

Chapter 16

Midstream Assets — How to Get Those Pipes in the Ground

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§ 16.01. Introduction.

The rapid expanse of natural gas production throughout the United States has placed an increased burden on the current pipeline transmission network and capacity. Accordingly, it is of prime importance that companies responsible for natural gas production and pipeline construction understand the various legal mechanics affecting the expansion of the pipeline network. The purpose of this chapter is to provide an overview and general background of state and federal pipeline easement law. The overview will offer a refreshed look at the basic principles of easements and will take a focused look on certain nuances within those jurisdictions. Most notably, the creation of new pipeline easements, eminent domain power at both federal and state levels, and the expansion and variation of easements already in existence will be examined.

§ 16.02. State and Federal Pipeline Easement Law.

[1] — General Easement Background.

[a] — Definition.

An easement is known as an “intangible or non-possessory right to use another’s land for a precise and definite purpose not inconsistent with the other’s simultaneous right to use the same property, or, [to be technical], an incorporeal hereditament.”¹

Although numerous variations of this definition exist, an easement is most commonly referred to “as an interest in the land in the possession of another which: (a) entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists; (b) entitles him to protection as against

¹ *Black’s Law Dictionary*, 8th ed. (2004), at 1108.