

**STOP THE
TRANSCANADA
PIPELINE**

Presented by

JANE KLEEB

BoldNebraska.org

Slides by Justin Kemerling



We want to protect our land...



We want to protect our water...



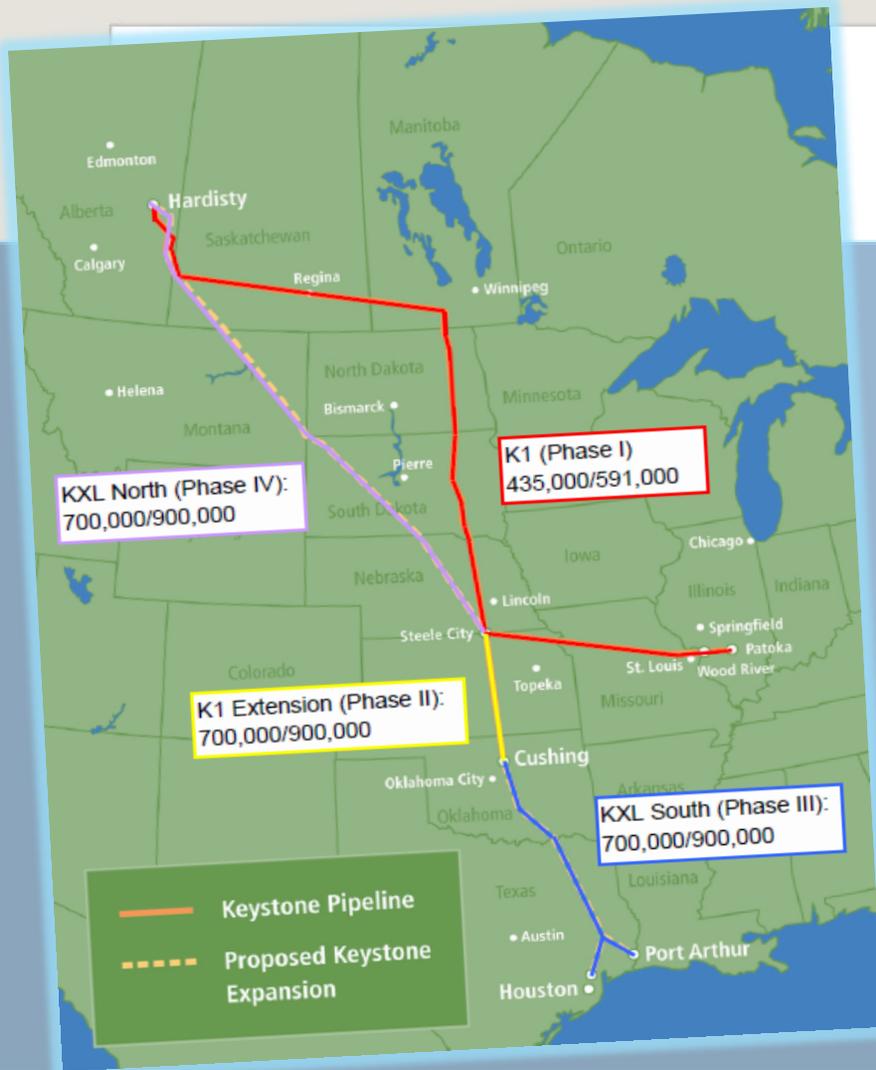
We want to protect our economic activity...



We don't want a spill to hit home...

What is the pipeline?

- **TransCanada new to tarsands pipelines (gas pipelines, not oil)**
- **Currently, two TransCanada pipelines:**
 - **Keystone 1 (already built)**
 - **Keystone XL (not approved)**
- **Very high pressure (1440 psi/1600 psi, compare car tire ~30 psi)**
- **High temperature (up to 158° F)**
- **Pump 800,000 barrels or 34 million gallons per day**

