

Pipeline Inspector-Turned Whistleblower Calls Keystone XL a Potential "Disaster"

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by: Stephen Lacey, [ThinkProgress](#) [3] | Report

Mike Klink: Let's be clear — I am an engineer; I am not telling you we shouldn't build pipelines. We just should not build this one.

By [forcing the White House](#) [4] to make a decision on the politically and environmentally-toxic Keystone XL pipeline as part of an agreement reached in December to extend the payroll tax cut, Republicans are being lambasted by environmental groups for undercutting the federal environmental review process.

Now a whistleblower [is claiming](#) [5] that the company overseeing the development of the proposed project, TransCanada, also has a track record of undercutting quality at the expense of the environment — further calling into question the decision by Congress to prevent a new federal environmental impact study for Keystone XL.

Mike Klink is a former inspector for Bechtel, one of the major contractors working on TransCanada's original Keystone pipeline, completed in 2010. Klink says he [raised numerous concerns](#) [6] about shoddy materials and poor craftsmanship during construction of the pipeline, which brings tar sands crude from Canada to Midwestern refineries in the U.S. Instead of actually addressing the problems, Klink claims he was fired by Bechtel in retaliation. He filed a [complaint](#) [7] with the Department of Labor in March of 2010, and made his story [public](#) [6] last fall.

Klink, who says he's speaking as an engineer and not an environmentalist, has just published [a scathing op-ed](#) [5] in the *Lincoln Journal Star* criticizing Keystone XL, a proposed extension of the current tar sands pipeline network that would bring crude down to refineries in the Gulf Coast, crossing a major aquifer along the way:

As an inspector, my job was to monitor the construction of the first Keystone pipeline. I oversaw construction at the pump stations that have been such a problem on that line, which has already spilled more than a dozen times. I am coming forward because my kids encouraged me to tell the truth about what was done and covered up.

When I last raised concerns about corners being cut, I lost my job — but people along the Keystone XL pathway have a lot more to lose if this project moves forward with the same shoddy work.

Communications Workers of America Local 4250
3055 Glenwood-Dyer Road, Lynwood, Illinois 60411
Elizabeth R. VanDerWoude, President (708) 757-4065 (Office)
evp4250@sbcglobal.net (E-Mail)
<http://www.cwalocal4250.org> (Website)

A recent environmental impact statement — outsourced by the State Department to another major TransCanada contractor [8] — found that there would be “limited adverse environmental impacts” associated with the 1,700-mile Keystone XL pipeline. Opponents of the pipeline cried foul, saying it was yet another major conflict of interest [9] between the State Department and TransCanada.

Klink’s assertions about poor management of the first Keystone pipeline provide yet more ammunition for critics of the pipeline:

What did I see? Cheap foreign steel that cracked when workers tried to weld it, foundations for pump stations that you would never consider using in your own home, fudged safety tests, Bechtel staffers explaining away leaks during pressure tests as “not too bad,” shortcuts on the steel and rebar that are essential for safe pipeline operation and siting of facilities on completely inappropriate spots like wetlands.

I shared these concerns with my bosses, who communicated them to the bigwigs at TransCanada, but nothing changed. TransCanada didn’t appear to care. **That is why I was not surprised to hear about the big spill in Ludden, N.D., where a 60-foot plume of crude spewed tens of thousands of gallons of toxic tar sands oil and fouled neighboring fields.**

TransCanada says that the performance has been OK. Fourteen spills is not so bad. And that the pump stations don’t really count. That is all bunk. **This thing shouldn’t be leaking like a sieve in its first year — what do you think happens decades from now after moving billions of barrels of the most corrosive oil on the planet?**

Let’s be clear — I am an engineer; I am not telling you we shouldn’t build pipelines. We just should not build this one.

White House officials say the 60-day timeline forced by Congress on the Keystone XL pipeline will force the Administration to deny the project. This is exactly what Republicans want — but only to make the pipeline an election issue, not to consider the myriad environmental issues being raised.

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Mike Klink: Keystone XL Pipeline Not Safe

By Mike Klink | Posted: Saturday, December 31, 2011 11:50 pm

There has been a lot of talk about the safety of the proposed Keystone XL pipeline.

I am not an environmentalist, but as a civil engineer and an inspector for TransCanada during the construction of the first Keystone pipeline, I've had an uncomfortable front-row seat to the disaster that Keystone XL could bring about all along its pathway.

Despite its boosters' advertising, this project is not about jobs or energy security. It is about money. And whenever my former employer Bechtel, working on behalf of TransCanada, had to choose between safety and saving money, they chose to save money.

As an inspector, my job was to monitor the construction of the first Keystone pipeline. I oversaw construction at the pump stations that have been such a problem on that line, which has already spilled more than a dozen times. I am coming forward because my kids encouraged me to tell the truth about what was done and covered up.

