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Explore, Enjoy, and Protect the Planet

Tar Sands Pipeline Update

Windmills Not Oil Spills

By Ken Winston
Public Policy Advocate

There has been a great deal of activity related to Sierra Club efforts in opposing the tar sands pipeline. On May 12, we helped a group of concerned parties put together a hearing at the state capitol. The hearing came out of frustrations about not being heard by state decision-makers. The hearing was well attended, with more than 150 people in attendance. Mary Pipher presided over the event. Randy Thompson, Susan Luebbe, Jo Stec, Cindy Myers and Ben Gotschall were among those who spoke eloquently and displayed common sense and understanding of this issue in a way that our most of our local elected officials have not.

On the same day, LB 629 advanced from the Natural Resources Committee after months of hard work and amendments to try to find something the committee would support. The bill was amended to deal only with reclamation, or restoring the land to something like its original condition during construction and operation.

LB 629 was debated by the entire legis-

lature on May 19. Probably the most significant aspect of the debate were numerous statements by senators acknowledging the fact that it does not address several significant issues, including liability, the pipeline route, emergency response planning or establish any standards or oversight for oil pipelines. Several senators mentioned concerns about eminent domain. Some senators who support the pipeline stated that the pipeline should avoid the Sandhills, echoing U.S. Sen. Mike Johanns' message on that issue. LB 629 was advanced without any dissenting votes after about two hours of discussion.

LB 629 was passed by the legislature and signed by the governor. Although the bill falls far short of addressing the major issues I mentioned in the previous paragraph, its passage represents a significant step in a session in which TransCanada had opposed the advancement of ANY legislation that would have imposed standards related to oil or tar sands pipelines. The fact that we were able to get the bill passed is a

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Spring Programs

"Bicycling in Omaha" with Carlos Morales and Matt Martin was presented on Thursday, June 23. Carlos Morales is Omaha's new bicycle/pedestrian coordinator and Matt Martin is executive director of the Community Bicycle Project Omaha.

Carlos spoke about his goals for improving bicycling in Omaha. After a similar job in Los Angeles, Carlos is trying to make Omaha think about cycling not just as recreation, but also as transportation. He shared ideas to improve Omaha's cycling conditions, such as improved bike racks and trail signage, shared and protected bike lanes, and improved east-west connectors. And, of course, free bike valet parking for the College World Series.

"Zero Energy Design in Nebraska" with Tim Hemsath, and "Omaha's Green Co-Housing" with Jack Round was MoValley's May program. It was held on Thursday, May 26.

"Green building" involves principles affecting siting, design, construction, operation, and maintenance, with the energy efficiency of a building as the most important

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Program, Potluck at Chalco Hills

The Thursday, Aug. 25 program is tentatively scheduled to be a potluck picnic with an evening program or nature walk to be held at the NRD's Chalco Hills Recreation Area: pot-luck starting at 6 p.m., program at 7. Check the website <http://sierranebraska.org>

Hiking in Mountains of Southwest Colorado

Day hiking Aug. 14-20, in glacial valleys, peaks and the Cannibal Plateau in southwest Colorado.

There is still room on this national outing on which we will do six days of day hiking that includes walking to the summits of two peaks over 13,000 feet. The area is within the most rugged part of Colorado. This area was dominated by volcanoes from 20 million to 30 million years ago, glaciers from 2 million to 15,000 years ago, and silver mining 100 years ago. You will view evidence of all three activities as you hike this mountainous region. The leader is trained in geol-

ogy and can answer questions about the landscape. You will also see abundant mountain flowers such as desert paintbrush and columbine. Included is a tour through one of the area's abandoned mine shafts. To top all this off we will stay in nicely furnished cabins that have complete kitchens and showers. You will eat home-cooked meals (participants expected to help with kitchen duties). For more information contact trip leader: John Calandra (402-991-8314, johndcal@cox.net) or view the trip brochure online: <http://www.sierraclub.org/outings/national/brochure/11250a.aspx>

Nebraska Legislative Update - June 2011

By Ken Winston
Policy Advocate

The 2011 Unicameral session was marked by two big issues for the Nebraska Chapter, protecting the environmental trust and working to establish standards for the tar sands pipeline. In between we were surprised to see a non-controversial school energy efficiency bill vetoed by the governor. The bills that dealt with these issues are LB 229, LB 629 and LB 283.

