

# The Search for

# Abandoned Pipelines



BY DAVID HOWELL, SR/WA

I salvage pipeline. Most people have never even heard of this – that’s because I may be the only person you’ll ever meet that does this. Having been in the oil industry for 53 years, I can say that this industry has incredible opportunities. It has certainly treated me well.

My career in this unusual field started when I became the only person ever to get a permit to bring used drilling equipment out of Venezuela. I delivered a work-over rig that we had fabricated to a company over there and had a permit to bring it out. It turned out this was a blanket permit, and I realized the potential to buy and load a shipload of used equipment from a drilling company with long term operations in Maracaibo. They had accumulated a lot of drilling equipment over a long period. This strategy turned out to be profitable as there was a drilling boom going on in the United States, and all kinds of drilling equipment were in short supply and bringing top dollar.

On one salvage job some 28 years ago, I bought a lease for salvage of the tanks, separators, and related surface equipment and had to plug a couple of wells for the recoverable down-hole pipe. In addition, there was an eight mile long, eight inch pipeline that I had to remove as part of the deal. I had never done any pipeline salvage, but proceeded, learned how to do it and found the line was filled with diesel that the operator had left in order to preserve the pipe. The pipe was the right weight and size and we were able to sell the diesel and convert the pipe to down-hole surface casing which worked fine for shallow applications. There was a shortage of pipe of this type at the time.

The oil field really hit bottom with \$10 a barrel oil in the eighties, and I was having trouble finding a way to make a living in the industry. It was then that I remembered that pipeline salvage job. I knew I could find a way to make some money out of the salvaged steel (aside from the oil industry), so I started writing letters to pipeline owners and operators, soliciting them to buy the out-of-service, abandoned, idled or uneconomic pipelines. Sure enough, the structural steel market was strong, and I was able to salvage the pipelines I bought and sell the tubular steel into the steel piling market.

Most people thought that a buried pipeline had no value unless it had product going through it. As a result, this business potential had been completely ignored until I came along. I am proud to say that I was the first to pursue this kind of business. However, as the high cycles don’t come around very often, I’ve been required to be nimble in order to stay successful in the oil field all these years.

## What is an abandoned pipeline?

I have been unable to find a definition of abandoned pipelines that most people or companies would accept. In the end, most pipeline companies establish their own definition and their assessment generally goes unchallenged. Out of sight, out of mind.

In Texas, a pipeline is designated as abandoned by statement of the company doing the abandoning, along with notifying the Texas Railroad Commission (TRRC), or local taxing

authorities or appraisal districts that a line has been abandoned. This does the trick in most cases although it does not necessarily mean that a company is disclaiming ownership or that they no longer desire to maintain the pipeline or right of way. Oftentimes, a company can relieve itself of the responsibility of paying taxes or maintaining a pipeline or right of way if they make the claim to regulatory authorities that the pipeline is abandoned, but they keep it on the books anyway. If challenged, an easy out is to say it was only idled and still in use as it has pressure of some sort.

Most regulatory agencies basically state their criteria for abandoning a pipeline, but do not deal with ownership. As a result, the question of ownership remains vague and open to interpretation. The Pipeline Safety Office of the TRRC publishes maps showing which pipeline they deem abandoned, but this is unreliable, as pipeline operators may still claim ownership, but disclaim responsibility for maintaining the right of way.

## Use It or Lose It

The heart of ownership of what might be called abandoned pipelines lies with two factors; contractual statements and the intent or appearance of intent.

### 1) Contractual Statements

The law of the right of way is determined by the right of way agreement. Most contracts distinctly spell out the terms of the agreement, however most landowners and many pipeline operators seem to forget about these contracts. It is important to remember that, while most contracts are boilerplate repetitions, many vary as well. If there are deviations in the right of way agreement for a single segment on one man's property, portions of that pipeline could revert back to the landowner under the contract terms, which could jeopardize the entire easement. I recently encountered this on an old pipeline in Fort Bend County, Texas, where on one segment, the right of way had expired after termination of use, while on others, the right of way had expired at varying time periods and some only at the option of the pipeline operator. The pipeline is not viable when segments are missing.



