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GOVERNOR



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State of Louisiana

DEPARTMENT OF ENERGY AND NATURAL RESOURCES
OFFICE OF MINERAL RESOURCES

May 30, 2024

Office of the Secretary
Louisiana Department of Energy and Natural Resources
617 N 3rd St.
Baton Rouge, LA 70802

Re: Considerations for Safe and Effective Pipeline Development in Louisiana

To the Office of the Secretary:

I write to you on behalf of the Office of Mineral Resources, which works in conjunction with the State Mineral and Energy Board to represent the State in its capacity as a land and mineral owner. Our mandate is to manage Louisiana's mineral resources in a manner that fosters safety and longevity, while also maximizing their economic value. We work exclusively to protect and promote the interests of Louisiana citizens, who are the beneficiaries of State minerals and all of the value generated therefrom.

It is against this backdrop that we address certain natural gas pipeline development issues that have given rise to legal and regulatory conflict and land rights disputes implicating our State. These issues devalue State minerals, pose safety and environmental concerns to State lands, and create a chilling effect on industrial development statewide. The resulting economic and social costs are ultimately borne by Louisiana citizens, whose interests are our highest priority. As such, we offer the following considerations for carrying out safe, efficient, and compliant pipeline development operations in our State with the goal of generating value, not inhibiting it.

I. Harmony between pipeline developers and regulators:

The State's interests are best served through constructive cooperation between developers and regulators, whose rules and procedures are designed to promote safe and efficient development. We advise pipeline developers to coordinate with regulatory authorities from the inception of project planning—whether FERC and PHMSA for constructions subject to federal jurisdiction, or the Louisiana Office of Conservation for pipelines within State jurisdiction. Precedent shows that attempts to construct unregulated pipelines are often counterproductive, as resulting uncertainty between developers and intersecting operators and landowners causes conflict, project delays, and safety concerns that diminish any marginal benefit of unregulated construction. These issues can be avoided through transparent cooperation with State and/or

federal regulatory authorities, whose resources and expertise bring value to industrial planning and development processes.

But optimal productivity is more than a one-sided effort. The State legislature can promote productivity by addressing statutory gaps causing tension in the industry. Additionally, federal and State regulators should work to correct regulatory inefficiencies by implementing clear and predictable requirements, such that industry actors can incorporate compliance into development plans without jeopardizing project value. This process includes identifying and addressing gray areas between federal and State regulatory jurisdiction, some of which have recently prompted legal battles and stalled positive development in our State.¹ Importantly, jurisdictional ambiguity should not be viewed as a strategy for unregulated development. But regulatory focal points of clarity, predictability, and efficiency can thwart such future tensions.

II. Contractual clarity and legal considerations:

Pipeline developers and landowners should carefully consider implications of land rights agreements and ensure that contractual intent is memorialized in clear and unambiguous language. Otherwise, title disputes and litigation diminish property value and cause costly and time-consuming development delays—ultimately increasing the cost and burden on both consumers and industry actors. Whether ambiguous or not, all contracts must align with State law and policy, which favors landowners' free and unencumbered use of immovable property and requires contracts to be interpreted accordingly. In line with this policy, pipeline developers should avoid land rights agreements or interpretations thereof that jeopardize the public interest by causing market volatility, restricting competition, or unreasonably encumbering public or private land.

III. Planning, notice, and coordination:

We also encourage pipeline developers to emphasize advance planning of construction operations and prioritize notice and communication with all parties whose rights are implicated by prospective projects. Coordination between developers, regulators, and landowners is a proven method of avoiding and resolving conflict, as transparency yields productivity by minimizing uncertainty. Pipeline construction plans should include detailed route coordination efforts, land-rights procurement plans, and schedules for pre-construction communication with regulators and property owners in the project area. This way, regulators and intersecting landowners can clarify safety and scope requirements, and developers can avoid sunk costs by planning construction operations accordingly. These considerations allow industry actors to minimize conflict and allocate their resources to constructive operations. For additional guidance on information transparency and public engagement strategies, developers should refer to American Petroleum Institute Recommended Practices 1162 and 1185.

IV. Safety:

Compliance with the above-referenced considerations will no doubt generate opportunity and value for both industry and the State as a whole. But development should not come at the cost of safety, as the public interest in healthy and sustainable resources outweighs its interest in short-

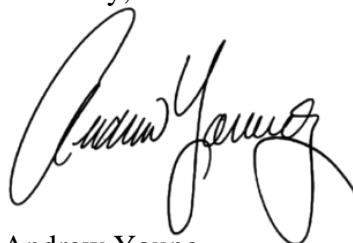
¹ See Energy Transfer LP; Notice of Petition for Order to Show Cause, 89 FR 27424-02 (April 17, 2024).

term economic prosperity. Conveniently, however, safety is also a byproduct of each of the ideals previously addressed in this letter—including regulatory harmony with industry best practices and communication of safety parameters with all land and pipeline owners whose property might be implicated by development.

V. Conclusion:

Natural resources are the lifeblood of Louisiana’s economy—they provide our State with the opportunity for prosperity and international significance for generations to come. But their full value is left untapped without productive means of transportation to consumers. Policymakers and industry actors can eliminate barriers to productivity through a collaborative emphasis on safety, transparency, and regulatory clarity. To be clear—this letter does not address any legal questions before the courts, nor does it seek to engage or alter the Office of Conservation’s regulatory function. Rather, we offer these considerations in hopes of maximizing the value of our State’s minerals by alleviating stress on the industry that transports and markets them.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Young". The signature is fluid and cursive, with a large initial "A" and "Y".

Andrew Young
Assistant Secretary – Office of Mineral Resources
Department of Energy and Natural Resources