

FEB 5 1999

NATURAL RESOURCES

HOUSE FILE 223  
BY BRUNKHORST and DIX

(COMPANION TO SF 75  
BY REHBERG)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to pipelines, interstate natural gas pipelines,  
2 and hazardous liquid pipelines, and the restoration of  
3 agricultural lands, making penalties applicable, and providing  
4 an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

HF 223

1 Section 1. Section 479.29, Code 1999, is amended to read  
2 as follows:

3 479.29 CONSTRUCTION-STANDARDS LAND RESTORATION.

4 1. The board shall, pursuant to chapter 17A, adopt rules  
5 establishing standards ~~for the protection of underground~~  
6 ~~improvements during the construction of pipelines, to protect~~  
7 ~~soil conservation and drainage structures from being~~  
8 ~~permanently damaged by pipeline construction and~~ for the  
9 restoration of agricultural lands during and after pipeline  
10 construction. ~~To ensure that all interested persons are~~  
11 ~~informed of this rulemaking procedure and are afforded a right~~  
12 ~~to participate, the board shall schedule an opportunity for~~  
13 ~~oral presentations on the proposed rulemaking, and, in In~~  
14 addition to the requirements of section 17A.4, the board shall  
15 distribute copies of the notice of intended action and  
16 opportunity for oral presentations to each county board of  
17 supervisors. Any county board of supervisors may, under the  
18 provisions of chapter 17A, and subsequent to the rulemaking  
19 proceedings, petition under those provisions for additional  
20 rulemaking to establish standards ~~to protect soil conservation~~  
21 ~~practices, structures and drainage structures for land~~  
22 restoration after pipeline construction within that county.  
23 Upon the request of the petitioning county the board shall  
24 schedule a hearing to consider the merits of the petition.  
25 ~~Rules adopted under this section shall not apply within the~~  
26 ~~boundaries of a city, unless the land is used for agricultural~~  
27 ~~purposes. Rules adopted under this section shall not apply to~~  
28 land located within city boundaries, unless the land is used  
29 for agricultural purposes. Rules adopted under this section  
30 shall address, but are not limited to, all of the following  
31 subject matters:

- 32 a. Topsoil separation and replacement.  
33 b. Temporary and permanent repair to drain tile.  
34 c. Removal of rocks and debris from the right-of-way.  
35 d. Restoration of areas of soil compaction.

- 1 e. Restoration of terraces, waterways, and other erosion  
2 control structures.
- 3 f. Revegetation of untilled land.
- 4 g. Future installation of drain tile or soil conservation  
5 structures.
- 6 h. Restoration of land slope and contour.
- 7 i. Restoration of areas used for field entrances and  
8 temporary roads.
- 9 j. Construction in wet conditions.
- 10 k. Designation of a pipeline company point of contact for  
11 landowner inquiries or claims.

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

22 3. If the inspector determines that there has been a  
23 violation of the standards adopted under this section, of the  
24 land restoration plan, or of an independent agreement on land  
25 restoration or line location executed in accordance with  
26 subsection 10, the inspector shall give oral notice, followed  
27 by written notice, to the pipeline company and the contractor  
28 operating for the pipeline company and order corrective action  
29 to be taken in compliance with the standards. The costs of  
30 the corrective action shall be borne by the contractor  
31 operating for the pipeline company.

32 ~~4.--As-a-part-of-the-inspection-process, the inspector~~  
33 ~~shall ascertain that the trench excavation has been filled in~~  
34 ~~a manner to provide that the topsoil has been replaced on top~~  
35 ~~and rocks and debris have been removed from the topsoil of the~~

1 easement-area.--An-existing-topsoil-layer-extending-at-least  
2 one-foot-in-width-on-either-side-of-the-pipeline-excavation-at  
3 a-maximum-depth-of-twelve-inches-shall-be-removed-separately  
4 and-shall-be-stockpiled-and-preserved-separately-during  
5 subsequent-construction-operations,--unless-other-means-for  
6 separating-the-topsoil-are-provided-in-the-easement.--The  
7 topsoil-shall-be-replaced-so-the-upper-portion-of-the-pipeline  
8 excavation-and-the-crowned-surface-shall-contain-only-the  
9 topsoil-originally-removed.

10 5- 4. Adequate-inspection-of An inspector shall adequately  
11 inspect underground improvements altered during construction  
12 of pipeline. An inspection shall be conducted at the time of  
13 the replacement or repair of the underground improvements. An  
14 inspector shall be present on the site at all times at each  
15 phase and separate activity of the opening of the trench, the  
16 restoration of underground improvements, and backfilling. The  
17 pipeline company and its contractor shall keep ~~all-county~~  
18 ~~inspectors~~ an inspector continually informed of the work  
19 schedule and any schedule changes. If proper notice is given,  
20 construction shall not be delayed due to an inspector's  
21 failure to be present on the site.

