

PROCEDURES FOR DETERMINATION OF DAMAGES

Iowa Rule 199 IAC 10.3(3)(b) requires pipeline companies to provide procedures that an affected person is required to follow to obtain a determination of damages by a county compensation commission. Iowa Code § 479.46(7) states that “damages” means compensation for damages to the land, crops, and other personal property caused by the construction activity of installing a pipeline and its attendant structures but does not include compensation for a property interest, and “landowner” includes a farm tenant. The landowner or tenant is required to follow the following procedures described below to obtain a determination of damages by a county compensation commission. However, these procedures do not apply if the easement at issue provides for any other means of negotiation or arbitration.

1. The county board of supervisors shall determine when installation of a pipeline has been completed. Not less than ninety days after the county board of supervisors has determined that construction of the pipeline is complete, if an agreement as to damages cannot be reached, a landowner or tenant whose land, crops, or other personal property interest was affected by the installation of the pipeline, or a pipeline company, may file with the board of supervisors a petition asking that a compensation commission determine the damages resulting from installation of the pipeline.
2. If the petition is approved by resolution of the board of supervisors, the landowner or the pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district of the county for the appointment of a compensation commission as provided in Iowa Code § 6B.4. The application must include the following information:
 - a. The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.
 - b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.
 - c. The name and address of the pipeline company claimed to have caused the damage or the name and address of the affected landowner.
3. After the commissioners to the compensation commission have been appointed, the landowner shall serve notice on the pipeline company, or the pipeline company shall serve notice on the landowner, stating the following:
 - a. That a compensation commission has been appointed to determine the damages caused by the installation of the pipeline.

- b. The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.
- c. The date, time and place when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or the landowner may appear before the commissioners.

**Please note: if more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company and appraisal of damages will be consolidated into one application, notice and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners in by doing so.*

4. The commissioners shall view the land at the time provided in the notice and assess the damages sustained by the landowner by reason of the installation of the pipeline and shall file their report with the sheriff. The appraisal of damages returned by the commissioners is final unless appealed. The sheriff shall give written notice by ordinary mail to the pipeline company and the landowner of the date the appraisal of damages was made, the amount of the appraisal, and that any interested party may appeal to the district court within thirty days of the date of mailing. At the time of appeal, the appealing party, in addition to filing the necessary papers in court, shall give written notice to the adverse party or the party's attorney and the sheriff.
5. The pipeline company shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the landowner as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the pipeline company prior to the determination of damages. The pipeline company shall file with the sheriff an affidavit setting forth the most recent offer made to the landowner. The pipeline company shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial of the appeal the same or a lesser amount of damages is awarded than was allowed by the commission from which the appeal was taken.