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August 14, 2020

Representative Tom Craddick  
Chairman  
Land & Resource Management Committee

*Via E-Mail: Tom.Craddick@House.Texas.Gov*

Dear Representative Craddick:

The City of Georgetown respectfully submits its responses to Interim Charges 1, 2, and 3 that were included in the July 20, 2020 House of Representatives Notice of Formal Request for Information submitted by the Land & Resource Management Committee as follows:

**Interim Charge 1: Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.**

**City of Georgetown Response:**

Regardless of annexation, cities have a vested interest in the form and function of the area surrounding existing city limit boundaries. Consistent subdivision regulations ensure adjacent subdivisions are developed under the same criteria, which in turn helps create a unified and harmonious urban area. A disjointed transportation network that would form from using county versus city long range transportation plans can lead to unintended consequences including the lack of adequate utilities extensions. Further, the cities and special utility districts provide water and/or wastewater; it is important for utility providers to have a role in subdivision development.

**Interim Charge 2: Review, in coordination with the Office of Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute 2 with the mandatory contents of the LBoR.**

**City of Georgetown Response:**

The Landowner's Bill of Rights is an effective, important tool for the City of Georgetown to begin discussions of eminent domain with landowners. This tool provides the opportunity for City staff to demonstrate upfront that our intention is to respect their rights throughout the process. The document in its current form is concise and understandable – explaining complex concepts to landowners. The current requirement to mail and provide the document on our website make it accessible and provided in a timely manner. A more prescriptive, complex version would undermine the use of the document as a transparent, approachable tool for public entities.

**Interim Charge 3: Study property owner's rights in eminent domain to examine and make recommendations on what should and should not constitute an actual progress to ensure the right of property owners to repurchase property seized through eminent domain by a condemning entity.**

**City of Georgetown Response:**

The current requirements of the Texas Property Code for public entities – to ensure actual progress of a project within 10 years – is more than a sufficient time requirement. Large public projects take time to design, fund, plan, and construct – a more limited timeline would unnecessarily hinder public improvement projects. Additionally, a shorter timeframe would foster more difficulty and misperception for both public entities and property owners. Georgetown, Texas is a growing community and City staff strives to identify and resolve needs in advance – saving taxpayer money. The City of Georgetown is currently able to purchase the ultimate right-of-way for projects which also allows for landowners to understand the full vision of the project. Further definition of “actual progress” seems unlikely to clarify landowners’ rights while undermining the ability for communities like Georgetown to undertake the complex and ambitious projects necessary to serve our fast-growing community.

Respectfully submitted,



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**COALITION FOR  
CRITICAL INFRASTRUCTURE**  
★ CONNECTING TEXANS ★

August 14, 2020

To: Chairman and Members  
Texas House Committee on Land & Resource Management

From: Coalition for Critical Infrastructure  
Lisa Kaufman, General Counsel, Texas Civil Justice League

Subject: Interim Charge 2 Comments  
Landowner Bill of Rights

On behalf of the Coalition for Critical Infrastructure (CCI), thank you for the opportunity to provide comments regarding the committee's Interim Charge 2, which directs the committee to review "the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain process and their rights and responsibilities under Chapter 21 of the Property Code."

The Coalition for Critical Infrastructure (CCI) includes both public and private entities with condemnation authority that help make Texas the 10th largest economy in the world, care about the future of Texas, and are dedicated to the state's ability to grow and prosper. The Texas Constitution recognizes that the use of eminent domain to acquire property for infrastructure purposes benefits the citizenry, but is intended to be used only as a last resort. CCI strongly believes in a strong and durable framework that treats property owners respectfully and fairly, promotes the efficient and timely resolution of disputes, and strengthens long-term relationships between property owners and infrastructure development.

CCI concurs with many of the comments and frustrations of landowners with the current form of the LBoR. Consequently, for the past two legislative sessions CCI has advocated for simplifying the LBoR, stating the rights and obligations of landowners in straightforward, non-technical language, and providing the LBoR to landowners at the earliest possible opportunity in the right-of-way acquisition process. We also believe that it may be preferable for the Legislature to draft the specific form and language of the LBoR and enshrine that form and language directly in the statute. Putting the LBoR into the law, in our view, would provide enhanced transparency for both landowners and



entities seeking to acquire right-of-way for infrastructure development, as well as giving landowners the information they need in order to navigate the process to the best possible result for both parties.

To accomplish this purpose, CCI would be pleased to work with the committee to draft a LBoR that reflects this approach. We propose the language be inserted directly into Chapter 21, Property Code. Concurrently, Section 402.031, Government Code, which directs the Office of the Attorney General to prepare the Landowner Bill of Rights would be repealed.

CCI looks forward to working with the committee next session on reforms to the eminent domain process that provide transparency and accountability for landowners while maintaining the ability of Texas to build the infrastructure that our growing economy and population requires.

Thank you for the opportunity to submit this testimony and for your tireless service to the people of our state.

August 14, 2020

The Honorable Tom Craddick,

We are involved with the Targa Grand Prix exporting Pipeline and the Enterprise Pipeline that was domestic use and has now been changed to exporting with no notice from the company. We have witnessed the damage to our land, water, and livelihood. These pipelines have destroyed the value of our ranch.

It is wrong for a private company to seize private property in Texas for their profit and benefit. The Texas Landowner Bill of Rights is a joke. It gives landowners rights then takes them away with an EXCEPT at the bottom. You should then put at the end of that except all the rights taken away.

It is wrong to seize private property with no regard for the input from private property owners who are paying taxes, low ball financial compensation, not being able to participate at the beginning of these projects with input at the permit level, and no environmental impact considerations.

It is wrong for pipeline companies to change pipelines from domestic to exporting and not renegotiate with the landowner. The original intent of the contract has changed and is no longer valid.

It is hypocritical to have landowners believe they have rights, when the State of Texas has taken all our rights away and given them to the oil companies.

Laws need to be made that make the oil companies pay landowners yearly based on income made for the use of their land by these exporting pipelines forever just so these greedy oil companies can make billions. There should be no eminent domain for exporting pipelines. Exporting pipelines are not domestic use pipelines and there is no justification for eminent domain to be used. They do not benefit the American public. That's a big injustice.

Thank you for this opportunity to comment.

Gene and Cheryl Smith  
Smith Ranch  
509 CR 301,  
Gorman, Texas 76454  
[smithcvs65@yahoo.com](mailto:smithcvs65@yahoo.com)  
979-255-8827



August 14, 2020

Chairman Tom Craddick  
Members of the Committee  
Texas House Committee on Land & Resource Management  
Texas Capitol Station  
Room EXT E2.136  
P.O. Box 2910  
Austin, TX 78768

Re: Comments on Interim Charge 2 - Landowner Bill of Rights

Dear Chairman Craddick and members of the House Committee on Land & Resource Management:

I write to you on behalf of the Greater Houston Partnership and the business community we represent, which spans the 11-county greater Houston region. We strive to make the nearly 11,000 square miles of our coastal, urban and rural region a global hub for Texas agriculture and industry and one of the best places to live, work and build a business.

I appreciate the opportunity to submit comments regarding the Committee's Interim Charge 2, which directs the Committee to review "the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code."

It has been the Partnership's position to support an equitable eminent domain process in Texas that ensures the protection of landowners' constitutionally protected rights and allows for just compensation based on fair market value and the loss of property value.

To further the protection of landowners' rights, the Partnership supports revision of the LBoR so that it is more readable and straightforward. Additionally, the Partnership urges the Legislature to draft the specific form and language of the LBoR directly into statute. This would enhance transparency for both landowners and entities involved in infrastructure development, as well as give landowners the information they need to navigate the process to the best possible result for all parties.

Thank you for the opportunity to submit these comments and for your work to ensure an equitable and expeditious eminent domain process in Texas. Please feel free to contact Chase Kronzer, our VP of Public Policy via email [ckronzer@houston.org](mailto:ckronzer@houston.org) with any questions.

Sincerely,

A handwritten signature in black ink that reads 'Bob Harvey'.

