

*The Good Life
Means Wildlife !!*



October 8, 2011

Secretary of State Hillary Clinton
US Department of State
PO Box 96503-98500
Washington, DC 20090-6503

RE: National Interest Determination for Keystone XL

Dear Secretary of State Clinton,

I am writing to express the views of the Nebraska Wildlife Federation, a state-wide organization dedicated to the future of fish and wildlife in Nebraska through environmental education, fish and wildlife conservation, and common sense public policy. We have closely studied the proposed Keystone XL pipeline and have been very active in the public debate in Nebraska over the proposed pipeline.

I. Please Deny the Permit for the Proposed Keystone XL Pipeline.

For the reasons we will spell out below, we believe that the proposed Keystone XL pipeline is *not* in the National Interest of the United States of America, and we urge you to deny the permit.

II. If You Choose to Approve the Permit, then We Ask You to Condition that Approval on the Selection of a Route That Avoids the Nebraska Sandhills.

We believe that the route suggested by the applicant, TransCanada, has severe flaws in that it would place a pipeline through the fragile soils of the Sandhills, which have frequently been mobile sand dunes in recent history. We have spelled out some of that history in our past filings on the Environmental Impact Statement, and many others have provided comments that explain why the proposed route is severely flawed.

III. If You Refuse to Condition the Approval of the Permit on the Selection of a Route That Avoids the Nebraska Sandhills, Then We Ask You to Condition the Permit on the Specific Approval of a Route Through Nebraska by the Governor, the Governor's Designated Agency, or the Nebraska Legislature.

As you should know, no Nebraska state agency has approved the proposed pipeline, as there currently is no state agency that has been given that authority. It should be clear from public statements by

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Governor Dave Heineman, US Senators Mike Johanns and Ben Nelson, US Congressman Jeff Fortenberry, many Nebraska state senators, and other Nebraska officials, that the proposed route through the Sandhills and over the heart of the Ogallala aquifer is a serious concern in our state. In recent statements, the State Department has indicated that states have full authority to regulate the route of interstate oil pipelines (or, in this case, a pipeline proposed to carry diluted bitumen).

Should you not choose to deny the permit, or to condition the permit on the selection of a safer route that avoids the fragile Sandhills and the heart of the Ogallala aquifer, then we ask at a minimum that you allow the State of Nebraska to exercise its authority to regulate the pipeline route. As your own Environmental Impact Statements have indicated, there is currently far more pipeline capacity to carry diluted bitumen from Canada to the USA than there is capacity in Canada to produce tar sands oil. In fact, according to your own analysis, it could be a decade or more before the capacity represented by this pipeline is actually needed.

Therefore, a brief delay in initiating construction of the pipeline should be of no consequence to America's national interest. In fact, the portion of the pipeline that your analysis shows could provide some near-term capacity to move diluted bitumen from southern Illinois to Texas refineries and export facilities could still be built, since the Oklahoma to Texas portion of the pipeline does not depend on the route chosen through Nebraska.

We do recognize that the applicant should not be required to wait indefinitely for a decision. We therefore suggest that you provide a September 30, 2012, deadline for Nebraska officials to act to provide an acceptable route. That would give Nebraska's Governor or his designated agency adequate time to review the proposed route and determine whether it, or alternative routes, are acceptable to Nebraska. Alternatively, it would give Nebraska's Legislature the opportunity to consider giving that authority to a specific state agency, and for that designated agency to review and rule on the proposed route.

We would note that the confusion regarding what authority Nebraska state and local agencies have to review, approve and alter the route through our State has been exacerbated by the actions of TransCanada and its lobbyists. The reports we have heard consistently from state and local officials are that TransCanada's lobbyists have told them from the beginning that they (Nebraska state and local officials) have no ability to stop the pipeline or alter the route, when in fact both state and local officials have considerable authority, as the State Department has indicated.

The project's sponsor, TransCanada, should not be allowed to profit from the misinformation they have spread about the authority of Nebraska state and local officials to regulate this project.

We emphasize again that we believe the proposed Keystone XL pipeline is not in America's National Interest. However, if the State Department does not share our view, then by providing conditional approval of the pipeline the State Department would avoid delaying the State Department process any further, but would respect the historic shared power relationship between the United States government which is responsible for international relations, and the states which are responsible for the public health and safety of their citizens.

An alternative route through Nebraska could be designated that would add only 30 to 50 miles to the proposed 1,700 mile pipeline. We do not believe that a minor change to the route would represent an unreasonable change in the proposed project. We recognize that TransCanada has in some cases already purchased easements along the proposed route, but that was their choice and may simply have been a bad business decision. The company could have instead purchased options for those easements, or

conditioned the payments on the eventual approval of the pipeline route. The fact that TransCanada did not do so should be of no concern to the State Department, as those were business decisions made by the company.

