



Nebraskans Resist Keystone Spurning TransCanada's Checks

By Jennifer Oldham Jan 30, 2014 9:01 PM PT

An icy wind rattles a metal warehouse in York, [Nebraska](#), as farmers and ranchers inside vow not to sign easements with a Canadian company to bury the [Keystone XL](#) oil pipeline on their land.

“I think TransCanada has been surprised we country bumpkins gathered,” said Bonny Kilmurry, one of about 145 landowners meeting here, about 100 miles (160 kilometers) west of Omaha, who have declined the company’s overtures. “I think we do have hope in sticking together.”

While Calgary-based TransCanada Corp. has signed agreements with property owners in [Montana](#) and South Dakota along the pipeline’s proposed 1,179-mile route from Alberta, some families along the path through eastern Nebraska are holding out. They hope staying united will give them leverage to negotiate deals with stricter safety controls to protect their water supply.

The U.S. State Department, which is reviewing the project because it crosses an international border, is set to release an environmental report in coming weeks. The analysis comes amid debate over the safety of moving oil by rail after accidents including a deadly derailment in [Quebec](#) last July.

Federal agencies will have 90 days to comment on whether the 36-inch (90-centimeter) diameter pipeline is in the national interest. President Barack Obama has said he won’t approve Keystone XL if it’s found to substantially boost carbon-dioxide emissions.

Revised Route

TransCanada revised the route through Nebraska in 2012 after Governor Dave Heineman, a Republican, voiced concern that an oil leak could foul the environmentally sensitive Sandhills region or the [Ogallala Aquifer](#) beneath it that provides drinking water to 1.5 million people and is essential to agriculture.

The refusal of Nebraska land owners to yield ground that in some cases has been in their families for generations is the second challenge the maverick prairie state has posed to the \$5.4 billion project.

A push by the company to negotiate easements with property owners along the new path intensified in recent months, as some farmers turned down payments in excess of \$285,000 for use of their land.

TransCanada, which wants to build Keystone XL to link the [oil sands](#) of [Alberta](#) with refineries on the Gulf of Mexico, has “reached agreements with about 73 percent of landowners along the revised Nebraska route,” Davis Sheremata, a company spokesman, said by e-mail. “We are pleased with the progress we have been making there.”

Federal Review

As the federal review of what some call the most scrutinized pipeline in U.S. history continues, Nebraskans are joining environmentalists in a push to get the attention of Congress and ordinary Americans.

“What we’re doing is very different from what other landowners have done,” said Jane Kleeb, executive director of [Bold Nebraska](#), a Hastings-based nonprofit. “Instead of negotiating on price, we’re saying we’re not going to negotiate until they get a permit. It’s changed the rules for TransCanada.”

The State Department report on the pipeline will go to President [Barack Obama](#), who will make the final decision.

“If the State Department finds what it already found in its draft -- that there would be no increase in carbon pollution from tar sands -- then the Nebraska landowners could come into play in his decision because there’s another component that the pipeline needs, and that’s to be in the national interest of the United States,” said [Daniel J. Weiss](#), director of

climate strategy at the Center for American Progress, a Washington group typically aligned with Democrats.

Constitutional Challenge

Landowners in Nebraska have also filed a lawsuit against the state challenging the constitutionality of the law that allowed Heineman to approve the new route, rather than leave it to the Nebraska Public Service Commission.

Whoever loses is likely to appeal to the state Supreme Court, potentially leaving the alignment in flux, said [David Domina](#), an Omaha attorney representing the landowners.

[Nebraska holdouts](#) are using Google Inc.'s YouTube to keep their concerns about the pipeline's potential impact on their rural life, and the world's climate, in the public eye.

The movement gained momentum in September, when Bold Nebraska and environmental groups used \$65,000 in contributions from more than 1,300 donors to buy a kit for a [barn](#) powered by renewable energy, then recruited volunteers to build it in the path of the proposed pipeline.

Jenni Harrington provided part of a soybean field on her family farm, 15 miles northwest of York, for the building.

From Great-Great-Grandfather

“My great-great-grandfather homesteaded this land in 1864,” Harrington said in an interview in the barn as a windmill screeched outside and dust filtered under the door.

“If this gives them the land we inherited from our father, it won't be the same to hand over to our children,” she said. “Our big concern is if there was some sort of leak that got to our wells.”

TransCanada said it has agreed to use thicker-walled steel, increased shut-off valves and other techniques to lay the pipeline.

“The Final Environmental Impact Statement on Keystone XL extensively evaluated the impacts of a spill or release from the pipeline, including on the aquifer,” said Sheremata, the company spokesman. “Even in areas where a spill might reach groundwater, the impacts would be localized to an area measured in hundreds of feet.”

‘Red Herring’

[Brigham McCown](#), former administrator of the U.S. Pipeline and Hazardous Materials Safety Administration under President George W. Bush, called concerns about damage to the aquifer a “red herring.”

“There are thousands of miles of pipeline in the Ogallala Aquifer,” he said.

McCown said Nebraskans have managed to hold out longer than landowners in [Texas](#) and Oklahoma who opposed the southern leg of the pipeline. That route, known as the Gulf Coast line, became operational Jan. 22 and transports crude oil regionally.

TransCanada took some land from Texas property owners through eminent domain, an action it says it will only use in Nebraska as “a last resort.”

Eminent domain is the right of governments to take private property for the public good, so long as the landowner is compensated. In Texas, operators of pipelines that qualify as common carriers can condemn property for easements, a form of taking.

Disturb Soil

About 110 miles north of the Harrington farm, near Neligh, Art Tanderup said he’s concerned that the pipeline, which would run 600 feet from a house built in 1921 by his wife’s grandfather, would disturb the topsoil, making it difficult for him to grow soybeans profitably.

“We would lose almost 50 acres of ground during construction,” said the former high school teacher, who retired in 2011 to run the farm with his wife, Helen. “They say they will make it just like it was, but I’m concerned it will be difficult to raise anything.”

Tanderup's dog, Penny, trotted alongside as the farmer steered his pickup over uneven ground littered with dried corn husks. Pipeline construction, he said, could disturb artifacts left by the Ponca Indians in the 1870s during a forced relocation from Nebraska to [Oklahoma](#) known as the [Trail of Tears](#).

Unstable Area

About 75 miles further north, in Holt County, Terry and Diana Steskal said the pipeline would be buried in unstable soil along the proposed route, which would cut their 480-acre farm in half.

“There's very little difference between the Sandhills in sand and texture of sand on my property,” said Terry Steskal, whose father bought the farm near Atkinson in the 1940s for \$5.15 an acre, leaving the family so broke he shingled the outbuildings with tobacco cans. “If there was a leak it would go through that sand fast. Our number one concern is liability.”

Nebraskans who've negotiated easements along the Keystone XL route said the thousands of miles of pipeline that already exist in the state haven't had major problems.

“There's a lot of a pipeline in Nebraska,” said Bill Tielke, a Holt County supervisor who signed an easement with TransCanada to use land on his farm near the Steskal homestead.

“They were offering a pretty good sum of money -- if they are going to offer that kind of money, why would you not accept it? Unless you absolutely don't owe debt to anyone.”

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