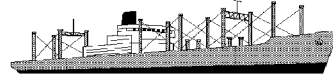




# Rollin' On



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## NATURAL GAS PIPELINES: *Transportation through a tube.*

We are all aware of the common modes of transportation – motor, rail, air, and water, plus throw in intermodal. But there is also transportation in a tube, in a pipeline, not that I would recommend it for personal travel, although the ordeal that we encounter these days at airports might make it tempting.

There has been a lot of buzz lately about natural gas pipelines criss-crossing various parts of Oregon and parts further. Many people would be impacted and are thus concerned, to say the least. Just imagine having a farm where you and prior generations have been living for years and then you receive a notice in the mail that basically says, we might dig a huge trench through your property, you can't stop us from doing so and we'll be back in touch, have a nice day.

One of the proposed pipelines would run more than 200 miles, from Clatsop County south through Columbia, Washington, Yamhill, Marion, Clackamas and Wasco County. In the process it would cross innumerable farms, streams and rivers.

Interstate pipelines fall under the jurisdiction of the Federal Energy Regulatory Commission, which regulates the transmission of natural gas, electricity and oil. The FERC also regulates related proposals, such as the construction of liquefied natural gas terminals. Some of the regulations are courtesy of the U.S. Department of Transportation.

Pipeline companies are given a right-of-way easement, for which the landowners are compensated. The

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property owner either reaches an agreement with the pipeline company or, if no agreement is reached, the pipeline company can acquire the easement through eminent domain.

In many instances where eminent domain is involved, the property is taken fairly soon, and the fight over compensation is waged later on. That can be somewhat disconcerting, where you are told, while you are on your property, to get out of the way, to make way for whatever. That can be unnerving, whether it is a complete taking, where you lose all rights to your property and you are essentially evicted from your own property, or where you instead lose exclusive possession, such as for an easement.

Since this is a function courtesy of the federal government, there is federal preemption. So while the pipeline company must comply with all state and local rules, etc., in the event of a conflict, the feds have the final word.

As a property owner, you can hope that the proposal doesn't get by some of the procedural hurdles, such as the environmental impact statement. The National Environmental Policy Act (NEPA) requires that several issues be examined, such as geology and soils, water resources, aquatic resources, vegetation and wildlife, threatened and endangered species, land use, recreation and visual resources, cultural resources, socioeconomics, air quality and noise, reliability and safety, and cumulative impacts. You may become an environmentalist almost overnight.

We need to remember that the transmission of the gas is considered transportation, thus the regulations courtesy of the USDOT. For example, pipeline is defined as "all parts of those physical facilities through which gas moves in transportation, including pipes, valves . . . metering stations, regulator stations, delivery stations, holders and fabricated assemblies." Admittedly, that runs counter to what we usually think of when we think transportation (motor, rail, air, water).

Meanwhile, you're on your property and wondering what you can do to stop this train (railroads have done the same thing). You can follow developments at the FERC website. That doesn't get you anywhere if you want to have an impact. You can submit comments. That is a step in the right direction, although you wonder how much impact that will have.

You can take it a step further and actually intervene in the proceeding. This procedure puts you in the loop of what's going on, where you will receive copies of the briefs of the parties, which may be numerous. The flip side is that you will also be required to furnish a copy of your submittals to everyone else, so this option is not without its burdens. Still, it empowers you more than the written comment option. There are time limits in which to take this step.

If the pipeline gets approved, you will have to deal with the consequences of that approval for decades to come. You'll have pipeline people coming by at times, and the government will also be around. It may also attract the presence of people who have no business being around.

That's it for now. Until next time, keep the cargo *rollin' on!*

### Short Bio

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### The Obligatory Disclaimer

This newsletter is for informational purposes, does not provide legal advice and does not create an attorney-client relationship.