

Congress of the United States
Washington, DC 20515

March 26, 2014

David L. Robertson
President and Chief Operating Officer
Koch Industries, Inc.
P.O. Box 2256
Wichita, KS 67201-2256

Dear Mr. Robertson:

We are writing to learn whether Koch Industries or any of its affiliated companies has a financial interest in the Keystone XL pipeline. Groups backed by Charles and David Koch have lobbied and run political ads to support construction of the pipeline. But Koch Industries has consistently denied financial motives played any role in these activities, asserting that the Keystone XL pipeline has “nothing to do with any of our businesses.” We want to know whether this is true.

There is mounting evidence that Koch Industries has a financial interest in the Keystone XL pipeline. The *Washington Post* reports that Koch Oil Sands Operating ULC holds at least 298 Alberta Crown Oil Sands leases covering 1.1 million acres in the tar sands region of Alberta.¹ According to the *Washington Post*, these holdings make Koch Industries at least “one of the region’s largest” leaseholders.² The actual holdings could be “closer to two million,” according to “highly authoritative” industry sources.³ The group that first disclosed these leases, the International Forum on Globalization (IFG), told the *Washington Post* that Koch Industries will “reap huge benefits” from the Keystone XL pipeline by reducing the cost of shipping tar sands.⁴ IFG estimated that Koch Industries could make “an additional \$100 billion in profits” as better market access boosts the prices for tar sands products across the board.⁵

Another subsidiary of Koch Industries, Flint Hills Resources, LLP, is “among Canada’s largest crude oil purchasers, shippers, and exporters” and owns a crude oil terminal in Hardisty, Alberta, where the Keystone XL pipeline will begin.⁶ When Canada’s National Energy Board

¹ *The Biggest Lease Holder in Canada’s Oil Sands Isn’t Exxon Mobil or Chevron. It’s the Koch Brothers*, *Washington Post* (Mar. 20, 2014).

² *Why we wrote about the Koch Industries and its leases in Canada’s oil sands*, *Washington Post* (Mar. 21, 2014).

³ *The Biggest Lease Holder in Canada’s Oil Sands Isn’t Exxon Mobil or Chevron. It’s the Koch Brothers*, *Washington Post* (Mar. 20, 2014).

⁴ *Id.*

⁵ *Id.*

⁶ Flint Hill Resources, History (online at www.fhr.com/about/history.aspx); Flint Hill Resources, Canada (online at www.fhr.com/refining/canada.aspx).

held hearings on the Keystone XL pipeline in 2009, Flint Hills sought intervenor status because of its “direct and substantial interest” in the pipeline. According to Flint Hills’s filing:

Flint Hills Resources Canada LLP (“Flint Hills”) is among Canada's largest crude oil purchasers, shippers and exporters, coordinating supply for its refinery in Pine Bend, Minnesota. Consequently, Flint Hills has a direct and substantial interest in the application.⁷

Koch also owns at least two refineries that process tar sands or could do so. One of the refineries is Koch’s Pine Bend Refinery in Minnesota, which in 2011 processed 25% of the tar sands imported into the United States.⁸ The other is Koch’s Corpus Christi refinery, which is located near the end of the Keystone XL pipeline and would be a potential buyer for tar sands crude shipped through the pipeline.⁹

If these reports are right, Koch Industries has interests at virtually every point along the tar sands supply chain: it owns a company that holds extensive leases in Canadian tar sands; it owns a company that purchases, ships, and exports tar sands from Canada; and it owns a company that refines the tar sands imported into the United States. Each of these businesses would appear to benefit from construction of the Keystone XL pipeline. The single greatest obstacle to tar sands development is the lack of access to markets. Investment banks, tar sands producers, and the Canadian government have all pointed to market access, and specifically pipelines, as crucial to meeting goals to expand production. These entities have also identified Keystone XL as the largest, most viable, nearest term, and least costly means of expanding that market access.

