

BRAUN & GRESHAM

ATTORNEYS AT LAW

S U C C E S S S T O R I E S

CONDEMNATION

Easing the Pain of Eminent Domain

IN THE UNREGULATED WORLD OF PIPELINE CONDEMNATION, REZNIK PROVIDES DIRECTION, A UNIQUE UNDERSTANDING OF THE LAND, AND STRONG NEGOTIATING SKILLS TO PROTECT THE RIGHTS OF TEXAS LANDOWNERS

Virginia Ford* put the letter aside, thinking Not *again*. The notice from Lone Star NGL announcing its plans to put a natural-gas pipeline through the Fords' 2,517-acre South Texas ranch gave Virginia and her husband, Jack, a sense of dreadful déjà vu. "We'd had a piece of land out-of-state that got targeted for a highway interchange," Jack explains. "The state wanted to acquire the core of the property and leave us with just the residual triangles. We fought for them to purchase the parcel outright, and used what we got from that to buy this idyllic, isolated ranchland."

"So when we received the condemnation letter from Lone Star," adds Virginia, "we were like, 'No, no, no. We've already done this.'"

But *condemnation* – also known as *eminent domain* – is a situation Texas landowners can face again and again. The process, approved by State law, enables private or public utility

companies to seize people's land in order to build pipelines, power lines, roads or rail systems, or even acquire surface or groundwater – all in the name of "public use." The company can take a piece of the property, or just use an easement or

right-of-way, so the landowner still owns the property, but has restricted use of it.

"With pipeline cases, the first question a landowner must answer is, *Do I want the pipeline on my land, or not?*" says Patrick Reznik, an experienced eminent-domain attorney with Braun & Gresham. "If you don't, then just say, 'No, I don't want it; go away.' Sometimes, they do."

But even though the Fords definitely did not want a pipeline on their land, the company persisted.

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“THE PIPELINE COMPANIES JUST GO FOR THE MOST DIRECT AND ECONOMICAL PATH ACROSS THE PROPERTY, AND LEAVE IT TO THE LANDOWNERS TO ARM-WRESTLE FOR WHAT’S BETTER FOR THEM – AND FOR THE LAND,”

– JACK FORD, LANDOWNER

what’s better for them – and for the land,” Jack reflects. “Their original proposed route went right through the heart of the best part of our property.”

“There’s no regulatory agency involved to mandate or even approve pipeline routes,” asserts Reznik. “So you want to look at the property, see what’s best for the land, and determine what route you can negotiate.”

This atypical land-stewardship approach was a key reason the Fords decided to retain Reznik to represent them.

“I appreciated Patrick’s openness and his working knowledge of how to treat the land,” Jack recalls. “It doesn’t take long to know whether you’re on-track with someone, and we were. We moved forward, and he went to work.”

Understanding the land, the owners & the art of negotiation

The Fords specifically selected their land for its retreat-like character, and had spent over a decade improving it: building tanks, reservoirs, dams and irrigation wells; constructing and maintaining new roads; cultivating beneficial grasses and native plants; improving the wildlife habitat qualifying their land for a wildlife management tax valuation; and constructing a single metal building to serve as a cabin and workshop for their family.

“This land is a beautiful place to be,” enthuses Jack. “But it’s also an opportunity for our children – especially our two sons who are very involved in outdoor activities – to learn first-hand how to best use the natural elements of the property, and how to maintain and enhance the environment.”

Reznik met with the Fords and toured their land, then suggested meeting with the neighboring landowners to see whether the pipeline route could circumvent their property. Unfortunately, the neighbors on both sides of the Fords’ property wanted the pipeline for the money they’d be paid, so the Fords were squeezed into accepting the pipeline as a reality.

Then Reznik’s attention turned to negotiating the route, the terms of the easement and the compensation the Fords would receive for the taking of the easement.

Reznik arranged a meeting with all affected landowners, their representatives, and Lone Star. While the company refused to move the pipeline’s entry or exit points on anyone’s property, they agreed to reroute the pipeline on the Fords’ parcel to mitigate damage to the land. Reznik also helped the Fords negotiate some special terms of the easement that the couple says they might not have thought of on their own. Some of these included a reinforcement of their entry road for heavy-equipment use, provisions for wildlife escape in case of emergency, and a termination clause.

“The terms of the easement stay with the land for life, so if you plan on keeping your land in the family, then it’s important to consider the impact of the easement on your family’s future use of the land,” Reznik notes.

Knowing the process, the players & the point of no return

Ultimately, Reznik negotiated successfully for almost all the terms the Fords requested, and more compensation for the couple than any of their neighbors at that time.

“We didn’t need the money, we didn’t want the pipeline, but we had to make the best of a basically done deal, and Patrick got us to a place where we could live with it,” affirms Virginia. “I’ve worked with numerous law firms, and when you’re facing an adversarial situation, it can string out because people dig their heels in. Patrick facilitated the give-and-take that helped everyone find middle ground.

“He knew the players, he knew the process, and he knew when we should call it a day,” she continues. “A seasoned attorney will advise you when you have maximized your opportunity and the time has come to sign. That depth of expertise is essential – you don’t want to experiment with your land.”

**Some identifying information has been altered to protect landowner privacy.*