The Enbridge Octopus: The Other KXL

By Peter Anderson, 350 Madison

As our protests grew following the first White House tar sands pipeline protests in 2011, Keystone XL’s prospects plummeted. At that point, however, another major Canadian pipeline company, Enbridge, saw an opportunity to evade and, it thought (incorrectly), to sneak around our organizing campaign.

Like Transcanada, Enbridge had previously built a series of tar sands pipelines about five years ago. While they both now ship most of Alberta’s current output of tar sands oil through pipelines to markets, Enbridge’s lines go through the Midwest (North Dakota, Minnesota, Wisconsin and Illinois), instead of through the Great Plains (Montana, South Dakota and Nebraska). Also, Enbridge’s lines end up at refineries primarily in Illinois and Indiana, as well at other pipelines to the East and Gulf Coasts, while Transcanada’s are largely destined for Texas.

Deviously, instead of planning, like Transcanada, to openly construct a major new pipeline to move the mounting volumes of dirty Alberta tar sands oil to refineries, which aroused massive public opposition, Enbridge slyly moved to achieve about the same capacity increase as Keystone, only piecemeal. At different times, first in Minnesota and then in Wisconsin, it proposed to just add some, and then later more, pumping stations along existing pipelines, which push more oil through the same pipe in the same time, effectively doubling their capacity. Enbridge also moved to replace an existing segment of pipeline in North Dakota, as it previously had added a connecting line across Illinois, all the while acting as if none of these segments bore any relationship to the other.

In fact, once connected, they constituted parts of an overarching plan to as much as triple the capacity of Enbridge’s tar sands oil pipelines from 400,000 barrels per day (bpd) to as much as 1.2 million, if not more, bpd without arousing public opposition. In maneuvering in this way, largely through this jerry-rigged network, Enbridge hoped to effectively add almost as much new capacity as Keystone XL would have provided. We have branded their reach as “The Enbridge Octopus.”

Fortunately, Enbridge’s conniving did not succeed. As 350.org, the Sierra Club, the Natural Resources Defense Council, the National Wildlife Federation, and others kept up the pressure on Keystone, in 2013 a new grassroots group formed in the Midwest, called the Great Lakes Tar Sands Alliance, to oppose Enbridge’s pipeline plans, as well as to oppose tar sands oil trains around the Great Lakes. With help from lawyers at the Sierra Club and National Wildlife Federation, the alliance demanded the same environmental scrutiny from the State Department of Enbridge’s plans as the agency had been forced to give Keystone XL.

The result was to stall Enbridge’s plans and delay its pumping station expansion plans beyond the date it had promised its shippers to be open for business. To get around the delays our activism created, Enbridge secretly met with the State Department early in 2014, arguing that they were entitled to have the line expedited in order to not lose money, and that they could build what was a new pipeline without the kind of environmental review a new line would require by calling it maintenance of an existing line. To achieve this, they proposed a complicated illegal
scheme (described below). A mid-level official in the State Department signed off on a letter approving the scheme last July, and our lawyers are suing over that travesty, as well.

As the several lawsuits make their way through courts, the real action will lie in informed and engaged climate activists around the country who understand that defeating KXL is only the start of a longer journey, which, for now, leads to the battle around the Great Lakes. There the inevitable accidents on Enbridge's tar sands pipelines threaten the largest body of surface fresh water on Earth.

---

1 This is the situation surrounding what has been dubbed “Clippergate,” after the common name of the pipeline in Alberta and Minnesota, the “Alberta Clipper” (technically Line 67). Enbridge is pushing to double the capacity of Line 67 (adding about 360,000 bpd), from Canada to the Midwest, by adding pumping stations to push more oil through the pipe faster.

Because of climate activists’ intervention, the State Department, which is the entity that has to approve pipeline crossings for the President, conceded that a new Presidential Permit would be required even though there is already an existing pipeline in the ground. In today’s world, following the national controversy over the new Keystone XL border-crossing permit, this unanticipated complication dramatically slowed the regulatory reviews of the Line 67 expansion plan.

Determined not to delay its scheduled capacity expansion and disappoint its customers, Enbridge cooked up a devious plan to illegally circumvent the Presidential Permit process, and it enlisted State Department officials, who have long been in the hip pocket of the oil industry, into its illegal scheme.

Here is how the scheme works. Alongside Line 67 is an old Line 3, built in 1968, that is so decrepit that it can no long safely carry challenging grades like tar sands oil. Enbridge proposed to the State Department to build a new and larger pipeline segment to cross the border, call it a repair of Line 3, and shift the tar sands oil from Line 67 to this new pipeline just north of the border, and then, upon entering the U.S., shift the oil back to Line 67 to continue through Wisconsin to refineries around the Midwest. By doing this sham transaction and claiming, incorrectly, that the oil would be traveling across the border in a pipe that received a Presidential Permit back in 1968, Enbridge contended that no new permitting was needed, even though, in fact, the oil would be shifted to a new pipe that does not have a permit.

Enbridge submitted these plans to the State Department in June 2014. The following month, a mid-level State Department official wrote back, without any public notice or participation, that Enbridge could proceed with its plan to evade the requirement for a Presidential Permit. Opponents have sued and the appeal is now in court.