

CONFIDENTIAL

MEMORANDUM FOR THE PRIME MINISTER

cc: The Honourable Chrystia Freeland, The Honourable Dominic LeBlanc  
cc: Ian Shugart

CALL WITH PREMIER KENNEY ON KEYSTONE XL

(Information Only)

**SUMMARY**

- On your most recent call with First Ministers, Premier Kenney said that he would welcome an opportunity to speak to you about the Keystone XL (KXL) project in advance of the U.S. elections; his officials subsequently followed up requesting a call this week.
- You may want to use a call with Premier Kenney to underscore:



- You should also be aware that Alberta recently announced that oil production curtailment will soon end; as well, Calgary-based Cenovus announced on Sunday that it is acquiring Husky Energy to become Canada's third-largest oil and gas producer.
- Suggested key messages are attached (**Tab A**).

## Background

- KXL will be a 1,947-kilometre pipeline capable of delivering 830,000 barrels per day of crude oil from Hardisty, Alberta, to Steele City, Nebraska, where it will connect with existing facilities to reach U.S. Gulf Coast refiners to meet critical needs for transportation fuel and manufactured products. With pre-construction activities underway, the pipeline is expected to enter service in 2023.
- The Canadian portion of the project was approved in 2010, subject to 22 conditions. Since then, the project suffered over a decade of legal and regulatory delays in the U.S.
- Construction on the project in Canada re-started in July, with 269 kilometres of pipeline to be constructed and commissioned in Alberta over the next three years.
- As part of its 'new vision for KXL', TC Energy is committing to operate the KXL pipeline with net-zero emissions when placed in-service in 2023. In addition, it will invest in enough renewable energy to match the pipeline's power consumption by 2030 and create a \$10 million clean energy training fund.
- TC Energy also recently announced that it has signed an agreement with Natural Law Energy to pursue an equity interest in the project and other potential related midstream and power projects. A final agreement with Natural Law Energy, which represents several First Nations in Alberta and Saskatchewan, will be concluded by the end of the year.
- TC Energy estimates that construction of KXL will create 13,000 high-quality jobs and local contracting opportunities for welders, surveyors, engineers, environmental specialists, and more for communities and Indigenous groups, including approximately 2,800 jobs in Canada. Overall, the proponent estimates that construction will support nearly 60,000 direct, indirect, and induced employment opportunities (42,000 in the U.S. and 17,000 in Canada).

### *Alberta support for the project*

- Through a March 2020 agreement, Alberta will provide US\$1.1 billion in equity investment and a US\$4.2 billion credit facility to support the project. TC Energy will invest a further US\$2.7 billion to finance the project. TC Energy will reimburse Alberta 12 months after oil is flowing through the pipeline.



- This agreement was the culmination of six months of negotiations. Alberta is backstopping the project to enable TC Energy to begin immediate construction of the Alberta portion of the pipeline to ensure the earliest possible date of completion.

*U.S. legal action*

- All three states along the pipeline's route (Montana, South Dakota, and Nebraska) have issued approvals for the project. The project also requires, and has, a presidential permit because it crosses an international border.
- In the U.S., limited construction activities are ongoing, but legal action has delayed much of the project's construction. An April 15 ruling by a U.S. Federal Court in Montana invalidated federal water crossing permits for the project. This means construction on many segments of the U.S. portion of the project have been halted until at least 2021.
- Democratic presidential candidate Joe Biden has vowed to rescind the presidential permit for the project if elected. He said "I have been against Keystone since the beginning. It is tar sands that we don't need that in fact is a very, very high pollutant." As the project's presidential permit was issued via executive action, it could be rescinded fairly quickly and easily.

*Canadian advocacy efforts*

- In recent years, environmental, tribal, and landowner opposition to and litigation of pipeline projects in the U.S. have increased and gained profile. While this has affected numerous pipeline projects, KXL remains a focal point, and it has become politicized.
- If a Biden administration were to issue a "first 100 days" executive action related to the climate and clean energy objectives outlined in the campaign, it is possible that rescinding KXL's presidential permit could be included.

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s.15(1)

s.21(1)(b)

*Alberta advocacy*

- In April, Premier Kenney appointed former Conservative MP James Rajotte to lead Alberta's office in Washington, D.C. Alberta has had a presence in Washington since 2004, co-located within the Canadian Embassy, and staff are in regular close contact with Ambassador Hillman and embassy officials.

