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SENATE FILE 75
BY REHBERG

Passed Senate, Date _____ Passed House, 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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NAT. RES. & ENVIRONMENT

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 17 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.14, Code 1999, is amended to read as
4 follows:

5 479A.14 LAND RESTORATION -- STANDARDS -- INSPECTION.

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

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

30 ~~4.--As-a-part-of-the-inspection-process,-the-inspector~~
31 ~~shall-ascertain-that-the-trench-excavation-has-been-filled-in~~
32 ~~a-manner-to-provide-that-the-topsoil-has-been-replaced-on-top~~
33 ~~and-rocks-and-debris-have-been-removed-from-the-topsoil-of-the~~
34 ~~easement-area.--An-existing-topsoil-layer-extending-at-least~~
35 ~~one-foot-in-width-on-either-side-of-the-pipeline-excavation-at~~

1 a-maximum-depth-of-one-foot-shall-be-removed-separately-and
2 shall-be-stockpiled-and-preserved-separately-during-subsequent
3 construction-operations,-unless-other-means-for-separating-the
4 topsoil-are-provided-in-the-easement.--The-topsoil-shall-be
5 replaced-so-the-upper-portion-of-the-pipeline-excavation-and
6 the-crowned-surface-contain-only-the-topsoil-originally
7 removed-

8 5- 4. Adequate-inspection-of An inspector shall adequately
9 inspect underground improvements altered during construction
10 of a pipeline. An inspection shall be conducted at the time
11 of the replacement or repair of the underground improvements.
12 An inspector shall be present on the site at all times at each
13 phase and separate activity of the opening of the trench, the
14 restoration of underground improvements, and backfilling. The
15 pipeline company and its contractor shall keep ~~all-county~~
16 inspectors an inspector continually informed of the work
17 schedule and any schedule changes. If proper notice is given,
18 construction shall not be delayed due to an inspector's
19 failure to be present on the site.

20 6- 5. If the pipeline company or its contractor does not
21 comply with the ~~orders-of-the-inspector-for-compliance-with~~
22 the-standards requirements of this section, with the land
23 restoration plan, or with an independent agreement on land
24 restoration executed in accordance with subsection 10, the
25 county board of supervisors may ~~direct-the-county-attorney-to~~
26 petition-the-district-court petition the board for an order
27 requiring corrective action to be taken ~~in-compliance-with-the~~
28 standards-adopted-under-this-section. In addition, the county
29 board of supervisors may file a complaint with the board
30 seeking imposition of civil penalties pursuant to section
31 479A.16.

32 7- 6. The pipeline company shall allow landowners and
33 inspectors the inspector to view the proposed center line of
34 the pipeline before commencing trenching operations to ensure
35 that construction takes place in the proper location.

1 8: 7. An inspector may temporarily halt the construction
2 if the construction is not in compliance with this chapter and
3 the standards adopted under it this chapter, the land
4 restoration plan approved by the board, or the terms of the an
5 independent agreement with the pipeline company regarding
6 ~~topsoil-removal-and-replacement,-drainage-structures,-soil~~
7 ~~moisture-conditions,-or-the-location-of-construction,-line~~
8 location or land restoration executed in accordance with
9 subsection 10, until the inspector consults with the
10 supervisory personnel of the pipeline company. ~~if-the~~
11 ~~construction-is-continued-over-the-inspector's-objection-and~~
12 ~~is-found-not-to-be-in-compliance-with-this-chapter,-the~~
13 ~~standards,-or-the-agreement,-and-is-found-to-cause-damage,-a~~
14 ~~civil-penalty-recovered-under-section-479A:16-as-a-result-of~~
15 ~~that-violation-shall-be-paid-to-the-landowner.~~

16 9: 8. The board shall instruct inspectors appointed by the
17 county board of supervisors regarding the content of this
18 chapter and the standards and the inspectors' responsibility
19 to require construction conforming with them.

20 ~~10: 9.~~ An-underground-drain-tile-damaged,-cut,-or-removed
21 shall-be-temporarily-repaired-and-maintained-as-necessary-to
22 allow-for-its-proper-function-during-construction-of-the
23 pipeline.--if-temporary-repair-is-determined-not-to-be
24 necessary,-the-exposed-line-shall-be-screened-or-otherwise
25 protected-to-prevent-the-entry-of-foreign-material-or-small
26 animals-into-the-tile-line-system. Prior to the initiation of
27 construction, the pipeline company shall file a written land
28 restoration plan with the board describing the methods and
29 procedures by which compliance with this section and the
30 standards adopted under this section will be achieved. The
31 board shall review this plan to insure that the requirements
32 of this section and rules adopted pursuant to this section are
33 met. After board review, the pipeline company shall provide
34 copies of the plan to all landowners of property that will be
35 disturbed by the construction. The requirements of this

1 subsection may be waived by the board to the extent an
2 environmental impact statement addressing the land restoration
3 subjects in subsection 1 was prepared by the federal energy
4 regulatory commission.

