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Guidance on Practice for Land Acquisition

GP 43-29

BP GROUP
ENGINEERING TECHNICAL PRACTICES

Foreword

This is the first issue of Engineering Technical Practice (ETP) BP GP 43-29.

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1. Scope

The GP provides guidance on the issues to be addressed in acquisition of land or wayleaves for construction, operation, and maintenance of cross country pipelines. The document defines a structure for the land acquisition process and is as independent as possible of the widely differing legislative and regulatory regimes BP is likely to encounter around the world.

The document is intended for use by project promoters, project directors, commercial teams, and project managers and stresses the need for local lands specialists and appropriate legal support from the earliest stages of a pipeline project.

2. Normative references

The following normative documents contain requirements that, through reference in this text, constitute requirements of this technical practice. For dated references, subsequent amendments to, or revisions of, any of these publications do not apply. However, parties to agreements based on this technical practice are encouraged to investigate the possibility of applying the most recent editions of the normative documents indicated below. For undated references, the latest edition of the normative document referred to applies.

BP

GP 06-32	Guidance on Practice for Cathodic Protection of Onshore Pipelines.
GP 43-05	Guidance on Practice for Environmental and Social Impact Assessment of Pipelines.
GP 43-10	Guidance on Practice for Route Selection for Pipelines.
GP 43-24	Guidance on Practice for GIS and Mapping for Pipelines.
GP 43-43	Guidance on Practice for Construction Camp Requirements for Onshore Pipelines.
GP 43-55	Guidance on Practice for Pipeline Right-of-Way Management.

3. Terms and definitions

For the purposes of this GP, the following terms and definitions apply:

Corporate

The BP group, implying global policies issued by the BP group or the person/s within the BP group with assigned authority over the organisation being set up.

Permanent Wayleave

The wayleave required for ongoing operations and maintenance of the pipeline.

The Organisation

The organisation that is to be set up to operate a pipeline asset in accordance with the guidelines of this document.

The Operator

The organisation charged with the legal, statutory, or BP corporate responsibility for managing the technical and operational integrity of a pipeline asset.



The Promoter

The organisation charged with the responsibility of executing the pipeline project.

4. Symbols and abbreviations

For the purpose of this GP, the following symbols and abbreviations apply:

AGI Above Ground Installation

CP Cathodic Protection – application of galvanic device or process to change the electropotential of the pipeline relative to the ground in which it is laid to prevent corrosion.

GIS Geographical Information Systems.

PTO Permit to Operate – permission from the regulatory authorities to operate the pipeline following satisfactory verification of fitness for purpose of the pipeline design and construction and due diligence of the pipeline operations management system.

ROW Right of Way – corridor of land in which the pipeline is installed. May or may not be owned by the pipeline owner, but legal right of way for the pipeline is conferred by the appropriate authority.

NGO Non-governmental Organisation – generally all other organised non-statutory interested parties or pressure groups with interests in environmental, social, human rights etc.

5. Land acquisition strategy**5.1. General**

- a. A land acquisition strategy shall be prepared at the commencement of a pipeline project during the CVP Appraise stage before significant design and routing work has been undertaken.

Land acquisition is a fundamental part of the overall project in terms of cost, programme, and, potentially, resource so selection of a sound strategy at an early stage can save significant costs in both construction and subsequent operation. In addition the handling of these matters during the project has a major impact on subsequent dealings with landowners and authorities by the pipeline operator.

Land acquisition costs are dependant on the need to lease or purchase the land; furthermore land reinstatement costs can be a liability for many years after the construction of the pipeline and may drive the acquisition strategy and overall commercial viability of the project.

- b. The overall project programme shall take into account the potential timescales for obtaining lands and necessary approvals.

The outline route of the pipeline probably has been decided at the screening study stage. The steps required to finalise this route and secure the necessary agreements requires significant resource and lead-time. The process depends on local legislative requirements and it is essential that the project management is supported by appropriate land and legal professionals.

- c. The land acquisition strategy shall address the potential for “ransom strips” which may be used by landowners as a lever to negotiate enhanced compensation and thereby threaten viability of the pipeline route.



