

**Keystone XL Project – Montana Major Facility Siting Act Application**

**Table 5-1 Permits, Licenses, Approval, and Consultation Requirements**

<b>Agency</b>	<b>Permit or Consultation/Authority</b>	<b>Agency Action</b>
US Fish and Wildlife Service (USFWS)	Endangered Species Act (ESA) Section 7 Consultation, Biological Opinion	Consider lead agency findings of an impact of federally listed or proposed species; provide Biological Opinion if the Project is likely to adversely affect federally listed or proposed species or their habitats
Federal Highway Administration	Crossing permit	Consider issuance of permits for the crossing of federally funded highways
Office of Pipeline Safety	49 CFR Part 195	Review and approve integrity management plan for high consequence areas
	49 CFR Part 194	Review and approve Emergency Response Plan
	Special permit	Waiver of the 0.72 design factor
US Environmental Protection Agency (USEPA), Regions VI, VII, and VIII	Section 401, CWA, Water Quality Certification	Consider approval of water use and crossing permits for non-jurisdictional waters (implemented through each state's Water Quality Certification Program)
	Section 402, CWA, National Pollutant Discharge Elimination System (NPDES)	Review and issue NPDES permit for the discharge of hydrostatic test water (implemented through each state's Water Quality Certification Program, where required)
US Department of Treasury – Bureau of Alcohol, Tobacco, and Firearms	Treasury Department Order No. 120-1 (formerly No. 221), effective July 1, 1972	Consider issuance of permit to purchase, store, and use explosives should blasting be required
National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS)	Magnuson-Stevens Act	Consult on Essential Fish Habitat (EFH)
<b>Montana</b>		
Montana State Historic Preservation Office – Montana Historical Society	Section 106 consultation regarding NRHP eligibility of cultural resources and potential project effects on historic properties, Compliance with Montana State Antiquities Act	Review and comment on activities potentially affecting cultural resources

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Montana DEQ – Director's Office MEPA Office	Montana Environmental Policy Act (MEPA) Permit and Montana Major Facility Siting Act (MFSA) Compliance	Review and comment on environmental activities and alternative siting study; review and use federal EIS to meet MEPA requirements  <u>Consider issuance of a certificate of compliance under MFSA for construction and operation of the proposed facility</u>
Montana DEQ – Permitting and Compliance Division – Water Protection Bureau	Montana Ground Water Pollution Control System (MGWPCS) and Nondegradation Review (three levels of water protection based on water classification (i.e., outstanding resource waters etc.), Standard 318 (permitting conditions for pipeline crossings at watercourses – short term turbidity), 310 joint application	Consider issuance of permit for stream and wetland crossings; consult for Section 404 process
	Montana Pollutant Discharge Elimination System (MPDES)	Consider issuance of permit for hydrostatic test water discharge, trench dewatering, and storm water discharge
Montana Department of Natural Resources and Conservation (DNRC) – Water Resources Division (General)	Water Appropriation Permit (beneficial water use permit) and/or water wells drilling/alteration	Consider issuance of permit for water use for hydrostatic testing or waters for dust control
Montana DNRC – Water Resources Division (General)	Navigable rivers/land use license/easement	Consult on and consider issuance of permit for projects in, on, over, and under navigable waters
Montana DNRC Trust Land Management Division	Permit to obtain easement to cross state lands for permanent ROW, land use license for construction corridor, MEPA Compliance on state land	Consider issuance of permit for crossing of state-owned land; review construction corridor
Fish Wildlife and Parks Department – Wildlife Division	SPA 124 Permit, Comment on project and effects on natural resources, threatened and endangered species	Consider issuance of permit for working within streams in the state (if necessary); consult regarding natural resources
Department of Transportation – Billings District	State and highway crossing permit for pipeline and access roads that encroach state highway ROW	Consider issuance of permits for crossings of state highways
County Road Departments	Crossing permits	Consider issuance of permits for crossing of state highways