22 6- 5. If the pipeline company or its contractor does not  
23 comply with the ~~orders-of-the-inspector-for-compliance-with~~  
24 ~~the-standards~~ requirements of this section, with the land  
25 restoration plan, or with an independent agreement on land  
26 restoration or line location executed in accordance with  
27 subsection 10, the county board of supervisors may ~~direct-the~~  
28 ~~county-attorney-to-petition-the-district-court~~ petition the  
29 board for an order requiring corrective action to be taken in  
30 ~~compliance-with-the-standards-adopted-under-this-section.~~ In  
31 addition, the county board of supervisors may file a complaint  
32 with the board seeking imposition of civil penalties pursuant  
33 to section 479.31.

34 7- 6. The pipeline company shall allow landowners and  
35 ~~inspectors~~ the inspector to view the proposed center line of

1 the pipeline prior to commencing trenching operations to  
2 insure that construction takes place in its proper location.  
3 | ~~8- 7.~~ An inspector may temporarily halt the construction  
4 if the construction is not in compliance with the law this  
5 chapter and the standards adopted pursuant to this chapter,  
6 the land restoration plan, or the terms of the an independent  
7 agreement with the pipeline company regarding ~~topsoil-removal~~  
8 ~~and-replacement, drainage-structures, soil-moisture-conditions~~  
9 ~~or-the-location-of-construction~~ land restoration or line  
10 location executed in accordance with subsection 10, until the  
11 inspector consults with the supervisory personnel of the  
12 pipeline company. ~~if-the-construction-is-then-continued-over~~  
13 ~~the-inspector's-objection-and-is-found-to-not-be-in-compliance~~  
14 ~~with-the-law-or-agreement-and-is-found-to-cause-damage, any~~  
15 ~~civil-penalty-recovered-under-section-479.31-as-a-result-of~~  
16 ~~that-violation-shall-be-paid-to-the-landowner.~~

17 | ~~9- 8.~~ The board shall instruct inspectors appointed by the  
18 board of supervisors regarding the content of the statutes and  
19 rules and the inspector's responsibility to require  
20 construction conforming with the standards provided by this  
21 chapter.

22 | ~~10- 9.~~ Any ~~underground-drain-tile-damaged, cut, or removed~~  
23 ~~shall-be-temporarily-repaired-and-maintained-as-necessary-to~~  
24 ~~allow-for-its-proper-function-during-construction-of-the~~  
25 ~~pipeline.--if-temporary-repair-is-not-determined-to-be~~  
26 ~~necessary, the-exposed-line-will-nonetheless-be-screened-or~~  
27 ~~otherwise-protected-to-prevent-the-entry-of-any-foreign~~  
28 ~~material, small-animals, etc.-into-the-tile-line-system.~~

29 Petitioners for a permit for pipeline construction shall file  
30 with the petition a written land restoration plan showing how  
31 the requirements of this section, and of rules adopted  
32 pursuant to this section, will be met. The petitioners shall  
33 provide copies of the plan to all landowners of property that  
34 will be disturbed by the construction.

35 | 10. This section does not preclude the application of

1 provisions for protecting or restoring property that are  
2 different than those prescribed in this section, in rules  
3 adopted pursuant to this section, or in the land restoration  
4 plan, if the alternative provisions are contained in  
5 agreements independently executed by the pipeline company and  
6 landowner, and if the alternative provisions are not  
7 inconsistent with state law or with rules adopted by the  
8 board. Independent agreements on land restoration or line  
9 location between the landowner and pipeline company shall be  
10 in writing and a copy provided to the county inspector.

11 11. For purposes of this section, "construction" includes  
12 the removal of a previously constructed pipeline.

13 12. The requirements of this section shall apply only to  
14 pipeline construction projects commenced on or after the  
15 effective date of this Act.

16 Sec. 2. Section 479.45, Code 1999, is amended to read as  
17 follows:

18 479.45 PARTICULAR DAMAGE CLAIMS.

19 1. Compensable losses shall include, but are not limited  
20 to, all of the following:

21 a. Loss or reduced yield of crops or forage on the  
22 pipeline right-of-way, whether caused directly by construction  
23 or from disturbance of usual farm operations.

24 b. Loss or reduced yield of crops or yield from land near  
25 the pipeline right-of-way resulting from lack of timely access  
26 to the land or other disturbance of usual farm operations,  
27 including interference with irrigation.

28 c. Fertilizer, lime, or organic material applied by the  
29 landowner to restore land disturbed by construction to full  
30 productivity.

31 d. Loss of or damage to trees of commercial or other value  
32 that occurs at the time of construction, restoration, or at  
33 the time of any subsequent work by the pipeline company.

34 1. e. The cost of or losses in moving or relocating  
35 livestock, and the loss of gain by or the death or injury of

1 livestock caused by the interruption or relocation of normal  
2 feeding of-the-livestock-caused-by-the-construction-or-repair  
3 of-a-pipeline-is-a-compensable-loss-and-shall-be-recognized-as  
4 such-by-a-pipeline-company.

