

SLOW LEARNERS

What would you do if you found a contractor instructed by a utility working on your land without prior agreement? Assume they have a statutory right to be there and let them carry on, or take issue and confront them? This sort of occurrence happens far too often. Be it water, electricity, telecommunications or rail the utility, or their appointed contractors often behave with total disregard for the owners of the land they need to enter. Some do attempt contact before entry but even then the land owner is often treated with contempt and considered irrelevant.

Of course prior notification is not always possible. If a water main has burst or a power cable has come down utilities must make necessary repairs. In emergencies few owners would stand in their way but such events often result in tedious battles to secure adequate compensation for damaged crops, wrecked fences and broken gates.

However, if it is not an emergency what should you do if contractors are discovered carrying out work of a non-urgent nature? In the first instance take a deep breath! Then demand they cease whatever they are doing and tell them to get off your land! If they forced entry by cutting a chain or knocking down a gate you may need to be equally forthright. Denying them access to remove their machinery may be a necessary and effective course of action.

During initial discussions the site foreman might respond "Mate. Don't worry, everything will be fine. We won't damage your property but if anything does happen we'll sort it out and leave it just as we found it". Don't be persuaded by this clumsy attempt to

brush over the fact they have entered your land without consent.

What you do next is crucial. Before granting any access it is essential to define clear terms and conditions and, of course, reasonable compensation for the trouble the uninvited guests have caused. The site foreman is unlikely to have the authority to sanction payments which will include time related rates for ongoing access, how and by whom the inevitable damage is to be remedied and also adequate compensation for consequential losses to your business. To ensure your claim is taken seriously by the authority, a carefully prepared account of what has happened and its impact on your business must be presented. The account will include details of when and what was said by you and by the contractor's site foreman.

It is important to be realistic about repair costs and proposed levels of compensation. Don't overstate the position but at the same time don't sell yourself short. If the offending contractor, or

utility, has behaved disgracefully and has caused you considerable aggravation they must pay for that. And do not allow the offending party to describe the compensation you demand as opportunistic. If they had behaved properly in the first instance, agreed reasonable terms for the access and treated the land owner with the consideration he deserved, then almost certainly the utility's objective would have been achieved more economically. Moreover the utilities, and their contractors, would build a positive relationship with land owners likely to lead to greater co-operation between them. But until attitudes change do not, in any circumstances, let them get away with it!

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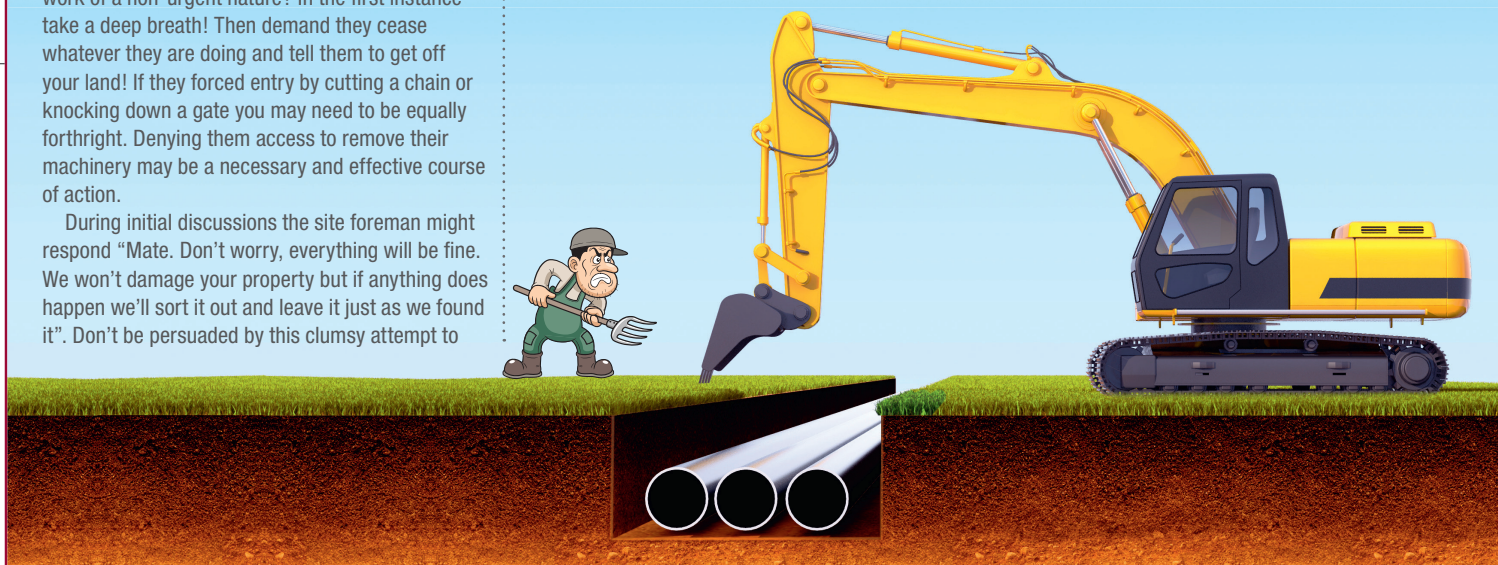
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64



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