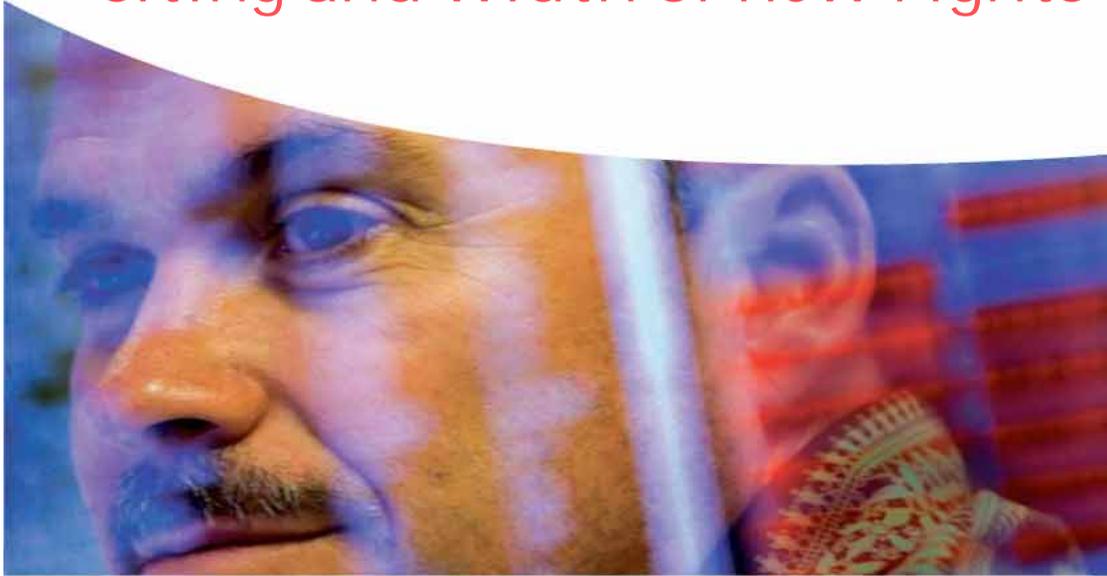


The need for policies affecting the siting and width of new rights-of-way



Pipeline Safety Trust Conference
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Denise Hamsher



Regulatory jurisdiction for new pipelines vary...so solutions will vary

- Interstate natural gas
 - FERC authority under the Natural Gas Act
- Intrastate natural gas
 - State jurisdiction for routing and public need determination
- Liquid Pipelines
 - State jurisdiction for routing and public need determination

State-regulated pipeline approvals:

- State programs vary significantly but may require one or more of:
 - Certificate of Need from state public utility commission -or- Statutory designation of public need for utilities
 - Routing Permit – not all states approve a route
 - Some states have a comprehensive review of route alternatives
 - State environmental assessment and permitting
 - Department of Natural Resources or Environment
- Federal permitting still applies
 - Environmental must comply with National Environmental Policy Act
 - U.S. Army Corps of Engineers: jurisdictional waters
 - Fish & Wildlife, etc.
 - Facility
 - U.S. State Department – Presidential International Border Crossing Permit
 - Federal landowner- land access for pipeline

- There just isn't a one-size-fits all new pipeline routing and approval process
 - It can be confusing for public
- So...
 - ***If you are member of a the public:*** know your state's process and what applies to planned pipeline in your area
 - ***If you are a pipeline operator:*** take time to introduce the project, its need and purpose, and regulatory approvals needed



Sample Permitting: 313-mile cross border crude oil pipeline

Canada		
<u>Federal</u>	<u>Provincial</u>	
<ul style="list-style-type: none"> •National Energy Board: tariffs, certificate, route and safety •Fisheries and Oceans •Transport Canada •Environment Canada •Natural Resources Canada 	<ul style="list-style-type: none"> •Manitoba Conservation •Culture Heritage & Citizenship •Agriculture, Food and Rural •Water Licensing and Stewardship 	
United States		
<u>Federal</u>	<u>Minnesota</u>	<u>North Dakota</u>
<ul style="list-style-type: none"> •FERC Tariffs •Presidential Permit and federal Env. Assessment –or- EIS •U.S. Army Corps of Engineers- jurisdictional waters •U.S. Fish & Wildlife •Compliance with 49 CFR 195 	<ul style="list-style-type: none"> •Certificate of Need •Routing Permit •State Env. Assessment •Water Quality •NPDES discharge/water •State protected species •Agricultural Mitigation Agmt •Watershed district 	<ul style="list-style-type: none"> •Certificate of Need •Routing Permit •Environmental Assessment •Dept. of Game & Fish •State Water Commission •Historical Preservation •Agricultural Mitigation Plan



... plus local permits!