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County Floodplain Departments	County floodplain permitting	Consider issuance of permits and review of work in floodplains
County and Local Authorities	Pump station zoning approvals, where required	Review under county approval process
	Special or conditional use permits, where required	Review under county approval process
<b>South Dakota</b>		
South Dakota Historical Society	Consultation under Section 106, NHPA	Review and comment on activities potentially affecting cultural resources
Public Utilities Commission	Energy Conversion and Transmission Facilities Act	Consider issuance of permit for a pipeline and associated facilities
Department of Environment and Natural Resources, Surface Water Quality Program	Section 401, CWA, Water Quality Certification	Consider issuance of permit for stream and wetland crossings; consult for Section 404 process
	Hydrostatic Testing/Dewatering and Temporary Water Use Permit (SDG070000)	Consider issuance of General Permit regulating hydrostatic test water discharge, construction dewatering to waters of the state ,and Temporary Water Use Permit
Department of Game, Fish, and Parks	Consultation	Consult regarding natural resources
Department of Transportation	Crossing permits	Consider issuance of permits for crossing of state highways
County Road Departments	Crossing permits	Consider issuance of permits for crossing of county roads
County and Local Authorities	Pump station zoning approvals, where required	Review under county approval process
	Special or conditional use permits, where required	Review under county approval process
<b>Nebraska</b>		
Nebraska State Historic Preservation Office	Consultation under Section 106, NHPA	Review and comment on activities potentially affecting cultural resources
Department of Environmental Quality (DEQ), Division of Water Resources	Section 401, CWA, Water Quality Certification	Consider issuance of permit for stream and wetland crossings; consult for Section 404 process
	Excavation Dewatering and Hydrostatic Testing Permit Form NEG6720000 Dewatering Form NEG6721000 Relocation	Consider issuance of permit regulating hydrostatic test water discharge and construction dewatering to waters of the state

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<b>Agency</b>	<b>Permit or Consultation/Authority</b>	<b>Agency Action</b>
Department of Environmental Quality (DEQ), Division of Air Quality	Nebraska Administrative Code Title 129, Construction Permit	Consider issuance of permit for construction of proposed tank farm at Steele City
Department of Natural Resources	Water appropriations – groundwater and surface water	Consider issuance of permit to Use Public Waters (for hydrostatic test water or dust control)
Game and Parks Commission	Consultation	Consult regarding natural resources
Department of Transportation	Crossing permits	Consider issuance of permits for crossing of state highways
County Road Departments	Crossing permits	Consider issuance of permits for crossing of county roads
County and Local Authorities	Pump station zoning approvals, where required	Review under county approval process
	Special or conditional use permits, where required	Review under county approval process
<b>Kansas</b>		
Department of Health and Environment, Bureau of Water	Hydrostatic Testing Permit (if applicable)	For pump station piping, may be below permitting thresholds
	Water withdrawal permit (if applicable)	For pump station piping, may be below permitting thresholds
Department of Wildlife and Parks	Non-game and endangered species action permit (if applicable)	Review of new pump station locations
State Historic Preservation Office	Historical resources review (if applicable)	Review of new pump station locations
County and Local Authorities	Pump station zoning approvals, where required	Review under county approval process
	Special or conditional use permits, where required	Review under county approval process
<b>Oklahoma</b>		
Oklahoma State Historical Society	Consultation under Section 106, NHPA	Review and comment on activities potentially affecting cultural resources
Department of Environmental Quality (DEQ), Division of Water Resources	Section 401, CWA, Water Quality Certification	Consider issuance of permit for stream and wetland crossings; consult for Section 404 process; Critical Water Resources