**Other issues Premier Kenney may raise**

*Covid*

- On October 26, 2020 Alberta reported 364 new cases on October 23, 572 on October 24, and 504 on October 25. There are currently 4,477 active cases in Alberta, with 118 people in hospital, including 16 in intensive care.
- Public health measures have been augmented: Targeted temporary measures to reduce Covid transmission have been put in place to limit the risks of cases growing exponentially in Edmonton in Calgary, notably a mandatory 15-person limit on all social gatherings in Edmonton and Calgary, which will be reassessed in one month. Voluntary public health measures remain in place for the Edmonton Zone and are also recommended for anyone living in or visiting Calgary. These include wearing non-medical masks in all indoor work settings and limiting individuals to no more than three cohorts (a core/household cohort, a school cohort, and one additional sport, social, or other cohort).



- Further restrictions possible: Premier Kenney said last week that he would not exclude the possibility of further restrictions if the Covid case load begins to jeopardize the health care system, saying that when it comes to such restrictions, “they will be limited, discreet, targeted, and focused based on data, not indiscriminate policies that shut down and impair an entire segments of our economy.”
- Joint pilot program for international travellers: On October 22, 2020 the governments of Canada and Alberta announced a joint pilot program that will test an alternative to the current 14-day quarantine requirement for international travellers. Starting November 2, the Coutts land border crossing and the Calgary International Airport will offer Covid testing to returning international travellers before they proceed into the required quarantine. If the test is negative, travellers will be allowed to leave quarantine as long as they get a second test six or seven days after arrival at a participating community pharmacy. Participants will be closely monitored daily for symptoms and must follow enhanced preventive health measures, such as wearing masks in public places and avoiding visiting high-risk groups.



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*Oil production curtailment to end*

- Alberta Energy Minister Sonya Savage announced on October 23 that Alberta will stop setting monthly oil production limits. While it will extend its regulatory authority to curtail oil production through December 2021, it will not set production limits, citing 16 per cent of Alberta’s crude oil production remaining offline, down from 22 per cent at the start of the pandemic.
- Since January 2019, production limits have aligned production with export capacity, protecting the value of the province’s oil by helping prevent Canadian crude from selling at large discounts. The limits were intended as a short-term measure, but ongoing delays to pipeline projects have led the monthly production limits continuing through November 2020.

- These delays have meant that Alberta's oil production capabilities still exceed its takeaway capacity, but due to the pandemic and the drop in international prices, Alberta oil companies have been producing well below the established production limits for several months.
- The completion of pipelines – KXL, the Trans Mountain Expansion, and Enbridge Line 3 – will enhance the province's permanent ability to balance production and takeaway capacity. Current Alberta forecasts show that inventories are expected to remain low, with sufficient export capacity to allow the system to operate efficiently on its own well into 2021. Should forecasts show storage inventories approaching maximum capacity, the provincial government could reinstitute production limits with 30 to 60 days of advance notice.

#### *Cenovus Energy acquires Husky Energy*

- On October 25, Cenovus Energy announced that it is acquiring Husky Energy in a deal worth \$3.8 billion. The merger transforms Cenovus from a company focused on North American oil sands, natural gas, and refining, to an international producer with offshore operations on the east coast and in the South China Sea as well as a retail gasoline network in western Canada. The combined entity will become the third-largest Canadian oil and natural gas producer, with about 750,000 barrels of oil equivalent per day. The combined company will be fourth-largest by market cap with \$9.2 billion, behind Canadian Natural Resources, Suncor, and Imperial Oil.
- The CBC has reported that the merger will result in a trimming of the combined workforce of the two companies (about 8,600 employees and contractors) by 20 to 25 per cent, with the majority of the job cuts expected to take place in Calgary, where both firms are headquartered.

Christyne Tremblay  
Deputy Clerk of the  
Privy Council, Associate  
Secretary to the Cabinet and  
Deputy Minister of  
Intergovernmental Affairs

Attachment  
Fitzpatrick/Ferguson/Baird/tm





**CALL WITH PREMIER KENNEY**

*Keystone XL*

- The Government of Canada has been planning extensively for all potential outcomes from the U.S. elections, including a specific engagement strategy on Keystone XL.
- Keystone XL is a top priority for Canada's engagement with the U.S. given its importance to Canada's economic recovery. We would note the importance of the project to continental energy security as well as the new Keystone XL environmental and Indigenous vision.
- We need to work together as governments to showcase Canada's strong climate plan, progress made by Canadian oil sands companies to embrace innovation and reduce emissions, and TC Energy's recent commitments.



*COVID*

- Was very pleased to see the joint announcement last week on the quarantine pilot program. Thank you for Alberta's leadership – we will be very interested to see the results of this pilot project, [redacted]
- Like you, are concerned about the recent rise of cases in Alberta and elsewhere in western Canada. We are ready to provide further assistance if required – such as help with contact tracing, testing, and outbreak management.