Bob Harvey  
President and CEO

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**From:** MOLLY ROOKE <mollyrooke@sbcglobal.net>  
**Sent:** Friday, August 14, 2020 4:27 PM  
**To:** Tom Craddick  
**Subject:** Land & Resource Management Committee, Interim Charge 2 regarding Landowner Bill of Rights

Dear Chairman Craddick and Land & Resource Management Committee Members,

As a landowner of a 15,000 acre South Texas family ranch which has had dealings with pipeline companies regarding their pipelines crossing our property, I wish to submit some comments regarding Charge #2. I hope my comments will help you improve the Landowner Bill of Rights to make it more effective. Dealing with pipeline companies can be stressful for landowners and it's very important for us to be as well informed about the process as possible so we can make the critical decisions which will lead to our intended and best outcomes.

The Landowner Bill of Rights needs to be given to property owners at the beginning of the process--at the first contact of the entity or any person acting on the company's behalf such as the land agent--rather than "within seven days of the final offer."

It would be helpful if the Landowner Bill of Rights included important information regarding the condemnation process, and to include information found in Chapter 21 of the Property Code.

It would also be good to include the following:

- Explain definitions regarding legal terms such as "fair market value" and "certain damages".
- Include critical timelines, which have been left out in the document, such as when a landowner can rightfully appeal the award given by the Special Commissioners.
- Explain and define what constitutes a bona fide offer.
- Include methods of notice on the various processes via certified or regular mail.-
- Explain roles and responsibilities of Landmen or Right-of-Way Agents, and include a "code of conduct" for how these agents are to interact with landowners, if there is one.
- Explain roles and responsibilities of Surveyors. What kind of notice are they required to give landowners to get on their property? What is their responsibility for negotiating entering property and who is responsible for damages should they arise?
- Easements - What are the legal limitations of a landowner once an easement is taken? Who pays the property taxes for that easement?

Thank you for your service to Texans and consideration of my comments.

Sincerely,

Molly Rooke  
P. O. Box 626  
Woodsboro, TX 78393  
214-762-3163



August 14, 2020

The Honorable Tom Craddick, Chairman  
House Committee on Land and Resource Management  
Texas Capitol  
Post Office Box 2910  
Austin, Texas 78768

Speaker Craddick,

The Permian Basin Petroleum Association (PBPA) respectfully submits this letter for consideration in response to the Texas House Committee on Land and Resource Management's formal request for information related to Interim Charges dated July 20, 2020.

As you know the Permian Basin is the most productive oilfield in the United States and the world. Its regional expansion in Texas and New Mexico accounted for a peak of about 5 million barrels per day of crude oil and 18,000 mcf of natural gas in 2019 and its impact to state coffers in Texas have been unmatched.

"The Permian Basin: Enriching Texas," a joint report with PBPA and the Texas Taxpayers and Research Association Foundation, highlights the region's prominence in both oilfield production and state economic contributions. The Permian Basin comprises 26 percent of Texas' land area and is home to one of the thickest deposits of rock from the Permian Period (251 to 299 million years ago). It contains numerous oil and gas producing formations and in April 2019, Forbes Magazine named it the "World's Top Oil Producer," replacing Saudi Arabia's Ghawar oilfield.

The impact of the oil and gas sector in Texas is vast.

In 2019 in Texas alone, the Permian Basin was responsible for \$9 billion in severance taxes and royalties paid to the state to utilize widely in basic functions of government including property tax relief, school finance reform, hurricane disaster recovery, and much more. In a state of roughly 28 million Texans, that amounted to a contribution of \$312 for every man, woman, and child in the state, or the equivalent of \$937 for a family of three. Absent this revenue, the average Texan would either have had to accept a lower amount of services from state and local governments or would have had to pay that much more in taxes in the Lone Star State.

PBPA represents those who are responsible for this huge expansion of oil and gas development in the state and it is vital for our region to have adequate access to infrastructure that safely and efficiently transports this product to market for the benefit of those in our state as well as America's continued energy security.

We share the comments and concerns provided to the Committee by others within the industry, but seek to offer the following public comment as well to provide our perspective on the issues before the Committee.

Specifically this letter seeks to address Interim Charge 2 which reads as follows:

2. Review, in coordination with the Office of Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute with the mandatory contents of the LBoR.

The Permian Basin Petroleum Association is committed to ensuring the right of landowners in understanding the condemnation process more fully. In 2007, with the passage of House Bill 1495 creating the LBoR, PBPA supported the goal and efforts of legislators to provide property owners an understanding of the condemnation process as well as answer questions they may have regarding the process.

While it is our understanding that condemnation is ultimately rare for oil and gas operators as well as critical midstream assets, and given that any form is unlikely to provide the exact scenario each property owner may face, it remains vital that this instrument continue to inform and educate those who may be impacted by the condemnation process.

PBPA continues to support that goal and if through consultation with the Office of Attorney General, the Committee, and other stakeholders, it is determined that the LBoR is insufficient in proscribing to property owners their rights and responsibilities as required by current law, our members would support more robust language or clearer wording. Further we would support greater codification of LBoR language in statute if determined to be reasonable.

Our association firmly believes that there is middle ground for all parties to ensure that critical resources and infrastructure developed for the public good continues to benefit the great state of Texas.

Thank you for the opportunity to share with you our perspective and please don't hesitate to reach out if we may be of further service to you or the Committee.

Regards,



Ben Shepperd  
President



August 14th, 2020

6406 North Interstate Highway, Suite 1806

Austin, Texas 78751

To: The Honorable Tom Craddick, Chair, Land and Resource Management Committee

From: Cyrus Reed, Interim Director, Lone Star Chapter, Sierra Club

Submitted via email to [Tom.Craddick@House.Texas.Gov](mailto:Tom.Craddick@House.Texas.Gov)

The Lone Star Chapter of the Sierra Club is the state chapter of the Sierra Club, the nation's oldest and largest conservation organization. We have nearly 30,000 members and another 150,000 supporters throughout Texas.

We are pleased to offer these brief comments on Charge No. 2 to Chairman Craddick and members of the Committee on Land and Resource Management. Separately, Dr. Ken Kramer will be submitting comments on Charge No. 1, regarding annexation and city powers within ETJs.

In addition, as many may know on this Committee, there has been a controversial pipeline known as the Permian Highway Pipeline running through the Texas Hill Country and we as an organization are involved in several lawsuits regarding the pipeline. Many landowners and Sierra Club members are impacted and believe that current Texas statutes and the current "Landowner Bill of Rights" are not sufficient to assure the rights of property owners. This is just the latest case where we have seen the concerns of landowners largely ignored in eminent domain processes.

*2. Review, in coordination with the Office of Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute with the mandatory contents of the LBoR.*

The Sierra Club does not believe the current draft version of the Landowner Bill of Rights (LBoR) is sufficient to assure that landowners will understand their rights. While some landowners may be able to hire an attorney, and thus better understand the process, many can not. Yet the LBoR is not sufficiently detailed to really help landowners, and serves more as a document that protects those condemning property rather than the owners themselves.

We do believe a Landowner Bill of Rights (LBoR) could be useful, however, and appreciate the Committee's current review of ongoing efforts.

Our main comment is that the LBoR is missing vital information for landowners.

First, Chapter 21 of the Property Code is missing. Without providing information about the Property Code (Chapter 21), the LBoR is not protective of property owners. Landowners should be provided with the basic definitions of condemnation, and the related process found in Chapter 21. The requirements for notice and service, along with critical time requirements, have been omitted and need to be included. Definitions and examples of what includes a bona fide offer should also be included in the document.

Furthermore, the Landowner Bill of Rights along with the entire Property Code section of "Title 4. Actions and Remedies, Chapter 21. Eminent Domain." should be given to the landowners upon the first contact by a condemnor, rather than within 7 days of the final offer. Understanding the terms and process at the front end of the process is vitally important to landowners so they are not scrambling to assess the benefits and drawbacks of accepting a final offer will better protect private property rights.