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TransCanada says that the performance has been OK. Fourteen spills is not so bad. And that the pump stations don't really count. That is all bunk. This thing shouldn't be leaking like a sieve in its first year — what do you think happens decades from now after moving billions of barrels of the most corrosive oil on the planet?

Let's be clear — I am an engineer; I am not telling you we shouldn't build pipelines. We just should not build this one.

Pipelines can and do stand the test of time, but TransCanada already has shown that they cannot. After working on engineering projects all over the world, I can tell you that a company that cared about safety would not follow these types of practices.

If it were a car, the first Keystone would be a lemon. And it would be far worse to double down on a proven loser with Keystone XL.

The stories of how TransCanada has bullied landowners in Nebraska rings true to me. I am living it, as well. After repeatedly telling the contractor and TransCanada about my concerns, I lost my job.

But I couldn't watch silently as a company put innocent people at risk with a haphazardly built pipeline. I am speaking out on behalf of my children and your children.

Oil spills are no joke. We need to do all we can to protect our water and our food. I am glad the Nebraska Legislature stepped up to protect Nebraskans. I can only hope that they stand up to TransCanada. We should all take a hard look at the damage that this pipeline will do. I should know; I've seen it in person.

Please do not sell out to foreign oil and foreign suppliers. There is no guarantee the product will stay in the United States, only the toxic waste. God bless the United States and those of us who still believe in the fact that her people matter.

Former Keystone Pipeline Inspector Says Construction Shortcuts Are Tied To Leaks



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Michael Klink, a 59-year-old civil engineer from Auburn, In., says he reported a litany of problems when he was working as a construction inspector at several pumping stations along the Keystone oil pipeline as it was being built in 2009 -- from sloppy concrete jobs and poorly spaced rebar to bad welds and poor pressure testing.

For his diligence, Klink says, he was harassed, berated and ultimately fired. The experience has left him convinced that a controversial proposal to expand the [Keystone pipeline matrix](#), which would ultimately deliver as much as 1.3 million barrels of crude oil a day from an oil patch in Alberta, Canada, to refineries in the Midwest and the Texas Gulf Coast, should never gain federal or public support.

"They didn't care, and that's why you've seen all these leaks already," Klink said. "And I worry that it's only a matter of time before there will be another disaster like the Deepwater Horizon -- only this time it won't be out on the water. It will be right in the middle of the country.

"I'm no treehugger," Klink added. "I just think things ought to be built right, and I have no faith that these guys can do it."

Evidence supporting his skepticism isn't hard to find. In just over a year of operation, the Keystone network's existing leg, which runs through the Dakotas, Nebraska, Kansas and Missouri before terminating in Illinois -- has leaked more than a dozen times. In most cases, the amount was small, and federal officials have suggested that such hiccups are common to new pipelines. But two incidents in May, including one that spewed more than 20,000 gallons of oil,

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prompted regulators to briefly block Keystone from moving oil in June. Virtually all of the spills happened at pumping stations like the ones where Klink worked.

"I feel for the people living alongside that pipeline," he said.

Klink's concerns emerge against a backdrop of increasingly bitter debate over Keystone. The Federal State Department, which is responsible for [issuing permits for pipelines crossing international boundaries](#), has already conducted two environmental assessments of the Keystone expansion proposal, known as Keystone XL, concluding both times that the impact would be negligible. This week, State Department officials are on [a listening tour](#) in the six states -- Montana, South Dakota, Nebraska, Kansas, Oklahoma and Texas -- through which the pipeline is expected to pass.

The project has drawn increasingly vocal opposition from environmentalists and clean-energy advocates, who argue that it would spur wanton development of Canada's [oil sands](#), also known as tar sands -- an unconventional source of crude oil that requires vast amounts of energy and produces substantial amounts of greenhouse gases during processing. They also worry that the proposed expansion route would take the pipeline directly through a large portion of the Ogallala Aquifer, which [provides as much as 30 percent of the nation's ground water used for irrigation](#), as well as drinking water for a wide swath of the American heartland.

Even so, in at least one previous public statement, Secretary of State Hillary Clinton has [indicated that she is inclined to approve the pipeline](#), to the delight not just of TransCanada, the Calgary-based company behind the Keystone network, but to supporters on both sides of the border who argue that the environmental concerns are vastly overstated and that Canada's oil sands will be tapped whether or not the Keystone expansion is built. They also say the pipeline represents tens of thousands of potential jobs, and that it provides an important stepping stone on the road to American energy security.

As for the leaks on the existing leg of Keystone, a spokesman for TransCanada, Terry Cunha, said they were mostly attributable to a bad batch of metal fittings, and that the company has since made the necessary repairs. "We take the safety of our system very seriously," he said.

Klink says he's not so sure. He filed a complaint with the Department of Labor last year, under whistleblower provisions of the Pipeline Safety Improvement Act of 2002. His case is still pending.

In its [final environmental impact statement](#) for the Keystone expansion, which was issued at the end of last month, the State Department cites the federal body that oversees pipeline safety in the U.S., the Pipeline and Hazardous Materials Safety Administration, in concluding that the spills that have plagued the first leg of the network are essentially "start-up issues that occur on pipelines and are not unique."

