

MAY 16, 2013

RULES COMMITTEE PRINT 113-11
TEXT OF H.R. 3, NORTHERN ROUTE APPROVAL
ACT

[Showing the text of the bill as ordered reported by the Committees on Transportation and Infrastructure, Energy and Commerce, and Natural Resources.]

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

1 ideals, to domestic markets is in the national inter-
2 est because of the need to lessen dependence upon
3 insecure foreign sources.

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

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

14 (5) The Department of State and other Federal
15 agencies have over a long period of time conducted
16 extensive studies and analysis of the technical as-
17 pects and of the environmental, social, and economic
18 impacts of the proposed Keystone XL pipeline.

19 (6) The transportation of oil via pipeline is the
20 safest and most economically and environmentally
21 effective means of doing so.

22 (7) The Keystone XL is in much the same posi-
23 tion today as the Alaska Pipeline in 1973 prior to
24 congressional action. Once again, the Federal regu-
25 latory process remains an insurmountable obstacle

1 to a project that is likely to reduce oil imports from
2 insecure foreign sources.

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

4 Notwithstanding Executive Order No. 13337 (3
5 U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C.
6 301 note), section 301 of title 3, United States Code, and
7 any other Executive order or provision of law, no Presi-
8 dential permit shall be required for the pipeline described
9 in the application filed on May 4, 2012, by TransCanada
10 Keystone Pipeline, L.P. to the Department of State for
11 the Keystone XL pipeline, as supplemented to include the
12 Nebraska reroute evaluated in the Final Evaluation Re-
13 port issued by the Nebraska Department of Environ-
14 mental Quality in January 2013 and approved by the Ne-
15 braska governor. The final environmental impact state-
16 ment issued by the Secretary of State on August 26, 2011,
17 coupled with the Final Evaluation Report described in the
18 previous sentence, shall be considered to satisfy all re-
19 quirements of the National Environmental Policy Act of
20 1969 (42 U.S.C. 4321 et seq.) and of the National His-
21 toric Preservation Act (16 U.S.C. 470 et seq.).

22 **SEC. 4. JUDICIAL REVIEW.**

23 (a) **EXCLUSIVE JURISDICTION.**—Except for review by
24 the Supreme Court on writ of certiorari, the United States

1 Court of Appeals for the District of Columbia Circuit shall
2 have original and exclusive jurisdiction to determine—

3 (1) the validity of any final order or action (in-
4 cluding a failure to act) of any Federal agency or of-
5 ficer with respect to issuance of a permit relating to
6 the construction or maintenance of the Keystone XL
7 pipeline, including any final order or action deemed
8 to be taken, made, granted, or issued;

9 (2) the constitutionality of any provision of this
10 Act, or any decision or action taken, made, granted,
11 or issued, or deemed to be taken, made, granted, or
12 issued under this Act; or

13 (3) the adequacy of any environmental impact
14 statement prepared under the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
16 or of any analysis under any other Act, with respect
17 to any action taken, made, granted, or issued, or
18 deemed to be taken, made, granted, or issued under
19 this Act.

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

24 (c) EXPEDITED CONSIDERATION.—The United
25 States Court of Appeals for the District of Columbia Cir-

1 cuit shall set any action brought under subsection (a) for
2 expedited consideration, taking into account the national
3 interest of enhancing national energy security by providing
4 access to the significant oil reserves in Canada that are
5 needed to meet the demand for oil.

6 **SEC. 5. AMERICAN BURYING BEETLE.**

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

8 (1) environmental reviews performed for the
9 Keystone XL pipeline project satisfy the require-
10 ments of section 7 of the Endangered Species Act of
11 1973 (16 U.S.C. 1536(a)(2)) in its entirety; and

12 (2) for purposes of that Act, the Keystone XL
13 pipeline project will not jeopardize the continued ex-
14 istence of the American burying beetle or destroy or
15 adversely modify American burying beetle critical
16 habitat.

17 (b) BIOLOGICAL OPINION.—The Secretary of the In-
18 terior is deemed to have issued a written statement setting
19 forth the Secretary's opinion containing such findings
20 under section 7(b)(1)(A) of the Endangered Species Act
21 of 1973 (16 U.S.C. 1536(b)(1)(A)) and any taking of the
22 American burying beetle that is incidental to the construc-
23 tion or operation and maintenance of the Keystone XL
24 pipeline as it may be ultimately defined in its entirety,

1 shall not be considered a prohibited taking of such species
2 under such Act.

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

4 The Secretary of the Interior is deemed to have
5 granted or issued a grant of right-of-way and temporary
6 use permit under section 28 of the Mineral Leasing Act
7 (30 U.S.C. 185) and the Federal Land Policy and Man-
8 agement Act of 1976 (43 U.S.C. 1701 et seq.), as set forth
9 in the application tendered to the Bureau of Land Man-
10 agement for the Keystone XL pipeline.

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

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

1 (b) WAIVER OF PROCEDURAL REQUIREMENTS.—The
2 Secretary may waive any procedural requirement of law
3 or regulation that the Secretary considers desirable to
4 waive in order to accomplish the purposes of this section.

5 (c) ISSUANCE IN ABSENCE OF ACTION BY THE SEC-
6 RETARY.—If the Secretary has not issued a permit de-
7 scribed in subsection (a) on or before the last day of the
8 90-day period referred to in subsection (a), the permit
9 shall be deemed issued under section 404 of the Federal
10 Water Pollution Control Act (33 U.S.C. 1344) or section
11 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appro-
12 priate, on the day following such last day.

13 (d) LIMITATION.—The Administrator of the Environ-
14 mental Protection Agency may not prohibit or restrict an
15 activity or use of an area that is authorized under this
16 section.

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

18 The Secretary of the Interior is deemed to have
19 issued a special purpose permit under the Migratory Bird
20 Treaty Act (16 U.S.C. 703 et seq.), as described in the
21 application filed with the United States Fish and Wildlife
22 Service for the Keystone XL pipeline on January 11,
23 2013.

