

CRUDE BEHAVIOR:

TransCanada, Enbridge, and the Tar Sands Industry's Tarnished Legacy

NATIONAL WILDLIFE FEDERATION

2012



Kris Krüg



CONFRONTING GLOBAL WARMING

Report

The State of the Tar Sands

Up north of the border, past Calgary and Edmonton, Alberta, the planet's biggest carbon bomb is ticking. It's called the tar sands region, and it represents both incredible feats of industry and incredible hubris — and potentially the last blow to the fight against global climate change.

Tar sands are sludge. A sticky, viscous, tarry material that literally oozes from the ground in certain areas of northern Canada and other places like Russia, Venezuela, and even right here in the US. Technically called "bitumen," tar sands can be processed into gasoline and other petroleum products, though it takes more effort and causes a lot more pollution than conventional oil, the liquid we're used to seeing drilled up by rigs in Texas or Saudi Arabia. The cornerstone of the argument against tar sands is that because it requires so much energy to turn from sludge into gasoline, it produces a significantly greater amount of the carbon dioxide which is turning our atmosphere into a heat-trapping blanket and fundamentally altering nearly every ecosystem on Earth. About 100 trillion gallons of tar sands have been discovered so far, enough to fill 160 million Olympic swimming pools. The



Kris Krüg

vast majority is in Canada, which holds around three quarters of the world total.²

Tar sands are, essentially, the fossil fuel industry's answer to "Peak Oil," the theory that once all of the easily accessed petroleum in the world has been pumped up, we will face declining reserves, rising prices, and a seemingly-inevitable transition to renewable fuels and an oil-free future. Now, new methods of extraction have sidelined that transition for the time being, allowing the industry to prolong its grip on energy production and driving us closer to the edge of irreversible climate change.

CARBON BOMB?

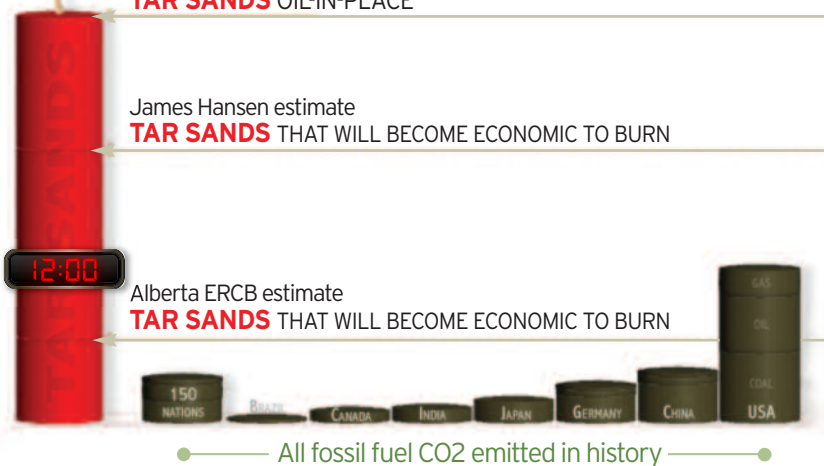
TAR SANDS OIL-IN-PLACE

James Hansen estimate

TAR SANDS THAT WILL BECOME ECONOMIC TO BURN

Alberta ERCB estimate

TAR SANDS THAT WILL BECOME ECONOMIC TO BURN



Source: VisualCarbon.org¹

The tar sands region,
pre-development.



Gord McKenna



Gary Kramer/USFWS

Until a few decades ago, experts wrote off tar sands as too expensive and too impractical to be a viable energy source. However, oil prices topping \$100 a barrel have cast this resource in a new light, and an enormous mining and refining complex has sprung up in the area surrounding Fort McMurray, Alberta, a formerly sleepy town that now comprises the biggest industrial undertaking in history. The once rich wildlife habitat of the boreal forest is now scarred by thousands of acres of strip mines, vast open reservoirs filled with toxic chemicals, depleted rivers, and the constant rumble of machinery on an unprecedented scale. It has created a wasteland, and the frightening part is that developers are just getting started.

Readers of this report are probably already familiar with the “Keystone XL” pipeline, the poster child for the tar sands industry in the United States, which would carry almost 35 million gallons of diluted bitumen (tar sands crude) from Alberta every day. The proposed route for Keystone XL stretches nearly two thousand miles from Fort McMurray down through the Great Plains to ports on the Gulf coast of Texas, where refineries dot the map. Tar sands producers don’t currently have access to coastal ports in either Canada or the US, which prevents them from selling their product outside of North America. Keystone XL would give the oil industry its equivalent of the fabled Northwest Passage — a way to access lucrative overseas market and boost their profit margins sky high. But Keystone XL isn’t the only project in the works — A veritable spider web of tar sands pipelines is being proposed to stretch to ports in British Columbia, Maine, and even others in Texas, with more likely to follow.

TAR SANDS PIPELINES BY THE NUMBERS³

The industry has proposed building or expanding thousands of miles of new tar sands pipelines in the United States, enabling them to pump billions of gallons of diluted bitumen each year. Here's a selection of some of the largest projects in the queue:

COMPANY	PIPELINE	LENGTH (miles)	RIGHT-OF-WAY STATES AND PROVINCES	OIL CAPACITY (gallons per day, includes planned capacity increases)	ANNUAL GREENHOUSE GAS EMISSIONS (metric tons)
TransCanada Corp.	Keystone 1	2,147	ND, SD, NE, KS, MO, IL, Alberta, Saskatchewan, Manitoba	24,822,000	111,308,940
	Keystone XL (northern and southern segments plus Cushing extension)	1,962	MT, SD, NE, OK, TX, Alberta, Saskatchewan	34,860,000	156,322,200
Enbridge, Inc. and ExxonMobil	Trailbreaker	750	NH, VT, ME, Quebec, Ontario	10,500,000	47,085,000
Enbridge, Inc.	Clipper-Seaway project*	2,609	ND, MN, WI, IL, MO, KS, OK, TX	35,700,000	160,089,000
	Northern Gateway	731	Alberta, British Columbia	22,050,000	98,878,500
	Line 6B	293	IN, MI	21,000,000	94,170,000
	Line 5	645	WI, MI	22,722,000	101,891,940
Kinder Morgan, Inc.	TransMountain	715	Alberta, British Columbia	35,700,000	160,089,000
Total		9,852 miles	15 different U.S. states, 5 Canadian provinces	207.3 million gallons/day (75.7 billion gallons/year)	929.8 million metric tons per year

