

Senate Amendment 5155

Amendment Text

PAG LIN

1 1 Amend [Senate File 2201](#) as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 "Section 1. Section [479.29](#), Code 1997, is amended
1 5 to read as follows:
1 6 479.29

~~CONSTRUCTION STANDARDS~~

~~LAND RESTORATION.~~

1 7 1. The board shall, pursuant to chapter 17A, adopt
1 8 rules establishing standards

~~for the protection of~~

1 9

~~underground improvements during the construction of~~

1 10

~~pipelines, to protect soil conservation and drainage~~

1 11

~~structures from being permanently damaged by pipeline~~

1 12

~~construction and~~

~~for the restoration of agricultural~~

1 13 lands during and after pipeline construction.

~~To~~

1 14

~~ensure that all interested persons are informed of~~

1 15

~~this rulemaking procedure and are afforded a right to~~

1 16

~~participate, the board shall schedule an opportunity~~

1 17

~~for oral presentations on the proposed rulemaking,~~

1 18

~~and, in~~

~~In~~ addition to the requirements of section

1 19 17A.4, the board shall distribute copies of the notice

1 20 of intended action and opportunity for oral

1 21 presentations to each county board of supervisors.

1 22 Any county board of supervisors may, under the
1 23 provisions of chapter 17A, and subsequent to the
1 24 rulemaking proceedings, petition under those
1 25 provisions for additional rulemaking to establish
1 26 standards

~~to protect soil conservation practices,~~

1 27

~~structures and drainage structures~~

~~for land~~

1 28 restoration after pipeline construction within that
1 29 county. Upon the request of the petitioning county
1 30 the board shall schedule a hearing to consider the
1 31 merits of the petition.

~~Rules adopted under this~~

1 32

~~section shall not apply within the boundaries of a~~

1 33

~~city, unless the land is used for agricultural~~

1 34

~~purposes.~~

~~Rules adopted under this section shall not~~

1 35 apply to land located within city boundaries, unless
1 36 the land is used for agricultural purposes. Rules
1 37 adopted under this section shall address, but are not
1 38 limited to, all of the following subject matters:

1 39 a. Topsoil separation and replacement.

1 40 b. Temporary and permanent repair to drain tile.

1 41 c. Removal of rocks and debris from the right-of-
1 42 way.

1 43 d. Restoration of areas of soil compaction.

1 44 e. Restoration of terraces, waterways, and other
1 45 erosion control structures.

1 46 f. Revegetation of untilled land.

1 47 g. Future installation of drain tile or soil
1 48 conservation structures.

1 49 h. Restoration of land slope and contour.

1 50 i. Restoration of areas used for field entrances
2 1 and temporary roads.

2 2 j. Construction in wet conditions.

2 3 k. Designation of a pipeline company point of
2 4 contact for landowner inquiries or claims.

2 5 2. The county board of supervisors shall cause an
2 6 on-site inspection for compliance with the standards
2 7 adopted under this section to be performed at any
2 8 pipeline construction project in the county. A
2 9 licensed professional engineer familiar with the
2 10 standards adopted under this section and registered
2 11 under chapter 542B shall be in responsible charge of
2 12 the inspection. A county board of supervisors may
2 13 contract for the services of a licensed professional
2 14 engineer for the purposes of the inspection. The
2 15 reasonable costs of the inspection shall be borne by
2 16 the pipeline company.

2 17 3. If the inspector determines that there has been
2 18 a violation of the standards adopted under this
2 19 section, of the land restoration plan, or of an
2 20 independent agreement on land restoration or line

2 21 location executed in accordance with subsection 10.
2 22 the inspector shall give oral notice, followed by
2 23 written notice, to the pipeline company and the
2 24 contractor operating for the pipeline company and
2 25 order corrective action to be taken in compliance with
2 26 the standards. The costs of the corrective action
2 27 shall be borne by the contractor operating for the
2 28 pipeline company.
2 29

~~4. As a part of the inspection process, the~~

~~2 30~~

~~inspector shall ascertain that the trench excavation~~

~~2 31~~

~~has been filled in a manner to provide that the~~

~~2 32~~

~~topsoil has been replaced on top and rocks and debris~~

~~2 33~~

~~have been removed from the topsoil of the easement~~

~~2 34~~

~~area. An existing topsoil layer extending at least~~

~~2 35~~

~~one foot in width on either side of the pipeline~~

~~2 36~~

~~excavation at a maximum depth of twelve inches shall~~

~~2 37~~

~~be removed separately and shall be stockpiled and~~

~~2 38~~

~~preserved separately during subsequent construction~~

~~2 39~~

~~operations, unless other means for separating the~~

~~2 40~~

~~topsoil are provided in the easement. The topsoil~~

~~2 41~~

~~shall be replaced so the upper portion of the pipeline~~

~~2 42~~

~~excavation and the crowned surface shall contain only~~

~~2 43~~

~~the topsoil originally removed.~~

2 44

~~5.~~

~~4.~~

~~Adequate inspection of~~

~~The inspector shall~~

2 45 adequately inspect underground improvements altered
2 46 during construction of pipeline. The inspection shall
2 47 be conducted at the time of the replacement or repair
2 48 of the underground improvements.

