

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

**MARITIMES & NORTHEAST
PIPELINE, L.L.C.,**)
)
)
 PLAINTIFF)
)
v.)
)
**1.43 ACRES OF LAND, MORE OR
LESS, IN THE TOWN OF LISBON,
COUNTY OF ANDROSCOGGIN,
STATE OF MAINE, ET AL.,**)
)
 DEFENDANTS)

Civil No. 99-236-P-H

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I presided at a bench trial in this case on December 6, 1999, on Count I of the Amended Complaint. These are my findings of fact and conclusions of law.

FINDINGS OF FACT

1. Maritimes & Northeast Pipeline, L.L.C. (“Maritimes”) has been engaged in acquiring easements for a gas pipeline through a process of eminent domain and contractual negotiations.
2. In obtaining the appropriate certification from the Federal Energy Regulatory Commission (“FERC”), Maritimes has had to make various filings.
3. The location of the pipeline has changed as a result of the consequences of environmental impact statements and the attempts to accommodate landowners’ preferences.
4. With respect to the land owned by David Mockler, no route changes have occurred since July 31, 1998, when FERC granted a certificate of public convenience and necessity.

5. Negotiations between Maritimes and Mockler did not begin until the fall of 1998.
6. On September 28, 1998, Mockler voluntarily signed a grant of easement giving an easement to Maritimes to build the pipeline over his property.
7. The written grant of easement contained both a written description of the location of the right-of-way and a diagram.
8. The written description and the diagram reflect the location of the right-of-way as approved by FERC in July of 1998.
9. Mockler claims that he believed the pipeline would cross his property at a different, less disruptive, location because of the location of earlier surveying stakes. He also claims that he neither read the easement grant before signing it nor looked at the attached diagram showing the actual location.
10. Mockler has presented no evidence of any misrepresentation by Maritimes or any of its employees. The best that can be said for Mockler's case is that he assumed the location of the earlier survey markers would be the location of the easement and declined to read either the easement he signed or the attached diagram.
11. Maritimes paid Mockler \$11,000 for his easement and \$1,000 for any damage caused by the construction of the pipeline, a sum within the range of value estimated by its appraiser.

CONCLUSIONS OF LAW

1. In the absence of fraud or misrepresentation, the grant of easement voluntarily entered into by David Mockler and for which he received payment, remains in effect.
2. Mockler has failed to prove fraud or misrepresentation. See Kuperman v. Eiras, 586 A.2d 1260 (Me. 1991); Mileski v. Dorey, 559 A.2d 339, 339-40 (Me. 1989).

3. Therefore, Maritimes owns an enforceable easement over Mockler's property as described in the grant of easement.

4. Accordingly, the Clerk shall enter declaratory judgment in the plaintiff's favor on Count I.

SO ORDERED.

DATED THIS 7TH DAY OF DECEMBER, 1999.

D. BROCK HORNBY
UNITED STATES CHIEF DISTRICT JUDGE