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Photo Courtesy: Joe Sohm/Visions of America/Universal Images Group/Getty Images The Keystone Pipeline system has been the subject of controversy for years as environmentalists and others have fought to prevent construction and expansion of this oil-delivery network. On January 20, 2021, President Joe Biden issued numerous executive orders, including one that aimed to protect public health and the environment by restoring science to tackle the climate crisis. One of this order’s tenants revoked the March 2019 permit for the Keystone XL Pipeline, noting that the pipeline “deserves” the United States, especially in terms of the country’s renewed efforts to combat climate change. This executive order came in the wake of the United States Supreme Court’s 2020 ruling, which saw the justices siding with environmental groups and ruling that the Keystone XL Pipeline (KXL) — a rerouted addition to the existing system — would need to undergo a much lengthier and more detailed permitting process before the expansion could occur.

At that time, the ruling represented a victory for those who opposed the project. Now, even with hopes of future construction completely dashed, the KXL remains a hotly debated issue. In fact, its current state is almost as fraught as its history. The History of the Keystone XL PipelineTo understand KXL and the tumult surrounding it, it helps to go back to the beginning: the Keystone Pipeline. Running from the town of Hardisty in Alberta, Canada, through North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Missouri and Illinois, the original Keystone Pipeline opened in 2010 with the purpose of delivering Canadian crude oil into the United States where it would be refined, stored and distributed. The pipeline is exactly what it sounds like: a network of massive steel and plastic pipes — some of which are up to 4 feet in diameter — through which oil is transported. Various pump stations positioned along the pipeline help to push the oil through the network, which exists primarily underground. Photo Courtesy: Bloomberg/Contributor/Bloomberg/Getty Images Shipping oil this way is much more cost effective than transporting the resource via truck or train — sometimes just a third of the cost of overground methods — and this profitability is one of the primary reasons oil pipelines are appealing to oil and gas companies. Forbes notes that shipping oil via the Keystone pipeline versus by rail saves an estimated \$50 billion per year. The volume a pipeline can transport is another advantage for oil companies, with hundreds of thousands of (or sometimes over a million) barrels of oil moving through the network on a daily basis. Lastly, shipping oil in pipelines is much faster than moving it by boat, truck or rail. So, the incentives for oil companies and energy users to build and utilize pipelines are clear — but plenty of variables exist to make pipelines a less-than-appealing option, too. The Keystone and KXL developers have had to contend with these disadvantages and challenges since the project’s inception. TransCanada Energy Corporation, an energy-infrastructure developer, first proposed the idea for the Keystone Pipeline in 2005. In 2007, union members and activists set to work lobbying the Canadian government to block approval of the pipeline, citing concerns about the environment, lack of energy security and death of Canadian jobs the Keystone would create — it would primarily benefit the United States, transporting oil out of Canada and into the Midwest. Despite this backlash, Canada’s National Energy Board approved all construction of the Canadian section of the pipeline, and George W. Bush signed a Presidential Permit — which is necessary for a project like this to be built in the United States — that authorized construction and maintenance of the line starting at the U.S.-Canada border. Construction began, lasting two years after an initial two-year period spent procuring additional permits. Before the Keystone Pipeline was even operational, KXL was proposed. In the summer of 2008, while the Keystone’s construction was barely getting underway, TransCanada Energy filed a new application for KXL with the National Energy Board, and it was approved right around the same time in 2010 that the Keystone Pipeline became operational. Here’s where the proverbial waters start to get muddy. While a few separate extensions to the Keystone were approved and their construction wrapped up quickly in 2011, developers began getting ambitious with their plans. Their next move? To create a separate pipeline with a faster, more direct route from Hardisty, Alberta, to Steele City, the strategic point in Nebraska where the pipeline extensions to Illinois and refineries along the Gulf Coast begin branching off. This proposed new pipeline, KXL, would be bigger than the original Keystone, carrying about 200,000 more barrels of oil per day and passing through Montana instead of North Dakota. Canada’s National Energy Board approved the KXL in 2010. Its journey for approval in the United States is where much of its controversy begins.Who’s Opposing the Pipeline — and Why?Opposition to KXL started in a very likely place: with then-President Barack Obama and among various environmental and cultural groups. As mentioned, a Presidential Permit is necessary for construction of this nature to take place, and President Obama was unwilling to issue one for KXL due in part to recommendations from the Environmental Protection Agency (EPA). While reviewing project proposals and the scope of KXL, the EPA determined that the State Department’s prepared studies and assessments of the potential environmental impact of the new pipeline merited the lowest feasibility rating possible because of their insufficient information. Photo Courtesy: AFP/Contributor/AFP/Getty Images The environmental impact study should’ve