



# PROTECTING NEBRASKA'S GOOD LIFE FROM KEYSTONE XL

The Nebraska Public Service Commission is currently reviewing TransCanada's application to run the Keystone XL (KXL) tar sands export pipeline through Nebraska. This proposed tar sands pipeline threatens farmland, freshwater resources, endangered species, and tribal heritage lands without providing benefits to Nebraskans or the country. If approved, this dirty oil project would carry up to 830,000 barrels per day (bpd) of tar sands. Expanding tar sands production would significantly increase greenhouse gas emissions.

## **KEYSTONE XL PIPELINE PERMITTING PROCESS**

In January 2017, just days after taking office, Donald Trump issued an executive order expediting the Dakota Access and Keystone XL pipelines. A few months later, on March 24th, the State Department granted approval to the previously-rejected KXL permit application, based on the outdated and incomplete 2014 Environmental Impact Statement. However, even with a State Department approval, Keystone XL still requires approval from the Nebraska Public Service Commission (PSC).

Nebraskans have the final say over the future of our land, our communities, and our welfare—not Washington. The Nebraska PSC is obligated to protect property rights, aesthetic values and economic interest, and the lawful protection of Nebraska's natural resources. In their review of KXL, they must determine if the project and the route are

in the public interest of Nebraskans. It is not in our public interest to have a foreign company run dirty tar sands through the heart of our state for export, yet that is exactly what TransCanada's Keystone XL pipeline would do.

## **NO EMINENT DOMAIN FOR PRIVATE GAIN**

TransCanada, the foreign company behind the Keystone XL pipeline, is attempting to use eminent domain for private gain, taking private land from Nebraska's farmers and ranchers, many of whom have been stewards of their land for generations. This sets a dangerous legal precedent of transferring Nebraska's farmland to corporations, and is a violation of the fundamental constitutional rights of these Nebraskans. The Constitution requires that property may only be taken by government for a public use. This project, an export pipeline built by a foreign company, does not meet that standard.

Should the pipeline be approved, the land easements TransCanada would own would last forever, locking landowners into unfair contracts allowing TransCanada to add more pipelines or sell to a third party without any further compensation or guarantee of safety to their land. Even worse, the contracts TransCanada forces on landowners restrict their use of their own land. Farmers cannot build structures, plant trees, or put in water lines. In some cases, the route cuts right down the middle of a field, so these restrictions would put an undue burden on farmers and ranchers.

### **NO APPROVED ROUTE IN NEBRASKA—WATER, WILDLIFE, CULTURAL RESOURCES AT RISK**

While TransCanada has applied for a state permit, it has not received approval from the PSC, so it does not have a legal route through Nebraska. The pipeline's proposed route would cross the Ogallala Aquifer and Nebraska's Sandhills. The Ogallala Aquifer is one of the country's largest sources of freshwater, where a spill threatens the drinking water of millions of Americans and the livelihoods of ranchers and farmers in America's heartland. The Sandhills have miles of porous, sandy soils that are extremely permeable, where a spill would quickly impact ground water, our most precious resource. The proposed route has many locations where the groundwater is 35 feet or less from the surface and is within a mile of 2,398 Nebraska water wells. 1,115 of Nebraskan wells within a mile of the proposed pipeline route are classified as shallow or very shallow. The proposed route goes through areas of highly erodible soils and would destroy miles of native grasses, permanently altering the unique ecology of virgin prairies.

In addition to the threat to ecologically sensitive areas, the pipeline threatens unique aspects of Native American culture in Nebraska. The proposed route also crosses the historic Ponca Trail of Tears, and to date the Tribal Nations in Nebraska and South Dakota have not been properly consulted.

Nebraska is also home to many migrating species of birds, including the endangered whooping crane. Experts believe that because the pipeline's proposed route overlaps with the cranes' migration route, it is likely that transmission lines for pump stations needed

by the pipeline would kill whooping cranes. Because of the small number of these birds remaining, the loss of even a single whooping crane could threaten their continued existence as a species. In the words of world-renowned whooping crane expert Paul Johnsgard, "We need to reduce the threats to this magnificent bird, not increase them."



