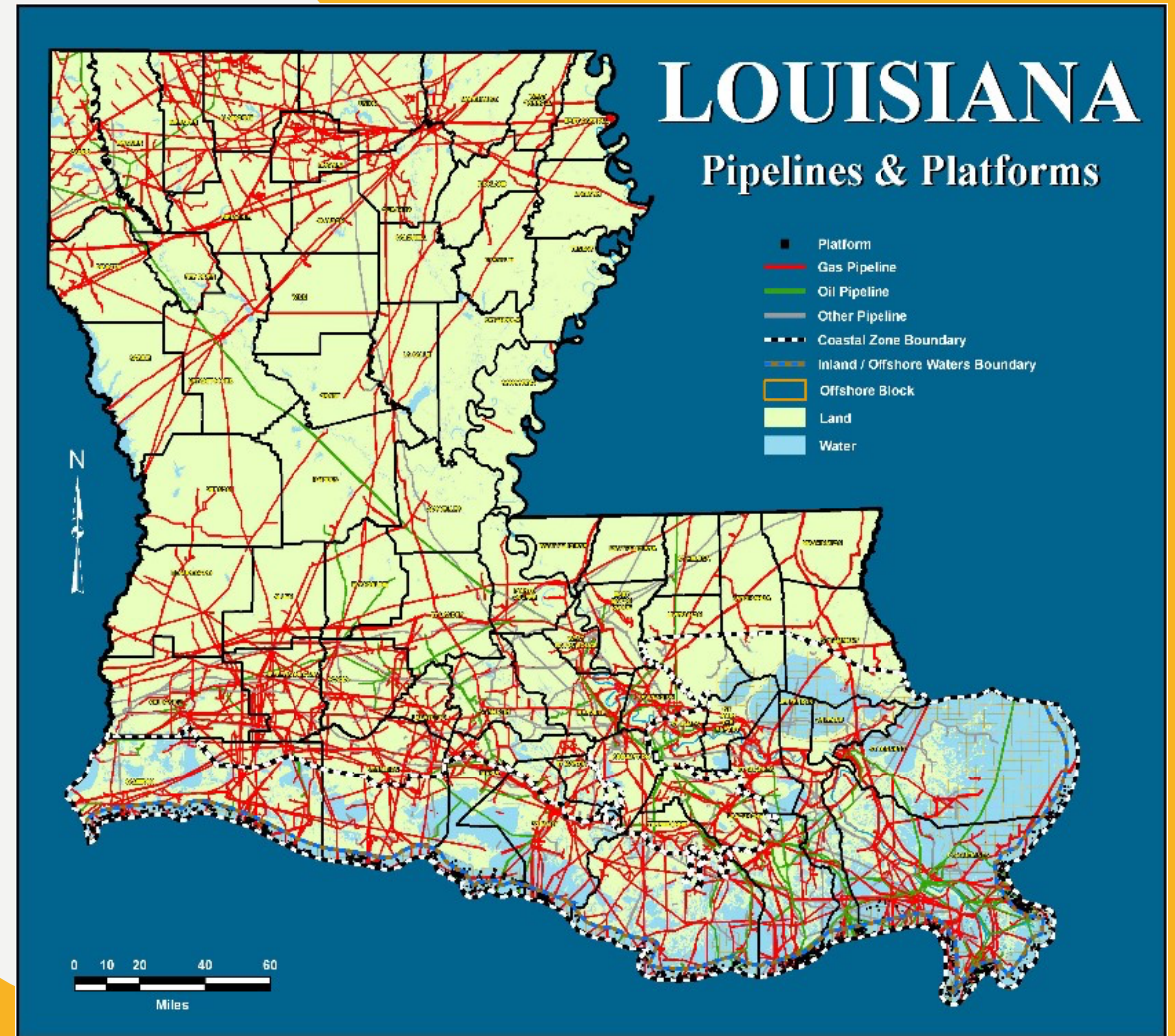


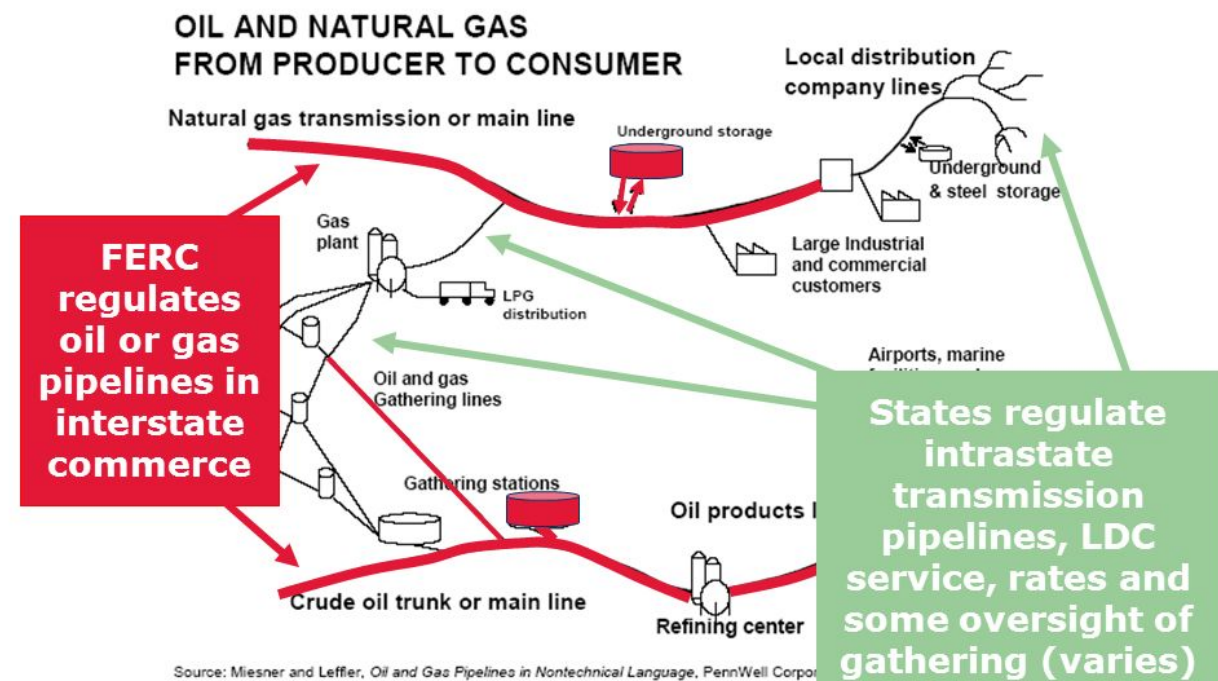
WHO'S REGULATING LOUISIANA'S PIPELINES?



INTERSTATE VERSUS INTRASTATE

- **Interstate** pipelines cross state lines and are regulated by the Federal Government.
- **Intrastate** pipelines start and end within a state's borders and are regulated by the state, usually through state agencies.

Commerce: FERC and State Utility Commissions



INTRASTATE GAS PIPELINES

- Pipelines transporting gas to industrial sites, including Liquefied Natural Gas (LNG) export terminals.
- Pipelines transporting gas to homes for residential heating and cooking, often owned by companies like Entergy, and Atmos

DNR's Pipeline Operations Program regulates the construction, acquisition, abandonment and interconnection of natural gas pipelines, as well as the transportation and use of natural gas supplies. DNR must certify a natural gas pipeline for 'eminent domain'.

Louisiana Department of Natural Resources, Office of Conservation's ("DNR") Pipeline Safety Program is responsible for gas pipeline operator inspections, compliance and enforcement, safety programs, accident investigations, and record maintenance and reporting.

The LPSC regulates rates and services after construction of the pipeline is complete and the carrier starts providing transportation services through the pipeline. Pipeline matters other than rates and terms of service are regulated by other agencies.

INTRASTATE PETROLEUM PIPELINES

- Not considered a 'Hazardous Liquid' and therefore not regulated by the Louisiana Department of Natural Resources' (DNR) Pipeline Division.
- Although required to get necessary permits from agencies like the Department of Environmental Quality (DEQ), and the Army Corps of Engineers regarding coastal land use and emissions, the taking of private land through eminent domain or expropriation is left to the courts.
- Most notably, the Bayou Bridge Pipeline

Unfortunately, oil companies are recognizing the lack of oversight on the state level and prioritizing intrastate pipelines.



EMINENT DOMAIN OR 'EXPROPRIATION'