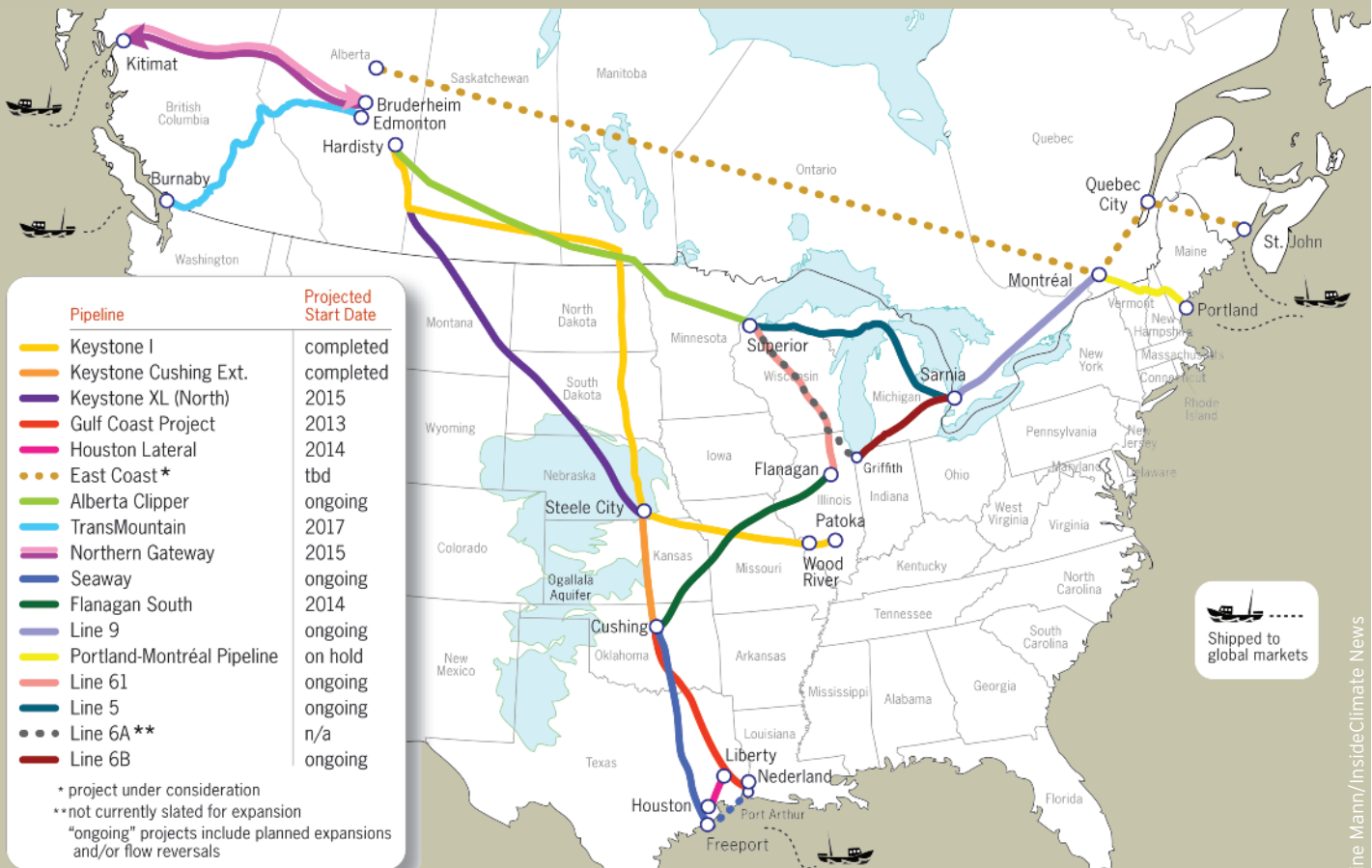
* "Clipper-Seaway" includes the Alberta Clipper, Line 61, Flanagan South, and Seaway Pipelines

The carbon problems posed by conventional oil are bad enough; tar sands take the threat to a whole new level. In aggregate, potential greenhouse gas emissions are staggering: If we burned all of the tar sands in the world, it would amount to about 1.3 trillion metric tons of carbon dioxide.⁴ That's more than 190 times the total CO₂ equivalent emissions by the United States (the planet's second-largest polluter) in 2010.⁵

Beyond the disastrous implications for our climate and the boreal forest, the tar sands industry is facing harsh criticism for its social practices. Companies like TransCanada and Enbridge Inc. are leaving a legacy as bad neighbors in the communities their pipelines slice through, with shoddy safety records, a willingness to cut corners, and a pattern of using underhanded tactics to force projects through towns and farms across the country. Even their investors are starting to demand better conduct. This report documents the bullying, harsh legal tactics, and other abuses of oil and pipeline companies, in order to peel back the "Good Neighbor" façade.

The industry's version of the future is a bleak one: a continent crisscrossed by thousands of miles of spill-prone pipelines carrying tar sands to refineries and ports around the globe, emitting billions of tons of greenhouse gases and locking in our dependence on oil for decades to come. If recent history is any indication, they will try to achieve it by any means necessary. Let's take a closer look at this vision, but be warned — it's not a pretty sight.

