


## Easement Negotiation 101: Gas Pipelines and Energy Transmission Lines


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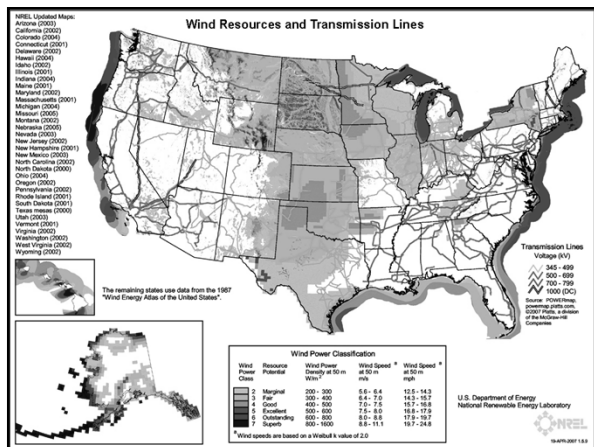
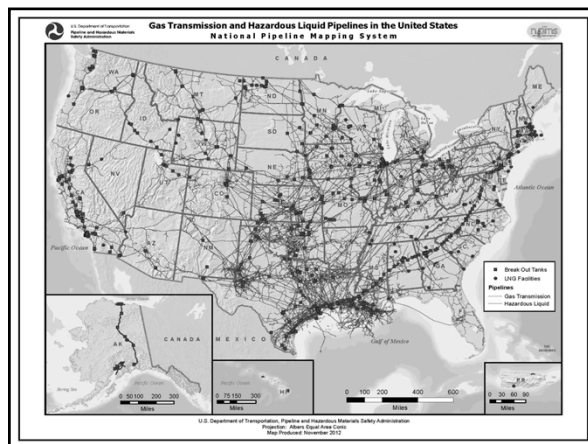


**THE OHIO STATE UNIVERSITY**  
COLLEGE OF FOOD, AGRICULTURAL, AND ENVIRONMENTAL SCIENCES

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## Pipeline Construction Process

- Acquiring the right of way.
- Planning route, surveying.
- Permitting.
- Right of way is cleared.
- Topsoil removed, trench dug.
- 'Stringing pipe'
- Pipe is welded and contoured.
- Pipe lowered into trench.
- Pipe buried and site restored.



## A Typical Right-of-Way Agreement

- Refer to Pipeline Right-of-Way Grant and Transmission Line Easement Agreement provided in materials.
- How to proceed?

## Easement Negotiation

- Does the landowner want to negotiate?
  - Important to identify an unwilling landowner right away, particularly for potential eminent domain projects.
  - Significant location changes are typically more successful early in the process.

*Easement Negotiation*

- The addendum.
  - Negotiated terms to address landowner needs and limitations of rights.
  - Typically offered by the landowner.

*Easement Negotiation*

- Landowner groups.
  - Negotiation on behalf of a formal group of landowners.
  - More difficult than leasing groups due to varying impacts on parcels.
  - Important to organize group and establish ground rules before negotiation of easement.

*Potential Liabilities*

- Does landowner have the authority to grant?
  - Have interests already been granted in oil and gas leases and other instruments?
  - Split surface and mineral interests.

*Potential Conflicts with Other Property Interests*

- Tenant farmer impacts.
  - Oral leases.

*The Scope of the Grant*

- Identifying the easement location and area.
- Limiting the number and size of pipes or lines.
- Potential surface structures.

**Pipeline Related Infrastructure**

- Valves
- Pigging Launchers & Catchers
- Drying and Metering Facilities
- Compressor Stations
- Cathodic Protection Equipment

Valve



Pig Launcher



Source: Wikipedia.org

*The Scope of the Grant*

- Construction of the line.
  - Temporary construction easement.
  - The shrink down and final location/area.
  - Construction timetable.
  - Duration of the grant.
    - Non-use and abandonment provisions.

*The Scope of the Grant*

- Provisions for ongoing maintenance.
- Future improvements in the easement area.

*Impacts on the Farm Operation*



*Impacts on the Farm Operation*

- Soils.
  - Top soil and double-ditching or similar requirements.
  - Minimizing and address compaction impacts.
  - Erosion impacts and seeding requirements.
  - Technical standards and state regulations.

*Impacts on the Farm Operation*

- Impacts on drainage and irrigation infrastructure.
  - Pipeline depth and drainage interferences.
  - Irrigation interferences.
- Other farm infrastructure
  - Stream crossings, buildings, fences, gates, driveways.
- Structures on the surface.
  - Design provisions to address aesthetic, noise, livestock impacts.

*Payments to the Landowner*

- Payment for property interests.
  - Linear foot versus acreage basis.
  - Temporary easement and permanent easement.

### *Payments to the Landowner*

- Payments for damages.
  - Predicted impacts on productivity and yields.
  - Damages outside the easement area.
  - Impacts on property value.

### *Payments to the Landowner*

- Payments for costs to landowner.
  - Surveys, appraisals, attorney fees, recording fees.
- Confidentiality provisions.

### *Payments to the Landowner*

- Taxation
  - Permanent easement and damages: capital gains.
  - Temporary easement (~less than 30 years): ordinary income.
  - Itemized statements.

### *The Impacts of Eminent Domain*

- Federal authority:
  - Role of Federal Energy Regulatory Commission (FERC)
  - Grant of Certificate of Public Convenience and Necessity
- Potential state authority.
- Payment of "just compensation."

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