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HOUSE OF REPRESENTATIVES

REPT. 112–140
Part 1

NORTH AMERICAN-MADE ENERGY SECURITY ACT

JULY 8, 2011.—Ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1938]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1938) to direct the President to expedite the consideration and approval of the construction and operation of the Keystone XL oil pipeline, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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99–006

AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "North American-Made Energy Security Act".

SEC. 2. FINDINGS.

Congress finds and declares the following:

(1) The United States currently imports more than half of the oil it consumes, often from countries hostile to United States interests or with political and economic instability that compromises supply security.

(2) While a significant portion of imports are derived from allies such as Canada and Mexico, the United States remains vulnerable to substantial supply disruptions created by geopolitical tumult in major producing nations.

(3) Strong increases in oil consumption in the developing world outpace growth in conventional oil supplies, bringing tight market conditions and higher oil prices in periods of global economic expansion or when supplies are threatened.

(4) The development and delivery of oil and gas from Canada to the United States is in the national interest of the United States in order to secure oil supplies to fill needs that are projected to otherwise be filled by increases in other foreign supplies, notably from the Middle East.

(5) Continued development of North American energy resources, including Canadian oil, increases domestic refiners' access to stable and reliable sources of crude and improves certainty of fuel supply for the Department of Defense, the largest consumer of petroleum in the United States.

(6) Canada and the United States have the world's largest two-way trading relationship. Therefore, for every United States dollar spent on products from Canada, including oil, 90 cents is returned to the United States economy. When the same metrics are applied to trading relationships with some other major sources of United States crude oil imports, returns are much lower.

(7) The principal choice for Canadian oil exporters is between moving increasing crude oil volumes to the United States or Asia, led by China. Increased Canadian oil exports to China will result in increased United States crude oil imports from other foreign sources, especially the Middle East.

(8) Increased Canadian crude oil imports into the United States correspondingly reduce the scale of "wealth transfers" to other more distant foreign sources resulting from the greater cost of importing crude oil from those sources.

(9) Not only are United States companies major investors in Canadian oil sands, but many United States businesses throughout the country benefit from supplying goods and services required for ongoing Canadian oil sands operations and expansion.

(10) There has been more than 2 years of consideration and a coordinated review by more than a dozen Federal agencies of the technical aspects and of the environmental, social, and economic impacts of the proposed pipeline project known as the Keystone XL from Hardisty, Alberta, to Steele City, Nebraska, and then on to the United States Gulf Coast through Cushing, Oklahoma.

(11) Keystone XL represents a high capacity pipeline supply option that could meet early as well as long-term market demand for crude oil to United States refineries, and could also potentially bring over 100,000 barrels per day of United States Bakken crudes to market.

(12) Completion of the Keystone XL pipeline would increase total Keystone pipeline capacity by 700,000 barrels per day to 1,290,000 barrels per day.

(13) The Keystone XL pipeline would provide short-term and long-term employment opportunities and related labor income benefits, as well as government revenues associated with sales and payroll taxes.

(14) The earliest possible construction of the Keystone XL pipeline will make the extensive proven and potential reserves of Canadian oil available for United States use and increase United States jobs and will therefore serve the national interest.

(15) Analysis using the Environmental Protection Agency models shows that the Keystone XL pipeline will result in no significant change in total United States or global greenhouse gas emissions.

(16) The Keystone XL pipeline would be state-of-the-art and have a degree of safety higher than any other typically constructed domestic oil pipeline system.

(17) Because of the extensive governmental studies already made with respect to the Keystone XL project and the national interest in early delivery of Canadian oil to United States markets, a decision with respect to a Presidential Permit for the Keystone XL pipeline should be promptly issued without further administrative delay or impediment.

SEC. 3. EXPEDITED APPROVAL PROCESS.

(a) IN GENERAL.—The President, acting through the Secretary of Energy, shall coordinate with each Federal agency responsible for coordinating or considering an aspect of the President's National Interest Determination and Presidential Permit decision regarding construction and operation of the Keystone XL pipeline, to ensure that all necessary actions with respect to such decision are taken on an expedited schedule.

(b) AGENCY COOPERATION WITH SECRETARY OF ENERGY.—Each Federal agency described in subsection (a) shall comply with any deadline established by the Secretary of Energy pursuant to subsection (a).

(c) FINAL ORDER.—Not later than 30 days after the issuance of the final environmental impact statement, the President shall issue a final order granting or denying the Presidential Permit for the Keystone XL pipeline, but in no event shall such decision be made later than November 1, 2011.

(d) ENVIRONMENTAL REVIEW.—No action by the Secretary of Energy pursuant to this section shall affect any duty or responsibility to comply with any requirement to conduct environmental review.

PURPOSE AND SUMMARY

H.R. 1938, the "North American-Made Energy Security Act of 2011", was introduced by Rep. Lee Terry (together with Reps. Gardner, Green, McKinley, McMorris Rodgers, Murphy, Myrick, Pitts, Ross, Scalise, Sullivan, Upton, Walden, and Whitfield) on May 23, 2011. The legislation requires the President to coordinate with the relevant federal agencies and reach a final decision granting or denying the Presidential Permit for the proposed Keystone XL pipeline project by no later than November 1, 2011.

BACKGROUND AND NEED FOR LEGISLATION

A Canadian pipeline company, TransCanada, has long sought to increase the capacity of its Keystone pipeline system in order to bring more Canadian crude oil to American refineries. A permit application for its proposed expansion project, Keystone XL, was submitted to the State Department in September of 2008.

In the 33 months since—an unusually long period for such permits—the nation has faced high gasoline prices as well as soaring unemployment rates. Approval of Keystone XL would help address both of these concerns, but the Obama administration has yet to make a final decision about whether to allow the project to move ahead. Most recently, the Environmental Protection Agency raised several objections that may further delay a final decision.

Despite the economic downturn, the nation's demand for petroleum and motor fuels remains strong and is projected by the Energy Information Administration to grow in the years ahead. However, domestic oil production is limited by the federal government. Many promising domestic onshore and offshore areas are explicitly off-limits to energy leasing, and even those that are not may be subject to permitting delays or regulatory constraints that effectively make them so. Oil imports are needed to fill the gap between consumption and domestic production.

