

First, let me express gratitude to the Chairman and the Committee today to study about an eminent domain situation that occurred in my life in 2007 -2008. That event tore away at part of my beliefs of freedom which the Constitutional framers gave me, the rights associated with private property. It has been written their guiding principle was that people came together to form a government in order to secure their rights to property. They believed what is wrong for individual citizens to do to one another, it is equally wrong for government to do to them.

I believe your Committee first needs to review the unique situations where government can endorse and justify seizure over a citizen's right to quietly enjoy the blessings of owning his property. Illinois Professor Walter B. Mead writes the Framers knew that "inadequate secured property rights could render vulnerable even the fundamental liberties of speech, press and meaningful political participation." Today your study narrows to a pipeline entity's use of eminent domain.

The laws of our State deliver a way where if a pipeline entity's planned corridor is hindered by an individual's choice not to have an easement burden. The State will allowed a pipeline entity a governmental endorsement to sever that property away from its owner. So I believe you need to develop a general sense if pipeline law interpretations are adequate to insure that terms "public use" or "public benefits" are confined to the public's expectation.

Currently, North Dakota eminent domain laws insert an exception for "common carriers." I sense the way most state citizens define common carrier may not represent how ND laws do. When a pipeline's product is confined to a handful of non-resident shippers and carries no ND products - - and even the pipeline's design prohibits ND use - - again I sense the common carrier term would have been misused in a typical ND citizen's belief.

If during your review you are comfortable with existing interpretations of the peoples' intent regarding eminent domain & pipelines, then I urge you to consider drafting language to protect landowner's respect and dignity. What do I mean?

- 1. Landowners deserve adequate warning of a pending pipeline route so they can prepare to explain their concerns before PSC hearings are thrust upon them.**
- 2. They deserve information to understand their landowner rights, the negotiation options and their rights if eminent domain proceedings start.**
- 3. They also deserve an adequate venue to appeal the affects of the pipeline to their property so that the easement terms negotiated aren't only those which the pipeline company deems important.**

In absence of statutory or regulatory guidelines, the pipeline company fills the void with emphasis on fulfilling their sole business need to secure the easement at whatever measures necessary at the lowest possible construction cost. In our situation that included bullying and threats of eminent domain. They assumed the role of a kingly dictator - and a foreign one at that.

Is the disgusting situation which happened to me unusual? No. My research indicates the pipeline industry has repetitively used these tactics recently. In 2006, a Minnesota Administrative Judge with duty to review compliance to a Minnesota permit seems to "sound the alarm" to society regarding eminent domain landowner treatment. Nebraska just concluded a special session where pipeline eminent domain privileges have now been harnessed. In the past month, numerous Nebraska landowners came forward to testify of abuses. Hours of testimony are available for review if desired.

Just moments before we signed our easement, we had a candid discussion with our attorney about what easement terms we still desired. It was apparent that the pipeline company would have stopped this settlement process if we would have remained firm to demand the pipe being removed at the end of its useful life. Years from now I hope society can insure that the owners of the burdened property aren't subject to that residual mess alone. That is one example of a landowner concern that is so easily disposed by pipeline operators controlling the negotiation process.

Granting eminent domain privileges to private industry are clearly a state provided right. Other states have chosen to separate the privilege from a route permit. For example, Illinois does and successfully withstood a judicial test after the concept was appealed to their supreme court in 1997. Eventually that pipeline was installed, but after only securing easements from willing landowners by "level field" negotiation. That same state agency denied pipeline eminent domain privileges again in 2009 for an Enbridge pipeline proposal. Other states grant no eminent authority to pipeline operators. Your study has a range of possibilities to consider.

Future landowners will need your diligent work now in order to have a respectable outcome to easement negotiations. Pipelines may be the safest method of transporting oil, but they are not without risk, a risk that isn't present in the absence of an unusual high pressure – uniquely waiver – first time ever- thinner pipe. Now a pipeline operator has complete freedom because of the current condemnation process. The landowners concerns and ideas should be valued and incorporated into a safe operational pipeline plan rather than being ignored and discarded. As the Minnesota Judge wrote, "It is appropriate to do so because the landowners must accept what is, for many, an unwanted intrusion onto their land in order to benefit the public."

Thank you for your attention and I will gladly try to answer your questions.