

Testimony of
Jeremy Symons
Senior Vice President, Conservation and Education
National Wildlife Federation

Before the

House Energy and Commerce Committee
Subcommittee on Energy and Power

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Chairman Whitfield, Ranking Member Rush, members of the subcommittee, thank you for the opportunity to be here today to testify on the proposed Keystone XL pipeline and Chairman Upton's legislative discussion draft.

National Wildlife Federation is a non-partisan, non-profit organization. Our mission is to inspire Americans to protect wildlife for our children's future. National Wildlife Federation is supported by 47 state and territorial affiliates and 4 million members and supporters across the nation. Our members include hunters, anglers, backyard gardeners, birdwatchers and outdoor enthusiasts from throughout the nation.

I have been personally working at the intersection between energy and environmental policies for the past twenty years. Last year, I travelled to the tar sands of Alberta to learn firsthand about the Canadian oil operations.

In testimony before the House Committee on Foreign Affairs Subcommittee on the Western Hemisphere on March 31, I shared some of the photos I took of the vast destruction of wildlife habitat and the harm to communities that is occurring in Canada as a result of the continued expansion of tar sands operations to feed our dependency on foreign oil, and video of that testimony is available on the Committee's website.

Summary

Oil companies want to build a 2,000-mile pipeline to carry tar sludge under high pressure from Alberta to Texas refineries, where it can be refined to gasoline. The price tag is reported to be \$13 billion. They plan on operating the pipeline for at least 50 years.

Families everywhere are hurting from spiking gas prices. The dangerous and unnecessary Keystone XL proposal is an oil company scheme to increase U.S. gas prices by 10-20 cents per gallon, with the highest price spikes in the Midwest United States. The pipeline scheme will raise gas prices, hurt our energy security and jeopardize vital clean water supplies. The pipeline is equivalent to a \$4 billion a year tax on oil we already get from Canada, with all the money going from American wallets and pocketbooks to oil companies.

The Keystone XL pipeline scheme is an oil company wolf hiding in Canadian sheepskin. Big oil's claims that this pipeline will help our energy security are a carefully fabricated mirage. The data show that the Keystone XL (KXL) pipeline will do nothing to reduce our reliance on oil

from hostile nations. A study commissioned by the Department of Energy concluded that the pipeline “would not of itself have any significant impact on U.S. oil imports.”¹

To the contrary, the Keystone XL pipeline scheme opens the Canada-to-China oil route that oil companies have long sought. The pipeline will take Canadian oil that is already flowing to America away from U.S. refineries in the Midwest and send it instead to foreign-owned refineries on the Gulf Coast for export.

The oil companies behind this project are desperate for Congress and the Administration to rush the approval of this pipeline scheme because the truth is finally coming to light. For example, even as we sit here today, the Federal Trade Commission is considering whether to open an investigation into the plans of oil companies to use KXL to manipulate and increase gas prices for Americans.

The proposed discussion draft takes us in the wrong direction by imposing an arbitrary date of November 1 for a final determination on the Presidential permit needed to build the pipeline. President Obama must decide if this pipeline is in America’s ‘national interest’ before giving the green light to foreign energy companies, who would then use eminent domain to force Americans to give up their land.

We now have evidence that from the very beginning, the Canadian energy company Transcanada misled the U.S. State Department about the purpose of this pipeline. By hiding the ball in its permit application, Transcanada caused the very delays that they are now whining about. To this day, Transcanada is blowing smoke to hide the true motives for this pipeline and hide the high risk of transporting pressurized, toxic tar sludge by pipelines.

The arbitrary deadline suggested in the legislation also short-circuits the administration’s ability to investigate and consider safety lessons that can be learned from several catastrophic ruptures of tar sludge pipelines have occurred since Transcanada submitted its KXL application. Even though tar sands supply only a small fraction of the oil we consumer, the pipelines carrying tar sands accounted for over half of all crude oil spilled in the U.S. in 2010.

