

Texas needs more pipelines, attorney says

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Crude oil and natural gas liquids production continues in the Eagle Ford Shale and Permian Basin, but some worry that insufficient pipeline infrastructure could keep those precious resources from reaching refineries.

"We're experiencing a significant boom in crude and liquids, but that capacity is now increasingly constrained," said John K. Arnold, an energy and environmental law attorney with Winstead PC.

The Houston attorney assessed the situation at a recent law seminar in Fort Worth, where he stressed the disparity between oil and natural gas supplies and the infrastructure needed to bring those supplies to market.

"We've got a problem; we've got to build more pipelines," Arnold said.

The company behind the Keystone XL pipeline project agrees.

"Producers do not have access to enough pipeline capacity to move this production to the large refining market along the U.S. Gulf Coast," reads a recent TransCanada Corp. news release.

But hope looms on the horizon.

Not only is TransCanada constructing the Keystone XL's 485-mile southern leg from Cushing, Okla., to the Houston area, but other companies have projects on the way as well. For example, Chevron Pipe Line Co., Kinder Morgan Tejas Pipeline LLC and Chesapeake MLP Operating LLC are just a few companies con-

structing pipelines and pipeline-related projects in Tarrant, Parker, Palo Pinto, Harris, Midland and other Texas counties.

Between Jan. 31 and Aug. 31, the Railroad Commission of Texas issued 168 permits for Texas pipeline projects.

Earlier in September, Enterprise Products Partners LP of Houston launched a binding open commitment period to determine additional shipper demand for its planned pipeline between Texas and Appalachia.

Known as the ATEX Express (Appalachia to Texas), the 1,230-mile system is expected to deliver ethane from the Marcellus-Utica Shale areas of Pennsylvania, West Virginia and Ohio to Mont Belvieu in Chambers and Liberty counties in southeast Texas.

Meanwhile, TransCanada is developing the 47-mile Houston Lateral Project to transport oil to refineries in the Houston area. But some wonder if such projects can meet the demand as supplies of oil and natural gas liquids surge.

Arnold knows firsthand the role of pipelines. The attorney has represented Energy Transfer Partners LP of Dallas, as well as Houston companies Enterprise Products Partners LP and CenterPoint Energy Resources Corp. in pursuing pipeline projects.

While several projects are under way, eminent domain and environmental concerns have scuttled, or at least challenged, those and other projects. Among those is the embattled Keystone

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XL, whose northern leg would extend from the Canadian border in Montana to Steele City, Neb. Issues concerning Nebraska aquifer protection spurred debate along part of that northern route, and eminent domain issues complicate the portion planned from Cushing to Houston.

Meanwhile, Texas practices – or lack thereof – present another challenge. Since pipeline companies cannot guarantee capacity to shippers who sign on early to pipeline development, determining how much transportation capacity the shippers will have is difficult. Other states guarantee that capacity through what's known as "anchor shipper" agreements.

Projected revenue from a committed shipper can be crucial in obtaining financing for pipeline construction, Arnold said.

"If a producer knows there's not going to be sufficient pipeline capacity, that's a threat to wells out there in very oil- and liquids-rich areas," Arnold said.

Various lawsuits have cast doubt on whether the Railroad Commission has common carrier jurisdiction over natural gas pipelines. Operators carrying the "common carrier" designation own, manage or operate a pipeline to transport crude oil to or

for the public for hire.

The Railroad Commission regulates virtually all production, gathering, refining, transportation and storage within the state.

In one lawsuit, a Southern Union Gas Energy Ltd. complaint filed in Travis County civil district court against Louis Dreyfus Pipeline LP insisted that the RRC had no jurisdiction over natural gas liquids. It based its argument on the fact that NGLs are not listed in Texas Natural Resources Code rules pertaining to common carriers, public utilities and common purchasers.

The parties settled the complaint and the civil suit was dismissed, but with no resolution as to what factors – if any – warrant filing an access complaint against a NGL pipeline before the Railroad Commission.

Pipeline challenges notwithstanding, the Eagle Ford Shale in South Texas continues production. Between 2007 and 2011, liquids production surged 541 percent, with 65 million barrels of oil expected to be produced this year alone, according to Winstead's figures.

"The problem is the production is not worth much unless you can get it to market, and you've got to have pipelines if you want to get it to market," Arnold said. ■