Thus, we would like to see a requirement added to statute that the Landowner Bill of Rights (LBoR) be given to a landowner long before "seven days before the entity makes its final offer." In fact, it should be given to the landowner upon the initial point of contact by the condemning entity along with the entirety of Chapter 21 of the Property Code.



Landowners need to receive information about condemnation early in the process to fully understand and determine what their best options are going forward.

Thus, we do believe that it would be beneficial for the legislature to be more explicit and prescriptive in statute with the mandatory contents of the LBoR, along with requiring that the LBoR be provided to landowners. This will ensure landowners are more informed by including the critical timelines and other vital information from the Property Code.

Other Eminent Domain Issues.

Further, we would also like to restate our position that there were many important bills introduced last session that we believe should become law, including SB421 (in its Senate engrossed form) by Senator Kolkhorst and SB552, SB553, and SB 554 by Senator Schwertner. These bills would have reformed the eminent domain process by addressing bona fide offers, standard contract requirements, land surveys, the purchase of additional property and the right to repurchase land - all important steps toward making the process fairer for landowners.

We understand that private companies will continue to utilize the eminent domain process in Texas to attempt to bring economic projects into Texas, and create jobs and wealth, but for too long individual rights of Texans have been trampled in the process, and oftentimes as we have seen with the recent experience with the PHP, there have been environmental consequences. Getting the eminent domain process fair from the start could lead to better outcomes for the state where landowner rights, environmental protection and economic development can be in better balance.

The Sierra Club appreciates the opportunity to submit these brief comments to the Land and Resource Management Committee on Charge # 2.

Sincerely,

Dr. Cyrus Reed

Interim Director, Sierra Club

[cyrus.reed@sierraclub.org](mailto:cyrus.reed@sierraclub.org), 512-740-4086

**POPE, HARDWICKE  
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ROBERT E. HARDWICKE, JR.  
(1917 – 1991)

August 11, 2020

***Via Email: Tom.Craddick@house.texas.gov***

The Honorable Tom Craddick  
Chairman  
House Land & Resource Management Committee  
Texas House of Representatives  
P.O. Box 2910, Room 1W.9  
Austin, Texas 78768

Re: Interim Charge 2: Landowner Bill of Rights

Dear Chairman Craddick and Honorable Committee Members:

This letter is submitted on behalf of Tarrant Regional Water District (“TRWD”) in response to Charge 2 of the Committee’s Notice of Formal Request for Information dated July 20, 2020.

TRWD is one of the state’s largest providers of raw water, which ultimately supplies approximately four million end users. To accomplish that mission, TRWD has constructed four major surface reservoirs and hundreds of miles of pipelines to transport water. As a result, it must inevitably use the power of eminent domain in a small percentage of acquisitions. This experience has made TRWD very aware of the need for simple, straightforward information for landowners dealing with eminent domain.

We concur with and endorse the approach we understand has been or will be suggested on behalf of the Coalition for Critical Infrastructure to statutorily-adopt the required contents of the Landowners Bill of Rights.

Respectfully submitted,

*/s/ Lee F. Christie*

Lee F. Christie

LFC/st

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August 14, 2020

The Honorable Tom Craddick  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

RE: House Land & Resource Management Committee  
Interim Charge on Landowner's Bill of Rights

Chairman Craddick and Committee Members –

The Texas Alliance of Energy Producers (the Alliance) appreciates the opportunity to comment on the committee's second interim charge relating to reviewing the efficacy of the Landowner's Bill of Rights. With over 2,600 members, the Alliance is the largest state oil and gas association in the United States. Our members hail from nearly 30 states and 300 cities. We represent the exploration and production segment of the oil and gas industry; our members are oil and gas operators/producers, service and drilling companies, royalty owners, and a host of affiliated companies and industries in Texas and beyond.

As we have testified to this committee before, we believe an eminent domain process that works well, which provides certainty for critical infrastructure projects and protects private property rights, is vital to not only the wellbeing of our industry, but to the entire state's economy. We appreciate the Committee on Land and Resource Management taking the issue of eminent domain reform so seriously. The Alliance believes that eminent domain reform is needed in Texas and we are committed to working with all stakeholders and this committee toward that end.

We believe that Senate Bill 421 during the 86<sup>th</sup> Legislative Session, as passed out of this committee and the full House, is a great starting point for legislation in the 87<sup>th</sup> Legislative Session. That bill struck a fine balance between the landowner interests that must be protected and the importance of infrastructure projects to Texas' economy.

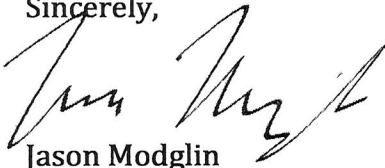
Regarding the committee's second interim charge, the Alliance would like to see the statutory requirements of the Landowner's Bill of Rights (LBoR) be amended by the

Texas Alliance of Energy Producers  
1000 West Avenue, Suite B  
Austin, TX 78701

legislature in the upcoming session. As currently written, the LBoR puts the parties in land negotiation deals on confrontational footing unnecessarily, which sets up the rest of the transaction to be much more difficult than it should be. We believe this document can be helpful to informing landowners of their rights and know it would be beneficial for all parties if the legislature provides more prescriptive direction to the LBoR's construction.

We applaud your leadership of this committee for taking up these issues of critical importance and look forward to working with you in the upcoming legislative session toward a resolution that protects our economy and strives to incorporate concerns from all stakeholders.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Modglin", written over the printed name.

Jason Modglin  
President



Texas and Southwestern Cattle Raisers Association

1301 W. SEVENTH ST. ★ SUITE 201 ★ FORT WORTH, TEXAS 76102-2665  
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*The*  
**Cattleman**



CATTLE RAISERS  
INSURANCE™

Aug. 14, 2020

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To the Honorable Chairman Tom Craddick and Members of the House Committee on Land and Resource Management:

The Texas and Southwestern Cattle Raisers Association (TSCRA) greatly appreciates the opportunity to provide comments on the House Land and Resource Management Committee interim charge to:

*Review, in coordination with the Office of Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute with the mandatory contents of the LBoR.*

The Texas and Southwestern Cattle Raisers Association was founded in 1877 to combat cattle rustling and other issues facing ranchers at the time. Today, the Association continues its mission of protecting the stewards of land and livestock in the Southwest by advocating for sound public policy on issues that impact cattle producers and landowners.

TSCRA boasts more than 17,500 beef cattle operations, ranching families and businesses as members. These members represent approximately 55,000 individuals directly involved in ranching and beef production who manage 76 million acres of range and pastureland primarily in Texas, Oklahoma and throughout the Southwest.

Nowhere is TSCRA's advocacy more important than in the realm of private property rights. These rights are not only fundamental to the freedom and independence of all Texans, but essential to the production of cattle.

Texas is home to 13 million cattle, more than any other state, according to the latest inventory report by the U.S. Department of Agriculture's National Agricultural Statistics Service. These cattle represent approximately one-sixth of the entire U.S. cattle inventory.

The Texas cattle industry is the leading contributor to the state's agricultural economy with annual sales in excess of \$12 billion. However, cattle production is not only essential to state's economy or financial well-being of Texas' cattle producers – it is essential to the survival of all Americans.

As we have recently seen with the COVID-19 pandemic, any disruption in the highly efficient beef supply chain can result in dire consequences and reduced availability of beef for American consumers.

To ensure the food security of our state and nation, Texas ranchers must be better protected from infringement of their private property rights that inhibit or deter their ability to produce cattle.

TSCRA appreciates the House Committee on Land and Resource Management for reviewing the efficacy of the inaptly named Landowner Bill of Rights. We have provided several suggestions for your consideration below. However, it is our belief that mere changes to the document will not address the persistent concerns of Texas cattle producers or improve the chronic imbalance of the eminent domain process for Texas property owners.

In contrast to the Bill of Rights in the U.S. Constitution, with which we are all familiar, Texas' Landowner Bill of Rights does not actually grant any rights or privileges to the citizens of Texas. It is merely an informational notice of the circumstances Texas landowners face when confronted with the forced condemnation of their property.