~~An~~

~~The inspector~~

2 49 shall be present on the site at all times at each
2 50 phase and separate activity of the opening of the
3 1 trench, the restoration of underground improvements,
3 2 and backfilling. The pipeline company and its
3 3 contractor shall keep all county inspectors
3 4 continually informed of the work schedule and any
3 5 schedule changes. If proper notice is given,
3 6 construction shall not be delayed due to the
3 7 inspector's failure to be present on the site.
3 8

~~6.~~

~~5.~~ If the pipeline company or its contractor

3 9 does not comply with the orders of the inspector for
3 10 compliance with the standards, with the land
3 11 restoration plan, or with an independent agreement on
3 12 land restoration or line location executed in
3 13 accordance with subsection 10, the county board of
3 14 supervisors may

~~direct the county attorney to petition~~

3 15

~~the district court~~

~~petition the board~~ for an order

3 16 requiring corrective action to be taken in compliance
3 17 with the standards adopted under this section. In
3 18 addition, the county board of supervisors may file a
3 19 complaint with the board seeking imposition of civil
3 20 penalties pursuant to section 479.31.
3 21

~~7.~~

~~6.~~ The pipeline company shall allow landowners

3 22 and inspectors to view the proposed center line of the
3 23 pipeline prior to commencing trenching operations to
3 24 insure that construction takes place in its proper
3 25 location.
3 26

~~8.~~

~~7.~~ An inspector may temporarily halt the

3 27 construction if the construction is not in compliance
3 28 with the law and the standards adopted pursuant to
3 29 law, the land restoration plan, or the terms of

~~the~~

~~an~~

3 30 independent agreement with the pipeline company
3 31 regarding

~~topsoil removal and replacement, drainage~~

3 32

~~structures, soil moisture conditions or the location~~

3 33

~~of construction~~

~~line location or land restoration~~

3 34 executed in accordance with subsection 10, until the
3 35 inspector consults with the supervisory personnel of
3 36 the pipeline company.

~~If the construction is then~~

3 37

~~continued over the inspector's objection and is found~~

3 38

~~to not be in compliance with the law or agreement and~~

3 39

~~is found to cause damage, any civil penalty recovered~~

3 40

~~under section 479.31 as a result of that violation~~

3 41

~~shall be paid to the landowner.~~

3 42

~~9.~~

~~8.~~ The board shall instruct inspectors

3 43 appointed by the board of supervisors regarding the
3 44 content of the statutes and rules and the inspector's
3 45 responsibility to require construction conforming with
3 46 the standards provided by this chapter.
3 47

~~10.~~

~~9.~~

~~Any underground drain tile damaged, cut, or~~

3 48

~~removed shall be temporarily repaired and maintained~~

3 49

~~as necessary to allow for its proper function during~~

3 50

~~construction of the pipeline. If temporary repair is~~

4 1

~~not determined to be necessary, the exposed line will~~

~~nonetheless be screened or otherwise protected to~~

~~prevent the entry of any foreign material, small~~

~~animals, etc. into the tile line system.~~

~~Petitioners~~

4 5 for a permit for pipeline construction shall file with
4 6 the petition a written land restoration plan showing
4 7 how the requirements of this section, and of rules
4 8 adopted pursuant to this section, will be met. The
4 9 petitioners shall provide copies of the plan to all
4 10 landowners of property that will be disturbed by the
4 11 construction.

4 12 10. This section does not preclude the application
4 13 of provisions for protecting or restoring property
4 14 that are different than those prescribed in this
4 15 section, in rules adopted pursuant to this section, or
4 16 in the land restoration plan, if the alternative
4 17 provisions are contained in agreements independently
4 18 executed by the pipeline company and landowner, and if
4 19 the alternative provisions are not inconsistent with
4 20 state law or with rules adopted by the board.
4 21 Independent agreements on land restoration or line
4 22 location between the landowner and pipeline company
4 23 shall be in writing and a copy provided to the county
4 24 inspector.

4 25 11. For purposes of this section, "construction"
4 26 includes the removal of a previously constructed
4 27 pipeline.

4 28 12. The requirements of this section shall apply
4 29 only to pipeline construction projects commenced on or
4 30 after June 1, 1998.

4 31 Sec. 2. Section 479.45, Code 1997, is amended to
4 32 read as follows:

4 33 479.45 PARTICULAR DAMAGE CLAIMS.

4 34 1. Compensable losses shall include, but are not
4 35 limited to, all of the following:

4 36 a. Loss or reduced yield of crops or forage on the
4 37 pipeline right-of-way, whether caused directly by
4 38 construction or from disturbance of usual farm
4 39 operations.

4 40 b. Loss or reduced yield of crops or yield from
4 41 land near the pipeline right-of-way resulting from
4 42 lack of timely access to the land or other disturbance
4 43 of usual farm operations, including interference with
4 44 irrigation.

4 45 c. Fertilizer, lime, or organic material applied
4 46 by the landowner to restore land disturbed by
4 47 construction to full productivity.

4 48 d. Loss of or damage to trees of commercial or
4 49 other value that occurs at the time of construction or
4 50 at the time of any subsequent work by the pipeline
5 1 outside of the area cleared during construction.

~~1.~~

~~e. The cost of moving or relocating livestock,~~
5 3 and the loss of gain by or the death or injury of
5 4 livestock caused by the interruption or relocation of
5 5 normal feeding

~~of the livestock caused by the~~

5 6

~~construction or repair of a pipeline is a compensable~~

5 7

~~loss and shall be recognized as such by a pipeline~~

5 8

~~company~~

5 9 f. Erosion on lands caused by construction.