LB 229 represents a success story for the conservation community. As introduced, LB 229 would have taken \$7 million per year for 11 years from the Nebraska Environmental Trust (NET). Although the supporters of the bill were talking about using the money for the Platte River Recovery Program, there was no guarantee the funds would be used for this purpose. Seven million dollars per year represented about half of the funds available for distribution through the NET and would have crippled this critical funding source for environmental projects. Worse, it would have set a precedent that would have allowed the legislature to completely dismantle the trust.

Fortunately, even though LB 229 was heard on the first day of hearings, environmental and conservation organizations got the word out to their members and there were 23 people who testified against the bill, as opposed to only 10 who supported it, most of whom were recruited by the introducers. Often when issues like this come up, people show up at the hearing and then disappear back into the weeds as the process goes on. Instead the groups and individuals opposed to the bill began meeting regularly. Sen. Ken Haar and I contacted supporters

of the trust and convinced them to get involved and spent a great deal of time encouraging people to stick together in opposing the bill. Although there were rough moments, the organizations that supported the trust stayed together in opposing LB 229.

In the end, the parties were able to work out a compromise that was a good deal for all concerned. There are three people who deserve a great deal of credit for the compromise: Sen. Haar for his consistent, calm and principled opposition to ideas that would weaken the trust; Sen. Lavon Heidemann for proposing that general funds be increased for water funding; and Sen. Chris Langemeier for guiding the parties to an acceptable middle ground.

The details of this agreement are as follows: First and most important, the environmental trust grant process was protected. Secondly, additional state general funds will be provided to fund water conservation efforts, particularly the Platte River Recovery Implementation Project. Third, although the trust will give extra bonus points for water conservation projects, the amount of money subject to the bonus is equivalent to the amount being allocated by the NET for water projects. And finally, there will be a study of long-term stable funding sources for water efforts, something the Nebraska Sierra Club has sought for years.

There were three bills introduced to deal with the issue of the tar sands pipeline. LB 340 would have required pipeline operators to obtain permits from the Public Service Commission and would have established standards for hazardous liquid pipelines. LB 578 proposed establishing financial assurance

requirements for tar sands pipeline operators. As introduced, LB 629 dealt with the issues of liability of pipeline operators and financial assurance. We supported all three bills, along with other interested parties. Sen. Kate Sullivan made LB 629 her priority bill, which meant it was the only bill likely to receive attention by the entire Legislature. LB 629 was finally advanced from the Natural Resources Committee on May 12 after months of hard work and amendments to try to find something the committee would support. The bill was amended to deal only with reclamation, or restoring the land to something like its original condition during construction and operation.

When LB 629 was debated, there were statements by senators acknowledging the fact that it does not address several significant issues, including liability, the pipeline route, emergency response planning or establish any standards or oversight for oil pipelines. Several senators mentioned concerns about eminent domain. Some senators who support the pipeline said the pipeline should avoid the Sandhills, echoing Sen. Mike Johanns' message on that issue.

LB 629 was passed by the Legislature and signed by the governor. Although the bill falls far short of addressing the major issues I mentioned in the previous paragraph, its passage represents a significant step in a session in which TransCanada had opposed the advancement of ANY legislation that would have imposed standards related to oil or tar sands pipelines. The fact that we were able to get the bill passed is a reflection of the strength of the Nebraska Sierra Club, the coalition of organizations with which we work and

the dedication of a large number of citizen volunteers. In the interim between sessions we need to keep the focus on all the things that still need to be addressed. The other two bills related to the pipeline, LB 340 and LB 578 are still in committee and could provide a vehicle to address issues next session.

LB 283 represented an issue that should have been non-controversial. Sen. Haar introduced LB 283, which would allow public schools to fund energy efficiency improvements through existing authority to levy taxes or issue bonds. LB 283 was unanimously supported at the committee hearing, including support from the School Boards Association, the State Education Association and the School Administrators Association. It was advanced unanimously by the Education Committee, and moved through the legislative process until it passed on Final Reading.

