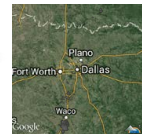




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Rural Collin County landowner fighting Seaway oil pipeline project

Questions and Feedback



Ron Baselice/Staff Photographer

Freddy Davenport (center), his son, Dale Davenport (left), and their attorney James Girards aren't backing down on Seaway's pipeline project. "How many people could afford to take on a big pipeline company?" said Dale Davenport.

1 of 2

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Published: 27 October 2013 11:22 PM

Updated: 28 October 2013 10:22 AM

FARMERSVILLE — The 500-mile pipeline that crosses Freddy Davenport's land was designed 37 years ago to siphon crude from the Gulf Coast and transport it to Oklahoma. Since May 2012, it has been moving

Video

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- bigBANG! 2013** BUY
Friday, Nov 1, 8:00 am
Dallas City Performance Hall, Dallas
- Selena Gomez** BUY
Sunday, Nov 3, 7:00 pm

oil the other way around.

Now, the Seaway pipeline owners are working on a twin structure that will more than double the system's capacity to 850,000 barrels per day by next year. That surpasses the volume of the southern leg of the contentious Keystone pipeline designed to ship tar-sands oil from Canada to Texas.

Building the new pipeline will require 1.47 acres on Davenport's land for a 50-foot-wide easement. Seaway's operator has offered \$8,000, but Davenport doesn't think that's adequate. Several 1-acre lots near the Davenport property have recently sold for more than \$30,000, according to Rick Justiss Real Estate.

And Davenport, 81, isn't backing down.

His case is one of 20 condemnation suits that Seaway's operator has launched in Collin County to secure easements for the new pipeline.

Fifteen cases have been resolved, most of them settled out of court.

In North Texas, the Seaway pipeline cuts through rural areas, avoiding major scrutiny. Though the state's loose rules often favor pipeline operators, landowners can seek some relief in court.

But those willing to draw out a legal battle, like Freddy Davenport and his son, belong to a small club.

"You have your rights, but who can afford these rights?" said Dale Davenport, who is fighting Seaway with his father. "How many people could afford to take on a big pipeline company?"

Joint venture

Seaway is a joint venture between Canadian company Enbridge and Houston-based Enterprise Products Partners. The pipeline route also includes Rockwall County, where 15 condemnation suits have been filed.

The point of the lawsuits is to establish a price for the land when owners reject a company's offer. Freddy and Dale Davenport are pushing back by challenging whether Seaway can take their property in the first place.

At issue is whether Seaway is a "common carrier," a term that generally refers to a company that others can hire to transport goods. Because this is considered a public service, common carriers can claim eminent domain rights under state law.

In Texas, pipeline operators self-report as common carriers or private lines. The Railroad Commission of Texas, which regulates the oil and gas industries, takes record but doesn't vet the information.

Seaway representatives say the pipeline will help other companies and the whole country by easing a glut of crude in Cushing, Okla., as well as creating thousands of jobs.

But the Davenports said the pipeline operator is unjustly using the land of regular Texans for private profit.

"In Texas, your property deed is the most sacred document you have next to the Bible," said James Girards, the Davenports' attorney.

Business investment

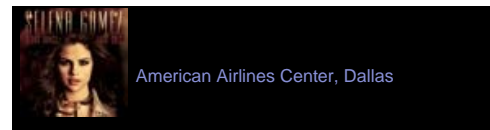
A resident of Naples in East Texas, Freddy Davenport bought the Collin County property as a business investment in the late 1990s. He owns 42 acres in the northeast corner of county roads 604 and 605 near Farmersville.

The plan is for the new pipeline to cut diagonally across the eastern side of the property. Seaway already crosses the land near the middle.

Dale Davenport, 52, said the route will hurt plans to build a residential development there.

And father and son don't shy away from a fight.

In 2004, the Davenports, who own a carwash in the Fair Park area, challenged whether the city of Dallas was selectively applying a state public-nuisance law.



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The legislation was created to crack down on individuals and businesses that tolerate crime on their properties. Dale Davenport said he and his father were punished by the city of Dallas despite their efforts to curb crime.

The duo went to Austin to fight the city. State legislators ultimately said some Dallas officials had abused the law.

"I probably would have given up if it weren't for him," Freddy Davenport said about his son.

Landowners can't challenge the pipeline route, but they can seek more money from the company in court.

A panel of independent landowners appointed by a county court awarded \$8,060 to Freddy Davenport. He rejected the award and is asking the court to dismiss the condemnation lawsuit. A judge is expected to consider the motion Nov. 15.

Rick Rainey, a spokesman for Enterprise, said the Seaway twin will serve companies with long-term transportation agreements as well as "walk-in customers" who want to move crude through the pipeline on any given month.

"This pipeline that we've reversed and that we've expanded provides an opportunity for these producers to...reach the market, the refineries along the Gulf Coast," Rainey said.