Factors for Assessing Route Alternatives

- First consideration is meeting the energy demand and market need
 - Pipeline must get from Point A to Point B
- System Alternatives
 - Can company's existing system be optimized?
 - Are there other efficient modes of transportation?
 - What is optimum size of pipeline needed?
- Pipeline Routing Alternatives consider:
 - Constructability and minimizing distance
 - Existing utility corridors and routes
 - Population and development
 - Minimizing or mitigating affects on unique environmental areas
- Degree of regulatory scrutiny over route alternatives varies
 - FERC and some states are rigorous

Proposed width of right-of-way



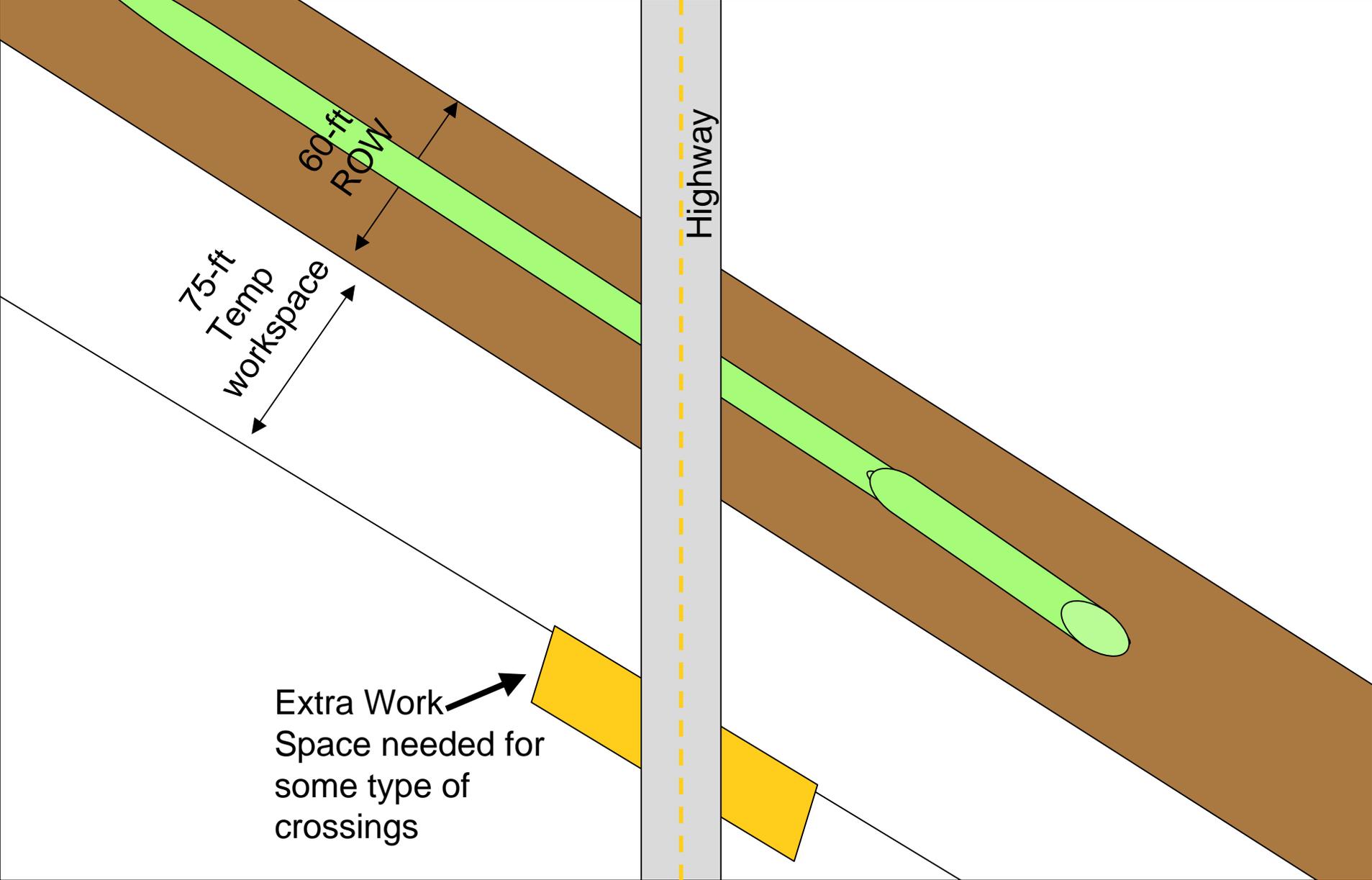
- Permanent right-of-way
 - Varies depending on route density
 - Narrower ROW (< 50 feet) provides little buffer from development
 - Wider ROW (> 75 feet) provides buffer but width often questioned by landowner and regulators
 - Are there multiple pipelines in easement?
 - Typical goal is to strive for 25 feet from edge of easement/utility
- Temporary Work Space
 - Depends on size of pipeline
 - Deeper ditch requires soil space
 - Significant space is needed for 2-lanes of equipment