Koch Industries has been asked about these ties in the past and has consistently denied having any interest in the pipeline. In 2011, staff for Rep. Waxman contacted Koch Industries to learn more about the company’s role in the Keystone XL pipeline and Canadian tar sands. On May 19, 2011, representatives of Koch Industries told the staff that the Keystone XL pipeline has “nothing to do with any of our businesses” and that Koch had “no financial interest” in the pipeline.¹⁰ Philip Ellender, the President for Government and Public Affairs at Koch Companies Public Sector, LLC, subsequently wrote: “We have stated publicly and repeatedly, including last week when questioned by the staff of Congressman Waxman, that we have no financial stake in

⁷ Application for Intervenor Status (May 19, 2009).

⁸ Koch Brothers Positioned To Be Big Winners If Keystone XL Pipeline Is Approved, Reuters (Feb. 10, 2011) (online at www.reuters.com/article/2011/02/10/idUS292515702420110210).

⁹ U.S. Department of State, Supplemental Draft Environmental Impact Statement, Keystone XL Project, Applicant for Presidential Permit: TransCanada Keystone Pipeline, LP, at 3-176 (Apr. 22, 2011).

¹⁰ Letter from Rep. Henry A. Waxman and Rep. Bobby L. Rush to Rep. Fred Upton and Rep. Ed Whitfield (May 20, 2011).

the pipeline.”¹¹ These statements were made while the House Energy and Commerce Committee was actively considering legislation to expedite federal approval of the Keystone XL pipeline.

These denials were apparently persuasive to members of Congress. When the House Energy and Commerce Committee held a May 23, 2011, hearing on the Keystone XL pipeline, Chairman Upton dismissed the evidence of a link between Koch investments and the pipeline as an “outrageous accusation” and a “blatant political sideshow.”¹² At a January 25, 2012, legislative hearing on a bill related to Keystone XL, Chairman Whitfield stated: “the Koch brothers have nothing to do with this project.”¹³

At the same time that Koch Industries has been denying any connection to the pipeline, Koch-backed groups have launched extensive campaigns to support the construction of the pipeline. One of these groups, Americans for Prosperity, which was founded by David Koch, has run a multi-year pressure campaign in favor of the Keystone XL pipeline, including airing ads against members of Congress for opposing the pipeline.¹⁴ Another Koch-linked group, the American Energy Alliance, spent millions of dollars on an ad campaign in the last election cycle that “hammers Obama for his decision on the Keystone XL pipeline.”¹⁵

Consistent with these efforts, Koch-affiliated entities have been leading funders of those who seek to undermine the broad scientific consensus establishing the relationship between the use of carbon-based fuel and climate change. This industry-funded “research” manufactures doubt about the science to distort the public’s understanding of climate change and delay or prevent government policies to address the issue. Recent research documents how funding for this work has become increasingly dominated by anonymous donor-directed funds, further

¹¹ Letter from Philip Ellender, President, Government and Public Affairs, Koch Companies Public Sector, LLC, to Jack Reerink, Managing Editor, Reuters (May 27, 2011) (online at www.kochfacts.com/kf/reuters-misleads-readers-on-koch-industries-and-the-keystone-xl-pipeline-we-respond/).

¹² House Committee on Energy and Commerce, Subcommittee on Energy and Power, Statement of Chairman Fred Upton, *Hearing on the American Energy Initiative, Part 8: Discussion Draft of H.R. ____, the North American Made Energy Security Act of 2011*, 112th Cong. (May 23, 2011).

¹³ House Committee on Energy and Commerce, Subcommittee on Energy and Power, Statement of Chairman Ed Whitfield, *Hearing on H.R. 3548, the North American Energy Access Act*, 112th Cong. (Jan. 25, 2012).

¹⁴ Americans for Prosperity, *Thanks A Lot, Debbie ... Keystone Radio Ad* (June 14, 2012) (online at americansforprosperity.org/michigan/newsroom/thanksalot-keystone-radio-ad/).

¹⁵ *Kochs Linked to Anti-Obama Gas Ad*, Politico (Mar. 29, 2012).

obfuscating connections between so-called climate change deniers and those most ready to profit from their work.¹⁶

We believe that Congress and the public have a right to know when individuals funding political ads and attempting to influence government decisions have a financial stake in the outcome. We certainly believe it would be wrong for any company to mislead Congress and the public by falsely describing its economic stake in legislation.