5 10 g. Damage to farm equipment caused by striking a
5 11 pipeline while engaged in normal farming operations as
5 12 defined in section 480.1.

5 13 2. A claim for damage for future crop deficiency
5 14 within the easement strip shall not be precluded from
5 15 renegotiation under section 6B.52 on the grounds that
5 16 it was apparent at the time of settlement unless the
5 17 settlement expressly releases the pipeline company
5 18 from claims for damage to the productivity of the
5 19 soil. The landowner shall notify the company in
5 20 writing thirty days prior to harvest in each year to
5 21 assess crop deficiency.

5 22 Sec. 3. NEW SECTION. 479.48 REVERSION ON NONUSE.

5 23 1. If a pipeline right-of-way, or any part of a
5 24 pipeline right-of-way, is wholly abandoned for
5 25 pipeline purposes by the relocation of the pipeline,
5 26 is not used or operated for a period of five
5 27 consecutive years, or if the construction of the
5 28 pipeline has been commenced and work has ceased and
5 29 has not in good faith resumed for five years, the
5 30 right-of-way may revert as provided in this section to
5 31 the person who, at the time of the abandonment or
5 32 nonuse, is the owner of the tract from which such
5 33 right-of-way was taken. For purposes of this section,
5 34 a pipeline is not considered abandoned or unused if it
5 35 is transporting product or is being actively
5 36 maintained with reasonable anticipation of a future
5 37 use.

5 38 2. To effect a reversion on nonuse of right-of-
5 39 way, the owner or holder of purported fee title to
5 40 such real estate shall serve notice upon the owner of
5 41 such right-of-way easement and, if filed of record,
5 42 successors in interest and upon any party in
5 43 possession of the real estate. The written notice
5 44 shall accurately describe the real estate and easement
5 45 in question, set out the facts concerning ownership of
5 46 the fee, ownership of the right-of-way easement, and
5 47 the period of abandonment or nonuse, and notify the
5 48 parties that such reversion shall be complete and
5 49 final, and that the easement or other right shall be
5 50 forfeited, unless the parties shall, within one
6 1 hundred twenty days after the completed service of
6 2 notice, file an affidavit with the county recorder of
6 3 the county in which the real estate is located
6 4 disputing the facts contained in the notice.

6 5 3. The notice shall be served in the same manner
6 6 as an original notice under the Iowa rules of civil
6 7 procedure, except that when notice is served by
6 8 publication an affidavit shall not be required before
6 9 publication. If an affidavit disputing the facts
6 10 contained in the notice is not filed within one
6 11 hundred twenty days, the party serving the notice may

6 12 file for record in the office of the county recorder a
6 13 copy of the notice with proofs of service attached and
6 14 endorsed, and when so recorded, the record shall be
6 15 constructive notice to all persons of the abandonment,
6 16 reversion, and forfeiture of such right-of-way.

6 17 4. Upon reversion of the easement, the landowner
6 18 may require the pipeline company to remove any pipe or
6 19 pipeline facility remaining on the property.

6 20 5. If a pipeline right-of-way is abandoned for
6 21 pipeline use, but the pipe is not removed from the
6 22 right-of-way, the pipeline company shall remain
6 23 responsible for the additional costs of subsequent
6 24 tiling as provided for in section 479.47, shall mark
6 25 the location of the line in response to a notice of
6 26 proposed excavation in accordance with chapter 480,
6 27 and shall remain subject to the damage provisions of
6 28 this chapter in the event access to or excavation
6 29 relating to the pipe is required. The landowner shall
6 30 provide reasonable access to the pipeline in order to
6 31 carry out the responsibilities of this subsection.

6 32 Sec. 4. Section [479A.14](#), Code 1997, is amended to
6 33 read as follows:

6 34 479A.14 LAND RESTORATION STANDARDS
6 35 INSPECTION.

6 36 1. The board shall adopt rules establishing
6 37 standards

~~to protect underground improvements during~~

6 38

~~the construction of pipelines, to protect soil~~

6 39

~~conservation and drainage structures from being~~

6 40

~~permanently damaged by pipeline construction, and~~

~~for~~

6 41 the restoration of agricultural lands during and after
6 42 pipeline construction.

~~To ensure that all interested~~

6 43

~~persons are informed of this rulemaking procedure and~~

6 44

~~are afforded a right to participate, the board shall~~

6 45

~~schedule an opportunity for oral presentations on the~~

6 46

~~proposed rulemaking and, in~~

~~In addition to the~~

6 47 requirements of section 17A.4, the board shall
6 48 distribute copies of the notice of intended action and
6 49 opportunity for oral presentations to each county
6 50 board of supervisors. A county board of supervisors
7 1 may, under chapter 17A and subsequent to the

7 2 rulemaking proceedings, petition for additional
7 3 rulemaking to establish standards

~~to protect soil~~

7 4

~~conservation practices, structures, and drainage~~

7 5

~~structures~~

~~for land restoration after pipeline~~

7 6 construction within that county. Upon the request of
7 7 the petitioning county, the board shall schedule a
7 8 hearing to consider the merits of the petition.