5.2. Legislative framework

- a. The land acquisition strategy shall meet the requirements of local, national, or international legislation; however, in the absence of suitable legislation the strategy should follow good industry practice or national legislation for other linear infrastructure/utility type construction.
- b. Specific areas of legislation that should be considered are:
 1. Any overriding laws or rules for the routing and construction of pipelines.
 2. Any overriding laws or rules for the compulsory purchase of land.
 3. Any legislation aimed to help routing and construction of infrastructure type projects and associated facilities.
 4. Any legislation appropriate to state companies or government departments that may be applicable if these were partners in the promotion.
 5. Any overriding legislation as to the validity of restrictive covenants on land due to the easements.
 6. Any legislation with regard to utility systems that covers the pipeline in question.
 7. Does the legislative framework include for dispute resolution and right to appeal by both parties?
- c. If national legislation does not exist, it may be appropriate to engage the national government to propose suitable legislation is put in place.
- d. National regulations:
 1. Should provide authority to a promoter.
 2. Should include appropriate compulsory purchase/rights powers.
 3. May assist with any local disputes.
 4. Should be a major benefit in the routing of a pipeline.
- e. Discussions with appropriate government departments on land acquisition should be conducted at an appropriate stage within the overall project strategy.

5.3. Regulatory framework

- a. The land acquisition strategy shall meet the requirements of local, national, or international regulations, as well as the impact of Host Government Agreements, Inter-Government Agreements.
- b. In the absence of suitable regulations the strategy should follow good industry practice or national legislation for other infrastructure/utility type construction.
- c. Specific areas of legislation that should be considered are:
 1. Any national or local rules for the routing of the pipeline.
 2. Any overriding rules for pipelines and associated facilities, does the route need to be purchased, leased, or can the pipeline be secured by a wayleave/easement.
 3. Local regulation for land use planning and the impact of a pipeline and associated assets on both the current designation of land and future application of the regulations.
 4. Regulations to undertake assessments of environmental impact, societal impact, and human rights.



5.4. International agreements/principles

The land acquisition strategy shall meet any international agreements or principles set by partners, national governments, or lenders such as the World Bank, EBRD, etc. including:

1. Do lenders set standards or requirements for resettlement, human rights, local involvement in construction, or future operation of the asset?
2. Specific requirements of the pipeline route and areas that must be avoided.

5.5. Key partners (e.g. national oil companies)

Partners such as state organisations may have powers for routing pipeline type assets that may be greater than those available by legislation; in addition they may have access to national government owned utility corridors etc. These powers may influence the overall routing strategy, commercial viability, project feasibility, and timetable for securing the route, and may influence selection of partners in the overall promotion.

5.6. Public disclosure strategy

- a. The land acquisition strategy shall include linkages to the public disclosure strategy for the overall project.

Once the land acquisition and routing work commences there is contact with external bodies and the general public.

- b. The lands team shall be clear what information will be declared to whom and by whom. Such a strategy shall cover disclosure at an international, national, and local level.
- c. The strategy shall, in particular, address the need to engage with appropriate NGOs likely to show an interest in the project land acquisition matters.

5.7. Compulsory rights/expropriation options

- a. The land acquisition strategy shall define the dispute resolution procedures.
- b. Such a process may include:
 1. Negotiation.
 2. Mediation.
 3. Routing options (avoid disputed area).
 4. Expert arbitration.

The final step, if legislation exists, is compulsory rights, whereby there are options for a Promoter to apply to a governmental body for compulsory rights to acquire the pipeline route. It should be noted that this can be a lengthy process in which the promoter may need to demonstrate why compulsory powers are required. In addition, this may have a negative impact on overall public relations and project feasibility.

- c. This process may be essential if there is no alternative for a specific route.

5.8. Land purchase vs. wayleave acquisition

The key early step within the overall strategy is to determine the legal requirements for land ownership for construction and operation of a pipeline in the chosen country. Local regulations may require that the land on which the pipeline is to be laid needs to be owned by the Promoter or he may only need an Easement (long term lease). This requirement has an impact on the finalisation of the route, timescale for completion of this stage, and the overall cost of the project.

