

Nebraska Law Granting TransCanada Eminent Domain Challenged As Unconstitutional

Posted By [Trisha Marczak](#) On October 2, 2013 @ 5:02 am



Those opposing the Keystone XL pipeline hold up banners during the U.S. State Department's sole public hearing in Grand Island, Nebraska on April 18, 2013, to allow citizens to make their views known on the Canada-to-Texas Keystone XL pipeline. (AP Photo/Nati Harnik)

Three Nebraska landowners are challenging legislation that put power in the hands of the state's governor to decide whether or not to allow Canadian company TransCanada the authority to use eminent domain against state residents.

The case was heard Friday in a Nebraska court, with Attorney [David Domina](#) arguing on behalf of Susan Luebbe, Susan Dunavan and Randy Thompson, who are suing the state over a piece of legislation that stripped the Nebraska Public Service Commission of its approval power, instead handing it over to the governor.

In front of a [packed courtroom](#) Friday, Domina argued the piece of legislation, The Major Oil Pipeline Siting Act, or LB1161, is unconstitutional, as the governor — with or without the law — does not have the power to strip the Public Service Commission of its power, a move seen by anti-Keystone advocates in the state as an underhanded trick to effortlessly give approval to Keystone XL.

“People should be outraged by what the legislature did. They threw us under the bus,” Thompson told Prairie Fire Newspaper.

Thompson has become a rather popular figure throughout Nebraska, appearing in advertisements against the pipeline, most of which are accompanied by the saying, “Stand with Randy.”

His battle against TransCanada began in 2010, when the company offered him a one-time check of \$18,000 — in

turn, it would have access to more than 80,000 acres of his land.

According to Prairie Fire Newspaper, the company told him at that point that if he didn't agree within 30 days, it would issue a condemnation order. The only problem for TransCanada at that time is that it didn't have the power to do so. After LB1161 passed, it did, as it was given the power to exercise eminent domain and therefore condemnation orders.

From Thompson's point of view, the Public Service Commission, which is made up of five elected representatives, no longer had the power to do its job. And in this case, Thompson and others living in the midst of Keystone's path couldn't afford to sit back and watch it happen.

"I am a Republican. But, not a very proud one. This has really changed my attitude about politics in general. I've lost faith in it, basically, is what's happened," Thompson [told Prairie Fire Newspaper](#). "Casual observers don't have a clue what the legislature pulled off here."

Thompson is among hundreds of landowners who are in the same boat, according to [Brian Jorde](#) of the Domina Law Firm.

For residents of Nebraska, this isn't just a fight against Keystone XL, the 1,700-mile proposed TransCanada pipeline. Instead, it's a move aimed at protecting their land from eminent domain at the hands of a foreign corporation and calling out the state's government for, as they see it, not looking out for the best interests of its residents.

The [timeline](#) for the trial has not been set, although Judge Stephanie Stacy indicated the case would not be thrown out, as it pertains to alleged improper use of taxpayer funds — an allegation related to the state's use of \$2 million in funds, which were supposed to be given to the Environmental Quality Board for a state-run evaluation of the pipeline.