

Business

# Keystone Fought by Nebraska Landowners Vowing to Block

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Bob Allpress describes himself as a “redneck Republican.” Standing on the pasture behind his Nebraska home, the burly former Marine Corps sergeant with a Fu Manchu mustache explains what made him an environmental activist.

The Keystone XL pipeline, which TransCanada Corp. wants to build to bring Alberta’s oil sands to refineries on the U.S. coast of the Gulf of Mexico, would cut across the 900 acres near Naper, Nebraska, that Allpress’s grandfather acquired by homestead in 1886. He is vowing to fight that prospect.

“I love this country,” Allpress, 59, said, explaining his opposition to a revised path the company chose after objections were raised over an earlier one. “Where they are trying to put it is still not where they should.”

Allpress plans to bring his complaints to a public hearing today in Grand Island, Nebraska, about 3 1/2 hours south of his ranch near the South Dakota border. The hearing is the only chance pipeline opponents will have to tell U.S. State Department officials in person why the administration should reject the

project, which has become one of the most politically volatile energy debates in Washington.

Nationally, opponents claim the \$5.3 billion project would exacerbate global warming by encouraging the mining and use of tar sands, resulting in more greenhouse-gas emissions. Supporters say the project would create jobs and that the Canadian fuel would get used even without the pipeline. Lobbying and activism has picked up in advance of a decision expected in coming months from the State Department, which has jurisdiction over the project because it would cross an international border.

## **Nebraska Emotions**

While the debate in Washington is a partisan fight over energy development versus environmental protection, the sides aren't so easily defined in Nebraska, one of six U.S. states the pipeline would traverse and the center for much of the opposition. Some along the 274-mile (441-kilometer) route though the state have vowed to block or slow the project by filing lawsuits, challenging contract terms TransCanada proposes or staging acts of civil disobedience.

Allpress's soil is sandy, which means any spill from the buried pipeline would probably leak through to his drinking water source just 14 feet below the surface. His two-story home is a bumpy 4 1/2-mile ride from the main -- though still dirt -- road and could be hard to access in an emergency, like a spill.

Even the laying of the underground pipeline is likely to leave a permanent scar on his soil, which still retains wagon ruts that mark the route his ancestors took to market, he says.

## **New Route**

Allpress admits he didn't pay much attention to the pipeline debate until TransCanada, under pressure to avoid the ecologically sensitive Sand Hills region in Nebraska, proposed a new route that runs through his property.

While state officials approved of the project with the new path, the revision still elicits complaints from landowners like Allpress who say Keystone remains a threat to their land and the Ogalalla aquifer underneath the soil.

If the hearing is the only chance to make their case to federal officials in a public forum, landowners say it won't be the last word.

"We're trying to preserve what we have," said Susan Dunavan, who along with her husband Bill owns 80 acres of land outside of York, Nebraska.

Their property includes more than 100 varieties of native prairie plants, which they say would be threatened by the pipeline.

Dunavan is part of a lawsuit challenging the constitutionality of the state law that gave the state Department of Environmental Quality and Governor David Heineman the power to approve the project.

## **Press Tour**

Reporters were introduced to landowners who oppose the project this week by Bold Nebraska, an anti-Keystone, non-profit group founded by a Florida transplant who married a Nebraskan and fell in love with the Sand Hills while visiting his family's ranch.

Jane Kleeb, who lives in Hastings with her husband Scott, said landowners were determined to make it as difficult as possible for the project to go forward.

“This is a very personal and emotional fight,” said Kleeb, a former director of the Young Democrats of America. “You’re messing with our friends and family.”

In case the project wins Obama administration approval, Kleeb’s group has organized a second entity designed to challenge TransCanada’s plans. The Nebraska Easement Action Team is signing up landowners and plans to provide legal advice as they negotiate with TransCanada for the use of their land. Kleeb says about 100 of the 500 families who live along the pipeline’s route have signed up.

### **‘Plan B’**

“We always wanted to have a Plan B to make sure landowners are protected,” Kleeb said in an interview as she drove two reporters along highways in central Nebraska. “We see it as a way to slow down or stop the project. I don’t think TransCanada knows how many families we have.”

Their options may be limited if the project wins federal approval. The Nebraska state law that approved a new route gives the Calgary-based company the right of eminent domain, meaning they can seize the property for the construction of the project even from landowners who refuse to cut deals. That’s the law Dunavan and others are challenging.

Shawn Howard, a spokesman for TransCanada, said the company viewed eminent domain as a last resort.

### **TransCanada Response**

“It’s always our goal to come to negotiated easement agreements with landowners because it has a much better result for everyone involved,”

TransCanada spokesman Shawn Howard said in an e-mail. “In our experience when these matters go through the full eminent domain process, the independent panels that hear these matters almost always award much less for the easements than we have offered.”

Lawmakers from the state have largely lined up behind the project, with one, Republican Representative Lee Terry, pushing a bill in Congress to approve Keystone.

Lynn Blais, a University of Texas in Austin law professor who specializes in pipeline issues, said if landowners lose a political fight, the courts could offer further recourse. They could challenge, for example, whether the project is intended for public use, the standard the U.S. Constitution requires if eminent domain is invoked.

Sandra Zellmer, a University of Nebraska at Lincoln professor who specializes in environmental and resources law, said the state's constitution prevents the legislature from passing legislation to the benefit of specific companies. The law giving Heineman authority over Keystone may have violated that provision, she said.

“It's a David versus Goliath kind of fight” Zellmer said in an interview. “But I think they do have some viable constitutional arguments.”

## **Environmental Assessment**

A draft analysis by the State Department concluded Keystone posed minimal environmental risks if it was managed properly. Legal challenges could cause “significant delays,” for construction of the pipeline, Blais said.

Kleeb said her group intends to seek further concessions, such as more money or greater protections for landowners. Nebraska law allows landowners to go to a county court to determine the fair value for their property, a process she says can take two years to settle.

Not everyone along the new route opposes the project. Joe Higgins, 60, whose property abuts the Allpresses' and who leases land from him for his cattle to graze, said he doesn't worry about the project.

"Every gallon of fuel I use comes on a pipeline, so I don't see what the difference is," Higgins said. "It doesn't bother me a bit. I ain't scared of it."

The pipeline wouldn't cross Higgins' land and he figures he's in the minority among his neighbors.

### **Job Creation**

Supporters, who will also get a chance to speak at the Grand Island hearing today, say the project will create thousands of construction jobs and improve the U.S. energy security by negating the need to import oil from less friendly places like Venezuela.

Kleeb said much of the oil from the tar sands is likely to be exported after being processed in Gulf Coast refineries.

For Allpress, the issue is less about geopolitics and more about his connection to the land. He and his wife Nancy returned to Nebraska five years ago to retire.

Their living room is decorated with an 8-point mule deer he shot on the property and badger and bobcat pelts either hunted or trapped. A buck Nancy

shot is mounted on their bedroom wall. At the hearing, Allpress plans to show artifacts he's collected on his land, including Sioux arrow heads and grinding stones. He says he and his neighbors come from "pioneer stock" and won't easily agree to TransCanada's altered route.

"Like Bob said, he's a redneck. I'm more of a flower child from the '60s," Nancy, 56, said. "People make this out to be a Democrat and Republican issue. And it's not."

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