Private Access to Public Right of Ways

Description: Learn about key issues including keeping trespassers off utility or other easements.

This topic will include legal and practical advice on identifying the priorities in land rights and responsibilities regarding easements and rights of way as the dominant estate and as to competing interests with respect thereto. Whether the servient estate holders, other easement holders or other third parties, determining what can, may and can't be done on the dominant estate and analyzing competing interests is often key to O & M plans for a company.

Particularly with the issue of keeping trespassers off utility or other easements and the attendant potential liabilities of the easement holder ranging from complaining landowners to holders of shared easements to injured trespassers, formulating a plan to address myriad scenarios can seem overwhelming.

This information helps the holders of easements and rights of way, particularly in the infrastructure and utility sectors, identify what rights are held, evaluate the rights held by others and to aid in putting together business plans for how to protect existing rights and minimize liability. This topic is critical for those in the regulated utilities industry and, particularly, the natural gas industry, as protecting assets from third-party interference is one of the cornerstones of an integrity management plan.

Contents:

Formation of Rights
- How Did Rights Vest
- Prior and Subsequent Rights
- Correlative Rights and 'Status Quo' Arguments

Use of the Dominant Estate
- Right to Exclude Others
- Erection of Gates or Other Barriers
- Scope of Use

Duty and Liability Regarding Encroachments on Dominant Estate
- Duty Owed to Co-Owners of Dominant Estates
- Liability of Servient Estate for Use or Misuse of Servient Estate

Liability for Injuries to Persons Within Boundaries of Dominant Estate
- Status of Injured Party May Determine Level of Duty
- Duties of the Dominant Estate

Legal Remedies
- Declaratory Judgements to Determine Rights
- Injunctive Remedies
- Trespass and Other Actions
- Miscellaneous Actions

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