



FACT SHEET

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“Shale Oil and Gas Development” Fact Sheet Series

A Landowner’s Guide to Understanding Recommended Pipeline Standards and Construction Specifications

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With the drilling of gas wells comes the need to establish pipelines to move the gas from the point of drilling to the end users. Landowners across Ohio are being asked to sign agreements allowing companies to purchase acreage for pipeline construction. This fact sheet will provide landowners with an overview of items to consider regarding standards and construction specifications related to pipelines.

This fact sheet is intended for educational purposes only. We strongly encourage landowners who may be considering negotiating a pipeline easement to consult with an attorney familiar with such negotiations.

What is a Pipeline Easement?

A pipeline easement is a written agreement that gives a company the right to establish a pipeline on a landowner’s property. The term “pipeline right-of-way” is often used interchangeably with the term “pipeline easement,” although some also use the term “right-of-way” to refer to the actual strip of land that is involved in the easement. For this fact sheet, we will use the term “easement” rather than “right-of-way.”

A pipeline easement doesn’t grant the pipeline development company actual ownership of the land; it grants only a right to use the land for the purposes stated in the easement. The easement “runs with the land,” meaning that it remains on the property and applies to all future property owners. Typically, a pipeline easement is permanent and does not have a termination date, although the parties might agree otherwise.

Who Regulates Pipelines?

The Public Utilities Commission of Ohio (PUCO) has regulatory authority over pipelines within Ohio and the Ohio Power Siting Board has authorization to issue certificates for the construction, operation, and maintenance of utility facilities. The Federal Energy Regulatory Commission (FERC) approves the location, construction, and operation of pipelines, facilities, and storage areas involved in moving gas across state lines.

Pipeline Standards and Construction Specifications

The Ohio Department of Natural Resources Division of Soil and Water Conservation (ODNR) has developed a model pipeline standard and specification document to provide guidelines for controlling and minimizing adverse impacts of pipeline construction on Ohio's soil and water resources. These standards were developed by the ODNR when a 42 inch natural gas pipeline, known as the Rex Express Pipeline-East Project, was constructed throughout southern and eastern Ohio.

Following is a review of the standards and construction specifications. A detailed description is available at the local Soil and Water Conservation District office or online at: http://ohiodnr.com/portals/12/CE/Pipeline/Ohio_Pipeline_Const_Standards.pdf.

Planning Phase

The planning phase consists of developing plans and maps of the construction area, sensitive soils, special features, and contact information.

Construction Plans and Maps

Landowners should require the company to provide general construction plans that include the following areas:

1. Pasture or grazing areas, unimproved grazing areas, permanent open pasture, improved pasture, and fence lines.
2. Cropland areas including hay land, rotation cropland, long-term cropland, and agricultural land enrolled in the Conservation Reserve or other set-aside programs through the Farm Service Agency.
3. Unique Agricultural Lands, including specialty crops, orchards, vineyards, maple sugarbushes, organic mucklands, and permanent irrigation systems.

Sensitive Agricultural Soils

Sensitive agricultural soils are those that support cropland, hay land, or pasture and are more prone to disturbance during construction because of slope, wetness, and/or shallowness to depth of bedrock. These soils should be identified on the map and managed accordingly.

Special Features

Landowners should also require that the company note the following information on the construction maps and plans:

1. Subsurface drainage areas that can be identified, open ditches, diversions, terraces, buried utility lines, water sources, and unnamed water flows.
2. Depth of cover if it differs from the Construction Specifications.
3. Any off right-of-way roads, work, or storage areas. Other areas identified during construction should be considered and filed as a change in the construction plans.
4. Planned location of any compressor or valve stations, metering or regulating stations, and any other proposed facilities.

5. General location of trench breaks with notation of distance between breaks based on percent of slope.
6. Locations for subsurface drains to control soil saturation or aid trench breakers in minimizing water piping.

