



Natural Gas Pipelines Transform Ohio's Countryside

With drilling and fracking comes the need for pipelines to move gas from wells to natural gas processing plants and ultimately to end users. Landowners across Ohio—even those outside of the shale footprint—are being asked to sign agreements allowing companies to purchase easements for pipeline construction. According to the *Columbus Dispatch*, there are 95 pipelines in various stages of completion in Carol and Harrison counties alone.

Pipelines can be a threat to public safety, the environment, and land values. Risks include explosions, such as the November 2011 natural gas transmission pipeline explosion in Morgan County that burned three houses and left a 30' wide by 15' deep crater, and pipeline spills, such as the November 2012 spill that polluted 1.5 miles of Boggs Fork in Harrison County. Construction impacts, including surface disturbance and access roads, are also issues to consider.

What's a landowner to do? We asked Michael Braunstein, a Professor Emeritus at the Ohio State University Moritz College of Law and a practicing eminent domain attorney with Goldman and Braunstein, LLP, a Columbus-based law firm that represents landowners in eminent domain negotiations and litigation.

OEFFA: What is a pipeline easement?

Michael Braunstein: An easement is a limited right to use the land of another for a specific purpose. In the case of a pipeline, the company that owns the pipeline needs an easement to bury it on someone's land. The property owner still owns the land and is compensated for the easement.

OEFFA: Who is affected by gas pipeline development in Ohio?

MB: Typically gas pipelines are routed through rural areas, usually passing through numerous counties. For example, the ATEX Enterprise Pipeline runs through 13 different Ohio counties. The Bluegrass pipeline will be built across the entire state, primarily affecting southern Ohio.

OEFFA: How many new pipelines are being built?

MB: A number of proposed pipeline projects have been announced or are already well underway throughout Ohio, including the ATEX Enterprise Pipeline, the Bluegrass Pipeline, Sunoco Logistics Allegheny Access Pipeline, and the proposed NEXUS Gas Pipeline.

OEFFA: What are the risks associated with pipelines and pipeline easements?

MB: A pipeline easement can greatly restrict current and future property and land use rights. For example, it can affect your access to your property and you often cannot build over an easement, which can affect future use of the land and its value. In addition, a pipeline can impact the safety of those living on the property, along with their livestock. It isn't common but there are cases of pipelines leaking and/or exploding. These factors can certainly jeopardize a landowner's livelihood and the land's overall value to prospective purchasers or heirs.

OEFFA: What should a landowner do if they're approached about an easement?

MB: I recommend landowners allow an appraiser onto their property, as forbidding access will not stop the process. But don't be intimidated by condemning authorities. The law gives you important protections and rights. Landowners should not sign any agreements without first having them reviewed by an expert. An experienced lawyer can assist a landowner in negotiating settlements and developing easements and agreements so they better protect the property owner. And a lawyer is essential if the matter ultimately goes to litigation.

OEFFA: What are landowners' options if they don't want an easement on their property?

MB: If a landowner doesn't want to grant an easement, the pipeline company can take the landowner to court because in Ohio many companies have the power of eminent domain. But not all pipeline projects have this authority. In Ohio private pipeline companies regulated as common carriers of public utilities have the power of eminent domain in certain situations. And some pipelines that are not public utilities are given the power of eminent domain by specific statute. For example, a pipeline carrying natural gas has the power of eminent domain, but if it carries natural gas derivatives it probably does not. Because it varies, consultation with an attorney is advisable.

OEFFA: How can a landowner ensure that their family and their property are properly protected and compensated?

MB: Seeking the opinion of an expert who is knowledgeable and informed in regards to pipeline easements is the best way to ensure fair and equitable treatment. Without proper legal protection, a pipeline company will negotiate an easement that is in their best interest, not yours.

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