

Union Calendar No. 40

113TH CONGRESS
1ST SESSION

H. R. 3

[Report No. 113–61, Parts I, II, and III]

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2013

Mr. TERRY (for himself, Mr. MATHESON, Mr. UPTON, Mr. BARROW of Georgia, Mr. WHITFIELD, Mr. BACHUS, Mr. BARTON, Mr. BILIRAKIS, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BONNER, Mr. BOUSTANY, Mr. BRIDENSTINE, Mr. BROUN of Georgia, Mr. BUCSHON, Mr. BROOKS of Alabama, Mr. BURGESS, Mrs. CAPITO, Mr. CARTER, Mr. CASSIDY, Mr. CHABOT, Mr. COBLE, Mr. CONAWAY, Mr. CRAMER, Mr. CRAWFORD, Mr. CULBERSON, Mr. DAINES, Mr. RODNEY DAVIS of Illinois, Mr. DUNCAN of South Carolina, Mrs. ELLMERS, Mr. FINCHER, Mr. FLORES, Mr. FRANKS of Arizona, Mr. GOHMERT, Mr. GARDNER, Mr. GINGREY of Georgia, Ms. GRANGER, Mr. GRAVES of Missouri, Mr. GRIFFIN of Arkansas, Mr. GRIFFITH of Virginia, Mr. GUTHRIE, Mr. HARPER, Mr. HARRIS, Mr. HUELSKAMP, Mr. HUIZENGA of Michigan, Mr. HUNTER, Mr. JOHNSON of Ohio, Mr. KINZINGER of Illinois, Mr. LANCE, Mr. LATTA, Mr. LONG, Mr. LUETKEMEYER, Mrs. LUMMIS, Mr. MARCHANT, Mr. MCCAUL, Mr. MCHENRY, Mr. MCKINLEY, Mr. MEEHAN, Mr. MURPHY of Pennsylvania, Mr. MULLIN, Mr. MULVANEY, Mrs. NOEM, Mr. NUNES, Mr. OLSON, Mr. PEARCE, Mr. PITTS, Mr. POE of Texas, Mr. RIBBLE, Mrs. MCMORRIS RODGERS, Mr. ROGERS of Michigan, Mr. SCALISE, Mr. SHIMKUS, Mr. SHUSTER, Mr. STIVERS, Mr. THOMPSON of Pennsylvania, Mr. WALDEN, Mrs. WALORSKI, Mr. WEBER of Texas, Mr. WESTMORELAND, Mr. WOMACK, Mr. YOUNG of Florida, Mr. COFFMAN, Mr. BENTIVOLIO, and Ms. FOXX) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 17, 2013

Additional sponsors: Mr. HURT, Mr. JONES, Mr. SALMON, Mr. ROKITA, Mr. NEUGEBAUER, Mr. POMPEO, Mrs. ROBY, Mr. STEWART, Mr. MCCLINTOCK, Mrs. HARTZLER, Mrs. WAGNER, Mrs. BACHMANN, Mr. NUNNELEE, Mr. HALL, Mr. MILLER of Florida, Mr. GOSAR, Mr. ROHRABACHER, Mr. PITTINGER, Mr. SCHOCK, Mr. ROE of Tennessee, Mrs. MILLER of Michigan, Mr. WILSON of South Carolina, Mr. LATHAM, Mr. GRAVES of Georgia, Mr. THORNBERRY, Mrs. BROOKS of Indiana, Mr. TIPTON, Mr. WALBERG, Mr. KLINE, Mr. FORBES, Mr. SESSIONS, Mr. DESANTIS, Mr. LAMBORN, Mr. FLEISCHMANN, Mr. RADEL, Mr. MEADOWS, Ms. JENKINS, Mr. BARLETTA, Mr. WENSTRUP, Mr. JOYCE, Mr. WOODALL, Mrs. BLACK, Mr. ROYCE, Mr. WEBSTER of Florida, Mr. WILLIAMS, Mr. FARENTHOLD, Mr. ROTHFUS, Mr. DENHAM, Mr. KINGSTON, Mr. SMITH of Texas, and Mr. LANKFORD

MAY 17, 2013

Reported from the Committee on Energy and Commerce

MAY 17, 2013

Reported from the Committee on Natural Resources

MAY 17, 2013

Reported from the Committee on Transportation and Infrastructure; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

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-
11 ronmentally sound means of moving energy. In a
12 global economy, we will compete for the world’s in-
13 vestments based in significant part on the quality of
14 our infrastructure. Investing in the Nation’s infra-
15 structure provides immediate and long-term eco-
16 nomic benefits for local communities and the Nation
17 as a whole.

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

23 (3) The Keystone XL pipeline would provide
24 both short-term and long-term employment opportu-

1 nities and related labor income benefits, such as gov-
2 ernment revenues associated with taxes.

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

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

14 (6) The transportation of oil via pipeline is the
15 safest and most economically and environmentally
16 effective means of doing so.

