

Stateline Midwest

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Decisions on oil pipeline run through Midwest

Nebraska special session shows role for states in project that aims to boost U.S. use of Canadian oil

by Ilene Grossman (igrossman@csg.org)

TransCanada has faced many hurdles in its multi-year effort to get a new 1,700-mile oil pipeline built.

But this fall, the energy infrastructure company ran up against perhaps its stiffest opposition yet — from concerned residents and lawmakers in the state of Nebraska.

"Every Nebraskan has an opinion about two things right now," state Sen. Ken Haar said in advance of a special legislative session called by the governor in November, "Big Red football and the Keystone pipeline."

Public outcry over the Keystone XL pipeline being routed through the Sandhills, an ecologically sensitive area of the state that also contains areas of shallow groundwater, had been building for months.

That outcry ultimately resulted in a special legislative session in November, new laws that will beef up Nebraska's oversight of future oil-pipeline projects, and an agreement to reroute the proposed pipeline away from the Ogallala Aquifer, a critical resource for irrigation and drinking water.

The events in Nebraska were also cited by the Obama administration when it announced that a decision on whether to grant the necessary presidential permit for the project would be delayed until 2013.

A final decision was originally expected by the end of 2011. As a result, the controversy over constructing a pipeline that would bring oil from Alberta's oil sands to U.S. refineries and consumers will continue over the next year.

More state oversight of pipelines

During Nebraska's special session, TransCanada — the energy infrastructure company that developed plans for and will own the pipeline — agreed to work with the state of Nebraska on a new route.

The Legislature, meanwhile, passed two bills to improve state oversight over

The Keystone XL pipeline project: A time line of the application and approval process

- ✓ **September 2008** — TransCanada application to build pipeline received by U.S. State Department, which publishes a notice of intent to prepare environmental impact statement, meets with communities/tribes along the route and consults with other federal agencies.
- ✓ **April 2010** — Draft environmental impact statement issued, followed by public meetings and comment period.
- ✓ **April 2011** — Supplemental draft environmental impact statement issued, followed by comment period.
- ✓ **August 2011** — Final environmental impact statement concludes that the Keystone XL pipeline would not cause any significant impact to resources along the pipeline route.
- ✓ **September 2011** — Review period begins with public meetings in states and consultations with at least eight federal agencies.
- ✓ **November 2011** — Nebraska Unicameral Legislature holds special session due to concerns about pipeline being routed through Sandhills and Ogallala Aquifer.
- ✓ **November 2011** — TransCanada agrees to work with the state of Nebraska on developing an alternative route for the pipeline.
- ✓ **November 2011** — Citing the need to explore alternative routes for the pipeline, the U.S. State Department announces that a final decision will be delayed until at least the first quarter of 2013. Previously, an announcement on whether to grant a presidential permit for Keystone XL had been expected by the end of 2011.

any new proposal from TransCanada or other pipeline projects.

Prior to those measures being passed, Haar says, Nebraska had lacked the kind of pipeline-siting laws that some states

already had on the books.

In Montana, for example, the state's Major Oil Pipeline Siting Act requires that major projects apply for certification from the Department of Environmental

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Alberta oil sands development, mining and exploration continues, as does the controversy over plans to build a pipeline that would allow much more of this oil to be shipped to and used in the U.S. The pipeline expansion would go through the Midwest. (photo: David Webb/Dreamstime.com)

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Concerns about pipeline lead to new siting laws in Nebraska and rerouting of project

Quality.

In Minnesota, North Dakota and South Dakota, the states' public utilities commissions have the authority to approve or deny applications to construct crude oil pipelines. (South Dakota granted a permit for Keystone XL in 2010, contingent on TransCanada meeting 50 different conditions; the pipeline route did not run through Minnesota and North Dakota.)

Nebraska, though, had no such processes in place — until November.

