



## PRESS RELEASE

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### **Attorney General Frosh Joins Brief in Support of Challenge of Permit for Keystone XL Pipeline**

**BALTIMORE, MD (December 22, 2020)** – Maryland Attorney General Brian E. Frosh today joined a coalition of 12 attorneys general in filing an amicus brief in the U.S. Court of Appeals for the Ninth Circuit in support of environmental groups’ challenge to the Keystone XL Pipeline. The Keystone XL Pipeline relies on Nationwide Permit 12 (permit), which broadly authorizes the construction of oil and gas pipelines across bodies of water. However, the coalition argues that the permit is invalid as the U.S. Army Corps of Engineers (Corps) was required to engage in programmatic consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service under the Endangered Species Act (ESA) before reissuing the permit.

“The Keystone XL Pipeline is an enormous construction project that would disrupt habitats and ecosystems from Canada to Nebraska,” said Attorney General Frosh. “This is a lose/lose project. It will pollute habitats and put endangered species at much greater risk, and it will be a significant contributor to climate change to boot.”

The Keystone XL Pipeline is an expansion to an existing pipeline system that would transport up to 830,000 barrels per day of crude oil from Alberta, Canada, and the Bakken shale formation in Montana to existing pipeline facilities near Steele City, Nebraska. The crude oil transported would come from oil sands operations, the extraction of which is particularly energy intensive. The Pipeline would also cross nearly one thousand bodies of water, causing significant impacts to water quality, habitat, and endangered species.

The permit expedites the approval of “the construction, maintenance, repair, and removal of utility lines [including oil and gas pipelines] and associated facilities” in waters of the United States, without requiring an applicant to seek an individual permit under the federal Clean Water Act. In most cases, projects utilizing the permit may be constructed without further action by, or notification to, the Corps. In other words, the permit all but assures that pipelines will be covered by the general permit despite extensive environmental impacts to listed species. However, in reauthorizing Nationwide Permit 12, the Corps bypassed the Endangered Species Act’s formal consultation process in violation of the law.

Enacted under the Nixon Administration in 1973, the Endangered Species Act is intended “to halt and reverse the trend toward species extinction, whatever the cost.” Section 7 of the Endangered Species Act requires a federal agency to engage in formal consultation with the U.S.

Fish and Wildlife Service or the National Marine Fisheries Service when a proposed federal action “may affect a listed species or critical habitat.” In the brief, the attorneys general argue that Nationwide Permit 12, on which the Keystone Pipeline relies, is invalid because the Corps failed to consult with federal wildlife agencies regarding the impacts that the permit might have on federally listed endangered and threatened species, as required by Section 7.