The most recent spill of 1.3 million gallons occurred only one month ago in Alberta. According to EPA, the toxic tar sludge from another massive spill – into the Kalamazoo River in Michigan last year – has defied cleanup efforts because, unlike lighter crude oil, the heavier tar sludge that was spilled has sunk in the river beyond the reach of skimmers and absorbents.

¹ EnSys Energy & Systems, Inc.”Keystone XL Assessment,” Prepared for the U.S. Department of Energy, December 23 2010. Also see: Ensys’ “Response to Reuters on Keystone XL Assessment Report” at <http://www.ensysenergy.com/files/ResponsetoReutersonKeystoneXLAassessmentreport.pdf>

These recent spills are clear warnings that America's outdated pipeline safety laws are not prepared for the highly corrosive and toxic tar sludge that is proposed to be pressurized and sped through 2,000 miles of KXL pipeline, crossing some of America's most important sources of clean water. The investigations into these pipeline ruptures are not even complete, and there needs to be time to incorporate safety lessons learned from the disasters that are occurring right before our eyes. We are particularly alarmed that the Pipeline and Hazardous Materials Safety Administration (PHMSA) has neglected its responsibility to update safety laws for the tar sludge pipelines that are now hemorrhaging. The old standards that are routinely failing, and the State Department is not equipped to update safety criteria and protect the lands and the waters of the United States.

I urge the committee to set aside the idea of an arbitrary deadline and instead take a more critical and independent look at what this pipeline scheme really means for gas prices, energy security and America's clean water resources.

The energy investments we make today will determine our kids' energy future for decades. When our kids grow up, they should be benefiting from American clean energy, not hooked on expensive and destructive tar sludge from Canada.

Canadian Oil Provides Security for Canadian Oil Companies, not American Families

Expanding our reliance on expensive Canadian oil offers nothing more than a mirage of energy security. Like oil companies everywhere, Canadian oil companies believe that a crisis is a terrible thing to waste. We are getting a bitter taste right now of what oil companies have in store for us if we increase our dependency on Canadian oil. According to the U.S. Energy Information Administration, Americans are paying \$30 more barrel than we were paying before violence broke out three months ago in Libya.² That is not economic security and that is not energy security. That is windfall profits for Canadian oil companies and pain for American families.

The profiteering of Canadian oil companies in the wake of unrest halfway around the world should remind us that our friendly relations with Canada count for nothing when times get tough for American families trying to fill up their cars at the pump.

Keystone XL Pipeline Opens Canada's Gateway to China

² <http://www.eia.doe.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=WEPCCAHAR&f=W>

Piping Canadian oil across America does not make it American oil. In fact, KXL would amount to less oil for America, not more. Oil companies want Keystone XL built so they can access the deepwater ports of the Gulf Coast refineries. In fact, a major expansion of refining capacity in Texas is being financed by Saudi Arabia's state-owned oil company, Saudi Aramco. Another possible destination of the oil is a Citgo refinery owned by Venezuela.

Increasingly, America is becoming the middle man in the global oil business. We import vast amounts of crude oil, but are exporting more and more refined oil products such as diesel and gasoline from Gulf Coast refineries owned by global oil companies. Exports have doubled in the past five years, and our exports of refined oil products are currently larger than our total imports of Canadian tar sands oil and tar sludge combined.

Dr. Philip K. Verleger, Jr., President of PKVerleger, LLC and an experienced oil economist, recently wrote an analysis of the Keystone XL pipeline and titled it: "The Tar Sands Road to China." Dr. Verleger concluded that "the pipeline, if built, will facilitate Canadian crude exports to China rather than the United States." Dr. Verleger further explains:

"The completion of the Keystone XL pipeline would create a surplus in the U.S. Gulf. This surplus would require some oil to move from the Gulf to other markets unless existing importers vacate the market. As noted below, existing importers are not expected to concede market share to Canada. Instead, some Canadian oil will need to be exported from the Gulf. At this point, Asia would be the clearing market."

