

Abandoned Pipelines

By David Howell

www.pipelineequities.com

A dictionary definition of abandonment means to “give up entirely”, but not in pipeline terminology. It is strictly open to interpretation and the interpreters are beginning to heat up and regulators are listening. As more and more urban areas move toward depleted oil and gas producing areas, the questions become more frequent and intense.

Pipeline companies like to say a pipeline is abandoned for compliance reasons so as not to be required to post signs, maintain rights of way, and pay jurisdictional taxes. In these cases, they are free of scrutiny and essentially can keep the pipeline and the right of way for some future need if it may arise at virtually no cost. Many will continue to carry an abandoned pipeline on the books as an asset. In this case the pipeline companies will designate the lines as idled sometimes rather than abandoned. Essentially, the company owns the pipeline, but really is not responsible for maintaining it or does not take that responsibility.

I think this era is over from the conversations I am hearing from state and federal regulators and lawmakers. In my opinion, within three to five years pipeline companies will be required to account for all dormant, out of use, and idled pipelines they own. They will be required to remove the lines if they are “abandoned” or indicate an “intent to abandon” via lack of maintenance, lowering or not paying taxes, and removal of company signage, etc. Current case law is built around the precepts of cessation of usage of a pipeline and evidence of intent to abandon. Either way, there will be a flurry of regulatory activity in the pipeline segment regarding idled or abandoned pipelines. I believe that for past and future pipelines, pipeline companies will be required to ask permission of landowners on whose property they wish to abandon a pipeline.

The days of in place abandonment of pipelines is ending.