Anthony Swift, an attorney with the Natural Resource Defense Council's International Program in Washington who has testified before Congress about the Keystone network, says that's not

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entirely true. "For a new pipeline it's very unusual," he said. "Keystone is the newest pipeline in the U.S. to be given a corrective action order."

[That order](#) came in early June, after incidents on May 7 at the Ludden pump station in Brampton, N.D., where between 450 and 500 barrels were released after a "pipe nipple failure," and then on May 29 at the Severance pump station in Bendana, Kan., where about 10 barrels were lost. PHMSA's corrective action [blocked TransCanada from resuming use of the pipeline](#) after the second incident. That block was [lifted the following day](#), after the company satisfied the federal agency's call for metallurgical tests on the pipes involved.

Cunha said these -- and the majority of other incidents over the pipeline's year-long operating history -- were attributable to a variety of pipe fittings that had some weaknesses. All of these, he said, have been replaced -- as have other pipe fittings at sites where no leaks were detected, out of an abundance of caution. "Unfortunately you may get 1,000 fittings and 999 will work as designed," he said. "But unfortunately, sometimes one fails. We work really hard with our suppliers to make sure we get really good equipment."

Klink says he pointed out repeatedly that the metal piping being deployed at the pump stations he inspected was of inferior quality, and that the impurities were making it difficult for welds to properly hold. His complaints, he said, were often rebuffed. He also suggested that any equipment, no matter the quality, is only as good as the people installing it, and he's convinced that other problems loom on the horizon.

The pumping stations themselves are large facilities -- a bit under an acre in size -- situated at [50 mile intervals along the Keystone conduit](#). Crude-carrying pipeline comes up out of the ground and into each facility, where the pressure is boosted by multiple 1,000-horsepower motors, sending the oil hurtling further down the line.

In March 2009, Bechtel made Klink a temporary inspector in North Dakota. TransCanada had contracted with the oil and gas services giant to supervise work performed by yet another company, TIC of Wyoming. Friction between the TIC construction crew and Bechtel inspectors was an issue even before Klink arrived, according to Klink's [complaint with the Department of Labor](#).

In 2008, for example, a TIC crew member assaulted a Bechtel inspector, spitting tobacco at him and knocking him down, according to the filing. "Although that individual was later terminated," the document notes, "the attitudes of TIC employees did not change."



In an interview, Klink recalled other

incidents. At the Niagara pump station site, just west of Grand Forks, N.D., for example, he says he came under pressure from his own supervisors to fudge tests designed to ensure that the soil underlying the facility was compacted properly. He did that, instructing the test takers, armed with nuclear density meters, to take four or five measurements near the driveway leading into the site where the soil was hardest. That was considered sufficient, Klink says, even though the larger part of the site never got a sufficient density reading. In his estimation, it never would have.

"It was too sandy," Klink said. "They were never going to get good readings."

Klink says he now worries that the foundation could slowly settle unevenly, causing pipes to twist.

In other cases, he said -- particularly at the Edinburgh station just a few miles shy of the Canadian border in North Dakota, as well as at other sites -- steel rebar used to reinforce the poured concrete foundations was installed haphazardly, ignoring the engineering specifications that would necessarily anticipate supporting the giant, multi-ton motors, bolted to the concrete, and torquing in specific ways.

Klink says he watched workers use blow-torches to bend and reshape uncooperative pieces of rebar that didn't align. "That compromises the strength of the rebar and the integrity of the design," he said. "You're not supposed to do that. Sometimes, if a rebar wouldn't match up right, I've even seen them take a torch and cut a chunk out so it would work."

In some cases, Klink said, he'd call attention to these problems, and after some tussling, it would be redone. In many others, he said, he'd meet stiff resistance from TIC workers, and get no

support from his Bechtel superiors. Sometimes, he said, foundations would be poured before he even had a chance to sign off on the underlying work.

According to the federal inventory of Keystone's leaks, many of the problems were attributed to seal failures. Klink said he's not surprised, saying that the contractor was using improper equipment and techniques to get sections of pipes and pumps to line up. In one case, he said he witnessed workers using industrial-strength cables and ratchets to heave huge sections of pipe and pump into alignment so they could be joined -- a recipe, he said, for stress failures down the line.

Both Bechtel and TIC, Klink added, were chiefly concerned with getting the stations to pass basic pressure tests so they could close the job and move on, without ensuring that the complex matrix of seams, welds and pipes would last over time.

In one instance, he recalled a conference call in which a Bechtel employee reported that the Edinburgh site "hadn't leaked too much" when passing its pressure test.

"Well, shit, that thing shouldn't have been leaking at all," said Klink, who also insists that he was the only inspector he knew on the project who actually held an engineering degree. "This whole process is really very much a science -- unless you're going to do it all haphazardly because you figure you're out in the middle of nowhere."

