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United States Senate

November 1, 2019

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Mr. Russell K. Girling
President & CEO
TC Energy
1250 I Street NW, Suite 255
Washington, DC, 20005

Dear Mr. Girling,

I write regarding the recent spill of approximately 383,000 gallons of crude oil from the Keystone pipeline system near Edinburg, North Dakota. This most recent disaster follows spills from this same pipeline in 2011, 2016, and 2017. The repeated oil spills from this pipeline are extremely concerning. They raise questions about the adequacy of TC Energy's responses to the earlier leaks and whether this pipeline should continue to operate.

This most recent pipeline spill, which affected a half-acre of North Dakota wetland, is the latest in a spate of spills from this specific pipeline that have impacted the Dakotas. Since the Keystone pipeline system commenced operation in 2010, three other significant spills have occurred:

- In 2011, a spill of around 16,000 gallons in North Dakota caused more than \$1 million in property damage.¹
- In 2016, another leak released nearly 17,000 gallons in South Dakota.² The Keystone pipeline's spill detection system failed to report the 2016 leak, which a passerby discovered. TC Energy (then TransCanada Corp) initially reported to federal authorities a leak of only 187 gallons.³
- In 2017, a major spill spewed more than 400,000 gallons of crude oil over grasslands in South Dakota — a spill thought to have been caused by damage incurred during the pipeline's construction over a decade earlier. In a repeat of the experience with the 2016 spill, TransCanada initially massively underreported the

¹ <https://puc.sd.gov/commission/dockets/HydrocarbonPipeline/2014/HP14-001/draexhibits/172.pdf>

² Alan Neuhauser, Keystone Leak Worse Than Thought, U.S. News & World Report (Apr. 8, 2016), <https://www.usnews.com/news/articles/2016-04-08/keystone-pipeline-leak-worse-than-thought>.

³ *Id.*

spill's size, estimating it at only 210,000 gallons when it in fact was nearly twice as large.⁴

The frequency and severity of these spills have greatly exceeded the spill risk assessment estimates provided in TC Energy's operating permits.⁵ These spills threaten public health through the release of airborne volatile compounds and the contamination of water resources,⁶ and they threaten grassland and wetland ecosystems critical for endangered species and migratory birds.

These recurring pipeline incidents call into question whether TC Energy should continue to operate this pipeline if it cannot do so safely. They further call into question President Trump's March 2019 decision to promote the pipeline's expansion by granting permission for the construction of Keystone XL.⁷ That decision flies in the face of the climate crisis and — as is becoming increasingly clear — public safety and acceptable operating practices.

TC Energy is transporting some of the dirtiest oil on the planet through this pipeline. This pipeline threatens aquifers and vulnerable species and contravenes the rights of indigenous people. TC Energy also appears to be acting negligently in allowing these repeated spills to occur, and in failing to prevent further oil spills.

Therefore, by November 5, 2019, we request answers to the following questions:

1. TC Energy has previously underestimated the volume of major spills.
 - a. Is the reported 383,000 gallons an accurate assessment of the oil spilled in the most recent leak?
 - b. What methodology is TC Energy using to calculate the rate and volume of oil spilled?
 - c. Has TC Energy made changes to its methodology that underestimated leak volumes in 2016 and 2017? If so, how? If not, why not?
2. The National Transportation Safety Board (NTSB) determined that the probable cause of the 2017 Keystone Pipeline rupture was due to “a fatigue crack, likely originating from mechanical damage to the pipe exterior by a metal-tracked vehicle during pipeline

⁴ Niraj Chokshi, *Keystone Pipeline Leaks 383,000 Gallons of Oil in North Dakota*, N.Y. Times (Oct. 31, 2019), <https://www.nytimes.com/2019/10/31/us/keystone-pipeline-leak.html>; National Transportation Safety Board, Pipeline Accident Brief, TransCanada Corporation Pipeline (Keystone Pipeline) Rupture, Amherst, South Dakota, NTSB/PAB-18/01, <https://www.nts.gov/investigations/AccidentReports/Reports/PAB1801.pdf>; Brigit Katz, *Keystone Pipeline leak was twice as big as previously thought*, Smithsonian Magazine (April 9, 2018), <https://www.smithsonianmag.com/smart-news/keystone-pipeline-leak-was-twice-big-previously-thought-180968722/>.

⁵ Valerie Volcovici and Richard Valdmanis, *Keystone's existing pipeline spills far more than predicted to regulators*, Reuters (Nov. 27, 2017), <https://www.reuters.com/article/us-usa-pipeline-keystone-spills/kestones-existing-pipeline-spills-far-more-than-predicted-to-regulators-idUSKBN1DR1CS>.

⁶ NRDC Issue Brief, *Tar Sands Crude Oil: Health Effects of a Dirty and Destructive Fuel*, IB:14-02-b (Feb. 2014), <https://www.nrdc.org/sites/default/files/tar-sands-health-effects-IB.pdf>.

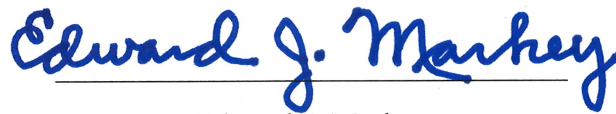
⁷ Presidential Permit (issued Mar. 29, 2019), <https://www.whitehouse.gov/presidential-actions/presidential-permit/>.

installation.”⁸ That crack grew during the pipeline’s use, and then ruptured in November 2017.

- a. What measures did TC Energy take following the NTSB investigation to ensure that this sort of fatigue crack would not happen again on the pipeline?
 - b. How often does TC Energy inspect the Keystone pipeline for cracks and leaks, and what technology does it use to do so?
3. What was the probable cause of this week’s oil leak near Edinburg, ND?
 4. Please provide unredacted copies of any and all updated operations and maintenance guidance that TC Energy has issued in response to the 2010, 2016, and 2017 leaks, and this latest leak, as well as unredacted copies of TC Energy’s pipeline spill response plan for the Keystone pipeline.

Should you have any questions about his request, please contact Julia Mason or Claire Richer on my staff at (202) 224-2742. Thank you for your attention to this matter.

Sincerely,



Edward J. Markey

United States Senator

⁸ National Transportation Safety Board, Pipeline Accident Brief, TransCanada Corporation Pipeline (Keystone Pipeline) Rupture, Amherst, South Dakota, NTSB/PAB-18/01, <https://www.nts.gov/investigations/AccidentReports/Reports/PAB1801.pdf>.