As such, we believe the document should be renamed to accurately reflect its intended purpose – to serve as a notice and provide limited information on the eminent domain process.

A failure to rename the document will continue to give citizens of Texas the false impression that Texas statutes and regulations provide them with protection in the event a public or private entity seeks to take their property under threat or execution of eminent domain proceedings.

Further, the current disclaimer at the end of the notice should be revised and moved to the beginning. It is our belief that while the current disclaimer statement does adequately describe the document, it is not properly highlighted and does not convey in strong enough terms the necessity of legal counsel given the current lack of safeguards in statute.

Texas Real Estate Commission promulgated contracts for residential real estate transactions state clearly, boldly and in upper case, "CONSULT AN ATTORNEY BEFORE SIGNING." Those individuals receiving a state promulgated document for the forced sale of their property should receive no less forceful a recommendation than those willingly selling their property.

It is our recommendation that the LBoR be revised to include a disclosure at the beginning of the document in bold, uppercase lettering no less than two font sizes larger than plurality of text in the body of the document and state:

**"CONSULT AN ATTORNEY BEFORE SIGNING ANY AGREEMENT OR CONTRACT. THIS STATEMENT IS NOT LEGAL ADVICE AND IS NOT A SUBSTITUTE FOR LEGAL COUNSEL. INFORMATION CONTAINED BELOW IS MERELY INTENDED TO BE A SUMMARY OF THE APPLICABLE PORTIONS OF TEXAS STATE LAW AS REQUIRED BY HB 1495, ENACTED BY THE 80TH TEXAS LEGISLATURE, REGULAR SESSION."**

Additionally, in the numerated rights section of the document, two numerals should be added, and the section be renumbered as appropriate to include the following rights:

“You have the right to use your own form of easement or negotiate terms within the easement or instrument of conveyance that differ from or are in addition to the terms offered by the condemnor.”

“You have the right to contest the condemnors exercise of eminent domain in court.”

In the section of the LBoR entitled “condemnation procedure,” it should be added that any entity exercising eminent domain must be listed on the Texas Comptroller’s Eminent Domain Database, which is publicly available at: <https://coedd.comptroller.texas.gov/>

Lastly, the “how the taking process begins” section should include a complete chronology of the process, showing statutory timelines where applicable, including the timing of the final offer containing the appraisal.

Aside from the above recommendations necessary to properly convey the purpose and limitations of the LBoR, TSCRA believes revisions to the LBoR without statutory changes that address fundamental shortcomings in the eminent domain process itself will not adequately assist Texas landowners.

Texans deserve an eminent domain process that is fair, transparent, and that holds condemnors accountable to the citizens.

The House Committee on Land and Resource Management, and Texas legislature, should focus its valuable time and resources on developing and instituting meaningful changes to better protect its constituents from an eminent domain process that is unbalanced and excruciating for property owners to endure. Every time a rancher is faced with the laborious task of defending their land against eminent domain or other property rights encroachments, it makes the business of raising cattle exponentially more difficult.

If allowed to continue, the encroachment of eminent domain on Texas ranches will have dire consequences for the Texas economy and our ability to continue to provide an adequate food supply for our citizens.

I again thank Chairman Craddick and Members of the House Committee on Land and Resource Management for your attention to this critical issue.

The Texas and Southwestern Cattle Raisers Association is committed to bettering the private property rights of our members and stands ready to assist in any way possible as the committee explores improvements to Texas’ eminent domain process.

Sincerely,

G. Hughes Abell  
First Vice President  
Texas and Southwestern Cattle Raisers Association



## 86<sup>th</sup> Legislature, Interim Charge Request for Information

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House Committee on Land and  
Resource Management



## Introduction

The Texas Department of Transportation's (TxDOT) mission is Connecting You with Texas. The employees and leaders of TxDOT take our roles as public servants seriously. We know that the public and the Texas Legislature have entrusted TxDOT with the state's resources, and we must use those resources responsibly and efficiently to meet the following goals:

- Deliver the Right Projects – Implement effective planning and forecasting processes that deliver the right projects on-time and on-budget;
- Focus on the customer – People are at the center of everything we do;
- Foster Stewardship – Ensure efficient use of state resources;
- Optimize System Performance – Develop and operate an integrated transportation system that provides reliable and accessible mobility, and enables economic growth;
- Preserve our Assets – Deliver preventative maintenance for TxDOT's system and capital assets to protect our investments;
- Promote Safety – Champion a culture of safety; and
- Value our Employees – Respect and care for the well-being and development of our employees.

## Interim Charge

*Review, in coordination with the Office of the Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute with the mandatory contents of the LBoR.*

## Background

As the state's population increases, demand for transportation continues to exceed the capacity of the current system and TxDOT must continue to expand and improve the transportation network. When land is needed for new transportation projects, TxDOT works with the property owner to acquire it. TxDOT obtains most land for transportation projects by negotiating the purchase with property owners. However, if TxDOT and a property owner cannot reach an agreement for the sale of the property, TxDOT may consider using its statutory authority of eminent domain to acquire the property needed for the transportation project. TxDOT understands that using the power of eminent domain involves balancing the rights of private property owners and the needs of the public, and TxDOT is committed to working fairly with property owners whether through negotiation or condemnation.

## **Inclusion of a Right of Entry for Entities with Eminent Domain Authority in the Landowner's Bill of Rights**

When TxDOT seeks to develop transportation projects, surveys and inspections are commonly required to ascertain which parcels of land are required for the project. More and more frequently, some landowners are refusing TxDOT's requests to enter private property for surveying, environmental assessment, and inspection purposes as a preliminary step to a transportation project.

In such cases, TxDOT may seek injunctive relief through an individual lawsuit to obtain a court order enjoining the landowners to allow entry to TxDOT or its authorized agents to the property for surveying, environmental assessment, and inspection purposes as a preliminary step to a transportation project. Courts consistently grant TxDOT these injunctions against the landowners based on TxDOT's statutory authority of eminent domain and the ability to acquire land through condemnation proceedings. TxDOT's (or its agents') right of entry for such purposes are well established in case law, but this authority is not expressly stated in the Texas Transportation Code or Texas Property Code.

TxDOT believes that these individual lawsuits could, in most cases, be avoided if the landowners were furnished with a clear statement of the law that exhibits that an entity with eminent domain authority, such as TxDOT (or its agent) has the legal authority to enter private property for surveying, environmental assessment, and inspection purposes as preliminary steps to possible land acquisition by the entity.

Pursuant to Sections 21.0112(a), 21.0113(b)(6)(C), and 21.012 (b)(5), Texas Property Code, an entity with eminent domain authority must provide the property owner with multiple copies of the Landowner's Bill of Rights throughout the condemnation process. Adding a statement to the Landowner's Bill of Rights that entities with eminent domain authority have a legal right to enter onto private property for surveying, environmental assessment, and inspection purposes may help TxDOT and other entities with eminent domain authority avoid lawsuits and delays, which would ultimately save taxpayer dollars in many instances.



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August 14, 2020

The Honorable Tom Craddick  
Chair, House Committee on Land & Resource Management  
Texas House of Representatives  
Post Office Box 2910  
Austin, Texas 78768-2910

RE: Interim charge's #2 and #3 of the House Land & Resource  
Management Committee's Interim Charges of the 86th Legislature

Dear Mr. Speaker and Committee Members:

Texas Farm Bureau appreciates the opportunity to provide comments on our perspective on the efficacy of the Landowners' Bill of Rights and the "buy-back" provisions within Chapter 21 of the Texas Property Code in protecting private property rights.

Texas Farm Bureau's policies are driven by our membership. As a grassroots organization of over 517,000 member families we represent an increasing number of both urban and rural property owners who have been impacted by eminent domain. Many share with us the issues they faced in negotiating fair compensation and general protections in easement terms with entities that yield the power of eminent domain.