THE TAR SANDS PIPELINE BOOM



CHAPTER ONE:

TransCanada – The Crooked Trailblazer

Calgary-based TransCanada Corp. is one of the world's largest energy companies, operating tens of thousands of miles of oil and natural gas pipelines in the U.S. and Canada. Keystone XL is the pipeline that grabbed Americans' attention, and the company behind it has proven to be expert at finding new ways to marginalize ordinary citizens. Four years into their quest to build a tar sands superhighway to the Texas coast, TransCanada has accrued a litany of missteps and heavy-handed behavior on its corporate résumé.

1. Eminent Domain and the new politics of the land grab

The primary tool in the industry's arsenal is a legal tactic called "eminent domain." When a private citizen owns land that the government wants for roadways, power lines, or (in this case) pipelines, the government can seize that land and build on it (or allow a private company to do so) as long as they pay fair market value — even if the landowner objects. In this case a *foreign*, private company is claiming eminent domain on tracts of land from Canada to the Gulf of Mexico, and it is TransCanada, not the government, that will pay landowners their assessment of fair market value.

Years before the Keystone XL line received the necessary permits to build, TransCanada began a campaign to mislead and intimidate residents, sending letters to landowners threatening to seize their property if they didn't agree to terms that favored the industry. State courts and oversight boards have been surprisingly willing to turn a blind eye to their strong-arm tactics, but many citizens remain firmly committed to fighting for their rights.

One of these landowners, a Nebraska rancher and lifelong Republican named Randy Thompson, became a rallying figure for the nascent anti-Keystone movement. Mr. Thompson refused TransCanada's offer and quickly found himself facing a one-

month, take-it-or-leave-it deadline from the company before they would seize his property.⁶ He began advocating with state officials to protect landowner rights, and quickly climbed the ladder all the way to Congressional hearings in Washington, DC. A local advocacy group, Bold Nebraska, has worked with Mr. Thompson to create an "I Stand With Randy" campaign that garnered widespread attention and elevated the issue in the public conversation.

TransCanada's invocation of eminent domain has united diverse interests from across the political landscape, with environmentalists teaming up with ranchers like Mr. Thompson and Tea Party activists like Debra Medina, a former candidate for Texas governor who is now helping to lead the charge against Keystone XL in her state.⁷

TransCanada officials promote themselves as "good neighbors"⁸ but the people they've dealt with often disagree: David Daniel, a Texas landowner who was pressured into accepting TransCanada's terms for eminent domain, told National Wildlife Federation that he "feels like a lab rat on my own property."⁹ Tom Genung, a Nebraskan with deep roots in the



Julia Trigg Crawford

Atkinson area, says TransCanada's agents made claims that the project was "a done deal, and our families were led to believe we had no say in the matter." And a farmer named Julia Trigg Crawford is a prime example of how far the company is willing to go in its steamroll to the coast: Ms. Crawford, who manages her family's small Red Arc Farm in Sumner, Texas, has been in and out of court with the company for nearly a year, trying to stop them from building on her land without permission. She is also

“To put it bluntly, I’m angry as Hell when people want to play political football games with my livelihood.”

— Randy Thompson, Nebraska rancher and landowner

concerned that the heavy machinery will destroy culturally-significant Tribal artifacts that are buried on the property.¹⁰ The courts have thus far favored a foreign company over local landowners: “We assumed that our

legal system would be here to protect us,” Crawford told NWF, “but it hasn’t.” She continues to fight for her family’s land despite TransCanada’s daunting financial advantages and long roster of lawyers.

2. Violating Native American treaty rights

Ranchers and farmers aren’t the only ones pushed aside by TransCanada: Native American tribes have also been largely ignored by the company and the federal government. Tribes are considered sovereign nations within the United States, and the federal government is required to “meaningfully consult” with tribes on projects that affect them, not to mention the responsibility to uphold treaty obligations.¹¹

But when these responsibilities stood in the way of profits, the company put a different spin on them. TransCanada spokesman Lou Thompson, the company’s top tribal liaison, told the *Washington Post* in fall 2012 that “there is no legal obligation to work with the tribes. We do it because we have a policy. We believe it’s a good, neighborly thing to do.”¹² The statement not only glosses over the company’s pattern of circumventing its legal duties, but also

rings hollow considering there is little evidence that TransCanada has taken any measurable steps to consider tribal concerns, such as having the pipeline’s path avoid cultural sites.

The proposed northern segment of Keystone XL would skirt dangerously close to reservations, and although it just dodges tribal land, Keystone XL certainly affects surrounding areas: In South Dakota the pipeline would cross the crucial Mni Wiconi water system, which supplies the Rosebud and Pine Ridge reservations with drinking water. The Oglala Lakota Sioux tribe, based at Pine Ridge, staged a citizen blockade to stop TransCanada’s supply trucks from crossing into tribal territory back in March 2012¹³ and passed an official resolution opposing the pipeline.¹⁴

Tom Poor Bear, Vice President of the Oglala Sioux Tribe, likens Keystone XL to “a snake that is spitting black venom at our water, which future generations are going to drink someday.”¹⁵ According to Poor Bear, the Tribal Council passed the resolution opposing the pipeline because it violates the Fort Laramie treaties of 1851 and 1868. Other tribal members have called it a violation of prior and informed consent provisions of the U.N. Declaration on the Rights of Indigenous Peoples.¹⁶

The southern segment of Keystone XL, which is already under construction, will directly impact sacred tribal cultural grounds. Federal laws are in place to provide for the protection of Indian burial sites and artifacts, including the National



Tar Sands Blockade

Land razed for the southern segment of Keystone XL

“The proposed Keystone XL pipeline is not just an environmental issue. It is an issue of sustainability and survival for Native people. It is an issue of preserving and protecting what is sacred. And it is an issue of upholding the law by honoring the treaties.”¹⁷

