As utilities have struggled over the past two decades to keep up with rising costs and increased demand, less focus was placed on monitoring rights-of-way for encroachments. As a result, incipient encroachments began appearing and eventually grew into significant issues with everything from vegetable gardens and sheds to swimming pools and even a house crossing into the rights-of-way.

"Most utilities have encroachment processes, but it's easy to cut funding for that because there's no immediate impact," says Wayne Young, senior right-of-way specialist at Burns & McDonnell.

CMP isn't alone. As utility companies begin planning transmission line upgrades and expansions, retroactively defending their rights-of-way boundaries is costing time and money as staff traverses transmission line routes, identifies encroachments, communicates with abutting landowners and mitigates issues.

"Many utilities didn't realize they'd have a big mess by choosing to forego encroachment monitoring," says Chuck Bell, manager of land acquisition at Burns & McDonnell. "But they're starting to understand encroachment issues could add time and cost to their land acquisition efforts."

Unrealized Dangers
Time and cost aren't the only problems and may not be the worst. Abutting landowners' encroachments can result in security, liability and reliability risks. Furthermore, the North American Electric Reliability Corp. (NERC) and the Federal Energy Regulatory Commission (FERC) outline strict regulations with which utilities must comply. Non-compliance can lead to expensive fines on top of the cost to correct encroachments — especially if the encroachment results in a serious malady, such as a blackout.

"Utilities are held to the standard that they should know what's happening on their land," Bell says. "If they don't make themselves aware of what's being built on their rights-of-way and address it, they could be held liable for any injury or harm resulting from that encroachment." That leads to what is arguably the most difficult problem for utilities — public relations. Although most companies have encroachment request processes — for landowners to request permission to use a right-of-way — it's rare that the public is aware of them. If encroachments have already been made, utility representatives must contact those landowners, explain the issue and work toward a resolution.

"You're dealing with calling out people who don't like being told they made a mistake, and sometimes you're dealing with telling someone their house has to be torn down," Young says. "It's painful. It's not easy doing this."

Prevention Is Key
The cost of preventing encroachments is generally less than the cost to mitigate encroachments, loss of rights or acquiring land rights. It's virtually impossible to keep the rights-of-way completely clear at all times, but establishing and maintaining a records system that engages field workers to report issues will keep encroachments to a minimum. Prevention communication will help avoid safety, liability, reliability and compliance issues, as well as maintain a positive atmosphere for information sharing.

"If utilities work to keep their rights-of-way clear to begin with and communicate to abutting landowners and municipal officials why they need to respect the property lines or how they can request to use the land, this problem would largely go away," Bell says.

For more information, contact Chuck Bell, 816-349-6615, or Wayne Young, 816-822-4226.

Although not a Central Maine Power right-of-way, this photo depicts examples of encroachments, such as fences and sheds, that can cause safety, liability and reliability issues for utilities planning transmission line projects.