Earlier this year, the CEO of Valero Energy, one of the companies that has signed up to ship oil through KXL, said that "the future of refining in the U.S. is in exports." In his paper, Dr. Verleger notes that "Valero has every reason to want the pipeline built. It also has every reason to want a significant volume of Canadian crude to be exported to China."

Keystone XL Pipeline Will Increase Gas Prices 10-20 Cents per Gallon

My parents taught me that when something sounds too good to be true, you better take a second look. The idea that big oil companies want to spend \$13 billion on a pipeline in order to help Americans at the pump sounds too good to be true because it simply isn't true.

Recently uncovered documents have revealed the true motivations for this pipeline: price manipulation. In seeking their Canadian permit, TransCanada argued that the pipeline would allow Canadian oil companies to increase prices for all the oil Canada is already selling the U.S. They submitted a market analysis that put a number on the windfall that the U.S. would hand over to Canadian oil companies: \$4 billion annually. According to TransCanada:

The “increase in the price of heavy crude [as a result of building Keystone XL] is estimated to provide an increase in annual revenue to the Canadian producing industry in 2013 of U.S. \$2 billion to U.S. \$3.9 billion.”³

Dr. Verleger explains TransCanada’s analysis: “In simple terms, the TransCanada application states that the firm will be able to use its market power to raise the heavy crude price to Midwest refiners above the level that would prevail in a competitive market.”

All of this money would be an increased price for the oil the United States is already receiving from Canada via the ample existing pipeline capacity. This sounded great to the Canadian government. Not surprisingly, TransCanada didn’t mention higher Midwest gas prices and profits in their application to the U.S. government.

Here’s how the price manipulation works: Canada currently has only one choice of where to send its oil – the United States. We currently have surplus pipeline capacity to carry all the oil Canada can provide to America’s Midwest.⁴ Once Canadian oil companies have the option of shifting oil from the Midwest to Gulf ports, and then to anyplace in the world, they can manipulate supplies to different destinations and increase oil prices.

In an Op Ed in the Minnesota StarTribune, Dr. Philip Verleger explained how this would affect U.S. farmers and consumers:

“U.S. farmers, who spent \$12.4 billion on fuel in 2009, according to the U.S. Department of Agriculture, could see their expenses rise to \$15 billion or higher in 2012 or 2013 if the pipeline goes through. At least \$500 million of the added expense would come from the Canadian market manipulation... In addition, millions of Americans will spend 10 to 20 cents more per gallon for gasoline and diesel fuel...”⁵

The EnSys report commissioned by the Department of Energy also concluded that Keystone XL would raise oil prices in the Midwest.

³ Keystone XL Pipeline Section 52 Application, Section 3.4.3, “Crude Pricing Impact,” p. 7.

⁴ The United States imports about one million barrels per day (bpd) of tar sands products, and we have about 2.4 million bpd of pipeline capacity for tar sands products. Keystone XL would add 900,000 bpd to that capacity, increasing total pipeline capacity to 3.3 million bpd – three times current production levels. According to the Canadian petroleum industry, tar sands production can’t achieve that production levels for at least 15 years (Canadian Association of Petroleum Producers, “2010-2025 Canadian Crude Oil Forecast and Market Outlook,” <http://www.capp.ca/forecast/Pages/default.aspx#183ylAMX10Tf>). The DOE-commissioned EnSys report, referenced in the State Department’s Supplemental Draft Environmental Impact Statement (SDEIS), concluded that “Keystone XL would increase the cross-border capacity surplus such that it would then persist until 2020 or later.”

⁵ Philip Verleger, “If gas prices go up further, blame Canada,” *Star Tribune*, March 13, 2011.

The companies that stand to profit most from this operation are those with the biggest share of Canadian oil sales, including Flint Hills Resources Canada, a subsidiary of Koch Industries. The company has billed itself as “among Canada's largest crude oil purchasers, shippers and exporters.”

