



Elizabeth Orlando
OES/ENV Room 2657
U.S. Department of State
Washington, DC 20520

April 15, 2009

Re: TransCanada Keystone XL Pipeline Environmental Impact Statement Scoping Comments

Northern Plains Resource Council, a grassroots citizens group since 1972 of about 2,500 Montanans, organized to protect Montana's family farms and ranches, rural communities, waters and water quality. Northern Plains is submitting the following comments and questions that we believe should be studied in the environmental impact statement (EIS) being prepared by the Department of State and Department of Environmental Quality. Thank you for your attention to these important matters as you conduct your studies.

I. Environmental Impacts: Surface and subsurface water quality, quantity, flow, and safety and how it relates to landowner use of water for irrigation, household drinking, and cattle operations.

1. Many landowners depend on naturally flowing seeps and springs for watering cattle, and they also utilize ground water for drinking and irrigation. The location and depth of underground aquifers, subsurface flow, geology, and permeability of soils should be studied to ensure landowners wells are not going to be harmed if a leak from the pipeline should occur. If landowners' wells or surface waters are near the pipeline, additional routes or technology should be studied to minimize contamination. The EIS should include in its study the amount of time that an underground oil leak would flow based on the geology and the volume of oil being pumped through the pipeline. Such a study would provide a time frame for pollution coming into contact with underground aquifers and identify potential water sources that would be harmed should a spill occur.

2. We request that the EIS contain an analysis of how quickly a leak could be fixed once it is identified and the steps that will be needed in order to maximize the response rate and effectiveness. We request that the exact chemical make-up of the product flowing through the pipeline should be revealed by TransCanada. Landowners have the right to know the chemical

properties of the crude oil mixture flowing through the pipe on their property in the event there is a leak.

3. Monitoring stations are helpful in identifying potential leaks/seeps in the pipeline. What other technologies/tools will TransCanada use to prevent leaks or explosions? Additionally, ground water and surface monitoring wells should be placed in high risk, environmentally unique, or common areas. Please identify who will manage monitoring stations as well as who will pay the costs for the stations and the analysis of the data obtained and the subsequent calibration and maintenance of the equipment.

4. A water mitigation plan is necessary in the event that there is a leak or spill. Who will prepare this plan? How much will it cost? Who will pay for it? What agency will be required to monitor and enforce the plan? What is the timeline for surface and/or ground water clean-up? How will landowners be compensated for polluted water?

5. TransCanada will use water during construction, including potentially pumping water out of ditches because of high water tables. How much water might have to be pumped? Where will that water go? If the pipeline company uses water to which a landowner has a water right, how will the landowner be compensated?

6. Landowners not directly on the route of the pipeline are at risk as well as landowners directly crossed by the pipeline. The rights of these off-site landowners who irrigate or use water from streams that the pipeline crosses should be documented. The EIS should analyze and discuss how these landowners will be compensated should the water they use and have rights to becomes polluted upstream of their land.

7. The EIS should analyze and discuss the best way to monitor and conduct construction activities along and under river crossings to ensure that there will be no sediment loading via bank destabilizing activities and storm events. Stream morphology should be studied to ensure a proper depth and location of the pipeline in order to determine the potential for these water bodies' path, shape, and flow to change by pipeline placement. Who will be financially responsible for negative consequences related to stream or sediment displacement during or after pipeline construction? How will construction activities affect the riparian zone, stream chemistry, biology and ecology of the stream? The EIS should discuss the timing of pipeline construction under the rivers and streams in order to avoid significant problems in these sensitive areas.

II. Environmental Impacts: Eco-region vegetative concerns including native and non-native plant species and pristine native landscapes.

1. Noxious weeds are more likely to colonize disturbed areas than native species. A 150-foot-wide construction easement and 50-foot-wide permanent easement has been requested for this phase of the project. Smaller easement sizes should be considered. A base-line study should be done to document the native species along the pipeline corridor before pipeline construction begins. In addition exotic species that could potentially colonize the disturbed site should be

determined and prevention and control efforts analyzed in the EIS. All the potential threats associated with noxious weeds should be identified.

