

**Natural Resources Defense Council * Sierra Club
National Wildlife Federation * Friends of the Earth
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**The Keystone XL Tar Sands Pipeline:
Supplemental Draft Environmental Impact Statement Is Inadequate**

In mid-April 2011, the State Department released its supplemental draft environmental impact statement (SDEIS) for the proposed Keystone XL tar sands pipeline. The draft SEIS fails to adequately address issues that were ignored or inadequately analyzed in the first environmental review or draft environmental impact statement (DEIS) that was released in April 2010.¹ In addition, several new substantive issues were identified since the release of the first environmental review a year ago and the State Department has a legal obligation to conduct further environmental review and to present these issues for public review and comment.² However, in this SDEIS, the State Department only provided superficial additional analysis regarding key issues such as the need for the pipeline, alternate routes, pipeline safety, greenhouse gas emissions, and environmental justice impacts in refinery communities. Further, despite numerous requests, so far the State Department has not agreed to hold field hearings along the pipeline route – a critical venue for landowners, farmers, and local community members to raise their concerns – and is only allowing a 45 day comment period. The State Department’s inadequate analysis and refusal to hold public hearings and provide enough time for meaningful public review undermines the environmental review process and violates the requirements of the National Environmental Policy Act (NEPA).

The Keystone XL pipeline is not needed

The SDEIS incorrectly assumes there is a need for a pipeline. However, there is more than enough existing pipeline capacity to meet our needs as we move to cleaner sources of energy. In fact, there is so much excess capacity that without the Keystone XL project, the current pipeline system would not be filled for at least ten years.³ Only the oil companies truly need this pipeline, as it would allow them to bypass Midwestern refineries, spreading out their distribution and charging Americans more at the pump.⁴ The SDEIS states that the purpose and need for the pipeline is to provide the infrastructure necessary to transport heavy crude oil from Canada to

¹ State Department, Keystone XL Supplemental Draft Environmental Impact Statement (State Department, Keystone XL SDEIS), published online April 15, 2011, <http://www.keystonepipeline-xl.state.gov>.

² 40 C.F.R. § 1502.9 (1978), NRDC and Sierra Club, Comments to the Department of State Regarding the Need for a Supplemental Environmental Impact Statement for the TransCanada Keystone XL Pipeline, Dec. 16, 2010, <http://pulsoverde.nrdc.org/FINAL%20NRDC%20-%20Sierra%20Club%20Keystone%20XL%20SEIS%20Comment%20Letter%20December%202010%20fin.pdf>.

³ EnSys Energy, Keystone XL Assessment, Dec. 23, 2010 (Ensys Assessment), pp. 7, 93, <http://www.keystonepipeline-xl.state.gov/clientsite/keystonexl.nsf/AssmtDrftAcpt.pdf?OpenFileResource>.

⁴ In diminishing oil supply in the Midwest by rerouting tar sands to the Gulf Coast, this will cause the price of oil and likely of gas at the pump to rise in the Midwest. Philip Verleger, “If gas prices go up further, blame Canada,” Op. Ed., *Star Tribune*, March 13, 2011, <http://www.startribune.com/opinion/otherviews/117832183.html>.

refineries in the Gulf. In its analysis, the State Department ignores the Department of Energy's finding that if the United States adopts more aggressive fuel economy standards and policies to address vehicle miles traveled, our Gulf refineries will not need an expansion of tar sands pipelines.⁵ By setting a goal to reduce our oil imports by 2020, the Obama administration has directed our country toward a future that does not include the Keystone XL pipeline.⁶ Energy security will be found in clean energy options, not on a continued reliance on oil.