Point of Contact During Construction

Prior to construction the landowner should request that the company provide the name, address, and telephone number of the representative assigned to the project during construction and operation. Landowners should also request that the company respond promptly to any concerns of the landowner during construction and operation.

Construction Specifications

1. Ingress and Egress Routes

Prior to construction, the landowner and the company should reach a mutual agreement regarding routes that will be used for entering and exiting the easement property. This is a critical component of the agreement because, without such agreement, the company may access the property from any direction and may cause damage to fields, crops, timber, etc.

2. Temporary Roads

The location of any temporary roads should be agreed upon and in writing prior to construction. Whenever possible, it is suggested that existing roads be used. Any temporary roads should be constructed such that they do not impede drainage and minimize soil erosion. If temporary roads are to remain in place following construction, this should be agreed upon in writing and the plan should outline who has responsibilities for maintenance. It is in the best interest of the landowner to require the company be responsible for all maintenance. Should temporary roads be removed, it should be agreed that the property will return to the original landowner and in a condition equivalent to that which existed prior to construction.

3. Cleaning of Brush and Trees on the Right-of-Way

All parties should agree in writing as to the removal of trees, brush, and stumps of no value to the landowner. This may include, where allowed by law, burning, burial, chipping, or complete removal. In areas where livestock are grazing and black cherry exists on the easement property, the company should be required to not allow any black cherry trees to wilt or be stockpiled. Black cherry, in its wilted state, is toxic to livestock.

4. Topsoil Removal and Protection

On agricultural lands, topsoil should be removed prior to any activity by any equipment. On all other acres the topsoil should be removed after clearing, grubbing, and prior to other construction activities. Topsoil shall be removed from the full width of the easement and stockpiled along either edge and on the easement. It is suggested that topsoil be separated

from other extracted materials and construction activity. In order to best protect topsoil, the double ditching method of soil removal for pipeline construction is recommended. All topsoil should be removed, stockpiled, and returned to restore the original soil profile.

5. Depth of Cover

Except for above-ground piping facilities, it is suggested that pipelines be buried as follows:

On lands where there are existing subsurface drain systems, or drain tile is required to provide sufficient drainage, and bedrock is shallower than 96 inches, a minimum of 60 inches of cover is recommended. A minimum of 60 inches of cover should be maintained over the pipeline in those locations where it crosses surface drains, diversions, grassed waterways, open ditches, and streams.

On lands without drain tile and where the County Soil Survey (available through your local Soil and Water Conservation District office) indicates good drainage, a minimum of 48 inches of cover over the pipeline is recommended.

On non-agricultural land, unimproved pasture, and permanent pasture it is suggested a minimum of 36 inches of cover be maintained over the pipeline.

6. Rock Removal

The agreement should include language not allowing for the backfill of materials containing rocks of any greater concentration or size than existed prior to construction.

7. Repair of Damaged and Adversely Affected Tile Lines

It is suggested that all repairs and/or replacement of tile lines be completed prior to topsoil being applied. If underground tile is damaged as a result of installation of the pipeline, it should be repaired in a manner that assures proper function of the tile at the point of repair. If necessary, the company shall take appropriate actions to replace, reconfigure, or replace the tile lines.

Below are recommendations regarding drain tile repair:

It should be the responsibility of the company to locate all drain tiles within the easement prior to installation. All identified tile lines should be marked with a four foot lathe to alert construction crews.

If tile lines are damaged, cut, or removed during construction they should be marked with a four foot lathe in the trench soil bank directly opposite each drain tile line.

All repairs should be made with materials of the same or better quality of those damaged.

In cases where the tile lines are severed by the pipeline trench, steel channel iron, steel angle iron, full round slotted steel pipe, half-round slotted steel pipe, or schedule 80 pvc pipe with 1/8 inch diameter holes are recommended to support the drain tile across the trench.

All pipeline repairs should be completed within 30 days following completion of the pipeline installation. Following construction, it is recommended the company be responsible for correcting all drain tile repairs that fall on the permanent and construction right-of-way. It is recommended that drain tiles not be placed below the pipeline.

