

# ENERGY AND NATURAL RESOURCES

## Midstream/Pipeline Land & Title Matters

**Babst Calland**  
Attorneys at Law  
*Where Trust and Value Meet...*

Midstream and pipeline operators planning to install pipeline and related facilities such as treatment facilities, compressor stations and fractionation facilities may face a variety of real property issues, rights and interests to support project development. Depending on a number of factors, operators may seek to purchase fee interest in real estate, or might seek leasing, easements, rights-of-way or other limited surface use agreements.

An easement or right-of-way creates a nonpossessory right to enter and use land in the possession of another and obligates the landowner not to interfere with the uses authorized by the easement. These instruments may be limited in scope and duration, can be created through a variety of forms, and can be terminated or abandoned depending on a number of factors. Babst Calland's Mineral Title practice group assists midstream and pipeline operators with identifying, analyzing, and confirming the application of easements and rights-of-way through the following services:

- Title examination and curative measures
- Analysis and strategy for best practices
- Coordinating with landmen to acquire necessary rights
- Drafting and negotiating surface rights agreements
- Title insurance policies for surface real estate
- Closing agency for acquisitions

When purchasing property, a thorough title examination is recommended to identify the current owners, and any title defects, liens or encumbrances that might present a risk to development of such facilities, to understand and pursue curative options, and assess risks prior to closing on the property. Such examination may include searching public records for producing oil and gas wells, coal severances and activity, oil and gas leasing activity, and the grant of prior easements or rights-of-way, that may present a risk or limitation to intended operations.

In addition to obtaining easements and rights-of-way for the installation of facilities and understanding the associated risks, midstream and pipeline operators should be aware of the rights and responsibilities of easements and rights-of-way and other limited surface use agreements that are acquired through related transactions. Babst Calland's Mineral Title practice group assists exploration and production, midstream and pipeline operators in due diligence reviewing the other parties' rights and responsibilities regarding midstream and pipeline assets and associated agreements, and how to coordinate that examination with the related Purchase and Sale Agreement to analyze risk and adequately provide for assurances that the assets fit within the strategy contemplated by the transaction.

If you need assistance with midstream or pipeline land and title matters, please contact James Curry at [jcurry@babstcalland.com](mailto:jcurry@babstcalland.com) or 202.853.3461 of the Pipeline and HazMat Safety practice group, or Steven Green, chair of the Land and Energy Title practice group, at [sgreen@babstcalland.com](mailto:sgreen@babstcalland.com) or 681.205.8951.



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