



PUBLIC NOTICE
September 25, 2020

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to state the Department of Environmental Quality's intent to issue a 401 Water Quality Certification for the Project listed in this notice and hold a public hearing on the issuance of this certification. This certification is issued by the Department under the authority of 75-5-402, Montana Code Annotated (MCA) and the Administrative Rules of Montana 17.30.101 et seq., 401 Certification and Section 401 of the federal Clean Water Act, 33 USC Section 1341. The Water Protection Bureau has prepared a tentative determination to issue a 401 Certification with Project Specific Conditions listed below. A digital copy of the application may be found at <http://deq.mt.gov/Public/publiccomment>

APPLICANT INFORMATION

APPLICANT NAME: **TransCanada Keystone Pipeline, LP**
700 Louisiana Street, Suite 700
Houston, Texas 77002

PROJECT: **Keystone XL Pipeline**

WATERWAYS: **201 Surface Waterbodies and Wetlands**

COUNTIES: **Phillips, Valley, McCone, Dawson, Prairie, Fallon**

CERTIFICATION NUMBER: **MT4011079**

A tentative determination has been made by DEQ to issue a 401 Water Quality Certification for the Keystone XL Pipeline Project (MT4011079) in eastern Montana. The 401 certification is only for water quality impacts and not other possible impacts of the Project. The Project will cross 201 wetland and waterbody features regulated pursuant to Section 404 of the Clean Water Act through Phillips, Valley, McCone, Dawson, Prairie, and Fallon Counties. The Project will install a 36-inch diameter pipeline using the crossing techniques outlined within the application. The majority of construction crossings will implement the open-cut, dry trenching method and could cause temporary suspended sediment. The trenchless horizontal directional drilling method underneath waterbodies will be utilized to avoid water quality impacts at specific waterbodies and wetlands including the Milk, Missouri, and Yellowstone Rivers. The Project will result in the permanent disturbance of roughly 0.06 acres of wetlands and 0.04 acres of waterbodies due to the construction of permanent access roads. The applicant is not proposing compensatory mitigation resulting from water quality impacts associated with the construction of the pipeline.

The U.S. Army Corps of Engineers is reviewing this Project under Section 404 of the Clean Water Act. They have issued a separate public notice that may be viewed at:

<https://www.nwo.usace.army.mil/Missions/Regulatory-Program/Montana/Public-Notices>

TENTATIVE 401 WATER QUALITY CERTIFICATION

DEQ has examined the complete application, MT4011079, and bases its determination upon an evaluation of the information contained in the application that is relevant to water quality. DEQ certifies that this project in its current form following the conditions in the 401 Certification will not violate water quality standards. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards.

PROJECT SPECIFIC CONDITIONS

1. Environmental specifications developed by DEQ to minimize adverse environmental impacts are set forth in TransCanada Keystone Pipeline, PL (Keystone) Certificate of Compliance under the Major Facility Siting Act and supplemental Attachment 1B, which is incorporated by reference as enforceable provisions of this 401 Water Quality Certification. Should there be a conflict between the measures developed by Keystone, measures required by federal agencies, and the environmental specifications developed by DEQ, the more environmentally protective provision will apply.
2. All work in and near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before clearing, filling, and grading work and shall be maintained throughout construction.
3. Slope Breakers and Trench Breakers: For each delineated wetland crossed, a permanent slope breaker and trench breaker shall be installed at the base of slopes near the boundary between the wetland and adjacent upland areas. Trench breakers shall be located immediately upslope of the slope breaker.
4. Isolation of in-water work areas: The open-cut, wet method of constructing stream crossings is not allowed if water is present at the time of construction.
5. Turbidity: All practical BMPs on disturbed banks and within waters must be implemented to minimize turbidity during in-water work.
6. Clean Fill Criteria: The Applicant shall ensure that fill placed for the proposed project does not contain toxic materials.
7. Deleterious Waste Materials: All construction debris, excess sediment, and other solid waste material shall not be stockpiled below the Ordinary High Water Mark (OHWM) and shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
8. Spill Prevention: Vehicles must be fueled, operated, maintained, and stored in upland areas that minimize disturbance to habitat and prevent contamination to any surface water.
 - a. No petroleum products, fresh concrete, lime, wash water, chemicals, or other toxic or harmful materials shall be allowed to enter state waters.
 - b. All equipment is to be inspected for oil, gas, diesel, antifreeze, hydraulic fluid and other petroleum leaks. All such leaks will be properly repaired, and equipment cleaned prior to being brought on site. The equipment is not allowed to continue

operating upon discovery of the leak and will be removed from the project area until it is repaired.

9. Cut Slopes Adjacent to Waterbodies: Ensure cut slopes adjacent to waterbodies are stabilized and revegetated to prevent further erosion into state waters.
10. Site Access: The applicant will be required to allow the department reasonable entry and access to the discharge site in order to inspect the discharge for compliance with the certification requirements applicable to the activity.

PUBLIC COMMENT

Public comments regarding Section 401 of the Clean Water Act are invited ANYTIME PRIOR TO CLOSE OF BUSINESS November 30, 2020. Comments may be directed to the DEQ Water Quality Division, Water Protection Bureau, PO Box 200901, Helena, MT 59620. All comments received or postmarked PRIOR TO CLOSE OF BUSINESS November 30, 2020 will be considered in the formulation of final determinations to be imposed on the certification.

If you wish to comment electronically, you may e-mail the Department at DEQWPBPublicComments@mt.gov.

A public hearing will be held on the 401 Water Quality Certification and the Department's tentative determination on November 16, 2020, 4:00 pm to 8:00 pm.

Participants can sign up to attend the meeting and receive an emailed link. To request a link visit: <https://mtkeystonexlmeeting.eventbrite.com> or call Moira Davin, Public Relations Specialist, at: 406-461-2503. The meeting is accessible both online and by telephone. DEQ will make reasonable accommodations for those with disabilities who wish to participate in the meeting. If you require an accommodation, please contact DEQ using the information above at least one week before the meeting.

The Department will respond to all substantive comments and issue a final decision within sixty days of this notice or as soon as possible thereafter. Additional information may be obtained upon request by calling (406) 444-5546 or by writing to the aforementioned address. The administrative record, including the certification application and other pertinent information, may be found at: <http://deq.mt.gov/Public/publiccomment>

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