The Proposed Keystone XL Pipeline is Not in America's Public Interest

The future of America is clean energy: energy efficiency, conservation, and renewable energy. The future of Nebraska is also clean energy: energy efficiency, energy conservation, renewable energy like wind and solar, and renewable fuels like ethanol and biodiesel.

Granting the permit for the proposed Keystone XL pipeline would tie the United States to a rapid expansion and use of tar sands oil production in Alberta, some of the world's dirtiest fuel production.

Clearly, America needs jobs; Nebraska needs jobs. And there are far more jobs – good, long-term, local jobs – from a future that focuses on energy efficiency, conservation, and renewable energy, than there ever will be from a future than continues America's addiction to fossil fuels, especially imported fuels.

Study after study has documented the huge potential for investments in energy efficiency and renewable energy to revitalize America's economy, put our people to work, and keep our energy dollars in our state and in our country. Additional studies have documented the potential savings in health care costs achievable by reducing the pollution from fossil fuels. Respiratory disease, heart disease, and mercury pollution in our waters are just some of the results of our continued addiction to dirty fossil fuels.

Approving the permit for the proposed Keystone XL pipeline would expand and accelerate America's commitment to these dirty fuels, moving America towards a future of dirty fuels, dirtier air, fewer jobs, and higher health care costs. Rejecting the proposed permit would send a strong signal, to the American people, to clean energy industries, to ethanol and biodiesel producers, to our allies and enemies alike that America is serious about clean energy, serious about ending our addiction to fossil fuels, and serious about revitalizing America's economy.

It would also send a clear signal that America is concerned about climate change, and willing to take important steps to reduce -- not increase -- our Nation's contribution to greenhouse gas pollution that is a primary human driver of climate change. It would send a clear signal that we expect nations like Canada to honor the international commitments they have made with respect to greenhouse gases.

We Believe the Final EIS Falls Far Short

As we have indicated previously, we believe that the Final Environmental Impact Statement released by the US Department of State seriously underestimates the likely environmental impact of the proposed pipeline. The proposed pipeline would put at risk wildlife and our natural resources.

The project would accelerate the destruction of Boreal Forests in Canada, which provide important nesting areas for many birds that migrate through Nebraska. By accelerating the ongoing pollution of the Athabasca River, the project puts at risk birds and other wildlife that live or nest downstream in Wood Buffalo National Park.

The largest flock of Whooping cranes, the tallest bird in North America and one of the rarest, migrate from Wood Buffalo National Park, over the tar sands production areas, southward through Great Plains states like Nebraska, to their wintering grounds on the Texas Gulf Coast. The proposed Keystone XL

pipeline would follow a similar route, and result in the building of new, high-voltage electric lines needed to power new pumping stations along the pipeline. Those new high-voltage lines will create more obstacles for Whooping cranes and other rare migratory birds.

The proposed pipeline would cross the Niobrara River, Loup River, Platte River, and Big Blue River in Nebraska, exposing each to the threat of a spill even worse than the ones that polluted the Yellowstone and Kalamazoo rivers. Independent analyses confirm that TransCanada has consistently underestimated the likely frequency of pipeline spills, and underestimated the size of a potential worst case spill. The State Department analyses agrees with that assessment, that TransCanada has underestimated the danger of the pipeline.

The first months of operation of the first Keystone pipeline have confirmed what those independent analyses indicated about the frequency of spills.

The proposed route of the pipeline would cut a swath through the fragile Nebraska Sandhills, disturbing the thin cap of vegetation and soil that covers the region's sand dunes and protects the High Plains Aquifer system that lies below. As experts from the University of Nebraska have indicated, there is but one study that pipeline proponents point to in their effort to have us believe that movement of diluted bitumen through Sandhills soils would be slow and limited. That study involved very different soil in Minnesota, and a very different product (oil, not diluted bitumen). No peer-reviewed studies have been done of the likely movement or impact of diluted bitumen and its many hazardous constituents in a Sandhills-like environment, with such an important aquifer below it.

The proposed route would disturb habitat for the American Burying Beetle. The proposed route would also go through at least 47 wetlands of special concern or value in Nebraska's Sandhills and Rainwater Basin alone, with no guarantees that the wetland losses would be avoided whenever possible.

In short, the proposed pipeline presents unacceptable risks to wildlife and to our natural resources, risks that we believe the Final Environmental Impact Statement clearly underestimates. We do not believe granting the proposed permit would be in America's national interest.

We do appreciate that the State Department chose to hold two public hearings in Nebraska about the National Interest Determination, and public hearings in other states as well. Our representatives were one of many who hoped to testify at the Lincoln hearing, but were not able to because of the time constraints.

We urge you to make the right decision for America and for the State of Nebraska.

Yours in Conservation,

Duane Hovorka

Duane Hovorka, executive director