The new laws approved during the special session will establish a siting permit process for the state while also authorizing and funding an environmental impact study of TransCanada's proposed pipeline.

"From the beginning, I sought a process similar to what neighboring states have to determine the route of oil pipelines," says Nebraska Sen. Annette Dubas, who helped push for the special session and served as the sponsor of the Major Oil Pipeline Siting Act, LB 1.

Under this new law, the Nebraska Public Service Commission has the authority to evaluate and approve applications to site major oil pipelines in the state. The applicant will have to pay any costs associated with public hearings and state investigations.

LB 1 also sets time lines for the commission to make a decision — seven months upon receipt of the application, though the commission could extend that time period by another five months for "just cause" — and requires a company to have an approved application before it is given eminent domain rights.

This new state law, though, will not apply to any new rerouting plan for TransCanada's Keystone XL project. The Legislature instead crafted a second bill to deal with that project.

Under LB4, the state Department of Environmental Quality will conduct a \$2 million environmental impact study (paid for by the state) and prepare recommendations to the governor, who will then notify the federal government whether the state approves or disapproves of the new route.

Long route for pipeline approval

The special session in Nebraska put the state at the center of an international controversy over the pipeline and the use of oil from the province of Alberta's oil sands.

Haar says his constituents have not necessarily been against tapping into the oil sands or even building a new pipeline through Nebraska. (An existing Keystone pipeline, in fact, already runs through the state). What they didn't like was the proposed route.

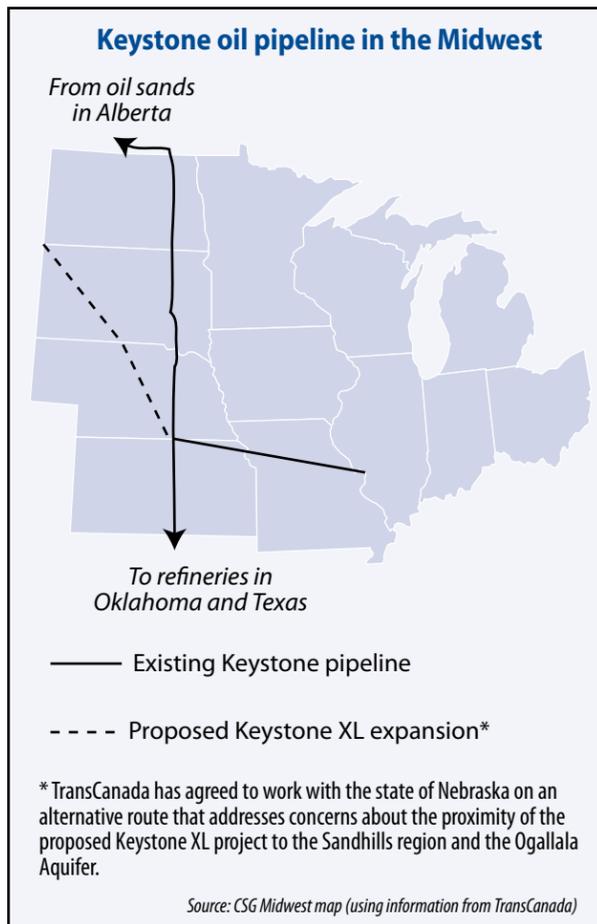
But outside of Nebraska, opponents of the project have been asking another question: Should

a pipeline transporting oil from Alberta's oil sands to this country be built at all?

That question will be debated for at least another year even if a new route addresses Nebraska's specific concerns about potential contamination of the Ogallala Aquifer.

Opponents say the pipeline will take the U.S. on the wrong energy path:

a greater use of fossil fuels (the oil sands, in particular, have been criticized because of the amount of greenhouse gases emitted during the recovery process) and an abandonment of efforts to reduce the country's carbon footprint.



TransCanada officials say they have been surprised at the level of opposition to the project.