In late April or early May, according to Klink's filed complaint, perhaps prompted by complaints from Klink and others about conflicts among the various contractors and inspectors at the northern end of the pipeline, Bechtel dispatched a quality assurance supervisor to the Dakotas to investigate.

Klink was interviewed at length, as were other inspectors, construction workers and supervisors, and a report was prepared for Bechtel executives. Klink said he was never made privy to the findings, but in late May, he was reassigned to South Dakota.

His transfer papers indicated an end date of Dec. 31 for the assignment, but as he continued to report similar problems at pump stations there, tensions with his Bechtel supervisors increased, and on Sept. 23, 2009, he was told he was no longer needed. On the same day, he learned that federal inspectors were planning to make their first visit to Keystone construction sites the following week.

He was never hired back, despite myriad openings for inspectors on the ongoing project. He also has been unable to find work anywhere else, suspecting that Bechtel portrays him as a "problem inspector" with potential new employers.

"Maybe I'm just stupid," says Klink, whose accounts were confirmed by one other former Bechtel employee, who asked that his name not be used because he feared a similar fate in the industry. "Maybe I should have just kept my mouth shut. This is just a total disaster of a lifetime.

But I believe in doing things correctly, and not half assed and calling it good enough. That is one thing that's wrong in our country -- close is good enough."

Representatives of TIC did not return emails or phone calls for comment on this article. Officials with the Pipeline and Hazardous Materials Safety Administration also did not respond to queries for comment on its oversight of the Keystone project.

Michelle Michael, a spokeswoman for Bechtel, said that out of respect for the ongoing investigation of this case with the Department of Labor, the company would not comment on the particulars of Klink's employment or his allegations.

In an email message, however, she said "the fundamental responsibility of Bechtel's inspection team, including Mr. Klink, was to strictly enforce the rigorous quality control standards that Bechtel implements on all of its projects. Mr. Klink's job was to raise any concerns about contractors' performance," Michael continued. "When he raised concerns, they were taken seriously and appropriately addressed, including the issues related to the behavior of contractors' personnel."

She added that Klink was not the subject of any retaliatory practice, and that his assignment ended when the project phase he was assigned to was completed -- "as is common in the construction industry," she said.

Shawn Howard, a TransCanada spokesman, said that his company is always made aware when questions or concerns are raised by inspectors during construction. "We use multiple quality-control and inspection processes during the manufacturing and construction stages," Howard said. "If a concern is raised we investigate immediately. If corrective action is required, we act -- and there is no issue with the Keystone pipeline."

He added that Klink's complaint does not suggest that TransCanada failed to act or that any issues still exist. "Again, there is no issue with the Keystone pipeline," he said.

But Klink says that's already been demonstrated to be false, and that he's hoping lawmakers in Congress will allow him to share more details of his story with them, and perhaps help block approval of the Keystone expansion to the Gulf. He said he'd even be willing to take a lie detector test, if it came to that.

"I believe I was wronged and I believe that people have to stand up for what is right," Klink said. "And I feel like I'm standing up for people -- for the farmers and everybody up and down that pipeline in North and South Dakota.

"It's going to cause another oil disaster and harm innocent people who didn't deserve it," he added, "and they may never recover from it."

BACKGROUND

3. The U.S. Department of Transportation's (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA), acting through the Office of Pipeline Safety (OPS), administers the Department's national regulatory program to assure the safe transportation of natural gas, petroleum, and other hazardous materials by pipeline. OPS develops regulations and other approaches to risk management to assure safety in design, construction, testing, operation, maintenance, and emergency response of pipeline facilities.
4. TransCanada Keystone Pipeline, L.P. (TransCanada) applied for and was issued a Special Permit by PHMSA, pursuant to 49 C.F.R. 195.06, which allows TransCanada to design, construct and operate two new crude oil pipelines subject to conditions set out in the Special Permit.
5. The Keystone Pipeline is a 2,148 mile crude oil -pipeline from Alberta, Canada to the United States Midwest, expected to transport about 590,000 barrels of oil per day from Canada to major crude-oil hubs in Illinois and Oklahoma.
6. TransCanada contracted with Bechtel to provide engineering management, procurement and construction management on the Keystone Pipeline Project.
7. TransCanada contracted with TIC Wyoming (TIC) to provide construction services on the Keystone Pipeline Project. Upon information and belief, the contract provided that TIC would be paid for all work they did, including work that they had to re-do because it initially was done incorrectly. Also upon information and belief, the contract provides a financial incentive to get the job done on schedule.
8. TIC is responsible for constructing nine pump stations -- five in North Dakota and four in South Dakota: Edinburg, Niagara, Ft. Ransom, Laverne and Ludden in North Dakota; Roswell, Freeman, Ferney and Carpenter in South Dakota.
9. Although TIC has its own quality program that includes QC Inspection and Health, Safety and Environment, Bechtel is responsible for inspection oversight. TIC did not understand or respect Bechtel's role on the Project. This created conflict between some TIC Supervisors and some Bechtel Inspectors, as the TIC supervisors did not want to be critiqued on how they did their work.
10. PHMSA's primary mission under the Federal laws governing the transportation of hazardous materials is to protect people and the environment from the risks inherent in the transportation of hazardous materials by pipeline and other modes. PHMSA's inspection and enforcement staff is tasked with determining compliance with safety standards, ensuring that pipeline operators are in full compliance with pipeline safety

regulations and are meeting PHMSA's expectations for safe, reliable and environmentally sound operation of their facilities.