— Hereditary Chief Oliver Red Cloud of the Oglala Sioux

Historic Preservation Act and the Native American Graves Protection and Repatriation Act of 1990. These laws are more than a “good neighbor” policy to follow. TransCanada says there will be adequate monitoring safeguards, but even so, tribes like the Sac and Fox in Oklahoma are troubled that construction may disturb unmarked graves and other sites.¹⁸

Tom Poor Bear



Carol Berry

3. Impossible to move – until it wasn't

TransCanada's first proposed route for Keystone XL cut directly through Nebraska's sensitive Sandhills ecosystem, a unique landscape where the water table is often high enough to create small lakes and pools. Wildlife, cattle ranches and farms all rely upon this resource, and the underlying Ogallala aquifer is one of America's great natural treasures, supplying thirty percent of the groundwater used for irrigation in the United States, and providing drinking water for two million people.

The threat of a spill over the Ogallala was real enough that Nebraskans from both sides of the political spectrum – including Republican Governor Dave Heinemann and Senators Mike Johanns (R) and Ben Nelson (D) called upon the company to scrap its plans to build there.¹⁹ But TransCanada insisted to lawmakers that a re-route was "impossible."²⁰ That is, until the White House rejected TransCanada's permit application in January of 2012, at which point the company admitted that a re-route was doable and would add only an extra 30-40 miles of pipeline (about 1.5 percent of the total length).²¹

TransCanada submitted a revised plan to the State Department earlier this summer, but the new route *still* crosses the aquifer and terrain that is geologically similar to the Sandhills.²² With the new route comes a new set of landowners whose property is now threatened. It is unclear whether TransCanada still controls the rights to easements along its previous path, but opponents like Tom Genung (p. 6) are still fighting. "Win, lose, or draw," he says, "we're going to be here til the bitter end. Stewardship of this land is more important than any amount of money."



John Carrel

4. Keystone 1 and the "world-class safety" myth

If you're looking for an example of what could go wrong with Keystone XL, you need look no further than Keystone 1, the original Canada-to-U.S. tar sands pipeline that TransCanada completed back in 2010. Executives boasted at the ribbon-cutting that "Construction and operation of the Keystone Pipeline system will continue to meet or exceed world-class safety and environmental standards,"²³ yet the pipeline spilled twelve times in its first two years of operation, including a 21,000 gallon geyser in North Dakota that the company didn't notice until a resident called in the report.²⁴ In October 2012, Keystone 1 was shut down for several days because inspectors discovered an "anomaly," which TransCanada officials brushed off as common to "any startup" project.²⁵

TransCanada is now touting that Keystone XL will be "the safest pipeline built in America,"²⁶ but Mike Klink, a former TransCanada inspector and civil engineer, disagrees. Klink alleges that the company ignored basic engineering safety precautions during construction

of Keystone 1 and warns that Keystone XL will be no different.²⁷ "I'm no treehugger," Klink said in an interview. "I just think things ought to be built right, and I have no faith that these guys can do it."

Safety and leaks are a particular problem for tar sands pipelines, which are more prone to accidents than pipelines that carry conventional crude oil. In fact, in Alberta, internal corrosion in Canada's tar sands-heavy pipeline network was found to cause *sixteen times more leaks* than in the US network, which carries mostly light crude.²⁸ Another former employee who worked for TransCanada in Calgary, Evan Vokes, recently filed formal complaints alleging the company repeatedly violated safety regulations, telling *The Tyee*, "It's what the [U.S. National Transportation Safety Board] report called a 'culture of deviance' and a lack of accountability. And that's the whole thing."²⁹ Vokes' allegations led to an audit by Canada's National Energy Board that is ongoing as of the time of publication.

5. Playing the inside game in Washington, DC

The U.S. State Department is the federal agency that permits international pipelines. When TransCanada hired a man named Paul Elliot to be their director of government relations, it raised suspicions that the company was trying to unduly influence the permitting process. Mr. Elliot was a former top deputy to Secretary of State Hilary Clinton during her 2008 presidential campaign, a relationship that gave him the most valuable commodity in Washington: access. Those suspicions

were only heightened when the State Department hired Cardno Entrix as the “independent” third party contractor overseeing the project’s environmental impact analysis, despite the fact that the company listed TransCanada as a major client.³⁰

The cozy situation prompted an official investigation by the Inspector General and put the White House on the defensive at a time when public scrutiny was just starting to build. Emails uncovered during the investigation raised serious concerns that the State

Department was conducting a review that was far from impartial and unbiased.³¹ The White House has yet to dispel concerns about potential conflicts of interest: Anita Dunn, a confidante of President Obama and a senior adviser to his campaign, also works for SKDKnickerbocker, a communications firm that represents TransCanada in their fight for Keystone XL.³²

All told, TransCanada spent over \$1.3 million dollars in 2011 lobbying the federal government to approve Keystone XL.

6. Civil disobedience turns ugly in Texas

After absorbing the White House’s initial rejection letter back in January 2012, TransCanada decided to split up the Keystone XL project to avoid the oversight that goes along with a presidential permit. They still need this permit for the Canada/U.S. border crossing, but have already begun construction on the southern segment of the pipeline, which stretches from Cushing, Oklahoma (a major oil hub) to the Gulf coast.

