



**TEXAS PIPELINE  
ASSOCIATION**

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## Eminent Domain

### A Seldom-used, Last Resort of the Pipeline Industry

#### Just What is Eminent Domain Authority?

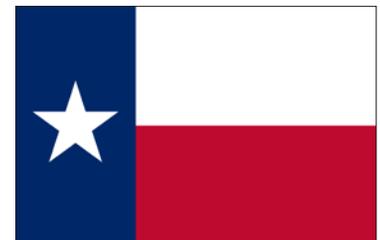
Eminent domain is the inherent power of a sovereign state, such as the United States and the state of Texas, to take property for public use, subject to the right of the property owner to receive just or adequate compensation. Eminent domain can be delegated by a sovereign state to a governmental or private entity. Common public uses of eminent domain include the installation of power, water, oil, petroleum, gas and other utility or common carrier lines.

Juggling the interests of landowners and those who build the necessary infrastructure for Texans to live and thrive can sometimes be a challenge for the state. After all, Texas was built on a foundation that recognizes the importance of private property rights. Texas is also a state in which the oil and gas industry has played, and continues to play, a leading role in its economic development, providing millions of jobs and pumping billions of dollars into the state's economy annually – even when energy prices are low.

The state has supported (and the courts have upheld and supported) the use of eminent domain, which has long been used to build infrastructure projects, such as roads, airports and schools. The Texas Comptroller's office reports that in 2013, 82 percent of submissions claiming eminent domain authority came from government entities – not the oil and gas industry.

#### The Oil and Gas Industry is Highly Regulated

Under state law, the Railroad Commission of Texas (RRC) regulates pipelines as either gas utilities, common carriers or private lines. Under new rules put into place in 2015, the agency now requires documentation to support a pipeline company's request for a classification, as well as "a sworn statement providing the operator's factual basis supporting the classification being sought for the pipeline." The RRC can revoke a pipeline operator's permit if it finds that the pipeline is not being operated in accordance with state laws and RRC rules and regulations.



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## Eminent Domain is Seldom Used

Eminent domain, however, is seldom used by the pipeline industry. In fact, the vast majority of pipeline miles built in Texas were not constructed through the use of condemnation. In 2017, TPA conducted a sampling of 15,000 miles of pipeline that were constructed over the past six years from almost 35,000 tracts of land. The data shows that the industry filed condemnation actions less than four percent of the time, illustrating a 96 percent success rate in negotiating with landowners; less than one percent ever went to a special commissioners' hearing and less than three hundredths of one (0.03) percent ever went to trial. This underscores that negotiations between landowners and pipeline companies are overwhelmingly successful. We are very proud of that.

Even when it does become necessary to file a condemnation action, property owners do not lose ownership of their property, retaining the ability to utilize their land for agricultural and recreational use. Eminent domain simply grants pipeline companies the right to use an easement on the property through which to run a pipeline. In cases where a pipeline is abandoned, the easement reverts back to the landowner.

## Pipeline Companies Prefer Negotiations Driven By Fair Market Price

If given the choice, pipeline companies would much rather obtain rights-of-way through negotiations that are driven by the fair, market price of the property, which is how the vast majority of pipeline projects are successfully conducted. Condemnation actually delays projects, increasing the time and costs for pipeline completion.

Pipelines provide great benefits to the state that include:

-  Facilitating the drilling and production of oil and gas wells and the transport to market of the produced oil and gas.
-  Creating thousands of well-paying jobs all across Texas in construction, manufacturing, professional and service industries.
-  Keeping consumer prices down by providing the lowest and safest cost of transporting the fuels on which we all rely, including all forms of motor fuel, natural gas, propane and other natural gas liquids.
-  Supplying the raw material to make consumer goods that people use every day, such as clothing, fertilizer, medicine and cosmetics.
-  Keeping heavy trucks off the roads by delivering commodities underground. A moderate 20" pipeline running 50 miles through a county can displace 1,650 trucks off of county roads (A truck can hold about 180 barrels of crude. A 20" pipeline can move, most typically, 300,000 barrels of crude.  $300,000/180 = \text{approx. } 1,650$  truckloads per day).

## We are Committed to the Community

The Texas Pipeline Association and its members are committed to this state, to the communities in which we operate and live and to Texas landowners with whom we are neighbors. The industry's use of eminent domain for pipeline construction is used only as a last resort when all other options have been exhausted. We spend the necessary time to make sure our projects fully comply with all state and federal regulations and that in the process landowners are treated fairly and compensated justly.

## PIPELINES BENEFIT THE STATE



WELL-PAYING JOBS



KEEPS CONSUMER PRICES DOWN



RAW MATERIALS FOR CONSUMER GOODS



FEWER TRUCKS ON THE ROAD

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Texas Pipeline Association is the largest state trade association in the country representing solely the interests of the intrastate pipeline network. TPA is the primary resource for information regarding the Texas pipeline industry and provides advocacy on issues related to pipeline safety, environmental regulations, taxation and legislation. Member companies and their representatives commit to conducting their business in accordance with integrity, honest communication, fair right-of-way acquisition, respectful construction and safe operations. For more information, please visit [www.texaspipelines.com](http://www.texaspipelines.com).