- This is the right of a government or its agent to expropriate private property for public use, with payment of compensation.
- In the Bayou Bridge fight, landowners sued over the issue of expropriation when the Bayou Bridge Pipeline began construction before expropriation claims were even filed in court.
- A court held that the company violated the law by trespassing on and damaging private property; the court also held that the taking of private land was valid. In exchange, each landowner was awarded just \$150 total and had their land taken anyway.



HISTORY & BACKGROUND

- While eminent domain has been around since the drafting of the Constitution, the term 'public use' has long been a source of legal debate.
- In 2005 the Supreme Court heard a case out of New London, Connecticut where a private company used eminent domain to bulldoze a low-income community & replace it with an industrial park. The court ruled that this was in the public interest because it would spur economic growth.
- That set precedent for private companies to enact eminent domain, as opposed to local and state governments.

In her dissent of the 2005 Supreme Court decision, Sandra Day O'Connor wrote "Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random," O'Connor wrote. "The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms."

LOUISIANA VERSUS OTHER STATES

- Many states require a public process to promote transparency, including proper landowner notification & public hearings to ensure the seizure of private land is in the public interest, PRIOR to construction.
- Energy Transfer Partners, the company behind the Bayou Bridge Pipeline, started claiming 30-foot-wide strips of land, cutting down trees and burying pipe without landowners' permission. In one lawsuit, Energy Transfer was found not to have filed necessary paperwork before claiming land under eminent domain.
- In Louisiana, pipeline companies don't need a common carrier assessment or certification before claiming eminent domain. The state is tougher on semi-trucks, which must submit a written application, give public notice, conduct a hearing and provide a slate of safety protocols.

