Statement from the Indigenous Environmental Network

Initial Response to the U.S. Department of State Keystone XL Pipeline
Draft Supplemental EIS 2013

March 6, 2013

Last Friday, March 1st, in an unexpected move, President Obama’s U.S. Department of State released its draft Supplemental Environmental Impact Statement (SEIS) for the proposed Keystone XL pipeline (this is the proposed pipeline section from the Montana/Canada border to southern Nebraska, Steele City). The report defies common sense when the U.S. Department of State says “the proposed Project is unlikely to have a substantial impact on the rate of development in the oil sands.” The report understates many of the risks the tar sands pipeline poses not only to the ecosystem, but to the human health of communities living at the source of the tar sands crude oil that will flow through the proposed TransCanada Keystone XL pipeline.

The Department of State is saying it is only a draft technical report and that they’re “not going to come out and make conclusions at this point until we engage with public and get some feedback.” Federal notification of the draft SEIS will be posted this week establishing only a 45-day public comment period.

The Indigenous Environmental Network (IEN) stands in support of the statement released last Friday by Chief Allan Adams, of the Athabasca Chipewyan First Nation (ACFN), Fort Chipewyan, Alberta, Canada, whose people live downstream from the source of the toxic crude oil that will flow through this Keystone XL pipeline. Chief Adams said of the draft SEIS:

“I must stress my extreme disappointment with this report. The fact that the Keystone XL pipeline is deemed as non-consequential simply paves the way for its approval and is directly connected to the unabated expansion of Tar Sands in my peoples’ traditional lands....and the Keystone is a vital pipeline for expansion. Expansion of the tar sands means a death sentence for our way for life, destruction of ecosystems vital to the continuation of our inherent treaty rights and massive contributions to catastrophic global climate change, a fate we all share.”

There is substantial documentation of the devastation of the environment, ecosystem, water, air, and more recently the health of the Native people living in the national sacrifice zone of the tar sands. Evidence of rare cancers linked to petroleum contamination is on the increase. The Alberta tar sands are far away, in another country, but the Obama administration could be making a decision that can directly affect the health and future of the Dene, Cree and Metis’ First Nations people. The U.S. Department of State addresses human rights issues worldwide, however, in this report; it completely ignores its responsibility to apply U.S. policy on environmental justice and its commitment to address human rights.

The Department of State, following its pattern in previous assessments on the pipeline has not assessed adequate environmental, social, cultural impact from the framework of an environmental justice
analysis. The U.S. Environmental Protection Agency (EPA) and the U.S. Council on Environmental Quality (CEQ) defines environmental justice as the “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including racial, ethnic, or socio-economic groups should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.”

Related to the proposed Keystone XL pipeline, bringing the issue of human rights and environmental injustice to the attention of President Obama is not new. Back in 2011, when President Obama and the Department of State were first considering approval of the TransCanada Keystone XL pipeline, George Poitras, the former Chief of Mikisew Cree First Nation, from Fort Chipewyan, Alberta, Canada, sent a heartfelt message to Obama. He said:

“Your approval President Obama, of the Keystone XL Pipeline, will only compound an already dismal situation for our people who have the most at stake from this out-of-control development. Your approval will mean, with certainty that we will continue to see our waters poisoned, our lands contaminated, our skies polluted, our fish deformed, and our people die unnecessarily. Your approval will guarantee the continued daily repeated infringements on our constitutionally protected treaty rights to hunt, fish, and trap.”

As we see here in the report, environmental racism also operates in the U.S. international energy agreement it has with Canada. In Canada, the roots are the same with the same colonial system of domination, the trampling of Aboriginal treaty rights, the same economic system characterized by racial oppression, economic exploitation and devaluing human life, and the environment and nature.

This is environmental racism rearing its ugly head once again. Even though there has been some progress since the mid-1990 with America addressing environmental injustice, the draft SEIS smacks of racism at its worst. The report doesn’t address the human rights violations of the Dene, Cree and Métis that live downstream and other First Nations and local communities living in the regional area of Alberta’s tar sands industrial complex.

