

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

Do I have to sign a voluntary easement?

No. There is nothing in the law or ND Public Service Commission rules that require a landowner to sign a voluntary easement. **DO NOT SIGN A VOLUNTARY EASEMENT!**

What is a voluntary easement?

A voluntary easement means that the landowner is agreeing, without requiring Summit to go through eminent domain, to give Summit a right to construct the pipeline on the landowner's property. The voluntary easement may give Summit 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.

Can Summit use eminent domain?

Summit can use eminent domain only if the Public Service Commission grants a permit for the pipeline.

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 to go through eminent domain. There will be a hearing before the Public Service Commission 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 for 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. Of the 14 current CCS projects, 13 utilize captured carbon for EOR to capture even more fossil fuels.

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

The pipeline will contain highly pressurized liquid CO₂ collected from industrial sites. 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 of humans and livestock 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. There was a CO₂ pipeline rupture in Mississippi in 2020 that you can read about:

https://www.huffpost.com/entry/gassing-satartia-mississippi-co2-pipeline_n_60ddea9fe4b0ddef8b0ddc8f

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. And of course there are the inherent risks of having highly pressurized, toxic substances being piped in this new technology on your 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. 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.