~~Rules~~

7 9

~~adopted under this section do not apply within the~~

7 10

~~boundaries of a city, unless the land is used for~~

7 11

~~agricultural purposes.~~

~~Rules adopted under this~~

7 12 section shall not apply to land located within city
7 13 boundaries, unless the land is used for agricultural
7 14 purposes. Rules adopted under this section shall
7 15 address, but are not limited to, all of the following
7 16 subject matters:

- 7 17 a. Topsoil separation and replacement.
7 18 b. Temporary and permanent repair to drain tile.
7 19 c. Removal of rocks and debris from the right-of-
7 20 way.
7 21 d. Restoration of areas of soil compaction.
7 22 e. Restoration of terraces, waterways, and other
7 23 erosion control structures.
7 24 f. Revegetation of untilled land.
7 25 g. Future installation of drain tile or soil
7 26 conservation structures.
7 27 h. Restoration of land slope and contour.
7 28 i. Restoration of areas used for field entrances
7 29 and temporary roads.
7 30 j. Construction in wet conditions.
7 31 k. Designation of a pipeline company point of
7 32 contact for landowner inquiries or claims.

7 33 2. The county board of supervisors shall cause an
7 34 on-site inspection for compliance with the standards
7 35 adopted under this section to be performed at any
7 36 pipeline construction project in the county. A
7 37 licensed professional engineer familiar with the
7 38 standards adopted under this section and registered
7 39 under chapter 542B shall be placed in charge of the
7 40 inspection. The reasonable costs of the inspection
7 41 shall be borne by the pipeline company.

7 42 3. If the inspector determines that there has been
7 43 a violation of the standards adopted under this
7 44 section, of the land restoration plan, or of an
7 45 independent agreement on land restoration executed in
7 46 accordance with subsection 10, the inspector shall
7 47 give oral notice, followed by written notice, to the

7 48 pipeline company and the contractor operating for the
7 49 pipeline company, and order corrective action to be
7 50 taken in compliance with the standards. The costs of
8 1 the corrective action shall be borne by the contractor
8 2 operating for the pipeline company.
8 3

~~4. As a part of the inspection process, the~~

~~8 4~~

~~inspector shall ascertain that the trench excavation~~

~~8 5~~

~~has been filled in a manner to provide that the~~

~~8 6~~

~~topsoil has been replaced on top and rocks and debris~~

~~8 7~~

~~have been removed from the topsoil of the easement~~

~~8 8~~

~~area. An existing topsoil layer extending at least~~

~~8 9~~

~~one foot in width on either side of the pipeline~~

~~8 10~~

~~excavation at a maximum depth of one foot shall be~~

~~8 11~~

~~removed separately and shall be stockpiled and~~

~~8 12~~

~~preserved separately during subsequent construction~~

~~8 13~~

~~operations, unless other means for separating the~~

~~8 14~~

~~topsoil are provided in the easement. The topsoil~~

~~8 15~~

~~shall be replaced so the upper portion of the pipeline~~

~~8 16~~

~~excavation and the crowned surface contain only the~~

~~8 17~~

~~topsoil originally removed.~~

~~8 18~~

~~5.~~

~~4.~~

~~Adequate inspection of~~

~~The inspector shall~~

8 19 adequately inspect underground improvements altered
8 20 during construction of a pipeline. The inspection
8 21 shall be conducted at the time of the replacement or
8 22 repair of the underground improvements.

~~An~~

~~The~~

8 23 inspector shall be present on the site at all times at
8 24 each phase and separate activity of the opening of the
8 25 trench, the restoration of underground improvements,
8 26 and backfilling. The pipeline company and its
8 27 contractor shall keep all county inspectors
8 28 continually informed of the work schedule and any
8 29 schedule changes. If proper notice is given,
8 30 construction shall not be delayed due to the
8 31 inspector's failure to be present on the site.
8 32

~~6.~~

~~5.~~ If the pipeline company or its contractor

8 33 does not comply with the orders of the inspector for
8 34 compliance with the standards, with the land
8 35 restoration plan, or with an independent agreement on
8 36 land restoration executed in accordance with
8 37 subsection 10, the county board of supervisors may
8 38

~~direct the county attorney to petition the district~~

~~8 39~~

~~court~~

~~petition the board~~ for an order requiring

8 40 corrective action to be taken in compliance with the
8 41 standards adopted under this section. In addition,
8 42 the county board of supervisors may file a complaint
8 43 with the board seeking imposition of civil penalties
8 44 pursuant to section 479A.16.
8 45

~~7.~~

~~6.~~ The pipeline company shall allow landowners

8 46 and inspectors to view the proposed center line of the
8 47 pipeline before commencing trenching operations to
8 48 ensure that construction takes place in the proper
8 49 location.
8 50

~~8.~~

~~7.~~ An inspector may temporarily halt the

9 1 construction if the construction is not in compliance
9 2 with this chapter and the standards adopted under

~~it~~

~~9 3~~ this chapter, the land restoration plan approved by
9 4 the board, or the terms of

~~the~~

~~an independent~~

9 5 agreement with the pipeline company regarding

~~topsoil~~

9 6

~~removal and replacement, drainage structures, soil~~

9 7

~~moisture conditions, or the location of construction,~~

9 8 line location or land restoration executed in
9 9 accordance with subsection 10, until the inspector
9 10 consults with the supervisory personnel of the
9 11 pipeline company.

