AN ACT

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Northern Route Approval Act”.

SECTION 2. FINDINGS.

The Congress finds the following:

(1) To maintain our Nation’s competitive edge and ensure an economy built to last, the United States must have fast, reliable, resilient, and envi-
ronmentally sound means of moving energy. In a
global economy, we will compete for the world’s in-
vestments based in significant part on the quality of
our infrastructure. Investing in the Nation’s infra-
structure provides immediate and long-term eco-

demic benefits for local communities and the Nation
as a whole.

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

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

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

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

(A) the Department of State assessments found that the Keystone XL pipeline “is not likely to impact the amount of crude oil produced from the oil sands” and that “approval or denial of the proposed project is unlikely to have a substantial impact on the rate of development in the oil sands”;

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

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

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

(A) transportation of oil via pipeline has a record of unmatched safety and environmental protection, and the Department of State found that “Spills associated with the proposed Project that enter the environment expected to be rare and relatively small”, and that “there is no evidence of increased corrosion or other pipeline threat due to viscosity” of diluted bitumen oil that will be transported by the Keystone XL pipeline; and

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

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(7) The Keystone XL is in much the same position today as the Alaska Pipeline in 1973 prior to congressional action. Once again, the Federal regulatory process remains an insurmountable obstacle to a project that is likely to reduce oil imports from insecure foreign sources.

SEC. 3. KEYSTONE XL PERMIT APPROVAL.

Notwithstanding Executive Order No. 13337 (3 U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C. 301 note), section 301 of title 3, United States Code, and any other Executive order or provision of law, no Presidential permit shall be required for the pipeline described in the application filed on May 4, 2012, by TransCanada Keystone Pipeline, L.P. to the Department of State for the Keystone XL pipeline, as supplemented to include the Nebraska reroute evaluated in the Final Evaluation Report issued by the Nebraska Department of Environmental Quality in January 2013 and approved by the Nebraska governor. The final environmental impact statement issued by the Secretary of State on August 26, 2011, coupled with the Final Evaluation Report described in the previous sentence, shall be considered to satisfy all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and of the National Historic Preservation Act (16 U.S.C. 470 et seq.).
SEC. 4. JUDICIAL REVIEW.

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

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer with respect to issuance of a permit relating to the construction or maintenance of the Keystone XL pipeline, including any final order or action deemed to be taken, made, granted, or issued;

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

(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or of any analysis under any other Act, with respect to any action taken, made, granted, or issued, or deemed to be taken, made, granted, or issued under this Act.

(b) DEADLINE FOR FILING CLAIM.—A claim arising under this Act may be brought not later than 60 days after the date of the decision or action giving rise to the claim.
(c) Expedited Consideration.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant oil reserves in Canada that are needed to meet the demand for oil.

SEC. 5. AMERICAN BURYING BEETLE.

(a) Findings.—The Congress finds that—

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

(2) for purposes of that Act, the Keystone XL pipeline project will not jeopardize the continued existence of the American burying beetle or destroy or adversely modify American burying beetle critical habitat.

(b) Biological Opinion.—The Secretary of the Interior is deemed to have issued a written statement setting forth the Secretary's opinion containing such findings under section 7(b)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(1)(A)) and any taking of the American burying beetle that is incidental to the construction or operation and maintenance of the Keystone XL
pipeline as it may be ultimately defined in its entirety,
shall not be considered a prohibited taking of such species
under such Act.

SEC. 6. RIGHT-OF-WAY AND TEMPORARY USE PERMIT.
The Secretary of the Interior is deemed to have
granted or issued a grant of right-of-way and temporary
use permit under section 28 of the Mineral Leasing Act
(30 U.S.C. 185) and the Federal Land Policy and Manage-
ment Act of 1976 (43 U.S.C. 1701 et seq.), as set forth
in the application tendered to the Bureau of Land Man-
agement for the Keystone XL pipeline.

SEC. 7. PERMITS FOR ACTIVITIES IN NAVIGABLE WATERS.
(a) ISSUANCE OF PERMITS.—The Secretary of the
Army, not later than 90 days after receipt of an applica-
tion therefor, shall issue all permits under section 404 of
the Federal Water Pollution Control Act (33 U.S.C. 1344)
and section 10 of the Act of March 3, 1899 (33 U.S.C.
403; commonly known as the Rivers and Harbors Approp-
riations Act of 1899), necessary for the construction, op-
eration, and maintenance of the pipeline described in the
May 4, 2012, application referred to in section 3, as sup-
plemented by the Nebraska reroute. The application shall
be based on the administrative record for the pipeline as
of the date of enactment of this Act, which shall be consid-
ered complete.
(b) Waiver of Procedural Requirements.—The Secretary may waive any procedural requirement of law or regulation that the Secretary considers desirable to waive in order to accomplish the purposes of this section.

(c) Issuance in Absence of Action by the Secretary.—If the Secretary has not issued a permit described in subsection (a) on or before the last day of the 90-day period referred to in subsection (a), the permit shall be deemed issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or section 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appropriate, on the day following such last day.

(d) Limitation.—The Administrator of the Environmental Protection Agency may not prohibit or restrict an activity or use of an area that is authorized under this section.

SEC. 8. MIGRATORY BIRD TREATY ACT PERMIT.

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

(a) In general.—Any pipeline owner or operator required under Federal law to develop an oil spill response plan for the Keystone XL pipeline shall make such plan available to the Governor of each State in which such pipeline operates to assist with emergency response preparedness.

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

Passed the House of Representatives May 22, 2013.

Attest: KAREN L. HAAS,

Clerk.
AN ACT
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JUNE 3, 2013
Read the second time and placed on the calendar