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September 17, 2021

Chairman Richard Glick and
Commissioners Dnaly, Clements and Christie
Federal Energy Regulatory Commission
888 First Street NE
Washington D.C. 20426

Re: Spire Pipeline, Docket No. CP17-40
Update on Spire's Continued and Unlawful Use of Eminent Domain
To Secure Rights to 62 Properties for Now-Invalidated Spire Pipeline

Dear Mr. Chairman and Commissioners,

My firm represents numerous landowners along the Spire Pipeline in Jersey, Scott and Greene Counties, Illinois and St. Charles County, Missouri. This letter updates the Commission on Spire's continued efforts to obtain legal title to 62 tracts of property needed to continue operation of the Spire Pipeline, notwithstanding that the United States Court of Appeals for the D.C. Circuit invalidated the certificate and the Commission has issued only a 90-day temporary certificate.

As the Commission is aware by now, Spire has equitable possession via an injunction of 62 tracts of land crossed by its pipeline. Yet, a year and half after the project went into service in November 2019, Spire *still* failed to secure legal title to the tracts, preferring instead to allow these condemnation cases to wind their way through the courts. Now that the D.C. Circuit has invalidated the certificate, Spire no longer has authority to use eminent domain to take the properties under the Natural Gas Act or the Fifth Amendment of the United States Constitution which prohibits private companies from taking property unless for public use. Furthermore, once the D.C. Circuit mandate is issued, Spire will be in trespass and these 62 tracts and the federal district courts will have no choice but to eject Spire from the properties.

Despite this urgency, Spire has continued to refuse to negotiate easement rights with the landowners. This is deja vu all over again because as Chairman Glick observed in his original dissent from the Spire certificate order, Spire failed to

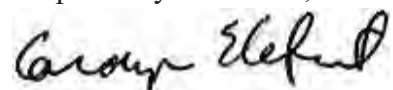
demonstrate that it had worked with landowners to acquire rights at that time. Now, denuded of the power of eminent domain, one would expect Spire to have approached counsel for the landowners (the majority of whom are represented in the federal court proceedings).

Yet instead, Spire is intent on ramming through the eminent domain proceedings in the federal courts. In the Eastern District of Missouri where approximately 35 cases are pending, Spire has asked the court to schedule hearings for these cases. *See Attachment 1.* And in the Central District of Illinois, Spire filed fifteen motions for summary judgment and exclusion of evidence which would have the effect, if Spire prevails (which it will not) of taking landowners' property without so much as allowing them to testify in court! *See Attachment 2.*

Seeking to move forward with hearings and filing motions to take property in perpetuity for a project that is on the verge of shut-down poses an enormous financial burden to landowners. Each hearing costs landowners thousands of dollars for expert witnesses and attorney fees, while taxpayers pay the cost of hearing five hearing commissioners to sit through weeklong trials and deliberate to the tune of \$90/hour. Meanwhile, responding to fifteen motions is likewise an enormous cost. And Spire itself is spending tens of thousands of dollars on these legal shenanigans after already burdening ratepayers with the cost of a project that is likely to be mothballed.

As the Commission deliberates over the future of this project and whether to allow it to continue to operate, it must take into account Spire's steadfast refusal to resolve these issues with landowners not only to their detriment, but to the detriment of the public interest as well.

Respectfully submitted,



Carolyn Elefant
Law Offices of Carolyn Elefant, PLLC

Attachment 1:
Spire Motion for Scheduling Conference (September 10,
2021) filed in federal district court, ED Missouri.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SPIRE STL PIPELINE LLC)	
)	
Plaintiff)	Cons Case No. 4:18-CV-01327
)	
vs.)	THIS DOCUMENT APPLIES TO
)	ALL CASES AND TRACTS
3.31 ACRES OF LAND, MORE OR LESS,)	
SITUATED IN ST. CHARLES COUNTY,)	
STATE OF MISSOURI et al.,)	
)	
Defendants.)	

PLAINTIFF SPIRE STL PIPELINE LLC’S REQUEST FOR A SCHEDULING
CONFERENCE AND MOTION FOR ENTRY OF AN AMENDED SCHEDULING ORDER

Plaintiff Spire STL Pipeline LLC (“Spire”) respectfully requests the Court set a scheduling conference and subsequently enter an Amended Scheduling Order pursuant to Fed. R. Civ. P. 16 outlining a discovery plan and setting the Commission hearings on the remaining tracts. In support of its request, Spire states:

1. The parties have completed evidentiary hearings in Schaeffer (MO-SC 312.000), Poggemoeller (MO-SC 307.000) and Machens (MO-SC 330.000), and the Commission submitted its reports. *See* Doc. 624, Doc. 657 and Doc. 658, respectively.