Unfortunately, many nations that serve as a source of these imports continue to display substantial instability as well as anti-American hostility. This raises serious concerns about the risks—

both economic and otherwise—of continued reliance upon such nations.

The role of Canadian oil is critical to America's energy future. In addition to being a very stable country, as well as a strong ally and our largest trading partner, Canada is America's single largest source of oil imports. Further, Canadian oil production is on the rise, especially oil sands production from the province of Alberta. The untapped potential is vast—an estimated 175 billions barrels of recoverable oil places Alberta second only to Saudi Arabia in proven reserves. Canada currently produces more than enough oil for its own needs and sends most of the rest South, via pipelines, to American refineries.

Thus, Alberta oil sands production represents a nearly-ideal source of supply for the American market that will likely increase in the years ahead. However, the existing pipeline system between the two nations is unable to keep up with the growing volumes, necessitating the need for a major expansion project such as Keystone XL.

Once completed, the Keystone XL project would add another 700,000 barrels per day to the capacity of 591,000 barrels per day in the existing pipeline, more than enough to make a difference in the price at the pump. It can do so for the long term, as output from Alberta is expected to provide this additional oil for decades to come. In addition to the energy benefits, the construction of Keystone XL will create tens of thousands of American jobs.

H.R. 1938, the North American-Made Energy Security Act of 2011, does not change the extensive environmental reviews and other requirements necessary for Keystone XL to obtain its federal permit. The bill is simply an acknowledgement that this project has already been thoroughly studied and that all legitimate concerns have been raised and addressed, and sets a date certain—November 1, 2011—by which the Obama administration must reach a final decision.

Keystone XL permitting timeline

Ordinarily, the U.S. government does not have permit authority for oil pipelines, even interstate pipelines. Generally, the primary siting authority for oil pipelines would be established under applicable state law. However, the construction, connection, operation and maintenance of a pipeline that connects the United States with a foreign country has historically required executive permission conveyed through a Presidential Permit. Executive Order 13337 delegates to the Secretary of State the President's authority to receive applications for Presidential Permits.

TransCanada submitted an application for a Presidential Permit with the U.S. Department of State (DOS) in September 2008. In November of 2008, TransCanada submitted a comprehensive environmental report to DOS, thereby initiating the National Environmental Policy Act review process.

On January 28, 2009, DOS issued its Notice of Intent to Prepare an Environmental Impact Statement, which commenced a public scoping period to identify significant environmental issues. Among other things, this included public meetings held in more than twenty impacted communities. On April 16th, DOS issued a Draft Environmental Impact Statement (DEIS) and extended the public comment period to 77 days.

On July 2, 2010, DOS closed the comment period on the DEIS. The Environmental Protection Agency (EPA) determined that the DEIS was inadequate, requiring DOS to perform additional review in a Supplemental Draft Environmental Impact Statement (SDEIS). The SDEIS was issued on April 29, 2011 and initiated an additional 45-day comment period. DOS ultimately concluded that "the information in this SDEIS does not alter the conclusions reached in the [DEIS] regarding the need for and the potential impacts of the proposed Project."

On June 6, 2011, EPA again informed DOS that the SDEIS contains insufficient information and requested additional analysis be performed for the Final Environmental Impact Statement (FEIS).

Assuming no further delays—an optimistic assumption—DOS should release its FEIS in August, likely initiating an additional 30-day public comment period. In addition, the comment period will begin on the National Interest Determination to solicit views from the Secretaries of Defense, Commerce, Transportation, Energy, and Homeland Security, as well as the Attorney General, Administrator of the EPA, and others that the Secretary of State deems appropriate.

The ongoing permitting process for Keystone XL has thus far taken 33 months, and has included multiple opportunities for public input. By comparison, the original Keystone pipeline project was permitted in less than 24 months. H.R. 1938 would set November 1, 2011 as the date by which the administration must act, more than three years after the application was originally submitted.

Throughout the approval process, any and all environmental and safety concerns have been addressed. The SDEIS concluded that: "[a]s a result of incorporation of the current PHMSA regulations, current industry standards, and the set of 57 Project-specific Special Conditions developed by PHMSA and agreed to by Keystone, the proposed Project would have a degree of safety over any other typically constructed domestic oil pipeline system under current code and a degree of safety along the entire length of the pipeline system similar to that which is required in [High Consequence Areas] as defined under [PHMSA regulations]."

Moreover, claims of environmental damage attributable to production of the oil sands in Alberta—including assertions of substantially higher greenhouse gas emissions relative to conventional oil—are particularly misplaced in the context of the U.S. approval process for Keystone XL. For example, the on-site impacts and emissions are the responsibility of the Alberta government, and there is no need for a redundant consideration of these matters. At a May 23, 2011 hearing before the Subcommittee on Energy and Power, Dan McFayden, Chairman of the Energy Resources Conservation Board of Alberta, testified as to the rigor and thoroughness of its approval process and the many safeguards that have been put in place. "Every oil sands project is subjected to regulatory scrutiny throughout its life cycle, from authorization and operational compliance to end-of-life closure," he said.

More importantly, the Canadian and Alberta provincial governments have made clear that they will allow oil sands production to increase regardless of Keystone XL's fate. If the President fails to approve Keystone XL, the same amount of Canadian oil will very likely be produced and transported west via pipelines to Pacific ports for export to China and other Asian nations. Thus, approval or disapproval of the project ultimately makes no difference regarding the environmental impacts and emissions associated with the production of Albertan oil sands.

These conclusions are further supported by Keystone XL Assessment issued by the U.S. Department of Energy (DOE) Office of Policy and International Affairs (the "DOE KXL Report"). In June 2010, Ensys Energy was contracted by DOE to conduct an evaluation of the impacts on United States and global refining, trade and oil markets of Keystone XL project to bring additional Canadian crudes into the United States. The DOE KXL Report is included as part of the SDEIS. The study includes an assessment of global lifecycle GHG impacts of scenarios evaluated in this study. That study concluded "no significant change . . . in global refinery CO_2 and total life-cycle GHG emissions whether KXL is built or not." Changes in lifecycle emissions were calculated with models and methodology used in deriving indirect impacts of petroleum consumption for the EPA's renewable fuels standard program.