We are seeking additional information from you to clarify the facts. We want to know what holdings Koch Industries or its affiliated companies may have that could be affected by the Keystone XL pipeline. For this reason, we ask that you provide us with responses to the following questions and document requests:

1. How many Alberta Crown Oil Sands leases do Koch Industries or its subsidiaries hold? How many acres are covered by these leases? Please provide documents sufficient to demonstrate the accuracy of your responses.
2. How many exploratory wells have Koch Industries or its subsidiaries or their contractors drilled on their leased land in Alberta? How many production wells have Koch Industries or its subsidiaries or their contractors drilled on their leased land in Alberta? Please provide documents sufficient to demonstrate the accuracy of your responses.
3. What is the current level of production from the leases owned by Koch Industries or its subsidiaries on their leased land in Alberta? How many total barrels of tar sands-derived oil¹⁷ have Koch Industries or its subsidiaries produced on their leased land in Alberta? What is the expected annual level of production for each of the next ten years from land leased in Alberta by Koch Industries or its subsidiaries? Please provide documents sufficient to demonstrate the accuracy of your responses.
4. What is the estimated total recoverable resource from the land leased in Alberta by Koch Industries or its subsidiaries? Please provide documents sufficient to demonstrate the accuracy of your response.
5. If additional pipeline capacity, starting with Keystone XL, is approved that allows tar sands products access to world markets, would that raise or lower the value of your lease holdings? Please provide documents sufficient to demonstrate the accuracy of your response.

¹⁶ Robert J. Brulle, *Institutionalizing delay: foundation funding and the creation of U.S. climate change counter-movement organizations*, Climatic Change (Jan. 25, 2013).

¹⁷ References to “oil” here and below includes raw bitumen, diluted bitumen, syncrude, and other varieties of upgraded or refined products produced from the tar sands.

6. How much oil derived from Canadian tar sands do refineries owned by Koch Industries or its subsidiaries refine each year? Which refineries owned by Koch Industries or its subsidiaries refine oil derived from Canadian tar sands? Please provide documents sufficient to demonstrate the accuracy of your responses.
7. How would the volume of oil derived from Canadian tar sands refined by refineries owned by Koch Industries or its subsidiaries be affected by the approval or disapproval of the Keystone XL pipeline? Please provide documents sufficient to demonstrate the accuracy of your responses.
8. How much oil derived from Canadian tar sands does Koch Industries or its subsidiaries, including Flint Hills Resources, purchase, ship, or export each year? How much of this oil derived from Canadian tar sands is shipped or exported to the United States by Koch Industries or its subsidiaries, including Flint Hills Resources? Please provide documents sufficient to demonstrate the accuracy of your responses.
9. If additional pipeline capacity, starting with Keystone XL, is approved that allows tar sands products access to world markets, would that raise or lower the value of the Canadian tar sands oil purchased, shipped and exported by Koch Industries or its subsidiaries, including Flint Hills Resources? Please provide documents sufficient to demonstrate the accuracy of your responses.
10. Does Koch Industries or its subsidiaries have plans to export oil derived from Canadian tar sands through the Keystone XL pipeline? Please provide documents sufficient to demonstrate the accuracy of your responses.
11. Since 2009, how much funding has Koch Industries, the Koch Affiliated Foundations, their subsidiaries or related entities provided to organizations or individuals that conduct or support climate science research? What are the names of those organizations or individuals? During that same time period, has Koch Industries, the Koch Affiliated Foundations, their subsidiaries or related entities funded or made contributions to Donors Trust/Capital? If so, what conditions, if any, were place on the investment and future distributions of those funds?

Your cooperation in providing this information to Congress would be greatly appreciated.

Sincerely,



Henry A. Waxman
Ranking Member
Committee on Energy and
Commerce



Sheldon Whitehouse
Subcommittee on Oversight,
Senate Committee on
Environment and Public Works