11. Section 60129, of the Pipeline Safety Improvement Act of 2002, entitled Protection of employees providing pipeline safety information, provides, in part:

(a)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee ...

(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;..."

FACTS

12. Michael Klink received a Bachelor of Science degree in Civil Engineering in 1974. He has over 40 years of experience in the construction industry. As president and owner of his own business he designed, built and erected several concrete production facilities in Indiana. He has worked for Bechtel at various times in his career -- in the 1970s as a field engineer and construction engineer on several projects and in the early 1980s as a Project Engineer in Saudi Arabia. He worked for Bechtel through EPC Global from September 2008 - December 2008 as a Construction Field Engineer on the Keystone Pipeline Project in North Dakota.
13. Mr. Klink was hired by Bechtel Oil, Gas and Chemicals, Inc. and began employment on March 16, 2009 as a Civil Inspector (Senior Construction Engineer II, Grade 26) on the Keystone Pipeline Project. Bechtel's Personnel Action Notice for this position indicated a start date of March 16, 2009 and an end date of February 16, 2010.
14. Mr. Klink was originally based in Valley City, North Dakota, which is near TIC's North Dakota office, but later transferred to Grand Forks, North Dakota where he would be closer to his assigned work sites in northern North Dakota -- the Edinburg and Niagara pump stations which are approximately 60 miles apart.
15. Bechtel employed 2 civil/mechanical inspectors and 1 electrical/mechanical inspector in South Dakota, 2 civil/mechanical inspectors in North Dakota, and 1 welding inspector and one NDE/welding inspector who worked in North Dakota. Of all the inspectors, Mr. Klink was the only one who held an engineering degree.
16. The general duties of a civil inspector are to provide quality assurance through physical inspection of the construction site to ensure the project is being built according to contract and engineering design and specifications and in accordance with applicable

federal regulations.

17. To deal with issues regarding design or constructability identified beforehand, a Field Change Request (FCR) could be written by anyone on the project, whether employed by TIC or Bechtel to be sent back to engineering to fix the issue before the work was performed. Problem issues caught after installation were supposed to be documented on a Non-Conformance Report (NCR), and usually required that the work be ripped out and re-done according to contract design and specifications and/or Federal and/or state regulation.
18. Mr. Klink's immediate supervisor on the Keystone Pipeline Project was the Area Manager, Robert Stanley, the uppermost management official on-site.
19. Throughout his employment with Bechtel, Mr. Klink and other Inspectors were often given conflicting direction by Mr. Stanley regarding their duties and responsibilities. Sometimes Mr. Stanley instructed the inspectors that they were "only to observe and report" on TIC's work and not to interfere; at other times he wanted the inspectors to be proactive to prevent non-compliant installations when it was obvious that the work was being done incorrectly.
20. Mr. Stanley told the Bechtel Inspectors he wanted to keep NCRs to a minimum on the project and directed the Inspectors to work with TIC to work around writing NCRs.
21. As discussed previously, the inspection oversight role of Bechtel Inspectors over work performed by TIC often created conflict among the TIC employees and the Bechtel Inspectors. Some TIC Supervisors and employees were determined to do things their way, regardless of the contract specifications or requirements. Often TIC ignored any observations or counsel given by the Bechtel Inspectors, disrespected them and were hostile and abusive towards them.
22. These behaviors of TIC were not new. In 2008, a TIC employee assaulted one of the Bechtel Inspectors by spitting tobacco on him and then knocking him to the ground. Although that individual was later terminated, the attitudes of TIC employees did not change toward the Bechtel Inspectors.
23. Shortly after he began work at the Edinburg and Niagara sites, Mr. Klink began voicing concerns to Area Manager, Robert Stanley, about TIC's failure to build the pipeline according to the contract design and specifications, the resulting poor quality and potential safety implications of work being done. He also raised the issue of TIC's refusal to listen to him about suspected drug use on the job by one of the TIC supervisors, and the hostile work environment that conflict created for him and other Bechtel inspectors.
24. At the Edinburg site Mr. Klink had repeatedly asked the TIC superintendent about

