

Keystone XL Pipeline

Background: TransCanada Keystone Pipeline, LP (Keystone) filed an application in September 2008 for a Presidential Permit with the Department of State to build and operate the Keystone XL Project. Executive Order 13337 directs the State Department to review applications for Presidential permits when the proposed project would cross an international border with the United States. It also directs the Secretary of State, or her designee, to consult with at least eight other federal agencies, and then issue a decision as to whether granting a permit is in the national interest.

The proposed Keystone XL Project consists of a 1,700-mile crude oil pipeline and related facilities that would primarily be used to transport Canadian crude oil from an oil supply hub in Alberta, Canada to delivery points in Oklahoma and Texas. The proposed Project would also be capable of transporting U.S. crude oil from Montana and South Dakota to those delivery points. The proposed project could transport up to 830,000 barrels per day and is estimated to cost \$7 billion.

Process: 2008 – Department of State (DOS) publishes notice of intent to prepare an Environmental Impact Statement (EIS). **2009** – DOS holds scoping meetings along the pipeline route to determine issues that should be included in EIS. **2010** – April 16 – Draft EIS issued and 45 day comment period begins. Comment period extended due to requests from federal agencies. December 7 – additional meetings held in Washington DC with Indian tribes. **2011** – Keystone agrees to adopt 57 project specific special conditions. DOS issues a supplemental draft EIS and holds another comment period. August 26 – the final EIS is issued and the 90 day National Interest Determination (NID) period begins. DOS holds additional public hearings to fulfill NID requirements. December – DOS will issue final decision to issue or deny the presidential permit.

Support: The Governors of all the states (except one) in which Keystone XL is to be built have submitted letters supporting the project. These states include Montana, South Dakota, Kansas, Oklahoma and Texas

Opposition: The Governor Heineman of Nebraska submitted a letter on August 31, 2011 to President Obama and Secretary Clinton asking them to deny the permit due to concerns about the route of the pipeline. Senator Johanns (Nebraska) supported Governor Heineman's request. Senator Nelson from Nebraska has called for certification by each state's governor before the pipeline can be built.

Analysis: While the federal government has certainly dragged its feet on issuing the permit by requiring many additional unneeded steps in the process and deserves criticism, the Governor of Nebraska has provided the Department of State and the Administration all the cover they need to deny the permit, or at least require a study of alternative routes (which will kill the project). However, I believe the Department of State will issue the permit despite the opposition. If they deny or delay the permit, they will point to Governor Heineman's/Senator Johann's opposition or Senator Nelson's request for state certification.