

Natural Gas Pipeline Infrastructure for Market Expansion: Regulatory and Political Landscape

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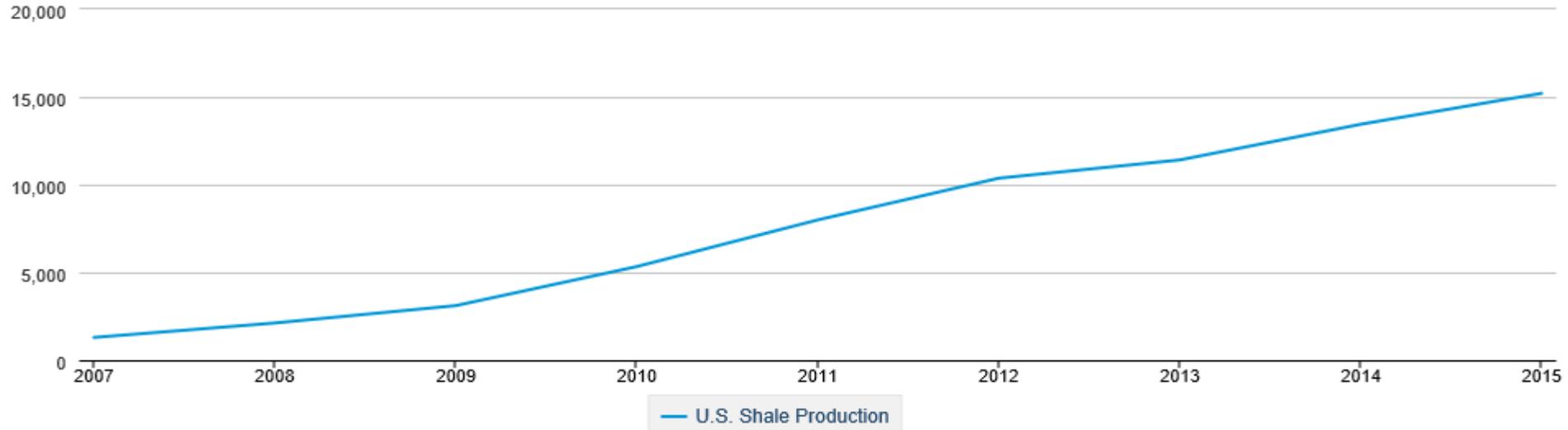
Market Landscape

“Shale Revolution” in the U.S. changing the marketplace:

U.S. Shale Production

 DOWNLOAD

Billion Cubic Feet



Source: U.S. Energy Information Administration

Market Landscape

- Nearly 3 times more shale gas production in 2015 as compared to 2010; since 2007, **11** times more
- U.S. no longer a major *importer* of crude, but a major *exporter*
- Net exporter of natural gas since November 2016
- U.S. expected to be the world's third largest producer of LNG export by 2020
- Increased demand for natural gas across the nation (utilities, industries, commercial vehicle fleets)
- Increased need for expanded natural gas infrastructure

Legal and Political Landscape

- **Trump administration focus on energy and pipeline industry**
 - **In first 100 days, 58 Executive Memoranda and Orders; ¼ of which were related to *pipelines***
- **Legislative and Executive Branch efforts**
 - **Permit Streamlining**
 - **Proposed legislation to replace Presidential Permit requirements with FERC process for both gas and oil pipelines**
- **Agencies less active but on upswing (FERC, PHMSA, etc.)**



Legal and Political Landscape

- **Increased construction = increased opposition**
- **Environmental and NGOs continued, increased, and more diffuse opposition**
- **Post Keystone XL opposition expanded from national environmental groups to local and grass roots groups**
- **Many states increasing scrutiny, if not opposition**
- **FERC and federal/state permits are increasingly subject to legal challenges**

New Natural Gas Pipeline Construction Projects

- **Section 7 of Natural Gas Act Certification Process**
- **Requires Environmental Impact Statement (EIS) for major projects**
- **Other federal, state and local permit & approval obligations triggered by construction, e.g.:**
 - Endangered Species Act consultation
 - Clean Water Act Section 404 Wetlands Permit
 - State Clean Water Act Section 401 Water Quality Certification
 - Clean Air Act
 - Stormwater and stream crossings etc.

Recent Challenges to New Projects

- **Physical security – pipeline sabotage – across the country**
- **Challenges to FERC EIS process**
 - *Sierra Club v. FERC (D.C. Cir. Aug. 22, 2017)*
- **Challenges Using State 401 Water Quality Certifications and Corps 404 Permit Processes**
 - **Post Keystone XL opposition influenced several states to limit new pipeline construction using state siting/permitting or CWA 401 (e.g., NY, OH, GA)**
 - *Millenium Pipeline v. Seggos (D.C. Cir. June 23, 2017); FERC Order (Sep. 15, 2017) (finding that NY waived its authority to review a 401 permit by taking more than 1 year)*
 - *Constitution Pipeline v. NY State DEC (2nd Cir. Aug. 18, 2017)*

- keystone pipeline
- northern gateway pipeline
- white house
- people's climate march
- america
- vancouver
- oklahoma
- canada
- anti
- environmental
- climate change
- native american
- first nations
- xl dissent
- tar sands
- coal



Challenges & Opportunities

- **Best defense is best offense: anticipating legal and political challenges**
 - **Pre-project scoping**
 - **Early identification of all required permits**
 - **Post Keystone XL: ‘Climate Change Movement’**
 - **More state oversight and involvement**
 - **More local access and route challenges**

Challenges & Opportunities

- **Outreach and coordination with governmental agencies, any affected tribes and members of public, “early and often”**
- **Consider trade group-led efforts to better organize industry voice on addressing policy issues with states and federal government**

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