included extensive details about greenhouse gas emissions, oil-spill response plans and other issues — but it didn’t. Because the project would cross an international border the State Department was required to prepare these reports, and the EPA’s refusal to recommend KXL to the White House meant the State Department would need to take months to create newer, more detailed reports that incorporated the requested information. President Obama cited additional reasons for opposing the project as well, stating that KXL would not lower the price of gas or create long-term jobs for the United States. The EPA’s initial conclusion about the insufficiency of the State Department’s reports was issued in the summer of 2010, just a few months after Canada’s National Energy Board approved KXL. Immediately, environmental groups and activists — such as the Sierra Club, National Resources Defense Council, National Wildlife Federation and Pipeline Safety Trust, a safety-focused charity that envisions a world with zero environment-compromising pipeline incidents — set out to protest the new pipeline. Framing “the decision as one that [would] define Obama’s legacy on climate change,” environmentalists argued that the project would increase U.S. dependence on fossil fuels and, in doing so, mean the country was tacitly accepting the environmental damage that could potentially occur as a result. But it’s important to understand the different forms that damage can take to fully see why environmental groups oppose the project to this day. Drilling for oil has a vast number of potentially harmful effects on the environment — like creating air and water pollution and destroying animal habitats — and so do the construction and operation of a pipeline. In the process of building a pipeline, fragile ecosystems may be destroyed to make way for the pipe — an issue that environmental groups like Friends of the Earth frequently cite as a reason to prevent construction of KXL. Nebraska’s Sandhills region is one such area. This ancient ecoregion is the largest sand dune formation in the United States and within it lies the Ogallala Aquifer, an underground water source that’s the largest in North America, providing drinking water to more than 2 million people. It’s also important to note that the oil coming out of the Alberta sites in Hardisty isn’t the same as conventional crude oil; it’s tar sands oil, which is much more toxic than conventional crude. Extraction of tar sands oil, barrel for barrel, emits up to three times more global warming pollution than crude oil, and tar sands pipelines have a spill rate that’s three times the national average for pipelines carrying conventional crude oil in the Midwest. This toxicity, combined with the higher potential for pollution and catastrophic spills that could destroy communities and ecoregions, is primarily why environmentalists justify opposition to KXL. It’s also why a variety of other groups, including area farmers and Native American tribes, continue to oppose the new pipeline to this day. Landowners, but particularly farmers, stand to lose their livelihoods if a spill occurs, and many would be subject to eminent domain, forced to sell their properties to the government to make way for KXL’s construction or allow disruptive easements through their land. Native American tribes have similar concerns over the fact that the new pipeline would disturb culturally important areas and present a number of other issues. The Rosebud Sioux Tribe and the Fort Belknap Indian Community, of South Dakota and Montana, respectively, are especially concerned about the ways KXL could negatively impact their areas’ unique water systems, infringe on their fishing and hunting rights and violate treaties. The U.S. government initially had until the end of 2011 to decide whether or not to allow the pipeline. Thousands of people gathered at the White House toward the end of that year to protest KXL in large demonstrations, including making a human chain around the property. In January of 2012, President Obama rejected the application to build KXL — but the battle was far from over.Legal Battles Over the Pipeline IgniteBefore he left office, President Obama officially ordered all work relating to KXL to stop after vetoing several bills that would’ve allowed pipeline construction to move forward, noting that the project “would undercut U.S. leadership on reducing carbon emissions.” This cancellation lasted throughout the remainder of his presidency, following the State Department’s official rejection of the new pipeline. KXL was a non-starter, and it appeared this would stay the status quo — until Donald Trump was elected. Photo Courtesy: SAUL LOEB/Staff/AFP/Getty Images Less than a week after taking office in 2017, Trump signed an executive order allowing the permitting and eventual construction of KXL and the Dakota Access Pipeline, another famously contested project, to resume. In a presidential memorandum, he also invited TransCanada to resubmit an application for KXL. Just two months later in March of 2017, a permit for the project was issued. In response, a variety of groups rose up, springing into action to file lawsuits against Trump’s decision. Legal challenges to KXL’s construction have been ongoing in the years since the project was approved and represent opposition from a diverse array of objectors. Who? Rosebud Sioux Tribe, the Fort Belknap Indian Community and the Native American Rights Fund (NARF) vs. the Trump Administration When? Initially filed in September 2018 in the U.S. District Court of Montana; ongoing Why? In an official statement, the NARF outlined the reasons for the suit: “There was no analysis of trust obligations, no analysis of treaty rights, no analysis of the potential impact on hunting and fishing rights, no analysis of potential impacts on the Rosebud Sioux Tribe’s unique water system, no analysis of the potential impact of