

113TH CONGRESS  
1ST SESSION

# H. R. 3

---

## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Northern Route Ap-  
3 proval Act”.

4 **SEC. 2. FINDINGS.**

5       The Congress finds the following:

6           (1) To maintain our Nation’s competitive edge  
7       and ensure an economy built to last, the United  
8       States must have fast, reliable, resilient, and envi-  
9       ronmentally sound means of moving energy. In a  
10      global economy, we will compete for the world’s in-  
11      vestments based in significant part on the quality of  
12      our infrastructure. Investing in the Nation’s infra-  
13      structure provides immediate and long-term eco-  
14      nomic benefits for local communities and the Nation  
15      as a whole.

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

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

25          (4) The State of Nebraska has thoroughly re-  
26      viewed and approved the proposed Keystone XL

1 pipeline reroute, concluding that the concerns of Ne-  
2 braskans have had a major influence on the pipeline  
3 reroute and that the reroute will have minimal envi-  
4 ronmental impacts.

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

11 (A) the Department of State assessments  
12 found that the Keystone XL pipeline “is not  
13 likely to impact the amount of crude oil pro-  
14 duced from the oil sands” and that “approval  
15 or denial of the proposed project is unlikely to  
16 have a substantial impact on the rate of devel-  
17 opment in the oil sands”;

18 (B) the Department of State found that  
19 incremental life-cycle greenhouse gas emissions  
20 associated with the Keystone XL project are es-  
21 timated in the range of 0.07 to 0.83 million  
22 metric tons of carbon dioxide equivalents, with  
23 the upper end of this range representing twelve  
24 one-thousandths of one percent of the 6,702

1 million metric tons of carbon dioxide emitted in  
2 the United States in 2011; and

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

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

17 (A) transportation of oil via pipeline has a  
18 record of unmatched safety and environmental  
19 protection, and the Department of State found  
20 that “Spills associated with the proposed  
21 Project that enter the environment expected to  
22 be rare and relatively small”, and that “there  
23 is no evidence of increased corrosion or other  
24 pipeline threat due to viscosity” of diluted bitu-

1           men oil that will be transported by the Key-  
2           stone XL pipeline; and

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

10           (7) The Keystone XL is in much the same posi-  
11          tion today as the Alaska Pipeline in 1973 prior to  
12          congressional action. Once again, the Federal regu-  
13          latory process remains an insurmountable obstacle  
14          to a project that is likely to reduce oil imports from  
15          insecure foreign sources.

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

17          Notwithstanding Executive Order No. 13337 (3  
18          U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C.  
19          301 note), section 301 of title 3, United States Code, and  
20          any other Executive order or provision of law, no Presi-  
21          dential permit shall be required for the pipeline described  
22          in the application filed on May 4, 2012, by TransCanada  
23          Keystone Pipeline, L.P. to the Department of State for  
24          the Keystone XL pipeline, as supplemented to include the  
25          Nebraska reroute evaluated in the Final Evaluation Re-

1 port issued by the Nebraska Department of Environ-  
 2 mental Quality in January 2013 and approved by the Ne-  
 3 braska governor. The final environmental impact state-  
 4 ment issued by the Secretary of State on August 26, 2011,  
 5 coupled with the Final Evaluation Report described in the  
 6 previous sentence, shall be considered to satisfy all re-  
 7 quirements of the National Environmental Policy Act of  
 8 1969 (42 U.S.C. 4321 et seq.) and of the National His-  
 9 toric Preservation Act (16 U.S.C. 470 et seq.).

10 **SEC. 4. JUDICIAL REVIEW.**

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

15 (1) the validity of any final order or action (in-  
 16 cluding a failure to act) of any Federal agency or of-  
 17 ficer with respect to issuance of a permit relating to  
 18 the construction or maintenance of the Keystone XL  
 19 pipeline, including any final order or action deemed  
 20 to be taken, made, granted, or issued;

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

1           (3) the adequacy of any environmental impact  
2           statement prepared under the National Environ-  
3           mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),  
4           or of any analysis under any other Act, with respect  
5           to any action taken, made, granted, or issued, or  
6           deemed to be taken, made, granted, or issued under  
7           this Act.

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

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

19   **SEC. 5. AMERICAN BURYING BEETLE.**

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

21               (1) environmental reviews performed for the  
22               Keystone XL pipeline project satisfy the require-  
23               ments of section 7 of the Endangered Species Act of  
24               1973 (16 U.S.C. 1536(a)(2)) in its entirety; and

1           (2) for purposes of that Act, the Keystone XL  
2       pipeline project will not jeopardize the continued ex-  
3       istence of the American burying beetle or destroy or  
4       adversely modify American burying beetle critical  
5       habitat.

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

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

17       The Secretary of the Interior is deemed to have  
18      granted or issued a grant of right-of-way and temporary  
19      use permit under section 28 of the Mineral Leasing Act  
20      (30 U.S.C. 185) and the Federal Land Policy and Man-  
21      agement Act of 1976 (43 U.S.C. 1701 et seq.), as set forth  
22      in the application tendered to the Bureau of Land Man-  
23      agement for the Keystone XL pipeline.



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

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

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

19 (c) ISSUANCE IN ABSENCE OF ACTION BY THE SEC-  
20 RETARY.—If the Secretary has not issued a permit de-  
21 scribed in subsection (a) on or before the last day of the  
22 90-day period referred to in subsection (a), the permit  
23 shall be deemed issued under section 404 of the Federal  
24 Water Pollution Control Act (33 U.S.C. 1344) or section  
25 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appro-  
26 priate, on the day following such last day.

1 (d) LIMITATION.—The Administrator of the Environ-  
2 mental Protection Agency may not prohibit or restrict an  
3 activity or use of an area that is authorized under this  
4 section.

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

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

12 **SEC. 9. OIL SPILL RESPONSE PLAN DISCLOSURE.**

13 (a) IN GENERAL.—Any pipeline owner or operator  
14 required under Federal law to develop an oil spill response  
15 plan for the Keystone XL pipeline shall make such plan  
16 available to the Governor of each State in which such pipe-  
17 line operates to assist with emergency response prepared-  
18 ness.

19 (b) UPDATES.—A pipeline owner or operator required  
20 to make available to a Governor a plan under subsection  
21 (a) shall make available to such Governor any update of

- 1 such plan not later than 7 days after the date on which
- 2 such update is made.

Passed the House of Representatives May 22, 2013.

Attest:

*Clerk.*

113TH CONGRESS  
1ST Session

**H. R. 3**

---

---

**AN ACT**

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