~~If the construction is continued~~

9 12

~~over the inspector's objection and is found not to be~~

9 13

~~in compliance with this chapter, the standards, or the~~

9 14

~~agreement, and is found to cause damage, a civil~~

9 15

~~penalty recovered under section 479A.16 as a result of~~

9 16

~~that violation shall be paid to the landowner.~~

9 17

~~9.~~

~~8.~~ The board shall instruct inspectors
9 18 appointed by the county board of supervisors regarding
9 19 the content of this chapter and the standards and the
9 20 inspectors' responsibility to require construction
9 21 conforming with them.
9 22

~~10.~~

~~9.~~

~~An underground drain tile damaged, cut, or~~

9 23

~~removed shall be temporarily repaired and maintained~~

9 24

~~as necessary to allow for its proper function during~~

9 25

~~construction of the pipeline. If temporary repair is~~

9 26

~~determined not to be necessary, the exposed line shall~~

9 27

~~be screened or otherwise protected to prevent the~~

9 28

~~entry of foreign material or small animals into the~~

9 29

~~tile line system.~~

~~Prior to the initiation of~~

9 30 construction, the pipeline company shall file a
9 31 written land restoration plan with the board
9 32 describing the methods and procedures by which
9 33 compliance with this section and the standards adopted
9 34 under this section will be achieved. The board shall
9 35 review this plan to insure that the requirements of
9 36 this section and rules adopted pursuant to this
9 37 section are met. After board review, the pipeline
9 38 company shall provide copies of the plan to all
9 39 landowners of property that will be disturbed by the
9 40 construction.
9 41

~~11.~~

~~10. This section does not preclude the~~

9 42 application of provisions for protecting or restoring
9 43 property that are different than those prescribed in
9 44 this section, in rules adopted pursuant to this
9 45 section, or in the land restoration plan if the
9 46 alternative provisions are contained in agreements
9 47 independently executed by the pipeline company and the
9 48 landowner, and if the alternative provisions are not
9 49 inconsistent with state law or with rules adopted by
9 50 the board. Independent agreements on land restoration
10 1 or line location between the landowner and pipeline
10 2 company shall be in writing and a copy provided to the
10 3 county inspector.

10 4 11. For the purposes of this section,
10 5 "construction" includes the removal of a previously
10 6 constructed pipeline.

10 7 12. The requirements of this section shall not
10 8 apply to pipeline projects that have received a
10 9 certificate from the federal energy regulatory
10 10 commission prior to the effective date of this Act.

10 11 Sec. 5. Section 479A.24, subsections 1 and 2, Code
10 12 1997, are amended to read as follows:

10 13 1. Compensable losses shall include, but are not
10 14 limited to, all of the following:

10 15 a. Loss or reduced yield of crops or forage on the
10 16 pipeline right-of-way, whether caused directly by
10 17 construction or from disturbance of usual farm
10 18 operations.

10 19 b. Loss or reduced yield of crops or yield from
10 20 land near the pipeline right-of-way resulting from
10 21 lack of timely access to the land or other disturbance
10 22 of usual farm operations, including interference with
10 23 irrigation.

10 24 c. Fertilizer, lime, or organic material applied
10 25 by the landowner to restore land disturbed by
10 26 construction to full productivity.

10 27 d. Loss of or damage to trees of commercial or
10 28 other value that occurs at the time of construction or
10 29 at the time of any subsequent work by the pipeline
10 30 outside of the area cleared during construction.

~~1.~~

~~e. The cost of moving or relocating livestock,
10 32 and the loss of gain by, or the death or injury of
10 33 livestock caused by the interruption or relocation of
10 34 normal feeding~~

~~of the livestock due to the~~

10 35

~~construction or repair of a pipeline is a compensable~~

10 36

~~loss and shall be so recognized by a pipeline company~~

10 37 f. Erosion on lands caused by construction.

10 38 g. Damage to farm equipment caused by striking a
10 39 pipeline while engaged in normal farming operations as
10 40 defined in section 480.1.

10 41 2. A claim for damage for future crop deficiency
10 42 within the easement strip shall not be precluded from
10 43 renegotiation under section 6B.52 on the grounds that
10 44 it was apparent at the time of settlement unless the
10 45 settlement expressly releases the pipeline company
10 46 from claims for damage to the productivity of the
10 47 soil. The landowner shall notify the company in
10 48 writing thirty days prior to harvest in each year to
10 49 assess crop deficiency.

10 50 Sec. 6. NEW SECTION. 479A.27 REVERSION ON
11 1 NONUSE.

11 2 1. If a pipeline right-of-way, or any part of a
11 3 pipeline right-of-way, is wholly abandoned for
11 4 pipeline purposes by the relocation of the pipeline,
11 5 is not used or operated for a period of five
11 6 consecutive years, or if the construction of the
11 7 pipeline has been commenced and work has ceased and
11 8 has not in good faith resumed for five years, the
11 9 right-of-way may revert as provided in this section to
11 10 the person who, at the time of the abandonment or
11 11 nonuse, is the owner of the tract from which such
11 12 right-of-way was taken. Abandonment of pipeline
11 13 facilities requires approval from the federal energy
11 14 regulatory commission prior to this provision taking
11 15 effect.

11 16 2. To effect a reversion on nonuse of right-of-
11 17 way, the owner or holder of purported fee title to
11 18 such real estate shall serve notice upon the owner of
11 19 such right-of-way easement and, if filed of record,
11 20 successors in interest and upon any party in
11 21 possession of the real estate. The written notice
11 22 shall accurately describe the real estate and easement
11 23 in question, set out the facts concerning ownership of
11 24 the fee, ownership of the right-of-way easement, and
11 25 the period of abandonment or nonuse, and notify the
11 26 parties that such reversion shall be complete and
11 27 final, and that the easement or other right shall be
11 28 forfeited, unless the parties shall, within one
11 29 hundred twenty days after the completed service of
11 30 notice, file an affidavit with the county recorder of
11 31 the county in which the real estate is located
11 32 disputing the facts contained in the notice.