The Keystone XL Pipeline: Dangerous and Risky

Before new tar sludge pipelines are built, America needs updated pipeline regulations that address the safety challenges of carrying corrosive and toxic tar sludge under the high pressures required. The proposed route of Keystone XL through the most sensitive area of the Ogallala Aquifer in Nebraska, which provides irrigation for much of America’s breadbasket and drinking water for over 2 million people, is particular cause for concern. Nebraska Republican Senator Mike Johanns has observed:

"[There] could not be a worse route in the entire state of Nebraska ... Maybe couldn't be a worse route in the entire country."

Landowners along Keystone XL’s proposed right-of-way are routinely bullied by Transcanada, who has threatened these landowners with eminent domain. These landowners are right to ask questions about the safety of the pipelines and demand better answers than the vague assurances and threats they are getting.

Alberta pipelines transporting tar sands sludge have 16 times the number of accidents as U.S.⁶ Just last month, the Rainbow pipeline, which carries both conventional oil and tar sludge, leaked 1.3 million gallons in Alberta.

The U.S. pipeline with the longest history of moving tar sludge, Enbridge’s pipeline system, accounted for over half of all crude oil spilled in the U.S. in 2010. This includes the pipeline rupture that spilled over 840,000 gallons of tar sludge into Michigan’s Kalamazoo watershed, where benzene and other toxins triggered health problems for 58% of nearby residents. Residents are still dealing with those problems more than a year later and fighting for the health tests they need. More than 50 homes have been abandoned. Drinking wells have been contaminated. The housing market in the area has been redlined by the mortgage industry, blocking new home loans. More than 3,000 great blue herons, geese, swans, beaver, and other wildlife were harmed by the Enbridge spill. According to the U.S. Fish and Wildlife Service, two out of three impact birds and animals were killed by the toxic tar sludge.

⁶ *Tar Sands Pipeline Safety Risks*, published by NRDC, National Wildlife Federation, Pipeline Safety Trust, and Sierra Club.

Cleanup of the river is still ongoing, nearly a year later. Mark Durno, the EPA official overseeing the effort, explains the reason:

“I truly believe the characteristics of this material is the reason we still have such a heavy operation out here. Because it was a very heavy crude, we ended up with a lot more submerged oil than we anticipated having to deal with.”⁷

The U.S. domestic on-shore pipeline system is not designed to handle tar sludge and the Keystone XL pipeline is no exception. TransCanada’s first “fail-safe” tar sludge pipeline, Keystone I, has had eleven leaks in less than a year of operation. The largest of these was over 21,000 gallons a few weeks ago in South Dakota. The leaks in the new Keystone pipeline are the canary in the coal mine, portending worse things to come. The risks associated with diluted bitumen piped at high pressure - including internal corrosion, abrasion and stress corrosion cracking – only weaken pipelines over time.

Keystone XL would be built using the same materials and essentially the same methods as Keystone I. This includes a list of fifty seven conditions that, rather than making the pipeline safer by targeting the risks of raw tar sands, will actually allow TransCanada to apply for a permit to operate at higher pressure, using thinner steel, than pipelines carrying less dangerous products.

We should learn from the lessons of the BP disaster in the Gulf. The President’s oil spill commission concluded:

“Regulators, however, failed to keep pace with the industrial expansion and new technology—often because of industry’s resistance to more effective oversight. The result was a serious, and ultimately inexcusable, shortfall in supervision of offshore drilling that played out in the Macondo well blowout and the catastrophic oil spill that followed.”

National Wildlife Federation urges Congress to act on the *Pipeline Transportation Safety Improvement Act of 2011*, which calls on our pipeline safety regulators to study the risks of pipelines that carry raw tar sands. We should not build the massive KXL until we know how to do so safely. We should not put our water and lands at risk for a pipeline that is forced on landowners and will only increase our gas prices.

Alberta’s Tar Sands: The Most Destructive Source of Oil on the Planet

Alberta’s scorched earth tar sands operations are the most destructive source of oil on the planet. It can take 5 barrels of clean water and four tons of sand to squeeze out one barrel of tar sludge. This tar sludge, called bitumen, is so thick and heavy that it must be heated or diluted and

⁷ <http://www.environmentreport.org/show.php?showID=520>

pressurized to transport it through a pipeline to refineries, where it is turned into diesel and gasoline. Because it is so heavy and dirty, it requires special refining operations. Much of that refining is now happening in the United States, as Canada ships raw tar sludge to refineries in the Midwest.

