

Media Advisory
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Judge to rule on Kinder Morgan's motion to deny due process to public, landowners on eminent domain case

AUSTIN, TX – The 261st Civil District Court will hear arguments Tuesday to decide whether a case against energy giant Kinder Morgan and the Texas Railroad Commission has merit and should be heard. Kinder Morgan will be requesting a summary judgement to dismiss the case.

The lawsuit was filed last month by Hays County, the City of Kyle, and three private landowners along Kinder Morgan's proposed 430-mile long, 42-inch diameter Permian Highway Pipeline route. Plaintiffs are hoping that the outcome will be the creation of an approval process for pipeline routes before oil and gas companies are permitted to take private land through eminent domain. Hill Country landowners and communities impacted by the route object to the lack of consideration for economic development plans in the rapidly urbanizing area, the emerging wine and tourism industry in the region, and the sensitive natural environment – all of which they say will be disrupted by the pipeline.

Kinder Morgan is trying to get the case dismissed; the hearing will decide if it can continue.

Supporters of the lawsuit, including Hays County Commissioner Lon Shell, insist that due process for landowners is not only reasonable, but expected. "Our goal is a process that will ensure the rights of all Texans are respected while still supporting the creation of critical infrastructure and jobs. Texans who are facing the loss of land due to eminent domain deserve no less," said Commissioner Shell. "I am hopeful the state will work with us to establish a fair process."

"Joining this lawsuit against the Railroad Commission and common carriers like Kinder Morgan was our way of holding them accountable for the land they take in the name of the public good," Kyle Mayor Travis Mitchell said. "Under the current system, communities and landowners are excluded from the process because there is no oversight. The only motive for where a pipeline is routed is profit – and that's not right."

"We are calling on the Railroad Commission to help us establish a more fair, transparent way of determining how pipelines are routed," he said. "One that truly takes into account how that pipeline will affect the communities and the landowners it disrupts."

For some of the plaintiffs, their experience with Kinder Morgan came as a wake-up call. "We always assumed there would be some measure of accountability to balance the scales, so it was a shock for us to learn that Kinder Morgan is not required to justify their decision to anyone at all," said plaintiff Lana Nance, whose family has owned and worked their land since 1838.

Plaintiff Heinz Stefan Roesch has raised concerns about safety and the lack of oversight during pipelines' earliest stages. "Pipeline companies maintain that they're performing a 'public good', but the constitution demands any private company that uses eminent domain undergo a public oversight process. [Kinder Morgan's] 'public good' argument would be more convincing if they would work with us to create a process instead of working so hard to avoid it."

Opponents of the pipeline's route have unsuccessfully petitioned Kinder Morgan to find another route that would be less disruptive to the ecologically sensitive region.

"Leaks along the pipeline are more common than you might think and can be catastrophic to the surrounding area. With this specific pipeline and this specific route, there is no room for error," said Andy Sansom, Director of Environmental Strategy at the Meadows Center for Water and Environment. "This is where an approval process would make sense – it is much easier to get it right on the front end than after the fact."

Judge Lora Livingston will preside over the hearing, which will begin at 9 am Tuesday and could last for two days.

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