The energy benefits of Keystone XL

Once completed, the Keystone XL project would add another 700,000 barrels per day of pipeline capacity to the system's existing 591,000 barrels per day, bringing this oil to refineries in the Midwest and Gulf Coast. Subsequent upgrades could boost additional throughput to over 800,000 barrels per day. According to the DOE KXL Report, Keystone XL holds "the potential to very substantially reduce U.S. dependency on non-Canadian foreign oil, including from the Middle East."

Rapidly-growing production from Alberta's oil sands is the reason the pipeline expansion is needed. America currently imports approximately 2 million barrels per day (mbd) from Canada, of which 1.1 mbd is from oil sands. However, oil sands production is relatively new and its potential has only begun to be realized. According to testimony at the May 23 hearing from James Burkhard, Managing Director of IHS CERA, "the oil sands make Canada one of the very few countries in the world that could substantially increase oil production for the next several decades." He added that "over the past decade production growth picked up rapidly and supply more than doubled to about 1.5 mbd in 2010. This is greater than the 1.2 mbd that Libya exported to the global market in 2010, before the civil war."

Oil sands production is expected to continue its rapid growth. Murray Smith, former member of the Legislative Assembly of Alberta and Minister of Energy, testified that "Alberta's production is expected to increase to over 3 million barrels a day by the end of the decade." In other words, Canada has more than enough oil to dramatically increase exports to the United States and maintain them for the foreseeable future. The only limiting factor is pipeline capacity.

By way of comparison, President Obama recently authorized the release of 30 million barrels of oil from the Strategic Petroleum Reserve (SPR) for a period of 30 days—an additional million barrels per day. Keystone XL has the potential to add 70 percent as much oil per day as this recent SPR release, but with two critical differences. First, the SPR is not a source of newly-produced oil but rather a stockpile previously set aside for emergency use, while the oil coming from Canada via Keystone XL would represent a genuine addition to the nation's supply. More importantly, while the SPR stockpile is available for a short time span and then would need to be replenished, Keystone XL could be supplying oil every day for several decades—truly part of the long-term solution to the nation's demand for all of its petroleum needs.

The economic benefits of Keystone XL

In addition to the benefits of a secure supply of additional oil from a strong ally, approval of Keystone XL is also projected to create a substantial number of jobs. Stephen Kelly, Assistant General President of the United Association of Plumbers and Pipe Fitters, testified in favor of H.R. 1938 at the May 23rd hearing. According to estimates cited by Kelly, the project is "expected to create approximately 13,000 high-quality, good-paying construction jobs." Kelly testified that the wages and benefits for these jobs would be approximately $50 per hour.

The benefits will go well beyond the direct jobs building the pipeline. For example, most of the construction equipment, pipe, and other supplies used to build Keystone XL would be U.S.-sourced, as well as much of the technical expertise associated with the project. Kelly testified that the indirect jobs "include 7,000 manufacturing jobs associated with the production of materials and components for the pipeline, and over 118,000 spin-off jobs in various sectors related to the design, construction and operation of the pipeline."

Even after the construction phase is complete, Keystone XL would provide employment associated with its operation. Along with Canadian oil, the pipeline would also alleviate potential oil bottlenecks that might otherwise limit growing oil production in North Dakota and Montana, ensuring continued job growth there. In addition, Canadian oil can take the place of declining Mexican and Venezuelan supplies reaching Gulf Coast refineries, helping to maintain or expand jobs at those facilities. Further, given the well-established inverse relationship between energy costs and employment, the reduction in oil and gasoline prices as a consequence of Keystone XL would yield additional jobs throughout the economy.

Ironically, during the span in which the Keystone XL permit has languished at DOS, the Obama administration and Congress embarked on a $787 billion dollar stimulus package in an attempt to reduce unemployment and jump-start the economy. Keystone XL would have been a prime example of the "shovel-ready" projects that proponents of the stimulus package had hoped to initiate—one that creates a large number of well-paying jobs and boosts economic activity. Furthermore, while the stimulus package cost taxpayers a great deal of money (and whether it actually created an appreciable number of jobs is a matter of considerable debate), the $7 billion dollar Keystone XL project would be financed privately. In fact, rather than require tax dollars Keystone XL would generate substantial tax revenues for state and local communities along its route as well as the federal government.

The Trans-Alaska Pipeline precedent

There are many historical parallels between Keystone XL and the debate over the Trans-Alaska Pipeline in the early 1970s. Back then, a major discovery of oil on the North Slope of Alaska in Prudhoe Bay—the largest on the continent prior to development of the Alberta oil sands—necessitated a pipeline to transport this oil to American refineries, hence the proposed 700-mile Trans-Alaska Pipeline. The project was thoroughly studied for several years during which all legitimate environmental and safety concerns were addressed. Nonetheless, federal approval became bogged down by NEPA-related delays similar to those currently impeding Keystone XL.

However, Middle East turmoil and rising oil prices finally sparked Congressional action. In 1973, Congress passed and President Nixon signed the Trans-Alaska Pipeline Authorization Act, which removed all federal roadblocks to the project. Construction on the pipeline began in 1974 and was completed in 1977. It has been in operation ever since.

Since that time, the pipeline has delivered 16 billion barrels of oil to the American market, and has contributed substantially to the health of Alaska's economy while creating jobs throughout the nation. And, notwithstanding the many dire predictions at the time from anti-pipeline activist groups (several of whom now oppose Keystone XL), the pipeline has amassed an excellent environmental and safety record and did so using technology far less sophisticated than what would be required for Keystone XL.

The main difference between the Trans-Alaska Authorization Act and the North American-Made Energy Security Act is that the latter does not automatically approve the project, but merely requires the President to make a decision on Keystone XL by a date certain.

HEARINGS

The Subcommittee on Energy and Power on May 23, 2011 held a legislative hearing on a discussion draft of the "North American-Made Energy Security Act of 2011" and received testimony from:

The Honorable Dan McFayden, Chairman, Alberta Energy Resources Conservation Board;

Mr. Alex Pourbaix, President, Energy and Oil Pipelines, TransCanada;

Mr. Stephen Kelly, Assistant General President, United Association of Plumbers and Pipe Fitters;

Mr. James Burkhard, Managing Director, Global Oil, IHS Cambridge Energy Research Associates;

Mr. Jeremy Symons, Sr. Vice President, Conservation & Education, National Wildlife Federation; and,

Mr. Murray Smith, President, Murray Smith & Associates.

