

**STATEMENT OF  
CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS**

**IN SUPPORT OF JACKSON LEE AMENDMENTS  
TO H.R. 3  
“NORTHERN ROUTE APPROVAL ACT”**

**BEFORE THE COMMITTEE ON RULES**

May 21, 2011



Mr. Chairman and Members of the Committee:

Thank you for allowing to me to speak in support of the **JACKSON LEE AMENDMENTS** to H.R. 3, the Northern Route Approval Act, commonly referred to as the “Keystone Pipeline Approval bill. Three of the amendments are offered by me individually.

My fourth amendment is offered jointly with Congressman Rush of Illinois and strikes Section 4 of the bill. I urge the Committee to make this amendment in order for the reasons discussed by Congressman Rush.

**JACKSON LEE AMENDMENT #1** is simple, straightforward, and necessary. This amendment simply extends the time period for filing claims arising under the Act from 60 days to 1 year. This is fair and more consistent with common practice. It is rare for a limitations period to be less than one year, and just allowing two months is so rare that I can’t recall another instance where this has been done.

Also, the bill in its current form requires the action to be brought in the U.S. Court of Appeals for the D.C. Circuit, which is far removed from the site of the Keystone Pipeline and the remote forum, coupled with the short filing period makes it doubly difficult for parties to present their claims.

**JACKSON LEE AMENDMENT #3** requires that within 90 days of enactment, the Secretary of Transportation is to submit a report to Congress identifying the procedures and policies adopted to ensure that women and minority business enterprises are afforded the

opportunity to participate on an equitable basis in the construction and operation of the Keystone Pipeline. The purpose of this amendment is to provide Congress with information so that it can conduct appropriate oversight.

**JACKSON LEE AMENDMENT #2** Amendment adds a non-severability clause to the bill so that if any provision or application of the legislation is held to be invalid, the entire act shall be rendered void.

My amendment simply makes explicit what is implicit in the structure of the legislation, which is that the component parts of the bill all fit together, in *pari materia*, so to speak, such that removing any one part would defeat the intended purpose of the bill.

Section 3 of the bill deems that any decision otherwise required to be made by the President has been made in favor of granting the Keystone construction permit.

Section 4 limits the appeal of decisions and conclusions deemed made under Section 3 to the D.C. Circuit Court of Appeals.

Section 5 deems environmental reviews performed for the Keystone Pipeline project satisfy the requirements of the Endangered Species Act and declares that the Keystone project will not endanger the American Burying Beetle.

Section 6 deems the Secretary of the Interior to have granted or issued right-of-way and temporary use permits for the Keystone Pipeline project.

And Section 7 directs the Secretary of the Army, not later than 90 days after receipt of an application, to issue all permits necessary for the construction, operation, and maintenance of the Keystone Pipeline project.

Each of these provisions would be rendered meaningless if any of the remaining parts is invalidated.

My amendment simply makes clear the Congressional intent that this bill is so carefully and delicately crafted, that it is “all or nothing.”



This has been a long standard principle of statutory construction, going back at least to 1936, when the Supreme Court stated in *Carter v. Carter Coal Co.*, 298 U.S. 238, 312 (1936):

“the presumption is that the Legislature intends an act to be effective as an entirety — that is to say, the rule is against the mutilation of a statute; and if any provision be unconstitutional, the presumption is that the remaining provisions fall with it.

This presumption becomes conclusive when Congress makes its intention clear, see *Carter v. Carter Coal Co.*, 298 U.S. at 312, by including a non-severability clause in the statute.

My amendment does just that.

I urge the Committee to make the Jackson Lee Amendments in order.  
Thank you.