- problems with the rebar. One of the issues involved problems with rebar configuration, welding and concrete at the Edinburg and Niagara sites. Some of the rebar material TIC had been using in the foundations was built to the wrong dimensions or not configured to specifications, and after the work had been signed off on by the TIC QA/QC inspector, the concrete for the footers was poured. The TIC superintendent told Mr. Klink he could not stop TIC from doing the work their way. Mr. Klink reported these matters to Mr. Stanley on several occasions, but it appeared that his reports fell on deaf ears.
25. Feeling no support from Mr. Stanley, Mr. Klink and other Bechtel Inspectors began raising their concerns to Robert Dewhurst, Bechtel's Contract Administrator because he appeared to be more responsive to their issues and the Inspectors believed he cared about the quality of the work being done, while Mr. Stanley did not.
 26. By email dated April 16, 2009, Harold Crotts, the Project QA Manager for the Keystone Pipeline project asked Mr. Stanley for details concerning repair of the pump station foundation at the Edinburg site. Mr. Stanley forwarded the email to Mr. Klink questioning whether a non-conformance report (NCR) had been generated for the repair.
 27. Mr. Klink responded to Mr. Stanley by email that the foundation was covered up and hidden from him, that he had not issued an NCR and was not aware that anyone else did. His email indicated he had told Mr. Stanley about the issue "at least 6 times." In this email Mr. Klink informed Mr. Stanley of his opinion that the entire pump station foundation should be removed because the workmanship was not up to Bechtel's standards and not what the client was paying for. Finally, Mr. Klink provided Mr. Stanley with his opinion that TIC could not be trusted. He ended his email by stating "I suppose you will can me for this but it is the truth."
 28. On April 23, 2009, Mr. Klink responded to an email from Robert Dewhurst, the Bechtel Contractor Administrator for the Keystone Pipeline Project. Mr. Klink stated that all he was trying to do was to get TIC to "follow the rules", and he felt his management did not support him. He also stated that he believed his management (Mr. Stanley) told TIC that "Mike [Klink] is a problem inspector." Mr. Klink reported to Mr. Dewhurst that he knew the materials were not right, but he doesn't want to take the chance of being beaten up or shoved or spit on by the TIC crew like one of the other Bechtel Inspectors had been.
 29. On April 24, 2009, Mr. Klink encountered problems with TIC welding on pile caps and gussets at the Niagara site and called Bechtel's welding inspector. When the welding inspector arrived, the TIC crew was in the process of covering up/backfilling the welds. Both Mr. Klink and the welding inspector told TIC the welds were unacceptable and had to be replaced. The TIC supervisor agreed the welds needed to be removed.
 30. On April 28, 2009, while Mike Klink was pointing out problems at the Niagara site with rebar configuration that was not spaced correctly according to contract design specifications, the TIC Site supervisor, Jesse Spielman, went into a tirade, cursing at Mr.

Klink, and blaming all the problems on Bechtel. Mr. Spielman, among other things, told his crew to fix the bar because the "f----- Bechtel inspector is afraid the pumps will f----- fall down." When Mr. Klink told Mr. Spielman he had asked on several occasions for the spacing to be correct, Mr. Spielman replied, "TIC is building this job, not f----- Bechtel and we will build it our way" and told Mr. Klink if he didn't like it TIC would have their supervisor call Mr. Stanley. Mr. Klink told Mr. Spielman to go ahead, but that he (Klink) would not be signing a pour card until the spacing was corrected. Mr. Spielman continued on his tirade. The tirade was witnessed by several TIC and Bechtel employees.

31. During this altercation, Mr. Klink was fearful that Mr. Spielman's verbal abuse would turn physical. He attempted to call the Area Manager and then the Contract Administrator to report what had happened and to tell them he would be leaving the site, but got no response. Instead he called the Bechtel Welding Inspector and reported what had happened, and the Welding Inspector came to the site.
32. Upon information and belief, in late April or early May, 2009, Bechtel Project management in Houston initiated an investigation, into issues at the Keystone Pipeline Project in North and South Dakota. Mr. Klink and others were instructed by Randy Martin, a Bechtel Inspector who shared an office with Mr. Stanley, to "say nice things about" Mr. Stanley, TIC and the Project.
33. Mr. Klink was interviewed by the Bechtel Investigator, cooperated fully in the investigation, and truthfully shared information regarding the problems he had encountered with TIC and the lack of support he had received from the Area Manager.
34. Upon information and belief, sometime prior to May 8, 2009, the Bechtel investigator reported to Bechtel Site management about the findings of his investigation.
35. By email dated May 8, 2009, Mr. Klink was notified that he was being reassigned to Huron, South Dakota, with inspection responsibilities over the work at the Roswell and Freeman, South Dakota pump stations. Another Civil Inspector, Pete Melton, who had been responsible for the South Dakota sites, was being reassigned to the Niagara and Edinburg, North Dakota sites. The reassignment was effective May 18, 2009. Mr. Klink believed this reassignment was intended to get both him and Mr. Melton to quit. Bechtel's Personnel Action Notice for this assignment showed an end date of December 31, 2009.
36. On May 18, 2009, Mr. Klink was reassigned to the Huron, South Dakota work location with responsibility for the Freeman and Roswell sites.
37. Soon after his transfer to the South Dakota sites, Mr. Klink noticed many of the same non-compliance problems with TIC he had noted at the North Dakota sites. He also

believes that Mr. Stanley notified TIC at these sites of his belief that Mr. Klink was a "problem inspector."

