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Pipeline Easement and Right-of-Way Agreements

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Pipeline Easement and Right-of-Way Agreements

Abstract

This article describes an Extension educational program designed to increase landowner knowledge about pipelines and address issues related to right-of-way agreements. Specific terms of right-of-way agreements in Ohio are often difficult to obtain because many companies forbid landowners from discussing contract details with others. Uninformed individuals have signed agreements not understanding how management of their land may change, what some of the provisions in a document mean, and how much monetary compensation companies are willing to pay for easements. Postmeeting evaluations indicated that knowledge was gained by clientele and that participants were better equipped to understand and negotiate easement agreements.

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Background

Traditionally much of the natural gas production in the United States came from western states and the Gulf region, but now significant production is coming from the Appalachian region. The U.S. Geological Survey estimates that the Utica Shale contains at least 38 trillion cu ft of natural gas and the Marcellus Shale contains at least 84 trillion cu ft; the Utica Shale has a mean of 940 million barrels of unconventional oil resources and a mean of 208 million barrels of unconventional natural gas liquids (Kirschbaum et al., 2012).

Although the Utica Shale area extends into Pennsylvania and West Virginia, to date, most activity for Utica production has been in Ohio because Utica Shale in Ohio is believed to be richer in oil, condensate, and natural gas liquids, which have higher profit potential for production companies. Pipelines are needed to move these products, but installation of pipelines can be a controversial issue.

The Ohio Farm Bureau Federation reported that an estimated 38,000 mi of pipeline will be installed or refitted in Ohio within the next decade. Although overland transportation does occur, Pipeline Hazardous Materials Safety Administration data confirmed that by far the bulk of crude oil and petroleum products are moved in this country via pipelines. Additionally, a Fraser Institute study confirmed that pipelines are the safest mode of transportation for such volumes of petroleum

products (Furchtgott-Roth & Green, 2013). Just to draw a comparison, an individual has a 75% greater chance of getting killed by lightning than being killed in a pipeline incident.

Program Purpose, Design, and Content

Ohio State University (OSU) Extension educators designed the program Pipeline Easement and Right-of-Way Agreements to inform landowners about pipelines, discuss right-of-way agreements, review provisions often seen in agreements prepared by development companies, and provide examples to encourage landowners to think critically about needs on their properties. PowerPoint presentations were developed, and associated hard-copy handouts are distributed during program meetings. Also, fact sheets, educational items, and a Pipeline Easement Checklist were developed to accompany the program meeting presentations. (These educational items can be found at <http://serc.osu.edu/extension/extension-resources/pipelines>.) Moreover, during program meetings, educators encourage participants to seek additional information from attorneys, university websites, and the Ohio Department of Natural Resources' Division of Oil and Gas so that they are as knowledgeable as possible when making decisions pertaining to their properties. One's decisions regarding rights-of-way are likely to have effects that will last longer than his or her lifespan and affect future generations.

The Pipeline Easement and Right-of-Way Agreements program content is wide ranging:

- A flow chart showing types of pipelines and where products go when extracted is presented at the beginning of a program meeting. This presentation includes information about the production line, gathering lines, liquid lines, distribution lines, and so on.
- Information about federal, state, and local regulation of pipelines and how the jurisdiction of each regulatory level comes into play is provided.
- Eminent domain issues and ways in which they relate to intrastate lines and interstate lines are discussed.
- Program educators explore potential costs and benefits that are relevant to oil and gas exploration and extraction and encountered by most communities and landowners facing pipeline decisions (Ferrell & Sanders, 2013). For example, a farm's production can be affected by pipeline construction, and families that have farmed the same ground for generations may have serious hesitations about disrupting the land. Also, the general public may not understand the issues. As noted by Patton and Blaine (2001), public issues can be contentious and clouded by perceptions based on varying degrees of accuracy; Goerlich and Walker (2015) provide a process for Extension faculty to consider when entering a potentially contentious meeting.
- Questions about changes in property value often arise. However, a study by Wilde, Williamson, and Loos (2014) suggests that there is no credible evidence based on actual sales data indicating that proximity to pipelines reduces property values. During the presentation, educators provide several pictures from a variety of locations showing actual installations, during and after construction, to give participants a sense of the process.

- Easement location, number of pipelines, pipeline size and pressure, and depth of pipeline burial are discussed. Educators also talk about aboveground items so that landowners are aware of the potential siting of such items. Moreover, limitations concerning the use of an easement by the landowner and a timetable for construction are explained.
- Educators point out that restoration of disturbed land areas should be addressed in the easement agreement. They go on to discuss proper topsoil replacement, sufficient nutrients for plant growth, seed varieties, and procedures that address issues such as a seeding failure or weed infestation.
- The topics of indemnification, apportionment of payment for tax issues, terms for termination of an easement, and hiring of a lawyer familiar with these type contracts also are discussed.

Program Evaluation

Various evaluations were conducted to determine effectiveness of the program. When asked whether the information presented would help participants in a pipeline negotiation, a "yes" was recorded on 100% of the evaluations. In response to open-ended questions, participants shared comments such as "extremely educational," "wonderful," "very informative," "well presented," "best meeting I have attended," "excellent speakers," "very good presentation," "my eyes were opened," "excellent information," and "lots of things I had not considered." When asked which information from the program participants planned to use, the most frequent responses related to hiring of an attorney and payments and damages.

Pretest and posttest evaluation questions were used at two meetings to evaluate participant knowledge before and after the meeting. A 6-point Likert-type scale from 1 (*have very little knowledge*) to 6 (*have a great deal of knowledge*) was used to evaluate knowledge gained. Pretest scores ranged from 1.89 to 2.29, whereas posttest scores ranged from 4.56 to 5.18.

Summary

Extension educators can help community members understand issues surrounding oil and gas pipeline installations. The Pipeline Easement and Right-of-Way Agreements program increases landowners' knowledge about terms in agreements. Survey results indicated that program participants believed they would receive more income from their right-of-way agreements, seek professional assistance before signing contracts, and be more satisfied with the overall results of new easement agreements because of attending OSU Extension's Pipeline Easement and Right-of-Way Agreements educational program.

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