

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 281 Keystone XL Pipeline

SPONSOR(S): Hill and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	11 Y, 6 N	Kelly	Rojas
2) Regulatory Affairs Committee	12 Y, 5 N	Whittier	Hamon

SUMMARY ANALYSIS

HM 281 urges the President to issue final approval of the Keystone XL Pipeline Project (Project). The proposed Project involves the construction of an 875-mile pipeline between Morgan, Montana, and Steele City, Nebraska. The Project would also cross the U.S.-Canadian border at Morgan, Montana. The construction of the Project is the fourth and final phase of the larger Keystone Pipeline (Pipeline), a pipeline infrastructure that would have the capacity to deliver roughly 830,000 barrels per day of crude oil from oil sands in Canada to the Gulf Coast of Texas.

Supporters of the Keystone XL Pipeline state that obtaining crude oil via the Pipeline from Canada would reduce the necessity to rely on foreign oil companies in more unstable regions and would create more U.S. jobs. Supporters also claim that the Pipeline is convenient and is the safest way to transport hazardous substances such as oil.

Opponents of the Keystone XL Pipeline assert that the potential environmental impacts outweigh the economic benefits. In Florida, the opposition is concerned about the atmospheric carbon pollution and its related impacts that are associated with emissions from burning fossil fuels.

All proposed petroleum pipelines that cross international borders of the U.S. must go through the Presidential Permit process per Executive Order 13337. As part of the Presidential Permit process, in January 2014 the Department of State (Department) completed and published its Final Supplemental Environmental Impact Statement (FSEIS) of the Project. The published FSEIS triggered a 90-day window in which the Department must obtain comment on the FSEIS from various agencies identified in Executive Order 13337. Beginning on February 5, 2014, the Department also began a 30-day public comment period. This window does not impact the President's unspecified timeline for making a decision on the Project's application.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Construction of all proposed petroleum pipelines that cross international borders of the U.S. must go through the Presidential Permit process per Executive Order 13337.¹ In this process, the President must first issue an Executive Order which directs the Department of State (Department) to determine whether a particular project serves a national interest.² In this determination, the Department considers factors consistent with the National Environmental Policy Act and prepares a Final Supplemental Environmental Impact Statement (FSEIS) which determines if the project does or does not serve a national interest.³ Upon publishing the FSEIS, the Department has 90 days to consult with eight federal agencies including the Departments of Energy, Defense, Transportation, Homeland Security, Justice, and Commerce, and the Environmental Protection Agency. The Department must also consider public comment on the proposed project. This window does not impact the President's unspecified timeline⁴ for making a decision on the Project's application. At any point after this Presidential Permit process, the President may issue a National Interest Determination and then either approve or deny the Project's application.⁵

The Keystone XL Pipeline Project (Project) is the fourth and final phase of the larger Keystone Pipeline (Pipeline), a pipeline infrastructure built to transport crude oil from Canada to the U.S. The Pipeline will ultimately connect Canada to the Gulf Coast of Texas. The first three phases have been constructed and are operating.

Phase I: Runs from Hardisty, Alberta, to Steele City, Nebraska; Wood River, Illinois; and Patoka, Illinois.

Phase II: Runs through Steele City, Nebraska, to Cushing, Oklahoma.

Phase III: Runs between Cushing, Oklahoma, and Nederland, Texas.⁶

In 2008, TransCanada Keystone Pipeline, LP (TransCanada), a Canadian company that is financially backing the entire pipeline, submitted its first application for the Project.⁷ The pipeline infrastructure in the first application was 1,384 miles, approximately 1.5 times the length of the current proposal. More so, the pipeline would have crossed 90 miles of the Sand Hills Region in Nebraska, a region the Nebraska Department of Environmental Quality identified as environmentally-sensitive. The Department published the FSEIS for this proposal in 2011, but the President subsequently denied the permit due to the controversial path the Project took across the Sand Hills Region.

¹ FSEIS Exec. Summ. at 1.