With most legal and procedural options exhausted for the southern segment, protestors set up camp where the pipeline is slated to be laid in Winnsboro, Texas, hoping to protect their state’s environment and the global climate.³³ The nonviolent protests included citizens chaining themselves to bulldozers and sitting in trees that were marked for removal. Security personnel have been accused of abuses including pepper spraying, tasing, putting protesters in chokeholds and other “control” methods far out of proportion to the situation.³⁴

Continuing the trend of landowner

bullying, Eleanor Fairchild, a 78-year old grandmother, was arrested and charged with criminal trespassing when she tried to block TransCanada’s bulldozers from her own property in Winnsboro.³⁵ A TransCanada spokesman blamed “out of state protesters” for the incident.³⁶ And several days after that arrest, TransCanada security guards and local police detained and handcuffed a reporter and a photographer from *The New York Times* who were covering the story — the media members had

gotten permission from the owner to be on the property, but were threatened with trespassing charges if they didn’t leave immediately.³⁷

Susan Scott, another landowner in Texas who took TransCanada’s settlement because she was afraid of a lawsuit, later buried the money — several thousand dollars — in her yard because it felt wrong to keep it. In an interview with *The New York Times*, she stated, “I don’t care if it rots. It’s tainted money. I felt like I was guilty of destroying my farm.”³⁸

Eleanor Fairchild tries to stop TransCanada’s bulldozers on her land.





Darren Kirby

CHAPTER 2: *Enbridge, Inc.* – *Driving a Nationwide Tar Sands Expansion*

TransCanada is not the only pipeline company staking claims in backyards across North America and attracting attention for all the wrong reasons. Its major competition is Enbridge, Inc., another Calgary-based oil giant with a keen eye for profits and a laissez faire approach to public relations. Enbridge holds one major advantage — it got to learn from TransCanada’s early mistakes — but that hasn’t prevented the company from competing strongly in the race to the bottom.

1. Kalamazoo — a study in incompetence

Until July 25, 2010, the Enbridge brand was little-known outside of oil and gas circles and investment firms. But then, in the wake of the BP oil spill in the Gulf of Mexico, an Enbridge pipeline burst open near Marshall, Michigan, sending approximately one million gallons of tar sands oil into Talmadge Creek and the Kalamazoo River. It was the largest inland oil spill in U.S. history, causing massive environmental damage and forcing hundreds of families to evacuate while disaster response crews struggled to clean up the mess. Health officials found that almost 60 percent of surveyed residents were dealing with neurological and gastrointestinal problems and other ailments³⁹ but Enbridge coerced locals seeking health care to sign a waiver that gave the company access to their entire medical histories.⁴⁰



NTSB

The ruptured section of Enbridge Line 6B.

The federal National Transportation Safety Board (NTSB) was scathing in its assessment of the company’s handling of the accident, and noted that Enbridge had been aware of the cracks in the pipe since 2005.⁴¹ NTSB chairwoman Deborah Hersman slammed Enbridge for “a complete breakdown of safety” and compared them to the incompetent “Keystone Kops.”⁴² Enbridge even withheld the crucial information that the spilled oil was tar sands (diluted bitumen sinks in water), which hindered the response effort and helped cause the cleanup —

initially predicted to last a month — to drag on for years.⁴³ Enbridge’s many failures were documented in the excellent series “The Dilbit Disaster,” written by Lisa Song and Elizabeth McGowan for *InsideClimate News*.⁴⁴

The company has been accused of haphazard and rushed cleanup efforts in response to the disaster. For example, when most of the river was officially “re-opened” to swimmers and boaters two years after the spill, Enbridge had installed several stations with disposable towels for wiping off oil that remained

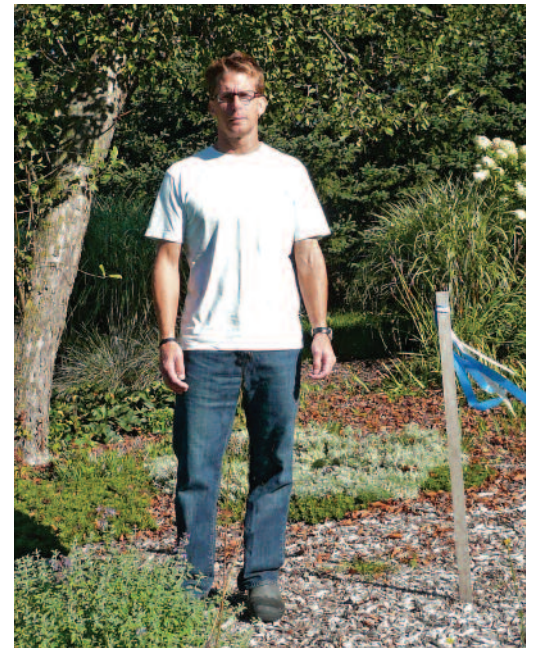


MIDEQ

submerged.⁴⁵ Enbridge is now coming under fire for plans to suspend well water testing for affected communities.⁴⁶ The recovery effort has already cost \$800 million, and in October 2012 the US Environmental Protection Agency told Enbridge that additional work is needed to restore the health of the river.⁴⁷

Enbridge's public relations campaign keyed on applying the "lessons learned" from its Kalamazoo River debacle, but two years later (almost to the date) Enbridge had another failure on its mainline system: Near Grand Marsh, Wisconsin, a burst Enbridge

pipeline showered a farm, including a house and livestock, with 50,000 gallons of oil. This latest accident triggered a unique response from the Pipeline and Hazardous Materials Safety Administration (PHMSA), which issued a system wide "Corrective Action Order" on Enbridge Energy, saying that "failures throughout all parts of the Lakehead System indicate that [Enbridge's] integrity management program may be inadequate...Given the nature, circumstances, and gravity of this pattern of accidents, additional corrective measures are warranted."⁴⁸



2. Pivoting from disaster to expansion

In a bold (some would say perverse) maneuver, Enbridge took the opportunity of the Kalamazoo spill to dramatically expand its pipeline system in the Midwest. As detailed in National Wildlife Federation's 2012 report *Importing Disaster*, Enbridge replaced sections of the ruptured pipeline (Line 6B), including the segment that crossed the US/Canada border, with higher-capacity pipe.⁴⁹ Under normal circumstances, an expansion of this magnitude would require State Department intervention to modify the presidential permit, but Enbridge cited "emergency circumstances" and hustled the border segment construction through before regulators understood the implications. The new pipe means that the company has the ability to pump two to three times as much tar sands oil through Michigan as before, with none of the environmental review necessary for a normal project and the same lax regulations as before the spill. Due to incredible holes in the regulatory framework around pipeline oversight, Enbridge was granted the right to expand their failing system despite the active corrective action order issued by PHMSA.