In spite of all this, Heineman vetoed the bill. However, his veto message is inaccurate. LB 283 would not increase taxes, as his veto message indicated. LB 283 merely added energy efficiency projects as a category that could be funded through currently existing authority that school districts have to levy taxes or issue bonds. And energy efficiency saves money, by reducing the amount spent on energy. Because of that, LB 283 would have saved taxpayers money. For example, fossil fuel prices have increased by 20 to 30 percent in just the last six months. Electric rates have increased by more than 40 percent in the last five years. As energy costs continue to rise the amount of money saved would

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Keystone XL Pipeline May Be Affected by Leaks in Other Pipelines

reflection of the strength of the Nebraska Sierra Club, the coalition of organizations that we work with and the dedication of a large number of volunteers. In the interim between sessions we need to keep the focus on all the things that still need to be addressed. The other two bills related to the pipeline, LB 340 and LB 578 are still in committee and could provide a vehicle to address issues next session.

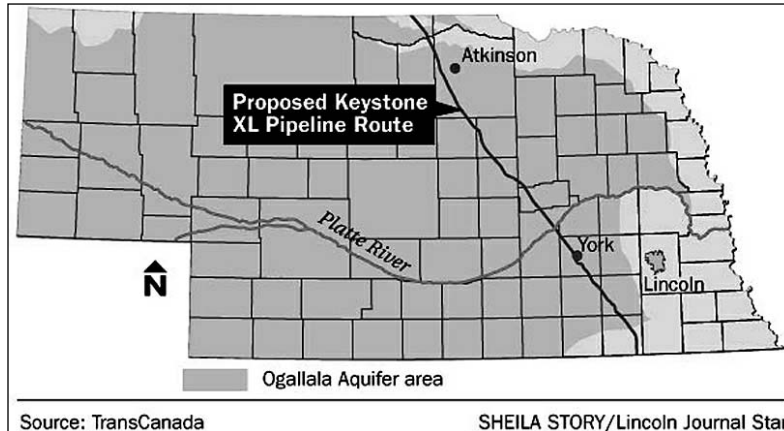
In the interest of getting these issues addressed, I worked with Sen. Ken Haar to draft a letter to the U.S. State Department pointing out the issues that the legislature still needs to address and asking for the time necessary to deal with these issues. Sen. Haar was able to get Sens. Annette Dubas, Kate Sullivan, Colby Coash and Tony Fulton to join him in signing the letter, which means that signers were both Republican and Democrat, urban and rural, conservative and liberal. This letter has been hailed as a significant development by many of the leaders of national organizations working against the tar sands pipeline and it has been the subject of several stories by media outlets in Washington, D.C. and New York.

In early May there was a 500-barrel (20,000-gallon) leak on the first Keystone pipeline in North Dakota. The leak spurted more than 60 feet in the air and was reported by a nearby farmer when he saw the oil shooting into the air like a geyser above the trees. In late May there was another leak of about 40 barrels in Kansas. This pipeline is less than a year old, and for those of you keeping score at home, that is 12 leaks in its first year of operation. On June 3, the Pipeline and Hazardous Materials Safety Administration (PHMSA) ordered the Keystone Pipeline shut down stating "that without corrective measures the continued operation of the [Keystone] pipeline would be hazardous to life, property and the environment." Although the order was rescinded the next day, it is unprecedented to shut down a pipeline in its first year of opera-

tion. This shows the kind of operator that TransCanada is, and why everyone's concerns about keeping the pipeline out of the

route except Kansas.

Sen. Mike Johanns has asked that there be a hearing in the Sandhills, so that representatives of the State Department can experience the Sandhills first hand. We agree with that view, although our position is stronger: We believe the SEIS should be re-opened, since the EPA has stated that the both the original Draft Environmental Impact Statement (DEIS) and the SEIS were unacceptable, and we believe there should be multiple hearings, including hearings in the



Sandhills are justified. When I was interviewed about the shutdown, I questioned TransCanada's credibility and referred to their problems as the "leak of the week."

