

Legal Defense Fund Focused on Pipeline Project, Protecting Landowner Rights

By Dan McCann
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2013 could be a year of significant development in the life of the highly-anticipated (by some) and staunchly-opposed (by others) Keystone XL Pipeline. The controversial 1,179-mile project would stretch from Hardisty, Alberta, Canada to an existing oil pipeline in Steele City, Neb.

As it stands now, Trans-Canada expects the U.S. State Department to approve its application for a Presidential Permit – a necessity for building a cross-border pipeline – in the first quarter of 2013. Construction, said TransCanada, would begin shortly after, with an anticipated in-service date in late 2014 or early 2015.

Lawyers [David Domina](#) and [Brian Jorde](#) of the Omaha-based [Domina Law Group](#) are among those monitoring the latest developments very closely. Both are working in conjunction with the Nebraska Easement Action Team, Inc. (N.E.A.T.), a non-profit legal defense fund organized in May 2012. Its mission is centered on protecting the rights and interests of Nebraska landowners potentially affected by the pipeline. (While N.E.A.T. does not take an official position, as an organization, on whether the pipeline should be built, all of its Nebraska board of directors oppose the project.)

Jorde said N.E.A.T.'s efforts, right now, are focused on landowner outreach, empowerment, and education about easements and property rights.

“We’ve had meetings across the state and in the counties that may be affected by this project. The response has exceeded our expectations and the enthusiasm and courage of landowners strengthens when they realize there are ways they can protect themselves if this project goes forward,” said Jorde.

The Nebraska Department of Environmental Quality is currently reviewing public comments and data on the latest proposed pipeline route, a path which avoids the Nebraska Sandhills. Once the review is complete, it will present its findings to Gov. Dave Heineman who will then have thirty days to approve or deny the route. If the route is denied, Trans-Canada can choose to submit an application to the Public Service Commission for review.

“If the Governor approves the route, that act alone instantly vests eminent domain rights over Nebraskans’ land in Trans-Canada,” explained Jorde.

He said he believes N.E.A.T.’s efforts have had a tangible impact on the debate.



Brian Jorde of the [Nebraska Easement Action Team](#), with a pipeline slide behind him, speaks at the Nebraska Farmers Union Convention in December. (*Independent/Matt Dixon*)

“The first core group of landowners in N.E.A.T. have almost all been re-routed around and are no longer faced with eminent domain or pipeline worries. We don’t think this is a coincidence. Get organized and be heard – it makes a difference,” he said.

He encouraged landowners in the proposed route to, at least, investigate what N.E.A.T has to offer them.

“Knowledge is power,” he said. “Eminent domain and condemnation and the notion that a for-profit, private, foreign company can come into our state and dictate what our citizens can and can’t do with and on their land is so unbelievable that it is helpful to get educated about what this all means and what can be done.”

He continued, “N.E.A.T. is the only organization working 100 percent on behalf of landowners that will negotiate terms of the legal agreement – an easement – that defines who can do what and who is responsible for what if this project gets approved. N.E.A.T. also helps educate those landowners who want to force TransCanada to take their land through condemnation proceedings in court.”

Though it’s come up against setbacks and staunch opposition, TransCanada said it “continues to believe in the value of Keystone XL due to the overwhelming support the project has received from American and Canadian producers and U.S. refiners who signed 17- to 18-year contracts to ship over hundreds of thousands of barrels of oil per day to meet the needs of American consumers.”

For his part, Jorde said he will continue pressing, under the N.E.A.T banner, to protect the rights of Nebraska landowners.

“Without a question, the most rewarding aspect of our involvement with N.E.A.T is the privilege to work with so many great Nebraska farm and ranch families,” he said. “Nebraska is an agricultural state first, and we can’t let those in Lincoln or Canada forget that fact.

Helping people organize over common goals and exercise their voices is very rewarding.”

Brian E. Jorde

Brian E. Jorde, active in the firm’s Michigan and Nebraska practices, brings extensive business experience in real estate development, and personal entrepreneurship, to Domina Law Group.

Raised in Wayne and Omaha, his undergraduate degree in philosophy is from Vanderbilt University, and he earned his law degree at the Thomas M. Cooley College of Law, Lansing, Mich.

He worked for several years in complex commercial real estate areas. His work included notable projects, including negotiations for sale of property now used at the Clinton Presidential Library in Little Rock, Ark. Other major projects included acquisitions complimentary to the Ambassador Bridge, providing the official NAFTA connection between the United States and Canada. He is also involved in environmental issues affecting real estate, and successfully completed a rare orphan oil well clean up project in Michigan without costs to his clients.

Jorde also worked for nearly two years in logistics and transportation with a major trucking firm. He negotiated contracts, and arranged transport for truckload, and less than truckload cargo movements from Canada to Mexico and all across the United States. His pre-law work with Domina Law included courtroom support for a jury case lasting more than three months in Oakland County, Mich., and several other cases of significant complexity. Jorde was present in court when David Domina presented closing argument to a federal jury that returned a \$1.3 billion verdict for the firm’s clients.

Jorde spoke about N.E.A.T. at the 99th Annual Nebraska Farmers Union Convention in Grand Island last month.

David A. Domina

David A. Domina formed the trial lawyer firm in 1975. He is virtually unparalleled for his diverse and extensive trial experience.

He is one of a handful of American lawyers to have won a jury verdict for more than \$1 billion. He has also successfully defended [criminal capital cases](#). Few lawyers have had either experience. Virtually none have had both.

Domina's extensive trial experience involves [complex litigation](#) in national, regional and local proceedings. He has tried complex civil and criminal cases, including [class actions](#), homicide, product liability, [wrongful death and serious injury](#), and a wide variety of complex [commercial cases](#). He has appeared in court in 43 states in the nation, and has tried nearly 350 cases to verdict. His total trial experience includes more than a thousand suits.