

Oil and Gas Pipeline Easement Checklist

Shale Oil and Gas Development Fact Sheet Series

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Mark Landefeld, Extension Educator, Agriculture and Natural Resources, Monroe County
Peggy Kirk Hall, Assistant Professor and Field Specialist, Agricultural and Resource Law

Oil and gas production from Eastern Ohio shale formations will require the construction of many pipelines in the coming years. Landowners in the path of proposed routes can expect to receive offers by companies who want to construct pipelines across their properties. While a Fraser Institute study recently concluded that pipelines are the safest mode of transportation for high volumes of petroleum products, landowners have valid concerns about pipeline easements.

Easement Checklist

The following is a general list of typical provisions to include in an oil and gas pipeline easement agreement. Refer to the “Understanding and Negotiating Pipeline Easements” fact sheet at ohioline.osu.edu for a more complete explanation of the issues and terms below. We also encourage landowners to seek the assistance of an attorney and other professionals who can help assess the easement agreement, and address specific issues and concerns for an individual situation.

Granting Clause

- Clear statement of the property rights the landowner is granting.
- No requirement for the landowner to warrant a clear title to the property.

Easement Location

- Accurate legal description of the location of the easement, including width of the pipeline easement and requirement for a post-construction survey establishing final easement location.
- Location of temporary construction easement, if applicable.
- Required minimum depth of pipeline, from land surface to top of pipe.

Limitations on Use of Easement

- Number of pipelines allotted on the easement.
- Actual or maximum size of pipeline.
- Pipeline pressure limitations.
- Limitations on types of substances to be conveyed through pipeline.
- Limitations on additional surface and subsurface structures or facilities on the easement.

- Landowner's rights to use the easement area for specified purposes.

Construction

- Timetable for construction and installation of the pipeline.
- Damages for injuries resulting from failure to meet construction deadlines.
- Landowner's access rights to home, driveways, barns, fields, etc., during construction.
- Adherence to Best Management Practices of the Ohio Department of Natural Resources pipeline standards and construction specifications.
- Methods for replacing topsoil and vegetation after construction.
- Requirements for restoration of land surface after construction.
- Restrictions on use of landowner's property for construction-related activities such as parking, equipment storage and sanitary stations.
- Requirements for crossing waterways on the property during construction.
- Minimization of impacts on woodlands and timber.
- Minimization of impacts on field crops.
- Procedures for addressing impacts on drainage, fencing, gates or other land improvements.
- Management of livestock or other business uses on property during construction.
- Markers to identify location of pipeline upon completion of construction.

Maintenance of the Pipeline

- How and where to access the pipeline easement for inspection and maintenance.
- Defined boundaries for inspection and maintenance activities.
- Routine inspection and maintenance schedule, including prohibited times for inspection and maintenance activities.

Landowner Liability

- Indemnification provision protecting landowner from liability for acts of company and third parties.

Termination and Abandonment

- Termination date for easement, if applicable.
- Conditions for automatic termination, such as failure to construct pipeline.
- Clear definition of actions or inactions that result in abandonment of the pipeline.
- Company's obligations for notification and removal of structures and equipment following termination or abandonment.

Miscellaneous Considerations

- Procedures for addressing and handling disputes.
- Assignment rights and procedures for assignment to another company.
- Procedures for amending the easement agreement.

Payment Terms

- Payment for the permanent pipeline easement, based on specific property characteristics and circumstances.
- Payment for a temporary construction easement, if applicable.
- Payment for damages resulting from construction, maintenance and long-term presence of the pipeline on the property, including harm to or loss of timber, crops and soil and methods used to calculate payment.
- Reimbursement of attorney or appraisal fees, surveys and other costs.

Summary

Use this checklist to help assess the provisions in an oil and gas pipeline easement. This fact sheet is not intended to take the place of legal advice. Landowners should seek the assistance of an experienced attorney to assist with a pipeline easement agreement.

Reference

Furchtgott-Roth, D. E., & Green, K. P. (2013). Intermodal safety in the transport of oil. *Studies in Energy Transportation*. Available at: fraserinstitute.org/studies/intermodal-safety-in-the-transport-of-oil.

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