

July 30, 2013

The Honorable John Kerry
Secretary of State
U.S. State Department
2201 C Street NW
Washington, DC 20520

Dear Mr. Secretary:

In the President's June 25th climate speech, he stated that "Allowing the Keystone pipeline to be built requires a finding that doing so would be in our nation's interest. And our national interest will be served only if this project does not significantly exacerbate the problem of carbon pollution. The net effects of the pipeline's impact on our climate will be absolutely critical to determining whether this project is allowed to go forward. It's relevant."

The President's strong commitment to using climate pollution as the standard by which Keystone XL will be decided means his decision to reject it should now be easy. Objective analyses of the tar sands pipeline show that the climate effects of this disastrous project would be significant. But the State Department's SEIS, which will inform the President's decision, was prepared by a consulting firm that lied on its disclosure form about whether it had worked for TransCanada and other oil companies with a direct stake in the Canadian tar sands.

We are calling upon you to suspend the Keystone XL review process due to our serious concerns that Environmental Resource Management (ERM), which wrote the bulk of the Supplemental Environmental Impact Statement (SEIS), lied about its business relationship with TransCanada and other oil companies on its conflict of interest forms.

Our concerns are as follows:

- ERM – whom the State Department allowed TransCanada to hire to prepare the Supplemental Environmental Impact Statement (SEIS) – lied on its conflict of interest disclosure form when it said it had "no existing contract or working relationship with TransCanada", the company seeking the permit. In fact, ERM has been involved since at least 2011 in the Alaska Pipeline Project, a joint venture of TransCanada and ExxonMobil.¹
- ERM also lied on its conflict of interest disclosure form when it certified that it did not have a "direct or indirect relationship ... with any business entity that could be affected in any way by the proposed work."² In fact, ERM's own

¹ "Secrets, Lies and Missing Data: New Twists in the Keystone XL Pipeline," [Business Week](#), July 11, 2013.

² [ERM Technical Proposal](#) (Attachment D)

publicly available documents show that in the period 2009-2012 the firm was working for over a dozen of the largest energy companies involved in the Canadian tar sands which stand to benefit if Keystone is built, including ExxonMobil, Shell, Chevron, Conoco Phillips, Total and Syncrude.³

- The State Department failed to independently verify ERM's claims, even though a simple internet search would have revealed these relationships. We believe the Department also violated its own conflict of interest screening guidelines, in spite of having agreed last year to "develop measures that will provide for additional verification of potential organizational conflicts of interest between prospective third-party contractors and the applicant for a Presidential permit."⁴

We, the undersigned, request that you take three actions to bring integrity to the decision-making process on Keystone:

- First, we ask that you pursue disciplinary actions to hold ERM accountable for lying on its conflict of interest form. The State Department's Interim Guidance for the use of third-party contractors makes it clear that conflict-of-interest obligations are ongoing, and states that "any deliberate non-disclosure or misrepresentation of facts relevant to the OCI disclosure certification required may result in immediate termination and disqualification of the offeror/contractor from future third-party contracts."⁵
- Second, we ask that you re-start the SEIS proposal process given that, if federal rules had been properly followed, ERM would not have been allowed to conduct the SEIS.
- Third, we ask you to request a new Inspector General investigation to investigate how a contractor with clear conflicts of interest was allowed to write the U.S. government's assessment of Keystone XL, and why the State Department has so far failed to bring those conflicts of interest to light.

The public expects the State Department to perform a transparent and independent review of this project's impacts on the environment and the global climate before the decision reaches President Obama's desk.

As someone who has championed open and transparent government and strong action on climate, we know that you share our concerns that the Keystone XL pipeline needs to be evaluated on its merits. It is critical that the report on which the Administration's decision

³ *Business Week*, [Secrets, Lies, and Missing Data: New Twists in the Keystone XL Pipeline](#) (July 11, 2013).

⁴ [Interim Guidance for the Use of Third Party Contractors in Preparation of Environmental Documents by the Department of State \(2012\)](#)

⁵ *Ibid*

will rely on be free of any taint of impropriety or conflict of interest. We look forward to your response to our request.

Sincerely,

350.org
Bold Nebraska
Center for Biological Diversity
Center for International Environmental Law
Checks & Balances Project
Common Cause
CREDO
DeSmogBlog
DeSmog Canada
Earthworks
Energy Action Coalition
Environment America
Friends Committee on National Legislation
Friends of the Earth
The Good Life Alliance
Green for All
Greenpeace
Hip Hop Caucus
League of Conservation Voters
Maryknoll Office for Global Concerns
MoveOn.org Civic Action
National Nurses United
National Wildlife Federation
Nebraska Farmers Union
Oil Change International
Public Citizen
Rainforest Action Network
Sierra Club
The Other 98%