2. On July 22, 2021, the parties appeared for hearing on Ms. Schaeffer’s objections to the Commission’s findings and conclusions of value detailed in Doc. 624. Ms. Schaeffer and Spire await the Court’s entry of a Final Order and Judgment of Condemnation.¹

¹The Court will hear objections to the Commission’s reports on just compensation in Poggemoeller and Machens on September 28, 2021. *See* Doc. 659.

3. On July 23, 2021, Attorney Elefant sent an e-mail to undersigned counsel stating, in part, “it was my understanding that the parties would do some evaluation after the first group of hearings and assess how to proceed and now we have reached that juncture.”

4. On August 2, 2021, Counsel for Spire responded to Attorney Elefant’s communication, inquiring as to possible resolution for the remaining tracts she represents or, alternatively, to proceed with discovery, experts and hearings on just compensation.

5. On August 18, 2021, Attorney Elefant responded that at this point, she does not intend to schedule or move forward on anything with respect to her clients’ remaining cases until the Court has ruled on the Motion to Relief [Doc. 625], and in light of the pending litigation before the D.C. Circuit and administrative review before FERC.

6. Spire seeks to provide just compensation to the landowners and to bring these consolidated condemnation proceedings to closure.

7. For all the reasons stated in Spire’s Response in Opposition to Defendants’ Motion for Relief [Doc. 639], which are incorporated herein by reference, the litigation before the D.C. Circuit is not final. In addition, this Court retains jurisdiction over this proceeding under Fed. R. Civ. P. 71.1(i)(C) regardless of the ultimate outcome before the D.C. Circuit.

8. Accordingly, refusal to engage in further discovery with respect to the remaining matters at this point will unnecessarily delay these proceedings and the parties’ ability to bring these matters to a final resolution.

9. Accordingly, Spire respectfully requests the Court set a scheduling conference and enter an Amended Scheduling Plan setting out relevant discovery deadlines, identifying which

groups of parcels will be tried together, and at least tentatively scheduling Commission hearing dates for the remaining matters.²

10. There is no just reason for further delay of these proceedings.

WHEREFORE, Spire respectfully requests the Court set a scheduling conference and subsequently enter an Amended Scheduling Order pursuant to Fed. R. Civ. P. 16 outlining a discovery plan and scheduling the Commission hearings on the remaining tracts, and grant such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

HAMITON WEBER LLC

/s/ David T. Hamilton

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ATTORNEYS FOR PLAINTIFF

Spire STL Pipeline

² Spire respectfully suggests that the scheduling conference take place on Tuesday, September 28, 2021, prior to or following the hearing on any objections to the Commission Reports entered in the Poggemoeller and Machens cases, which is already set for 10:00 a.m. that morning.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served this 10th day of September 2021, by:

- Hand delivery
 United States mail, postage prepaid
 Electronic transmission (E-mail);
 Notice of Electronic Filing pursuant to Fed.R.Civ.P. 5(b)(2)(E), to:

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Dated March 2, 1995 et al.

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Jordan@landownerattorneys.com
Counsel for Defendants
Carol and Vincent Saale, et al.

/s/ David T. Hamilton _____

Attachment 2:
List of Spire Motions to Dismiss in Central District Missouri
(September 15, 2021).

Spire STL Pipeline LLC v Betty Ann Jefferson et al

3:2018-cv-03204 (ilcd)

#	Date ↑	Description
1	08/15/2018	COMPLAINT for Condemnation against All Defendants (Filing fee \$ 400 receipt number 0753-2904682.), filed by Spire STL Pipeline LLC.
61 Attachments ▾		
2	08/15/2018	CERTIFICATE OF INTEREST pursuant to Local Rule 11.3 by Spire STL Pipeline LLC.
3	08/15/2018	NOTICE of Appearance of Attorney by David A Rolf on behalf of All Plaintiffs
4	08/15/2018	NOTICE of Commencement of Condemnation Action
5	08/15/2018	NOTICE of Commencement of Condemnation Action
6	08/15/2018	NOTICE of commencement of Condemnation Action
7	08/15/2018	NOTICE of Commencement of Condemnation Action
8	08/15/2018	NOTICE of Commencement of Condemnation Action
9	08/15/2018	NOTICE of Commencement of Condemnation Action
10	08/15/2018	NOTICE of Commencement of Condemnation Action
11	08/15/2018	NOTICE of Commencement of Condemnation Action
12	08/15/2018	NOTICE of Commencement of Condemnation Action
13	08/15/2018	NOTICE of Commencement of Condemnation Action
14	08/15/2018	NOTICE of Commencement of Condemnation Action