2. TransCanada should be required to have a mitigation plan prepared and approved for reclamation of the disturbed surface associated with pipeline construction. The “native plant” blend used for re-seeding should use seed geographically native to that area of Montana. If this is not done, the plants that are specifically adapted to survive in that particular eco-region of Montana will likely be out-competed by non-native species. The exact contents of the appropriate seed mixture, location of produced seed, timeline of planting, and evaluation of success should be studied and analyzed in the EIS.

3. If TransCanada is considering using mechanical and/or chemical means to remove noxious weeds after reseeding, please document in the EIS (and analyze) what methods will be used. If chemicals are to be used, how much and how it will be applied and how often should be disclosed?

4. The mitigation plan should also consider the viability of fencing off of the easements. Cattle are naturally drawn to new shoots of grass, and such grazing and trampling would prevent reseeded areas from successfully revegetating. The EIS should consider whether or not TransCanada should fence off easements to hasten the re-establishment of native plants. If this is done, what compensation will landowners receive for this interruption to their normal field operations? If TransCanada doesn't fence off reseeded areas, how will they guarantee full reestablishment of native grasses? Additionally, how can fences be constructed as to not be a burden to the rancher when moving livestock or machinery?

5. Not all soil is the same. Topsoil is important for the cropland and rangeland lifecycles that farmers and ranchers depend on. An analysis of best company practices for removing and preserving topsoil when digging the ditches for the pipeline should be presented in the EIS.

6. An adequate bond amount for surface restoration should be determined. All aspects of this project should be included in this bond, including restoration of the pipeline easement to pre-pipeline conditions, the area around pumping station locations, and any roads created.

7. The pipeline is traversing the state of Montana where undisturbed native grasslands and prairies are still in existence. What pristine areas will be disturbed by the current route, and would either proposed alternative route have less impact to pristine areas? Should pristine areas need to be disturbed, the EIS should carefully analyze all aspects of these native areas and document special protections that will be employed, timing of construction to avoid disturbance to wildlife or species of concern, special reclamation procedures that will be used, and coordination protocols with federal and state management agencies responsible for these lands.

III. Environmental Impacts: Ecological and global preservation and implications.

1. Mining, transporting, and refining tar sands is energy intensive as well as carbon-emission intensive. The EIS should compare the mining, transport, and refining of tar sands to other domestic energy sources, including but not limited to Bakken oil, conservation, solar energy, and

wind energy. Do the processes associated with tar sands comply with the requirements that the pipeline meet a “National Interest” given the current administration’s preference for green, sustainable energies? The potential for a shift in demand away from “dirty” energy sources such as tar sands oil should be analyzed in the EIS. Government subsidies that affect the development of this energy source in comparison to other energy sources should be revealed, analyzed, and discussed.

2. The EIS should study the possible environmental impacts if the pipeline is abandoned. Who will be responsible for reclamation should this occur.

3. The EIS should study the ecological implications and the size of the foot print of the pumping stations. The potential for operating the pump stations with renewable energy (e.g., solar panels) should be assessed.

4. What are the potential impacts to wildlife and livestock from disturbance to habitat (migration corridors, breeding areas, migratory bird stop over locations and nest sites, loss of access to water and food)?

5. Demand for energy, particularly “dirty” energy is trending down. Can we be sure that there will be need for this pipeline? Helpful, recent statistics about energy demand can be found in the Wall Street Journal at <http://online.wsj.com/article/SB123957686061311925.html>.

IV. Socio-Economic Impacts: Road use, repair, maintenance, and disruption of people’s travels.

1. TransCanada should specify the types, tonnage, and number of vehicles (e.g., back hoes, dump trucks, loaders, tractor-trailers) that will be using the roads and bridges along the pipeline route during construction and operation in order to present a better evaluation of whether current county roads, dirt roads, and bridges will be able to support their weight. Two-track farm roads might also be utilized; an analysis of equipment that these roads will be expected to support should be conducted.

2. A baseline assessment should be done to assess the current state of county roads/bridges and dirt roads so that impacts that are the result of TransCanada’s pipeline construction and subsequent operations are identifiable.

3. All bridges not in the Department of Transportation’s bridge database should be evaluated to ensure they are able to withstand the tonnage and wear associated with repeated crossings via large construction vehicles. If it is determined that current bridges and roads are not able to withstand use by TransCanada equipment, the EIS should identify who will pay for road improvements.

