

Testimony submitted to the House Judiciary Committee  
Subcommittee on the Constitution and Civil Justice  
Hearing on the Private Property Rights Protection Act  
April 18, 2013

My name is Julia Trigg Crawford. I am the third-generation manager of the farm my grandfather bought in 1948. As a landowner along TransCanada's conveniently uncoupled Keystone Gulf Coast Project, I absolutely support measures to limit eminent domain. But I strongly oppose an exemption for TransCanada, its Keystone XL, and any other foreign or domestic for-profit entity that cannot provide proof that their projects are for public benefit.

I believe, as do countless others following my family's legal case, that TransCanada has abused the power of eminent domain in taking our land. When another pipeline asked to come across our place, we said we did not want them here and asked they would find a different route through a willing neighbor. That pipeline company did just that—and eminent domain was never mentioned.

When they came knocking in 2008 we told TransCanada the same thing: we don't want a pipeline here, and asked them to find another route. They said no, then exploited a flawed permitting process in Texas, and used eminent domain to take the easement they wanted across our land.

There are a host of reasons why we don't want a pipeline across our property. First, we don't believe a foreign corporation should have more of a right to our land than we do. Secondly, we need to protect its Caddo Indian heritage, specifically the 145 artifacts TransCanada's archeologists recently found within the proposed pipeline easement. How curious that TransCanada and the Texas Historical Commission concur that my entire 30-acre pasture qualifies for National Registry of Historic Places recognition, EXCEPT for the one sliver of land TransCanada must have on our place to connect the two sections of pipeline they've already build adjacent to our land

We don't want them horizontally drilling under the Bois d'Arc Creek where we have State-given water rights. We irrigate 400 acres of cropland from this creek, and the pipeline would be just a couple hundred yards upstream from our pumps. Any leak from that pipeline would contaminate our equipment, and then our crops in minutes.

Furthermore, the neighbor directly to the west of us owns thousands of acres, and had granted TransCanada an easement anyway. When we politely asked them to seek a way around us, TransCanada could have slightly altered their route and traversed that neighboring land differently, avoiding our property altogether. But instead they just pulled out the club of eminent domain, telling a reporter later it was just too late to make any changes.

As some of you may know, in 2011 the Texas Supreme Court ruled in Denbury Green that private property rights are far too precious to be taken by simply checking a box on a form. Furthermore, the Supreme Court said that when challenged by a landowner, the burden falls on the pipeline to present reasonable proof it meets the requirements of a common carrier. So we did just that, we asked for the proof.

In challenging TransCanada, we asked them to provide proof they met the qualifications as a common carrier and had the right of eminent domain. And once again they hid behind the skirts of the Texas Railroad Commission, saying in essence, The Railroad Commission believes us, you should too. The embattled Railroad Commission has proven to be nothing more than a rubber stamp, they have never denied anyone common carrier status. So, when we asked for another element of proof, their tariff schedule, TransCanada said in court they would not have that tariff schedule until about the time product started flowing. In other words, they could not produce this particular proof they were entitled to take my land until after my land was condemned, handed over to them, construction was completed and tarsands, the product for which Keystone is being built, was flowing. This is wrong, and is precisely why the Keystone XL should not be granted an exemption from this bill's much needed eminent domain restrictions.

If I read it correctly, this bill's exemptions for pipelines already under construction allow current eminent domain abuses to go unpunished. The bill addresses the problems, and outlines important solutions, yet allows those who exploited the process up until a certain date on a calendar to get off "scot-free". And as someone who has lost part of her family farm to this abuse, that's leaves me, and lots of people like me out in the cold. And add insult to injury: our land was taken through abusive means, and the abusers could get off without even a hand-slap.

Two years ago when our family first began our stand against eminent domain abuse, TransCanada was flying below the radar screen. No one seemed to know much about the Keystone XL Pipeline. But now the light is blindingly bright on TransCanada, the tarsands, and the threat to everyone's land and water. People around the world see that TransCanada represents eminent domain gone unchecked and horribly wrong. Why else would there be so much pushback, by so many people, from so many backgrounds, in so many ways, to the Keystone XL project?

If we allow an exception for TransCanada and the Keystone XL, we will be setting a dangerous precedent, leaving the door open for even further misuse of our legal system and more abuse of landowners unwilling to risk their property for foreign profits. The same system that enabled the judge in our case to issue a 15-word ruling from his iPhone would enable TransCanada and other pipeline companies to use the incredible legal and psychological leverage of eminent domain to continue stealing property from American citizens.

We have appealed that iPhone ruling, and look forward to our day in court with an experienced panel of judges in the 6<sup>th</sup> Circuit Court of Appeals in Texarkana, Texas. And if our legal defense fund holds out, we may take it to the Texas Supreme Court.

Eminent domain abuse at the hands of one greedy corporation is unforgivable, but it is part of something even bigger. While all land is invaluable to its owners, farmland holds a particularly unique position. Rural property rights, like mine, are the "fundamental building blocks for our Nation's agricultural industry."<sup>1</sup> "The use of eminent domain to take farmland and other rural property for economic development threatens liberty, rural economies, and the economy of the United States."<sup>2</sup> And TransCanada is at the heart of these issues right now. Their

---

1 H.R. 1433, 112<sup>th</sup> Congress, 2<sup>nd</sup> Session

2 H.R. 1433, 112<sup>th</sup> Congress, 2<sup>nd</sup> Session

advertisements in my local newspaper say “We want to be more than just a pipeline company: we want to be a trusted neighbor”. They’ve given me no reason to trust them.

I do not believe there has been even one shred of documentation that proves that one single drop of the products transported through TransCanada's pipeline will be refined for use in the U.S. Yet we are supposed to relinquish our family's tradition and the cultural heritage of the families who lived on our land before us, just because TransCanada says, without proof, that their pipeline is for the public good. How can this pipeline be for the public good when so much information about it is not even in the public record? Diluted bitumen, tarsands, whatever you want to call it, is a product we should fully understand before we start pumping it through major waterways, sometimes through 70-year-old pipelines built before tarsands extraction was economically viable. TransCanada has called this product proprietary, refusing to provide specifics. How can we ensure the safety of a substance when we don't even know its ingredients?

Pipeline companies do not deserve a free ride, especially when they can't clean up their own messes, and especially when we taxpayers are subsidizing the cleanup attempts. Look at Enbridge in Michigan. Look at Exxon in Arkansas. This is a spill I went to see for myself. Standing at a culvert, I saw the 5 foot high imprint of the oil rush to the local wetlands. The thought of seeing the equivalent on my creek bank is disheartening. America already subsidizes the oil industry at a monumental disproportion to other industries. Are we to further subsidize pipelines with our safety, our security, and our human dignity?

Corporations may be considered to be people, but dollars do not yet count as votes. TransCanada's money never sleeps, but neither do landowners like me, faced with the threat of losing our property, or seeing our land and identities torn apart.

This bill brings much needed reform to a sometimes flawed system, and a platform where wrong can be made right. But with this exception that includes TransCanada, it is turning a blind eye to the most flagrant abuser of eminent domain today. I urge you to remove that exclusion, and let those who have abused be exposed, and suffer the consequences. TransCanada stole land that has been in my family for 6 decades, and all for a project that will line their pockets. To allow them to walk away from past abuses without penalty is egregious. I will continue to fight these injustices because life, as we know it, depends on it. And I am not alone.

Respectfully submitted,

Julia Trigg Crawford