

October 27, 2010

Senate Letter to Secretary of State Clinton on Keystone XL Tar Sands Pipeline **Press Backgrounder**

Significance of this Letter

The authority to approve a Presidential permit for transboundary oil pipelines is delegated to the State Department under Executive Order 13337. Under this EO, the State Department must conduct a multi-agency "National Interest Determination" (NID). With opportunities to weigh in on the Keystone XL permit during both the NID and the environmental assessment that precedes the NID, many other agencies and Members of Congress have the ability to greatly influence both the matters considered and the process of approving (or rejecting) the permit for the pipeline.

Serious concerns were raised in the comments on the Draft Environmental Impact Statement (DEIS) which led the Environmental Protection Agency (EPA) to issue the DEIS its lowest possible ranking, and the Department of Energy (DOE) and the Department of Interior (DOI) to request significant additional analysis. Earlier this year, Representative Waxman (D-CA), and over 50 House members expressed their opposition to the pipeline. Additionally, Senators Johanns (R-NE) and Nelson (D-NE) recently sent individual letters to Sec. Clinton expressing concern over potential damage to the Ogallala aquifer in the event of a spill.

Process Overview to Date

In order to be permitted, the Keystone XL pipeline must undergo both the NEPA (Environmental Impact Statement) process, as well as the NID – in accordance with Executive Order 13337. On April 16, the State Department published the Draft Environmental Impact Statement (DEIS); after granting two extensions, the State Department closed the public comment period on July 2. Some Agencies were granted a further extension until July 16 for their comments. EPA, DOE, and DOI have all made their comments public, and both EPA and Representative Waxman called on the State Department to publish a revised DEIS or Supplemental EIS with significantly more analysis, and additional time for public comment. The State Department has not communicated whether or not they will publish a Supplemental or revised DEIS prior to publishing the Final EIS. However, they have agreed to hold off on the NID process until after publication of the Final EIS. The 90 day window for Federal Agencies to weigh in about the NID will begin on the day the Final EIS is published, and a decision about whether or not to grant the permit for the pipeline will likely follow shortly after the 90 day period closes.

Letter Signers

OVERVIEW: The signers to this letter are from the Democratic Party, which is currently in control of the Senate. Some of these members are very senior with oversight of the U.S. State Dept., funding for the State Department, as well as environmental issues generally, and hold significant influence with the State Department and Obama administration.

- 5 members are on the Foreign Relations committee (oversees the State Dept. and all of the foreign policy agencies of the U.S. government)
- 2 members are on the Appropriations committee which is most influential with funding decisions (Senator Nelson, also a member of the Appropriations committee, sent his own letter to Secretary Clinton on the potential impacts of the KXL to the Ogallala aquifer in Nebraska.)
- 6 are members of the Environment and Public Works committee, a high profile environment oversight committee

Relevant Roles and Leadership Positions of Select Signers

Senator Patrick Leahy (D-VT)

- Senior Member, Appropriations Committee
 - **Chair**, Subcommittee on Department of State, Foreign Operations, and Related Programs (has jurisdiction over State Department appropriations)
 - Member, Subcommittee on Commerce, Justice, Science, and Related Agencies
 - Member, Subcommittee on Defense
 - Member, Subcommittee on Homeland Security
 - Member, Subcommittee on Interior, Environment, and Related Agencies
 - Member, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies
- Senior Member, Agriculture Committee
- **Chair**, Senate Judiciary Committee
- Ranks second in seniority in the Senate

Senator Frank R. Lautenberg (D-NJ)

- Member, Appropriations Committee
 - **Chair**, Subcommittee on Homeland Security
 - Member, Subcommittee on Commerce, Justice, Science, and Related Agencies
 - Member, Subcommittee on Energy and Water Development
 - Member, Subcommittee on Financial Services and General Government
 - Member, Subcommittee on State, Foreign Operations, and Related Programs (has jurisdiction over State Department appropriations)
 - Member, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies
- Member, Commerce, Science & Transportation Committee
- Member, Environment and Public Works Committee
 - Member, Subcommittee on Transportation and Infrastructure
 - Member, Subcommittee on Water and Wildlife

Senator Chris Dodd (D-CT)

- **Chair**, Banking, Housing, and Urban Affairs Committee
- Senior Member, Committee on Foreign Relations
 - **Chair**, Subcommittee on Western Hemisphere, Peace Corps, and Global Narcotics Affairs
 - Member, Subcommittee on European Affairs
- Senior Member, Health, Education, Labor and Pensions Committee

Senator Benjamin Cardin (D-MD)

- Member, Foreign Relations Committee
- Member, Judiciary Committee
 - **Chair**, Terrorism and Homeland Security Subcommittee
- Member, Environment and Public Works (EPW) Committee
 - **Chair**, Water and Wildlife Subcommittee

Senator Sheldon Whitehouse (D-RI)

- Member, Environment and Public Works Committee
 - **Chair**, Subcommittee on Oversight
- Member, Judiciary Committee
 - **Chair**, Subcommittee on Administrative Oversight

Senator Robert Menendez (D-NJ)

- Member, Foreign Relations Committee
 - **Chair**, Subcommittee on International Development and Foreign Assistance, Economic Affairs, and International Environmental Protection
- Member, Finance Committee
 - Member, Subcommittee on International Trade, Customs, and Global Competitiveness
- Member, Banking Committee
 - **Chair**, Subcommittee on Housing, Transportation, and Community
- Member Energy and Natural Resources Committee
 - Member, Subcommittee on Energy
 - Member, Subcommittee on National Parks
 - Member, Subcommittee on Public Lands and Forests