Enbridge's expansion means more than just more oil. It also means that landowners along the route are facing eminent domain issues similar to TransCanada's Keystone land grab. While laying new pipe, Enbridge is trying to seize dozens of parcels of private land beyond the existing "right-of-way," in some cases cutting down

“We have experienced first-hand the enormous gulf between Enbridge’s “good neighbor” rhetoric and their callous treatment of landowners.”

— Jeff Insko, whose family property in Groveland Township, MI lies along the path for Line 6B



Jason Woodhead



Louis Vest

The Houston refining complex seen from offshore.

hundred-year old trees and even planning to demolish private structures like Beth Duman's back deck in Oceola Township, MI.⁵⁰ Enbridge has taken outraged locals to court to prevent them from holding up its project, and attempted to force one family to post a \$600,000 bond for construction delays.⁵¹ Landowners have formed a coalition to fight back, but the company is pushing forward.

Citizens have also run up against conflicts of interest with their own local law enforcement: Enbridge hired off-duty sheriff's deputies to keep "unauthorized" people (including landowners themselves) out of the way while laying pipeline in the region.⁵² As one resident puts it, "They have just come through and stomped through our lives, first with a smile saying, 'We're going to take care of you'" but followed by condemnation orders and warnings to stay out of the way.⁵³ Enbridge, for its part, took out an ad in the *Detroit Free Press* touting its commitment to relationships "built on

trust and ethical dealings with all stakeholders."⁵⁴

In addition to its Line 6B expansion, Enbridge wants to boost capacity on another Michigan tar sands pipeline, the 60-year old Line 5, which runs across the Straits of Mackinac and is a prime threat for another accident.⁵⁵ And Enbridge is working hard on a project that would rival TransCanada's route to Texas.⁵⁶ Environmentalists are calling it "Keystone XL on steroids" because it would stretch almost 700 extra miles (2,609 total) on its way from Alberta to the Gulf of Mexico. Linking four separate pipelines including the Alberta Clipper (a trans-border pipe from Alberta to Wisconsin) and the Seaway pipeline (in Texas and Oklahoma), Enbridge could pump as much as 35.7 million gallons of oil a day, beating Keystone XL by almost a million gallons. It would require new pipe in Illinois, Missouri, Kansas and Oklahoma, and new or expanded infrastructure in four other states: North Dakota, Minnesota, Wisconsin, and Texas.

The company is going state by state, trying to acquire permit for new pipes while dodging the need for a modification to its presidential permit for Alberta Clipper, but the project is attracting attention despite efforts to keep it under wraps. "This is the home of the Ozarks and the Mississippi River, which the Enbridge pipe will cross," student Kris Parsons said in an interview with the *Webster (MO) Journal*. "This is just going to sneak past everybody. They're going to bring the tar sands right back through Missouri."⁵⁷

“Getting legitimate information out of Enbridge has been incredibly frustrating. They keep you in the dark and you need to be prepared for a long haul.”

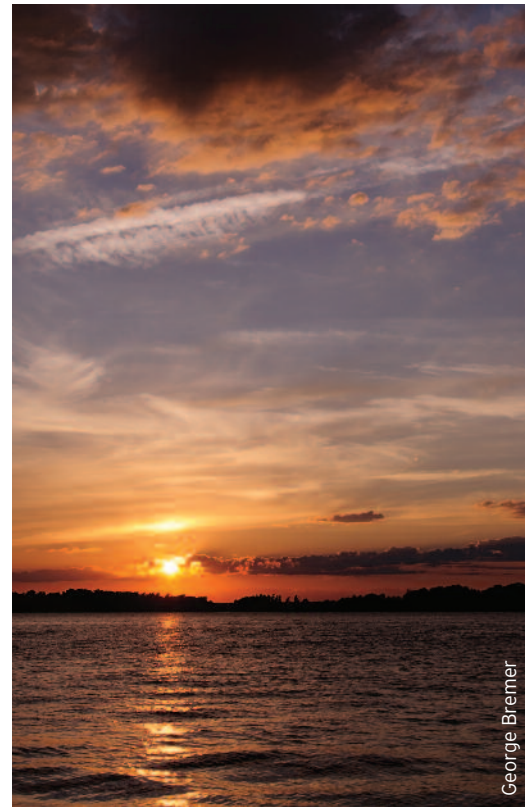
— Susan Connolly, Marshall, MI resident and pipeline safety advocate

3. Infiltrating New England

The expansion on Line 6B will help Enbridge gain market share in the Midwest, and there are strong indications that would also enable them to resurrect the “Trailbreaker” proposal, a linkage of pipelines across the Midwest, Canada, Vermont, New Hampshire and Maine that would bring tar sands to the Atlantic coast for export.⁵⁸ Enbridge has denied working on a Trailbreaker re-boot⁵⁹ but has been careful to couch its denial so as not to rule out future action to bring tar sands to New England.⁶⁰

Enbridge’s collaborators on the project include ExxonMobil (the world’s largest oil company and a major environmental violator in its own right) and Suncor Energy, one of the biggest developers of the

Canadian tar sands region.⁶¹ Those two mega-corporations combine for a controlling stake in the second leg of Trailbreaker, fronted by another company (called Montreal Pipe Line Limited in Canada and Portland Pipe Line Corporation in the U.S.). National Wildlife Federation has uncovered emails demonstrating that officials from the Portland Pipe Line Corporation, the lobbying giant American Petroleum Institute, and the Canadian Consulate recently met with Maine’s Governor, Paul LePage, to specifically discuss “Oil Sands Development.”⁶² All signs point to a covert attempt to avoid the scrutiny faced by TransCanada over Keystone XL.