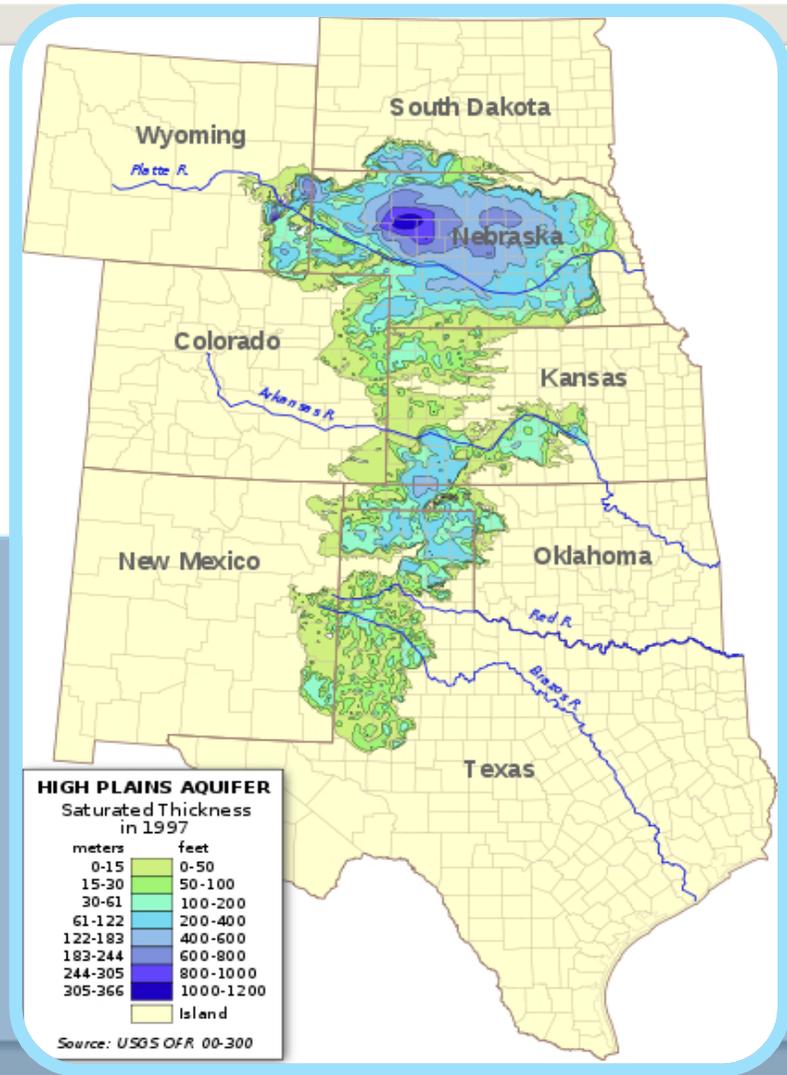


The Keystone XL flowing at a maximum rate of 800,000 barrels per day could fill the Exxon Valdez in 1.6 days, which would fill 4,200 tanker trucks every day



- | | | |
|--|--|---------------------------------------|
| 1 Kinder Morgan TMX1A Expansion | 12 Portland Pipeline Reversal | 25 TransCanada Keystone XL |
| 2 Kinder Morgan TMX1B Expansion | 13 Sunoco - to Philadelphia | 26 Allen Energy |
| 3 TransCanada Keystone | 14 Enbridge Pioneer (Opt2) | 27 Kinder Morgan TME2 |
| 4 TransCanada Keystone Cushing Extension | 15 Enbridge Eastern PADD II | 28 Kinder Morgan TME3 |
| 5A Enbridge Alberta Clipper | 16 Enbridge Pioneer (Opt 1) | 29 TransCanada Alberta-California |
| 5B Enbridge Line 4 Extension | 17 ExxonMobil Mustang Expansion | 30 Enbridge Northern Gateway |
| 6 Minnesota Pipeline Expansion | 18 Enbridge Spearhead Expansion (N/S) | 31 Kinder Morgan TME Northern Leg |
| 7A Enbridge Southern Access Expansion | 19 Sunoco - to US Gulf Coast | 32 Enbridge Gateway Condensate Import |
| 7B Enbridge Southern Access Extension | 20 Enbridge/ExxonMobil Texas Access | 33 Enbridge Southern Lights |
| 8 Enbridge Line 5 Expansion | 21 ExxonMobil/Enbridge Pegasus Expansion | 34 Capline/Chicag |
| 9 Enbridge Line 6B Expansion | 22 Centurian Pipeline Reversal | 35 Enbridge North Dakota |
| 10 Enbridge Line 6C | 23 TEPPCO/Kinder Morgan Chinook - Maple Leaf | 36 Enbridge Light Sour Line |
| 11 Enbridge Line 9 Re-reversal | 24 BP No. 1 Pipeline | |

They want 36 pipelines to cross the US
4 would be in Nebraska



Why do we care?

- **Threatening our main water source**
 - **Ogallala Aquifer is over 1 million years old**
 - **Provides 85% Nebraskans drinking water, 27% USA ag water**
- **Sandhills and sandy soil are a fragile eco system**
- **When a spill happens, its not just an oil spill, its also a chemical spill**

TARSANDS
OIL
16X
MORE
CORROSIVE
THAN
OIL

STEEL FROM
INDIA/CHINA
75%
THE STRENGTH
OF
AMERICAN
STEEL



Canada's forest before and after
the tar sands oil mining process

Safety Concerns

- **Nebraska has NO regulations regarding local emergency response or oil spill response plans on oil pipelines**
 - **Spills, land rights, landowner liability, road construction**
 - **No idea evacuation zone or what chemicals/dilutent levels will be in pipeline**

**2,000 NEBRASKANS RECRUITED
TO ATTEND STATE DEPT
MEETINGS, 95% OF SPEAKERS
OPPOSED TO PIPELINE**



Industry Concerns

- **Suncor, Imperial Oil (ExxonMobile), Nexen, and BP have all stated that the Keystone XL pipeline is not currently needed**
- **Three U.S. refineries have sued TransCanada to void their shipping contracts or recover almost \$1 Billion in damages**
- **Smaller USA oil companies concerned their oil will be pushed out of market**



