APPENDIX F

Scoping Summary Report

-This page intentionally left blank-

United States Department of State

SCOPING SUMMARY FOR THE KEYSTONE XL PROJECT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

1.0 INTRODUCTION

TransCanada Keystone Pipeline, LP (Keystone) has applied to the United States Department of State (the Department) for a Presidential Permit at the border of the United States for the proposed construction, connection, operation, and maintenance of facilities for importing crude oil from Canada. On June 15, 2012, the Department issued a Notice of Intent (NOI) to prepare a Supplemental Environmental Impact Statement (EIS) consistent with the National Environmental Policy Act of 1969 (NEPA), to address reasonably foreseeable impacts from the proposed action and alternatives.

The NOI informed the public about the proposed action, announced plans for public scoping opportunities, invited public participation in the scoping process, and solicited public comments for consideration in establishing the scope and content of the Supplemental EIS. The scoping period extended from June 15 to July 30, 2012.

2.0 SCOPING COMMENTS

2.1 PUBLIC, AGENCY, AND STAKEHOLDER COMMENTS

Comments from letters and emails received during the scoping period were entered into the administrative record, reviewed, and assigned an issue code. In total, 406,712 letters, cards, emails, e-comments, or telephone conversation records (henceforth referred to as "submissions") were received from the public, agencies, and other interested groups and stakeholders. Of this total, 405,813 were duplicate form letters sponsored by nongovernmental organizations (NGOs), while the remaining 899 were not form letters. The 406,712 submissions contained 6,551 unique, substantive comments. These comments were evaluated and addressed as appropriate in the Supplemental EIS. Issues addressed in comments from all of these sources are summarized in this scoping summary document.

All comments were categorized by the specific issue addressed in the comment and entered into a database for ease of review. The following sections summarize the comments by EIS section or issue. Comments have been summarized as appropriate, particularly for concerns that were raised by several commenters. Statements regarding the *Final EIS* refer to the Final EIS for the Keystone XL Pipeline Project, published on August 26, 2011.

2.1.1 Purpose and Need

1. Re-evaluate the purpose and need for the proposed Project to determine whether execution of this Project is in the United States' national interest, specifically in light of concerns

about climate change, and U.S. goals of reducing fossil fuel consumption and dependence on foreign petroleum sources, as well as other broad economic and environmental policies.

2. The Final EIS was flawed and should not be used as a baseline for a supplemental review; as a result, the Supplemental EIS must include a revised purpose and need, including revised supporting documentation. In particular, this includes revised crude oil demand projections (to account for refinements to the projections used to establish the purpose and need in the Final EIS).
3. The purpose and need for the proposed Project, particularly the National Interest Determination (NID), should be reconsidered in light of the Project's role in facilitating oil exports, rather than satisfying domestic demand.
4. The Steele City and Gulf Coast segments of the Keystone XL Project are interdependent parts of one larger project, and should be evaluated as such. If the Department chooses to evaluate the currently proposed Project as an independent segment, it must incorporate a different purpose and need for the Project.
5. There is considerable existing unused pipeline capacity, as well as other planned pipeline capacity to transport crude oil from Canada or the Bakken to the Gulf Coast. The purpose and need in the Supplemental EIS should only define the Project as transporting crude oil between Alberta and Steele City, Nebraska.
6. The need for the proposed Project should be reexamined in light of decreasing domestic demand for petroleum products (imported and domestically produced).
7. The purpose and need for the proposed Project should be reevaluated in light of the benefits of focusing on renewable energy sources rather than fossil fuels, and the degree to which future development of renewable sources would offset demand for crude oil.
8. As currently conceived, the proposed Project's benefits are outweighed by the potential environmental risks. The purpose and need for the proposed Project should be re-evaluated in this light.
9. To help achieve U.S. goals of energy security and reduced carbon emissions, the proposed Project should only be approved if it includes mitigation measures, such as carbon offsets, provided by the applicant.
10. The proposed Project should be approved because it would provide employment, other economic benefits, and reduced dependence on oil from hostile countries.