5 ~~11~~ 10. This section does not preclude the application of
6 provisions for protecting or restoring property that are
7 different than those prescribed in this section, in rules
8 adopted pursuant to this section, or in the land restoration
9 plan if the alternative provisions are contained in agreements
10 independently executed by the pipeline company and the
11 landowner, and if the alternative provisions are not
12 inconsistent with state law or with rules adopted by the
13 board. Independent agreements on land restoration or line
14 location between the landowner and pipeline company shall be
15 in writing and a copy provided to the county inspector.

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

18 12. The requirements of this section shall not apply to
19 pipeline projects that have received a certificate from the
20 federal energy regulatory commission prior to the effective
21 date of this Act.

22 Sec. 5. Section 479A.24, subsections 1 and 2, Code 1999,
23 are amended to read as follows:

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

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

29 b. Loss or reduced yield of crops or yield from land near
30 the pipeline right-of-way resulting from lack of timely access
31 to the land or other disturbance of usual farm operations,
32 including interference with irrigation.

33 c. Fertilizer, lime, or organic material applied by the
34 landowner to restore land disturbed by construction to full
35 productivity.

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

4 ~~f. e.~~ The cost of or losses in moving or relocating
5 livestock, and the loss of gain by, or the death or injury of
6 livestock caused by the interruption or relocation of normal
7 feeding of the livestock due to the construction or repair of
8 a pipeline is a compensable loss and shall be so recognized by
9 a pipeline company.

10 f. Erosion on lands attributable to pipeline construction.

11 g. Damage to farm equipment caused by striking a pipeline,
12 debris, or other material reasonably associated with pipeline
13 construction while engaged in normal farming operations as
14 defined in section 480.1.

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

23 Sec. 6. NEW SECTION. 479A.27 REVERSION ON NONUSE.

24 1. If a pipeline right-of-way, or any part of a pipeline
25 right-of-way, is wholly abandoned for pipeline purposes by the
26 relocation of the pipeline, is not used or operated for a
27 period of five consecutive years, or if the construction of
28 the pipeline has been commenced and work has ceased and has
29 not in good faith resumed for five years, the right-of-way may
30 revert as provided in this section to the person who, at the
31 time of the abandonment or nonuse, is the owner of the tract
32 from which such right-of-way was taken. Abandonment of
33 pipeline facilities requires approval from the federal energy
34 regulatory commission prior to this provision taking effect.

35 2. To effect a reversion on nonuse of right-of-way, the

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

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

26 4. Upon reversion of the easement, the landowner may
27 require the pipeline company to remove any pipe or pipeline
28 facility remaining on the property to the extent such removal
29 is in accordance with the terms of the abandonment authority
30 from the federal energy regulatory commission. Provisions of
31 this chapter relating to damages shall apply when the pipeline
32 is removed.

33 5. If a pipeline right-of-way is abandoned for pipeline
34 use, but the pipe is not removed from the right-of-way, the
35 pipeline company shall remain responsible for the additional

1 costs of subsequent tiling as provided for in section 479A.26,
2 shall mark the location of the line in response to a notice of
3 proposed excavation in accordance with chapter 480, and shall
4 remain subject to the damage provisions of this chapter in the
5 event access to or excavation relating to the pipe is
6 required. The landowner shall provide reasonable access to
7 the pipeline in order to carry out the responsibilities of
8 this subsection.

9 Sec. 7. Section 479B.20, Code 1999, is amended to read as
10 follows:

11 479B.20 LAND RESTORATION STANDARDS.

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

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

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

6 a. Topsoil separation and replacement.

7 b. Temporary and permanent repair to drain tile.

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

9 d. Restoration of areas of soil compaction.

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

12 f. Revegetation of untilled land.

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

15 h. Restoration of land slope and contour.

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

18 j. Construction in wet conditions.

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

21 2. The county board of supervisors shall cause an on-site
22 inspection for compliance with the standards adopted under
23 this section to be performed at any pipeline construction
24 project in the county. A licensed professional engineer
25 familiar with the standards adopted under this section and
26 registered under chapter 542B shall be responsible for the
27 inspection. A county board of supervisors may contract for
28 the services of a licensed professional engineer for the
29 purposes of the inspection. The reasonable costs of the
30 inspection shall be paid by the pipeline company.