11 33 3. The notice shall be served in the same manner
11 34 as an original notice under the Iowa rules of civil
11 35 procedure, except that when notice is served by

11 36 publication an affidavit shall not be required before
11 37 publication. If an affidavit disputing the facts
11 38 contained in the notice is not filed within one
11 39 hundred twenty days, the party serving the notice may
11 40 file for record in the office of the county recorder a
11 41 copy of the notice with proofs of service attached and
11 42 endorsed, and when so recorded, the record shall be
11 43 constructive notice to all persons of the abandonment,
11 44 reversion, and forfeiture of such right-of-way.

11 45 4. Upon reversion of the easement, the landowner
11 46 may require the pipeline company to remove any pipe or
11 47 pipeline facility remaining on the property to the
11 48 extent such removal is in accordance with the terms of
11 49 the abandonment authority from the federal energy
11 50 regulatory commission.

12 1 5. If a pipeline right-of-way is abandoned for
12 2 pipeline use, but the pipe is not removed from the
12 3 right-of-way, the pipeline company shall remain
12 4 responsible for the additional costs of subsequent
12 5 tiling as provided for in section 479A.26, shall mark
12 6 the location of the line in response to a notice of
12 7 proposed excavation in accordance with chapter 480,
12 8 and shall remain subject to the damage provisions of
12 9 this chapter in the event access to or excavation
12 10 relating to the pipe is required. The landowner shall
12 11 provide reasonable access to the pipeline in order to
12 12 carry out the responsibilities of this subsection.

12 13 Sec. 7. Section [479B.20](#), Code 1997, is amended to
12 14 read as follows:

12 15 479B.20 LAND RESTORATION STANDARDS.

12 16 1. The board, pursuant to chapter 17A, shall adopt
12 17 rules establishing standards for

~~the protection of~~

12 18

~~underground improvements during the construction of~~

12 19

~~pipelines or underground storage facilities, to~~

12 20

~~protect soil conservation and drainage structures from~~

12 21

~~being permanently damaged by construction of the~~

12 22

~~pipeline or underground storage facility, and for~~

~~the~~

12 23 restoration of agricultural lands during and after
12 24 pipeline or underground storage facility construction.

12 25

~~To ensure that all interested persons are informed of~~

12 26

~~this rulemaking procedure and are afforded a right to~~

12 27

~~participate, the board shall schedule an opportunity~~

12 28

~~for oral presentations on the proposed rulemaking,~~

12 29

~~and, in~~

~~In addition to the requirements of section~~

12 30 17A.4, the board shall distribute copies of the notice
12 31 of intended action and opportunity for oral
12 32 presentations to each county board of supervisors.
12 33 Any county board of supervisors may, under the
12 34 provisions of chapter 17A, and subsequent to the
12 35 rulemaking proceedings, petition under those
12 36 provisions for additional rulemaking to establish
12 37 standards

~~to protect soil conservation practices,~~

12 38

~~structures, and drainage structures~~

~~for land~~

12 39 restoration after pipeline construction within that
12 40 county. Upon the request of the petitioning county,
12 41 the board shall schedule a hearing to consider the
12 42 merits of the petition.

~~Rules adopted under this~~

12 43

~~section shall not apply within the boundaries of a~~

12 44

~~city unless the land is used for agricultural~~

12 45

~~purposes.~~

~~Rules adopted under this section shall not~~

12 46 apply to land located within city boundaries, unless
12 47 the land is used for agricultural purposes. Rules
12 48 adopted under this section shall address, but are not
12 49 limited to, all of the following subject matters:

12 50 a. Topsoil separation and replacement.

13 1 b. Temporary and permanent repair to drain tile.

13 2 c. Removal of rocks and debris from the right-of-

13 3 way.

13 4 d. Restoration of areas of soil compaction.

13 5 e. Restoration of terraces, waterways, and other

13 6 erosion control structures.

13 7 f. Revegetation of untilled land.

13 8 g. Future installation of drain tile or soil

13 9 conservation structures.

13 10 h. Restoration of land slope and contour.

13 11 i. Restoration of areas used for field entrances

13 12 and temporary roads.

13 13 j. Construction in wet conditions.

13 14 k. Designation of a pipeline company point of

13 15 contact for landowner inquiries or claims.

13 16 2. The county board of supervisors shall cause an

13 17 on-site inspection for compliance with the standards

13 18 adopted under this section to be performed at any

13 19 pipeline construction project in the county. A
13 20 licensed professional engineer familiar with the
13 21 standards adopted under this section and registered
13 22 under chapter 542B shall be responsible for the
13 23 inspection. A county board of supervisors may
13 24 contract for the services of a licensed professional
13 25 engineer for the purposes of the inspection. The
13 26 reasonable costs of the inspection shall be paid by
13 27 the pipeline company.
13 28 3. If the inspector determines that there has been
13 29 a violation of the standards adopted under this
13 30 section, of the land restoration plan, or of an
13 31 independent agreement on land restoration executed in
13 32 accordance with subsection 10, the inspector shall
13 33 give oral notice, followed by written notice, to the
13 34 pipeline company and the contractor operating for the
13 35 pipeline company and order corrective action to be
13 36 taken in compliance with the standards. The costs of
13 37 the corrective action shall be borne by the contractor
13 38 operating for the pipeline company.
13 39