2.1.2 Project Description

1. The Supplemental EIS should not evaluate the Gulf Coast segment as part of the proposed Project (i.e., the Steele City segment) because Keystone is independently pursuing the Gulf Coast segment.
2. The Supplemental EIS should evaluate the Gulf Coast segment as a connected action.
3. The Supplemental EIS should identify required inspection and monitoring measures and the frequency that these measures will be implemented.

4. Specific project requirements (especially drilling techniques) should be implemented for the protection of Wild and Scenic Rivers and their related tributaries/upstream segments, flood plains, and other sensitive resources.
5. Provide as rigorous an analysis for the natural resources of the newly proposed routes as done for the previously proposed route. Specifically, the Supplemental EIS must analyze impacts related to ground and surface water resources, seismic risks, soils, vegetation, taxes, employment, cultural resources, and natural resources including, but not limited to, endangered species, parks, recreational waterways, fisheries, wildlife, and conservation lands.
6. As part of the proposed Project, Keystone should commit to greater use of the recommended seed mixes at the time of reclamation; to use seed mixes containing native vegetation, especially for areas of native short- and tall-grass prairie communities; and to inspect all disturbed areas after the first growing season to determine revegetation success and to perform noxious weed control.
7. Keystone should be required to have substantial funds in escrow to be used for pipeline spill response, recovery, and compensation of affected parties.
8. Keystone should be required to demonstrate the presence of spill response materials and properly trained personnel within reasonable proximity of all segments of the pipeline and all ancillary facilities.
9. The adequacy of available or planned crude oil storage in Cushing, Oklahoma and the Gulf Coast area should be addressed, given existing reported deficiencies.
10. The Supplemental EIS should discuss the economic impacts of refinery changeover necessary to process extracted bitumen.
11. The timeframe evaluated in the Supplemental EIS must match that of the extraction and production of the oil sands the proposed Project would transport.

2.1.3 Soils and Geology

12. The Supplemental EIS must fully consider how the following soil-related conditions impact or are impacted by pipeline construction and operation: drought, increased soil temperatures over the pipeline, increased risk of soil subsidence and instability, and difficulty of revegetating the pipeline right-of-way in drought conditions.
13. The pipeline route should avoid sandy soils altogether, in favor of clay-based soils. There is no safe route through the Ogallala Aquifer.

2.1.4 Water Resources

1. The Supplemental EIS should disclose practices that will ensure pipeline integrity, including methods and monitoring that will protect water resources.
2. The Nebraska Department of Environmental Quality (NDEQ)-identified Sand Hills Region only encompasses a portion of the sandy soils and aquifer recharge areas that are of concern along the proposed route.

3. The Supplemental EIS should include alternatives that avoid the Ogallala Aquifer and the NDEQ-identified Sand Hills Region, and that avoid impacts to the Mni Wiconi water supply system. The alternatives analysis must also address the way that the extended drought and record heat in the U.S. affect the proposed Project's potential impacts on water resources.
4. Previous analyses improperly relied on the U.S. Army Corps of Engineers Section 404 Clean Water Act permitting process to address impacts to waters, and did not evaluate water resources in appropriate detail; the Supplemental EIS should include its own analysis of water impacts.
5. The Supplemental EIS should clearly evaluate (through text and maps) the linkages between the proposed pipeline, distance to groundwater, and proximity to drinking water in the Ogallala Aquifer and NDEQ-identified Sand Hills Region.
6. The Supplemental EIS should include provisions for protecting groundwater, stream, and wetland resources at crossing points and along the entire route of the proposed pipeline.