*Oil industry support*

- Recognize this remains a difficult time for the oil sector, and hope we can continue to work closely together to support the industry.
- Was particularly pleased that an agreement was signed in September which will provide Alberta \$1 billion to support your work to clean up inactive oil and gas wells, and to support the Alberta Orphan Wells Association (the federal funding is expected to flow in December once supplementary estimates are approved).
- Also announced \$750 million to reduce emissions in the oil and gas sector, extension to wage subsidy program, and additional liquidity support through the Corporate Bond Purchase Program and the Business Credit Availability Program.
- Future of sector will depend on continued commitment to innovation and clean technology, supporting Canada in achieving net-zero commitments and becoming cleanest global producer of oil and natural gas.

s.14

s.15(1)

s.21(1)(a)

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### Transmittal Note / Bordereau de transmission

<b>To / Pour :</b> Christyne Tremblay	<b>Date :</b> Feb 1, 2021
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**Subject / Objet:**  
**REPLY TO PREMIER JASON KENNEY ON KEYSTONE XL**

From / De :	
Name / Nom	Office / Bureau
+ Eric Ferguson	BLR
-	

Via:	
Name / Nom	Office / Bureau
+ Louise Baird	IGA
-	
+ Jay Khosla	IGA
-	

Approved By / Approuvé par :	
Name / Nom	Office / Bureau
+	
-	

Drafting Officer / Rédacteur : Ron Fitzpatrick  
 Admin typist : Tanya McKinnon

**Action Requested / Mesure de suivi :**

Your Signature / Votre signature    
  Your Comments / Vos commentaires    
  Your Meeting / Votre réunion  
 Your Decision / Votre décision    
  Your Information / À titre d'information

**For the attention of / A l'attention du:**

Prime Minister / Premier Ministre    
  Clerk / Greffier    
  Minister / Ministre

**Remarks / Observations :**

**Reference Numbers / Numéros de référence :**

**WEBCIMS # 10220500E**    
 GCDocs Transmittal Note / Bordereau de transmission  
 GCDocs Briefing Note / Note de breffage  
 GCDocs Other Numbers / Autres numéros

**In consultation with / En consultation avec :**

<input type="checkbox"/> SD / PDS	<input checked="" type="checkbox"/> ERDP / PDER	<input type="checkbox"/> P&P / PP	<input type="checkbox"/> LSMP / SLPM	<input type="checkbox"/> COMMS / COMMS
<input type="checkbox"/> IGA / AI	<input type="checkbox"/> MOG / AG	<input type="checkbox"/> Leg. Couns. / CJ	<input type="checkbox"/> Parl Affairs / LPP	<input checked="" type="checkbox"/> F & DP / PED
<input type="checkbox"/> S&I / SR	<input type="checkbox"/> IAS / LDR	<input type="checkbox"/> SPS / PS	<input type="checkbox"/> PSR / RFP	<input type="checkbox"/> RDU / RL
<input type="checkbox"/> NSIA / CSNRA	<input type="checkbox"/> Corp / SM	<input type="checkbox"/> COVID COMMS		
<input type="checkbox"/> Other / Autre :				

**Distribution after signature / Distribution après signature :**

<input type="checkbox"/> David Morrison	<input type="checkbox"/> Ken MacKillop	<input type="checkbox"/> Thao Pham	<input type="checkbox"/> Janine Sherman
<input type="checkbox"/> Vincent Rigby	<input type="checkbox"/> Isabelle Mondou	<input type="checkbox"/> Matthew Shea	<input type="checkbox"/> Christyne Tremblay
<input type="checkbox"/> Philip Jennings	<input type="checkbox"/> Jodie van Dieen	<input type="checkbox"/> Ian McCowan	
<input type="checkbox"/> Other / Autre :			





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Privy Council Office

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Deputy Clerk of the Privy Council,  
Associate Secretary to the  
Cabinet, and Deputy Minister of  
Intergovernmental Affairs

Sous-greffière du Conseil privé,  
secrétaire associée du Cabinet,  
et sous-ministre des Affaires  
intergouvernementales

CONFIDENTIAL

MEMORANDUM FOR THE PRIME MINISTER

cc: The Honourable Dominic LeBlanc

cc: Ian Shugart

REPLY TO PREMIER JASON KENNEY ON KEYSTONE XL

(Signature Required)

**SUMMARY**

- Alberta Premier Jason Kenney wrote to you on January 21, 2021 to express disappointment over the cancellation of the presidential permit for the Keystone XL pipeline project (**Tab C**).
- In the proposed reply (**Tab A**), you indicate that you share his government's deep disappointment with the new U.S. Administration's decision. You note that we are seeking co-operative engagement with the new U.S. administration on a number of fronts, including the interlinked issues of fighting climate change and promoting the Canadian energy sector, and that we hope to continue working closely Alberta as we advance Canada's interests in the U.S.
- Transmittal letters to Deputy Prime Minister and Minister of Finance Chrystia Freeland, Ministers Dominic LeBlanc, Marc Garneau, Seamus O'Regan, and Special Representative for the Prairies Jim Carr are also attached for your signature (**Tab B**).

