

# WORC

## *Western Organization of Resource Councils*

May 28, 2009

Jeff Wiese  
Associate Administrator for Pipeline Safety  
U.S. Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
East Building, 2<sup>nd</sup> Floor  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Mr. Wiese:

On behalf of the Western Organization of Resource Councils, the Northern Plains Resource Council, Dakota Rural Action, the Dakota Resource Council, Landowners for Fairness, and the United Steelworkers Union, we are writing to ask your help in protecting residents of Montana, North Dakota, South Dakota, and Nebraska from unfair risks of oil spills by ensuring full and complete review under U.S. environmental and safety laws of pipeline design and operating plans for the Keystone I and Keystone XL pipelines, which are under construction and proposed for construction in our states.

The Western Organization of Resource Councils (WORC) is a regional network of seven grassroots community organizations, including the Northern Plains Resource Council in Montana, Dakota Resource Council in North Dakota, and Dakota Rural Action in South Dakota, with 10,000 members and 45 local chapters. WORC is committed to building sustainable environmental and economic communities that balance economic growth with the health of people and stewardship of their land, water, and air resources. Landowners for Fairness is an association of Nebraska landowners who would be crossed by the proposed Keystone XL Pipeline.

TransCanada has applied for a special permit for the Keystone XL Pipeline under regulations of the United States Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA). The special permit would allow TransCanada to operate the Keystone XL Pipeline at a higher percentage of the pipe's maximum operating pressure (MOP) than any operating oil pipeline. In effect, the special permit would allow TransCanada to use thinner, cheaper steel. The Department of Transportation (DOT) has already granted a special waiver to TransCanada for the Keystone I Pipeline, which would allow TransCanada to operate Keystone I at a higher percentage of MOP (80%) than would be possible without the waiver (72%).

TransCanada will use thicker, safer steel in what are known in the PHMSA rules as "High Consequence Areas." High Consequence Areas include railroad crossings, highways, river crossings, and "High Population Areas" – which, of course, do not include the rural areas of Montana, North Dakota, South Dakota, and Nebraska through which the Keystone XL Pipeline will run. We believe it is unfair and unwise to provide the best possible protection for only a select few areas, while most of the pipelines' routes through Montana, the Dakotas and Nebraska are or will be constructed with thinner, cheaper pipe.

We are also concerned that the Keystone XL Pipeline is now undergoing environmental analysis and review without any details of TransCanada's proposed emergency response plan available for public review or consideration. Even worse, the Keystone I Pipeline is scheduled to go into operation without details of an emergency response plan.

We are offended at the implication that our states are "Low Consequence Areas," and that our farms, ranches, and recreation areas are not worthy of the same level of protection as a more densely populated city or town at the end of the pipelines on Texas' Gulf Coast. We believe that Montanans, Dakotans, and

Nebraskans have just as much right to safety standards designed to prevent oil spills and contamination of our land and water as the residents of Houston or Oklahoma City.

We are further concerned that DOT and PHMSA have not prepared an EIS to analyze their decisions whether to approve a Risk Analysis and Integrity Management Program for the Keystone XL Crude Oil Pipeline or for the Keystone I Pipeline. It is a further annoyance that, under existing PHMSA regulations, these “RAIM” programs are geared to “High Consequence Areas,” leaving most of our states with much less rigorous risk analysis and integrity management than more populated areas.

As the 2006 spill from the BP pipeline on Alaska’s North Slope shows, pipeline oil spills can happen in remote areas, with devastating consequences. The 2006 Alaska leaks resulted from failures along 16 miles of pipeline, but resulted in millions of dollars in damages and fines, and hundreds of millions of dollars in costs to BP to reconstruct the pipeline. Investment in the safest possible pipe, with the best monitoring, maintenance and emergency response programs possible, will pay off for everyone in the long run.

We represent landowners who are subject to condemnation or who have already been condemned to put these pipelines across our/their property, so that tarsands oil can flow from Alberta, Canada, to refineries on the Gulf Coast in Texas, and stakeholders who make steel pipe. We do not believe it is fair that we should bear extra risk of damaging oil leaks, ruptures, or spills in order to save TransCanada the cost of using the safest materials and methods of construction available, or the planning necessary to design effective emergency response plans before the pipelines are permitted for construction and operation.

We respectfully request your help in ensuring that the farmers, ranchers, and rural communities along the proposed route of the Keystone I and Keystone XL pipelines are not treated as second-class citizens when it comes to our safety, health, and property.

We ask you to refrain from issuing a special permit for the Keystone XL Pipeline until Keystone’s request for a special permit, its emergency response plan and its Risk Analysis and Integrity Management Program for that pipeline are carefully analyzed in an Environmental Impact Statement. We ask you to withhold permission for TransCanada to operate the Keystone I Pipeline now under construction until you have reviewed Keystone’s emergency response plan and RAIM Program in an Environmental Impact Statement, so that we have a fair and complete analysis of the risks and the costs of methods to prevent and mitigate the economic and environmental damage from potential spills and leaks. And finally, we ask you to ensure, through your review and oversight, that TransCanada uses the safest available materials and practices in constructing, operating, maintaining, and monitoring the pipeline, and in its plans and investments for emergency response to spills, leaks and other accidents, in rural and populated areas alike.

Sincerely,

K.C. Duerig, Chair  
Western Organization of Resource Councils

Beth Kaeding, Chair  
Northern Plains Resource Council

Roger Brenna, Chair  
Dakota Resource Council

Jacob Limmer, Chair,  
Dakota Rural Action

Dan Kramer, Director  
Landowners for Fairness

Thomas Conway, International Vice President  
United Steelworkers (USW)