

113TH CONGRESS
1ST SESSION

H. R. 3

AN ACT

To approve the construction, operation, and maintenance of
the Keystone XL pipeline, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Northern Route Ap-
3 proval Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) To maintain our Nation’s competitive edge
7 and ensure an economy built to last, the United
8 States must have fast, reliable, resilient, and envi-
9 ronmentally sound means of moving energy. In a
10 global economy, we will compete for the world’s in-
11 vestments based in significant part on the quality of
12 our infrastructure. Investing in the Nation’s infra-
13 structure provides immediate and long-term eco-
14 nomic benefits for local communities and the Nation
15 as a whole.

16 (2) The delivery of oil from Canada, a close ally
17 not only in proximity but in shared values and
18 ideals, to domestic markets is in the national inter-
19 est because of the need to lessen dependence upon
20 insecure foreign sources.

21 (3) The Keystone XL pipeline would provide
22 both short-term and long-term employment opportu-
23 nities and related labor income benefits, such as gov-
24 ernment revenues associated with taxes.

25 (4) The State of Nebraska has thoroughly re-
26 viewed and approved the proposed Keystone XL

1 pipeline reroute, concluding that the concerns of Ne-
2 braskans have had a major influence on the pipeline
3 reroute and that the reroute will have minimal envi-
4 ronmental impacts.

5 (5) The Department of State and other Federal
6 agencies have over a long period of time conducted
7 extensive studies and analysis of the technical as-
8 pects and of the environmental, social, and economic
9 impacts of the proposed Keystone XL pipeline,
10 and—

11 (A) the Department of State assessments
12 found that the Keystone XL pipeline “is not
13 likely to impact the amount of crude oil pro-
14 duced from the oil sands” and that “approval
15 or denial of the proposed project is unlikely to
16 have a substantial impact on the rate of devel-
17 opment in the oil sands”;

18 (B) the Department of State found that
19 incremental life-cycle greenhouse gas emissions
20 associated with the Keystone XL project are es-
21 timated in the range of 0.07 to 0.83 million
22 metric tons of carbon dioxide equivalents, with
23 the upper end of this range representing twelve
24 one-thousandths of one percent of the 6,702

1 million metric tons of carbon dioxide emitted in
2 the United States in 2011; and

3 (C) after extensive evaluation of potential
4 impacts to land and water resources along the
5 Keystone XL pipeline’s 875 mile proposed
6 route, the Department of State found that
7 “The analyses of potential impacts associated
8 with construction and normal operation of the
9 proposed Project suggest that there would be
10 no significant impacts to most resources along
11 the proposed Project route (assuming Keystone
12 complies with all laws and required conditions
13 and measures).”.

14 (6) The transportation of oil via pipeline is the
15 safest and most economically and environmentally
16 effective means of doing so, and—

17 (A) transportation of oil via pipeline has a
18 record of unmatched safety and environmental
19 protection, and the Department of State found
20 that “Spills associated with the proposed
21 Project that enter the environment expected to
22 be rare and relatively small”, and that “there
23 is no evidence of increased corrosion or other
24 pipeline threat due to viscosity” of diluted bitu-

1 men oil that will be transported by the Key-
2 stone XL pipeline; and

3 (B) plans to incorporate 57 project-specific
4 special conditions related to the design, con-
5 struction, and operations of the Keystone XL
6 pipeline led the Department of State to find
7 that the pipeline will have “a degree of safety
8 over any other typically constructed domestic oil
9 pipeline”.

10 (7) The Keystone XL is in much the same posi-
11 tion today as the Alaska Pipeline in 1973 prior to
12 congressional action. Once again, the Federal regu-
13 latory process remains an insurmountable obstacle
14 to a project that is likely to reduce oil imports from
15 insecure foreign sources.

16 **SEC. 3. KEYSTONE XL PERMIT APPROVAL.**

17 Notwithstanding Executive Order No. 13337 (3
18 U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C.
19 301 note), section 301 of title 3, United States Code, and
20 any other Executive order or provision of law, no Presi-
21 dential permit shall be required for the pipeline described
22 in the application filed on May 4, 2012, by TransCanada
23 Keystone Pipeline, L.P. to the Department of State for
24 the Keystone XL pipeline, as supplemented to include the
25 Nebraska reroute evaluated in the Final Evaluation Re-

1 port issued by the Nebraska Department of Environ-
2 mental Quality in January 2013 and approved by the Ne-
3 braska governor. The final environmental impact state-
4 ment issued by the Secretary of State on August 26, 2011,
5 coupled with the Final Evaluation Report described in the
6 previous sentence, shall be considered to satisfy all re-
7 quirements of the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.) and of the National His-
9 toric Preservation Act (16 U.S.C. 470 et seq.).

10 **SEC. 4. JUDICIAL REVIEW.**

11 (a) **EXCLUSIVE JURISDICTION.**—Except for review by
12 the Supreme Court on writ of certiorari, the United States
13 Court of Appeals for the District of Columbia Circuit shall
14 have original and exclusive jurisdiction to determine—

15 (1) the validity of any final order or action (in-
16 cluding a failure to act) of any Federal agency or of-
17 ficer with respect to issuance of a permit relating to
18 the construction or maintenance of the Keystone XL
19 pipeline, including any final order or action deemed
20 to be taken, made, granted, or issued;

21 (2) the constitutionality of any provision of this
22 Act, or any decision or action taken, made, granted,
23 or issued, or deemed to be taken, made, granted, or
24 issued under this Act; or

1 (3) the adequacy of any environmental impact
2 statement prepared under the National Environ-
3 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
4 or of any analysis under any other Act, with respect
5 to any action taken, made, granted, or issued, or
6 deemed to be taken, made, granted, or issued under
7 this Act.