Background

- On January 20, 2021, President Biden rescinded the presidential permit to construct, operate, and maintain the Keystone XL pipeline, stating that it "disserves the U.S., national interest" and that leaving the permit in place "would not be consistent with my Administration's economic and climate imperatives."
- Alberta had agreed last March to provide US\$1.1 billion in equity investment and a US\$4.2 billion credit facility to support the project. TC Energy was to reimburse Alberta 12 months after oil flows through the pipeline.

- Premier Jason Kenney, with whom you spoke in advance of the decision, reacted very negatively to the announcement along the lines articulated in his subsequent letter to you. He has advocated economic sanctions against the U.S., and has called upon the Government of Canada to press the U.S. administration to compensate TC Energy and Alberta for costs incurred in the construction of the project, which he contends is a violation of the investor-protection provisions of the North American Free Trade Agreement.

Approved electronically by:

Christyne Tremblay  
Deputy Clerk of the  
Privy Council, Associate  
Secretary to the Cabinet and  
Deputy Minister of  
Intergovernmental Affairs

Attachments  
Fitzpatrick/Ferguson/Khosla/Baird/tm

February 1, 2021



**REBELLION NEWS**

**Tab A**

Dear Premier:

Thank you for your letter of January 21, 2021 regarding the cancellation of the Keystone XL pipeline project.

We share your deep disappointment with the decision of the new U.S. administration to rescind the permit for the project, despite our best collective efforts to convince the administration of its advantages to both the U.S. and Canada.

We remain committed to continuing to work closely with Alberta and other provinces to create new opportunities for our important oil and gas sector, and will continue to support the sector's workers during the current challenging economic circumstances. Our commitment to this important economic sector for Canada is clearly demonstrated through our ongoing support for the Trans Mountain Expansion Project and our investments in clean technology and innovation to produce cleaner energy for global markets.

Canadians' interests will be best served by co-operative engagement with the new U.S. administration on a number of fronts, including the interlinked issues of fighting climate change and promoting the Canadian energy sector. We have an opportunity going forward to showcase how our commitment to tackle climate change goes hand in hand with advancing good projects that contribute to our

The Honourable Jason Kenney  
Premier of Alberta  
Room 307, Legislature Building  
10800, 97 Avenue  
Edmonton, Alberta  
T5K 2B6



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economy and raise the bar when it comes to sustainability and innovation. It will be equally important to continue our strong advocacy to support the Line 3 and Line 5 pipelines. We hope to continue working closely with you and your government as we advance Canada's interests in the U.S.

I am forwarding, for their information, a copy of our exchange of correspondence to Chrystia Freeland, Deputy Prime Minister and Minister of Finance; Dominic LeBlanc, President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs; Marc Garneau, Minister of Foreign Affairs; Seamus O'Regan, Minister of Natural Resources; and Jim Carr, Special Representative for the Prairies.

Sincerely,

**REBELLION NEWS**

**Tab B**



Dear Colleague:

I am forwarding, for your information, a copy of my recent exchange of correspondence with the Honourable Jason Kenney, Premier of Alberta, regarding the Keystone XL pipeline.

Sincerely,

The Honourable Chrystia Freeland  
Deputy Prime Minister and Minister of Finance  
Room 132, Confederation Building  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Cher collègue :

Je vous fais parvenir, à titre d'information, une copie de la correspondance que j'ai échangée récemment avec l'honorable Jason Kenney, premier ministre de l'Alberta, concernant le projet de pipeline Keystone XL.

Je vous prie d'agréer, cher collègue, l'expression de mes sentiments les meilleurs.

L'honorable Marc Garneau  
Ministre des Affaires étrangères  
Pièce 458, édifice de la Confédération  
Chambre des communes  
Ottawa (Ontario)  
K1A 0A6



Cher collègue :

Je vous fais parvenir, à titre d'information, une copie de la correspondance que j'ai échangée récemment avec l'honorable Jason Kenney, premier ministre de l'Alberta, concernant le projet de pipeline Keystone XL.

Je vous prie d'agréer, cher collègue, l'expression de mes sentiments les meilleurs.