Texas Farm Bureau does not oppose the judicious use of eminent domain, even by private corporations, as long as it's used explicitly for public use and private property rights are protected.

With regards to the interim charge on the efficacy of the Landowner Bill of Rights, while this document is helpful in explaining the CURRENT statutory requirements of the eminent domain process, it is not an avenue to address the deficiencies in the statute that allow entities with eminent domain to manipulate or force landowners into bad deals.

Based on the many reports we've received from property owners about the manipulation and intimidation tactics they've encountered, it's impossible for an informational document to protect property owners from the various tactics condemnors use to take private property. The statutory process that condemning entities are required to use to voluntarily acquire property must be amended to address these issues.

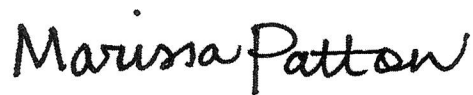
The Landowner Bill of Rights won't ensure property owners receive a fair initial offer that reflects the compensation required by the constitution. And, it won't address providing property owners with easement terms that ensure their rights are protected. Property owners need additional statutory rights under Section 21.0113 of the Property Code to address these issues.

Regarding the buy-back provisions in Chapter 21, Texas Farm Bureau is supportive of legislation like HB 1253 filed by Representative Ben Leman, last session. We support requiring additional actions be taken to prove actual progress. Progress should be actual actions that are part of the physical construction of the project. Not merely, drafting a plan, adopting a plan, or purchasing a single tract of land or real property right. Our members expect the actual construction should begin within the ten-year period if property is being forcibly taken for a project.

Texas Farm Bureau's goal is to improve the eminent domain process for property owners that make it impossible for eminent domain abuses to occur. Texas landowners and agriculture producers face continued future demand on their resources. We seek meaningful improvements to protect private property rights which enable us to continue being a vital component in the food supply chain for our state and nation. And, a national leader in producing food and fiber.

Thank you for taking our comments and please don't hesitate to reach out for further questions.

Sincerely,

A handwritten signature in black ink that reads "Marissa Patton". The signature is written in a cursive, flowing style.

Marissa Patton  
Associate Legislative Director



August 14, 2020

The Honorable Tom Craddick, Chairman  
House Land and Resource Management Committee  
P.O. Box 2910  
Austin, Texas 78768

Chairman Tom Craddick:

On behalf of the Texas Independent Producers and Royalty Owners Association (TIPRO), I would like to express our appreciation for the opportunity to provide written comment on the House Committee on Land and Resource Management's Interim Charges 2 and 3.

TIPRO is one of the largest statewide trade associations in Texas representing the oil and natural gas industry. Our members include the largest producers of oil and gas in the state, as well as hundreds of small to mid-sized independent operators and royalty owners. Collectively, TIPRO members produce approximately 90 percent of the oil and natural gas in Texas and own mineral interests in millions of acres across the state. Our organization's mission, since its inception, is to preserve the ability of independent operators to explore for and produce oil and natural gas.

TIPRO has worked with the Coalition for Critical Infrastructure over the past sessions on reforms to the eminent domain process that provide transparency and accountability for landowners while maintaining the ability of Texas to build the infrastructure that our growing economy and population requires. We remain committed to working with all stakeholders on a system that recognizes the importance of the mineral estate in Texas, the necessity and safety of pipeline infrastructure, effective state laws and regulations that govern infrastructure development, and the protection of private property rights through those processes.

As you know, the Texas oil and gas industry continues to be a cornerstone of our state economy, currently supporting over 2 million direct and indirect jobs and providing billions of dollars in tax revenue annually that support all aspects of our state. In 2019, our state set a new record for oil and natural gas production with 1.8 billion barrels of oil and 10.4 trillion cubic feet of gas produced. And we expect to continue to set records for Texas oil and natural gas production as the world economy and the industry rebounds from the COVID-19 pandemic.

Due to this growth and the extraordinary benefits provided to our state, our industry has faced unique challenges, including takeaway capacity constraints in West Texas that could be further exacerbated by delays and additional expenses to critical pipeline infrastructure projects. Such actions could negatively impact oil and natural gas production, employment growth, and the generation of revenue for state coffers while potentially increasing the flaring of natural gas and dangerous road traffic and congestion, if companies are unable to transport their product through pipelines.

Interim Charge 2 directs the committee to review "the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain process and their rights and responsibilities under Chapter 21 of the [Texas] Property Code." TIPRO believes that the LBoR is an important instrument that should clearly define the rights of landowners in the eminent domain process. Our



organization would support simplifying the LBoR into uniform language promulgated by the legislature and requiring the LBoR to be presented ahead of right-of-way discussions.

Interim Charge Number 3 directs the committee to review “what should and should not constitute actual progress to ensure the right of property owners to repurchase property obtained through eminent domain.” TIPRO is on record as supporting Senate Bill 18 (82R), which defined the term “actual progress” in statute as it applies to eminent domain and the right to repurchase property. Our organization respects the rights of landowners to repurchase land taken through eminent domain that is not being used for its intended use. However, requiring additional measures to prove actual progress would only serve to create additional hurdles to completing critical infrastructure projects and increase expense without adding any additional benefit to the landowner.

TIPRO would like to express our appreciation to you and your fellow committee members for your diligent work during this challenging and unprecedented time. The leadership that you have demonstrated by facilitating feedback and discussion on these interim charges is commendable and for the betterment of the state. We look forward to continued work with the House Land and Resource Management Committee next session on these issues in order to provide transparency and accountability for landowners while maintaining Texas’ ability to build increasing necessary critical infrastructure.

Respectfully submitted,

Ed Longanecker

President

TIPRO

919 Congress Avenue, Suite 1000

Austin, TX 78701

Office: 512-477-4452 / Email: [elonganecker@tipro.org](mailto:elonganecker@tipro.org)





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August 17, 2020

The Honorable Tom Craddick

Texas House of Representatives Land & Resource Management

Submitted via email: [Tom.Craddick@house.texas.gov](mailto:Tom.Craddick@house.texas.gov)

Dear Chairman Craddick and Committee Members,

The Texas Land & Mineral Owners Association (TLMA) is grateful for the opportunity to provide the following comments on your Request for Information regarding the House Land & Resource Management Committee Interim Charge Number 2 - Review, in coordination with the Office of Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute with the mandatory contents of the LBoR.

TLMA represents over 900 landowners, farmers, ranchers, mineral, and royalty owners in all 247 Texas counties. Our members own well over 3.5 million surface acres in Texas. Since many of our members receive royalty income, they have a vested interest in a healthy oil and gas industry and believe that the protection of private property rights and a healthy industry are not mutually exclusive.

The eminent domain process has been scrutinized for many years to create fairness for both parties. While Texas prides itself on being a pro-private property rights state, the eminent domain process is heavily favored to the entity with condemnation power. By no means should anyone feel that provision of a piece of paper titled "Landowner's Bill of Rights" from a condemning entity to someone who's hard earned land is at risk of being taken is a tool of any significance whatsoever.

TLMA believes a fundamental aspect of protecting property rights' is the ability to negotiate in good faith. What one landowner believes is adequate compensation for their land, may not be what the adjoining landowner would like to receive in exchange for their land. The condemnation process removes nearly all negotiations and should be a last resort after failed negotiations between the parties, not a starting point.

The Landowner's Bill of Rights is a small part of a much larger, detailed process and is not indicative of the efficacy of the eminent domain process. The challenges a person faces anytime they are notified of condemnation, and even in the negotiating process, cannot and should not be detailed in a single document.

The LBoR should additionally include the right of a landowner to challenge in court whether the entity has the right to condemn or not. Currently it only speaks to the Award amount. The LBoR also does not include what or how much property an entity is authorized to take permanently or

1005 Congress Avenue, Suite 360 • Austin, Texas 78701  
(512) 479-5000 • [www.tlma.org](http://www.tlma.org)

what condemning entities are permitted to condemn. While it mentions Chapter 21 of the Texas Property Code, simple reference to statute is by no means a full explanation of what someone's rights and legal remedies may be.