COMMITTEE CONSIDERATION

On May 16, 2011, a discussion draft of H.R. lll, the North American-Made Energy Security Act, was released.

On May 23, 2011, the Subcommittee on Energy and Power held a legislative hearing on the discussion draft and Representative Terry, together with Representatives Ross, Upton, Whitfield, Sullivan, Green, McMorris Rodgers, Walden, McKinley, Gardner, Scalise, Myrick, Pitts and Murphy introduced the discussion draft as H.R. 1938, the North American-Made Energy Security Act (the "NAMES Act").

On June 15, 2011, the Subcommittee on Energy and Power favorably reported the NAMES Act to the full Committee by a voice vote. During the markup, three amendments were offered and defeated by voice vote.

On June 23, 2011, the full Committee on Energy and Commerce met in open markup session. During the markup, six amendments were offered, of which one was adopted, and the Committee ordered H.R. 1938 favorably reported to the House.

COMMITTEE VOTES

Clause 3(b) of rule XII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Upton to order H.R. 1938, reported to the House, as amended, was agreed to by a record vote of 33 yeas and 13 nays. The following reflects the recorded votes taken during the Committee consideration, including the names of those Members voting for and against.

COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 52

BILL: **H.R. 1938**, the "North American-Made Energy Security Act"

AMENDMENT: A motion by Mr. Upton to order H.R. 1938 favorably reported to the House, as amended. (Final Passage).

DISPOSITION: **AGREED TO**, by a roll call vote of 33 yeas to 13 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton	X			Mr. Waxman			
Mr. Barton				Mr. Dingell	X		
Mr. Stearns	X			Mr. Markey			
Mr. Whitfield	X			Mr. Towns		X	
Mr. Shimkus	X			Mr. Pallone		X	
Mr. Pitts	X			Mr. Rush			
Mrs. Bono Mack	X			Ms. Eshoo		X	
Mr. Walden	X			Mr. Engel		X	
Mr. Terry	X			Mr. Green	X		
Mr. Rogers	X			Ms. DeGette		X	
Mrs. Myrick	X			Mrs. Capps		X	
Mr. Sullivan	X			Mr. Doyle	X		
Mr. Murphy	X			Ms. Schakowsky			
Mr. Burgess	X			Mr. Gonzalez			
Mrs. Blackburn	X			Mr. Inslee		X	
Mr. Bilbray				Ms. Baldwin		X	
Mr. Bass		X		Mr. Ross	X		
Mr. Gingrey				Mr. Matheson	X		
Mr. Scalise	X			Mr. Butterfield		X	
Mr. Latta	X			Mr. Barrow	X		
Mrs. McMorris Rodgers	X			Ms. Matsui		X	
Mr. Harper	X			Mrs. Christensen		X	
Mr. Lance	X			Ms. Castor		X	
Mr. Cassidy	X						
Mr. Guthrie	X						
Mr. Olson	X						
Mr. McKinley	X						
Mr. Gardner	X						
Mr. Pompeo	X						
Mr. Kinzinger	X						
Mr. Griffith	X						

Current as of 06/23/2011

COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 51

BILL: H.R. 1938, the "North American-Made Energy Security Act"

AMENDMENT: An amendment by Mr. Rush, No. 4, to strike the finding stating that analysis using the Environmental Protection Agency models shows that the Keystone XL pipeline will result in no significant change in total United States or global greenhouse gas emissions.

DISPOSITION: NOT AGREED TO, by a roll call vote of 16 yeas to 26 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton		X		Mr. Waxman	X		
Mr. Barton				Mr. Dingell	X		
Mr. Stearns		X		Mr. Markey			
Mr. Whitfield		X		Mr. Towns			
Mr. Shimkus		X		Mr. Pallone	X		
Mr. Pitts		X		Mr. Rush	X		
Mrs. Bono Mack		X		Ms. Eshoo	X		
Mr. Walden		X		Mr. Engel	X		
Mr. Terry		X		Mr. Green		X	
Mr. Rogers		X		Ms. DeGette	X		
Mrs. Myrick				Mrs. Capps	X		
Mr. Sullivan		X		Mr. Doyle	X		
Mr. Murphy				Ms. Schakowsky			
Mr. Burgess				Mr. Gonzalez			
Mrs. Blackburn				Mr. Inslee	X		
Mr. Bilbray				Ms. Baldwin	X		
Mr. Bass		X		Mr. Ross		X	
Mr. Gingrey				Mr. Matheson		X	
Mr. Scalise		X		Mr. Butterfield	X		
Mr. Latta		X		Mr. Barrow	X		
Mrs. McMorris Rodgers				Ms. Matsui	X		
Mr. Harper		X		Mrs. Christensen	X		
Mr. Lance		X		Ms. Castor	X		
Mr. Cassidy		X					
Mr. Guthrie		X					
Mr. Olson		X					
Mr. McKinley		X					
Mr. Gardner		X					
Mr. Pompeo		X					
Mr. Kinzinger		X					
Mr. Griffith		X					

Current as of 06/23/2011

COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 50

BILL: H.R. 1938, the "North American-Made Energy Security Act"

AMENDMENT: An amendment by Mr. Markey, No. 2, to require the Secretary of Energy to ensure that any crude oil and bitumen transported by the Keystone XL pipeline, and all refined petroleum products whose origin was via importation of crude oil or bitumen by the Keystone XL pipeline, will be entered into domestic commerce for final disposition. The President may grant a waiver to this requirement in enumerated situations.

