

Pipeline Financing, Cross-Border and Development Considerations

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Development Considerations for the Investor

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Overview

- **Objectives:**
 - Review Issues that Potentially Affect Investment in Pipeline Projects
 - Suggest a Few Mitigating Actions



Overview



- Primary Focus on Risks to the Project
 - Commercial Risk
 - Management Risk
 - Organizational Risk
 - Authorization / Regulatory Risk ↔ Political / Social Risk

Assumptions

- New-Build or Significant Change, e.g. Expansion, Reversal and/or Commodity Change
- If Cross-Border, a U.S. Component is Included
- Little Will Go As Planned



Decisions Potentially Affected

- Build / No-Build
- Invest / Divest / Hold 'em
- Need for Change
 - Project Change
 - Organizational Change
 - Management Change



Risks Considered – Abundant Interplay / Overlap



- Commercial Risk
- Management Risk
- Organizational Risk
- Regulatory Risk ↔ Political / Social Risk

Commercial Risk



- Contractual Support - Revenue
- Cost - All the Factors Considered?
- Making Promises
- Market Dynamics

Management Risk

- Leadership Experience: Battlefield Experience, i.e., Judgment
- Leadership Commitment: Not to the Project but to the Enterprise
- Management Team: Experienced? Integrated? Transparent?
- Implementing Lessons Learned?
- Safety Culture?

Organizational Risk

- In-house Expertise / Management Capacity
- Outsourcing:
 - Design? ↔ Project
 - Planning? ↔
 - Construction? ↔
 - Inspection? ↔ Integration?
 - ↔ Commissioning?



Organizational Risk

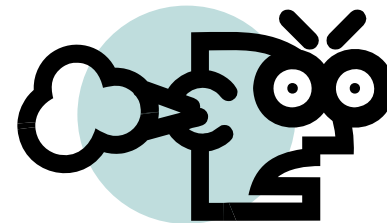


- Organizational Capacity
- Capacity In-House
- Execution
- Oversight/Supervision
- Best Left to Experts?
- Best Done by the Company?
- What Can the Investor Do?

Regulatory Risk ↔ Social and Political Risk

Regulatory Risk ↔ Social and Political Risk aka Project Authorization and Safety Regulation

- Authorizations
 - Oil Pipelines vs. Natural Gas Pipelines
 - Interstate vs. Intrastate - NEPA and Routing



Authorization Risk ↔ Social and Political Risk

- Federal

- National Environmental Policy Act of 1969 [42 U.S.C. § 4321, *et seq.*]
- Clean Water Act Sec. 404 (Dredge and Fill) [33 U.S.C. § 1344]
- Rivers and Harbors Act Sec. 10 (Obstructions to Navigation) [33 U.S.C. § 403]
- Endangered Species Act of 1973 [16 U.S.C. § 1531, *et seq.*]
- Migratory Bird Treaty Act [16 U.S.C. § 707]
- National Historic Preservation Act [16 U.S.C. § 470, *et seq.*]
- Federal Clean Air Act [42 U.S.C. § 7401, *et seq.*]

Authorization Risk ↔ Social and Political Risk

- State
 - Environmental and “Routing”
 - Illinois / Pennsylvania vs. Texas / Missouri
 - Highway / Waterway
 - Species
 - Archaeology



Authorization Risk ↔ Social and Political Risk

- Regional and Local
 - Environmental (e.g., Water Protection, Tree Preservation...)
 - Land Use
 - Roads

Social / Political Risk

- Three Theses
 - History Catches Up - Usually in a Big Hurry
 - We Help History Catch Up
 - There is Value in Being Prepared to Think and Act Like Government



Social / Political Risk

- Pre-Project Intelligence
 - Social
 - Political
 - Environmental
 - Historical
 - Get Local Intel



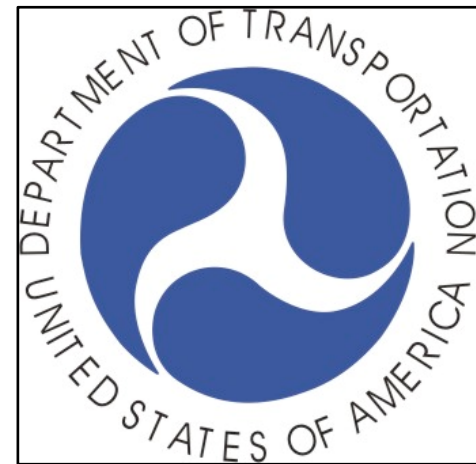
Social / Political Risk



- Pre-Project Reviews
- What are the Agencies Not Doing?
- Get Out Front - Push NEPA / ESA - Agencies Procrastinate
- Help the Public Understanding
- What is the Public Concerned About that the Agencies Aren't Addressing?