There was a great deal of activity leading up to the deadline for comments on the Supplemental Environmental Impact Statement (SEIS) on June 6. I encouraged John Gates and Wayne Woldt, two hydrologists from the University of Nebraska to submit comments. Their letter pointed out concerns related to the vulnerability of the Sandhills and the Ogallala Aquifer in that area. It also pointed out the lack of studies related to potential contamination and migration of contaminants in that type of aquifer. They noted that the only study of an oil spill was in a Bemidji, Minn., aquifer with very different soils and a very different kind of aquifer. This letter has drawn considerable attention from both national and local media, along with the followup interviews from the scientists.

I also encouraged residents involved in this effort to submit letters. Susan Seacrest, founder of the Groundwater Foundation, and nationally renowned nature photographer Joel Sartore were among the local residents who submitted eloquent statements about their concerns. I submitted a letter to the U.S. State Department on behalf of the Nebraska Chapter.

At this point the State Department has indicated it will hold at least one hearing in all of the states along the proposed pipeline

Sandhills.

There are many things happening at the present time. Rep. Lee Terry from Omaha is the co-sponsor of a bill that would try to fast-track the process and require a decision on the pipeline by Nov. 1.

This is the statement that I issued in response: "This bill is a partisan attempt to support a foreign corporation and the profiteering of big oil companies. These Washington politicians evidently believe Hillary Clinton and State Department bureaucrats should make a decision about the future of one of America's most valuable resource, the Ogallala aquifer, without obtaining the necessary scientific input to protect this vulnerable resource. They should instead follow the reasonable recommendations of respected Nebraska scientists to conduct studies and heed the request of a bipartisan group of Nebraska legislators for time to enact appropriate standards to protect our precious clean, fresh water for our nation's future."

I am researching issues related to the obligations of state officials to protect our resources, particularly groundwater. The bottom line of the research is that the state of Nebraska, and local governmental units, such as natural resource districts, have responsibility to protect our groundwater. The federal government does not have authority over groundwater protection.

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Local Authority on Pipeline

Given the fact that the 10th Amendment to the U.S. Constitution provides that all authority not delegated to the federal government is reserved to the states, it is surprising that our local elected officials have not chosen to assert their legal authority in this area.

Normally, state and local officials are fairly vocal in their statements challenging the federal government's authority. We have photographs and videos that illustrate our concern for protecting our resources and will be presenting these messages to the public and the media .

There are several other issues of note at the present time. I have been saying for some time that TransCanada's threats to use eminent domain against Nebraska landowners lack legal authority. I am optimistic that a lawsuit will be filed soon against TransCanada challenging its threats. I am also working with Susan Seacrest to make a presentation regarding the pipeline at First-Plymouth Church in Lincoln. I am visiting with other churches and civic organizations about opportunities for presentations. Finally, plans are being made for an arts and music festival regarding the pipeline the first weekend of August. Stay tuned for further developments.

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Upcoming Environmental Issues for Senate

increase. Hopefully, Sen. Haar will re-introduce the bill next year, although perhaps he should engage in a conversation about the benefits of energy efficiency with the governor beforehand.

I have submitted my name to the Natural Resources Committee to work on the water funding task force. I have also

been in contact with various people about issues they would like to see advanced in the next session, including protections from in situ mining, issues related to fracking and legislation to protect homeowners who want to put wind or solar generators on their homes from legal action by homeowners associations.

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Stream Cleanup one Spring Programs

goal of sustainable architecture. A zeronet energy building uses zero-net energy consumption and produces zero carbon emissions -- thus reducing both dependence on fossil fuels and carbon emissions.

"Stream Clean-Up: A Community Effort in Elmwood Park" was the April program of MoValley. It featured Trilety Wade and was held on Thursday, April 28.

In 2006, Trilety Wade started the grassroots Adopt-Elmwood-Stream program in order to clean and maintain the stream. At

this Sierra Club presentation, participants learned how to choose, organize and manage a stream clean-up.

Trilety discussed her own experience in starting the Elmwood project, and explained how easy it is for others to take up the cause and adopt their own streams. She covered the basics of adopting a stream: how to organize and motivate volunteers, providing for equipment and safety needs, collaborating with the city and/or property owners, and stream projects such as clean-ups, invasive species removal, and water quality monitoring.

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