38. On or about June 26, 2009, while inspecting work done at the Freeman site, Mr. Klink noticed that rebar that TIC was using to form pedestals was not formed correctly or according to specifications. He told the TIC supervisor not to pour the concrete until they had fixed the problem with the rebar and they ignored him. TIC went ahead and poured the concrete.
39. Coincidentally, on that same day, TransCanada, the owner of the Keystone Pipeline, had a representative onsite who was doing an audit. They witnessed what had happened and took pictures documenting the matter. They questioned Mr. Klink about the matter and he answered their questions.
40. The June 26, 2009 incident was brought to the attention of Bechtel project management in Houston. Soon thereafter the Project Manager in Houston requested that all TIC personnel be advised that when a Bechtel person tells them to stop work due to a safety or quality concern that they are to do it immediately.
41. In early August, 2009, when TIC was preparing to install GE Pump shims at the Freeman site using 0.080" shims, Mr. Klink reviewed the specifications and determined TIC should be using 0.125" stainless steel shims instead. Mr. Klink learned that TIC had used the wrong shims at the Ferney site, which work had been approved by Bechtel Inspector Randy Martin, and it was later determined that they would have to replace the shims at Ferney. Mr. Klink was aware of other work that had been approved by Bechtel Inspector Martin that had to be re-done because it was found to be out of specification. This required extra manpower and materials to be used at the sites over which Mr. Martin had inspection oversight.
42. In about mid-August 2009, soon after Mr. Klink discovered the problem with the shims used at the Ferney site, he was confronted by Mr. Stanley who wanted to know why one of Mr. Klink's sites was behind schedule. Mr. Klink told Mr. Stanley that his site was behind because the TIC crews were at Mr. Martin's sites re-doing work that was done incorrectly the first time, that had been approved by Mr. Martin, and using material that should have been used at Mr. Klink's site. Mr. Stanley screamed at Mr. Klink not to question him or Mr. Martin again, and told Mr. Klink to "get the f--- off my f----- site and I will f----- fire you if don't resign" implying that Mr. Klink would be gone one way or another. Mr. Klink told Mr. Stanley he did not intend to resign.
43. After this confrontation with Mr. Stanley Mr. Klink called Sarah Whitton, Bechtel's HR Manager in Houston, to report inappropriate behavior by a co-worker (Mr. Stanley), which was required by Bechtel Policy. Mr. Klink asked that his concern be kept confidential. Mr. Klink is not aware whether Ms. Whitton took any action regarding his complaint.

44. On August 14, 2009, while Mr. Klink was inspecting flanges at the Roswell site with Mr. Stanley and a representative of TransCanada, Mr. Klink stepped into a Low Voltage trench and twisted his body, injuring his back. An Initial Incident Notification form was filed by the Safety Officer regarding the injury on August 17, 2009. Mr. Klink sought treatment and incurred medical bills as a result of the injury.
45. Also on about August 14, 2009, Mr. Klink and Mr. Stanley witnessed TIC's use of a rough-terrain forklift at the Freeman site that was driving on the tire's foam inner liner, a potential safety hazard, and they ordered TIC to shut down the equipment.
46. On August 16, 2009, Mr. Stanley sent out an email to all Bechtel Inspectors and other personnel that he wanted to discuss the "ongoing forklift incidents" at their weekly meeting, which he agreed was a safety issue that could result in serious injury. Mr. Stanley was later approached by TIC Safety with a plan to operate the forklift on foam until the damaged tire could be replaced and Mr. Stanley approved the plan.
47. Mr. Klink considered this use of a forklift on foam to be in violation of Occupational Safety and Health Administration regulations, and believes the Safety Officer should have reported the matter to OSHA.
48. Despite first being told his position would last through February 16, 2010, and later December 31, 2009, and expecting to work to the end of the Project, on September 22, 2009, Mr. Stanley told Mr. Klink that he decided to "cut back" on the Project, and that September 23, 2009 would be Mr. Klink's last day of work. He was entitled to a paid notice period until October 21, 2009, and was paid through that date.
49. On September 23, 2009, Jim Rose, a civil Inspector from Houston, arrived at the Keystone Pipeline Project announcing that he was Mr. Klink's replacement.
50. On September 23, 2009, Hans Shieh of the U.S. Department of Transportation (DOT) notified Harold Crotts, Bechtel's Project Quality Assurance Manager in Houston, that DOT would be conducting an inspection at the Roswell and Carpenter, South Dakota sites the following week. Upon information and belief, this was the first time a DOT or PHMSA Inspector had visited one of the Keystone Pipeline Project sites. (Prior to this, Mr. Stanley instructed the Bechtel Inspectors repeatedly that should a DOT or PHMSA Inspector ever appear at their sites, that he would handle all communications with them because he didn't want anything the Bechtel Inspectors said to reflect badly on Bechtel or the Project.)
51. Following his removal, Mr. Klink complained to Ms. Whitton that he believed he was being removed from the Project for having previously reported Mr. Stanley's unprofessional conduct to her. He also informed her of his interest in continuing working with Bechtel and informed her he would send an updated resume.