While we know that legislating fair negotiations between two parties is a difficult endeavor, expanding the Landowner's Bill of Rights should not be considered the solution to this multifaceted issue. Frequently, landowners are educated on their rights and understand the process, but do not have access to resources to adequately represent them throughout the process. Viewing an update to the LBoR as a solution doesn't address this fundamental disparity and assumes that the landowner is uneducated and does not understand the process.

We appreciate the opportunity to provide this input and look forward to developing policy to protect the rights' of all Texans, as well as continuing to allow the oil and gas industry to flourish. If you have any questions, I can be reached anytime at (512) 585-4970 or [execdir@tlma.org](mailto:execdir@tlma.org).

Sincerely,

Jennifer Bremer  
Executive Director  
Texas Land & Mineral Owners Association





**Comments Submitted to Land & Resource Management  
Re: Charge 2, Landowner Bill of Rights**

**August 12, 2020**

Rita Beving, 13214 Glad Acres Dr., Farmers Branch, TX 75234    [rita.beving@gmail.com](mailto:rita.beving@gmail.com)    ph. 214.557.2271

The current draft of the Landowner Bill of Rights (LBoR) lacks the necessary detail to be useful to landowners. This is especially true for the landowner who cannot afford or may elect not to hire an attorney.

In preparing these comments, we sought input from several landowners who have gone through condemnation proceedings. The gist of many landowner comments was that: "this is written too broadly and obscure to be of any real help," and "this document was written as if to help the condemning entity and not a landowner."

We have three recommendations:

1. The Landowner Bill of Rights (LBoR) lacks vital information from Chapter 21 of the Property Code that could gravely affect a landowner's ability to proceed through this process. Landowners should be provided with the basic definitions of the many legal terms of art in condemnation. The requirements for notice and service, along with critical time requirements through many steps of the process have been omitted and need to be included. The document also needs to spell out what defines a bona fide offer and more. Recommended changes specific to the LBoR are outlined section by section later in this document.
2. The Landowner Bill of Rights along with the entire Property Code section of "Title 4. Actions and Remedies, Chapter 21. Eminent Domain." should be given to the landowners upon the first contact (not within 7 days of the final offer) by a condemnor.
3. Finally, we agree as requested in Charge #2 that it would be beneficial for the legislature to be more explicit and prescriptive in statute with the mandatory contents of the LBoR. This will ensure landowners are more informed by including the critical timelines and other vital information from Chapter 21.

Further, we hope that elements offered in bills in the 86<sup>th</sup> legislative session be resubmitted, taken up and finally passed into law during the 87<sup>th</sup> legislative session in 2021. The bills we are most supportive of include SB421 (in its Senate engrossed form) by Senator Kolkhorst and SB552, SB553, and SB 554 by Senator Schwertner. These bills would reform the eminent domain process by addressing bona fide offers, standard contract requirements, land surveys, the purchase of additional property and the right to repurchase land - all important steps toward making the process more fair for landowners.

We also support HB1157 (86R) by Representative Bell to amend and define the submission of appraisals by a condemnor requiring the condemning entity to provide its appraisal within ten days after receipt or

at least three business days before the special commissioner's hearings - the same as required of a landowner. We also support legislation similar to HB 4618 (86R) by Representative Bell which would require right-of-way agents be trained and licensed. Passage of these bills would greatly help the integrity of the condemnation process.

In addition to the bills mentioned above, we would like to see a requirement that the Landowner Bill of Rights (LBoR) be given to a landowner long before "seven days before the entity makes its final offer." It should be given to the landowner upon the initial point of contact by the condemning entity along with Chapter 21 of the Property Code. Landowners need to receive information about condemnation early in the process to fully understand and determine what their best options are going forward.

It would also be helpful if landowners were informed in the LBoR or be given an accompanying document delineating the following:

- A) **Right-of-way agents** – The roles and responsibilities of right-of-way agents would be beneficial to landowners. It would be informative to know what is required by law in representing their clients and the representations made to landowners. What are a landowner's rights in relation to interacting with these agents?
- B) **Surveys and surveyors** – The protocols and legalities surrounding surveyors on landowner property, including notice, refusal, etc. should be detailed to a property owner. It should also be pointed out that landowners can be subject to an injunction if the right to survey is denied. The "Right of Entry Permit" should also be explained in the LBoR.
- C) **Representatives and subcontractors acting on behalf of the condemnor** – Information should be provided as to what a landowner's recourse is for payment of damages caused by a company's representatives and/or subcontractors on their land. Information should also detail what entity is the responsible party should construction and/or restoration damage occur.
- D) **Easements** – A landowner needs to be informed that the negotiation for an easement is most often for that strip of land to be used by the condemnor in perpetuity. Landowners also need to understand the legalities surrounding an easement once a condemning entity takes possession.
- E) **Separate Offer for Additional Property** – A landowner needs to be informed that if a condemnor needs additional property for roads, etc., that a separate and clear additional offer needs to be made to the landowner.
- F) **Property Taxes** – A landowner needs to understand who is responsible for the payment of the property taxes on an easement.

#### **Comments Specific to the Existing Landowner Bill of Rights Document from 2/13 Version:**

A) Again, we think the entire Chapter 21 of the Property Code, Title 4, Subchapters A-E, should be attached and given to the landowner. Many rural areas have poor internet service, so this makes it especially important for those that may not be able to download this document.

B) However, if the entire Chapter 21, Title 4, Subchapters A-E, cannot be given with the LBoR, then at a **minimum** the following changes should occur:

### **Under "Condemnation Procedure"**

There is no reference to what legal authority gives an entity the right to eminent domain or from where this power is derived. That federal and Texas constitutional reference should be given.

Paragraph 1. "Public use" should be clearly defined.

References or examples of which public and private entities have eminent domain authority should be included in this document. There should be a reference re: private entities such as pipelines coupled with the definition of a "common carrier" vs. other types of pipelines not included in that definition.

Within this section, it should be noted that the Texas Comptroller's Office maintains a list of all entities that have eminent domain authority.

Paragraph 3. There is no definition of "fair market value." That is important for a landowner to understand. There should also be a legal description or definition of what "certain damages" may include.

### **Under "How the Taking Process Begins,"**

Paragraph 1. The words "By law, as outlined in Chapter 21 of the Texas Property Code," should be inserted before the first sentence so that a landowner clearly understands that the information in the LBoR is not a "guideline" but rather a requirement of "law." Section 21.0112 should be included so the delivery vehicle of the LBoR is provided to a landowner.

Paragraph 2. Not all who are being condemned are "individuals," so the word "or entity" should be inserted. Some properties are corporations or family trusts.

The law should be changed so the LBoR is given to a landowner upon the initial, first contact with the condemnor or any of its representatives, not "at least seven days before the entity makes a final offer."

Within the existing language of the LBoR, the timeline to provide the actual LBoR document to the landowner should be clarified as to whether it is in fact seven "business days" or "calendar days" for receipt.

Paragraph 3. This paragraph is inadequate to define what constitutes a "bona fide offer" and the procedure the condemning entity is required to follow with an initial and final offer. Instead of directing a landowner to research Chapter 21 of the Texas Property Code, to understand what constitutes a "bona fide" offer, the entire section 21.0113 should be inserted in the document.

Specifically, the LBoR should state the critical information that there must be at least 30 days between the initial and final offer, and that that landowners have at least 14 days to respond to the final offer before a condemnation proceeding may be filed. The document should also indicate that a deed or easement conveying the property sought to be acquired is to be included along with the offer, the appraisal, and the LBoR.

Paragraph 3 states nothing about a landowner's ability to negotiate the offer given, nor does it state that the landowner can negotiate the terms of non-monetary issues including access, roads, gates locked or unlocked during construction, etc.

#### **Under "Condemnation Proceedings"**

The current paragraph in the LBoR omits how a condemnor's petition must be served to the landowner. It should state that the condemnor must "provide a copy of the petition to the property owner by certified mail, return receipt requested."

This paragraph also does not mention that negotiations can continue once the condemnation petition has been filed.