The environmental review does not analyze reasonable alternate routes

Nebraska Senators, legislators, farmers and citizens have urged the State Department to consider alternate routes that would avoid the Nebraska Sandhills and the Ogallala Aquifer – the source of freshwater for over 2 million Americans.⁷ Yet, the SDEIS does not analyze reasonable alternate routes, as required by NEPA.⁸ Instead, the SDEIS identifies several unreasonable routes and declines to fully review them.⁹ This lack of analysis seems calculated to protect the interests of the pipeline company TransCanada at the cost of the main source of agricultural and drinking water in America's heartland.¹⁰ Reasonable alternatives do exist and include routes that are shorter and would avoid the Nebraska Sandhills.¹¹

The safety of this pipeline has yet to be analyzed

The SDEIS did not adequately analyze pipeline safety issues of diluted bitumen (raw tar sands) pipelines. While the analysis acknowledges that the Keystone XL pipeline system could spill as much as 1.7 million gallons of diluted bitumen a day without triggering the real-time leak detection system,¹² it then glosses over other concerns raised in a recent pipeline safety report.¹³ The analysis includes a number of technical red herrings and inaccuracies which show a lack of

⁵ EnSys Assessment, pp. 88-89, 91.

⁶ President Obama, Remarks by the President on America's Energy Security, March 30, 2011, <http://www.whitehouse.gov/the-press-office/2011/03/30/remarks-president-americas-energy-security>.

⁷ E.g., <http://johanns.senate.gov/public/?p=trans> (from Senator Johanns); http://docs.nrdc.org/land/files/lan_10102901a.pdf (from 11 other Senators); <http://www.nebraskafarmersunion.org/PressReleases/3.28.11%20DirtyOilSands-%20NFU-Protect%20Clean%20Water%20and%20Landowners%20from%20Pipeline%20Threats.htm> (from the Nebraska Farmers Union); and <http://switchboard.nrdc.org/blogs/eshope/Letter%20to%20Clinton%20on%20SEIS%204%204%2011.pdf> (from 100 landowners along the pipeline route).

⁸ 40 C.F.R. § 1502.14.

⁹ State Department, Keystone XL SDEIS, Section 4.3.

¹⁰ State Department, Keystone XL SDEIS, Section 4.3.

¹¹ NRDC and Sierra Club, "Comments to the Department of State regarding the need for additional alternative route analysis in the Keystone XL Pipeline Project Draft Supplemental Environmental Impact Statement," April 7, 2011. <http://switchboard.nrdc.org/blogs/lizbb/NRDC-SC%20alt%20route%20analysis%20SEIS%20letter%204-7-11%20FINAL.pdf>.

¹² State Department, Keystone XL DSEIS, 3-127. The SDEIS says that up to 5% of the pipeline's volume can leak undetected by the real-time leak detection system. 5% of 830,000 bpd (the maximum stated capacity of Keystone XL) is approximately 41,500 barrels or over 1.7 million gallons.

¹³ Anthony Swift, Susan Casey-Lefkowitz and Elizabeth Shope, "Tar Sands Pipelines Safety Risks," NRDC, NWF, Pipeline Safety Trust, and Sierra Club, February 2011. <http://www.nrdc.org/energy/files/tarsandssafetyrisks.pdf>.

understanding of the environmental impact of diluted bitumen.¹⁴ The SDEIS compares diluted bitumen to corrosive crudes brought to U.S. refiners by tanker rather than the conventional oil most often found in U.S. pipelines, glosses over high spill rates due to internal corrosion in Alberta where pipelines often carry diluted bitumen, doesn't analyze what it admits is a high concentration of abrasive sediments in tar sands, and ignores the explosive risk of volatile natural gas condensate in diluted bitumen.¹⁵ The State Department should allow sufficient time for a thorough safety review done by technical experts – for example by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration.

The environmental review should take higher greenhouse gas emissions and other tar sands extraction impacts into account

The SDEIS makes a good start in acknowledging that tar sands oil has higher lifecycle greenhouse emissions than conventional oil due to energy intensive extraction and production methods.¹⁶ But it then incorrectly finds that these additional emissions do not need to be considered.¹⁷ The Keystone XL pipeline will not only cause additional upgrading and refining emissions in the United States, it will also cause expansion of tar sands extraction in Canada and all the additional impacts that go along with that expansion.¹⁸ A green light for Keystone XL will send strong signals to investors that will trigger immediate expansion in tar sands production.¹⁹ The Keystone XL pipeline is intended to last for at least fifty years. The State Department must analyze the impacts of the project over its entire lifetime, not simply its first twenty years as it did in the SDEIS.²⁰ The SDEIS does not analyze the greenhouse gas emissions associated with this expansion, nor does it look at the impacts of strip-mining and drilling Alberta's boreal forests for tar sands which include vast toxic waste dumps, destruction of migratory bird nesting habitat, water and air pollution, and potential health impacts on downstream communities.

