

## Calendar No. 81

113TH CONGRESS  
1ST SESSION**H. R. 3**

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IN THE SENATE OF THE UNITED STATES

MAY 23, 2013

Received; read the first time

JUNE 3, 2013

Read the second time and placed on the calendar

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**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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Northern Route Ap-  
5 proval Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) To maintain our Nation’s competitive edge  
9 and ensure an economy built to last, the United  
10 States must have fast, reliable, resilient, and envi-

1       ronmentally sound means of moving energy. In a  
2       global economy, we will compete for the world's in-  
3       vestments based in significant part on the quality of  
4       our infrastructure. Investing in the Nation's infra-  
5       structure provides immediate and long-term eco-  
6       nomic benefits for local communities and the Nation  
7       as a whole.

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

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

17              (4) The State of Nebraska has thoroughly re-  
18      viewed and approved the proposed Keystone XL  
19      pipeline reroute, concluding that the concerns of Ne-  
20      braskans have had a major influence on the pipeline  
21      reroute and that the reroute will have minimal envi-  
22      ronmental impacts.

23              (5) The Department of State and other Federal  
24      agencies have over a long period of time conducted  
25      extensive studies and analysis of the technical as-

1 pects and of the environmental, social, and economic  
2 impacts of the proposed Keystone XL pipeline,  
3 and—

4 (A) the Department of State assessments  
5 found that the Keystone XL pipeline “is not  
6 likely to impact the amount of crude oil pro-  
7 duced from the oil sands” and that “approval  
8 or denial of the proposed project is unlikely to  
9 have a substantial impact on the rate of devel-  
10 opment in the oil sands”;

11 (B) the Department of State found that  
12 incremental life-cycle greenhouse gas emissions  
13 associated with the Keystone XL project are es-  
14 timated in the range of 0.07 to 0.83 million  
15 metric tons of carbon dioxide equivalents, with  
16 the upper end of this range representing twelve  
17 one-thousandths of one percent of the 6,702  
18 million metric tons of carbon dioxide emitted in  
19 the United States in 2011; and

20 (C) after extensive evaluation of potential  
21 impacts to land and water resources along the  
22 Keystone XL pipeline’s 875 mile proposed  
23 route, the Department of State found that  
24 “The analyses of potential impacts associated  
25 with construction and normal operation of the

1 proposed Project suggest that there would be  
2 no significant impacts to most resources along  
3 the proposed Project route (assuming Keystone  
4 complies with all laws and required conditions  
5 and measures).”.

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

9 (A) transportation of oil via pipeline has a  
10 record of unmatched safety and environmental  
11 protection, and the Department of State found  
12 that “Spills associated with the proposed  
13 Project that enter the environment expected to  
14 be rare and relatively small”, and that “there  
15 is no evidence of increased corrosion or other  
16 pipeline threat due to viscosity” of diluted bitu-  
17 men oil that will be transported by the Key-  
18 stone XL pipeline; and

19 (B) plans to incorporate 57 project-specific  
20 special conditions related to the design, con-  
21 struction, and operations of the Keystone XL  
22 pipeline led the Department of State to find  
23 that the pipeline will have “a degree of safety  
24 over any other typically constructed domestic oil  
25 pipeline”.

1           (7) The Keystone XL is in much the same posi-  
2           tion today as the Alaska Pipeline in 1973 prior to  
3           congressional action. Once again, the Federal regu-  
4           latory process remains an insurmountable obstacle  
5           to a project that is likely to reduce oil imports from  
6           insecure foreign sources.

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

8           Notwithstanding Executive Order No. 13337 (3  
9 U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C.  
10 301 note), section 301 of title 3, United States Code, and  
11 any other Executive order or provision of law, no Presi-  
12 dential permit shall be required for the pipeline described  
13 in the application filed on May 4, 2012, by TransCanada  
14 Keystone Pipeline, L.P. to the Department of State for  
15 the Keystone XL pipeline, as supplemented to include the  
16 Nebraska reroute evaluated in the Final Evaluation Re-  
17 port issued by the Nebraska Department of Environ-  
18 mental Quality in January 2013 and approved by the Ne-  
19 braska governor. The final environmental impact state-  
20 ment issued by the Secretary of State on August 26, 2011,  
21 coupled with the Final Evaluation Report described in the  
22 previous sentence, shall be considered to satisfy all re-  
23 quirements of the National Environmental Policy Act of  
24 1969 (42 U.S.C. 4321 et seq.) and of the National His-  
25 toric Preservation Act (16 U.S.C. 470 et seq.).

1 **SEC. 4. JUDICIAL REVIEW.**

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

6 (1) the validity of any final order or action (in-  
7 cluding a failure to act) of any Federal agency or of-  
8 ficer with respect to issuance of a permit relating to  
9 the construction or maintenance of the Keystone XL  
10 pipeline, including any final order or action deemed  
11 to be taken, made, granted, or issued;

12 (2) the constitutionality of any provision of this  
13 Act, or any decision or action taken, made, granted,  
14 or issued, or deemed to be taken, made, granted, or  
15 issued under this Act; or

16 (3) the adequacy of any environmental impact  
17 statement prepared under the National Environ-  
18 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),  
19 or of any analysis under any other Act, with respect  
20 to any action taken, made, granted, or issued, or  
21 deemed to be taken, made, granted, or issued under  
22 this Act.