5 | f. Erosion on lands attributable to pipeline construction.

6 | g. Damage to farm equipment caused by striking a pipeline,  
7 debris, or other material reasonably associated with pipeline  
8 construction while engaged in normal farming operations as  
9 defined in section 480.1.

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

18 Sec. 3. NEW SECTION. 479.48 REVERSION ON NONUSE.

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

31 | 2. To effect a reversion on nonuse of right-of-way, the  
32 owner or holder of purported fee title to such real estate  
33 shall serve notice upon the owner of such right-of-way  
34 easement and, if filed of record, successors in interest and  
35 upon any party in possession of the real estate. The written

1 notice shall accurately describe the real estate and easement  
2 in question, set out the facts concerning ownership of the  
3 fee, ownership of the right-of-way easement, and the period of  
4 abandonment or nonuse, and notify the parties that such  
5 reversion shall be complete and final, and that the easement  
6 or other right shall be forfeited, unless the parties shall,  
7 within one hundred twenty days after the completed service of  
8 notice, file an affidavit with the county recorder of the  
9 county in which the real estate is located disputing the facts  
10 contained in the notice.

11 3. The notice shall be served in the same manner as an  
12 original notice under the Iowa rules of civil procedure,  
13 except that when notice is served by publication an affidavit  
14 shall not be required before publication. If an affidavit  
15 disputing the facts contained in the notice is not filed  
16 within one hundred twenty days, the party serving the notice  
17 may file for record in the office of the county recorder a  
18 copy of the notice with proofs of service attached and  
19 endorsed, and when so recorded, the record shall be  
20 constructive notice to all persons of the abandonment,  
21 reversion, and forfeiture of such right-of-way.

22 4. Upon reversion of the easement, the landowner may  
23 require the pipeline company to remove any pipe or pipeline  
24 facility remaining on the property. Provisions of this  
25 chapter relating to damages shall apply when the pipeline is  
26 removed.

27 5. If a pipeline right-of-way is abandoned for pipeline  
28 use, but the pipe is not removed from the right-of-way, the  
29 pipeline company shall remain responsible for the additional  
30 costs of subsequent tiling as provided for in section 479.47,  
31 shall mark the location of the line in response to a notice of  
32 proposed excavation in accordance with chapter 480, and shall  
33 remain subject to the damage provisions of this chapter in the  
34 event access to or excavation relating to the pipe is  
35 required. The landowner shall provide reasonable access to

1 the pipeline in order to carry out the responsibilities of  
2 this subsection.

3 Sec. 4. Section 479A.9, Code 1999, is amended to read as  
4 follows:

5 479A.9 DEPOSIT OF FUNDS.

6 ~~Except as otherwise provided in section 479A.14, subsection~~  
7 ~~87-moneys~~ Moneys received under this chapter shall be credited  
8 to the general fund of the state as provided in section  
9 476.10.

10 Sec. 5. Section 479A.14, Code 1999, is amended to read as  
11 follows:

12 479A.14 LAND RESTORATION -- STANDARDS -- INSPECTION.

13 1. The board shall adopt rules establishing standards to  
14 ~~protect underground improvements during the construction of~~  
15 ~~pipelines, to protect soil conservation and drainage~~  
16 ~~structures from being permanently damaged by pipeline~~  
17 ~~construction, and for the restoration of agricultural lands~~  
18 during and after pipeline construction. ~~To ensure that all~~  
19 ~~interested persons are informed of this rulemaking procedure~~  
20 ~~and are afforded a right to participate, the board shall~~  
21 ~~schedule an opportunity for oral presentations on the proposed~~  
22 ~~rulemaking and, in~~ In addition to the requirements of section  
23 17A.4, the board shall distribute copies of the notice of  
24 intended action and opportunity for oral presentations to each  
25 county board of supervisors. A county board of supervisors  
26 may, under chapter 17A and subsequent to the rulemaking  
27 proceedings, petition for additional rulemaking to establish  
28 ~~standards to protect soil conservation practices, structures,~~  
29 ~~and drainage structures~~ for land restoration after pipeline  
30 construction within that county. Upon the request of the  
31 petitioning county, the board shall schedule a hearing to  
32 consider the merits of the petition. ~~Rules adopted under this~~  
33 ~~section do not apply within the boundaries of a city, unless~~  
34 ~~the land is used for agricultural purposes.~~ Rules adopted  
35 under this section shall not apply to land located within city

1 boundaries, unless the land is used for agricultural purposes.

2 Rules adopted under this section shall address, but are not

3 limited to, all of the following subject matters:

4 a. Topsoil separation and replacement.

5 b. Temporary and permanent repair to drain tile.

6 c. Removal of rocks and debris from the right-of-way.