Encroachment issues affecting right of way.

### 2) Intent or Appearance of Intent

The 'out of sight, out of mind' principle is always at work in the area of buried pipelines. As a result, an operator will frequently overlook the complete and proper maintenance of out of use pipelines without checking or adhering to the right of way agreements. Most of those agreements will state that the grantor has the right of egress, replacement, repair, maintenance, and so forth. The key word here is maintenance - with the right also comes the responsibility. Case law has shown repeatedly that easements of any sort can be lost when not used or maintained properly. But in the case of pipelines, the issues of "non use" and "failure to maintain" are rarely raised by the property owners.

## Right of Way Contracts

Contractual law, or the right of way agreement, is a very strong document, but intent to abandon is almost equally as strong. The two together present an argument that is hard to defend.

For several years, I tried to buy a particular out-of-service pipeline from a well known energy company. I made an offer, and then increased the offer substantially, but their legal department stopped the deal and refused to sell. On further investigation, we found that contractually, the right of way agreements had basically reverted back to the landowners either at the time the use of the line terminated, 12 months later, or 24 months later. Some of the agreements stated that the line should be removed when it is no longer being used for its intended purpose. A few months later, I inquired about this line and was told by the company that it was to be abandoned in place. At first I wondered about the logic behind this, but then concluded that the company's legal department had looked at the right of way agreements and found that they could not sell the line because they no longer owned it. The line had legally reverted back to the landowners according to the right of way agreements.

We all know that we could argue that a line has pressure on it and is in use with 20 pounds of nitrogen and so forth. However, in this situation, the pipeline went from a refinery to an abandoned and dismantled storage facility. Signs had not been maintained or replaced and the cathodic was no longer serviceable, though the right of way had been mowed. The line had essentially been out of use for at least five years. In my opinion, this was a situation where intent to abandon was evident.

There are many pipelines in the country that are in this same state. These are all subject to be taken over by the landowners, who may actually be the rightful owners, and can then be sold or bartered in some way to salvage/recovery companies like ours, or taken over by other pipeline operators. Sometimes they are taken over anyway—without any of the protocol. Not using or maintaining a pipeline has become a risky business, especially in this high tech world where information regarding the location and status of these properties is available for the asking (or the paying).

It is the right of way contracts by which everything must be determined. Many times these are forgotten by landowners, especially when land changes hands frequently. They are often forgotten by pipeline operators as well. They are like real estate leases of any kind. We file them and forget about them until a problem arises. But they are the law that governs the right of way and generally whatever is in it.

## Intent to Abandon

There are many factors to consider when determining intent, including:

- Whether the line is idled or abandoned
- Length of time the line has been idled or abandoned  
Whether the company continues to maintain, test, and /or patrol the line
- Whether the company continues to show the line and or the easement as an asset in its records and or continues to pay taxes on the line and/or the easement
- Whether the company has idled or abandoned the facilities at either end of the line, thereby making it unlikely that the line would be returned to service
- Whether the condition of the line is such that returning the line to service is cost prohibitive



Right of way signage and cathodic protection equipment in despair.

- Whether the company has released or abandoned segments of the easement thereby making it impossible to use the line or a replacement line in this particular route at some time in the future

It should be noted here that when a pipeline is abandoned, ownership of the pipe in the right of way goes to the landowner, as it is considered a fixture according to case law. Most state regulatory agencies have no guidelines for abandonment of pipelines, but many go by federal regulations.

For example, in the State of Texas, the following guidelines are used:

1. Crude lines don't have to be removed once abandoned or out of service.
2. They must be safely disconnected from operating pipeline systems.
3. They must be purged of combustible materials.
4. They should seal abandoned facilities left in place to minimize environmental hazards.
5. They are not required to remove signs.

- 6. It is the company's choice to notify the TRRC to file T-4 abandonment notification.
- 7. Maintenance of the right of way is only required if the line or leaks are not visible during a fly-over because of trees or overgrowth.