2.1.5 Wetlands

1. The Supplemental EIS should identify wetlands, vegetation, wildlife, and fish (including threatened and endangered species) that may be affected by the newly proposed alternative routes, and should evaluate potential impacts on wetland functions.
2. The Supplemental EIS should provide an analysis of impacts associated with ancillary facilities and connected actions, including staging areas, access roads, construction camps and storage locations. The following specific topics should be discussed:
   - Compensatory mitigation for losses of aquatic resources and wetland functions and services;
   - A thorough conceptual wetland monitoring plan;
   - Information on the proposed areas of construction zones and rights-of-way for wetland crossings;
   - More detailed information about which wetland areas would be revegetated, and which wetland areas are considered of "special concern and value:"
   - Equal mitigation commitments for connected actions, including transmission lines; and
   - Analysis of prairie pothole wetlands and bottomland hardwood forested wetlands.

2.1.6 Vegetation, Fish, Wildlife, and Threatened and Endangered Species

1. The Supplemental EIS should provide information that addresses the direct and indirect impacts of pipeline construction and operation on endangered and threatened species, specifically related to the whooping crane, American burying beetle, pallid sturgeon, piping plover, interior least tern, western prairie-fringed orchid, and woodland caribou.
2. The Supplemental EIS should provide the Biological Assessment and Biological Opinion in an appropriate timeframe to allow public comment.
3. The Supplemental EIS is required by the Endangered Species Act (ESA) to evaluate the impacts of the proposed Project in Canada; these activities may also "be cause for

certification" under the Pelly Amendment, and may diminish the effectiveness of the Western Hemisphere Convention and the Migratory Bird Convention.

4. The Bureau of Land Management (BLM) has responsibility for designating and protecting sensitive species on BLM-managed lands that require special management consideration to promote their conservation and reduce the likelihood and need for future listing under the ESA. As such, BLM must analyze the impacts to resources, including sensitive species and habitat, affected by the proposed Project.
5. The Supplemental EIS should assess extraterritorial or trans-boundary impacts such as greenhouse gas emissions and migratory bird habitat destruction from increased tar sands extraction.
6. The Supplemental EIS should address the impact of temporarily disrupted habitat connectivity during construction activities and provide mitigation measures including native plant restoration and invasive species treatment.
7. The Supplemental EIS should provide an analysis of the proposed Project's impacts to water resources and sensitive wildlife species.
8. The Department should work closely with United States Fish and Wildlife Service (USFWS) and the South Dakota Game, Fish and Parks, respectively, in developing conservation plans to help avoid or minimize potential Project impacts to birds, and incorporate these conservation measures into the Supplemental EIS. The Supplemental EIS should include a Migratory Bird Conservation Plan and a sage-grouse conservation plan to help avoid and minimize expected impacts to birds and their habitats in the states where the proposed Project will be constructed, operated, and maintained.
9. The Department should consult with the USFWS regarding mussel surveys, relocation protocols or mussel propagation and reintroduction.
10. The Supplemental EIS should include provisions that ensure compliance with the Migratory Bird Treaty Act (MBTA) or prevention of the take of migratory birds (including those resulting from oil sump pits and other contamination related to oil production); address the potential impacts of power lines, noise from blasting and operation of pump stations, and loss of habitat resulting from blasting and ripping of rock outcrops used for nesting and foraging. Also, the Supplemental EIS should provide information to assure compliance with the Western Hemisphere Convention and the Migratory Bird Convention.
11. The Supplemental EIS should provide an analysis of the Pelly Amendment of the Fisherman's Protective Act of 1967 as it pertains to the proposed Project, specifically that tar sands development diminishes the effectiveness of the treaties protecting wildlife and fails to prevent takings of woodland caribou and migratory birds, including whooping cranes.
12. The Supplemental EIS should address habitat connectivity issues and associated mitigation.

2.1.7 Land Use

1. The BLM must ensure compliance with land use plans and all federal, state, and local laws and ordinances before granting a right-of-way, and should extract reimbursements for such rights-of-way, where appropriate.

2. The Supplemental EIS should evaluate impacts from the proposed Project on parks and conservation lands, including National Park Service (NPS) units and affiliated areas.