DISPOSITION: NOT AGREED TO, by a roll call vote of 17 yeas to 27 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Upton		X		Mr. Waxman	X		
Mr. Barton		X		Mr. Dingell		X	
Mr. Stearns				Mr. Markey	X		
Mr. Whitfield		X		Mr. Towns	X		
Mr. Shimkus		X		Mr. Pallone	X		
Mr. Pitts		X		Mr. Rush	X		
Mrs. Bono Mack		X		Ms. Eshoo	X		
Mr. Walden		X		Mr. Engel	X		
Mr. Terry		X		Mr. Green		X	
Mr. Rogers		X		Ms. DeGette	X		
Mrs. Myrick				Mrs. Capps	X		
Mr. Sullivan		X		Mr. Doyle	X		
Mr. Murphy				Ms. Schakowsky	X		
Mr. Burgess				Mr. Gonzalez			
Mrs. Blackburn				Mr. Inslee			
Mr. Bilbray		X		Ms. Baldwin	X		
Mr. Bass		X		Mr. Ross			
Mr. Gingrey				Mr. Matheson		X	
Mr. Scalise		X		Mr. Butterfield	X		
Mr. Latta		X		Mr. Barrow	X		
Mrs. McMorris Rodgers				Ms. Matsui	X		
Mr. Harper		X		Mrs. Christensen	X		
Mr. Lance		X		Ms. Castor	X		
Mr. Cassidy		X					
Mr. Guthrie		X					
Mr. Olson		X					
Mr. McKinley		X					
Mr. Gardner		X					
Mr. Pompeo		X					
Mr. Kinzinger		X					
Mr. Griffith		X					

Current as of 06/23/2011

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE, GOALS AND OBJECTIVES

H.R. 1938 directs the President to expedite consideration and approval of the construction and operation of the Keystone XL pipeline project.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the committee finds that H.R. 1938, the North American-Made Energy Security Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARK

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI, the committee finds that H.R. 1938, the North American-Made Energy Security Act, contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

JULY 8, 2011.

Hon. FRED UPTON,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1938, the North American-Made Energy Security Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1938—North American-Made Energy Security Act

In September 2008, a Canadian firm applied for a permit to construct the proposed Keystone XL pipeline, which would carry crude oil from Alberta, Canada, to destinations on the U.S. Gulf Coast. Because the proposed pipeline would cross international borders, it requires a Presidential Permit issued by the Department of State. H.R. 1938 would direct the President, acting through the Secretary of Energy, to coordinate with federal agencies to complete all necessary actions required to enable the Secretary. of State to issue a final order to either grant or deny that Presidential Permit no later than November 1, 2011.

CBO estimates that enacting H.R. 1938 would have no significant impact on the federal budget. According to the Department of State and the Department of Energy, the regulatory activities related to the proposed Keystone XL pipeline are already underway, and CBO expects that, under current law, a final decision will be made during fiscal year 2012. Based on information from those agencies, CBO estimates that any change in federal costs to comply with the accelerated timeframe specified by H.R. 1938 would be insignificant.

Enacting H.R. 1938 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. H.R. 1938 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1: Short title

Section 1 provides the short title for the legislation, the "North American-Made Energy Security Act."

Section 2: Findings

Section 2 offers numerous Congressional findings regarding domestic and global oil markets, the national security and economic benefits of Canadian oil imports, the parameters of the Keystone XL's capacity and environmental impact, and the process of permit approval thus far.

Section 3: Expedited approval process

Section 3 directs the President, acting through the Secretary of Energy, to coordinate with all Federal agencies responsible for an aspect of the President's National Interest Determination and Presidential Permit decision regarding construction and operation of Keystone XL, to ensure that all necessary actions are taken on an expedited schedule. The President must issue a final order granting or denying the Presidential Permit for Keystone XL 30 days after the issuance of the final environmental impact statement, but in no event later than November 1, 2011. Section 3 makes also makes clear that no action made by the Secretary of Energy pursuant to this section shall affect any duty or responsibility to comply with any requirement to conduct environmental review.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

DISSENTING VIEWS ON H.R. 1938

The State Department is currently considering a permit application for the Keystone XL pipeline, pursuant to the Department's delegated authority to permit a transboundary pipeline project if the Department finds that such a project is in the national interest. Keystone XL is a highly controversial $7 billion pipeline that would transport up to 830,000 barrels per day (bpd) of tar sands crude oil almost 2,000 miles from Alberta to refineries in the Gulf Coast.[1] H.R. 1938, the "North American-Made Energy Security Act of 2011," would override the State Department's ongoing process. The bill would set a November 1, 2011, deadline for the State Department to act on the permit, direct the Department of Energy to establish a schedule for other responsible agencies to participate in the process, and make a series of findings that essentially predetermine the outcome of the State Department's evaluation of the pipeline.

Transboundary pipeline projects require Presidential approval to proceed. The President has delegated the authority to permit transboundary pipeline projects to the State Department under Executive Orders 11423 and 13337, which require a finding that a project is in the national interest.[2] Pursuant to the National Environmental Policy Act, in considering a project, the State Department must prepare an environmental impact statement (EIS) assessing the project's impacts on the environment and evaluating alternatives that would avoid or minimize adverse environmental effects.[3] E.O. 13337 recognizes that these complex decisions involve matters within the expertise of multiple federal agencies, and it provides specified federal agencies 90 days to comment on the application.[4]

The Department of State published a draft EIS on April 16, 2010, for public comment. In response to extensive criticism of the draft, the State Department published a supplemental draft EIS (SDEIS) on April 22, 2011, providing additional information and analysis on various aspects of the project.[5] The public comment period on the SDEIS closed on June 6, 2011. The State Department

[1] TransCanada Keystone Pipeline, L.P., Application of TransCanada Keystone Pipeline, L.P. for a Presidential Permit Authorizing the Construction, Operation, and Maintenance of Pipeline Facilities for the Importation of Crude Oil to be Located at the United States-Canada Border, 7–9 (Sept. 19, 2008); U.S. Department of State, Supplemental Draft Environmental Impact Statement, Keystone XL Project, Applicant for Presidential Permit: TransCanada Keystone Pipeline, LP, 1–5 (Apr. 22, 2011).

[2] Exec. Order No. 11423, 33 Fed. Reg. 11741 (Aug. 16, 1968); Exec. Order No. 13337, 69 Fed. Reg. 25299 (Apr. 30, 2004).

[3] National Environmental Policy Act of 1969, Pub. L. No. 94–83.

[4] Exec. Order No. 13337, § 1(c), 69 Fed. Reg. 25299 (Apr. 30, 2004).