Salvaging pipeline either cross-country or within a lease, however, are totally different animals and have virtually no regulations or guidelines.

### The Liability Factor

The assets or liabilities associated with abandoned pipeline are typically low on the list of priorities for most companies. The lines are buried and generally don't cause problems – again, out of sight, out of mind. Usually when I get a call from a company about the disposition of an out-of-use pipeline, it is because there are liabilities. They are required to remove it by contract, environmental concerns or hazard to livestock, hunters or surface operators. In these cases, I investigate very thoroughly. Some companies will never sell unless a pipeline is a total liability. They also want to buy lines at salvage prices and then put them into some kind of service or try to find a use for the right of way.

Nonetheless, some companies may recognize these pipelines as liabilities and will sell them bundled with some operating assets in order to get rid of them. I recently experienced this – I had identified a line I wanted and the company recommended I make an unsolicited offer. They responded that they might consider my offer, but would bundle that line with four other inactive lines and two active lines in a package to be offered later this year. This is a smart way for a large company to rid itself of the liabilities of owning these uneconomic pipelines.



A neglected right of way.

I call some pipelines uneconomic because of the way they are usually handled. Most companies do not have an asset management team that has the authority to look at all aspects of unproductive properties. In the case of pipelines, they oftentimes go to business development or commercial departments, where they are generally a low priority, especially during an expansion period like the one we are now experiencing.

The cost of maintaining these properties can be substantial. An idle pipeline is costly to operations in terms of relocations to right of way in terms of landowner problems and one-calls; legal; and of course, to the tax department for what they are required to pay. These expenses are often overlooked. Overall personnel costs are incalculable.

Another concern is environmental. In many cases, no one really knows what might be lurking in those old lines. Some could not be pigged or cleaned in any way due to the configuration or vintage of the pipe. Most major companies fear selling old abandoned pipelines for salvage as no one knows what liabilities to expect. The policy with some has been to let sleeping dogs lie, or wait to unload these nonproductive lines with some active or marginal lines to another company of sufficient size and stature, so as not to create problems down the road.

Once I was practically given a 40-mile, eight-inch line from an energy company. The line stretched from a depleted oil field to a storage terminal in an environmentally sensitive area near a bay and in the middle of what had become a suburban area of a small town. I wanted the line, as that particular size was in great demand at the time and I was eager to do the deal. The catch was that I also had to take two large storage tanks (250,000 barrels)



A crude storage tank like this one can be salvaged for plate.

as part of the deal. Naturally, the tanks had several inches of sludge, basic sediment and water, etc., that had accumulated over the years. We learned how to clean tanks through that experience and managed to sell the sludge to a reclaimer. The tanks were carefully cut down and eventually recycled as large diameter structural pipe.

The energy company relieved itself of a liability and an environmental expense, and once again, we see that one man's trash is another man's treasure.

### **Finding Unused Pipelines**

Over the years I have targeted various departments and people to solicit for the purchase of pipelines, including executives and owners of companies, business development specialists, and even tax and legal departments. I have had enormous luck with right of way departments and personnel, as these people are accustomed to handling one calls, complaints from landowners and other administrative tasks that are generally considered unpleasant. These tasks can be especially painful if a line is out of service and there are no plans for any future use.

It's interesting to note that, regardless of which person or which company I contact, when I ask whether they have any idled or abandoned pipelines for sale, they almost always say no and expect me to go away. The only approach that has worked for me is to find the property myself and make an unsolicited offer. I do this by using personal know-how, scouts I have in the field, our proprietary database, mailings I send, and of course, networking through professional and voluntary association groups.

Once I locate a line, I make a formal offer, clearly identifying the property and including a specific dollar amount. A middle management guy cannot hide a financial offer or file it away. He is forced to deal with it or take action in some way by accepting or rejecting my offer, or by passing it along to someone else. If I have one secret to my success in this business, it would be my persistence in motivating people to act. Once I start the process, I stay until they get tired of me. Sometimes they will sell me the line in question just to get rid of me. Benjamin Disraeli once said, "The secret to success is constancy of purpose." Determination and persistence trumps almost anything.