### **KEYSTONE XL IS ALL RISK AND NO REWARD FOR NEBRASKA**

The tar sands in the Keystone XL pipeline is some of the dirtiest oil in the world, and also the most difficult to clean when it spills. A spill of tar sands on Nebraska's farmlands, in the Sandhills, or in the Ogallala Aquifer would devastate culturally essential natural resources and threaten drinking water for the region. The National Academy of Sciences reports that the toxic heavy diluted bitumen, a primary element of tar sands, is nearly impossible to clean up when it spills. Oil pipelines corrode and leak — no oil company can deny this fact — and this can lead to massive oil spills on farmland or in waterways. A University of Nebraska at Lincoln professor estimated that the pipeline could have 91 significant spills over a 50 year timeline, while TransCanada continues to reassure the public of safety, saying that their pipeline would only have 11 spills. TransCanada purchased the pipe for the Keystone XL pipeline five years ago and it has been sitting outside, exposed to the harsh elements of North Dakota winters and summers. Add on using compromised pipe on this project and it's a recipe for disaster — an assurance that

it's not IF the Keystone XL pipeline will spill, it's when and where.

A single spill is still too many. Tar sands is more toxic and more difficult to clean up in the event of a spill, and local governments and landowners are not prepared to address these kinds of incidents. TransCanada has provided no proposed funding for training and equipment that might be necessary to deal with pipeline accidents, and so local governments would bear the costs of dealing with the costly and dangerous disasters that would inevitably be caused by this pipeline. To add insult to injury, the pipeline will be taxed as personal property, which would limit the taxes TransCanada would pay to local governments.



### **THIS IS A CHOICE ABOUT OUR CLIMATE FUTURE**

The Keystone XL pipeline would be a disaster for Nebraska and the climate. The Nebraska PSC decision on TransCanada's proposed Keystone XL tar sands pipeline is a choice about our climate future. Oil Change International estimates that the pipeline would carry and emit more than 181 million metric tons of carbon dioxide equivalent each year. That's the climate equivalent of 37.7 million cars' annual emissions. At

### **ENDNOTES**

- 1 Analysis of Frequency, Magnitude and Consequence of Worst-Case Spills From the Proposed Keystone XL Pipeline (University of Nebraska-Lincoln). [http://journalstar.com/pdf-worst-case-spill-report/pdf\\_9818b992-6f17-5e93-9d6a-bbc1c5f2f835.html](http://journalstar.com/pdf-worst-case-spill-report/pdf_9818b992-6f17-5e93-9d6a-bbc1c5f2f835.html)
- 2 "Cooking the Books." Oil Change International. April 2013. [http://priceofoil.org/content/uploads/2013/04/Cooking\\_the\\_Books\\_FINAL-SCREEN.pdf](http://priceofoil.org/content/uploads/2013/04/Cooking_the_Books_FINAL-SCREEN.pdf)

a time when Americans are already feeling the pain of climate-fueled hurricanes, wildfires, droughts, and crippling storms, the Keystone XL pipeline will add significantly to the crisis that is making extreme weather events ever more destructive.

Developing Nebraska's own energy economy is a far better investment. Nebraska ranks 4th among all states for wind energy potential and 13th among the states for solar potential in the United States. Nebraska also ranks as the 8th highest state for energy consumption per capita, leaving ample room for investment in energy efficiency to reduce carbon emissions from the use of fossil fuels.

Unlike Keystone XL, when wind turbines are built in Nebraska they provide annual payments to landowners and pay local property taxes throughout the lifespan of the turbine, not just for the first few years.

### **TAKE ACTION**

You can join us to stop the Keystone XL pipeline from being approved to cut through Nebraska, transporting dirty and dangerous tar sands for export. Submit a comment today to the Nebraska Public Service Commission at [sc.org/kxl](http://sc.org/kxl) or join us at an upcoming public comment session. Contact Robin Vovolka [robin.vovolka@sierraclub.org](mailto:robin.vovolka@sierraclub.org) or (402)312-6278 for more information on how to get involved.

Sierra Club National  
2101 Webster Street, Suite 1300  
Oakland, CA 94612  
(415) 977-5500

Sierra Club Legislative  
50 F Street, NW, Eighth Floor  
Washington, DC 20001  
(202) 547-1141

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