

## **Easements 101**

Issues associated with specific easements are difficult to understand and comprehend, but the North Dakota Petroleum Council Right of Way Task Force wants to make sure that you have the resources to understand the process and what you can expect if you have entered into an easement. Below are some frequently asked questions that should be able to answer, or assist you in answering, your questions. Each easement is unique and subject to different terms and governance by the specific easement terms. The information and answers provided in this document should not be construed as legal advice but are merely an attempt to provide guidance as appropriate.

### **Split estate ownership**

The pipeline company will work with the landowner to negotiate an easement. The landowner and renters will need to work out any other agreements. We encourage the renter to contact the pipeline owner through the landowner to work-out the details of how to best complete both entities work without complications. Communication and planning is the key; it takes all three parties to be involved to make it work.

### **Crop loss**

Typically a right of way agreement will include payment for loss of crop.

### **Undersized lines**

Right-sizing the pipeline infrastructure is extremely challenging as the Bakken technology continues to evolve. Nobody wants to get it right the first time more than the pipeline company but it's a huge challenge and over-building without knowledge of what to expect simply does not make good business sense. Pipeline companies operate separately from the producer in most circumstances.

### **Maintenance**

Companies have committed to addressing maintenance concerns as quickly and efficiently as possible. In the event that you identify a maintenance issue, we urge you to contact the pipeline operator and submit your concerns. Including photos is helpful. In addition, the North Dakota Industrial Commission has implemented a pipeline incident reporting process that will allow you to contact the Department of Mineral Resources to submit your complaint, and they will review and follow-up with the company as needed.

### **Settling problems**

It is imperative that the landowner, who is on the land regularly, and the company maintain open communication, and that any issues are reported to the company immediately. In turn, the operating company must respond in a timely manner to assess and address the issue reported by the landowner.

### **Changes in ownership**

Companies should notify the landowners when a change in ownership occurs and provide them with the updated contact information.

### **Annual payments**

Annual payments are typically applied only to lands taken out of full production.

### **Restoration of fences to original condition**

Installation of gates is the responsibility of the operating company through its construction contractor. All fences must be returned to original or better condition, and all gates must remain closed at all times, other than to let machinery pass.

### **Removal of uncovered rocks**

Typically, rock will be removed from the right of way according to landowner requirements or according to what is reasonable as determined by the operating company.

### **Separate damage payments (renter and owner)**

An easement agreement is with the landowner. Damages will need to be worked out amongst the three parties. If agreeable to the landowner, the company can work directly with the renter.

### **Placement of above ground structures – consult with landowner**

Typically, the operating company will have a general idea of the necessary above ground facility needs and locations and should vet those locations with the landowner.

### **Disclosure from land agent**

The landowner can expect the following information to be provided by the land agent:

- Proposed routing
- Type and size of facility
- Type of product being carried
- Construction timeline

### **Communication and conduct**

The landowner can expect the following conduct from the land agent and the operating company:

- A representative of the company that is polite, informative of the company background, construction process, and reclamation practices
- Informed understanding of the format language in the offered agreement
- Sensitivity to landowners and timely responses to any questions or issues which cannot be answered in the initial negotiations
- Project fulfillment and completion as conveyed through the easement agreement
- Timely response to landowner calls for clean-up or reclamation issues on the right of way