[5] U.S. Department of State, Notice of Availability of the Draft Environmental Impact Statement for the Proposed TransCanada Keystone XL Pipeline Project, 75 Fed. Reg. 20653 (Apr. 16, 2010); U.S. Department of State, Notice of Availability of the Supplemental Draft Environmental Impact Statement for the Proposed TransCanada Keystone XL Pipeline Project, 76 Fed. Reg. 22744 (Apr. 22, 2011).

is currently evaluating comments on the SDEIS from the public and other federal agencies and is preparing the final EIS, which is expected to take several months.

After completing the analysis of the project's environmental impacts, the State Department will proceed to determine whether the project is in the national interest, which requires consideration of other factors beyond the environmental impacts. Pursuant to E.O. 13337, other federal agencies including the Departments of Defense, Justice, Interior, Commerce, Transportation, Energy and Homeland Security, and EPA have 90 days to provide their views regarding whether the proposed project is in the national interest. Also, the State Department has pledged that it will provide 30 days for the public to weigh in on the national interest determination, concurrent with the other agencies' review period. The State Department has stated that it intends to act on the permit by the end of the year.

H.R. 1938 would short-circuit this process. It requires the State Department to issue the permit decision within 30 days of the issuance of the final EIS and no later than November 1, 2011. This would cut the time available for federal agencies to consult on the State Department's national interest decision by two-thirds and either substantially reduce or wholly eliminate the public comment period. The bill also would make findings related to the permit decision on matters currently being evaluated by the State Department and other federal agencies.

I. PURPOSE OF H.R. 1938

Supporters of H.R. 1938 assert that the bill is necessary to get the Keystone XL pipeline built, claiming that the Obama administration has stonewalled on the project approval and created unnecessary delays in the permitting process.[6] TransCanada's president for energy and oil pipelines, Alex Pourbaix, stated that TransCanada has waited 33 months for the State Department's permit decision on Keystone XL, while prior pipeline permit applications have taken 20 months.[7]

However, there is reason to believe that the review process has been appropriate given the scope and implications of the project. When asked whether the length of the Keystone XL review justified special legislation to truncate the review process, TransCanada's Pourbaix declined to endorse H.R. 1938, testifying that the company had "no involvement in this proposed legislation." Mr. Pourbaix stated that the review process for Keystone XL was "entirely appropriate, given the magnitude of the project and ensuring that people and stakeholders are heard in this process." [8]

The review process has taken longer than other recent pipelines, in part because Keystone XL is a larger and more controversial project and because the initial environmental review from the State

[6] House Subcommittee on Energy and Power, Statement of Subcommittee Chairman Ed Whitfield, Markup on H.R. 1938, 112th Cong. (June 15, 2011) (available at http://republicans.energycommerce.house.gov/Media/file/Markups/Energy/061511/Whitfield.pdf).

[7] House Subcommittee on Energy and Power, Testimony of TransCanada president for energy and oil pipelines Alex Pourbaix, Hearing on the American Energy Initiative, 112th Cong. (2011) (preliminary transcript available at http://democrats.energycommerce.house.gov/sites/default/files/image_uploads/Transcript_Hearing_EP_05.23.11.pdf).

[8] *Id.*

Department was widely viewed as inadequate.[9] The comment period on the DEIS closed on May 31, 2010. Pursuant to NEPA, EPA, DOE, the Interior Department and other federal agencies commented on the draft EIS, and there were over 40,000 public comments as well.[10] As required by statute, EPA reviewed the adequacy of the draft EIS and rated the draft as "Category 3—Inadequate Information," which is the lowest rating possible.[11] In particular, EPA suggested that the State Department provide additional analysis on greenhouse gas emissions, air pollution from refineries, pipeline safety, and potential environmental justice concerns.[12]

One witness before the Committee raised concerns that the Keystone XL pipeline would raise gas prices by facilitating oil company market manipulation, hurt energy security by allowing tar sands product to be exported from the Gulf Coast, and jeopardize clean water supplies, among other concerns.[13] Another invited witness submitted written testimony expressing concerns of farmers and ranchers near the pipeline route whose livelihood would be threatened by a spill.[14]

Also, no evidence has been presented to the Committee suggesting that the State Department will fail to carry out its stated plans to act on the permit application by the end of the year, or that the project would be endangered by waiting until then.[15] While EPA filed additional comments on the SDEIS, EPA noted that the State Department had agreed to address many of the issues raised in the final EIS, and EPA's comments do not threaten or delay the State Department's ability to move forward with a final decision. With the close of the public comment period on the SDEIS in early June, the State Department has several months to complete the final EIS by September, while still providing 90 days for agency consultations on the national interest determination and a concurrent 30 days for public comment on the determination prior to the end of the year.

This bill would require the State Department to make a decision within 30 days of the final EIS, or by November 1, 2011, at the latest. This cuts the period for interagency consultation on the national interest determination by two-thirds and drastically shortens

[9] *See, e.g.,* Letter from Rep. Inslee et al. to Hillary Clinton, Secretary of State (June 23, 2010) (conveying concerns of 50 members of the House of Representatives); Letter from Henry A. Waxman, Chairman, Energy and Commerce Committee, to Hillary Rodham Clinton, Secretary of State (July 2, 2010) (online at: http://democrats.energycommerce.house.gov/documents/20100706/State.070210.Clinton.Keystone.XL.pdf); Letter from Henry A. Waxman, Chairman, Energy and Commerce Committee, to Elizabeth Orlando, Keystone XL Project Manager, Department of State (July 2, 2010) (online at: http://democrats.energycommerce.house.gov/documents/20100706/State.070210.Orlando.Keystone.XL.pdf).

[10] Department of State Keystone XL Pipeline Project, How to Get Involved (available at http://www.keystonepipeline-xl.state.gov/clientsite/keystonexl.nsf?Open) (accessed June 30, 2011).

[11] Letter from Cynthia Giles, Assistant Administrator for Enforcement and Compliance Assurance, U.S. EPA, to Jose Fernandez and Kern-Ann Jones, U.S. Department of State (Jul. 16, 2010).

[12] *Id.*

[13] House Subcommittee on Energy and Power, testimony of Jeremy Symons, Hearing on the American Energy Initiative, 112th Cong. (2011) (online at: http://democrats.energycommerce.house.gov/index.php?q=hearing/hearing-on-theamerican-energy-initiative-day-8).