George Bremer

The Trailbreaker project would endanger crucial resources like the St. Lawrence River.

BIG OIL VS. MEDIUM OIL

Enbridge vs. Ordinary Citizens isn’t the only fight brewing — Enbridge has also provoked its fellow oil companies. Colorado-based High Prairie Pipeline Co. had been in talks with Enbridge to link up to Enbridge’s Midwestern system, in order for High Prairie to ship crude produced in the suddenly-booming Bakken oil fields of North Dakota. Current pipeline capacity running out of the Bakken is limited, forcing distributors to use expensive and inefficient means like trucks and rail. High Prairie had planned to build a pipeline from the Bakken to Enbridge’s mainline system (the Alberta Clipper) but Enbridge reneged on the agreement, saying that it no longer expected to have capacity on that system in the near future.

The problem with this argument is that Enbridge operates as a “common carrier,” which allows it to take advantage of eminent domain laws (see chapter 1, section 1) but also forces Enbridge to share its pipeline space with other companies. High Prairie Pipeline is alleging that Enbridge plans to expand its own shipments in order to boost profits — if Enbridge’s scheme involves tar sands (a high likelihood) this would effectively box out domestic producers of conventional crude oil.⁶³ The case underscores the lengths to which tar sands companies are willing to go to maintain the upper hand.



Roger Blood

THE NORTHERN GATEWAY

Canadians have their own mammoth pipeline fight underway against Enbridge's "Northern Gateway" project, which would span Alberta and British Columbia and give tar sands producers a coastal outlet and access to markets in China. Northern Gateway would account for over 22 million gallons of tar sands every day, and considering Enbridge's spill record in Canada and the US,⁶⁴ citizens are concerned that it's a disaster waiting to happen. The project once seemed inevitable, but in recent months support for the project has faltered as the company has come under fire for a variety of missteps.



Larissa Sayer

1. DODGING PUBLIC SCRUTINY — Enbridge does its best to keep accidents out of the spotlight — after one 2012 spill local authorities were surprised to hear (from media reports) that Enbridge had dumped 61,000 gallons. "I don't think anybody in the county, at this point, has been notified," Steve Upham, sheriff of St. Paul County, told reporters. "I would have thought [Enbridge should have informed us]. Or Alberta Environment, because they would be notified, I think. We've heard nothing from anybody."⁶⁵

2. TRIBAL CONCERNS — Opposition has been strong from First Nations along the route, who say the pipeline endangers their way of life.⁶⁶ Enbridge's attempts to buy support⁶⁷ from First Nations have proven ineffective because, as Marilyn Slett, Chief Councilor of the Heiltsuk people, puts it: "We're here to stay. We'll do anything that we need to, to protect our land and sea. And I can say that with the spirit of the nation."⁶⁸

3. FALSE ADVERTISING — Enbridge's public relations department has been criticized for releasing highly-propagandized advertisements: One example shows a picture of the project that literally erases dangerous areas in Douglas Channel, the coastal path supertankers would navigate to fill up at the pipeline in Kitimat, B.C. The channel in actuality is a winding, 56-mile, island-obstructed course just west of the pristine Great Bear Rainforest, but Enbridge's ad removes those impediments and shows a wide, calm, clear path to the ocean.⁶⁹

Another company, Kinder Morgan, Inc., faces many of the same obstacles to its plan to expand a similar project, the TransMountain pipeline, which would pump more than 35 million gallons of tar sands a day to the port of Vancouver.

“Obstacles to sustainable and robust Canadian production growth abound and can be summarized by three interlocking issues: export outlets, First Nations issues, and environmental policy.”

— Citigroup, Energy 2020 report⁷²

CHAPTER 3: *The Money*

Oil giants like ExxonMobil, BP, and Shell are among the most powerful companies in history – the “Big 5” posted profits of \$137 billion in 2011, of which almost \$66 million was spent on lobbying efforts.⁷⁰

Canada’s tar sands region (home to the Big 5 and giants like Suncor, France’s “supermajor” Total S.A., and China’s behemoth Sinopec) has exploded in the last decade and analysts project that rapacious growth will continue, helping make North America “the new Middle East.” All of this development hinges upon the construction of pipelines like Keystone XL, which serve as the crucial link between producers and consumers.⁷¹ Pipelines enable the mines to expand, and they promise to make their owners a staggering amount of money, which is why TransCanada, Enbridge, and other companies like Kinder Morgan and ExxonMobil are pouring so much cash and energy into court costs, misleading advertising, and lobbying expenses.

Billions of dollars are at stake for the oil companies, but the costs of climate change, which these pipelines would amplify, go far beyond these sums. Reinsurance companies, which



U.S. Coast Guard

specialize in honest risk assessment, are already illustrating the dangers: Munich Re, one of the world’s largest reinsurers, calls climate change “one of the greatest risks facing mankind” and has worked to develop

Workers clean up after a 2011 Exxon pipeline spill in the Yellowstone River, Montana.

international solutions to the crisis.⁷⁴ In a major report released in October 2012, Munich Re found that severe weather-related losses (influenced heavily by climate change) cost North Americans over a trillion dollars since 1980.⁷⁵ The latest example of this trend hit home recently: Hurricane Sandy caused massive flooding and power outages along the Atlantic seaboard, at a total economic cost to the United States of up to \$50 billion.⁷⁶

Tar sands developers like ExxonMobil have a long history of promoting denial of climate change, but that excuse lands them squarely on the wrong side of the scientific consensus.⁷⁷ The Stern Review, one of the seminal analyses in the field, concluded that “if we don’t act, the overall costs and risks of climate change will be equivalent to losing at least 5% of global GDP each year, now and forever. If a wider range of risks