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	Excavation Dewatering and hydrostatic testing permit (OKG270000)	Consider issuance of permit regulating hydrostatic test water discharge and construction dewatering to waters of the state
Department of Wildlife Conservation	Consultation	Consult regarding natural resources
Department of Transportation	Crossing permits	Consider issuance of permits for crossing of state highways
County road departments	Crossing permits	Consider issuance of permits for crossing of county roads
County and Local Authorities	Pump station zoning approvals, where required	Review under county approval process
	Special or conditional use permits, where required	Review under county approval process
<b>Texas</b>		
Texas State Historic Preservation Office	Consultation under Section 106, NHPA	Review and comment on activities potentially affecting cultural resources
Texas Commission on Environmental Quality (TCEQ)	Section 401, CWA, Water Quality Certification	Consult for Section 404 process; permit regulating hydrostatic test water discharge, and construction dewatering to waters of the state
Parks and Wildlife Department	Consultation	Consult regarding natural resources
Texas General Land Office	Coastal Zone Management Program	Consult on state-owned lands and consider issuance of Coastal Zone Consistency Determination
	State owned lands	Consider approval of easement grants for ROW cover state-owned lands
Railroad Commission of Texas	State lead on oil and gas projects; excavation dewatering and hydrostatic testing permit	Consider issuance of permit to operate the pipeline; consider issuance of permit regulating hydrostatic test water discharge and construction dewatering to waters of the state
Department of Transportation	Crossing permits	Consider issuance of permits for crossing of state highways
County road departments	Crossing permits	Consider issuance of permits for crossing of county roads

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County and Local Authorities	Pump station zoning approvals, where required	Review under county approval process
	Special or conditional use permits, where required	Review under county approval process
Jefferson County drainage district	Crossing permits	Consider issuance of permits for crossing of drainage canals
Lower Neches Valley Authority	Crossing permits	Consider issuance of permits for crossing of drainage canals

**5.3 Public Meetings**

**5.3.1 Public Participation and Open Houses**

Keystone has been engaged in public consultation even prior to the Project being formally announced in July 2008. To date, Keystone’s public participation program has included meetings with community and county leaders, as well as open houses for public participation. Keystone has met with or contacted community and county leaders along the entire route, including County Commissioners along the proposed and alternative routes in Montana. Keystone has met with leaders from more than 85 communities during the spring and summer of 2008. These meetings were designed to:

- Introduce the Project, listen to and capture initial thoughts and concerns, and describe ways for interested parties to get additional information from Keystone and the Project team;
- Discuss plans for more detailed public participation and consultation with local landowners and stakeholders ensuring community leaders were comfortable with Keystone’s approach;
- Assist in planning effective open houses by asking community leaders to identify potentially interested constituencies and potential local issues and concerns; and
- Begin to establish a business relationship between Keystone and the local units of government and communities neighboring the pipeline.

In April and May of 2008, Keystone conducted presentations to County Commissioners of all Montana counties being traversed by the proposed route. Those presentations to the Commissioners included members of the public that participated in the Commissioner meetings. The Montana counties involved in these presentations included: Phillips, Valley, McCone, Prairie, Dawson, and Fallon counties.

In June and July 2008, 27 open houses were held along the Initial Proposed Route in the following locations:

**Montana**

Glasgow (Valley County)  
 Circle (McCone County)  
 Glendive (Dawson County)  
 Baker (Fallon County)

**Nebraska**

Atkinson (Holt County)  
 Burwell (Garfield County)

**South Dakota**

Buffalo (Harding County)  
 Faith (Meade County)  
 Phillip (Haakon County)  
 Murdo (Jones County)  
 Winner (Tripp County)

**Kansas**

El Dorado (Butler County)  
 Clay Center (Clay County)

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Fullerton (Nance County)  
York (York County)  
Fairbury (Jefferson County)

### **Oklahoma**

Durant (Bryan County)  
Stroud (Lincoln County)  
Ada (Pontotoc County)

### **Texas**

Beaumont (Jefferson County)  
Livingston (Polk County)  
Liberty (Liberty County)  
Lufkin (Angelina County)  
Nacogdoches (Nacogdoches County)  
Winnsboro (Wood County)  
Tyler (Smith County)  
Paris (Lamar County)

All of the County Commissioners, mayors, and other public leaders along the proposed route exhibited support for the Project.

Keystone is committed to ongoing and regular correspondence, communication, and consultation with all stakeholders. Keystone shares information about the Project and provides opportunities for identification and resolution of questions, issues, and concerns through a number of channels, including press releases, the Project web site ([www.transcanada.com/KXL](http://www.transcanada.com/KXL)), e-mail ([KXL@transcanada.com](mailto:KXL@transcanada.com)), toll-free telephone numbers for general inquiries (1-866-717-7473) and for landowner issues (1-877-860-4881), one-on-one discussions between landowners and land agents, and direct mailings. Public participation and consultation activities will continue throughout the life of the Project. Additionally, stakeholders are advised how to access Project information and to provide feedback by other means.