#### **Under "Special Commissioners Hearing,"**

Paragraph 1. Throughout the LBoR, there are constant references to a "judge." Nowhere in the LBoR does it discuss what court has jurisdiction in an eminent domain case, be it a district court or county court at law. Elements of Subchapter A in Chapter 21 should be provided for a landowner to understand court proceedings.

Explanation should be given in this section to landowners as to the criteria to strike a special commissioner. This is not clear.

Landowners should be informed in the LBoR that the "special commissioners" are not to be confused with County Commissioners. It should also be pointed out that special commissioners possess no particular expertise to qualify them to serve on this panel and receive no special training or education about the condemnation process.

There is no statement within the actual LBoR of the timeline for when a special commissioners hearing may commence, and does not state, as indicated in Chapter 21.015, that the hearing may not happen before the "20<sup>th</sup> day" from the date when the special commissioners were appointed.

Nowhere in the LBoR does it state, as denoted in Section 21.016, how the "notice" of the special commissioners hearing may be serviced to the landowner.

Paragraph 2. The LBoR does not state when the condemning entity's appraisal needs to be submitted. Though the landowner has to meet certain submission requirements, the landowner should also be made aware that the same submission requirements are not made of the condemning entity. Indeed, a landowner should be made aware that the condemning entity can come into the Special Commissioner's hearing with a new or updated appraisal in hand without submitting it to the landowner ahead of the hearing.

Nowhere does it state that the landowner is not required to attend the special commissioner's hearing. This section does not state who may be present, other than an attorney, at the commissioners' hearing with the landowner should they decide to appear.

Paragraph 3. The LBoR needs to clarify, for the landowner who does not hire an attorney, what may be submitted for "evidence" other than an appraisal.

### **Under “Special Commissioners Award,”**

Paragraph 2. In this section, there is no indication of when the special commissioners’ “Award” needs to be filed with the court. It also does not state how the landowner is to receive written notice of the award. It is via certified mail, regular mail, how?

There is nothing that indicates to a landowner that a condemning entity can come onto their property to start work the day of or immediately after the Award or deposit is put into the court’s registry. This can actually be the same day this action happens, despite a landowner’s desire to appeal or pursue other issues with the court.

The LBoR needs to indicate what the withdrawal of the condemnor funds from the court legally implicates, which is namely that the landowner no longer will have the ability to legally challenge the “right to take.” Again, one cannot assume landowners will have the funds to hire an attorney so this needs to be made extremely clear in the LBoR.

### **Under “Objection to the Special Commissioners Award,”**

Paragraph 1 - There is no indication in the LBoR of how timely the valuation objection must be filed with the court. If a party “timely objects,” it needs to give the exact language as stated in 21.018. The property code states that a written statement of the objections, with grounds, must be filed on or before the first Monday following the 20<sup>th</sup> day after the commissioners file their findings with the court.

### **Under “Dismissal of the Condemnation Action,”**

Paragraph 2. This paragraph needs to restate that if a landowner takes the award monies deposited with the court, that the landowner has waived his right to challenge the validity of the taking.

### **Under “Reclamation Options,”**

There is no indication in the LBoR of what constitutes “no actual progress” within ten years. The language from Subchapter E should be inserted in this document so a landowner may understand what the criteria is for “no actual progress.”

### **Under “Additional Resources,”**

The condemning entity should be required to give the landowner Chapter 21 of the Property Code in its entirety if all the critical details, timelines, etc. are not included in the LBoR. The lack of info in the LBoR, especially the timely process requirements, places a landowner at a distinct disadvantage in this process and by the omission of facts, precludes a landowner from pursuing the legal remedies they may seek to protect their property.



David Killam  
Chairman

D. Todd Staples  
President

August 14, 2020

Chairman Tom Craddick  
Members of the Committee  
Texas House Committee and Land & Resource Management  
Texas Capitol Station  
Room EXT E2.136  
P.O. Box 2910  
Austin, TX 78768

Submitted via e-mail: [Tom.Craddick@House.Texas.Gov](mailto:Tom.Craddick@House.Texas.Gov)

RE: Comments on Interim Charge 2 Re Landowner Bill of Rights

The Texas Oil & Gas Association (TXOGA) is a statewide trade association representing every facet of the Texas oil and gas industry including small independents and major producers. Collectively, the membership of TXOGA produces in excess of 80 percent of Texas' crude oil and natural gas, operates over 80 percent of the state's refining capacity, and is responsible for the vast majority of the state's pipelines. In fiscal year 2019, the oil and natural gas industry supported more than 428,000 direct jobs and paid more than \$16 billion in state and local taxes and state royalties – the highest total in Texas history – funding our state's schools, roads and first responders.

TXOGA appreciates the opportunity to submit comments regarding the Committee's Interim Charge 2, which directs the Committee to review "the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code."

TXOGA supports and adopts the detailed comments on this charge that were submitted by the Coalition for Critical Infrastructure, of which TXOGA is a member. TXOGA supports revision of the LBoR so that it is more readable and straightforward. Specifically, TXOGA urges the Legislature to revise the LBoR and draft the specific form and language directly into statute. This would enhance transparency for both landowners and entities involved in infrastructure development.

Thank you for your consideration of these comments. We look forward to working with the Committee next session on these and other reforms to the eminent domain process.

Sincerely yours,

Cory Pomeroy  
Vice President & General Counsel  
[CPomeroy@txoga.org](mailto:CPomeroy@txoga.org)

August 14, 2020

To: Chairman and Members  
Texas House Committee on Land & Resource Management

From: Texas Pipeline Association  
Thure Cannon, President

Subject: Interim Charge 2 and 3 Comments  
Landowner Bill of Rights and Actual Progress

The Texas Pipeline Association (TPA) appreciates the opportunity to provide comments on the committee's Interim Charge 2 relating to modifying the Landowner Bill of Rights and Interim Charge 3 relating to Actual Progress.

TPA's membership is made up of over 40 member companies who are in the business of developing and operating critical pipeline infrastructure projects which transport petroleum products and natural gas throughout the state of Texas. The member companies in TPA are responsible for operating an overwhelming majority of the pipelines in Texas and engage in gathering, processing, treating, and transporting natural gas and liquids through Texas' vast system of intrastate pipelines.

Regarding Interim Charge 2 which requests a "review in the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code," TPA concurs with the comments from the Coalition for Critical Infrastructure (CCI), of which TPA is a member, that it may be preferable for the Legislature to draft language of the LBoR and place the language in statute. The vast majority of all pipelines built in Texas do not invoke eminent domain and the use of eminent domain is never the industry's preferred approach in acquiring rights-of-way. A fair and transparent negotiation with landowners is a must and TPA supports open communication with landowners. A more straightforward and non-technical LBoR would enhance the process and provide increased transparency for landowners. TPA looks forward to working with the committee to produce a LBoR that reflects these goals and maintains the ability to build the needed infrastructure that makes the economy one of the strongest in the nation.

Regarding Interim Charge 3 which requests the committee to “review what should and should not constitute actual progress to ensure the right of property owners to repurchase property obtained by eminent domain,” TPA also concurs with the comments submitted by CCI. While TPA is unaware of any “actual progress” instances relating to hydrocarbon pipeline development, TPA feels it is important to take into account other types of infrastructure projects and any future changes in law that affects the ability to provide essential infrastructure for Texas. TPA stands ready to work with the committee on proposed reforms relating to this issue.

Again, thank you for the opportunity to submit written comments and we thank the committee for their leadership and service to our great state.

Respectfully Submitted,

Thure Cannon





Representative Tom Craddick  
Chairman  
Land and Resource Management Committee  
1100 Congress Ave  
Austin, TX 78701

Dear Chairman Craddick,

The Texas Real Estate Advocacy & Defense Coalition (TREAD) is a nonpartisan association with more than 600 members from across the state that advocates for and defends landowner rights at the state and local levels. TREAD respectfully submits testimony on Interim Charges 2 and 3 for the Land and Resource Management Committee.

