

## **APPENDIX A**

### **Governor Approval of the Keystone XL Project in Nebraska**

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**Dave Heineman**  
Governor

## STATE OF NEBRASKA

OFFICE OF THE GOVERNOR  
P.O. Box 94848 • Lincoln, Nebraska 68509-4848  
Phone: (402) 471-2244 • dave.heineman@nebraska.gov

January 22, 2013

President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Secretary Hillary Rodham Clinton  
U.S. Department of State  
2201 C Street, NW  
Washington, D.C. 20520

Dear President Obama and Secretary Clinton:

I am writing to you today to inform you that the State of Nebraska has completed its evaluation process of a proposed reroute of TransCanada's Keystone XL Pipeline project through the State of Nebraska. As you are aware, in 2011, I called the Nebraska Legislature into a special session to address the siting of a proposed pipeline. On November 22, 2011, I signed LB 1 and LB 4 into law. LB 1 adopted the Major Oil Pipeline Siting Act. LB 4 provided for state participation in a federal supplemental environmental impact statement review process for oil pipelines.

On January 18, 2012, TransCanada's Presidential Permit application was denied. The process established by LB 4 was on hold while we reviewed in detail what that meant for Nebraska. During the 2012 legislative session, the Legislature passed, and I signed into law, LB 1161, which allowed the Nebraska Department of Environmental Quality (NDEQ) to continue evaluating a proposed pipeline route. On April 18, 2012 TransCanada submitted proposed alternative routes to the NDEQ, and on May 24, 2012 the NDEQ entered into a Memorandum of Understanding with the U.S. Department of State to provide a framework for a timely collaborative environmental analysis of routes within Nebraska consistent with National Environmental Policy Act (NEPA), the National Historical Preservation Act, and all other relevant laws and regulations. On January 3, 2013, the NDEQ submitted the Final Evaluation Report on the proposed pipeline reroute to me for my review.

Pursuant to Neb. Rev. Stat. §57-1501, *et. seq.*, the NDEQ has evaluated a route for an oil pipeline within, through, or across the State of Nebraska submitted by a pipeline carrier for the stated purpose of being included in a federal agency's or agencies' NEPA review process; collaborated with a federal agency or agencies in a review under NEPA involving a supplemental environmental impact statement for oil pipeline projects within, through, or across the state;

contracted with HDR, inc. to assist in evaluating a proposed alternative route; solicited public comments over a seven month period, held five public information meetings, and one public hearing; and analyzed the environmental, economic, social, and other impacts associated with the proposed route and route alternatives in Nebraska.

The NDEQ's evaluation of the 194.5-mile-long proposed pipeline reroute has resulted in multiple findings. The following are major determinations from the Final Evaluation Report:

- The proposed Nebraska Reroute avoids the Sand Hills but would cross the High Plains Aquifer, including the Ogallala Group. Impacts on aquifers from a release should be localized and Keystone would be responsible for any cleanup.
- The proposed Nebraska Reroute avoids many areas of fragile soils in Northern Nebraska.
- The proposed Nebraska Reroute avoids a shallow groundwater area upgradient (west) of the boundary of the Clarks Wellhead Protection Area, where the aquifer is thin, wells are shallow, and bedrock is close to the surface.
- Affected agricultural operations could resume the season after the completion of construction.
- Construction of the pipeline would result in \$418.1 million in economic benefits.
- The project would generate \$16.5 million in use taxes from pipeline construction materials.
- Annual local property tax revenues, for the first full year of valuation, would be between \$11 million and \$13 million.
- Construction and operation of the proposed Keystone XL Pipeline, with the mitigation and commitments from Keystone would have minimal environmental impacts in Nebraska.
- Throughout NDEQ's evaluation process, the concerns of Nebraskans have had a major influence on the pipeline route, the mitigation commitments, and this evaluation.
- Keystone would be responsible for developing an Emergency Response Plan for a product release associated with the operation of the proposed Keystone XL Pipeline and ancillary facilities. In the event of a spill, appropriate authorities would have timely access to product characteristics.
- Keystone would have financial and regulatory responsibility for any spill associated with the proposed Keystone XL Pipeline.

As stated in the Final Evaluation Report, TransCanada has provided assurances to the State of Nebraska that the company would implement the following mitigation measures. These measures would include: developing an Emergency Response Plan for a crude oil release associated with the operation of the Keystone XL Pipeline and ancillary facilities; providing fast access to the product's Material Safety Data Sheet in the event of a release; providing, at landowner request, baseline water well testing prior to construction for domestic and livestock wells within 300 feet of the centerline of the route; providing for an independent public employee to act as a liaison

President Obama  
Secretary Clinton  
January 22, 2013  
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between Keystone and landowners, local communities, and residents to facilitate an open exchange of information; adhering to 57 special safety conditions, including more rigorous pipeline design, manufacturing, construction, records and reporting, testing, operational, and maintenance standards developed in coordination with the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration; and in the event of a release, Keystone would be responsible for all costs associated with state and federal cleanup requirements; and Keystone would provide evidence that it is carrying \$200 million in third party liability insurance to cover cleanup costs for incidents in Nebraska.

I hereby, in accordance with Neb. Rev. Stat. §57-1503(4), approve the route reviewed in the Final Evaluation Report conducted pursuant to Neb. Rev. Stat. §57-1503(1). I request that Nebraska's evaluation be included in the Department of State's Supplemental Environmental Impact Statement. I appreciate your attention to this matter.

Sincerely,



Dave Heineman  
Governor

Enclosure: Final Evaluation Report (disc)

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