4. It should be determined who and how road wear and maintenance will be monitored on county roads, dirt roads and bridges once TransCanada starts construction. The EIS should estimate how much money it will cost for maintenance, monitoring and repair of all the roads/bridges used by TransCanada. An assessment of where damage is possible and the costs and responsibility associated with repair is necessary.

5. The EIS should disclose which county roads and dirt roads and bridges will be closed at what time for pipeline construction.

6. Dust will be an issue because of large trucks (both construction and operations) repeatedly traveling on rural dirt roads. The EIS should explain and analyze the dust mitigation plan and detail the financially responsible party.

7. Landowners - particularly farmers and ranchers - need access to different parts of their property depending on the season. Laying pipe and tearing up roads will impact these landowners. The EIS should analyze options for minimizing interference with landowners' use of roads. If construction activities interrupt a farmer's ability to work, what compensation will be given to that landowner? Timing considerations of calving, planting and harvesting should be compared.

8. Spring is "mud season" in Eastern Montana. The EIS should analyze typical spring weather patterns and conditions in order to develop plans to avoid tearing up dirt roads and transporting large amounts of mud onto paved roads, where it could potentially run into the stream causing sediment loading issues.

V. Socio-Economic Impacts: Costs and safety plans to protect landowners and their livelihood.

1. If the pipeline cracks and starts to leak or explodes what are all potential threats to landowners, wildlife, water, vegetation, and surface resources? If a leak does occur, will the company have a rapid response system in place? How will the company train, assist, equip, fund, and educate landowners, rural communities, and local first-responders about pipeline safety?

2. The best possible technologies including pipe thickness, depth of pipe, and pressure levels that could reduce the risk of pipeline leaks should be assessed and analyzed in the EIS.

3. The threat of wildland fire, including the financial burden to landowners, should be assessed and analyzed in the EIS

4. The impacts of construction, including noise, odors, increased human impact on wildlife, increased crime, increase impact on rural services, should be assessed and analyzed in the EIS.

6. Portions of Montana are at greater risk for earthquakes. The potential risk for an earthquake to impact the pipeline should be assessed and analyzed in the EIS.

7. The corrosiveness of tar sands compared to other oils that are transported in a pipeline should be assessed and analyzed. Additionally, the thickness of the pipe is of concern in relation to the corrosiveness of the material being transported. In order to ensure maximum safety, this particular relationship should be carefully analyzed in the EIS.

VI. Socio-Economic Impacts: Private property rights

1. Landowners often need to lay surface pipes for various reasons in the operation of their ranch or farm. The rights of landowners to continue to make such improvements to their land including across the easement granted for the TransCanada pipeline should be detailed and discussed in the EIS.
2. A minimum workable easement should be considered to lessen the disturbance to the landowner. What has been the minimum width needed for a pipeline of similar size? Various easement sizes and their associated impacts to landowners should be analyzed.
3. An assessment of the proper notification for landowners in North Dakota, along one of the alternative routes, should be conducted and immediately implemented.
4. The benefits and negative impacts of fencing pipeline easements should be analyzed as well as a discussion of requiring the company to do this.
5. A tax assessment should be conducted to determine how property taxes for landowners crossed by the pipeline will be affected.
6. A property value assessment should be conducted to determine how property values for landowners crossed by the pipeline will be affected.
7. The EIS should discuss and analyze the best possible reclamation strategies that the company can use to reclaim/restore the easement after construction in order to minimize negative impacts to the landowner.
8. An analysis of the costs and benefits of various pump station sizes, spacing, and locations should be included in the EIS

VII. Socio-economic impacts: public county revenue and expenditures

1. An independent assessment of the true expected revenues per county from the pipeline construction and use should be conducted.
2. An appropriate bond for repair to public lands and roads should be discussed in detail.
3. Company liability for damage to public roads, increased noxious weeds, potential wildland and urban fires, pipeline leaks, and contamination of public and private drinking water should be detailed and analyzed in the EIS.
4. The number and types of jobs, the length of employment, and the likelihood of local employment should be assessed and detailed.

In closing, please address the cumulative impacts of development in the geographic region and for all classes of land (private, state, and federal). Please also include the cumulative impact that the TransCanada Keystone XL pipeline construction and operation will have in conjunction with all other types of oil and gas drilling occurring in these areas.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Beth Kaeding". The signature is written in a cursive, flowing style.

Beth Kaeding

Chair, Northern Plains Resource Council