31 3. If the inspector determines that there has been a
32 violation of the standards adopted under this section, of the
33 land restoration plan, or of an independent agreement on land
34 restoration or line location executed in accordance with
35 subsection 10, the inspector shall give oral notice, followed

1 by written notice, to the pipeline company and the contractor
2 operating for the pipeline company and order corrective action
3 to be taken in compliance with the standards. The costs of
4 the corrective action shall be borne by the contractor
5 operating for the pipeline company.

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

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

31 6. 5. If the pipeline company or its contractor does not
32 comply with the ~~orders of the inspector for compliance with~~
33 ~~the standards~~ requirements of this section, with the land
34 restoration plan or line location, or with an independent
35 agreement on land restoration executed in accordance with

1 subsection 10, the county board of supervisors may direct-the
2 county-attorney-to-petition-the-district-court petition the
3 board for an order requiring corrective action to be taken in
4 compliance-with-the-standards-adopted-under-this-section. In
5 addition, the county board of supervisors may file a complaint
6 with the board seeking imposition of civil penalties under
7 section 479B.21.

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

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

26 9- 8. The board shall instruct inspectors appointed by the
27 board of supervisors regarding the content of the statutes and
28 rules and the inspector's responsibility to require
29 construction conforming with the standards provided by this
30 chapter.

31 10- 9. Any-underground-drain-tile-damaged, cut, or removed
32 shall-be-temporarily-repaired-and-maintained-as-necessary-to
33 allow-for-its-proper-function-during-construction-of-the
34 pipeline-or-underground-storage-facility.--If-temporary-repair
35 is-not-determined-to-be-necessary, the-exposed-tile-shall

1 ~~nonetheless-be-screened-or-otherwise-protected-to-prevent-the~~
2 ~~entry-of-any-foreign-material-or-small-animals-into-the-tile~~
3 ~~line-system.~~ Petitioners for a permit for pipeline
4 construction shall file with the petition a written land
5 restoration plan showing how the requirements of this section,
6 and of rules adopted pursuant to this section, will be met.
7 The company shall provide copies of the plan to all landowners
8 of property that will be disturbed by the construction.

9 ~~11-~~ 10. This section does not preclude the application of
10 provisions for protecting or restoring property that are
11 different than those prescribed in this section, in rules
12 adopted under this section, or in the land restoration plan,
13 if the alternative provisions are contained in agreements
14 independently executed by the pipeline company and the
15 landowner, and if the alternative provisions are not
16 inconsistent with state law or with rules adopted by the
17 board. Independent agreements on land restoration or line
18 location between the landowner and pipeline company shall be
19 in writing and a copy provided to the county inspector.

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

22 12. The requirements of this section shall apply only to
23 pipeline construction projects commenced on or after the
24 effective date of this Act.

25 Sec. 8. Section 479B.29, Code 1999, is amended to read as
26 follows:

27 479B.29 PARTICULAR DAMAGE CLAIMS.

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

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

33 b. Loss or reduced yield of crops or yield from land near
34 the pipeline right-of-way resulting from lack of timely access
35 to the land or other disturbance of usual farm operations,

1 including interference with irrigation.

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

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

8 ± e. The cost of or losses in moving or relocating
9 livestock, and the loss of gain by or the death or injury of
10 livestock caused by the interruption or relocation of normal
11 feeding of-the-livestock-caused-by-the-construction-or-repair
12 of-a-pipeline-or-underground-storage-facility-is-a-compensable
13 loss-and-shall-be-recognized-by-a-pipeline-company.

14 f. Erosion on lands attributable to pipeline construction.

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

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

27 Sec. 9. NEW SECTION. 479B.32 REVERSION ON NONUSE.

28 1. If a pipeline right-of-way, or any part of the pipeline
29 right-of-way, is wholly abandoned for pipeline purposes by the
30 relocation of the pipeline, is not used or operated for a
31 period of five consecutive years, or if the construction of
32 the pipeline has been commenced and work has ceased and has
33 not in good faith resumed for five years, the right-of-way may
34 revert as provided in this section to the person who, at the
35 time of the abandonment or nonuse, is the owner of the tract

1 from which such right-of-way was taken. For purposes of this
2 section, a pipeline is not considered abandoned or unused if
3 it is transporting product or is being actively maintained
4 with reasonable anticipation of a future use.

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

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

31 4. Upon reversion of the easement, the landowner may
32 require the pipeline company to remove any pipe or pipeline
33 facility remaining on the property. Provisions of this
34 chapter relating to damages shall apply when the pipeline is
35 removed.

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

12 Sec. 10. Section 479A.9, Code 1999, is amended to read as
13 follows:

14 479A.9 DEPOSIT OF FUNDS.

15 ~~Except as otherwise provided in section 479A.14, subsection~~
16 ~~87-moneys~~ Moneys received under this chapter shall be credited
17 to the general fund of the state as provided in section
18 476.10.

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.

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