Sometimes finding a pipeline leads to a discovery stage where we must thoroughly investigate the line in question. This may require reconstructing alignment sheets, if we have not obtained

them, and finding out about the construction process, landowners, and the contracts or right of way agreements. Alignment sheets have the exact geographical bearings, pipe specifications, pipe coating information, depth of pipeline, terrain, landowner information, as well as replacement and repair data. These plans are of key importance to my type of operation. If we do not have them furnished, we build them from scratch.

Once I have the right of way agreements and alignment sheets, I can determine all I need to know about a pipeline no matter how old it might be. We have removed lines that have been in the ground for 80 or 90 years. Many are in great shape and can go on to piling jobs or be recycled in some way.

### **Market Opportunities**

Many people are interested in what we do with the pipe once we take it up. They usually assume it is sold for scrap. However, we also use this material for a range of structural purposes, such as flagpoles, bridge railings, culverts, piling, road bore casing, rat-hole pipe for oil and gas well drilling operations, bollards and rehab for reuse as pipeline. In fact, many lines are relays from a time when lines were taken up and moved after a field was depleted during the thirties or in the war, when steel was unavailable. Sometimes we can use the line for another purpose like water transportation.



One of many uses for structural pipe is found on this bridge railing.

I recently did an appraisal of an old pipeline that had been sold several times and went through College Station, Texas. The city wanted to buy this 23-mile line from a salvage operation, but the charter required an appraisal. The line went by a wastewater plant and two major parks that were owned by the city. It could be a perfect fit for transporting irrigation water, and it appears that the city will be able to buy the line for a little over salvage price and save the city several million dollars. When this deal is completed, it will be a great asset for the city.

The lines can also be reused for fiber optics or other cable. A last resort is scrapping, and we do plenty of that as well. But we could not afford to buy a line in the ground exclusively for scrap value except at a time of very high prices. Essentially, there are various grades of steel, depending on the vintage, and as such, they are basically all tubular steel, which is always a commodity.

## Serving as Agents

On occasion, we have served as brokers or agents in purchasing pipe for major companies when they did not want the market to know the identity of the purchaser. We have also assembled bits and pieces to put together for operators for the same reason.

Recently, a well known energy firm purchased a company because it offered valuable assets they wanted in a specific region. Oftentimes there is one main asset needed and the other assets are overlooked or disregarded. The energy company called and asked me to purchase a jet fuel line which was out of use. It was uneconomic for salvage value, but I went to look as a courtesy and noticed it ran alongside another line for most of its 23-mile length through the city. With one call, I made a sale to another company that furnished gas utilities to that city and they accepted it at my asking price. I made a quarter million on the trade, but had I done a little more research, I might have made a couple of million.

## Appraising Pipelines

We are one of the very few companies that value or appraise pipeline in the ground and within a right of way. We value the entire package of right of way, pipe, present and future economic value, throughput, highest and best use or alternate usage, salvage, replacement, and so forth. All of our methods include those that real estate appraisers use, such as the income approach, comparison and cost analysis. Altogether, we also



A poorly maintained right of way.

include an additional 40 factors in our valuations that are unique and specific to the pipeline industry.

Appraisals or valuations are done in preparation for sale or divestiture of a pipeline, re-adjustment of state and local taxes, estate settlements, settlement of partnership and divorces, value for salvage, and in preparation for purchase of pipelines, as well as to satisfy requirements of lending or funding institutions.

Appraising pipelines is a highly specialized field and unlike any other kind of appraisal. As there are no two pipelines or markets alike, each case is entirely unique. There are no real comparisons to draw from, so each scenario must be built from scratch. We do this work because there is a demand for pipeline valuations and it keeps our company in the mix for other deals like salvage and brokerage which are more lucrative. Like I said, one man's trash really is another man's treasure. ●