[14] House Subcommittee on Energy and Power, testimony of Randy Thompson, Hearing on the American Energy Initiative, 112th Cong. (2011) (online at: http://democrats.energycommerce.house.gov/index.php?q=hearing/hearing-on-theamerican-energy-initiative-day-8).

[15] U.S. Department of State, State Department Announces Next Steps in Keystone XL Pipeline Permit Process (Mar. 15, 2011).

or eliminates any opportunity for public comment on the national interest determination.

Proponents of this bill also argue that the Keystone XL pipeline will lower gas prices, enhance energy security, and create jobs, and therefore the permit should be approved.

Although the majority views claim that the Keystone XL pipeline will reduce gas prices, they provide no support for that assertion. In fact, some analyses indicate that the pipeline would actually raise gasoline prices in the United States, particularly in the Midwest, which would see supplies drop as oil is diverted to refineries on the Gulf Coast. In its application for the Keystone XL pipeline, TransCanada told the Canadian government that the Midwest market is "oversupplied," resulting in "price discounting" for Canadian heavy crude oil.[16] TransCanada concluded that a pipeline to the Gulf Coast will benefit all heavy crude producers in Western Canada "by increasing the price they receive for their crude."[17] TransCanada also provided an independent analysis predicting that the Keystone XL pipeline would increase prices by $6.55 per barrel of crude oil in the Midwest and $3 per barrel everywhere else.[18] By 2013, this will generate between $2 billion and $3.9 billion in additional revenue for Canadian oil companies.[19] Dr. Philip Verlerger, a prominent oil market analyst, concluded after analyzing Keystone XL that "millions of Americans will spend 10 to 20 cents more per gallon for gasoline and diesel fuel" if the pipeline is built.[20]

Supporters of the Keystone XL pipeline also argue that it will enhance energy security by reducing reliance on oil imports from the Middle East and Venezuela. A report by EnSys, which was contracted by DOE, finds that U.S. imports of Venezuelan crudes are projected to drop in all scenarios and are only minimally affected by building or not building Keystone XL.[21]

The majority views also are misleading in providing a partial quote from the EnSys report to claim that the report found that "Keystone XL holds 'the potential to very substantially reduce U.S. dependency on non-Canadian foreign oil, including from the Middle East." The full quote from the report is: "Together, growing Canadian oil sands imports and U.S. demand reduction have the potential to very substantially reduce U.S. dependency on non-Canadian foreign oil, including from the Middle East."[22] In fact, EnSys found that policies to lower oil demand have a substantially larger impact on U.S. imports of Middle Eastern crude than would increasing the amount of Canadian oil sands imports.[23] The majority's quote also eliminates the distinction that EnSys makes between the effects on Middle Eastern oil imports of increasing oil sands imports (which

[16] TransCanada Keystone Pipeline Group Ltd., Keystone XL Pipeline Section 52 Application, Section 3: Supply and Markets at 7.

[17] *Id.*

[18] Purvin & Gertz, Inc., Western Canadian Crude Supply and Markets, Prepared for TransCanada Keystone Pipeline Group Ltd. (Feb. 12, 2009) at 27–28.

[19] *Id.* at 29. *See also*, Philip Verleger, If gas prices go up further, blame Canada, Minnesota Star-Tribune (Mar. 13, 2011).

[20] Philip Verleger, If gas prices go up further, blame Canada, Minnesota Star-Tribune (Mar. 13, 2011).

[21] EnSys, Keystone XL Assessment—Final Report, 99 (Dec. 23, 2010).

[22] *Id.* at 6.

[23] EnSys, Keystone XL Assessment—Final Report, 103 (Dec. 23, 2010).

has an effect) and building the Keystone XL pipeline (which does not). After a news report containing a similar mischaracterization of the EnSys results, EnSys released a statement clarifying its findings:

> The EnSys report makes clear that it is the low demand scenario, (which assumes strong policy actions to reduce U.S. oil use), supported by potentially increasing US imports of Canadian crudes, that "could essentially eliminate Middle East crude imports longer term", not the Keystone XL pipeline. As the EnSys report clearly states in its executive summary, the Keystone XL pipeline would not of itself have any significant impact on U.S. oil imports.[24]

Another analysis finds that the Keystone XL pipeline would facilitate the export of Canadian crude to China rather than the United States.[25]

II. SECTION-BY-SECTION ANALYSIS

A. Section 2: Findings

Section 2 makes congressional findings on matters relevant to the State Department's permit decision. Several findings supplant the State Department's review process, directly stating that Keystone XL is in the national interest. The findings are broadly unbalanced, presenting only statements that support approval of the Keystone XL project. Some findings are even inaccurate and misleading. The cumulative effect of the findings is to conclude that construction of the Keystone XL project is in the national interest, and making it difficult for the State Department to reach any other conclusion.

Several of the findings resolve key issues that the State Department is currently considering in the permit decision. Section 2(4) states that "(t)he development and delivery of oil and gas from Canada to the United States is in the national interest of the United States in order to secure oil supplies to fill needs that are projected to otherwise be filled by increases in other foreign supplies, notably from the Middle East." Another finding states that the earliest possible construction of Keystone XL will make Canadian oil reserves available for U.S. use and increase jobs and "will therefore serve the national interest."[26] These findings infringe on the President's authority to decide whether the pipeline is in the national interest of the United States.

The findings are also unbalanced. The bill presents reasons to approve the Keystone XL pipeline while ignoring or denying the many concerns about the project.

One of the central objections to the Keystone XL pipeline is the effect on climate change. It is widely recognized that tar sands crudes have higher life-cycle greenhouse gas emissions than conventional crudes, and the SDEIS found that the project could increase U.S. life-cycle greenhouse gas emissions by up to an addi-

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[24] EnSys, Response to the Reuters News item published February 1, 2011 10:10pm EST, by Timothy Gardner and Edited by Devid Gregorio (undated) (online at: http://www.ensysenergy.com/files/ResponsetoReutersonKeystoneXLassessmentreport.pdf).

[25] Philip K. Verleger, The Tar Sands Road to China (May 2011).