8 (b) **DEADLINE FOR FILING CLAIM.**—A claim arising
9 under this Act may be brought not later than 60 days
10 after the date of the decision or action giving rise to the
11 claim.

12 (c) **EXPEDITED CONSIDERATION.**—The United
13 States Court of Appeals for the District of Columbia Cir-
14 cuit shall set any action brought under subsection (a) for
15 expedited consideration, taking into account the national
16 interest of enhancing national energy security by providing
17 access to the significant oil reserves in Canada that are
18 needed to meet the demand for oil.

19 **SEC. 5. AMERICAN BURYING BEETLE.**

20 (a) **FINDINGS.**—The Congress finds that—

21 (1) environmental reviews performed for the
22 Keystone XL pipeline project satisfy the require-
23 ments of section 7 of the Endangered Species Act of
24 1973 (16 U.S.C. 1536(a)(2)) in its entirety; and

1 (2) for purposes of that Act, the Keystone XL
2 pipeline project will not jeopardize the continued ex-
3 istence of the American burying beetle or destroy or
4 adversely modify American burying beetle critical
5 habitat.

6 (b) BIOLOGICAL OPINION.—The Secretary of the In-
7 terior is deemed to have issued a written statement setting
8 forth the Secretary’s opinion containing such findings
9 under section 7(b)(1)(A) of the Endangered Species Act
10 of 1973 (16 U.S.C. 1536(b)(1)(A)) and any taking of the
11 American burying beetle that is incidental to the construc-
12 tion or operation and maintenance of the Keystone XL
13 pipeline as it may be ultimately defined in its entirety,
14 shall not be considered a prohibited taking of such species
15 under such Act.

16 **SEC. 6. RIGHT-OF-WAY AND TEMPORARY USE PERMIT.**

17 The Secretary of the Interior is deemed to have
18 granted or issued a grant of right-of-way and temporary
19 use permit under section 28 of the Mineral Leasing Act
20 (30 U.S.C. 185) and the Federal Land Policy and Man-
21 agement Act of 1976 (43 U.S.C. 1701 et seq.), as set forth
22 in the application tendered to the Bureau of Land Man-
23 agement for the Keystone XL pipeline.

1 **SEC. 7. PERMITS FOR ACTIVITIES IN NAVIGABLE WATERS.**

2 (a) **ISSUANCE OF PERMITS.**—The Secretary of the
3 Army, not later than 90 days after receipt of an applica-
4 tion therefor, shall issue all permits under section 404 of
5 the Federal Water Pollution Control Act (33 U.S.C. 1344)
6 and section 10 of the Act of March 3, 1899 (33 U.S.C.
7 403; commonly known as the Rivers and Harbors Appro-
8 priations Act of 1899), necessary for the construction, op-
9 eration, and maintenance of the pipeline described in the
10 May 4, 2012, application referred to in section 3, as sup-
11 plemented by the Nebraska reroute. The application shall
12 be based on the administrative record for the pipeline as
13 of the date of enactment of this Act, which shall be consid-
14 ered complete.

15 (b) **WAIVER OF PROCEDURAL REQUIREMENTS.**—The
16 Secretary may waive any procedural requirement of law
17 or regulation that the Secretary considers desirable to
18 waive in order to accomplish the purposes of this section.

19 (c) **ISSUANCE IN ABSENCE OF ACTION BY THE SEC-**
20 **RETARY.**—If the Secretary has not issued a permit de-
21 scribed in subsection (a) on or before the last day of the
22 90-day period referred to in subsection (a), the permit
23 shall be deemed issued under section 404 of the Federal
24 Water Pollution Control Act (33 U.S.C. 1344) or section
25 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appro-
26 priate, on the day following such last day.

1 (d) LIMITATION.—The Administrator of the Environ-
2 mental Protection Agency may not prohibit or restrict an
3 activity or use of an area that is authorized under this
4 section.

5 **SEC. 8. MIGRATORY BIRD TREATY ACT PERMIT.**

6 The Secretary of the Interior is deemed to have
7 issued a special purpose permit under the Migratory Bird
8 Treaty Act (16 U.S.C. 703 et seq.), as described in the
9 application filed with the United States Fish and Wildlife
10 Service for the Keystone XL pipeline on January 11,
11 2013.

12 **SEC. 9. OIL SPILL RESPONSE PLAN DISCLOSURE.**

13 (a) IN GENERAL.—Any pipeline owner or operator
14 required under Federal law to develop an oil spill response
15 plan for the Keystone XL pipeline shall make such plan
16 available to the Governor of each State in which such pipe-
17 line operates to assist with emergency response prepared-
18 ness.

19 (b) UPDATES.—A pipeline owner or operator required
20 to make available to a Governor a plan under subsection
21 (a) shall make available to such Governor any update of

- 1 such plan not later than 7 days after the date on which
- 2 such update is made.

Passed the House of Representatives May 22, 2013.

Attest:

Clerk.

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