to need to use natural gas. While we should be looking  
1957 at green energy sources long term, I certainly wouldn't want  
1958 to put us in a situation where our military had to rely on  
1959 solar panels in order to provide it with the energy that it  
1960 needs to move forward. It is certainly something that we  
1961 should look at long term, but I think over the next 20 years  
1962 we are still going to need our carbon-based fuels, and with  
1963 that, Mr. Chairman, I yield back.

1964 Mr. {Whitfield.} The gentleman yields back.

1965 At this time I recognize the gentleman from Texas, Mr.  
1966 Gonzalez, for 5 minutes.

1967 Mr. {Gonzalez.} Thank you very much, Mr. Chairman, and  
1968 I want to thank the witnesses.

1969 And I am going to agree with my colleague that if you  
1970 are exporting fuels and this is a refined product from  
1971 obviously what we receive from Canada, exporting is good,  
1972 balance of trade, creates jobs and such. The real question  
1973 then comes as to how you refine it, and I just want to remind  
1974 my colleagues on the other side of the aisle that we attended  
1975 to make sure that we did it in a more cleaner fashion and  
1976 more safe fashion, and that they opposed this every step of  
1977 the way.

1978 Now, we were able to get a bill out of the House, but we

1979 have never have been able to conclude that. So I am hoping  
1980 that they recognize the necessity of a safe and clean  
1981 refining industry in this country in the way that we can  
1982 accomplish and meet all of the demands of this country.

1983 General Anderson, is that right?

1984 General {Anderson.} Yes, sir.

1985 Mr. {Gonzalez.} Again, thank you for your service,  
1986 first of all, and thank you for being here today. Thank you,  
1987 Mr. Thompson. It is good to hear from you.

1988 I understand what you are saying, and I am going to  
1989 agree with you. This is my fear. I am for the Keystone. I  
1990 am from Texas, so you know that I still believe in fossil  
1991 fuel. The question is how much longer will we still require  
1992 a reliable source of fossil fuel in this country.

1993 I understand that many of the studies that are published  
1994 come from the oil companies, and they will tell you that we  
1995 are going to have domestic dependence for some years to come  
1996 and globally even for a longer period of time. I hear your  
1997 fear that my support of Keystone may well simply expand the  
1998 duration of the time that we may be still dependent.

1999 My position is we will be importing because we need it,  
2000 and I would rather get it from Canada and Mexico than anyone  
2001 else for national security purpose, but that does not mean  
2002 that we should not continue to aggressively view efficiency

2003 and conservation, renewables and alternatives.

2004           So I agree with you there has to be a healthy balance to  
2005 be able to accomplish this. To my colleagues on the other  
2006 side of the fence, the problem is that you truly just have  
2007 almost 100 percent dedication to fossil fuels. As much as I  
2008 understand that they have to be part of the fix, I am going  
2009 to give you a quote from John Quigley, former Secretary of  
2010 Pennsylvania Department of Conservation and Natural  
2011 Resources, in making reference to how we explore today for  
2012 fossil fuels and such.

2013           He says, ``We are burning the furniture to heat the  
2014 house.'' And that is the caution. That is the cautionary  
2015 tale to all of us. Be realistic about our needs in the  
2016 future, how we wean ourselves from the dependency on fossil  
2017 fuel. Everyone is going to tell you that exploration,  
2018 production, and refining of fossil fuels is a twilight  
2019 industry, but I am here to tell you that it is a real long  
2020 twilight, and we can't afford to be caught without an  
2021 adequate supply and be depending on individuals, countries  
2022 that we will be in jeopardy and in a flux for years to come.

2023           So I do agree with you, and I thank you again for your  
2024 observation.

2025           Mr. Thompson, I do have a question about you. We hear a  
2026 lot of complaining about regulation and such in this country,

2027 about its owners, its overburdened. The greatest exercise of  
2028 governmental regulation is eminent domain, and you have made  
2029 reference to that. So I want to know have you been  
2030 approached by TransCanada to negotiate anything regarding  
2031 some possible use of your property?

