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(P. 1507)

Place On Calendar

447

HOUSE FILE
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HF 223)

WITHDRAWN

*4/21/99
(P. 1508)*

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:

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HF 447

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 ±. 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 fourteen days prior to harvest in
17 each 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 or a pipeline right-of-way is not
29 considered abandoned or unused if it is transporting product
30 or is being actively maintained with reasonable anticipation
31 of a future use.

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

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

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

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

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

1 required. The landowner shall provide reasonable access to
 2 the pipeline in order to carry out the responsibilities of
 3 this subsection.

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

6 479A.9 DEPOSIT OF FUNDS.

7 ~~Except as otherwise provided in section 479A.14, subsection~~
 8 ~~87-moneys~~ Moneys received under this chapter shall be credited
 9 to the general fund of the state as provided in section
 10 476.10.

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

13 479A.14 LAND RESTORATION -- STANDARDS -- INSPECTION.

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

1 under this section shall not apply to land located within city
2 boundaries, unless the land is used for agricultural purposes.

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

5 a. Topsoil separation and replacement.

6 b. Temporary and permanent repair to drain tile.

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

8 d. Restoration of areas of soil compaction.

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

11 f. Revegetation of untilled land.

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

14 h. Restoration of land slope and contour.

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

17 j. Construction in wet conditions.

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

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

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

1 action shall be borne by the contractor operating for the
2 pipeline company.

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

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

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

1 ~~standards-adopted-under-this-section.~~ In addition, the county
2 board of supervisors may file a complaint with the board
3 seeking imposition of civil penalties pursuant to section
4 479A.16.

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

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

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

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

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

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

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

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

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

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

34 a. Loss or reduced yield of crops or forage on the
35 pipeline right-of-way, whether caused directly by construction

1 or from disturbance of usual farm operations.

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

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

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

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

18 f. Erosion on lands attributable to pipeline construction.

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

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

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

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

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

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

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

34 4. Upon reversion of the easement, the landowner may
35 require the pipeline company to remove any pipe or pipeline

1 facility remaining on the property to the extent such removal
2 is in accordance with the terms of the abandonment authority
3 from the federal energy regulatory commission. Provisions of
4 this chapter relating to damages shall apply when the pipeline
5 is removed.

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

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

19 479B.20 LAND RESTORATION STANDARDS.

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

1 chapter 17A, and subsequent to the rulemaking proceedings,
2 petition under those provisions for additional rulemaking to
3 establish standards ~~to protect soil conservation practices,~~
4 ~~structures, and drainage structures~~ for land restoration after
5 pipeline construction within that county. Upon the request of
6 the petitioning county, the board shall schedule a hearing to
7 consider the merits of the petition. ~~Rules adopted under this~~
8 ~~section shall not apply within the boundaries of a city unless~~
9 ~~the land is used for agricultural purposes.~~ Rules adopted
10 under this section shall not apply to land located within city
11 boundaries, unless the land is used for agricultural purposes.
12 Rules adopted under this section shall address, but are not
13 limited to, all of the following subject matters:

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

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

1 the services of a licensed professional engineer for the
2 purposes of the inspection. The reasonable costs of the
3 inspection shall be paid by the pipeline company.

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

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

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

1 schedule and any schedule changes. If proper notice is given,
2 construction shall not be delayed due to an inspector's
3 failure to be present on the site.

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

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

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

34 9- 8. The board shall instruct inspectors appointed by the
35 board of supervisors regarding the content of the statutes and

1 rules and the inspector's responsibility to require
2 construction conforming with the standards provided by this
3 chapter.

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

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

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

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

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

35 479B.29 PARTICULAR DAMAGE CLAIMS.

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

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

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

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

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

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

22 f. Erosion on lands attributable to pipeline construction.

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

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

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

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

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

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

1 copy of the notice with proofs of service attached and
2 endorsed, and when so recorded, the record shall be
3 constructive notice to all persons of the abandonment,
4 reversion, and forfeiture of such right-of-way.

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

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

21 Sec. 11. EFFECTIVE DATE. This Act takes effect on June 1,
22 1999.

23 EXPLANATION

24 This bill amends similar Code sections in Code chapters
25 479, 479A, and 479B relating to pipelines, interstate natural
26 gas pipelines, and hazardous liquid pipelines.

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

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

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

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

34 The bill provides a method for the reversion of a right-of-
35 way to the owner of the tract of land from which the right-of-

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

10 The bill takes effect June 1, 1999.

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