Last year, I flew over the tar sands operations around Fort McMurray, a frontier town that serves as the hub of the tar sands expansion. As far as the eye could see, barren strip-mined wasteland and lakes full of toxic waste had replaced pristine forest that had been home to abundant wildlife. The scale was shocking and difficult to imagine.

The toxic lakes kill thousands of migratory birds and other wildlife that come in contact with it every year, and the bigger the operations get, the more wildlife will perish. This includes migratory birds, particularly waterfowl that winter in the U.S. and are an important part of America's great outdoors. Pollution from the production of tar sands oil is equally alarming, causing three times more carbon emissions than conventional oil extraction.

We also met with First Nation communities in the area. Their proud heritage, stretching back generation after generation, has reached a tragic crossroads. I listened as they told the heartbreaking story of how cancer rates have increased as the tar sands operations have expanded. One elder told me that parents close their kids indoors when the air pollution gets too noxious. Large volumes of toxic waste leaks into the Athabasca River every year, contaminating water supplies and fish. These communities once depended on fish and game for food. The fish are now too contaminated to risk eating. They have to drive dozens of miles to get past the mining and reach forest for hunting, but populations of Caribou and Moose have plummeted.

Aware of the implications these impacts have for business, the oil companies and the Alberta Government have worked together to downplay, discount, and silence concerns. They have also lobbied against U.S. federal and state policies to promote cleaner fuels, joining forces with the oil industry.

A Better Path for America's Energy Future

Events in North Africa and the Middle East and rising gas prices once again underscore our dangerous addiction to oil and the high price we pay due to the instability of global oil markets. As our quest for oil has gotten more and more desperate, we are turning to extreme oil supplies like ultra-deepwater drilling in the Gulf of Mexico, starting drilling operations in perilous Arctic seas, and squeezing tar sludge out of the tar sands of Canada to convert to oil.

Chasing increasingly expensive and dangerous forms of oil is a dead-end strategy that passes the energy buck to future generations while harming people's health and the natural world that sustains us. We are rushing to chase these dead-end energy strategies recklessly, without taking

responsibility and the time to maximize safety and protect the jobs, people and wildlife that are put at risk from oil spill disasters.

The best path to energy security is innovation in our transportation and fuels sectors that will create jobs and provide Americans a healthier, cleaner and more secure energy future. With American leadership in rapidly growing advanced transportation industries, we can replace a huge trade deficit in oil with domestic jobs and manufacturing exports.

Congress needs to act now to launch an aggressive plan that includes real solutions to slash our dependence on foreign oil. The centerpiece of any plan should be to stop wasting oil by giving Americans better transportation choices and more efficient technologies. New and proposed fuel economy standards would cut America's demand for gasoline by a third over the next 20 years. That is 4 times the oil that could be delivered by Keystone XL, without any need for the devastating environmental destruction that attends it. The combination of strong efficiency standards, and public and private investment in cutting-edge American manufacturing, is already providing exciting new choices that deeply cut household and business fuel bills, while retaining or enhancing vehicle performance.

Cities and states across the country should pursue innovative and effective high speed rail, transit, and freight projects that boost local and regional economic development and cut oil use and pollution. These projects also improve our quality of life, modernize our cities, and drive robust job growth in domestic manufacturing, infrastructure construction and operation. Just as the creation of the highway system reshaped America in the 20th century, we now need a 21st century American infrastructure necessary to cut our oil addiction.

Looking to the future, electric cars are an example of using new technologies and new thinking to move beyond oil. Electric cars now being sold can "fill up" for the equivalent of about 75 cents per gallon. The challenges are the initial cost and purchase price. As technology improves and manufacturers gain production experience, the costs of these new technologies will fall while performance increases. It will take a sustained commitment to cleaner fuels, cleaner cars, and clean electricity (such as offshore wind production) to make this vision a reality.