



**Dave Heineman**  
Governor

## STATE OF NEBRASKA

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Assistant Secretary Dr. Kerri-Ann Jones  
U.S. Department of State  
2201 C Street, NW  
Washington, D.C. 20520

Dear Assistant Secretary Jones:

Thank you for taking time to visit with me when you were in Nebraska. I really appreciated the time.

You indicated that you wanted to continue the dialogue regarding the legal issues that I raised. I would like to reiterate some of those issues and I look forward to your response.

You confirmed at our meeting that individual states could enact laws establishing primary siting authority of oil pipelines, and that the federal government does not possess any siting authority for oil pipelines. If prior to your agency's action on the pending permit application, the State of Nebraska enacts siting legislation that results in the disapproval of the current proposed route through the Nebraska sandhills and over the Ogallala Aquifer but your Administration approves the permit with the route over the Ogallala Aquifer, then would the State of Nebraska's decision require a rerouting of the Nebraska portion of the pipeline based on its primary siting authority?

As we discussed, in our meeting, the article in the Lincoln Journal Star implied that the State Department only has the authority to approve or deny a pipeline company's permit and not the pipeline's route, which is not totally accurate. I believe that federal approval, if granted, would include a specific route. Pursuant to Executive Order 13337, "...if the Secretary of State finds that the issuance of a permit to the applicant would serve the national interest, the Secretary shall prepare a permit, in such form and with such terms and conditions as the national interest may in the Secretary's judgment require..."

Rerouting the pipeline around the Ogallala Aquifer is in the national interest; therefore, I request that Secretary Clinton use her permitting authority to change the route of the proposed Keystone XL pipeline.

Finally, I want to emphasize, as I did in my August 31, 2011, letter to President Obama and Secretary Clinton, that I am opposed to the proposed route of the pipeline, not the pipeline itself. Again, thank you for meeting with me and I look forward to your response.

Sincerely,

Dave Heineman  
Governor