2.1.8 Socioeconomics

1. The Supplemental EIS should include a revised environmental justice analysis.
2. The Supplemental EIS should evaluate the impacts of the proposed product on oil production and oil prices within the U.S.
3. The No Action alternative in the Final EIS did not adequately incorporate U.S. and Canadian export data sources.
4. The Supplemental EIS should disclose how changes to the proposed Project impact property values and tax benefits.
5. The Supplemental EIS should disclose how farmers will be impacted by the proposed Project changes.
6. The Supplemental EIS should disclose how changes to the proposed Project impact job creation predictions.
7. The Supplemental EIS should include a more complete population growth analysis.
8. The Supplemental EIS should discuss the proposed Project's impacts on transportation infrastructure.

2.1.9 Cultural Resources

1. Further consultation, including a tribal consultation plan, is needed and should be disclosed in the Supplemental EIS to address the presence of cultural sites and tribal members' use of resources.
2. The Supplemental EIS should discuss the federal government's trust responsibility and address potential impacts to and proposed mitigation for resources that are culturally important to tribes.
3. The Supplemental EIS should detail a clear process regarding the inadvertent discovery of cultural resources.
4. The process for legally crossing existing water pipeline easements that the Oglala Sioux Tribe owns and operates should be followed and disclosed in the Supplemental EIS.
5. The process for legally transporting oil through tribal lands should be followed and disclosed in the Supplemental EIS.
6. The affected tribes should be granted cooperating agency status.
7. The Oglala Tribe has not given its permission to Keystone to have the proposed Project cross over the Tribe's Mni Wiconi Project water pipeline easements; the proposed Project would trespass on tribal and fee lands.
8. A new Programmatic Agreement should be developed for the Supplemental EIS.

2.1.10 Air Quality and Noise

Note: Additional comments about climate change and greenhouse gas (GHG) emissions from downstream use of bitumen or upstream bitumen extraction are included in the Climate Change section below.

1. The Supplemental EIS should analyze GHG emissions resulting from additional tar sands production in Canada, due to the causal link between construction and operation of the pipeline and additional tar sands production.
2. The Supplemental EIS should provide an analysis of the increased GHG emissions associated with construction and operation of the proposed Project.
3. The Supplemental EIS should include petroleum coke (petcoke) production and consumption in the life cycle impacts of tar sands crude oil production, as well as increased petcoke production in U.S. refineries.
4. The Supplemental EIS should review the trans-boundary impacts of increased tar sands crude oil exports on the proposed Project, including increased climate emissions, regardless of whether production of tar sands crude oil would increase by other means.
5. The Supplemental EIS should provide an analysis of local impacts of increased refinery emissions in the Gulf Coast region, associated with the proposed Project operation.
6. The Supplemental EIS should provide an analysis of how GHG emissions associated with pipeline operation and tar sands oil extraction and processing can be mitigated (including by energy efficiency, energy conservation, and green power utilization for pipeline operations).
7. Concerns about Project-related noise are not adequately addressed in the Final EIS.

2.1.11 Potential Releases from the Proposed Project Construction and Operational/ Environmental Consequence Analysis (Risk)

1. The Supplemental EIS should analyze the risks to groundwater and drinking water, specifically the Ogallala Aquifer and Mni Wiconi Project, due to a spill along the pipeline.
2. The Supplemental EIS should analyze the risks to surface water, wildlife, and vegetation (as well as threatened and endangered species) due to a spill.
3. The proposed Project should be evaluated in light of the increased risk of damage due to heavy flooding events and related waterbody scouring at waterbody crossing locations.
4. The Supplemental EIS should analyze increased risk to the pipeline and to spill response due to climate change.
5. The Supplemental EIS should provide an assessment of the safety risks associated with diluted bitumen pipelines, including the adequacy of proposed construction materials and the effects of higher internal temperature and corrosion rates.
6. The Department committed to commission an independent consultant to review the risk assessment for the Keystone XL Project, which would include, but not be limited to, an assessment of valve placement and the possibility of deploying external leak detection systems in areas of particularly sensitive environmental resources.