### Assessment in Montana (Circular MFSA-2, Section 3.7 (6))

The open house meetings held along the proposed route in Montana were well received. A summary of issues and comments from open houses in Montana is provided below under six main topic areas.

- Economic impact: Many of the rural communities along the proposed route are seeking jobs and potential economic activity. Participants had a positive view of the Project's potential to create local jobs and generate opportunities for local businesses to provide goods and services.
- Tax revenue: The possibility of significant tax revenue was attractive to local and state governments.
- ~~Route location and selection: Stakeholders raised a wide range of issues related to route location and the route refinement process.~~
- Route location and selection: Several issues related to route selection were discussed, including liability issues and cleanup responsibility, as well as compensation to affected landowners. Other concerns involved the route location and route refinement. Issues that were discussed included the following: how particular features on a tract of land would be avoided or handled (family cemeteries, center pivot systems, waterlines, trees forming wind breaks, etc.); construction through rough, rocky, and shifting and erodible terrain; potential effects on wells, shallow aquifers, and municipal projects; inadequate restoration efforts; and eminent domain for land owners who do not want the pipeline on their land.
- Safety and environment: Many attendees asked general questions related to pipeline safety, including environmental impact of leaks, and impact on water sources (existing water lines, aquifers, and irrigation systems), noxious weeds, protection of sandhills and wetlands, and the impact on soil productivity and tree cover.
- Easement agreements: Several issues related to easements were discussed, including liability issues and cleanup responsibility, as well as compensation to affected landowners.

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- **Construction:** There was interest in such issues as depth of cover, impact on roads, construction methods, and time of year when construction will occur.

In September and October, 2008, Keystone representatives met with and/or contacted the County Commissioners in Daniels, Roosevelt, and Sheridan counties, through which Routes A and A1A would pass. The concerns and support for the project by the Commissioners in these counties were very similar to those expressed in the open house meetings. Records of the meetings and discussions held with Daniels, Roosevelt, and Sheridan County Commissioners are provided in **Attachment F**. Overall, the County Commissioners were optimistic regarding the positive economic impact the proposed project would have on their counties. The Commissioners specifically cited the influx of workers with the associated sales tax revenue as well as the property taxes gained from taxation of the facilities. Concerns about environmental impacts were limited, as there would be no change in land use over the long term. None of the Commissioners expressed any major concerns regarding environmental impacts associated with the alternative routes.

In mid-November, 2008, in accordance with Montana Code Annotated 75-20-211 (4), Keystone published a public notice in the *Glendive Ranger Review*, *Glasgow Courier*, *Fallon County Times*, *Circle Banner*, *Billings Gazette*, *Miles City Star*, and the *Wolf Point Herald News*. The notice described the proposed project, provided a map showing the alternative routes in Montana, and provided a website and toll-free number to receive feedback and comments on the project. Copies of the public notices are provided in **Attachment F**.

### **5.3.2 Section 5.3.1(2)**

Although this has not been the case in Montana, pipeline projects can divide communities when there is a mix of strong support and strong opposition. This can lead to heated public debate. In the case of a crude oil pipeline, debate typically will revolve around the issue of water source contamination due to spillage, leakage, or even pollutants created during construction. Individual resentment can occur when members of the community feel that they were not compensated as strongly as their neighbors during easement negotiations or their property was, or was not, selected for pipeline location or additional facilities that would lead to compensation (lease or sale). This can be the case when the pipeline comes close but does not pass through a tract of land, but that landowner is inconvenienced by the construction process or has an aboveground facility in their line of sight. Currently there have been very few comments by landowners regarding the Keystone XL Project. The few comments that have been received have all been positive. The open houses conducted for the Keystone XL Project have shown very strong public support and very little opposition. The majority of the calls to the toll-free number have been in support of the Project and to express the desire for it in the given community. Therefore, the Project is not expected to cause issues within the community.