Temporary Work Space

- Additional construction “roadway”
 - Equipment
 - Top and sub soil storage
 - Pipe welding
 - Passing lane for moving equipment
- Additional room often needed at roads and river crossings



Example



But route conditions vary widely



Rural farming and need to protect agricultural production



River crossings where temporary bridge and bank restoration



Wetland crossings: narrower workspace and minimal equipment



More developed areas with competing desires to minimize impact and provide "buffer"

Public interest is met when regulators have flexibility to address site specific issues

- Wetlands
- Historic preservation areas
- Development plans
- Organic farming practices
- Deep tilling in farm areas
- River crossing techniques
- Recommended construction “windows” or winter construction
- Designated utility corridors
- Etc.....

Is there a perfect national policy or should we be talking about guidelines?

- Federal Guidelines

- FERC process established approach
- Only applies to interstate natural gas pipelines

- State:

- Is it feasible to suggest all states adopt a common regulatory framework for siting new liquid and intrastate pipelines?
 - Decades of state legislation history
 - Varying state regulatory structures
 - Vast differences in land use practices

Propose consideration of guidelines

- Challenge with working with several different state structures
 - Each with own processes
 - Some states have little experience with siting long distance energy facilities
 - Pipeline safety remains federally regulated
 - State and local jurisdictions focus on siting, public need determinations and environmental permitting
 - But pipeline safety often key concern with affected public
- Guidelines can be adapted to unique state processes, regulatory roles and specifics of pipeline route and project

Scope of potential guidelines

- Robust route alternative analysis
 - Pipeline operator to support initial proposed route to regulator
 - Opportunity for public comment on proposed route
 - Need for decision maker
 - Can everyone be satisfied?
- Identification of affected public
 - Designation of those *reasonably* expected to be affected
 - Obviously landowners along route
 - Plus those within corridor XX feet from proposed
- Due process and communication expectations

Scope of Guidelines For Pipeline Operators

- Recommended initial introduction by pipeline:
 - Proposed project
 - Purpose, timing, scope, etc. (e.g. Why? How? When?)
 - Overview of route and where to get details
 - Width of proposed easement and temporary work space
 - Intent to seek permission to survey
 - Toll free contact number and project website
 - Overview of regulatory approvals
- Experienced, trained land (right-of-way) agents
 - Basic easement agreement public but each landowner has right to request site-specific conditions in negotiations
 - Personal contact and commitment to negotiate in good faith

Guidelines for Operators (cont'd)

- Early and frequent communications with affected public
 - Sometimes difficult to identify all landowners (trusts, absentee)
- Ensure designated project team as various issues arise (engineering, environment, public safety concerns, etc.)
- One-on-one contact between landowners and pipeline right-of-way agents for land-specific issues
- Early consultation with local and state agencies
- Identify and resolve as many issues as possible early
 - Modify route as feasible

Potential Guidelines for Regulators:

- Regulators should have process for public comment
- Consideration for coordination with neighboring states
- Understandable process with reasonable timelines
 - Sometimes need lawyer to understand
 - Public notices should be clear
- Transparency in process
 - E-dockets accessible to public
 - Hard copies of information made available in local libraries
- Regulator is neutral party but ultimately makes decision in public interest
 - Weighing energy needs, environmental considerations and public impact

Potential Guidelines for Affected Public:

- Learn more about project and approval process
- Willingness to participate in public meetings
 - Should public meetings be limited to angry public?
- How to access more information
 - About the project
 - About pipelines in your area
- Seek accurate and balanced information about project and pipelines

Caution...

- Early consultation means there are a many questions and issues that can't yet be answered
 - Route subject to modifications
 - Off landowner property or re-alignment on property?
 - Project still in commercial development so scope changes
 - Hundreds of landowners difficult to identify and reach
- Landowners get frustrated
 - But more perturbed if they are informed late in process
- All parties should commit to respectful communication
- Eminent domain is unwelcome by all parties
 -but potential for impasse in negotiations along many miles
- A long distance project serving public energy needs will not please everyone

Summary

- We need to maintain and grow our energy pipeline infrastructure to meet public need
- No one-size-fits-all state pipeline siting standard
 - But there are guidelines and principles
- Communication and transparency in process **key** to constructive dialogue
- Land use is local control
- Millions of people pay little attention to pipelines until they are affected
 - We take infrastructure for granted