7. Pipeline companies do not have a good record of rapidly and effectively responding to spills, nor does the proposed Project include adequate provisions to detect, prevent, and clean up spills of diluted bitumen.
8. The Integrity Management Plan and the Emergency Response Plan for the proposed Project should be reviewed to ensure that they fully comply with federal law.
9. The Supplemental EIS should investigate mitigation and spill response measures such as bioremediation.
10. Spills could result in potential economic costs such as reduced property value, reduced agricultural production, and job losses in the agriculture, tourism, and other related sectors.
11. Who is liable for damage caused by pipeline spills?
12. The assumption that Pipeline and Hazardous Materials Safety Administration (PHMSA) oversight of the proposed Project and Project-specific PHMSA conditions are adequate and sufficient to protect water resources from spills is flawed.

2.1.12 Cumulative Impacts

1. The Supplemental EIS should evaluate the impacts of the proposed Keystone XL Project and the Gulf Coast segment of the proposed Project together.
2. The Supplemental EIS should study the economic impact of increased crude oil and wholesale fuel prices.
3. The Supplemental EIS should consider the cumulative effects of other existing or planned pipelines and their ancillary facilities.
4. The Supplemental EIS should include an analysis of the trans-boundary impacts associated with tar sands development in Canada, including regulatory considerations in Canada.
5. The Final EIS conclusion that production levels of tar sands would not be affected by whether or not the Keystone XL Project is built remains flawed.
6. Speculating on the potential for future projects that would displace similar impacts from the proposed Project is contrary to NEPA and impermissibly narrows the scope of the Supplemental EIS analysis by excluding consideration of trans-boundary, indirect, and cumulative impacts.
7. The Supplemental EIS review should consider the global/geographic context, including climate change.
8. The Supplemental EIS should examine impacts (including wildlife, threatened and endangered species, and environmental justice) both in the United States and Canada, pursuant to international treaties.
9. The Supplemental EIS should evaluate the impacts of process water demand for oil sands mining (four to six barrels of water to produce one barrel of oil sands) and contamination of that water.

2.1.13 Alternatives

1. The Supplemental EIS should fully analyze reasonable alternatives to the proposed Project, including alternative routes and the no-action alternative, including identifying existing pipelines with available capacity and the markets they already serve.
2. The Supplemental EIS should analyze alternative routes that avoid risks to homes, farming operations, and wells and springs used by rural residents, livestock, and wildlife.
3. The Supplemental EIS should identify and analyze routes that avoid the NDEQ-identified Sand Hills Region in Nebraska.
4. The Supplemental EIS should evaluate an alternative route to avoid the sovereign Lakota territory encompassed by the boundaries of the Great Sioux Reservation as identified in the 1851 and 1868 Fort Laramie Treaties.
5. The Supplemental EIS should evaluate an alternative route to avoid the easements for the Mni Wiconi Water Project.
6. The alternatives analysis in the Supplemental EIS should examine how the infrastructure choice to build the proposed Project would compare to other infrastructure alternatives that would favor lower carbon impacts.
7. The Supplemental EIS should evaluate existing and proposed transportation options available to move oil sands and Bakken crude oil to market, including pipeline and rail capacity.
8. The Supplemental EIS should evaluate options to refine oil sands crude in Canada, and/or transport raw or refined products to market via Canadian ports and territory, without a pipeline crossing into the United States.

2.1.14 EIS Process

Includes comments about both the Supplemental EIS and the Final EIS.