~~4. As a part of the inspection process, the~~
13 40
~~inspector shall ascertain that the trench excavation~~
13 41
~~has been filled in a manner to provide that the~~
13 42
~~topsoil has been replaced on top and rocks and debris~~
13 43
~~have been removed from the topsoil of the easement~~
13 44
~~area. An existing topsoil layer extending at least~~
13 45
~~one foot in width on either side of the pipeline~~
13 46
~~excavation at a maximum depth of twelve inches shall~~
13 47
~~be removed separately and shall be stockpiled and~~
13 48
~~preserved separately during subsequent construction~~
13 49
~~operations, unless other means for separating the~~
13 50
~~topsoil are provided in the easement. The topsoil~~

14 1

~~shall be replaced so the upper portion of the pipeline~~

14 2

~~excavation and the crowned surface shall contain only~~

14 3

~~the topsoil originally removed.~~

14 4

~~5.~~

~~4.~~

~~Adequate inspection of~~

~~The inspector shall~~

14 5 adequately inspect underground improvements altered

14 6 during construction of the pipeline. The inspection

14 7 shall be conducted at the time of the replacement or

14 8 repair of the underground improvements.

~~An~~

~~The~~

14 9 inspector shall be present on the site at all times at

14 10 each phase and separate activity of the opening of the

14 11 trench, the restoration of underground improvements,

14 12 and backfilling. The pipeline company and its

14 13 contractor shall keep all county inspectors

14 14 continually informed of the work schedule and any

14 15 schedule changes. If proper notice is given,

14 16 construction shall not be delayed due to the

14 17 inspector's failure to be present on the site.

14 18

~~6.~~

~~5.~~ If the pipeline company or its contractor

14 19 does not comply with the orders of the inspector for

14 20 compliance with the standards, with the land

14 21 restoration plan, or with an independent agreement on

14 22 land restoration executed in accordance with

14 23 subsection 10, the county board of supervisors may

14 24

~~direct the county attorney to petition the district~~

14 25

~~court~~

~~petition the board~~ for an order requiring

14 26 corrective action to be taken in compliance with the

14 27 standards adopted under this section. In addition,

14 28 the county board of supervisors may file a complaint

14 29 with the board seeking imposition of civil penalties

14 30 under section 479B.21.

14 31

~~7.~~

~~6.~~ The pipeline company shall allow landowners

14 32 and inspectors to view the proposed center line of the

14 33 pipeline prior to commencing trenching operations to

14 34 ensure that construction takes place in its proper

14 35 location.

14 36

~~8.~~

~~7.~~ An inspector may temporarily halt the
14 37 construction if the construction is not in compliance
14 38 with the law and the standards adopted pursuant to
14 39 law, the land restoration plan, or the terms of

~~the~~

~~an~~

14 40 independent agreement with the pipeline company
14 41 regarding

~~topsoil removal and replacement, drainage~~

14 42

~~structures, soil moisture conditions, or the location~~

14 43

~~of construction~~

~~line location or land restoration~~

14 44 executed in accordance with subsection 10, until the
14 45 inspector consults with the supervisory personnel of
14 46 the pipeline company.

~~If the construction is then~~

14 47

~~continued over the inspector's objection and is found~~

14 48

~~not to be in compliance with the law or agreement and~~

14 49

~~is found to cause damage, any civil penalty recovered~~

14 50

~~under section 479B.21 as a result of that violation~~

15 1

~~shall be paid to the landowner.~~

15 2

~~9.~~

~~8.~~ The board shall instruct inspectors
15 3 appointed by the board of supervisors regarding the
15 4 content of the statutes and rules and the inspector's
15 5 responsibility to require construction conforming with
15 6 the standards provided by this chapter.
15 7

~~10.~~

~~9.~~

~~Any underground drain tile damaged, cut, or~~

15 8

~~removed shall be temporarily repaired and maintained~~

~~as necessary to allow for its proper function during~~

~~construction of the pipeline or underground storage~~

~~facility. If temporary repair is not determined to be~~

~~necessary, the exposed tile shall nonetheless be~~

~~screened or otherwise protected to prevent the entry~~

~~of any foreign material or small animals into the tile~~

~~line system.~~

Petitioners for a permit for pipeline

15 16 construction shall file with the petition a written
15 17 land restoration plan showing how the requirements of
15 18 this section, and of rules adopted pursuant to this
15 19 section, will be met. The company shall provide
15 20 copies of the plan to all landowners of property that
15 21 will be disturbed by the construction.
15 22

~~11.~~

~~10.~~ This section does not preclude the
15 23 application of provisions for protecting or restoring
15 24 property that are different than those prescribed in
15 25 this section, in rules adopted under this section, or
15 26 in the land restoration plan, if the alternative
15 27 provisions are contained in agreements independently
15 28 executed by the pipeline company and the landowner,
15 29 and if the alternative provisions are not inconsistent
15 30 with state law or with rules adopted by the board.
15 31 Independent agreements on land restoration or line
15 32 location between the landowner and pipeline company
15 33 shall be in writing and a copy provided to the county
15 34 inspector.

15 35 11. For the purposes of this section,
15 36 "construction" includes the removal of a previously
15 37 constructed pipeline.