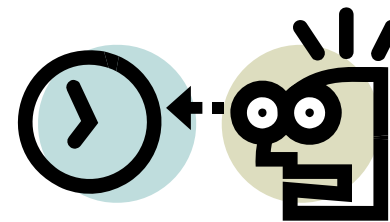
Regulatory Risk

- Preconstruction Notifications - 49 CFR 191.22(c)(1)(i)
- Project Design Review (Pipeline Safety Act Reauthorization)
- Design – 49 C.F.R. Part 195, Subpart C
- Construction – 49 C.F.R. Part 195, Subpart D
- Agency Inspection and Enforcement
- Facility Oil Spill Response Plan (FRP) [33 U.S.C. § 1321(j); 49 C.F.R. Part 194]



Negative Outcomes

- Cost
- Delay
- Cost and Delay
- Delay and Cost
- Enforcement
- Incident
- More Enforcement
- Disputes
- Project Cancellation



Mitigating the Risk

- Pre-Project Intelligence
- At the Table, Observing, Monitoring
- Expert Reviews and Evaluations
- Collaboration - “Technical Advisory Group”
- Think and Act Like Government
- Get Out Front of Political and Social Issues
- Vested Participants Up and Down the Chain



Helping Hands



- Credits
 - O.B. Harris, O.B. Harris, LLC, Houston, Texas
 - Bill Byrd, RCP Inc., Houston, Texas
 - Tom Jensen, SNR Denton, Washington, DC

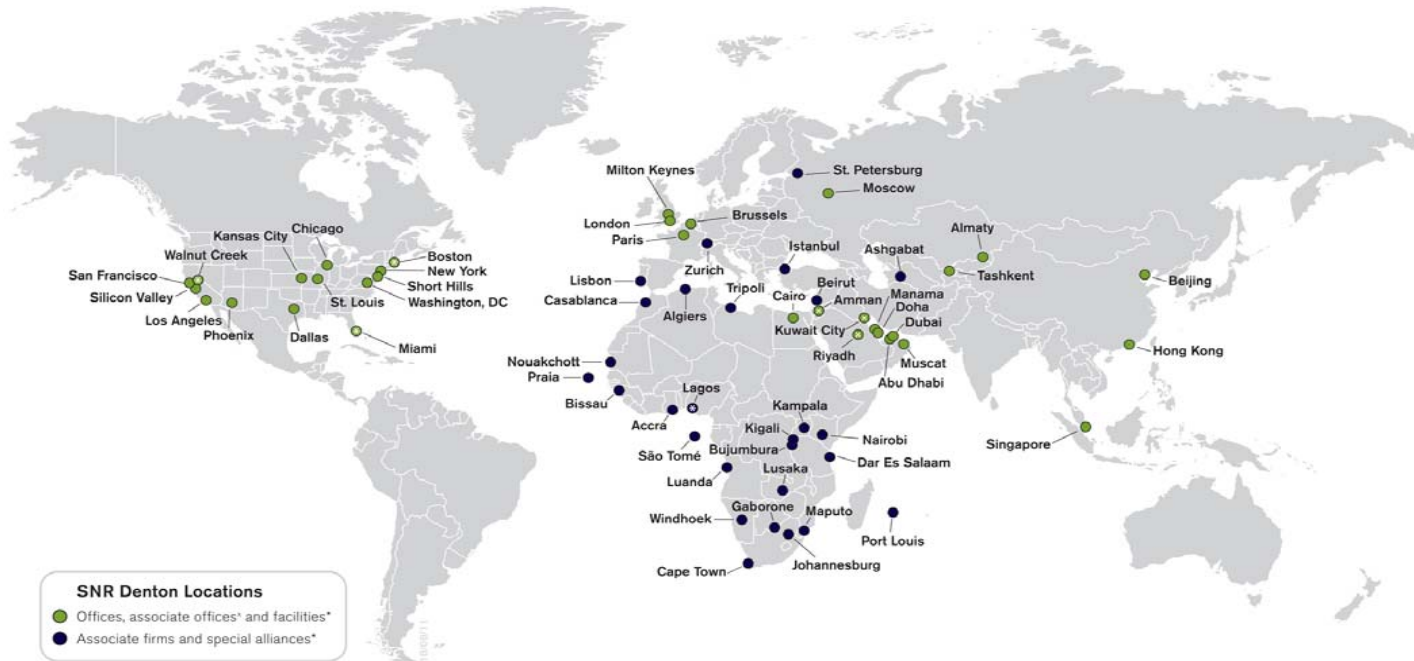
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