

9/14/2012: The first hearing was held with **Judge Stephanie Stacy** presiding. Judge Stacy **was appointed** in 2011. The State of Nebraska was asking the judge to dismiss the case on the grounds that the citizens did not have "standing"--meaning from the state's perspective since they were not a pipeline company or a state agency involved that they had no right to bring the case forward. The State also argued that--according to them--the taxpayers were not paying for the study the case should be dismissed. The legal team for the citizens--led by **David Domina** and **Brian Jorde**--hit back on the State's claims citing various cases that set precedent for the citizens to bring this claim forward. The State has attempted to make similar arguments in lawsuits since 2004 losing each time. Domina went a step further in his argument saying Plaintiffs could amend their lawsuit to challenge the constitutionality of LB 1161 on the grounds the state has and is illegally advancing credit to a private corporation. This certainly had the State's lawyers writing notes to each other.

Judge Stacy will make a decision on the State's "Motion to Dismiss" in writing after further study of the arguments, she did not issue a ruling today. We do not have a specific timeframe but expect the decision in thirty days or so. We feel confident in the case and believe the **PSC**--not the DEQ and Governor--should be routing all oil pipelines, including TransCanada's proposed Keystone XL which right now, because of LB 1161 (and 15 minutes of debate in the Unicameral), is exempt from the PSC rules and regulations. The entire Special Session was devoted to enacting "**MOPSA**" (Major Oil Pipeline Siting Act) which consists of 13 separate statutes clearly laying out exactly what pipelines must do and what specific criteria the **PSC** (Public Service Commission) must utilize in its evaluation of a major pipeline route.

If the case moves forward, we could be looking at several months before a decision is made on the constitutionality of LB 1161. The decision will certainly have an impact on TransCanada's route in Nebraska, who has authority over common carriers and eminent domain powers.

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