

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HM 281 Keystone XL Pipeline

**SPONSOR(S):** Hill

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Kelly	Rojas
2) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

HM 281 urges the President to issue final approval of the Keystone XL Pipeline Project (Project). The proposed Project advocates for the construction of an 875 mile pipeline spanning between Morgan, Montana to 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 (bpd) of crude oil from oil sands in Canada to the Gulf Coast of Texas.

Supporters of the Keystone XL Pipeline state 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 argue that not only is the Pipeline convenient, but it is also the safest way to transport hazardous substances such as oil.

Those in opposition to the Keystone XL Pipeline argue 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 undetermined 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

The construction 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 entire Pipeline is financially backed by the Canadian company, TransCanada Keystone Pipeline, LP (TransCanada).<sup>1</sup> The Project proposes the construction of an 875 mile pipeline between Morgan, Montana to Steele City, Nebraska. This portion of the Project is estimated to cost approximately \$3.3 billion and will be paid entirely by TransCanada. Upon authorization of the Presidential Permit, the Project would also cross the U.S.-Canadian border at Morgan, Montana.<sup>2</sup> The Project is estimated to take two years to complete construction. Along with the three subsequently built phases of the Pipeline, the Project would have the capacity to deliver roughly 830,000 barrels per day (bpd) of crude oil from oil sands in Canada to the Gulf Coast of Texas.<sup>3</sup>

TransCanada submitted an application for the Project in May 2012. In January 2014, the Department of State (Department) completed and published the Final Supplemental Environmental Impact Statement (FSEIS), triggering a 90 day period for the Department to solicit comment from the appropriate U.S. agencies per Executive Order 13337.

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.<sup>4</sup> Likewise, according to the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA), pipelines are one of the safest and cost-effective ways to transport oil and other hazardous liquid products to the U.S.<sup>5</sup> Using less risky means to transport oil will reduce the potential for spills and other related disasters.

Specifically in Florida, supporters of the Pipeline argue quick and easy access to oil is important to Florida because Floridians consume approximately 9.5 billion gallons of gasoline and diesel fuel annually.<sup>6</sup> 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 ports in cities such as Jacksonville, Miami, Tampa, Port Canaveral, Port Manatee, and Port Everglades.<sup>7</sup> The use of pipelines through the heart of America would deliver oil to Gulf Coast refineries closer to Florida, eliminating the risk of an energy crisis in the state if ports experience a natural disaster. Finally, supporters state Canada and Florida have long been beneficiaries of one another, and this Project would prove yet another economic benefit.<sup>8</sup>

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<sup>1</sup> 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>.

<sup>2</sup> FSEIS Exec. Summ. at 9.

<sup>3</sup> FSEIS Exec. Summ. at 6.

<sup>4</sup> 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>.

<sup>5</sup> 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=2c6924cc45ea4110VgnVCM100009ed07898RCRD&vgnnextchannel=f7280665b91ac010VgnVCM1000008049a8c0RCRD&vgnnextfmt=print>.

<sup>6</sup> Federal Highway Administration, Motor-Fuel Use 2012, *available at* <http://www.fhwa.dot.gov/policyinformation/statistics/2012/pdf/mf21.pdf>.

<sup>7</sup> U.S. Energy Information Administration, Florida State Profile and Energy Estimates, *available at* <http://www.eia.gov/state/analysis.cfm?sid=FL>.

<sup>8</sup> 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>.

Those in opposition to the Keystone XL Pipeline argue largely that the potential environmental impacts outweigh the economic benefits. In Florida, the opposition is concerned about the atmospheric carbon pollution that is associated with emissions from burning fossil fuels.<sup>9</sup> Specifically, the opposition argues the completion of the Pipeline will increase the rate of greenhouse emissions because the method of extracting tar sand oil employed in this 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. 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.<sup>10</sup>

## **Background on the Keystone Pipeline and the Keystone XL Pipeline Project**

The Pipeline is a four-phase project that ultimately connects Canada to the Gulf Coast of Texas. Phase one, which spans between Hardisty, Alberta to Steele City, Nebraska, Wood River, Illinois, and Patoka, Illinois, is already constructed and currently operating. Phase two of the pipeline runs through Steele City, Nebraska to Cushing, Oklahoma. This pipeline is finished and has been operating since 2010. Finally, phase three, known as the "Cushing Market Link," spans between Cushing, Oklahoma to Nederland, Texas.<sup>11</sup> The Keystone XL Pipeline is the fourth and final phase of the larger Pipeline infrastructure.

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.<sup>12</sup> 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.<sup>13</sup> In this determination, the Department considers factors consistent with the National Environmental Policy Act (NEPA) and prepares a FSEIS which determines if the project does or does not serve a national interest.<sup>14</sup> Upon publishing the FSEIS, the Department has 90 days to consult with eight federal agencies including the Department of Energy, Defense, Transportation, Homeland Security, Justice, 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 undetermined timeline 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 (NID) and then either approve or deny the Project's application.<sup>15</sup>

In 2008, TransCanada submitted its first application for the Project. 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 (NDEQ) 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. On May 4, 2012, TransCanada filed a new Presidential Permit application, proposing a new route which avoided the Sand Hills Region and terminated the Project at Steele City, Nebraska. In accordance with review of the permit, the Department selected the consulting firm, Environmental Resources Management (ESM) as a third-party to prepare the Supplemental Environmental Impact Statement (SEIS). In preparing the FSEIS, the Department took into consideration over 1.5 million public comment submissions.<sup>16</sup> 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.

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<sup>9</sup> CREDO Action, Sign the Keystone XL Pledge of Resistance, *available at* [http://act.credoaction.com/sign/kxl\\_pledge](http://act.credoaction.com/sign/kxl_pledge).

<sup>10</sup> Stop the Keystone XL Pipeline, *available at* <http://florida.sierraclub.org/northeast/issues/articles/XLPipeline.html>.

<sup>11</sup> FSEIS Exec. Summ. at 3.

<sup>12</sup> FSEIS Exec. Summ. at 1.

<sup>13</sup> 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).

<sup>14</sup> 42 U.S.C.A. § 4332 (West).

<sup>15</sup> 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>

<sup>16</sup> U.S. Department of State, Keystone XL Pipeline Evaluation Process Fact Sheet, *available at* [Keystonepipeline-xl.state.gov/draftseis/205549.htm](http://keystonepipeline-xl.state.gov/draftseis/205549.htm).

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.<sup>17</sup> At least one poll has shown approximately two-thirds of Americans support the construction of the Project.<sup>18</sup>

### **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 (bpd) of crude oil from oil sands in Canada to the Gulf Coast of Texas.<sup>19</sup>

The FSEIS states the Project will not significantly add to greenhouse emissions.<sup>20</sup> Specifically, the FSEIS states that assuming the Project occurs within the next few years, the climate conditions would not substantially differ from the current conditions.<sup>21</sup> The FSEIS also states the potential for certain spills have been mitigated by implementation of the PHSMA prevention plan.<sup>22</sup> Finally, the FSIES states the Project would 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, approximately 2 billion dollars in earnings would result from the Project.<sup>23</sup>

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- 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:**

1. Revenues:  
None.

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<sup>17</sup> 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/>.

<sup>18</sup> 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/>.

<sup>19</sup> FSEIS Exec. Summ. at 6.

<sup>20</sup> FSEIS Exec. Summ. at 15, 34.

<sup>21</sup> FSEIS Exec. Summ. at 17.

<sup>22</sup> FSEIS Exec. Summ. at 19.

<sup>23</sup> *Id.*

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**