L'honorable Dominic LeBlanc  
Président du Conseil privé de la Reine pour le Canada  
et ministre des Affaires intergouvernementales  
Pièce 249, édifice de la Confédération  
Chambre des communes  
Ottawa (Ontario)  
K1A 0A6

Dear Colleague:

I am forwarding, for your information, a copy of my recent exchange of correspondence with the Honourable Jason Kenney, Premier of Alberta, regarding the Keystone XL pipeline.

Sincerely,

The Honourable Seamus Thomas Harris O'Regan  
Minister of Natural Resources  
Room 658, Confederation Building  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Colleague:

I am forwarding, for your information, a copy of my recent exchange of correspondence with the Honourable Jason Kenney, Premier of Alberta, regarding the Keystone XL pipeline.

Sincerely,

The Honourable Jim Carr  
Special Representative for the Prairies  
Room 682, Confederation Building  
House of Commons  
Ottawa, Ontario  
K1A 0A6



**REBELLION NEWS**

**Tab C**



Premier of Alberta

Office of the Premier, 307 Legislature Building, Edmonton, Alberta T5K 2B6 Canada

January 21, 2021

Right Honourable Justin Trudeau  
Prime Minister of Canada  
80 Wellington Street  
Ottawa ON K1A 0A2

Dear Prime Minister,

I am writing to you to express my profound disappointment on the cancellation of the Keystone XL pipeline and the lack of federal response to our repeated requests for your personal intervention with the incoming Administration. By retroactively revoking the Presidential permit for this project without taking the time to discuss it with their longest standing ally, the United States is setting a deeply disturbing precedent for any future projects and collaboration between our two nations. The fact that it was a campaign promise makes it no less offensive. Our country has never surrendered our vital economic interests because a foreign government campaigned against them.

Alberta had sought your assistance in ensuring that then President-elect Biden would be fully informed of the important changes in the Keystone XL project in recent years, before making any decisions on the project. Keystone XL is not the same project he previously opposed. Union labor is critical to Keystone XL, with the creation of more than 15,000 high-paying union jobs across the United States, Alberta and Saskatchewan. Keystone XL will be the first pipeline of its kind to operate at net-zero emissions on its first day of operations and will purchase 100 percent of its power load from renewable energy sources, which means building approximately 1,600 megawatts of new renewable energy infrastructure, making this venture one of the largest privately-backed commitments to renewable energy in the world. TC Energy has also reached an historic equity ownership agreement with a coalition of five First Nations in Canada, providing them meaningful input on the project while creating hundreds of millions of dollars in economic opportunity for these communities. Similar agreements are expected in the United States.

We must find a path to a reconsideration of Keystone XL within the context of a broader North American energy and climate agreement. As you have said yourself, Keystone XL is included in Canada's climate plans. Canada and US share a highly integrated energy system, including criss-crossing infrastructure such as pipelines and electricity transmission systems. Our energy and climate goals must be viewed in the context of that integrated system, and it is in our mutual interest to develop an agreement that will

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enable a path to export Alberta and Canada's most valuable commodity while providing the US with a source of reliable energy produced to the highest environmental standards. I propose that we approach Washington together to begin a conversation about North American energy and climate policy. We have many opportunities to collaborate on issues of mutual interest including North American energy security, and new technology to fight climate change in support of our companies that have made net zero commitments.

Should that not happen, the federal government must do more than express disappointment with this decision. Just as your government stood up for Canadian aluminum and steel workers when faced with an unfair US tariff in 2018, it is imperative that you take action for the thousands more workers in the energy sector and their vast contributions to the Canadian economy. I strongly urge you to ensure that there are proportionate economic consequences in response to these unfair US actions.

At the very least, I call upon the government of Canada to press the U.S. Administration to compensate TC Energy, and the Government of Alberta, for billions of dollars of costs incurred in the construction of Keystone XL to date. These costs were incurred on the assumption that the United States has a predictable regulatory framework, and based on the Presidential permit authorizing the Keystone XL border crossing which was installed in the summer of 2019. For the United States to retroactively cancel the permit, on the basis of which investment decisions were made, is a clear violation of the investor-protection provisions of the North American Free Trade Agreement, which were extended as a result of your government's successful negotiation of the Canada-U.S.-Mexico Trade Agreement.

This project needs to be at the top of Canada's priority list for our relationship with the new Biden Administration, as per your assurances in November, 2020. We require a dialogue between our two countries about energy, the environment, and how this safe, job-creating project can operate in that context. If the US is unwilling to listen, then we must demonstrate that Canada will stand up for Canadian workers and the Canadian economy.

Sincerely,



Jason Kenney  
Premier of Alberta