Feds vs State

- PHMSA regulates pipeline safety under the Pipeline Safety Act (PSA), but this does not mean that all regulation related to “safety” is preempted by the PSA
- The PSA regulates pipeline owners with regard to pipeline design, materials, fabrication, and inspection of the pipe itself
- Safety areas not regulated by the PSA include:
 - **Emergency response** (regulated by federal Clean Water Act)
 - **Control of new development** by adjacent landowners
 - **Easement termination conditions** such as removal of abandoned pipe
 - **Liability standards** to recover economic damages caused by a spill
 - **Routing** to increase safety (untested in federal courts)



possible release in 2010.²⁰ The guidelines include a section on cybersecurity developed with the assistance of the Applied Physics Laboratory of John Hopkins University as well as other government and industry stakeholders.²¹

Oil Pipeline Siting Authority

The federal government does not have siting authority for oil pipelines, even interstate pipelines. This is in contrast to natural gas pipelines; under Section 7(c) of the Natural Gas Act,²² parties seeking to construct, acquire or operate gas pipelines under the jurisdiction of the Federal Energy Regulatory Commission (FERC), i.e. interstate pipelines, must obtain a “certificate of public convenience and necessity” from FERC authorizing such acts and operations. No similar statutory language requires oil pipeline owners and operators to obtain certification from FERC or any other federal agency.

In the absence of federal government siting authority, state laws establish the primary siting authority for oil pipelines, including interstate oil pipelines. In Nebraska, there do not appear to be any permitting requirements that apply specifically to the construction and operation of oil pipelines.

The state statute does include an “eminent domain” provision which grants eminent domain authority to oil pipeline companies that are unable to obtain the necessary property rights from the relevant property owners. The statute provides:

Any person engaged in, and any company, corporation, or association formed or created for the purpose of transporting or conveying crude oil, petroleum, gases, or other products thereof in interstate commerce through, or across the State of Nebraska, or intrastate within the State of Nebraska, and desiring or requiring a right-of-way or other interest in real estate, and being unable to agree with the owner or lessee of any land, lot, right-of-way or other property for the amount of compensation for the use and occupancy of so much of any lot, land, real estate, right-of-way or other property as may be reasonably necessary for the laying, relaying, operation and maintenance of any such pipeline or the location of any plant or equipment necessary to operate such pipeline, shall have the right to acquire the same for such purpose through the exercise of the power of eminent domain.²³

The statute notes that such power of eminent domain should be acquired in accordance with the procedures for petitioning the state for eminent domain authority as set forth elsewhere in the Nebraska statutes.²⁴

It should be noted that siting approval only represents a portion of the regulatory approvals one might need in order to construct a pipeline. For example, pipelines that will import oil from another country require the approval of the U.S. Department of State. A myriad of environmental statutes and regulations may also require a series of federal or state approvals and permits. Other statutory and regulatory obstacles may also arise depending on the nature of the project in question.

²⁰ Transportation Security Administration, Personal communication, February 2, 2010.

²¹ *Ibid.*

²² 15 USC § 717(c).

²³ Neb. Rev. Stat. § 57-1101.

²⁴ *Id.*



Limits of State Dept/Pres

- The President's independent authority over pipelines comes from his Constitutional power to manage "foreign affairs," but this power ends at the borders
- Matters within the borders of the U.S. are domestic affairs regulated by federal and state statutes and local ordinances
- The National Environmental Policy Act (NEPA) requires only that federal agencies study environmental impacts and provides no separate legal authority to require any changes in a project
 - DOS can't order mitigation or land reclamation requirements
 - DOS can't change the KXL route, except the location of the border crossing
 - DOS can't change safety requirements
 - DOS can't protect groundwater

**“IF OIL GETS INTO
THE WATER WE’RE DONE.
YOU CAN’T DRINK
OILY WATER AND YOU CAN’T
IRRIGATE CROPS WITH IT.”**



Jobs

TransCanada Says...

- **Over 1,000 jobs for Nebraskans**
- **Convinced unions this is good for America**
- **Local jobs and more economic activity**

Reality...

- **Only 10-15% of jobs will go to Nebraskans**
- **Our union workers currently not trained at levels to take the higher paying jobs**
- **Even NPPD contracts with out of state workers**

KEEP NEBRASKA BEEF TARSANDS-FREE
STOP THE TRANSCANADA PIPELINE

BOLD NEBRASKA

— www.NEvoter.org —

THE HEARTLAND IS NO PLACE FOR TARSANDS
STOP THE TRANSCANADA PIPELINE

BOLD NEBRASKA

— www.NEvoter.org —



N.E.A.T.



**NO EMINENT DOMAIN
FOR PRIVATE GAIN**

STOP THE TRANSCANADA PIPELINE

- www.NebraskaEasement.org -