Environmental justice concerns and air pollution from refineries need better analysis

The State Department neglects adequate analysis of impacts to the drinking water of minority and low income populations by saying that the pipeline company TransCanada is willing to pay damages of up to \$350 million in the event of a spill and will provide alternative drinking sources in the event of contamination.²¹ Providing compensation is important, but this does not take away the requirement for an environmental justice analysis of how to prevent the anticipated contamination in the first place.²² The State Department also incorrectly equates tar sands emissions to those of crudes that are currently refined in the Gulf area and concludes that they do not need to look at environmental justice impacts of air emissions from refineries since they are

¹⁴ State Department, Keystone XL SDEIS, Section 3.13.

¹⁵ State Department, Keystone XL SDEIS, 3.111; 3.100; 3-118; 3-133.

¹⁶ State Department, Keystone XL SDEIS, 3-195, 3-198.

¹⁷ State Department, Keystone XL SDEIS, 3-199.

¹⁸ Danielle Droitsch, "The link between Keystone XL and Canadian oilsands production," The Pembina Institute, 2011. <http://www.pembina.org/pub/2194>.

¹⁹ Id.

²⁰ State Department, Keystone XL SDEIS, 3-180.

²¹ State Department, Keystone XL SDEIS, 3-154 – 3-155.

²² 42 U.S.C. §4321 *et. seq.*, Executive Order 12898.

“not likely [to] change the overall load of toxic or noxious refinery emissions.”²³ The two-step process of upgrading and then refining tar sands in the Gulf Coast region will put a burden on communities already suffering unfairly from air and water pollution from industrial development. The document also asserts that “there is no indication” that the Keystone XL pipeline will trigger any refineries to expand or upgrade due to the new source of heavy crude delivered by the proposed project, but does not substantiate this information.²⁴ Refinery expansions often have dramatic, negative impacts on the communities surrounding them, and should be considered more thoroughly in this section.²⁵ The State Department has a duty to look out for the welfare of these communities and it is not meeting this duty in the environmental review.

The public deserves an opportunity for local hearings and sufficient time for meaningful review

Despite the fact that this pipeline is not needed, the State Department is rushing the public review and comment period for the SDEIS. This haste displays an unwillingness to listen to the concerns of affected citizens and suggests that the State Department has made its decision before completing a full review under the NEPA. Without sufficient time for public review and comment and without field hearings to provide the many affected landowners a chance for direct input, the State Department is ignoring the purpose of our NEPA and its goal to get the best information possible out for public review and comment for projects such as this tar sands pipeline.²⁶ The State Department should provide at least 120 days for public review and hold field hearings in every state through which the pipeline would pass, to publicly present the information contained in the document.²⁷

America does not need another tar sands pipeline or expansion of tar sands imports. We can do better with clean energy alternatives to meet our transportation needs. The haste with which the supplemental draft environmental impact statement was prepared (one month) and the haste with which the public is expected to review it (45 days) is incomprehensible given the substantive new information the State Department was legally required to assess and given that there is no need for this tar sands pipeline. The lack of in depth assessment shows that the State Department should have taken more time to prepare this SDEIS. And given the many issues of local concern, local communities and land owners along the proposed pipeline right of way deserve an opportunity for in state hearings to voice their concerns.

²³ State Department, Keystone XL SDEIS, 3-172.

²⁴ State Department, Keystone XL SDEIS, 3-173.

²⁵ The Sierra Club, “Toxic Tar Sands: Profiles from the Front Lines,” 2010. <http://www.sierraclub.org/dirtyfuels/tar-sands/faces/>.

²⁶ 40 C.F.R. § 1502 *et. seq.*

²⁷ Letter from NRDC et al. to the Honorable Hillary Clinton, April 4, 2011, <http://switchboard.nrdc.org/blogs/eshope/Letter%20to%20Clinton%20on%20SEIS%204%204%2011.pdf>