17 (7) The Keystone XL is in much the same posi-
18 tion today as the Alaska Pipeline in 1973 prior to
19 congressional action. Once again, the Federal regu-
20 latory process remains an insurmountable obstacle
21 to a project that is likely to reduce oil imports from
22 insecure foreign sources.

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

24 Notwithstanding Executive Order No. 13337 (3
25 U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C.

1 301 note), section 301 of title 3, United States Code, and
2 any other Executive order or provision of law, no Presi-
3 dential permit shall be required for the pipeline described
4 in the application filed on May 4, 2012, by TransCanada
5 Keystone Pipeline, L.P. to the Department of State for
6 the Keystone XL pipeline, as supplemented to include the
7 Nebraska reroute evaluated in the Final Evaluation Re-
8 port issued by the Nebraska Department of Environ-
9 mental Quality in January 2013 and approved by the Ne-
10 braska governor. The final environmental impact state-
11 ment issued by the Secretary of State on August 26, 2011,
12 coupled with the Final Evaluation Report described in the
13 previous sentence, shall be considered to satisfy all re-
14 quirements of the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.) and of the National His-
16 toric Preservation Act (16 U.S.C. 470 et seq.).

17 **SEC. 4. JUDICIAL REVIEW.**

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

22 (1) the validity of any final order or action (in-
23 cluding a failure to act) of any Federal agency or of-
24 ficer with respect to issuance of a permit relating to
25 the construction or maintenance of the Keystone XL

1 pipeline, including any final order or action deemed
2 to be taken, made, granted, or issued;

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

7 (3) the adequacy of any environmental impact
8 statement prepared under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
10 or of any analysis under any other Act, with respect
11 to any action taken, made, granted, or issued, or
12 deemed to be taken, made, granted, or issued under
13 this Act.

14 (b) DEADLINE FOR FILING CLAIM.—A claim arising
15 under this Act may be brought not later than 60 days
16 after the date of the decision or action giving rise to the
17 claim.

18 (c) EXPEDITED CONSIDERATION.—The United
19 States Court of Appeals for the District of Columbia Cir-
20 cuit shall set any action brought under subsection (a) for
21 expedited consideration, taking into account the national
22 interest of enhancing national energy security by providing
23 access to the significant oil reserves in Canada that are
24 needed to meet the demand for oil.

1 **SEC. 5. AMERICAN BURYING BEETLE.**

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

3 (1) environmental reviews performed for the
4 Keystone XL pipeline project satisfy the require-
5 ments of section 7 of the Endangered Species Act of
6 1973 (16 U.S.C. 1536(a)(2)) in its entirety; and

7 (2) for purposes of that Act, the Keystone XL
8 pipeline project will not jeopardize the continued ex-
9 istence of the American burying beetle or destroy or
10 adversely modify American burying beetle critical
11 habitat.

12 (b) BIOLOGICAL OPINION.—The Secretary of the In-
13 terior is deemed to have issued a written statement setting
14 forth the Secretary’s opinion containing such findings
15 under section 7(b)(1)(A) of the Endangered Species Act
16 of 1973 (16 U.S.C. 1536(b)(1)(A)) and any taking of the
17 American burying beetle that is incidental to the construc-
18 tion or operation and maintenance of the Keystone XL
19 pipeline as it may be ultimately defined in its entirety,
20 shall not be considered a prohibited taking of such species
21 under such Act.

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

23 The Secretary of the Interior is deemed to have
24 granted or issued a grant of right-of-way and temporary
25 use permit under section 28 of the Mineral Leasing Act
26 (30 U.S.C. 185) and the Federal Land Policy and Man-

1 agement Act of 1976 (43 U.S.C. 1701 et seq.), as set forth
2 in the application tendered to the Bureau of Land Man-
3 agement for the Keystone XL pipeline.

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

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

18 (b) WAIVER OF PROCEDURAL REQUIREMENTS.—The
19 Secretary may waive any procedural requirement of law
20 or regulation that the Secretary considers desirable to
21 waive in order to accomplish the purposes of this section.

22 (c) ISSUANCE IN ABSENCE OF ACTION BY THE SEC-
23 RETARY.—If the Secretary has not issued a permit de-
24 scribed in subsection (a) on or before the last day of the
25 90-day period referred to in subsection (a), the permit

1 shall be deemed issued under section 404 of the Federal
2 Water Pollution Control Act (33 U.S.C. 1344) or section
3 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appro-
4 priate, on the day following such last day.

5 (d) LIMITATION.—The Administrator of the Environ-
6 mental Protection Agency may not prohibit or restrict an
7 activity or use of an area that is authorized under this
8 section.

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

10 The Secretary of the Interior is deemed to have
11 issued a special purpose permit under the Migratory Bird
12 Treaty Act (16 U.S.C. 703 et seq.), as described in the
13 application filed with the United States Fish and Wildlife
14 Service for the Keystone XL pipeline on January 11,
15 2013.

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