7 d. Restoration of areas of soil compaction.

8 e. Restoration of terraces, waterways, and other erosion  
9 control structures.

10 f. Revegetation of untilled land.

11 g. Future installation of drain tile or soil conservation  
12 structures.

13 h. Restoration of land slope and contour.

14 i. Restoration of areas used for field entrances and  
15 temporary roads.

16 j. Construction in wet conditions.

17 k. Designation of a pipeline company point of contact for  
18 landowner inquiries or claims.

19 2. The county board of supervisors shall cause an on-site  
20 inspection for compliance with the standards adopted under  
21 this section to be performed at any pipeline construction  
22 project in the county. A licensed professional engineer  
23 familiar with the standards adopted under this section and  
24 registered under chapter 542B shall be ~~placed-in-charge-of~~  
25 responsible for the inspection. The reasonable costs of the  
26 inspection shall be borne by the pipeline company.

27 3. If the inspector determines that there has been a  
28 violation of the standards adopted under this section, of the  
29 land restoration plan, or of an independent agreement on land  
30 restoration executed in accordance with subsection 10, the  
31 inspector shall give oral notice, followed by written notice,  
32 to the pipeline company and the contractor operating for the  
33 pipeline company, and order corrective action to be taken in  
34 compliance with the standards. The costs of the corrective  
35 action shall be borne by the contractor operating for the

1 pipeline company.

2 ~~4. As a part of the inspection process, the inspector~~  
3 ~~shall ascertain that the trench excavation has been filled in~~  
4 ~~a manner to provide that the topsoil has been replaced on top~~  
5 ~~and rocks and debris have been removed from the topsoil of the~~  
6 ~~easement area. An existing topsoil layer extending at least~~  
7 ~~one foot in width on either side of the pipeline excavation at~~  
8 ~~a maximum depth of one foot shall be removed separately and~~  
9 ~~shall be stockpiled and preserved separately during subsequent~~  
10 ~~construction operations, unless other means for separating the~~  
11 ~~topsoil are provided in the easement. The topsoil shall be~~  
12 ~~replaced so the upper portion of the pipeline excavation and~~  
13 ~~the crowned surface contain only the topsoil originally~~  
14 ~~removed.~~

15 5. 4. Adequate inspection of An inspector shall adequately  
16 inspect underground improvements altered during construction  
17 of a pipeline. An inspection shall be conducted at the time  
18 of the replacement or repair of the underground improvements.  
19 An inspector shall be present on the site at all times at each  
20 phase and separate activity of the opening of the trench, the  
21 restoration of underground improvements, and backfilling. The  
22 pipeline company and its contractor shall keep ~~all county~~  
23 inspectors an inspector continually informed of the work  
24 schedule and any schedule changes. If proper notice is given,  
25 construction shall not be delayed due to an inspector's  
26 failure to be present on the site.

27 6. 5. If the pipeline company or its contractor does not  
28 comply with the ~~orders of the inspector for compliance with~~  
29 the standards requirements of this section, with the land  
30 restoration plan, or with an independent agreement on land  
31 restoration executed in accordance with subsection 10, the  
32 county board of supervisors may ~~direct the county attorney to~~  
33 petition the district court petition the board for an order  
34 requiring corrective action to be taken ~~in compliance with the~~  
35 standards adopted under this section. In addition, the county

1 board of supervisors may file a complaint with the board  
2 seeking imposition of civil penalties pursuant to section  
3 479A.16.

4 7: 6. The pipeline company shall allow landowners and  
5 inspectors the inspector to view the proposed center line of  
6 the pipeline before commencing trenching operations to ensure  
7 that construction takes place in the proper location.

8 8: 7. An inspector may temporarily halt the construction  
9 if the construction is not in compliance with this chapter and  
10 the standards adopted under it this chapter, the land  
11 restoration plan approved by the board, or the terms of the an  
12 independent agreement with the pipeline company regarding  
13 soil-removal-and-replacement, drainage-structures, soil  
14 moisture-conditions, or the location of construction, line  
15 location or land restoration executed in accordance with  
16 subsection 10, until the inspector consults with the  
17 supervisory personnel of the pipeline company. If the  
18 construction is continued over the inspector's objection and  
19 is found not to be in compliance with this chapter, the  
20 standards, or the agreement, and is found to cause damage, a  
21 civil penalty recovered under section 479A.16 as a result of  
22 that violation shall be paid to the landowner.

23 9: 8. The board shall instruct inspectors appointed by the  
24 county board of supervisors regarding the content of this  
25 chapter and the standards and the inspectors' responsibility  
26 to require construction conforming with them.