Expropriation Cases in
Louisiana 1943-2011
(115 Total)



■ Cases Won by Corporations (112)
■ Cases Won by Landowners (3)

“In Louisiana, the company essentially just needs to prove that they are an oil company.”

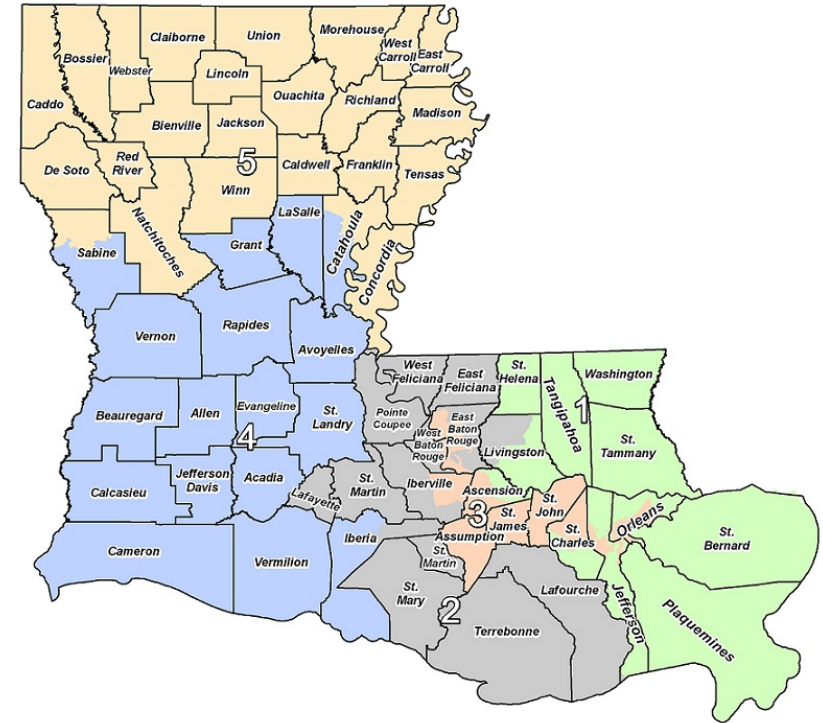
Pam Spees, lawyer with the Center for Constitutional Rights

BEST PRACTICES

- Iowa, North Dakota, South Dakota, Pennsylvania and West Virginia all have detailed processes requiring pipeline companies obtain approval from the public utilities board for eminent domain prior to construction. Ohio utilizes another agency, the Ohio Power Siting Board.
- These processes need to be fully transparent with public notices and public hearings where landowners can voice their concerns. Iowa requires pipeline companies to notify all landowners by certified mail.
- Pipeline construction **CANNOT** begin prior to the company acquiring all necessary permits & certificates. North Dakota has even criminalized any pipeline construction prior to obtaining the proper certificates or permits

THE LOUISIANA PUBLIC SERVICE COMMISSION

- 5 Elected Commissioners
- Regulates Public Utilities, like Entergy and Cox, as well as Common Carriers like intrastate trucking, and pipelines
- LPSC R-33390 (opened in 2014, closed in 2015) gives the LPSC jurisdiction over intra-state petroleum pipelines with regards to rates, ownership transfers, etc. Carrier's must submit annual reports, unfortunately there doesn't appear to be any record of them doing so.



WHAT WOULD THAT LOOK LIKE?

- A Commissioner would need to direct LPSC Staff to open a Rulemaking docket, or potentially re-open the original pipeline docket from 2014.
- There would be an Intervention period for anyone interested in formally participating in the proceeding.
- The proceeding would then likely include initial stakeholder feedback, a series of meetings or technical conferences, a report and potentially several draft rules with rounds of comments submitted by stakeholders before ultimately coming to a vote in front of the Commissioners. This process would likely take 1-2 years
- The key to a successful, and timely rulemaking, is Commissioner involvement. Meaning we'd need at least one Commissioner that is willing to take the lead on this issue, and prioritize it through the rulemaking process.

WHAT YOU CAN DO

- Call or E-mail your [Commissioner](#) and ask them about intrastate oil pipeline regulations, particularly in regards to eminent domain, or expropriation.
 - District 1, Eric Skrmetta 504-846-6930 or adrie.dewaal@la.gov
 - District 2, Craig Greene 225-765-5031 or peggy.lantrip2@la.gov
 - District 3, Lambert Boissiere 504-680-9529 or Anthony.watley@la.gov
 - District 4, Mike Francis 337-514-2000 or Janis.perkins@la.gov
 - District 5, Foster Campbell 318-676-7464 or foster.campbell@la.gov
- Share a picture or video on social media. You can find the LPSC's Facebook page [here](#).
- Sign and share our online petition at www.change.org/ProjectOIL

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