Capitol View

By Ed Howard

In a move virtually certain to generate some headlines but very little action, State Sen. Ken Haar of Malcolm is urging that lawmakers call themselves into special session and adopt laws allowing them to decide the route of a proposed sand tar oil pipeline that would pass through the porous Sand Hills and over the Ogallala Aquifer.

The optimistic view would be that his chances are minimal.

That legitimate questions exist about the safety of running the TransCanada XL pipeline over the company's preferred route is unarguably proven by the fact that both of Nebraska's U.S. Senators, Democrat Ben Nelson and Republican Mike Johanns, have said publicly that they oppose it.

Politically speaking, Johanns has made clear he would generally prefer to eat razorblades and hike 20 miles, rather than agree with Nelson on anything. The sanctity of Big Red football and motherhood would probably make the list of exceptions, but not much else.

"They picked the wrong route," Johanns said. "I wish I could tell you that man-made things never break, but they break. Why would you want to dump oil into the aquifer?"

The question from here: Why do you suppose most state senators have shown virtually no interest in using whatever authority the Legislature has — and the Congressional Research Service says it has primary authority — to investigate and influence the pipeline route?

Haar would need to get nine colleagues to call for lawmakers to be polled, by the Nebraska Secretary of State, on whether a special session should be called. Thirty-three of the 49 lawmakers would have to favor the session in order for it to be called. Haar indicated he'd begin his effort in September.

Special legislative sessions are usually called by a governor. And Gov. Dave Heineman has showed no inclination to do so where the Keystone XL pipeline is concerned.

Like any major construction project, the pipeline holds out the promise of jobs, jobs, jobs. That's good economically and politically.

It also holds out the established possibility of leaks, pollution and a not-very-satisfactory cleanup of the aquifer, which is immensely important to Nebraska and more than a half-dozen other states.

Side note: If the pipeline should eventually pollute the aquifer, Nelson and Johanns would be in the political clear.

The CRS study said states can establish the primary siting authority for the Keystone XL pipeline. It noted South Dakota and Montana have laws requiring that proposed pipelines receive approval from state agencies.

The only law on Nebraska's books, however, gives the power of eminent domain to oil pipeline companies if they can't talk owners of private property into giving the companies right of way.

TransCanada has been criticized several times by property owners who say they have been threatened with eminent domain proceedings.

The U.S. Department of State has said it will decide by year's end whether to grant a permit for the pipeline.

The House of Representatives recently passed a meaningless statute that called for the State Department to decide the issue by Nov. 1.

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