2032 Mr. {Thompson.} Absolutely.

2033 Mr. {Gonzalez.} Can you tell me about that experience?

2034 Mr. {Thompson.} Yes. We were first notified verbally  
2035 that they intended to use eminent domain if we didn't go  
2036 along with the offer that they had presented us for the use  
2037 of our property. We definitely declined to do--enter into  
2038 any kind of agreement with them. So they followed up with a  
2039 written letter expressly stating that if we did not accept  
2040 the terms of the agreement that they had sent to us, that  
2041 they--if we did not accept those terms within 30 days, that  
2042 they would then immediately proceed to take our land through  
2043 eminent domain.

2044 And my problem with that, sir, they were still in the  
2045 permitting process at this time, and yet they are threatening  
2046 me with eminent domain, and they did this throughout the  
2047 State of Nebraska. And I will guarantee you, sir, that many,  
2048 many of the easements that landowners signed was due to the  
2049 fact that TransCanada told them, threatened them with eminent  
2050 domain. And there are not too many ranchers or any other

2051 ordinary citizens that are willing to take on a multi-  
2052 billion-dollar corporation as we well know.

2053 Mr. {Gonzalez.} Well, keep us posted, Mr. Thompson. I  
2054 would ask you that.

2055 My time is up.

2056 Mr. {Thompson.} Okay.

2057 Mr. {Gonzalez.} And I hate cutting you off, but I thank  
2058 you, and thank you, General. I yield back.

2059 Mr. {Whitfield.} I am going to continue to defer all my  
2060 questions, and I will recognize the gentleman from  
2061 California, Mr. Bilbray, for 5 minutes.

2062 Mr. {Bilbray.} Thank you very much.

2063 First of all, General Anderson, I appreciate your  
2064 concerns about, you know, the global environmental issues.  
2065 Your concern about this pipeline and its short-term and long-  
2066 term impact I think is very, you know, what we want to talk  
2067 about.

2068 Do you feel that the construction of the Alaskan  
2069 Pipeline in the '70s was detrimental to the national  
2070 security?

2071 General {Anderson.} I think at that time that was the  
2072 right thing to do. It was a different, much different  
2073 situation, of course. Now the world has changed, and  
2074 greenhouse gases and climate change and world instability are

2075 all these things that are much more in the forefront than  
2076 they were 40, 50 years ago when we contemplated the Alaskan  
2077 Pipeline.

2078         Mr. {Bilbray.} General, do you think that the, you  
2079 know, the physics of environmental reality and the reality of  
2080 the political instability of places like the Middle East have  
2081 changed dramatically since we--the Congress voted on that  
2082 pipeline?

2083         General {Anderson.} I am not sure if I understand what  
2084 you are--

2085         Mr. {Bilbray.} I am just saying, I am saying again do  
2086 you believe that the physics of environmental impact, issues  
2087 like climate change, issues like emissions, toxic emissions  
2088 and everything else, and the situations that have  
2089 historically been unstable in the Middle East, do you think  
2090 that there wasn't, those issues weren't at least if not  
2091 perceived weren't reality at that time also?

2092         General {Anderson.} No. I don't think that they were  
2093 as developed as they are today, as apparent as they are  
2094 today. I don't think we knew back then the impact of CO2  
2095 emissions.

2096         Mr. {Bilbray.} We didn't know. That is my point. We  
2097 might not have known, but the fact is that it was still  
2098 there. Wouldn't you agree?

2099           General {Anderson.} I would concede you that point.

2100   Yes.

2101           Mr. {Bilbray.} What--do you believe the use and or the  
2102 development and expansion of the use of nuclear power is a--  
2103 contributing to the national security, or do you think that  
2104 it is a detriment to the national security?

2105           General {Anderson.} I consider nuclear power to be  
2106 clean energy, and I support its development.

2107           Mr. {Bilbray.} And I appreciate you using that because  
2108 one of the frustrations I have as somebody who has worked in  
2109 clean air is people mix the word renewable as if it is all  
2110 clean and deny clean energies across the line, and as you  
2111 know the number one purchaser of nuclear reactors in this  
2112 country is the United States Government, and I appreciate  
2113 that.

