

United States Senate
WASHINGTON, DC 20510

October 29, 2010

The Honorable Hillary Clinton
Secretary of State
Department of State
Washington, DC 20520

Dear Madam Secretary,

Thank you for your personal commitment to making progress on climate change. It is in light of this commitment that we write to you about the proposed TransCanada Keystone XL tar sands pipeline. As you recently stated, tar sands oil is “dirty oil”. Approval of this pipeline will significantly increase our dependence on this oil for decades. We believe the Department of State (DOS) should not pre-judge the outcome of what should be a thorough, transparent analysis of the need for this oil and its impacts on our climate and clean energy goals.

As you know, serious concerns have been raised in the comments on the Draft Environmental Impact Statement (DEIS) that your agency recently issued for the pipeline proposal. These concerns describe, among other things, the significant environmental degradation caused by the extraction of oil from Canadian tar sands, the emissions of greenhouse gases from this extraction, and the risks associated with transporting this oil into and across the United States. These concerns caused the Environmental Protection Agency (EPA) to give the DEIS its lowest possible ranking, and led the Department of Energy (DOE) and the Department of Interior (DOI) to request significant additional analysis. We write to request your answers to the following questions:

1. The DEIS fails to estimate the additional greenhouse gases that the pipeline will produce by increasing the production of tar sands oil, which we understand has a significantly higher life-cycle of greenhouse gas emissions compared to conventional oil. EPA states that “[I]t is reasonable to conclude that extraction will likely increase if the pipeline is constructed.”
 - Does the Department of State (DOS) agree with EPA, that extraction will likely increase if the pipeline is constructed?
 - Assuming that production is increased to fill the pipeline, how many tons of greenhouse gas emissions would this produce?
 - Does DOS plan to ask EPA to provide an estimate for lifecycle emissions for tar sands?
2. While substantial expansion of tar sands oil production is planned, this presumably depends on producers being able to transport and sell the oil. The DEIS states that “Producers in

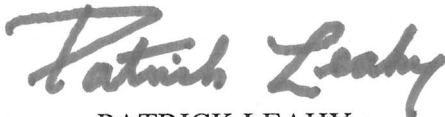
Canada have indicated that if the U.S. market is not available to them, much of the crude would be shipped outside of North America, particularly to Japan, China, and India . . .”

- What is the current status of the pipeline proposals to the West Coast?
 - What is the capacity of these pipeline proposals relative to the capacity of pipelines to the U.S., with and without Keystone XL?
 - Given that existing U.S. pipeline capacity for tar sands oil will soon be around 2 million barrels a day and Keystone XL would add close to another 1 million in potential pipeline capacity, will Canada have to increase its production to fill these pipelines?
 - Could Keystone XL open up a market for refined tar sands products through the Gulf Coast?
3. The DEIS does not address the trans-boundary impacts that would result from the production of oil to fill the pipeline.
- Does DOS plan to incorporate the CEQ guidance on trans-boundary impacts and climate change in a revised DEIS?
 - What is the impact of the production to fill the pipeline and the pipeline itself on migratory birds?
4. The pipeline would commit the U.S. to a high carbon source of oil for many decades.
- Is it possible that the wider use of fuel efficient technologies, advanced biofuels, and electric vehicles could offset the need for the pipeline?
 - What types of disincentives would expansion of tar sands imports into the U.S. pose to achieving reductions in oil use?
5. Local communities and first responders may not have access to the emergency response plans submitted by TransCanada. Please provide us with draft copies of the Emergency Response Plan, Facility Response Plans, and Spill Prevention Control and Countermeasure Plans for Keystone XL.
- Will DOS require TransCanada to give landowners, first responders, and local government officials the opportunity to review and comment on these plans?
 - Will they be published in a revised DEIS?
6. Both the Athabasca watershed, downstream from the tar sands oil extraction, and the Ogallala Aquifer, through which the pipeline would extend, are at risk of contamination by tar sands oil production and transportation.
- Has the DOS considered the potential for adverse impacts to the Ogallala Aquifer along the pipeline route?
 - What design changes will be made to Keystone XL, in light of the fact that the Keystone pipeline has already had two leaks – at the Roswell and Carpenter pump stations.

7. TransCanada has withdrawn its application for a special permit from the Pipeline and Hazardous Materials Safety Administration, and DOT is therefore no longer conducting a separate Environmental Assessment of pipeline safety issues.
 - Will DOS provide additional analysis in a revised DEIS that details pipeline thickness, quality, construction, operating procedures, and potential environmental risks?
8. EPA raised concerns about the impact on communities already experiencing high levels of air and water pollution surrounding the refineries that would refine tar sands oil from the Keystone XL pipeline.
 - Will DOS evaluate the environmental issues associated with potential impacts to communities near the refineries and other facilities associated with the pipeline?
 - Will DOS analyze the combined impact of the refineries that would refine tar sands oil and industrial facilities already contributing to exposure in communities?
9. Please provide us with a time-line for revising the DEIS. Please also provide us with any additional agency comments that were submitted to DOS.
 - Will DOS publish a revised DEIS with the opportunity for full public comment?
 - Will DOS conduct and include the additional analysis requested by the EPA, DOE, and DOI and include that analysis in the revised DEIS?
10. Once DOS has completed a final EIS, it states that it will conduct a National Interest Determination under Executive Order 13337.
 - Will DOS make public its criteria and procedures for making its National Interest Determination?
 - Will there be an opportunity for public comment on the criteria and procedures in advance of the determination?

Thank you for your assistance in answering these questions. We believe it is in the national interest to do a careful assessment before reaching a decision about this project.

Sincerely,



PATRICK LEAHY
United States Senator



BENJAMIN L. CARDIN
United States Senator



JEFF MERKLEY
United States Senator



FRANK R. LAUTENBERG
United States Senator


ROBERT MENENDEZ
United States Senator


BERNARD SANDERS
United States Senator


CHRISTOPHER J. DODD
United States Senator


ROLAND W. BURRIS
United States Senator


JEANNE SHAHEEN
United States Senator


SHELDON WHITEHOUSE
United States Senator


KIRSTEN E. GILLIBRAND
United States Senator