52. Since his termination, Complaint has made numerous efforts to find other employment, applying for more than sixty jobs online with Bechtel, without success. He has called his former Bechtel supervisors a number of times expressing interest in further work.
53. Upon information and belief, Bechtel's work on the Keystone Pipeline Project in North and South Dakota continued into February 2010.
54. Upon information and belief, a different phase of Bechtel's Keystone Pipeline construction project has begun in Nebraska and Kansas which will require civil inspectors for many years to come.
55. As a result of his abrupt and wrongful termination, and inability to find other employment, Complainant has suffered a loss of salary and benefits, has suffered emotional distress, has incurred medical costs, and has incurred attorney's fees and costs.

APPLICABLE LAW

56. Section 60129 of the Pipeline Safety Improvement Act of 2002, codified as 49 U.S.C. Section 60129(a)(1), prohibits any actions that violate its regulations, including retaliatory terminations of employees who engage in legally protected activities.
57. 49 U.S.C. § 60129(a)(1), provides, in relevant part:

(1) No employer may discharge any employee or otherwise discriminate against Any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee ...

(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation or standard under this chapter or any other Federal law relating to pipeline safety;

(B) refused to engage in any practice made unlawful by this Chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;....

COMPLAINT

58. At all times relevant to the issues raised herein, Complainant Michael Klink was an “employee” of Bechtel Oil, Gas & Chemicals, Inc., as defined by the Pipeline Safety Improvement Act (Act), 42 U.S.C. 60129, which specifically prohibits retaliation against employees for engaging in protected activity.
59. Respondent Bechtel Oil, Gas and Chemicals, Inc., is a contractor or subcontractor of a person owning or operating a pipeline facility, and as such is an “employer” as defined by the Act, at § 60129(a)(2).
60. Complainant engaged in protected activity when he, among other things, identified on non-conformance reports (NCRs) work performed by TIC that did not comply with contract design and specifications and/or that violated applicable federal regulations; reported to Bechtel Management TIC's failure and/or refusal to comply with contract design and specification and/or applicable federal regulations; reported to Bechtel Management the discriminatory, abusive and hostile treatment he was subjected to by TIC employees for trying to get them to adhere to contract design and specification and/or applicable federal regulations; when he cooperated with and provided information to a Bechtel Investigator who was conducting an investigation at the Keystone Pipeline Project's North and South Dakota sites.
61. Respondent Bechtel, and the relevant decision makers in this matter, had knowledge of all of Complainant's protected activity.
62. Respondent's adverse actions against Complainant included:
 - Transferring Complainant from the North Dakota work sites to South Dakota work sites for no apparent reason after Respondent learned the extent of Complainant's cooperation with the Bechtel Investigator.
 - Failing to address the "chilling effect" towards Inspectors and the hostile work environment that existed for Bechtel's Inspectors by TIC.
 - Terminating Complainant's employment with no legitimate basis to do so.
 - Failing to rehire Complainant for any of the numerous positions he has applied for with Bechtel since his termination, when, upon information and belief, there is plenty of inspection work to be done on a new phase of the Keystone Pipeline Project in Nebraska and Kansas.
63. These adverse actions are a direct result of Respondent's knowledge of Complainant's engagement in protected activities.

64. As a result of the adverse action of termination, Complainant has suffered and continues to suffer economic losses from lost wages, per diem and benefits, has suffered emotional distress, has incurred medical costs, and has incurred attorney's fees and costs for bringing this action.

REQUEST FOR REMEDY

65. Complainant seeks all damages available to him at law, including reinstatement, equitable relief, payment of all lost wages and benefits, and other terms and conditions of his employment, as well as compensatory and exemplary damages incurred as a result of actions taken by the Respondent, together with an amount to equal attorney's fees, costs and expenses associated with pursuit of this action.

Dated: March 22, 2010

Respectfully submitted,

Billie Pirner Garde
Clifford & Garde, LLP
1707 L Street, NW, Suite 500
Washington, DC 20036
(202) 280-6116 - Direct Phone
(202) 289-8990 - Main Phone
(202) 289-8992 - Fax

Attorney for Michael Klink

Certificate of Service

I hereby certify that I have served this COMPLAINT OF RETALIATION on the following, by fax transmission and U.S. mail, on this 22nd day of March, 2010:

Office of Whistleblower Protection Program
Directorate of Enforcement Programs
U.S. Department of Labor, OSHA
200 Constitution Avenue, N.W.
Room N-3610
Washington, DC 20210
(By Fax: 202-693-1681 and
by Regular U.S. Mail)

Billie Pirner Garde