2114           Do you believe that the mandated use of ethanol aids in  
2115 the security of this country and its long-term environmental  
2116 and economic and military stability?

2117           General {Anderson.} Not really. No, I don't really  
2118 believe that.

2119           Mr. {Bilbray.} In other words, you go along with those  
2120 of us that have addressed in the issue in California that  
2121 ethanol is not only a very expensive, non-sustainable option,  
2122 but it is also a fluting option with evaporative emissions

2123 and related issues that was not clarified when the mandate  
2124 occurred here in Washington.

2125       General {Anderson.} I would agree with that.

2126       Mr. {Bilbray.} Even though those of us in California  
2127 tried to warn Washington of this environmental and economic  
2128 impact.

2129       General {Anderson.} I would agree with that. Of  
2130 course, I am not an expert in this field. I am talking about  
2131 national security.

2132       Mr. {Bilbray.} I understand that, but we are getting  
2133 back to this issue of how energy policy affects it.

2134       Would you agree that giving ethanol all of the benefits  
2135 or the overwhelming majority of benefits like tax credits,  
2136 blender fuels, and everything else while denying other  
2137 environmental options such as algae, the same packet, is  
2138 counterproductive to the stated purpose of a national energy  
2139 independence?

2140       General {Anderson.} I would agree with that.

2141       Mr. {Bilbray.} Well, I want to thank you very much for  
2142 your testimony, and I appreciate that we approach the  
2143 challenges.

2144       I would ask that the record show the general very clear  
2145 about the fact that what some people perceived as being  
2146 environmental damaging in Washington may not be perceived by

2147 the general or myself of being not only damaging but maybe  
2148 absolutely essential for environmental and national security  
2149 purposes.

2150 And I appreciate it, General, and I yield back.

2151 Mr. {Whitfield.} The gentleman yields back.

2152 At this time I recognize the gentleman from  
2153 Massachusetts, Mr. Markey, for 5 minutes.

2154 Mr. {Markey.} The Keystone Pipeline would carry some of  
2155 the dirtiest oil in the world right through the middle of our  
2156 country. It is a double-barrel threat to the environment,  
2157 pumping out millions of tons of the pollutants that cause  
2158 global warming, also risking oil spills into our ground  
2159 water.

2160 We have been repeatedly told that approving this  
2161 pipeline would lower gas prices at the pump, even though  
2162 TransCanada projects that oil prices and its profits would  
2163 rise because they can charge more for Keystone oil in the  
2164 Gulf than it does in the Midwest.

2165 We have also been repeatedly told to get over our  
2166 concerns because the oil coming through this pipeline would  
2167 enable us to reduce our dependence on oil imported from  
2168 unfriendly Middle Eastern nations, but it turns out that  
2169 these energy benefits may be a complete fiction. Many of the  
2170 refineries where the Keystone crude will be sent say they

2171 will re-export the refined fuels. They are also located in  
2172 Port Arthur, Texas, which is a designated foreign trade zone.  
2173 This means that when these refineries re-export the Keystone  
2174 oil fuels, they won't even have to pay U.S. taxes on those  
2175 exports.

2176           And in December when I asked the president of  
2177 TransCanada whether he would agree to ensure that the oil and  
2178 refined fuels stay here in the United States instead of being  
2179 re-exported, he said, no.

2180           General Anderson, last month Canadian Prime Minister,  
2181 Stephen Harper, said that, ``When you look at the Iranians  
2182 threatening to block the Straights of Hormuz, I think that  
2183 just illustrates how critical it is that supply for the  
2184 United States be North American.''

2185           General, do you think that this bill to legislate a  
2186 permit for the Keystone Pipeline is guaranteed to reduce our  
2187 dependence on oil transported through the Straights of Hormuz  
2188 if we don't have some provision which ensures that the oil  
2189 stays here in the United States?

2190           General {Anderson.} No. I do not believe that it will  
2191 guarantee energy security at all for our Nation.

