



FACT SHEET

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Shale Oil and Gas Development Fact Sheet Series

Pipeline Easement Checklist

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If you are considering a pipeline easement on your property, this checklist will help you review and assess the easement agreement. Use this checklist in conjunction with our fact sheet on “Understanding and Negotiating Pipeline Easements.” Prior to entering an easement agreement, it is important to understand your ownership of the property, as well as any pre-existing easements on the property. The following checklist outlines the key components to consider in a well-designed lease agreement.

Today, many pipeline easements are “form” easements which are prepared by the development company. This form should be viewed as negotiable by the landowner. The landowner should ensure that the easement will adequately address all their current and future needs. A comprehensive easement can ensure a healthy relationship between both parties. In order to create a healthy easement, the landowner should consider a number of aspects. How wide is the easement area? Where will the final pipeline be placed? In what ways will I be compensated? What will constitute termination of the lease?

The following is a general list of potential issues and concerns to consider, prior to entering an easement agreement. Refer to the “Understanding and Negotiating Pipeline Easements” factsheet for a more complete and comprehensive list of issues and terms which may surface in pipeline easements. This factsheet is designed to serve as a guide to evaluating pipeline easements; it is advisable to seek the assistance of an attorney and other professionals who can help assess specific issues and concerns for your property and situation.

Granting Clause and Legal Description of Easement Area

- _ Granting clause which includes the date, names and addresses of both parties, and signatures
- _ Accurate legal description of the property (either within the lease or attached)
- _ Clearly states the width of the pipeline easement

Limitations on Use of Easement

- _ Identifies number of pipelines allotted
- _ Description of actual (or maximum) size and type of pipeline to be used
- _ Establishes pipeline pressure allowances and limitations
- _ Establishment of pipeline depth
- _ Surface and subsurface components restrictions (may be entitled “appurtenances”)
- _ Rights of the landowner to use area covered in the easement

Construction

- Time table establishing specific time period for construction and installation of the pipeline; a timetable for a temporary construction easement may be included
- During construction, landowner's rights to driveways, landscaping, and parking are clarified
- Restoration of land is addressed
- Upon completion, a post construction survey will be conducted to determine the exact location of the pipeline

Maintenance Requirements

- Specifies the permitted location of pipeline repair activity
- Addresses how the company will access the easement
- Establishes a routine maintenance schedule, including prohibited access times
- Defines the type and scope of acceptable maintenance
- Signage and marker specifications/requirements to mark the easement boundaries

Payment Considerations

- Reflect current market rates and values
- Considers the cost of temporary construction use
- Addresses loss of marketable timber and crops, interference with agricultural systems and soil compaction
- Recognizes cost of surveying, attorney fees, and filing fees
- Requires company to itemize payments for easement and damages for income tax reporting purposes

Landowner's Liability

- Indemnification provision limits landowner's liability

Abandonment

- Clear definition of what constitutes abandonment of the lease by the pipeline company
- Company's obligation for notification and removal of structures and equipment, following forfeiture

Miscellaneous Considerations

- Outlines procedures for addressing and handling disputes
- Addresses assignment rights and procedures for assignment to another company
- Requires written agreement for amending the lease
- Does not require landowner to guarantee or warrant a clear title

Summary

Utilize this checklist as a guide to assess the elements which may appear in pipeline easements. This fact sheet is not intended to take the place of sound legal advice; landowners should seek the assistance of an experienced attorney to assist with pipeline easement review.

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