1. The Final EIS was flawed and contained inadequate information. It should not be used as a baseline for the Supplemental EIS due to those flaws and due to changes in the proposed Project.
2. Provide enough information to raise the EPA-issued rating of EO-2 (Environmental Objections-Insufficient Information) for the EIS.
3. The Department should work with appropriate international, federal, and state agencies, and tribes to develop plans and procedures necessary to comply with the ESA/MBTA and to protect wildlife, vegetation, habitat, and other resources.
4. Previous comments submitted on the Draft EIS and Final EIS that were not addressed need to be considered and incorporated into the scope of the Supplemental EIS.
5. Due to the proposed Project's complexity and lack of clear communication with the public so far, the Supplemental EIS must allow adequate time and opportunity for public review and involvement.
6. NEPA requires a "full and fair" analysis and disclosure of all alternatives, mitigation measures, and potential impacts related to the proposed Project, including the significance

of all direct, indirect, and cumulative effects, prior to commencement of the proposed Project.

7. Federal agencies must comply with NEPA, environmental laws, and CFR Title 40, but have failed to do so in the past. Other agencies or contractors contributing to the proposed Project must be qualified and adequately vetted.
8. The Department must properly consult with tribes to address their concerns, engage in official consultation, protect tribal resources, and consider tribal agencies' involvement as cooperating agencies. This should include a new round of consultation for the Supplemental EIS.
9. A new NID must be completed, and supporting information/criteria for the NID should be made transparently available to the public and included in the Supplemental EIS.
10. Keystone has used eminent domain (as a common carrier) to acquire land for the Gulf Coast segment, often over landowner objections. This is inappropriate and should not be allowed for the proposed Project.
11. The information collected and the subsequent evaluation from the Final EIS should be used for the Supplemental EIS; the review process should not be started over.
12. A Health Impact Assessment should be conducted prior to the Final Supplemental EIS.

2.1.15 Climate

1. The Supplemental EIS should evaluate the proposed Project's impact on climate change, specifically the way in which the project enables the processing and consumption of bitumen and impacts to Canada's boreal forests.
2. The Supplemental EIS should include a lifecycle analysis of GHG emissions throughout the proposed Project's entire life, including development, processing, and consumption of bitumen resources, which should be treated as contingent on (and resultant from) the proposed Project.
3. The Supplemental EIS must fully consider the impact of the current drought on pipeline construction and operational impacts, including the increased risk of wildfires caused by construction, increased soil temperatures over the pipeline, increased risk of soil subsidence and instability, and the much greater difficulty of revegetating the pipeline right-of-way in drought conditions.
4. The Supplemental EIS should consider the global climate impacts of the bifurcation of the northern and southern segments of the Keystone XL Project.
5. The Supplemental EIS should consider the impacts of future climate change, particularly increased rainfall and potential flooding, and higher temperatures, on the proposed Project's design (e.g., deeper river crossings, appropriate spill response capabilities, physical and chemical impacts of higher temperatures).
6. The Supplemental EIS should include a discussion of existing conditions in the areas that will be affected by the proposed Project, including how those conditions will change during its 50-year projected lifespan from the intensifying impacts of climate change as required by 40 CFR 1502.15.

7. The Supplemental EIS should include a discussion of the impact of the proposed Project on broader foreign policy objectives, including a comprehensive strategy to address climate change.
8. The Supplemental EIS should use and disclose the most relevant science on climate change and the scientific prescription for climate recovery.

2.2 AGENCY COMMENT LETTERS

The Department received a letter from the United States Department of the Interior, Office of the Secretary, Office of Environmental Policy and Compliance, dated July 30, 2012. No other letters or emails were received from state and/or federal agencies. The Department of the Interior letter speaks on behalf of Department of the Interior component agencies, including the USFWS, NPS, and BLM. Detailed comments within the Department of the Interior letter are included in the summary presented above in Section 2.1, Public, Agency, and Stakeholder Comments.

3.0 ACRONYMS

BLM U.S. Bureau of Land Management
ESA Endangered Species Act
GHG greenhouse gas
MBTA Migratory Bird Treaty Act
NEPA National Environmental Policy Act
NGO nongovernmental organization
NID National Interest Determination
NOI Notice of Intent
NPS National Park Service
PHMSA Pipeline and Hazardous Materials Safety Administration
SDGFP South Dakota Game, Fish, and Parks
USFWS U.S. Fish and Wildlife Service

-This page intentionally left blank-