spills on tribal citizens, and no analysis of the potential impact on cultural sites in the path of the pipeline, which is in violation of the National Environmental Policy Act, and the National Historic Preservation Act.” Prior to Trump’s and the State Department’s greenlighting of the project, no new analysis was performed in regards to how the pipeline would impact reservation lands, including sacred, ancestral and historic sites. The plaintiffs also assert that the decision violates tribal sovereignty and ignores treaties, federal laws and tribal laws. Who? Northern Plains Resource Council, Sierra Club, Center for Biological Diversity, Bold Alliance, Friends of the Earth and Natural Resources Defense Council vs. Army Corps of Engineers When? Initially filed in summer of 2019 in the U.S. District Court of Montana; ongoing Why? The environmental groups in this case argue that the Army Corps of Engineers’ approval of TransCanada’s proposal was illegal because it failed to examine the project’s potential for spills and other types of environmental damage. According to the Sierra Club, “The groups maintain that this approval violates the National Environmental Policy Act, Endangered Species Act, and Clean Water Act, and urged the court to require the Corps to conduct additional environmental review of the effects of pipelines like Keystone XL on local waterways, lands, wildlife, communities and the climate.” These groups are asserting that the State Department and Trump administration are violating numerous federal laws in attempting to push the KXL permitting process through quickly and without adequate research on the potential impacts of construction.Rulings and Red Tape: The Supreme Court’s 2020 DecisionVarious rulings have taken place following litigation against KXL. For example, in November of 2018, U.S. District Court Judge Brian Morris found that numerous environmental reviews were insufficient and outdated and that they violated the National Environmental Policy Act, the Endangered Species Act and the Administrative Procedure Act. The judge ordered the U.S. government to perform an updated environmental review and blocked construction of KXL in the interim. Photo Courtesy: JEWEL SAMAD/Staff/AFP/Getty Images This followed Judge Morris’ July 2018 ruling that the State Department needed to conduct a full environmental review of KXL in Nebraska — a result of a separate lawsuit filed on behalf of the Northern Plains Resource Council, Bold Alliance, Center for Biological Diversity, Friends of the Earth, Natural Resources Defense Council and Sierra Club. Even in April of 2020, Judge Morris nullified water-crossing permits that had been issued for KXL in Montana, citing a potential violation of the Endangered Species Act. Similar rulings have resulted from a number of lawsuits filed against the U.S. government, many of which argue about what plaintiffs believe were rushed, insufficiently researched decisions on the part of the Trump administration and the State Department. One of the latest rulings in this spate of lawsuits canceled the Nationwide Permit 12, which provided blanket authorization to and fast-tracked work on a number of pipelines that cross bodies of water. In May of this year, a federal judge ruled that these new pipelines needed to be subject to much lengthier and more comprehensive environmental review processes than what was initially planned in order to receive permits. Just a few months later on July 6, 2020, the Supreme Court ruled that many of the other pipelines involved in the May ruling would be allowed to proceed — but KXL would not. Why? It still required a more rigorous environmental review. Environmental groups viewed this as a temporary victory for the at-risk communities and animal species that live along the proposed pipeline route. Moreover, it sent a strong message to developers hoping to disregard environmental concerns.Dismantling KXL: President Biden’s Executive OrderAs mentioned above, President Biden signed an executive order that revoked the KXL pipeline permit granted by the Trump Administration. In fact, Biden’s Inauguration Day executive order will seemingly end the \$8 billion project altogether. “Killing 10,000 jobs and taking \$2.2 billion in payroll out of workers’ pockets is not what Americans need or want right now,” said Andy Black, president and CEO of the Association of Oil PipeLines (via NPR). Photo Courtesy: Doug Mills/The New York Times/Bloomberg/Getty Images However, a January 20 statement from TC Energy indicated that President Biden’s order “would directly lead to the layoff of thousands of union workers.” So, where’s that higher number coming from? According to a fact check by the Austin American-Statesman, “10,400 estimated positions would be needed for seasonal construction work lasting four to eight-month periods.” Temporary jobs are still jobs, but it seems the Biden Administration has a plan to offset this loss. “At home, we will combat the [climate] crisis with an ambitious plan to build back better, designed to both reduce harmful emissions and create good clean-energy jobs,” the executive order states. “The United States must be in a position to exercise vigorous climate leadership in order to achieve a significant increase in global climate action and put the world on a sustainable climate pathway. Leaving the Keystone XL pipeline permit in place would not be consistent with [Biden’s] Administration’s economic and climate imperatives.” In the wake of the executive order, environmental groups have praised President Biden’s decision — as well as his dedication to rejoining the Paris climate agreement. Needless to say, the withdrawal of the KXL permit illustrates President Biden’s firm and immediate commitment to regulating the oil industry; investing in clean energy; and taking on the climate crisis. MORE FROM REFERENCE.COM

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