[26] H.R. § 1938 2(14).

tional 23 million metric tons of CO_2-equivalent annually, although EPA commented that this was an underestimate of the high-end amount.[27] EnSys project that, if other pipeline projects are not approved, construction of Keystone XL would increase tar sands production by 800,000 barrels per day and increase global CO_2-equivalent emission by 20 million metric tons per year by 2030.[28] However, the findings fail to acknowledge any of these projections. In fact, the only mention of global warming is an inaccurate claim regarding the lack of impact on greenhouse gas emissions, which is discussed further below.

The findings also make no mention of the other environmental impacts of increased tar sands production, including the destruction of Canada's boreal forests and wetlands, and the degradation of water and air quality.[29] EPA has raised concerns about the health impacts on communities that live near refineries from increased emissions from refineries.[30]

The majority views dismiss the environmental concerns by asserting that oil sands production will increase with or without construction of Keystone XL. However, the International Energy Agency disagrees, finding that as much as 1 million barrels per day of production could fail to materialize if new pipelines are delayed.[31] Similarly, sources in the oil industry and Albertan government indicate that access to pipelines is key to industry's plans to more than double tar sands production by 2020.[32]

The bill findings also downplay serious concerns about the safety of diluted bitumen pipelines. Critics argue that tar sands bitumen is more corrosive than conventional oil and may exacerbate pipeline deterioration.[33] These concerns are heightened by the series of accidents along TransCanada's first Keystone pipeline in the first year of operation. The Administrator of the Pipeline and Hazardous Materials Safety Administration testified in the Energy and Power Subcommittee that PHMSA has not evaluated the risks associated with transporting diluted bitumen.[34] A breach of the Keystone XL pipeline that contaminates the Ogallala Aquifer would be calamitous. The findings also fail to address the concerns of landowners who will see the pipeline cross their land.[35]

Several of the findings are inaccurate or misleading. Contrary to Section 2(15), there has not been analysis using EPA models show-

[27] *See, e.g.*, State Department, SDEIS at 3–199 (April 22, 2011).

[28] EnSys, Keystone XL Assessment—Final Report at 117 (Dec. 23, 2010); EnSys, Keystone XL Assessment—Final Report, Appendix, 40 (Dec. 23, 2010).

[29] See Woynillowicz et al., Oil Sands Fever, Pembina Institute, 36–52 (Nov. 2005).

[30] Letter from Cynthia Giles, U.S. EPA to Jose W. Fernandez, Assistant Secretary, Economic, Energy and Business Affairs, U.S. Dept. of State and Dr. Kern-Ann Jones, Assistant Secretary, Oceans and International Environmental and Scientific Affairs, U.S. Dept. of State (June 6, 2011).

[31] Pipelines key to growth in North American crude output, IEA says, Globe and Mail (June 17, 2011).

[32] Untimely pipeline spills: TransCanada, Enbridge buffected by accidents; Alberta frets over landlocked bitumen, Petroleum News (June 19, 2011).

[33] Anthony Swift et al., Tar Sands Pipelines Safety Risks, a Joint Report by the Natural Resources Defense Council, National Wildlife Federation, Pipeline Safety Trust, and Sierra Club, 6 (Feb. 2011) (online at www.nrdc.org/energy/files/tarsandssafetyrisks.pdf).

[34] House Subcommittee on Energy and Power, Testimony of Pipeline and Hazardous Materials Safety Administration Administrator Cynthia L. Quarterman Hearing on "Pipeline Safety," 112th Cong. (Jun. 16, 2011).

[35] House Subcommittee on Energy and Power, Testimony of Randy Thompson, Hearing on the American Energy Initiative, 112th Cong. (May 23, 2011) (online at http://democrats.energycommerce.house.gov/sites/default/files/image1uploads/Testimony1EP105.23.111Thompson.pdf).

ing that construction of the Keystone XL pipeline will result in no significant change in United States or global greenhouse gas emissions. EPA confirmed the inaccuracy of this finding in a letter to Ranking Member Rush.[36] Section 2(7) suggests that Canadian oil would ship to China if Keystone XL were not built. There is no existing outlet for any meaningful quantity of tar sands oil to be sent to China and there are significant barriers to constructing the necessary pipeline(s).[37] Once completed, however, Keystone XL may provide a ready export corridor for the oil to Southeast Asia.[38] Section 2(14) implies that faster construction of Keystone XL would speed the flow of Canadian oil to the U.S., but industry analyses show that spare pipeline capacity would persist until 2024 even without the construction of Keystone XL.[39]

B: Section 3: Expedited approval process

Section 3 shortens the review process for the Keystone XL permit application by requiring that the President issue a final order granting or denying the Presidential Permit within 30 days of the issuance of the final environmental impact statement, and no later than November 1, 2011. The expedited approval process requires the Secretary of Energy to coordinate the federal agencies involved in the national interest determination to ensure that the agencies act on an expedited schedule. The federal agencies must meet any deadline established by the Secretary of Energy.

This language would substantially cut the time available for federal agencies and the public to provide their views on the national interest determination. Currently, after the State Department issues a final EIS, there will be a 90-day period for the Department to consult with other federal agencies to determine if issuing a permit for the project is in the national interest.[40] The public would also be able to submit comments on the national interest determination during the first 30 days of this period. This bill eliminates two-thirds of the time currently provided for federal agencies to consult on the national interest determination. It also would require reduction or elimination of the 30-day public comment period on the national interest determination that the State Department has committed to provide.

[36] Letter from Gina McCarthy, Assistant Administrator, U.S. EPA, to Rep. Bobby L. Rush (Jun. 22, 2011).
[37] Green Party of Canada, Greens Defend BC North Coast Oil Tanker Ban (Feb. 25, 2011) (online at http://greenparty.ca/media-release/2011-02-25/greens-defends-bc-north-coast-oil-tanker-ban). See also The Tar Sands Road to China.
[38] *See* The Tar Sands Road to China.
[39] Keystone XL Assessment—Final Report at 30–31.
[40] U.S. Department of State, Supplemental Draft Environmental Impact Statement, Keystone XL Project, Applicant for Presidential Permit: TransCanada Keystone Pipeline, LP at ES–4 (Apr. 22, 2011) (hereinafter "SDEIS").

For the reasons stated above, we dissent from the views contained in the Committee's report.

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