27 10: 9. An underground drain tile damaged, cut, or removed  
28 shall be temporarily repaired and maintained as necessary to  
29 allow for its proper function during construction of the  
30 pipeline. -- If temporary repair is determined not to be  
31 necessary, the exposed line shall be screened or otherwise  
32 protected to prevent the entry of foreign material or small  
33 animals into the tile line system. Prior to the initiation of  
34 construction, the pipeline company shall file a written land  
35 restoration plan with the board describing the methods and

1 procedures by which compliance with this section and the  
2 standards adopted under this section will be achieved. The  
3 board shall review this plan to insure that the requirements  
4 of this section and rules adopted pursuant to this section are  
5 met. After board review, the pipeline company shall provide  
6 copies of the plan to all landowners of property that will be  
7 disturbed by the construction. The requirements of this  
8 subsection may be waived by the board to the extent an  
9 environmental impact statement addressing the land restoration  
10 subjects in subsection 1 was prepared by the federal energy  
11 regulatory commission.

12 ~~11.~~ 10. This section does not preclude the application of  
13 provisions for protecting or restoring property that are  
14 different than those prescribed in this section, in rules  
15 adopted pursuant to this section, or in the land restoration  
16 plan if the alternative provisions are contained in agreements  
17 independently executed by the pipeline company and the  
18 landowner, and if the alternative provisions are not  
19 inconsistent with state law or with rules adopted by the  
20 board. Independent agreements on land restoration or line  
21 location between the landowner and pipeline company shall be  
22 in writing and a copy provided to the county inspector.

23 11. For the purposes of this section, "construction"  
24 includes the removal of a previously constructed pipeline.

25 12. The requirements of this section shall not apply to  
26 pipeline projects that have received a certificate from the  
27 federal energy regulatory commission prior to the effective  
28 date of this Act.

29 Sec. 6. Section 479A.24, subsections 1 and 2, Code 1999,  
30 are amended to read as follows:

31 1. Compensable losses shall include, but are not limited  
32 to, all of the following:

33 a. Loss or reduced yield of crops or forage on the  
34 pipeline right-of-way, whether caused directly by construction  
35 or from disturbance of usual farm operations.

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

5 c. Fertilizer, lime, or organic material applied by the  
6 landowner to restore land disturbed by construction to full  
7 productivity.

8 d. Loss of or damage to trees of commercial or other value  
9 that occurs at the time of construction, restoration, or at  
10 the time of any subsequent work by the pipeline company.

11 ~~±~~ e. The cost of or losses in moving or relocating  
12 livestock, and the loss of gain by, or the death or injury of  
13 livestock caused by the interruption or relocation of normal  
14 feeding of the livestock due to the construction or repair of  
15 a pipeline is a compensable loss and shall be so recognized by  
16 a pipeline company.

17 f. Erosion on lands attributable to pipeline construction.

18 g. Damage to farm equipment caused by striking a pipeline,  
19 debris, or other material reasonably associated with pipeline  
20 construction while engaged in normal farming operations as  
21 defined in section 480.1.

22 2. A claim for damage for future crop deficiency within  
23 the easement strip shall not be precluded from renegotiation  
24 under section 6B.52 on the grounds that it was apparent at the  
25 time of settlement unless the settlement expressly releases  
26 the pipeline company from claims for damage to the  
27 productivity of the soil. The landowner shall notify the  
28 company ~~thirty~~ in writing seven days prior to harvest in each  
29 year to assess crop deficiency.

30 Sec. 7. NEW SECTION. 479A.27 REVERSION ON NONUSE.

31 1. If a pipeline right-of-way, or any part of a pipeline  
32 right-of-way, is wholly abandoned for pipeline purposes by the  
33 relocation of the pipeline, is not used or operated for a  
34 period of five consecutive years, or if the construction of  
35 the pipeline has been commenced and work has ceased and has

1 not in good faith resumed for five years, the right-of-way may  
2 revert as provided in this section to the person who, at the  
3 time of the abandonment or nonuse, is the owner of the tract  
4 from which such right-of-way was taken. Abandonment of  
5 pipeline facilities requires approval from the federal energy  
6 regulatory commission prior to this provision taking effect.

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

22 3. The notice shall be served in the same manner as an  
23 original notice under the Iowa rules of civil procedure,  
24 except that when notice is served by publication an affidavit  
25 shall not be required before publication. If an affidavit  
26 disputing the facts contained in the notice is not filed  
27 within one hundred twenty days, the party serving the notice  
28 may file for record in the office of the county recorder a  
29 copy of the notice with proofs of service attached and  
30 endorsed, and when so recorded, the record shall be  
31 constructive notice to all persons of the abandonment,  
32 reversion, and forfeiture of such right-of-way.

33 4. Upon reversion of the easement, the landowner may  
34 require the pipeline company to remove any pipe or pipeline  
35 facility remaining on the property to the extent such removal

1 is in accordance with the terms of the abandonment authority  
2 from the federal energy regulatory commission. Provisions of  
3 this chapter relating to damages shall apply when the pipeline  
4 is removed.

