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Jan. 16, 2014

The Honorable Greg Abbott
Office of the Attorney General
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VIA Email: greg.abbott@texasattorneygeneral.gov

The Honorable David J. Porter
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The Honorable Barry T. Smitherman
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The Honorable Christi Craddick
Texas Railroad Commission
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Dear General Abbott, Commissioner Porter, Commissioner Craddick, and Chairman Smitherman;

As advocates for both property rights and public safety, we urge you to investigate and take action to enjoin operation of the Texas portion of the Keystone XL pipeline until:

- hundreds of code violations cited by the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) have been investigated and resolved;
- the entire southern leg has been retested using inline caliper methods; and
- accurate and complete safety information is provided to first responders along the pipeline route.

As citizens and landowners along the pipeline route, we also are concerned that a foreign company has come to our state, taken private property for corporate profit and is now planning to operate a pipeline that was found to have a substantial number of potential violations of federal safety regulations.

We ask that you, as the Attorney General of Texas, use the full arsenal of your constitutional, statutory and common law powers to protect our property rights and the health and safety of our families.

TransCanada has announced that Keystone XL's southern leg – stretching from Cushing, Oklahoma to Beaumont, Texas – will begin shipping oil on Jan. 22.

Yet there are significant unresolved legal issues regarding the appropriation of Texas citizens' property.

The state Supreme Court recently ordered TransCanada to respond to a petition for review in the case of Texas landowner Julia Trigg Crawford, who lives along the pipeline route. She has raised important constitutional questions about the right of foreign companies to use Texas's eminent domain process to take land for shipment of Canadian products through the state for export.

There are also important unresolved safety issues.

On Dec. 4, TransCanada told PHMSA that it would start filling the pipeline on Dec. 5, even though the agency had yet to retest the southern leg using hydrostatic and inline caliper methods. These are the technologies that found the hundreds of code violations cited by PHMSA in two warning letters to TransCanada.

In its Sept. 26 letter (*see attachment 3*), PHMSA said 205 out of 425 welds in a single spread of the southern leg needed repairs. In its Sept. 10 letter (*see attachment 2*), PHMSA said, "There were a total of 98 identified locations excavated in which TransCanada made coating repairs" and that rocks in backfill used around the pipeline may have caused dents found in pipe. (*See also CBS report - <http://www.youtube.com/watch?v=eq7AQjXQSyQ>*)

Despite our urging, PHMSA told us in a Jan. 9 meeting that it will not conduct inline caliper testing to guarantee the pipeline's safety. Instead, PHMSA said, it will rely on its partial review of the repairs and TransCanada's assurance that the problems have been fixed.

Further, TransCanada has not made it clear to first responders that the pipeline will carry tar sands crude, a substance diluted with highly toxic and hazardous chemicals. As a result, if and when the pipeline spills, first responders may not understand the extent of the danger to themselves and the communities around accidents, which was the case with first responders to the Mayflower, Arkansas and Kalamazoo, Michigan spills.

This is unacceptable.

We now need urgent action from you because:

- *there were 14 spills and leaks along the first phase of Keystone during its first 14 months in operation;*
- *the Enbridge pipeline spill of tar sands sent 1 million gallons of highly acidic, corrosive bitumen into the Kalamazoo River and cost at least \$850 million, more than any other onshore spill in U.S. history;*
- *tar sands crude is 10 times more sulfuric, 20 times more acidic, and 40 times thicker than conventional crude;*
- *tar sands crude, the dirtiest oil in existence, contains 30 toxins – including ammonia, benzene, cyanide, phenols, toluene, polycyclic aromatic hydrocarbons, arsenic, copper, sulphate, and chloride (see attachment 4);*

- *the hundreds of problems documented by PHMSA and other report are serious enough to lead to spills and leaks, and;*
- *the pipeline crosses 631 waterways in Texas and a leak could affect the water supplies of millions of people.*

Considering what is at stake, an investigation and injunction are the very least that citizens deserve.

Sincerely,



Tom "Smitty" Smith

Director, Public Citizen's Texas Office

Attachments (4)

Attachment 1 – Keystone Report November 2013

Attachment 2 – PHMSA Letter 9.10

Attachment 3 – PHMSA Letter 9.26

Attachment 4 – TarSands Toxic Chemicals

CC: Senator Ken Paxton, Jr. (Texas Senate District 8)
Senator Wendy Davis (Texas Senate District 10)
Representative Dan Branch (Texas House District 108)