The oil and gas industry is critical to our state's economy and many of our members have benefited from working in the industry but there is a need to reform current state regulations to streamline and expedite pipeline routing. In addition, there are opportunities to improve the condemnation process. We look forward to working with the Land Resource Management Committee on policy language to address pipeline routing reform and other provisions regarding condemnation.

Addressing Interim Charge 2, TREAD supports revising the Texas Landowner Bill of Rights to include a pipeline routing process that includes evaluating all viable routes.

Addressing Interim Charge 3, TREAD supports the Committee evaluating current property owner rights and the property owner's participation in the condemnation process. We encourage review of the oversight of condemnation along with a landowner's repurchasing power.

TREAD Coalition supports the oil and gas industry. The public, and our economy, benefit from the jobs and energy resources. We advocate for a fair and transparent pipeline routing process that provides property owner participation and protections.

Thank you for the opportunity to submit testimony before the Committee. Should you have questions or need additional information, do not hesitate to contact us.

Jessica Karlsruher  
Executive Director  
Texas Real Estate Advocacy & Defense Coalition (TREAD)  
11601 US 290, Suite A101  
Austin, TX 78737  
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512-337-1048

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**From:** Tom Truitt <tom@southwestequip.com>  
**Sent:** Friday, August 14, 2020 4:15 PM  
**To:** Tom Craddick  
**Cc:** tom@southwestequip.com  
**Subject:** Landowner Bill of Rights comments from Tom Truitt

Dear Chairman Craddick and Committee Members,

I am writing you regarding Charge #2 regarding making recommendations to improve the Landowner Bill of Rights and its efficacy. I own property in North Texas near the City of Mesquite and have dealt with several pipeline issues on my ranch including situations with both water and gas companies.

It has been a frustrating experience dealing with these various entities.

I understand that the Landowner Bill of Rights was written for the everyday property owner, but it omits critical information about the condemnation process. There is information in Chapter 21 of the Property Code that needs to be included in this document along with other important elements that a landowner should be made aware of. Those elements include:

1. **Definitions regarding legal terms** of art such as "fair market value" and "certain damages" should be explained.
2. **Critical timelines** have been left out in the document such as when a landowner can rightfully appeal the award given by the Special Commissioners.
3. **Explanations of what constitutes a bona fide offer** should be defined.
4. **Methods of notice** on the various processes via certified or regular mail need to be included.

Additionally, it would be helpful if the document also included the following information:

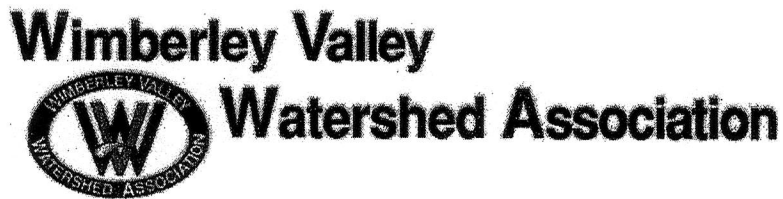
- **Landmen or Right-of-Way Agents** - Roles and responsibilities should be explained. If there is a "code of conduct" for how these agents are to interact with landowners, that would be helpful.
- **Surveyors** - Again, roles and responsibilities should be explained. What kind of notice are they required to give landowners to get on their property? What is their responsibility for negotiating entering property and who is responsible for damages should they arise?
- **Easements** - What are the legal limitations of a landowner once an easement is taken? Who pays the property taxes for that easement?

Finally, I'd like to make the point that the Landowner Bill of Rights needs to be given to the property owner at the beginning of the process - and not "within seven days of the final offer." Landowners should get this document upon first contact of the entity or any person acting on the company's behalf such as the land agent.

I would be happy to talk to any Committee member about my experience with condemnation. Thank you for your consideration.

Sincerely,  
Tom Truitt  
P.O. Box 851597

Mesquite, Texas 75185  
972-222-0220



David Baker, Executive Director  
Malcolm Harris, President  
Scott Price, Treasurer  
Jason Pinchback, Secretary  
Dorothy Knight  
Pokey Rehmet  
Parc Smith  
Vanessa Puig-Williams

August 14, 2020

Honorable Rep. Tom Craddick, Chairman  
Tom.Craddick@House.Texas.Gov  
State of Texas House of Representatives  
Land & Resource Management Committee

Honorable Chairman Rep. Tom Craddick:

Chairman Craddick and esteemed members of the Committee, I represent a 501c3 non-profit that I founded with local landowners in 1996. Today, we provide programs and services to our members, who include private property owners in the Wimberley Valley, the greater Hill Country, and across Texas. We were founded to protect the quality and quantity of water in Cypress Creek and the Blanco River. I have also served as Vice President of Hays Trinity Groundwater Conservation District, and was a founder of the Hill Country Land Trust and Greater Edwards Aquifer Alliance.

Our submission to #2 and #3 among the four Interim Charges you seek is informed by our landowner members and partner organizations in the decades of work we have pursued, preserving and protecting the land and water resources of Central Texas.

Since the Legislature was last in session, WVWA has been instrumental in educating rural landowners about the impacts associated with the Kinder Morgan Permian Highway Pipeline. To the extent the Landowner's Bill of Rights can address the pipeline's special exemption from federal environmental impact assessment requirements, purely because the pipeline was conceived as intrastate, this deserves immediate attention.

Environmental quality for land, water, and wildlife habitat is a community good that cannot be properly addressed parcel by parcel, landowner by landowner. A condemnor owes the state's citizens a reasonable look at the overall impact in totality of a taking, in addition to the impact piece by piece.

To more specific points, please recognize that good faith negotiations can only occur between comparably equipped parties. Too often, a landowner is at a disadvantage to a much larger, better funded, highly motivated condemning entity. The Landowner's Bill of Rights should provide for a reasonable timeframe and sharing of public information to offset the disparity of resources between condemnor and landowner.

#### Appraisals

Inasmuch as appraisals cannot adequately account for a taking, as opposed to a voluntary sale between willing parties, landowners deserve compensation above mere market value to account for unwanted condemnation.

An even easier action would be to close the loophole in the law that allows a condemning entity to submit an update appraisal immediately before a Special Commissioners hearing,

while a landowner is required to submit an appraisal at least three days before. Both parties should be on equal footing, submitting three days before.

#### Easement Valuations

Landowners should be allowed to bring in evidence of freely negotiated transactions on comparable easements. This is the only fair way to assess damages—by considering all comparable transactions in condemnation proceedings.

#### Civil Condemnation

Civil condemnation suit provisions are in practice a bridge too far and too expensive for landowners. Condemnation is a costly legal process with inequities at all stages of the process that mean landowners cannot be made “whole” by any reasonable interpretation. The process favors corporations’ superior access to capital and legal representation over individual Texans and their private property owners’ rights. The process should be more fair to landowners, allowing their voices to be collectively represented, rather than one by one.

#### Possession and Use Agreements

All uses and restrictions of the condemned property must be disclosed, and after condemnation properly enforced. The condemner must be reliably compelled to abide throughout the covenant, no matter who owns property in the future.

Landowners have found that condemners have violated provisions outlined in possession and use agreements regarding access and use of their land, but have been challenged to get proper enforcement. Provisions need to be enforceable. If they are not honored, a landowner should be allowed to recover damages from the condemnor.

#### Lack of Bonding

Any jury award at the end of a condemnation legal proceeding should be paid or insured by a bond in that amount from a condemnor to guarantee payment to the prevailing landowner. Bankruptcy by a condemning entity should not be a strategy to deny payment of just compensation to landowners for the taking of their land.

WVWA is aligned with the principles espoused by Texas Landowners for Eminent Domain Reform, and finds common ground in the proposals and supported bills presented on the \_\_\_\_\_ website.

In the upcoming Legislative session, we commend your committee to right the balance of power and consideration and strengthen the Landowner’s Bill of Rights.

With great respect,



David Baker, Executive Director  
Wimberley Valley Watershed Association  
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Phone 512-722-3390