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

16 Sec. 8. Section 479B.20, Code 1999, is amended to read as  
17 follows:

18 479B.20 LAND RESTORATION STANDARDS.

19 1. The board, pursuant to chapter 17A, shall adopt rules  
20 establishing standards for ~~the protection of underground~~  
21 ~~improvements during the construction of pipelines or~~  
22 ~~underground storage facilities, to protect soil conservation~~  
23 ~~and drainage structures from being permanently damaged by~~  
24 ~~construction of the pipeline or underground storage facility,~~  
25 and for the restoration of agricultural lands during and after  
26 pipeline or underground storage facility construction. ~~To~~  
27 ~~ensure that all interested persons are informed of this~~  
28 ~~rulemaking procedure and are afforded a right to participate,~~  
29 ~~the board shall schedule an opportunity for oral presentations~~  
30 ~~on the proposed rulemaking, and, in~~ In addition to the  
31 requirements of section 17A.4, the board shall distribute  
32 copies of the notice of intended action and opportunity for  
33 oral presentations to each county board of supervisors. Any  
34 county board of supervisors may, under the provisions of  
35 chapter 17A, and subsequent to the rulemaking proceedings,

1 petition under those provisions for additional rulemaking to  
2 establish standards ~~to-protect-soil-conservation-practices,~~  
3 ~~structures,-and-drainage-structures~~ for land restoration after  
4 pipeline construction within that county. Upon the request of  
5 the petitioning county, the board shall schedule a hearing to  
6 consider the merits of the petition. ~~Rules-adopted-under-this~~  
7 ~~section-shall-not-apply-within-the-boundaries-of-a-city-unless~~  
8 ~~the-land-is-used-for-agricultural-purposes.~~ Rules adopted  
9 under this section shall not apply to land located within city  
10 boundaries, unless the land is used for agricultural purposes.

11 Rules adopted under this section shall address, but are not  
12 limited to, all of the following subject matters:

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

28 2. The county board of supervisors shall cause an on-site  
29 inspection for compliance with the standards adopted under  
30 this section to be performed at any pipeline construction  
31 project in the county. A licensed professional engineer  
32 familiar with the standards adopted under this section and  
33 registered under chapter 542B shall be responsible for the  
34 inspection. A county board of supervisors may contract for  
35 the services of a licensed professional engineer for the

1 purposes of the inspection. The reasonable costs of the  
2 inspection shall be paid by the pipeline company.

3 3. If the inspector determines that there has been a  
4 violation of the standards adopted under this section, of the  
5 land restoration plan, or of an independent agreement on land  
6 restoration or line location executed in accordance with  
7 subsection 10, the inspector shall give oral notice, followed  
8 by written notice, to the pipeline company and the contractor  
9 operating for the pipeline company and order corrective action  
10 to be taken in compliance with the standards. The costs of  
11 the corrective action shall be borne by the contractor  
12 operating for the pipeline company.

13 ~~4--As-a-part-of-the-inspection-process,-the-inspector~~  
14 ~~shall-ascertain-that-the-trench-excavation-has-been-filled-in~~  
15 ~~a-manner-to-provide-that-the-topsoil-has-been-replaced-on-top~~  
16 ~~and-rocks-and-debris-have-been-removed-from-the-topsoil-of-the~~  
17 ~~easement-area.--An-existing-topsoil-layer-extending-at-least~~  
18 ~~one-foot-in-width-on-either-side-of-the-pipeline-excavation-at~~  
19 ~~a-maximum-depth-of-twelve-inches-shall-be-removed-separately~~  
20 ~~and-shall-be-stockpiled-and-preserved-separately-during~~  
21 ~~subsequent-construction-operations,-unless-other-means-for~~  
22 ~~separating-the-topsoil-are-provided-in-the-easement.--The~~  
23 ~~topsoil-shall-be-replaced-so-the-upper-portion-of-the-pipeline~~  
24 ~~excavation-and-the-crowned-surface-shall-contain-only-the~~  
25 ~~topsoil-originally-removed.~~

26 5: 4. Adequate inspection of An inspector shall adequately  
27 inspect underground improvements altered during construction  
28 of the pipeline. An inspection shall be conducted at the time  
29 of the replacement or repair of the underground improvements.  
30 An inspector shall be present on the site at all times at each  
31 phase and separate activity of the opening of the trench, the  
32 restoration of underground improvements, and backfilling. The  
33 pipeline company and its contractor shall keep all-county  
34 inspectors an inspector continually informed of the work  
35 schedule and any schedule changes. If proper notice is given,

1 construction shall not be delayed due to an inspector's  
2 failure to be present on the site.