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

1           (c) EXPEDITED CONSIDERATION.—The United  
2 States Court of Appeals for the District of Columbia Cir-  
3 cuit shall set any action brought under subsection (a) for  
4 expedited consideration, taking into account the national  
5 interest of enhancing national energy security by providing  
6 access to the significant oil reserves in Canada that are  
7 needed to meet the demand for oil.

8 **SEC. 5. AMERICAN BURYING BEETLE.**

9           (a) FINDINGS.—The Congress finds that—

10               (1) environmental reviews performed for the  
11 Keystone XL pipeline project satisfy the require-  
12 ments of section 7 of the Endangered Species Act of  
13 1973 (16 U.S.C. 1536(a)(2)) in its entirety; and

14               (2) for purposes of that Act, the Keystone XL  
15 pipeline project will not jeopardize the continued ex-  
16 istence of the American burying beetle or destroy or  
17 adversely modify American burying beetle critical  
18 habitat.

19           (b) BIOLOGICAL OPINION.—The Secretary of the In-  
20 terior is deemed to have issued a written statement setting  
21 forth the Secretary’s opinion containing such findings  
22 under section 7(b)(1)(A) of the Endangered Species Act  
23 of 1973 (16 U.S.C. 1536(b)(1)(A)) and any taking of the  
24 American burying beetle that is incidental to the construc-  
25 tion or operation and maintenance of the Keystone XL

1 pipeline as it may be ultimately defined in its entirety,  
2 shall not be considered a prohibited taking of such species  
3 under such Act.

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

5 The Secretary of the Interior is deemed to have  
6 granted or issued a grant of right-of-way and temporary  
7 use permit under section 28 of the Mineral Leasing Act  
8 (30 U.S.C. 185) and the Federal Land Policy and Man-  
9 agement Act of 1976 (43 U.S.C. 1701 et seq.), as set forth  
10 in the application tendered to the Bureau of Land Man-  
11 agement for the Keystone XL pipeline.

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

13 (a) ISSUANCE OF PERMITS.—The Secretary of the  
14 Army, not later than 90 days after receipt of an applica-  
15 tion therefor, shall issue all permits under section 404 of  
16 the Federal Water Pollution Control Act (33 U.S.C. 1344)  
17 and section 10 of the Act of March 3, 1899 (33 U.S.C.  
18 403; commonly known as the Rivers and Harbors Appro-  
19 priations Act of 1899), necessary for the construction, op-  
20 eration, and maintenance of the pipeline described in the  
21 May 4, 2012, application referred to in section 3, as sup-  
22 plemented by the Nebraska reroute. The application shall  
23 be based on the administrative record for the pipeline as  
24 of the date of enactment of this Act, which shall be consid-  
25 ered complete.



1 (b) WAIVER OF PROCEDURAL REQUIREMENTS.—The  
2 Secretary may waive any procedural requirement of law  
3 or regulation that the Secretary considers desirable to  
4 waive in order to accomplish the purposes of this section.

5 (c) ISSUANCE IN ABSENCE OF ACTION BY THE SEC-  
6 RETARY.—If the Secretary has not issued a permit de-  
7 scribed in subsection (a) on or before the last day of the  
8 90-day period referred to in subsection (a), the permit  
9 shall be deemed issued under section 404 of the Federal  
10 Water Pollution Control Act (33 U.S.C. 1344) or section  
11 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appro-  
12 priate, on the day following such last day.

13 (d) LIMITATION.—The Administrator of the Environ-  
14 mental Protection Agency may not prohibit or restrict an  
15 activity or use of an area that is authorized under this  
16 section.

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

18 The Secretary of the Interior is deemed to have  
19 issued a special purpose permit under the Migratory Bird  
20 Treaty Act (16 U.S.C. 703 et seq.), as described in the  
21 application filed with the United States Fish and Wildlife  
22 Service for the Keystone XL pipeline on January 11,  
23 2013.

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

2 (a) IN GENERAL.—Any pipeline owner or operator  
3 required under Federal law to develop an oil spill response  
4 plan for the Keystone XL pipeline shall make such plan  
5 available to the Governor of each State in which such pipe-  
6 line operates to assist with emergency response prepared-  
7 ness.

8 (b) UPDATES.—A pipeline owner or operator required  
9 to make available to a Governor a plan under subsection  
10 (a) shall make available to such Governor any update of  
11 such plan not later than 7 days after the date on which  
12 such update is made.

Passed the House of Representatives May 22, 2013.

Attest:

KAREN L. HAAS,

*Clerk.*



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1<sup>ST</sup> Session

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