Section 1.7, ENVIRONMENTAL REVIEW OF THE CANADIAN PORTION OF THE KEYSTONE XL PROJECT, states in part:

“On March 11, 2010, the NEB issued its Reasons for Decision granting Keystone’s application. The NEB’s Reasons for Decision included an Environmental Screening Report (ESR) that was prepared to meet the requirements of Canadian Environmental Assessment Act for the Canadian portion of the proposed Keystone XL Project. The ESR

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concluded that implementation of the proposed Keystone XL Project in Canada would not likely result in significant adverse environmental effects with incorporation of Keystone’s proposed measures to avoid or minimize impacts and with Keystone’s acceptance of the NEB’s regulatory requirements and recommended conditions attached to the ESR.”

This assessment above comes from government and its agencies that continue to, pass legislation to avoid accountability for the elevated emissions and devastating health effects suffered by communities downstream of the tar sands. These are also the same governmental people who have continually denounced hundreds of scientists, armed with irrefutable evidence, that the tar sands are the most carbon intensive project on the planet and will rapidly accelerate global climate change beyond the tipping point if not stopped.

IEN rejects the conclusion of this section of the draft SEIS on the grounds that the Canadian government has misrepresented the facts. We will address this issue in our comments to be submitted during the 45-day comment period.

The numerous testimonies and statements submitted by Canadian First Nations and U.S. federally recognized Tribes, tribal grassroots and Native organizations on these issues must be referenced and taken into full consideration in the final EIS.

The lack of comprehensive consultation with Native Nations and lack of meaningful participation with indigenous traditional societies, spiritual leaders and tribal grassroots on the protection of sacred areas, and cultural and historical resources is an environmental justice and treaty right issue and is unacceptable.

Appendix E, Record of Consultation of Indian Tribes and Nations: Appendix E of this Draft SEIS the “Record of Consultation” is a table with a list of the names of the Indian Tribes and Nations who were consulted, along with columns labeled: Letters; Telephone; Emails; Faxes; and Meetings, with only dates within the respective columns and rows identified with the name of the Tribe and State. What this section, nor any other section in this Draft SEIS, does not provide, is the statements from these Indigenous and sovereign nations in opposition to the KXL and rejection of the expansion of the tar sands, of which the KXL will facilitate. http://keystonepipeline-xl.state.gov/documents/organization/205589.pdf

Protection of Indigenous Cultural Resources

Appendix F, Scoping Summary Report, Section 2.1.9 Cultural Resources

Number 1. Further consultation, including a tribal consultation plan, is needed and should be disclosed in the Supplemental EIS to address the presence of cultural sites and tribal members’ use of resources.
On January 25, 2013, a coalition of U.S. Native Nations, Canadian First Nations, traditional indigenous societies, spiritual leaders and tribal grassroots gathered and signed the International Treaty to Protect the Sacred from Tar Sands, including pipelines and tankers. In Article IV of this Unification Treaty, there is a bulleted item that reads:

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We mutually agree that tar sands projects present unacceptable risks to the soil, the waters, the air, sacred sites, and our ways of life including:

- The irreparable harm to irreplaceable cultural resources, burial grounds, sacred and historic places, natural resources, and environmental resources of the central plains region which is the aboriginal homelands of many Indigenous Nations.”

Read the entire treaty here: http://www.ienearth.org/international-treaty-to-protect-the-sacred-from-tar-sands-projects/

At this January 2013 gathering held in the Ihanktowan Nakota territories in the state of South Dakota, Dakota/Nakota/Lakota representatives spoke about the U.S. Department of State not complying with Section 106 of the U.S. National Historic Preservation Act (NHPA). Since the Department of State is the lead federal agency, they must consider all effects on cultural and historic properties in the KXL pipeline corridor before making their decision that would allow TransCanada to start digging the ground and waterways to lay pipe. During the years that IEN has been organizing on the KXL pipeline issue, talking to tribal leaders, tribal members and tribal cultural resources program staff, there have been consistency with issues of lack of capacity and not enough time allowed to, fully inventory the pipeline corridor. Along with this are concerns of failure to have full comprehensive consultation with the Tribes and meaningful participation of traditional societies, spiritual leaders, elders, and cultural knowledge keepers.