2192           Mr. {Markey.} The American Petroleum Institute has  
2193 cited our friendly relationship with Canada and polls that  
2194 find that Americans would prefer to import more oil from

2195 Canada. Under this bill are there any guarantees that all of  
2196 the friendly Canadian oil that is sent through the pipeline  
2197 will be sold here in the United States?

2198 General {Anderson.} No. I am not aware of any  
2199 guarantees that that will happen.

2200 Mr. {Markey.} So what I am hearing you saying then is  
2201 that there is a threat because they are extracting the oil  
2202 from tar, that there is a greater likelihood of a dangerous  
2203 warming on the planet and that the benefits as the pipeline  
2204 goes through our country are not certain in terms of the oil  
2205 staying here in our country to break our dependence upon  
2206 imported oil.

2207 And so what is the benefit to the American people out of  
2208 such a proposal?

2209 General {Anderson.} There is no benefit. I believe it  
2210 is a detriment to the American people.

2211 Mr. {Markey.} Again, summarize why is it a detriment?

2212 General {Anderson.} The detriment because it keeps our  
2213 addiction to oil, and our addiction to oil makes us  
2214 strategically and operationally vulnerable.

2215 Mr. {Markey.} Okay. Mr. Thompson, the route that  
2216 TransCanada originally proposed would have gone through  
2217 Nebraska's Sandhills. Even if a new proposed route would  
2218 avoid the Sandhills, won't it still go through the Ogallala

2219 Aquifer?

2220 Mr. {Thompson.} We--well, we don't know where they are  
2221 proposing a new route, so that is a problem. From that I  
2222 have heard and what initial proposals they were talking about  
2223 it would still cross the Ogallala Aquifer even though--

2224 Mr. {Markey.} What is the risk if that happens if there  
2225 is a spill?

2226 Mr. {Thompson.} Absolutely there is a risk if that  
2227 happens.

2228 Mr. {Markey.} And what would happen to the water table?

2229 Mr. {Thompson.} Well, if I could quickly explain that  
2230 our water table is so high that the pipeline would actually  
2231 be buried or submerged directly in the water in many places.

2232 Mr. {Markey.} Wow.

2233 Mr. {Thompson.} And so if any type of leak, it is going  
2234 to go into our water supply.

2235 Mr. {Markey.} Wow and what would the impact of that be?

2236 Mr. {Thompson.} Well, it could be from small to  
2237 tremendous. I mean, you got all kinds of small communities  
2238 and like myself, I have livestock watering wells, I have  
2239 irrigation wells that would be close to the pipeline. They  
2240 become contaminated that property has become virtually  
2241 useless.

2242 Mr. {Markey.} And how do you feel about that in terms

2243 of the impact it could have upon your life and the lives of  
2244 all the people in those smaller communities?

2245 Mr. {Thompson.} Well, you know, to put it bluntly, I am  
2246 angry as hell when people want to play political football  
2247 games with my livelihood.

2248 Mr. {Markey.} Well, we agree with you. We want  
2249 Nebraska, the University of Nebraska to have a good football  
2250 team, but we don't want oil pumping at the football games.

2251 Mr. {Thompson.} You are absolutely correct.

2252 Mr. {Markey.} With the people in Nebraska and we can  
2253 see how their public health could really be in jeopardy.

2254 Mr. {Thompson.} I just think, you know, somewhere in  
2255 this process we need to take a look at the people of America  
2256 that actually are going to be, you know, impacted by this  
2257 thing. It is not all about money and this and that. I mean,  
2258 there is people's livelihoods at stake here, and I mean  
2259 thousands of us and our resources. So that needs to enter  
2260 the debate somewhere in the process.