3     6- 5. If the pipeline company or its contractor does not  
4 comply with the ~~orders of the inspector for compliance with~~  
5 ~~the standards~~ requirements of this section, with the land  
6 restoration plan or line location, or with an independent  
7 agreement on land restoration executed in accordance with  
8 subsection 10, the county board of supervisors may ~~direct the~~  
9 ~~county attorney to petition the district court~~ petition the  
10 board for an order requiring corrective action to be taken in  
11 ~~compliance with the standards adopted under this section.~~ In  
12 addition, the county board of supervisors may file a complaint  
13 with the board seeking imposition of civil penalties under  
14 section 479B.21.

15     7- 6. The pipeline company shall allow landowners and  
16 ~~inspectors~~ the inspector to view the proposed center line of  
17 the pipeline prior to commencing trenching operations to  
18 ensure that construction takes place in its proper location.

19     8- 7. An inspector may temporarily halt the construction  
20 if the construction is not in compliance with ~~the law~~ this  
21 chapter and the standards adopted pursuant to this chapter,  
22 the land restoration plan, or the terms of the an independent  
23 agreement with the pipeline company regarding topsoil removal  
24 and replacement, drainage structures, soil moisture  
25 conditions, or the location of construction land restoration  
26 or line location executed in accordance with subsection 10,  
27 until the inspector consults with the supervisory personnel of  
28 the pipeline company. ~~If the construction is then continued~~  
29 ~~over the inspector's objection and is found not to be in~~  
30 ~~compliance with the law or agreement and is found to cause~~  
31 ~~damage, any civil penalty recovered under section 479B:21 as a~~  
32 ~~result of that violation shall be paid to the landowner.~~

33     9- 8. The board shall instruct inspectors appointed by the  
34 board of supervisors regarding the content of the statutes and  
35 rules and the inspector's responsibility to require

1 construction conforming with the standards provided by this  
2 chapter.

3 ~~10. 9. Any underground drain tile damaged, cut, or removed~~  
4 ~~shall be temporarily repaired and maintained as necessary to~~  
5 ~~allow for its proper function during construction of the~~  
6 ~~pipeline or underground storage facility. If temporary repair~~  
7 ~~is not determined to be necessary, the exposed tile shall~~  
8 ~~nonetheless be screened or otherwise protected to prevent the~~  
9 ~~entry of any foreign material or small animals into the tile~~  
10 ~~line system.~~ Petitioners for a permit for pipeline  
11 construction shall file with the petition a written land  
12 restoration plan showing how the requirements of this section,  
13 and of rules adopted pursuant to this section, will be met.  
14 The company shall provide copies of the plan to all landowners  
15 of property that will be disturbed by the construction.

16 ~~11. 10.~~ This section does not preclude the application of  
17 provisions for protecting or restoring property that are  
18 different than those prescribed in this section, in rules  
19 adopted under this section, or in the land restoration plan,  
20 if the alternative provisions are contained in agreements  
21 independently executed by the pipeline company and the  
22 landowner, and if the alternative provisions are not  
23 inconsistent with state law or with rules adopted by the  
24 board. Independent agreements on land restoration or line  
25 location between the landowner and pipeline company shall be  
26 in writing and a copy provided to the county inspector.

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

29 12. The requirements of this section shall apply only to  
30 pipeline construction projects commenced on or after the  
31 effective date of this Act.

32 Sec. 9. Section 479B.29, Code 1999, is amended to read as  
33 follows:

34 479B.29 PARTICULAR DAMAGE CLAIMS.

35 1. Compensable losses shall include, but are not limited

1 to, all of the following:

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

5 b. Loss or reduced yield of crops or yield from land near  
6 the pipeline right-of-way resulting from lack of timely access  
7 to the land or other disturbance of usual farm operations,  
8 including interference with irrigation.

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

12 d. Loss of or damage to trees of commercial or other value  
13 that occurs at the time of construction, restoration, or at  
14 the time of any subsequent work by the pipeline company.

15 e. The cost of or losses in moving or relocating  
16 livestock, and the loss of gain by or the death or injury of  
17 livestock caused by the interruption or relocation of normal  
18 feeding of the livestock caused by the construction or repair  
19 of a pipeline or underground storage facility is a compensable  
20 loss and shall be recognized by a pipeline company.

21 f. Erosion on lands attributable to pipeline construction.

22 g. Damage to farm equipment caused by striking a pipeline,  
23 debris, or other material reasonably associated with pipeline  
24 construction while engaged in normal farming operations as  
25 defined in section 480.1.

26 2. A claim for damage for future crop deficiency within  
27 the easement strip shall not be precluded from renegotiation  
28 under section 6B.52 on the grounds that it was apparent at the  
29 time of settlement unless the settlement expressly releases  
30 the pipeline company from claims for damage to the  
31 productivity of the soil. The landowner shall notify the  
32 pipeline company in writing thirty seven days prior to harvest  
33 in each year to assess crop deficiency.