08/10/2021
TEXT ORDER: The Finance Office has advised the Court that the Order granting Plaintiff's Motion to Dismiss Counts X and XI must contain the percentage of interest to which Plaintiff is entitled. Accordingly, the Court vacates its Order dated July 27, 2021 (d/e 183). An Amended Order will be forthcoming. Entered by Judge Sue E. Myerscough on 8/10/2021. (Text entry; no document attached.)

187 09/15/2021 MOTION in Limine Related to Jefferson Counts I and III by Plaintiff Spire STL Pipeline LLC. Responses due by 9/29/2021

188 09/15/2021 MEMORANDUM in Support of Plaintiff's re 187 MOTION in Limine Related to Jefferson Counts I and III by Spire STL Pipeline LLC.

[5 Attachments ▼](#)

189 09/15/2021 MOTION for Summary Judgment Counts I and III by Plaintiff Spire STL Pipeline LLC. Responses due by 10/6/2021

[7 Attachments ▼](#)

190 09/15/2021 MOTION in Limine Related to Count VII by Plaintiff Spire STL Pipeline LLC. Responses due by 9/29/2021

191 09/15/2021 MEMORANDUM in Support of Plaintiff's re 190 MOTION in Limine Related to Count VII by Spire STL Pipeline LLC.

[4 Attachments ▼](#)

192 09/15/2021 MOTION for Summary Judgment Count VII by Plaintiff Spire STL Pipeline LLC. Responses due by 10/6/2021

[5 Attachments ▼](#)

193 09/15/2021 MOTION in Limine Count VIII by Plaintiff Spire STL Pipeline LLC. Responses due by 9/29/2021

194 09/15/2021 MEMORANDUM in Support of Plaintiff's re 193 MOTION in Limine Count VIII by Spire STL Pipeline LLC.

[5 Attachments ▼](#)

195 09/15/2021 MOTION for Summary Judgment Count VIII by Plaintiff Spire STL Pipeline LLC. Responses due by 10/6/2021

[6 Attachments ▼](#)

196 09/15/2021 MOTION in Limine Count IX by Plaintiff Spire STL Pipeline LLC. Responses due by 9/29/2021

197 09/15/2021 MEMORANDUM in Support of Plaintiff's re 196 MOTION in Limine Count IX by Spire STL Pipeline LLC.

[3 Attachments ▼](#)

198	09/15/2021	MOTION for Summary Judgment Count IX by Plaintiff Spire STL Pipeline LLC. Responses due by 10/6/2021	4 Attachments ▼
199	09/15/2021	MOTION in Limine Count XII by Plaintiff Spire STL Pipeline LLC. Responses due by 9/29/2021	
200	09/15/2021	MEMORANDUM in Support of Plaintiffs re 199 MOTION in Limine Count XII by Spire STL Pipeline LLC.	4 Attachments ▼
201	09/15/2021	MOTION for Summary Judgment Count XII by Plaintiff Spire STL Pipeline LLC. Responses due by 10/6/2021	5 Attachments ▼
202	09/15/2021	MOTION in Limine Count XV by Plaintiff Spire STL Pipeline LLC. Responses due by 9/29/2021	
203	09/15/2021	MEMORANDUM in Support of Plaintiffs re 202 MOTION in Limine Count XV by Spire STL Pipeline LLC.	3 Attachments ▼
204	09/15/2021	MOTION for Summary Judgment Count XV by Plaintiff Spire STL Pipeline LLC. Responses due by 10/6/2021	4 Attachments ▼
205	09/15/2021	MOTION in Limine Related Counts XX and XXI by Plaintiff Spire STL Pipeline LLC. Responses due by 9/29/2021	
206	09/15/2021	MEMORANDUM in Support of Plaintiffs re 205 MOTION in Limine Related Counts XX and XXI by Spire STL Pipeline LLC.	4 Attachments ▼
207	09/15/2021	MOTION for Summary Judgment Counts XX and XXI by Plaintiff Spire STL Pipeline LLC. Responses due by 10/6/2021	8 Attachments ▼
208	09/15/2021	MOTION for Summary Judgment Counts XXVI, XXVII, XXVIII by Plaintiff Spire STL Pipeline LLC. Responses due by 10/6/2021	5 Attachments ▼