2261 Mr. {Markey.} Thank you, sir, for being here. Thank  
2262 you, General, for being here.

2263 Thank you, Mr. Chairman.

2264 Mr. {Whitfield.} The gentleman's time has expired.

2265 I will now recognize myself for 5 minutes.

2266 And the first thing I want to do is read from a

2267 memorandum from Carmine Defiglio, who is a Ph.D. deputy  
2268 assistant secretary for policy analysis at the U.S.  
2269 Department of Energy, and in this memo he specifically talks  
2270 about the issue that Mr. Markey raised and that is this oil  
2271 coming from Canada is going to be ending up exported out of  
2272 the U.S. And I am going to read this verbatim.

2273 He said, ``This memorandum provides data and analysis  
2274 about a number of issues. It concludes that refiners in the  
2275 U.S. will likely consume additional Canadian oil sands well  
2276 in excess of what would be provided by the Keystone XL  
2277 Pipeline. It also concludes that exports of Canadian oil  
2278 sands from Port Arthur are highly unlikely.''

2279 Now, when you hear this argument that as the President  
2280 stated in his decision not to make a decision, he said that  
2281 one of the reasons he was not going to make a decision was  
2282 that he did not have sufficient information to make a  
2283 decision, that Congress did not give him enough time. Well,  
2284 as I had stated in my opening statement, this pipeline has  
2285 now been under study for 40 months.

2286 In the fall of 2011, a supplemental draft environmental  
2287 impact statement was issued by the State Department. After  
2288 months of public hearings along the proposed route, the State  
2289 Department issued its final environmental impact statement,  
2290 and in that final environmental impact statement between two

2291 options, one of not building the pipeline versus, two,  
2292 building the pipeline, they indicated that the preferred  
2293 option was to build the pipeline as proposed.

2294         Now, a person just on the outside not paying any  
2295 attention to this--everyone expected the State Department was  
2296 going to make its final decision some time in the fall of  
2297 2011, and then all of sudden now it is they said that they  
2298 would seek a new route through the State of Nebraska and  
2299 undergo another round of studies that would not be complete  
2300 until the first quarter of 2013. And that was the stated  
2301 reason for President Obama not making a decision, was that--  
2302 because of this new route through Nebraska.

2303         Now, when some of the political leaders in Nebraska  
2304 realized their concerns were being used by the President to  
2305 stop this project, they had a special session of the  
2306 legislature was called, and a new law was passed to give the  
2307 Nebraska Department of Environmental Quality the ability to  
2308 cite and evaluate a new route for the pipeline within  
2309 Nebraska's borders in half the timeframe that the State  
2310 Department envisioned.

2311         So taking that development into account, the Keystone  
2312 provision that was put into the Temporary Payroll Tax Cut  
2313 Extension Act allowed the President to approve the pipeline  
2314 while the State of Nebraska completed its environmental

2315 review. The final environmental impact statement that the  
2316 State Department issued in August of 2011 was deemed  
2317 satisfactory of all National Environmental Policy Act  
2318 requirements, and no additional federal review should be  
2319 required.

2320         Because the route modification of this long pipeline is,  
2321 in Nebraska is not an interstate modification, there really  
2322 was no federal role, and since the rest of the pipeline route  
2323 outside of Nebraska and its evaluated environmental impact  
2324 remained unchanged, there was really no reason for the White  
2325 House or State Department to believe that there is not enough  
2326 time to make the decision of the pipeline by February 21.

2327         I simply wanted to talk about that because when people  
2328 hear, oh, well, the route has changed and that is why we  
2329 don't have enough time, but there was a clear explanation of  
2330 all of this, and I think I clearly stated it.

2331         In concluding I would just say that, General Anderson,  
2332 we generally appreciate you being here. I would also like to  
2333 thank you for your support and service to our country, and  
2334 Mr. Thompson, we appreciate your being here and speaking up  
2335 on your personal views about this issue, and Nebraska is in  
2336 the Big Ten now. Right? Or Big 12. Right? Okay. So we  
2337 know they will continue to do well, and we will keep the  
2338 record open for 10 days for any additional material that

2339 might want to be submitted, and with that we will conclude  
2340 the hearing, and thank you all very much for your assistance  
2341 and helping us out.

2342           With that the hearing is concluded.

2343           [Whereupon, at 12:50 p.m., the Subcommittee was

2344 adjourned.]