PIPELINE COMPANY EARNINGS⁷³

CORPORATION	2012 EARNINGS	2011 EARNINGS	2010 EARNINGS	CEO EARNINGS (2011)
TransCanada Corp.	Q1: \$363 m Q2: \$300 m	\$1.56 billion	\$1.37 billion	Russell Girling \$6,875,371
Enbridge, Inc.	Q1: \$264 m Q2: \$11m	\$991 million	\$963 million	Patrick Daniel \$7,621,767
Kinder Morgan	Q1: \$462 m Q2: \$366 m	\$1.52 billion	\$1.36 billion	Richard Kinder \$5,640,000
ExxonMobil	—	\$41.0 billion	\$30.4 billion	Rex Tillerson \$28,952,558



Ammar Abd Rabbo

and impacts is taken into account, the estimates of damage could rise to 20% of GDP or more.⁷⁸ In the six years since the Stern report was issued, economic and scientific studies have consistently amplified their threat levels based on new data that shows the problem is even worse than we previously thought.

Companies need to take steps now to reduce potential future liabilities. The U.S. and other countries have already set vehicle tailpipe standards aimed at reducing CO₂ emissions; in the event of comprehensive federal regulations on climate change, or low-

carbon fuel standards, oil companies would potentially be exposed to even more serious fiscal hits. Investors are starting to catch on. In October 2012, a collection of investment funds controlling some \$2 trillion in assets (including some in the tar sands) released a statement urging the industry to limit its liability by reducing carbon emissions and water use.⁷⁹ Also of concern is the economic uncertainty raised by tribal litigation against mines and pipelines, land reclamation liabilities, and the prohibitive cost of cleaning up tar sands pipeline ruptures like Kalamazoo.

New Orleans after Hurricane Katrina.

CONCLUSION

The fight against tar sands pipelines has pit private landowners, tribes, conservationists, and public health advocates against some of the wealthiest corporations on planet Earth, with surprising results — a stalemate that few would have predicted even a couple of years ago. But that deadlock has reached a critical moment: The White House is expected to reach a final decision on Keystone XL in 2013, and several other pipeline projects are due for federal review in the very near term. These decisions will set a precedent that determines the future of America's energy infrastructure, with consequences that extend far beyond our borders to every ecosystem on earth that is threatened by climate change.

The companies that stand to reap the benefits of these projects — TransCanada, Enbridge, Exxon, and the rest — have stumbled into the limelight with a series of legal abuses and PR missteps that put the lie to their claims of “good neighborly” behavior. Part of the reason for these stumbles is

hubris; until recently, they never had to face up to their conduct because our regulatory system favors hasty construction and industry profits. Part of it is greed. But the biggest reason is simply public attention. Every time a farmer or homeowner speaks out against bullying, it shows their real neighbors that one person can stand up to a billion-dollar corporation. And every time a Tribal or First Nations group plants its feet and refuses to be disregarded, it raises questions about

human rights that even the oil industry can't ignore forever.

Decisions about tar sands pipelines are fundamentally decisions about what kind of future we leave to our children. Will it be a world where clean energy, clean water, and the rights of citizens are valued? Or will it be one where corporate interests and profit take precedence? The National Wildlife Federation is working towards the former, but we need your help to make it a reality.



Elvert Barnes

RECOMMENDATIONS

National Wildlife Federation recommends that the following actions be taken to strengthen oversight of tar sands pipeline companies. Our ultimate goal is to prevent the expansion of tar sands infrastructure in order to protect communities and wildlife from the triple threat of climate change, pipeline spills, and Big Oil's abusive behavior.

1. DENY FEDERAL PERMITS FOR NEW TAR SANDS PIPELINES.

The U.S. State Department has significant discretion to reject permits for pipelines that cross the border. Climate change, wildlife, and public health must be considered when determining whether these projects are in the national interest. Additionally, related permits issued by agencies like the U.S. Army Corps of Engineers should consider a broad range of cumulative effects including climate impacts and the heightened threat of catastrophic spills.

2. SAFEGUARD THE RIGHTS OF FAMILIES TO PROTECT PROPERTY AND THEIR FAMILIES' HEALTH.

States should exercise appropriate oversight to ensure companies do not abuse common carrier status or the power of eminent domain.

3. RESPECT TRIBAL GOVERNMENTS.

The U.S. government must honor its treaty obligations to Tribes and federal law, which includes the requirement of "meaningful consultation" on projects that affect Tribes. Federal agencies must provide extensive opportunities for tribal citizens to weigh in and influence pipeline siting decisions.

4. STRENGTHEN PIPELINE SAFETY STANDARDS.

The U.S. Environmental Protection Agency and the Pipeline and Hazardous Materials Safety Administration must strengthen federal pipeline monitoring, safety and spill response regulations to account for the increased dangers of transporting tar sands oil.



Bold Nebraska

5. INVEST IN CLEAN ENERGY SOLUTIONS.

We must make investments in clean power solutions like wind, solar, renewable biomass, and exciting new technologies like geothermal and wave energy, including state and federal incentives that are currently being wasted on the fossil fuel industry.

6. MAKE ENERGY COMPANIES PAY THEIR FAIR SHARE FOR POLLUTING.

Climate change is

causing extreme weather that harms our crops, increases flooding and droughts, and threatens people and wildlife around the globe. We must hold fossil fuel industries accountable for the full costs of their activities, including carbon pollution that drives climate change. Putting a price on carbon would incentivize cleaner practices and lift the burden off those least able to afford it.

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USEPA

Cleanup crews remove oil and contaminated materials from the Talmadge Creek stream bank near Marshall, Michigan after a million-gallon tar sands spill in 2010.

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National Wildlife Federation
1100 Wildlife Center Drive
Reston, VA 20190
703-438-6000
www.nwf.org