15 38 12. The requirements of this section shall apply
15 39 only to pipeline construction projects commenced on or
15 40 after June 1, 1998.

15 41 Sec. 8. Section 479B.29, subsection 1, Code 1997,
15 42 is amended to read as follows:

15 43 1. Compensable losses shall include, but are not
15 44 limited to, all of the following:

15 45 a. Loss or reduced yield of crops or forage on the
15 46 pipeline right-of-way, whether caused directly by
15 47 construction or from disturbance of usual farm
15 48 operations.

15 49 b. Loss or reduced yield of crops or yield from
15 50 land near the pipeline right-of-way resulting from
16 1 lack of timely access to the land or other disturbance

16 2 of usual farm operations, including interference with
16 3 irrigation.
16 4 c. Fertilizer, lime, or organic material applied
16 5 by the landowner to restore land disturbed by
16 6 construction to full productivity.
16 7 d. Loss of or damage to trees of commercial or
16 8 other value that occurs at the time of construction or
16 9 at the time of any subsequent work by the pipeline
16 10 outside of the area cleared during construction.
16 11

~~1.~~

~~e. The cost of moving or relocating livestock,
16 12 and the loss of gain by or the death or injury of
16 13 livestock caused by the interruption or relocation of
16 14 normal feeding~~

~~of the livestock caused by the~~

~~16 15~~

~~construction or repair of a pipeline or underground~~

~~16 16~~

~~storage facility is a compensable loss and shall be~~

~~16 17~~

~~recognized by a pipeline company~~

~~f. Erosion on lands caused by construction.
16 19 g. Damage to farm equipment caused by striking a
16 20 pipeline while engaged in normal farming operations as
16 21 defined in section 480.1.~~

~~16 22 Sec. 9. NEW SECTION. 479B.32 REVERSION ON
16 23 NONUSE.~~

~~16 24 1. If a pipeline right-of-way, or any part of the
16 25 pipeline right-of-way, is wholly abandoned for
16 26 pipeline purposes by the relocation of the line, is
16 27 not used or operated for a period of five consecutive
16 28 years, or if the construction of the pipeline has been
16 29 commenced and work has ceased and has not in good
16 30 faith resumed for five years, the right-of-way may
16 31 revert as provided in this section to the person who,
16 32 at the time of the abandonment or nonuse, is the owner
16 33 of the tract from which such right-of-way was taken.
16 34 For purposes of this section, a pipeline is not
16 35 considered abandoned or unused if it is transporting
16 36 product or is being actively maintained with
16 37 reasonable anticipation of a future use.~~

~~16 38 2. To effect a reversion on nonuse of right-of-
16 39 way, the owner or holder of purported fee title to
16 40 such real estate shall serve notice upon the owner of
16 41 such right-of-way easement and, if filed of record,
16 42 successors in interest and upon any party in
16 43 possession of the real estate. The written notice
16 44 shall accurately describe the real estate and easement
16 45 in question, set out the facts concerning ownership of
16 46 the fee, ownership of the right-of-way easement, and
16 47 the period of abandonment or nonuse, and notify the
16 48 parties that such reversion shall be complete and
16 49 final, and that the easement or other right shall be
16 50 forfeited, unless the parties shall, within one
17 1 hundred twenty days after the completed service of
17 2 notice, file an affidavit with the county recorder of
17 3 the county in which the real estate is located~~

17 4 disputing the facts contained in the notice.
17 5 3. The notice shall be served in the same manner
17 6 as an original notice under the Iowa rules of civil
17 7 procedure, except that when notice is served by
17 8 publication an affidavit shall not be required before
17 9 publication. If an affidavit disputing the facts
17 10 contained in the notice is not filed within one
17 11 hundred twenty days, the party serving the notice may
17 12 file for record in the office of the county recorder a
17 13 copy of the notice with proofs of service attached and
17 14 endorsed, and when so recorded, the record shall be
17 15 constructive notice to all persons of the abandonment,
17 16 reversion, and forfeiture of such right-of-way.
17 17 4. Upon reversion of the easement, the landowner
17 18 may require the pipeline company to remove any pipe or
17 19 pipeline facility remaining on the property.
17 20 5. If a pipeline right-of-way is abandoned for
17 21 pipeline use, but the pipe is not removed from the
17 22 right-of-way, the pipeline company shall remain
17 23 responsible for the additional costs of subsequent
17 24 tiling as provided for in section 479B.31, shall mark
17 25 the location of the line in response to a notice of
17 26 proposed excavation in accordance with chapter 480,
17 27 and shall remain subject to the damage provisions of
17 28 this chapter in the event access to or excavation
17 29 relating to the pipe is required. The landowner shall
17 30 provide reasonable access to the pipeline in order to
17 31 carry out the responsibilities of this subsection.
17 32 Sec. 10. EFFECTIVE DATE. This Act takes effect on
17 33 June 1, 1998."
17 34 #2. Title page, lines 1 and 2, by striking the
17 35 words "security for damages arising from the
17 36 abandonment of natural gas".
17 37 #3. Title page, line 2, by inserting after the
17 38 word "pipelines" the following: ", the restoration of
17 39 agricultural lands, making penalties applicable, and
17 40 providing an effective date".
17 41
17 42
17 43 _____
17 44 KITTY [REHBERG](#)
17 45 [SF 2201.501](#) 77
17 46 tm/jw/28