Any key objective of environmental justice methodology must evaluate cumulative disproportionate impacts to individuals, communities, and cultures not only through human health but also through natural resource quality, ecosystem health, socio-economic health and socio-cultural health. The cultural relationship between Indigenous peoples and our land is not only physical, but is also social, emotional, psychological and spiritual.

The KXL pipeline corridor throughout the prairielands of the U.S. was once all indigenous territories used for millennia by many indigenous tribes. Despite what the draft SEIS reports, it is the opinion of many tribal cultural experts that a large percent of the pipeline corridor remains unexamined (to the standards of tribal experts) and may potentially contain important and critical cultural resources that would be disturbed in the construction of the KXL pipeline. A full comprehensive survey of the corridor and a reasonable timeline for the Tribes and indigenous cultural experts to review and evaluate all inventories is vital.

IEN supports the Native Nations and its grassroots communities and the non-Native farmers and ranchers whose private lands that this proposed pipeline will cross, who have summarily rejected the pipeline crossing their lands. IEN collectively affirms the devastating consequences of the Canadian tar sands expansion, of which the KXL will accelerate.
“There comes a time when it boils down to personal responsibility. We either look at the whole big picture to see the truth or we continue to live in the many levels of denial for what the industry is doing with our support as inactive human beings. People need to take courage and take that stand that this fossil fuel industry and the tar sands oil mine is wrong and work to shut it down before it is too late. Letting that pipeline in is not only contributing to the continuation of the tar sands oil mine, destruction of sacred water and all of life, it is actually supporting the continuation of the tar sands oil mine while it risks our sacred water here because it WILL leak and spill and when it does, it cannot be cleaned up, the technology does not exist.” Debra White Plume, Oglala Lakota, Owe Aku, a Lakota group

In conclusion, the 45-day public comment period is not enough time for the people of the land, who will be directly affected by this proposed pipeline to prepare comment. The public comments must demand more time, and require public hearings in all states that the proposed pipeline will cross- even 90 days isn’t enough time.

We must remind President Obama of his eloquent words he spoke during his Inaugural Address and in his recent State of the Union address, about the need to take action to reverse global warming. Yes, there is a link to the Canadian tar sands industrial complex and climate change.

I recall another response last Friday concerning the release of this report, by my friend Stephen Kretzmann, Executive Director of Oil Change International, based in Washington, DC. He correctly stated:

“By absurdly concluding that the pipeline will not impact additional tar sands production, the Department of State is overlooking the fact that the pipeline is likely to trigger at least 450,000 barrels per day of additional tar sands production capacity. In addition, by dismissing emissions associated with petroleum coke produced by the diluted bitumen the pipeline will carry, the Department of State is underestimating the climate emissions of the pipeline by at least 13 percent. While State conducted a wide ranging discussion of pet coke emissions from refining tar sands crude they still dismissed the impacts these would have by making coal fired generation cheaper and dirtier globally. By dismissing petroleum coke, the Department of State is conveniently overlooking at least 5 coal plants worth of emissions. These are not rounding errors; they are huge holes that cause us to question the validity of Department of State’s analysis.”

President Obama should be bound by his words of concern about global warming and put his words into action and therefore reject the Keystone XL project. IEN, frontline communities, the First Nations from the Tar Sands Sacrifice Zone, all Native Nations and non-Native communities fighting the tar sands and its industrial complex of pipelines, tankers and polluting refineries, are standing with One Voice. We will continue to mobilize and organize calling on President Barrack Obama to reject this dangerous project and continue moving our nation toward energy efficiency and sustainable energy production.

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