34 Sec. 10. NEW SECTION. 479B.32 REVERSION ON NONUSE.

35 1. If a pipeline right-of-way, or any part of the pipeline

1 right-of-way, is wholly abandoned for pipeline purposes by the  
2 relocation of the pipeline, is not used or operated for a  
3 period of five consecutive years, or if the construction of  
4 the pipeline has been commenced and work has ceased and has  
5 not in good faith resumed for five years, the right-of-way may  
6 revert as provided in this section to the person who, at the  
7 time of the abandonment or nonuse, is the owner of the tract  
8 from which such right-of-way was taken. For purposes of this  
9 section, a pipeline is not considered abandoned or unused if  
10 it is transporting product or is being actively maintained  
11 with reasonable anticipation of a future use.

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

27 3. The notice shall be served in the same manner as an  
28 original notice under the Iowa rules of civil procedure,  
29 except that when notice is served by publication an affidavit  
30 shall not be required before publication. If an affidavit  
31 disputing the facts contained in the notice is not filed  
32 within one hundred twenty days, the party serving the notice  
33 may file for record in the office of the county recorder a  
34 copy of the notice with proofs of service attached and  
35 endorsed, and when so recorded, the record shall be

1 constructive notice to all persons of the abandonment,  
2 reversion, and forfeiture of such right-of-way.

3 4. Upon reversion of the easement, the landowner may  
4 require the pipeline company to remove any pipe or pipeline  
5 facility remaining on the property. Provisions of this  
6 chapter relating to damages shall apply when the pipeline is  
7 removed.

8 5. If a pipeline right-of-way is abandoned for pipeline  
9 use, but the pipe is not removed from the right-of-way, the  
10 pipeline company shall remain responsible for the additional  
11 costs of subsequent tiling as provided for in section 479B.31,  
12 shall mark the location of the line in response to a notice of  
13 proposed excavation in accordance with chapter 480, and shall  
14 remain subject to the damage provisions of this chapter in the  
15 event access to or excavation relating to the pipe is  
16 required. The landowner shall provide reasonable access to  
17 the pipeline in order to carry out the responsibilities of  
18 this subsection.

19 Sec. 11. EFFECTIVE DATE. This Act takes effect on June 1,  
20 1999.

21 EXPLANATION

22 This bill amends similar Code sections in Code chapters  
23 479, 479A, and 479B relating to pipelines, interstate natural  
24 gas pipelines, and hazardous liquid pipelines.

25 The bill requires the utilities board to establish  
26 standards for the restoration of agricultural lands during and  
27 after pipeline construction. The bill provides a number of  
28 specified areas for which rules shall be provided and the  
29 rules adopted shall not apply to land located within city  
30 boundaries, unless the land is used for agricultural purposes.  
31 The bill allows county boards of supervisors to petition for  
32 additional rulemaking to establish standards for land  
33 restoration after pipeline construction within that county.

34 The bill requires that inspections for compliance with  
35 standards shall be conducted by licensed professional

1 engineers. The inspector shall inspect for violations of  
2 standards adopted by the board, standards of a land  
3 restoration plan, and standards of an independent agreement.  
4 The bill requires an inspector to adequately inspect and to be  
5 present on the site at certain times. The bill provides that  
6 if proper notice is given, construction shall not be delayed  
7 due to an inspector's failure to be present on the site. The  
8 bill provides that if a pipeline company or its contractor  
9 fails to comply with provisions of the Code, the land  
10 restoration plan, or an independent agreement, the county  
11 board of supervisors may petition the utilities board for an  
12 order requiring corrective action and the county board of  
13 supervisors may file a complaint with the utilities board  
14 seeking imposition of civil penalties. An inspector may  
15 temporarily halt construction if construction is not in  
16 compliance.

17 The bill provides that petitioners for a permit for  
18 pipeline construction shall file with the petition a written  
19 land restoration plan showing how compliance will be  
20 accomplished. The bill allows for the application of  
21 provisions for protecting or restoring property that are  
22 different than those prescribed by law, rules, or in a land  
23 restoration plan which are contained in an agreement  
24 independently executed by the pipeline company and landowner  
25 if the alternative provisions are not inconsistent with state  
26 law or rule.

27 The bill provides for a list of compensable losses  
28 including loss or reduced yield of crops or forage, material  
29 applied by the landowner to restore land, loss of or damage to  
30 trees, the cost of moving or relocating livestock, erosion of  
31 land, and damage to farm equipment.

32 The bill provides a method for the reversion of a right-of-  
33 way to the owner of the tract of land from which the right-of-  
34 way was taken when the pipeline right-of-way is wholly  
35 abandoned for pipeline purposes. The bill provides notice

1 requirements and the method of service of notice to effect a  
2 reversion on nonuse of a right-of-way. Upon reversion of the  
3 easement, the landowner may take possession of and remove any  
4 pipe or pipeline facility remaining on the property. The  
5 pipeline company is responsible for certain costs when the  
6 pipeline right-of-way is abandoned for pipeline use, but the  
7 pipe is not removed.

8     The bill takes effect June 1, 1999.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35