

# United States Senate

WASHINGTON, DC 20510

July 15, 2011

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

Dear Madam Secretary,

We write to express our continuing concerns regarding TransCanada's proposed Keystone XL pipeline. One need look no further than the ongoing impacts on the Yellowstone River in Montana from a leak in ExxonMobil's Silvertip pipeline to recognize that such risks are very real.

We appreciate the Department of State's (DOS) decision to issue a Supplemental Draft Environmental Impact Statement (SDEIS) for Keystone XL. We would also like to thank you for your decision to hold additional public meetings on Keystone XL. This public outreach is necessary given the significant effect the pipeline could have on communities through which it passes. However, we believe several remaining questions must be addressed before the permitting process can proceed.

The existing Keystone pipeline has been in operation for less than one year and has spilled 12 times, including spills of 400 barrels of crude in North Dakota on May 7, and 10 barrels of crude in Kansas on May 29. The May spills resulted in the Pipeline and Hazardous Materials Safety Administration (PHMSA) issuing a Corrective Action Order to TransCanada, finding that "the continued operation of the pipeline without corrective measures would be hazardous to life, property and the environment." These spills are troubling, as the Keystone XL pipeline will have similar characteristics, and underscore the need for careful assessment of both the spill risks and route of Keystone XL.

Below we outline our concerns regarding the safety of the proposed pipeline and the lack of analysis for an alternative route avoiding the Ogallala Aquifer, and pose questions that we believe should be answered before the DOS makes a decision on the pipeline.

## **Pipeline Safety**

First, we believe that the DOS should work with the PHMSA to more thoroughly review the safety of the proposed Keystone XL pipeline and put in place sufficient safety measures.

The SDEIS fails to include analysis specific to the environmental impacts of diluted bitumen spills, or the safety risks associated with the interaction of diluted bitumen with pipeline material. In fact, the PHMSA has not conducted an assessment of the potential corrosive and other risks of transporting tar sands crude oil via pipeline.

- Does the DOS intend to work with the PHMSA to conduct a scientific and technical assessment of the safety risks specifically associated with diluted bitumen?

The DOS has final responsibility to ensure that the Keystone XL pipeline is safe and that it has undergone a thorough safety review.

- Does the DOS intend to request a full safety assessment of the Keystone XL from the PHMSA before proceeding with a final environmental impact statement (FEIS)?

The Environmental Protection Agency (EPA) recently rated the SDEIS “Environmental Objections, Insufficient Information,” meaning that the EPA identified significant environmental impacts that may require corrective action measures but that there is insufficient information to fully assess the environmental impacts. With regard to pipeline safety, EPA raised concerns regarding the lack of information on the number and location of mainline valves to isolate pipeline segments in the case of a spill, the behavior of the class of crude oil in a spill, and the types of diluents that will be used to reduce the viscosity of the bitumen and their potential impact in a spill.

- How does the DOS intend to address the pipeline safety concerns raised by the EPA?

As part of the Corrective Action Order regarding the May spills from the Keystone pipeline, TransCanada must now provide a series of reports to the PHMSA to help evaluate the safety of pipelines such as Keystone and Keystone XL.

- Does the DOS intend to wait until TransCanada provides these reports before it releases its FEIS? If not, why not?
- How does the DOS plan to incorporate the information that will be provided to the PHMSA in its analysis? Please provide a written response describing where specifically PHMSA’s analysis will be incorporated.

Fifty-seven Special Conditions recommended by the PHMSA were included in the SDEIS. Many of these conditions are similar to those included in the Keystone permit.

- Given the safety issues with the Keystone pipeline, what does the DOS intend to do to supplement these conditions to address shortcomings in the operation and maintenance of the Keystone pipeline?

### **Pipeline Route**

Second, the DOS should more thoroughly analyze alternate routes for Keystone XL that minimize the length of pipeline in the U.S. and avoid the fragile Sandhills region of the Ogallala aquifer. The Ogallala aquifer is the source of freshwater for over 2 million Americans. Despite the risks to this valuable source of freshwater, the DOS did not consider routes that would avoid the Sandhills region such as an expansion of the existing Keystone Pipeline, concluding “it would not offer an overall environmental advantage over the proposed Project.” We disagree that avoiding a sensitive aquifer would not be an overall environmental benefit and urge the DOS to analyze reasonable alternatives to routes over the Ogallala aquifer.

- Will the DOS conduct a full analysis of alternative routes that avoid the Ogallala aquifer in the FEIS? If not, please explain why?

The EPA also raised concerns regarding the alternatives analysis in the SDEIS, concluding that the "limited analysis does not fully meet the objectives of NEPA and CEQ's NEPA regulations, which provide that agencies rigorously explore and objectively evaluate reasonable alternatives." As the EPA noted regarding the Ogallala aquifer: "If a spill did occur, the potential for oil to reach groundwater in these areas is relatively high given shallow water table depths and the high permeability of the soils overlying the aquifer." The EPA therefore recommends that the DOS "re-evaluate the feasibility of these alternative routes."

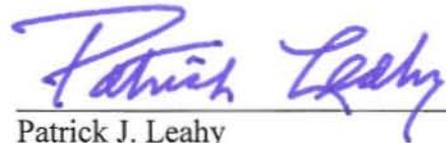
- How does the DOS intend to address the alternative route concerns raised by the EPA? Please provide a written response describing where in a FEIS or related document such concerns will be addressed.

We urge the DOS to give full consideration to the above-stated concerns before moving forward with the permit consideration for this project and ask for a written response to each of the issues raised.

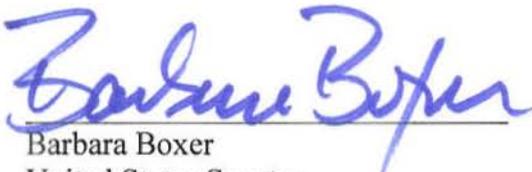
Sincerely,



Sheldon Whitehouse  
United States Senator



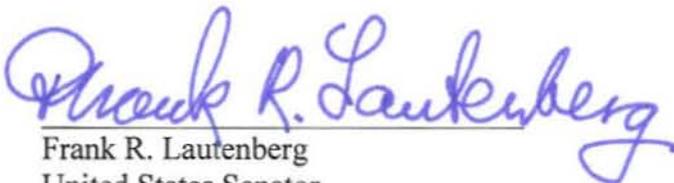
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