² *Issuance of Permits With Respect to Certain Energy-Related Facilities and Land Transportation Crossings on the International Boundaries of the United States*, 69 FR 25299; 3 U.S.C.A. § 301 (West).

³ 42 U.S.C.A. § 4332 (West).

⁴ According to the U.S. Department of State (in *Remarks on the Release of the Final Supplemental Environmental Impact Statement for the Proposed Keystone Pipeline*, Jan. 31, 2014, available at <http://www.state.gov/e/oes/rls/remarks/2014/221129.htm>), "the only specific timeline that's given in the executive order is that the consulting agencies have up to 90 days to get their views in."

⁵ 42 U.S.C.A. § 4332 (West); U.S. Department of State, *Remarks on the Release of the Final Supplemental Environmental Impact Statement for the Proposed Keystone Pipeline*, (Jan. 31, 2014), available at <http://www.state.gov/e/oes/rls/remarks/2014/221129.htm>.

⁶ FSEIS Exec. Summ. at 3.

⁷ United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs, *Final Supplemental Impact Statement for the Keystone XL Project (FSEIS)* (January 2014), available at <http://keystonepipeline-xl.state.gov/documents/organization/221135.pdf>.

On May 4, 2012, TransCanada filed a new Presidential Permit application, proposing a new route which avoids the Sand Hills Region. Under the new application, the Project consists of an 875-mile pipeline between Morgan, Montana, and Steele City, Nebraska. This portion of the Project is estimated to cost TransCanada approximately \$3.3 billion. Upon authorization of the Presidential Permit, the Project will also cross the U.S.-Canadian border at Morgan, Montana.⁸ The Project is estimated to take two years to complete construction. Along with the three previous phases of the Pipeline, the Project will have the capacity to deliver roughly 830,000 barrels per day of crude oil from oil sands in Canada to the Gulf Coast of Texas.⁹

For its review of the application, the Department selected the consulting firm, Environmental Resources Management as a third-party to prepare the Supplemental Environmental Impact Statement. In preparing the FSEIS, the Department took into consideration over 1.5 million public comment submissions.¹⁰ The Department issued the FSEIS in January 2014, triggering a 90-day period for the Department to solicit comment from the appropriate U.S. agencies per Executive Order 13337.

The FSEIS states the Project will not significantly add to greenhouse emissions.¹¹ Specifically, the FSEIS states that assuming the Project occurs within the next few years, the climate conditions will not substantially differ from the current conditions.¹² The FSEIS also states that the potential for certain spills have been mitigated by implementation of the PHMSA prevention plan.¹³ Finally, the FSEIS states the Project will support approximately 42,100 jobs either indirectly, directly, or induced by the Project. Approximately 3,900 of these jobs are construction jobs located through Montana, South Dakota, Nebraska, and Kansas. Overall, per the FSEIS, approximately 2 billion dollars in earnings throughout the United States would result from the Project.¹⁴

Supporters of the Keystone XL Pipeline state the Project supports market demand for crude oil refineries in closer proximity to the U.S. More so, obtaining crude oil from Canada would reduce the necessity to rely on foreign oil companies in unstable regions.¹⁵ Likewise, according to the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration PHMSA, pipelines are one of the safest and most cost-effective ways to transport oil and other hazardous liquid products to the U.S.¹⁶ Using less risky means to transport oil will reduce the potential for spills and other related disasters.

Specifically in Florida, supporters of the Pipeline claim that quick and easy access to oil is important to Florida because Floridians consume approximately 9.5 billion gallons of gasoline and diesel fuel annually.¹⁷ Likewise, various Florida industries such as fertilizer, agrochemical, and plastic rely heavily on the access and use of oil products. Because Florida has no crude oil refineries, much of its petroleum products must be delivered to cities such as Jacksonville, Miami, and Tampa, and ports such

² FSEIS Exec. Summ. at 9.

⁹ FSEIS Exec. Summ. at 6.

