

Landowners: Know Your Rights Regarding Voluntary Easements, Eminent Domain, and the Summit Carbon Solutions, Navigator and Wolf Pipelines

Do I have to sign a voluntary easement?

No. There is nothing in the law or Iowa Utilities Board rules that require a landowner to sign a voluntary easement.

What is a voluntary easement?

A voluntary easement means that the landowner is agreeing, without requiring Summit or Navigator to go through eminent domain, to give Summit, Navigator or Wolf a right to construct the pipeline on the landowner's property. The voluntary easement may give Summit, Navigator or Wolf broader rights than it would get through eminent domain or it may provide for a lower payment than the landowner would get through eminent domain.

How does the eminent domain process work?

Eminent domain requires Summit, Navigator and Wolf to go through a legal procedure to determine the rights of the landowner, particularly the amount of compensation for taking the easement. The determination would first be made by a committee of local landowners and local people familiar with real estate in your county. The case can then be appealed to a court jury of local people to review the compensation determined by the committee.

What options do I have?

You do not have to sign a voluntary easement. You can certainly wait to sign an easement. You can require Summit, Navigator or Wolf to go through eminent domain. There will be a hearing before the Utilities Board and you, or an organization to which you belong, can intervene to present any evidence you have regarding whether the Board should issue a permit to Summit, Navigator or Wolf for the pipeline.

Can Summit use eminent domain?

Summit, Navigator and Wolf can use eminent domain only if the Utilities Board grants it a permit to construct the pipeline.

Will I get more money for a voluntary easement rather than eminent domain?

Not necessarily. You need to do your homework to make sure the voluntary easement is giving you a fair price. It is also possible that eminent domain will award compensation for impacts that are not considered in the voluntary easement.

How will my land be impacted?

Based on the experience with Dakota Access, the fertility of cropland can be adversely impacted for several (or perhaps many) years.

What is Carbon Capture and Storage (CCS)

CCS is very complicated but when you boil it down, the basic premise is that it captures the carbon and stores it underground (CCS) or it captures the carbon and uses it for industrial purposes.

If the pipeline is approved, what will be in the pipeline and what are the risks if it ruptures?

The pipeline will contain highly pressurized liquid CO₂. If the pipeline breaks, CO₂ causes risks to humans and animals. At concentrations between 2 and 10%, CO₂ can cause nausea, dizziness, headache, mental confusion, increased blood pressure and respiratory rate. Above 8% nausea and vomiting appear. Above 10%, suffocation and death can occur within minutes. Contact with the cold gas can cause freezing of exposed tissue. Moisture in the air can lead to formation of carbonic acid that can irritate the eyes. CO₂ is heavier than air and will accumulate in low lying areas.

What did we learn from the Dakota Access pipeline eminent domain process and pipeline construction?

Many landowners who signed voluntary easements later regretted their decision. They found that Dakota Access representatives had misled them. In addition, the landowners described threats and intimidation that had been used to get them to sign voluntary agreements. And during construction, the Dakota Access contractors did unacceptable damage to the property, especially in terms of destroying the fertility of the farmland.

Why are permanent easements a problem?

A permanent easement preempts the landowner's future plans for the property. Any easement over a property limits what a landowner can do on the property, such as requiring no structures or trees on the easement. The easement may affect what gets built nearby. The right to an easement allows representatives of the easement company to have access to the property 24 hours a day, without notice, using motorized equipment on the easement or flying above the property.

How can we start organizing?

First off, do not sign a voluntary agreement right away. Once you sign a voluntary easement, you cannot reverse that decision. During the Dakota Access campaign, many landowners objected to voluntary easements but many landowners acted alone, rather than in a unified group. Acting alone allowed Dakota Access to use intimidation tactics to pick off the landowners one at a time. Landowners will have more power if they work together and object to the voluntary easements together. Contact your neighbors and let them know your concerns. If you would like to set up a call to learn more about the eminent domain process and how to fight it, please contact Sierra Club Iowa Chapter at jessica.mazour@sierraclub.org.

This information was put together by Sierra Club Iowa Chapter Staff and Members.