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Nebraska Landowners vs. TransCanada's Pipeline

Nebraskans say a Canadian oil pipeline poses unacceptable risks

By Bradley Olson

The 20,000 miles of pipes that carry oil and gas across Nebraska's open prairies don't bother Randy Thompson at all. Neither do greenhouse gas emissions or oil geopolitics.

Yet the 63-year-old, Republican-voting rancher and other Nebraska landowners have begun to kick up a lot of dust over the Keystone XL, a 1,711-mile pipeline that, if built, will cut across Nebraska's heartland as it funnels oil from the Athabasca sands of Alberta, Canada, to Gulf Coast refineries. They worry that the project, on which Calgary-based TransCanada (TRP) has staked much of its future, might damage the Sand Hills region, a huge wetland where an aquifer often runs just a few feet below the surface. The water in the Sand Hills is essential to many ranches and farms, and Thompson says the Keystone XL could do severe damage to this ecosystem. "You're talking about potentially ruining people's lives," he says.

In a last stand against TransCanada, four major U.S. unions, and other states that want the \$7 billion pipeline, landowners such as Thompson have teamed up with green groups and elected officials from both parties. The Obama Administration declared on Aug. 26 that the pipeline poses limited environmental risks. However, the foes in Nebraska may present the most significant threat to a project supporters say is vital to U.S. energy security. "The opposition has figured out 'Well, if we can delay this long enough, then it's as good as commercially killing it,'" says TransCanada Chief Executive Officer Russ Girling. Competing pipelines to the Gulf from Canada are in the works. If TransCanada's plans to begin construction in January 2012 are pushed back six to nine months, its rivals may get there first.

Canada is estimated to hold 175 billion barrels of recoverable oil, and by 2020 the pipeline could help reduce U.S. imports from OPEC countries by 18 percent, according to U.S. energy data and Canadian production figures. Girling says the Keystone project will create 20,000 U.S. jobs, and he predicts the efforts to delay the pipeline won't work. South Dakota has approved the route, and political leaders in Montana, Oklahoma, and Texas have signaled their support.

Still, the opposition in Nebraska is digging in. On Aug. 5, Thompson and 300 activists gathered around the governor's mansion in Lincoln, pointing flashlights at it and holding up posters that said "Ask Me Where They Should Stick That Pipeline." Many wore T-shirts bearing Thompson's likeness, emblazoned with the words "I Stand with Randy." The shirts have made it all the way to Washington, where hundreds have been arrested at sit-ins outside the White House.

The state's top three elected officials—U.S. Senators Mike Johanns (R) and Ben Nelson (D) and GOP Governor Dave Heineman—publicly came out against the pipeline's route in August. "TransCanada has no one to blame but themselves," says Johanns. "If they would have done a study to find the worst route to run this pipeline through, they would have ended up with this route." TransCanada says the Sand Hills route is the safest choice because it is the shortest. The U.S. State Dept., which has oversight of cross-border projects, concurs.

Foes of Keystone plan to wage judicial trench warfare. TransCanada has secured 90 percent of the easements—contracts permitting the company to run a pipeline on private land—that it needs from Nebraska landowners. To secure the last 10 percent, it may have to use the power of eminent domain, battling as many as 45 landowners in county courthouses.

[David A. Domina](#), a Nebraska trial lawyer whose firm studied the Keystone proposal, says it is hard to imagine local judges and juries in eminent domain cases—both in initial stages and on appeal—siding with a Canadian company against their neighbors. Eventually, the judges will have to face a public vote, he says: "In a project this controversial, all it takes is one judge who says, 'I don't like this process,' and then you may have to start over."

TransCanada says it has received commitments from oil producers to ship 440,000 barrels a day of crude on the Keystone XL, or 63 percent of its 700,000-barrel-a-day capacity. The project is "not economic" at that rate, says Bradley Olsen, a pipeline industry analyst at Tudor, Pickering, Holt in Houston.

Thompson, who was offered \$17,900 by TransCanada for an easement to run the pipe across about 80 of his 400 acres, says he will not settle for any price. "It's unbelievable that a foreign corporation can force an American citizen to forfeit some of his land for their private use and gain," says Thompson.

Nebraskans most fear a spill in the Sand Hills. A big spill might pour into the Ogallala aquifer, which supplies 78 percent of the public water supply and 83 percent of irrigation water in Nebraska. The aquifer accounts for 30 percent of the water used in the U.S. for agriculture, according to the State Dept.'s review. The groundwater lies less than 10 feet below the surface for 65 miles of the pipeline. Yet the impact of spills in an aquifer is typically limited to "several hundred feet or less" and does not pollute the entire resource, according to the State Dept.

An existing Keystone line, which was put into service in 2010, has had 16 spills in its first year that were 5 gallons or more, according to TransCanada. One at a pumping station in North Dakota released more than 16,000 gallons.

The bottom line: A \$7 billion pipeline from Canada has angered Nebraska farmers and ranchers who value the state's precious water over oil.

With Kiah Lau Haslett

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