"Four years ago, we thought it would be embraced with great enthusiasm," Scott Farris, director of government relations for TransCanada, said during a policy session in October at The Council of State Governments' National Conference & North American Summit.

The first two phases of the pipeline project had already been completed without resistance, he said, and the proposed Keystone XL expansion would bring additional jobs and reduce U.S. dependence on oil from more-hostile parts of the world.

The first part of the pipeline project received a permit in less than two years. (That permit was approved by President Bush in 2008.) In contrast, TransCanada submitted its application for Keystone XL in September 2008 and will now have to wait until at least 2013 for a final decision on the presidential permit.

The Obama administration cited recent developments in Nebraska as the reason for the delay, but the decision was also expected to be politically difficult, in part because the decision split union and environmental groups.

The National Wildlife Federation, for example, says the proposed expansion is a "game-changer" that would "lock the U.S. into a dependence on this dirty fuel and drive a massive expansion of the tar sands operations in Alberta."

Key unions, meanwhile, have hailed the project's "game-changing economic benefits": more jobs and state and local tax revenue. TransCanada has said the expansion would create 20,000 U.S. jobs in construction and manufacturing, as well

as additional jobs for communities along the pipeline route.

Pipeline through 6 Midwest states

The first presidential permit allowed the construction of an oil pipeline from Alberta to refineries in the Illinois towns of Wood River and Patoka.

That pipeline, which runs through six Midwestern states — North Dakota, South Dakota, Nebraska, Missouri and Illinois — became operational in 2010. A second phase of the project was up and running in 2011; it extends the pipeline to storage and distribution facilities in Oklahoma.

The goal of an additional pipeline expansion — the Keystone XL project — is to create a new route carrying oil from Alberta's oil sands to Port Arthur, Texas. It would dramatically increase the amount of oil that could be shipped to and used in the U.S.

The new pipeline would also transport oil produced in Montana, North Dakota and South Dakota; according to TransCanada spokesman Shawn Howard, about 25 percent of the oil carried in the pipeline would come from those states.

In all, the pipeline could transport up to 830,000 barrels of oil a day.

Regardless of whether Keystone XL is built, Canadians will not sit on such a valuable energy resource. Some Canadian officials, including federal finance minister Jim Flaherty, have said that Canada could also look toward other pipeline options and

export markets for the oil sands. Flaherty told Bloomberg News that one possibility would be to build a pipeline to British Columbia for export to Asia.

As pipeline proponents have noted, too, Canada is a friend, neighbor and stable democracy — qualities that aren't necessarily true of some other countries from which the U.S. gets its oil.

"When a nation [like the United States] imports three times more energy than it produces, it makes sense to go next door to borrow a cup of sugar or borrow a million barrels of oil a day," Murray Smith, a former member of the Alberta legislature who now works in the private energy sector, told legislators at the CSG summit.

Canada, in fact, already is the leading supplier of U.S. oil imports (21 percent of the total), with the oil sands accounting for

176 billion barrels of proven reserves. Another 315 billion barrels could potentially be captured with advances in technology and the recovery process.

Whether the U.S. decides to use more of that oil remains to be seen. But as the recent special session in Nebraska shows, any pipeline project will likely need the backing of all states along the proposed route. ★

Crude oil production in Midwest vs. amount imported into U.S. from Canada (2010)*

State	Thousand barrels per day	U.S. rank
Illinois	25	14
Indiana	5	22
Kansas	111	9
Michigan	18	16
Nebraska	6	21
North Dakota	310	4
Ohio	13	18
South Dakota	4	25
Midwest total	492	—
Crude oil imported into U.S. from Canada	1,929	—

* The U.S. Energy Information Administration reports that the Midwest was home to eight of the 31 oil-producing states in the United States in 2010. The state data and rankings do not include offshore production. Canada is the leading supplier of crude oil imports to the United States, accounting for 21 percent of the total.

Source: U.S. Energy Information Administration



Sen. Annette Dubas