¹⁰ U.S. Department of State, *Keystone XL Pipeline Evaluation Process Fact Sheet*, available at [Keystonepipeline-xl.state.gov/draftseis/205549.htm](http://www.keystonepipeline-xl.state.gov/draftseis/205549.htm).

¹¹ FSEIS Exec. Summ. at 15, 34.

¹² FSEIS Exec. Summ. at 17.

¹³ FSEIS Exec. Summ. at 19.

¹⁴ *Id.*

¹⁵ Nancy Smith, *Enough Stalling on the Keystone XL Pipeline*, SUNSHINE STATE NEWS (October 19, 2013), available at <http://www.sunshinestatenews.com/story/enough-stalling-keystone-xl-pipeline-already>.

¹⁶ U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, *Safe Pipeline FAQs*, available at <http://phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7e39f2e55cf2031050248a0c/?vgnextoid=2c6924cc45ea4110VgnVCM1000009ed07898RCRD&vgnnextchannel=f7280665b91ac010VgnVCM1000008049a8c0RCRD&vgnnextfmt=print>.

¹⁷ Federal Highway Administration, *Motor-Fuel Use 2012*, available at <http://www.fhwa.dot.gov/policyinformation/statistics/2012/pdf/mf21.pdf>.

as Port Canaveral, Port Manatee, and Port Everglades.¹⁸ Supporters state that the Pipeline would reinforce our strong relationship with Canada and ensures America's energy security.¹⁹

Opponents of the Keystone XL Pipeline assert that the potential environmental impacts outweigh the economic benefits. In Florida, the opposition appears to center around atmospheric carbon pollution that is associated with emissions from burning fossil fuels.²⁰ Specifically, the opposition claims the completion of the Pipeline will increase the rate of greenhouse emissions because the method of extracting tar sand oil employed in the Project will produce more gasses than traditional oil. These emissions cause potential risks including economic loss, biodiversity loss, food and water shortages, health issues, extreme weather, storms, and sea level rise.²¹ Finally, the opposition states that because Florida's environmental and economic industries, like tourism, rely on clean shorelines and water, increasing pollution via fossil fuel emissions could hinder these kinds of industries.²²

In early 2013, 53 Senators including 44 Republicans and 9 Democrats signed and sent a letter to the President urging him to approve the Project.²³ At least one poll has shown approximately two-thirds of Americans support the construction of the Project.²⁴

Effect of Proposed Changes

HM 281 urges the President to issue final approval of the Project. Upon approval, TransCanada will begin construction on the Project, completing the entire Pipeline within two years. At completion of the Pipeline, TransCanada will have the capacity to deliver roughly 830,000 barrels per day of crude oil from oil sands in Canada to the Gulf Coast of Texas.²⁵

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹⁸ U.S. Energy Information Administration, Florida State Profile and Energy Estimates, *available at* <http://www.eia.gov/state/analysis.cfm?sid=FL>.

¹⁹ Kevin Doyle, *Keystone Pipeline Important to Florida*, StAugustine.com (June 26, 2013), *available at*

<http://staugustine.com/opinions/2013-06-26/guest-column-keystone-xl-pipeline-important-florida#.UvKBWvldW9U>.

²⁰ CREDO Action, Sign the Keystone XL Pledge of Resistance, *available at* http://act.credoaction.com/sign/kxl_pledge.

²¹ Keystone XL Pipeline, *available at* <http://florida.sierraclub.org/northeast/issues/articles/XLPipeline.html>.

²² *Id.*

²³ Matt Daly, *53 Senators Urge Approval of Keystone XL Pipeline*, USA Today (Jan. 23, 2013), *available at*

<http://www.usatoday.com/story/news/politics/2013/01/23/senators-urge-approval-keystone-pipeline/1860003/>.

²⁴ Pew Research Center, Continued Support for Keystone XL Pipeline (Sept. 26, 2013), *available at* <http://www.people-press.org/2013/09/26/continued-support-for-keystone-xl-pipeline/>.

²⁵ FSEIS Exec. Summ. at 6.

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.