



MEMORANDUM

TO: Mayor and Council

FROM: Brie L. Franco, Intergovernmental Relations Officer

DATE: August 26, 2019

SUBJECT: **Staff Response to Resolution No. 20190620-183**

On June 20, 2019, Council passed Resolution No. 20190620-183 directing city staff to study legislative or other legal avenues to oppose the construction of the Permian Highway Pipeline. This memo is to confirm that IGRO staff has researched proposed legislation in Texas that seeks to increase pipeline oversight or to provide greater protections for owners of conversation lands or easements.

Part one and three of the Resolution seek to require governmental oversight over entities with eminent domain authority as well as create a process for affected landowners of oil and gas pipeline routing. During the 86th Legislative Session, there were bills introduced which addressed eminent domain authority and would provide greater protections for property owners by involving property owners in the eminent domain process. Some examples are [Senate Bill 421](#) by Senator Kolkhorst, [House Bill 3327](#) by Representative Zwiener, and [House Bill 3939](#) by Representative Lozano. None of these bills passed into law.

SB 421 related to private entities given eminent domain authority and sought to create a process for impacted landowners. It was a bill that provided easement terms to impacted property owners regarding a private entity's project. The bill provided that the private entity release an evidence-based valuation of a landowner's property along with damages to the remainder as a result of the acquisition. The bill would have required entities to hold informational meetings with affected landowners on the details of a project. The bill passed both chambers; the Senate refused to concur on House amendments and the bill went into conference committee. The bill procedurally died because the conference committee did not meet before a calendar deadline.

HB 3327, related to notice requirements of private entities seeking to acquire property through eminent domain for oil and gas pipelines, sought to require governmental oversight for proposed pipelines. The bill provided that a common carrier – an owner, operator, or manager of a pipeline – seeking to exercise eminent domain must provide a written notice to each county and

groundwater conservation district which have boundaries located within five miles of the proposed pipeline. The bill would have required that recipients of the notice convene a public meeting where interested parties could provide input on the proposed pipeline. The bill was left pending in committee.

HB 3939 related to exercise of eminent domain power by a common carrier pipeline. The bill would have required that the common carrier negotiate terms of access with property owners who would be affected by the proposed pipeline. The carrier would have had to make reasonable efforts to contact affected property owners by mail, telephone, or in person; the bill stipulated that a good faith effort would have been made by the carrier if the property owner did not respond within 15 days of contact. Lastly, the bill enumerated provisions regarding written authorization from the property owner to allow the common carrier access to the property for preliminary surveys. The bill did not receive a hearing.

Part two of the Resolution seeks to create a process whereby environmental and economic impact studies are required for intra-state oil and gas pipelines. During the 86th Legislative Session, there were bills introduced which related to pipeline regulations. Some examples are [Senate Bill 2276](#) by Senator Buckingham, [House Bill 4001](#) by Representative Nevárez, [House Bill 2277](#) by Representative Zwiener, and [House Bill 3479](#) by Representative Rosenthal. None of these bills passed into law.

SB 2276 and HB 4001 related to permit requirements for oil and gas pipelines. Both bills provided that prior to the Texas Railroad Commission (RRC) issuing a permit for pipeline construction, the Commission must determine that the pipeline route does not negatively impact the following factors: community values, recreational and park areas, historical and aesthetic values, and environmental integrity. In addition, prior to filing an application with the RRC for a permit, the common carrier must provide a notice to the public making them aware of the proposed route for the pipeline. In addition to the aforementioned provisions, HB 4001 provided additional rules regarding public notice of the pipeline route. The bill would have required the applicant to provide notice to affected property owners of the proposed route. Should the proposed route be contested, the RRC would have been required to hold case hearings concerning the granting or denial of the permit. SB 2276 did not receive a hearing and HB 4001 was left pending in committee.

HB 2277 related to construction requirements of a natural gas pipeline. The bill required corporations such as Kinder Morgan to do an environmental impact assessment prior to building a pipeline within the State. The assessment would have required corporations to identify and assess potential impacts on endangered and threatened species, air and water quality, aquifers, and historic, cultural, and archaeological sites that could result from the construction and operation of the pipeline. The analysis would be delivered to the RRC prior to construction. The bill did not receive a hearing.

HB 3479 related to standards for pipelines crossing karst topographic areas. The bill would have required the RRC to establish cleanliness standards for intrastate pipelines transporting hazardous liquids through karst topographic areas. The bill did not receive a hearing.

Based on the filed legislation outlined in this memo, IGRO affirms that there are legislative avenues to oppose the construction of the Permian Highway Pipeline. IGRO will monitor interim legislative activity which relates to this policy and will advise council of opportunities for committee testimony. IGRO will monitor legislation next session which addresses these areas and will advise Council on appropriate legislative action.

Please contact Brie L. Franco, Intergovernmental Relations Officer, if you have further questions.

Thank you.

CC: Spencer Cronk, City Manager
Elaine Hart, Deputy City Manager