Negotiations

When Seaway pursued a piece of his Farmersville homestead, Milton Titus resisted at first.

Because the easement is small — about one-sixth of an acre — the lawyers Titus approached weren't interested, he said.

The condemnation suit against Titus didn't get far. He said he negotiated to get \$5,000 from Seaway's operator before his case went to the panel of landowners, known as the special commissioners court.

"I just settled it," Titus said. "I don't have a lawyer or nothin', and I can't go in there and argue like they can."

Like the Davenports, Titus worries about the contents of the pipeline. Seaway was reversed to carry a mix of conventional crude and diluted bitumen. The latter is a substance extracted from tar sands that has the consistency of peanut butter. It's thinned with chemicals so it can flow through a pipeline.

What makes Titus nervous is that Seaway crosses the Lavon Lake watershed.

"If you look at this company, they have a history of pipes breaking," Titus said.

The most prominent case is a 2010 spill in Michigan, when a ruptured Enbridge pipeline released 843,000 gallons of diluted bitumen into the Kalamazoo River.

Rainey, the Enterprise spokesman, said his company will operate the pipeline, not Enbridge, whose role is solely financial.

"We have 50,000 miles of pipeline, roughly, throughout the U.S., and based on the amount of product that we do transport, our safety record and our integrity record is comparable to the rest of the industry," Rainey said.

Since 2010, Enterprise and two subsidiaries have tallied 158 incidents involving hazardous-liquid pipelines, according to records from the Pipeline and Hazardous Materials Safety Administration. Sixty-three were considered "significant incidents."

Enterprise dismissed concerns about diluted bitumen by citing a recent federal study that found the heavy substance isn't more likely to corrode a pipeline than other crudes.

Nuanced picture

Though it's easy to portray pipeline companies as tyrants pushing around helpless landowners, the statewide picture is more nuanced, said Christopher Kulander, an attorney for international law firm Haynes and Boone who also teaches oil and gas law.

Pipeline operators generally agree to landowners' demands if they consider them reasonable, Kulander

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said. These might include burying the pipeline below plough depth or providing temporary crossings at points requested by landowners.

"When they're open to those kind of demands, you don't get any court cases to read about," Kulander said. "A lot of these cases get ironed out before they get to the courthouse."

According to Enterprise, the company is able to reach an agreement with property owners before getting to the court-appointed panel at least 95 percent of the time.

Meanwhile, the Davenports wait for a resolution in court.

"If I hadn't gone to Austin in '05 ... I would be more reluctant to fight a huge oil company like this," Dale Davenport said. "But I see there's a chance that a little guy, if he's right, can win every now and then."

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 **Cheryl** 20 hours ago
 In North Texas, the Seaway pipeline cuts through rural areas, avoiding major scrutiny. Though the state's loose rules often favor pipeline operators, landowners can seek some relief in court. Shock face!!!


How many of you could afford to fight ANY of the big corporations with 'loose' state rules???



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
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 **David Armstrong** 23 hours ago
 Where are the Tea Party types who champion small government? Perhaps in the hip pocket of big oil.


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 **Cat Marie** 1 day ago
 Not to mention the mini-earthquakes or tremors that this is causing.



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
 **Brent Tee** 24 hours ago
 I believe you are referring to is fracking causing earthquakes not pipelines.



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
 **Cat Marie** 23 hours ago
 There's also concern that pipelines cause tremors also in Longview. I posted a link, but it will probably get deleted.



http://www.news-journal.com/news/local/pipelines-wells-a-concern-in-quake-hit-area/article_814605bc-a3b3-511b-b4aa-e1ffe85f4ba6.html


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 **JulieB** 23 hours ago
 Actually, the article states that quakes have been linked to deep injection wells, and there's concern that those quakes may rupture pipelines. The pipelines themselves are not the cause of the seismic activity.

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 **Cat Marie** 22 hours ago
 Doesn't fracking include pipelines?

0   0

 **JulieB** 21 hours ago
 Fracking is one process to remove the gas from the ground. Pipelines can and do go anywhere there are not oil or natural gas resources. Pipelines are required to move the natural gas from the wells to other locations, but pipes do not cause earthquakes. If you'll go back and read the article you linked to, you'll see that while pipes are named in the headline, the concern is that the quakes can cause the pipes to rupture, not the other way around. Those pipes don't cause an earthquake any more than your house does. But either or both can be damaged by one.

0   0

 **petenelson277** 1 day ago
 Mr Davenport
 Stand your ground.

0   0

Reply

12   0



Eric Foster 1 day ago

Big Business always wants to enhance profits by using eminent domain to get land cheaper. Then they want to hide behind the law to avoid admitting how toxic the stuff they are running through the pipeline really is. No one will care until the pipeline breaks, and it will, and poisons land and the people nearby.

But that will be a small price to pay for such huge profits.

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