Landowners should hold the company responsible for installation of additional drain tile necessary to properly drain wet areas on the permanent and temporary easement.

All soil conservation practices installed as a result of construction should be restored to their original condition.

8. Control of Trench Washouts, Water Piping, and Blowouts

The agreement should include the requirement that trench breakers be installed for the purposes of preventing trench washouts during construction and abating water piping and blowouts subsequent to trench backfill.

9. Pumping of Water from Open Ditches

It is recommended that no backfilling occur in water filled trenches and that all water be removed prior to backfilling. Should it become necessary to pump water from open ditches, it should be pumped in a manner that does not cause damage to adjacent lands, crops, and/or pasture.

10. Subsoil Decompaction, Soil Shattering, and Stone Removal

The process of construction and installation of a pipeline requires the use of heavy equipment which has the potential to cause soil compaction. If not properly addressed, this compaction can lead to long-term negative effects on crop growth and yields. To remedy this potentially negative result, the subsoil should be ripped to a depth of not less than 16 inches using an appropriate tool.

The cost of applying fertilizer or other necessary soil amendments should be included in the damages paid and allow the landowner to apply the materials as needed based on soil sampling and crops grown.

Landowners may want to consider providing a stated time in which subsoil decompaction and soil replacement may not occur. For instance, November 1 to April 1 may be a time when unsuitable weather conditions may not allow for continuing restoration of the land.

11. Backfill Profile and Trench Crowning

On lands where materials excavated during trenching are insufficient in quantity to meet backfill requirements, it is suggested that the soil of adjacent agricultural land not be used as backfill or cover material.

Landowners should insist that under no circumstances should topsoil materials be used for pipe padding or trench backfill.

In all agricultural lands, ripped or blasted bedrock or extracted stone or rock may be used for trench backfill material, but no closer than 24 inches from the exposed construction surface of the easement property. Any rocks not used as backfill should be removed according to the mutually agreed upon plan. Crowning of the trench may occur during trench backfilling using subsoil materials over the trench to allow for settling of the trench. The stockpiled topsoil can be applied over the affected right-of-way after rock clean-up is completed. In those areas where the trench does settle after topsoil is applied, imported topsoil, not that from adjacent lands, should be spread to fill those areas that settle.

12. Land Leveling

After the completion of the pipeline, the company should restore the property to its original pre-construction elevation and contour. Leveling should be employed to counteract any uneven settling or surface drainage problems resulting from construction activity on the easement.

13. Weed Control

Areas of the right-of-way which may be traversed by company officials, or may contain pipeline structures, should be monitored in a manner which discourages the spread of weeds to adjacent lands being utilized for agricultural purposes. Pesticides should be applied by a qualified applicator.

14. Damages to Private Property

In the event of any damages that resulting from actions of the pipeline company during construction, maintenance, or operation of the pipeline, the landowner should be compensated

Summary

The construction of a pipeline across your property has the potential to provide additional income if you grant an easement. It is important that landowners understand, however, that granting the easement does potentially restrict the use of the affected area. We encourage all landowners to use this fact sheet when negotiating with a company interested in constructing a pipeline on your property and to always seek the advice of an attorney familiar with easement agreements of this nature.

References

Pipeline Standard and Construction Specifications; Ohio Department of Natural Resources
Division of Soil & Water Conservation;

[http://ohiodnr.com/portals/12/CE/Pipeline/Ohio Pipeline Const Standards.pdf](http://ohiodnr.com/portals/12/CE/Pipeline/Ohio_Pipeline_Const_Standards.pdf)

Pipeline Construction Standards and Policies; Illinois Department of Agriculture;

<http://www.agr.state.il.us/Environment/LandWater/pipelinestandards&policies.pdf>

This fact sheet is in draft form and has been submitted to Ohio State University Extension for final publication by The Ohio State University.