

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 529 be amended to read as follows:

- 1 Page 1, line 4, delete "Standards" and insert "**Guidelines**".
- 2 Page 1, line 8, delete "for the standards set forth in section 11 of
- 3 this" and insert "**as otherwise provided in the guidelines adopted by**
- 4 **the division under section 9 of this chapter, "**.
- 5 Page 1, line 9, delete "chapter,".
- 6 Page 1, line 14, after "an" insert "**owner of an interest in property**
- 7 **that:**
- 8 (1) **is located in Indiana; and**
- 9 (2) **meets one (1) or more of the conditions set forth in 18 CFR**
- 10 **157.6(d)(2)."**.
- 11 Page 1, delete lines 15 through 17.
- 12 Page 2, delete line 1.
- 13 Page 2, between lines 16 and 17, begin a new paragraph and insert:
- 14 "**Sec. 6. As used in this chapter, "division" refers to the pipeline**
- 15 **safety division of the Indiana utility regulatory commission**
- 16 **established by IC 8-1-22.5-2."**.
- 17 Page 2, line 17, delete "6." and insert "7."
- 18 Page 2, line 21, delete "7." and insert "8."
- 19 Page 2, delete lines 33 through 42, begin a new paragraph and
- 20 insert:
- 21 "**Sec. 9. (a) Not later than September 1, 2007, the division shall**
- 22 **adopt guidelines governing the construction of a pipeline, or any**
- 23 **segment of a pipeline, in Indiana. The guidelines adopted by the**
- 24 **division under this section may include the following standards, to**
- 25 **the extent not preempted by federal law:**
- 26 (1) **Standards specifying minimum depths at which a pipeline**
- 27 **must be buried based on the topography and use of the land.**
- 28 **In adopting any standards to establish burial depths for**
- 29 **pipeline that crosses agricultural land, the division may**
- 30 **specify depths that are appropriate for the land based on**
- 31 **whether the land:**

- 1 (i) is used for crops or as pasture; or
2 (ii) is comprised of soils that are classified by the United
3 States Department of Agriculture as being prime soils.
- 4 (2) Standards for replacing topsoil removed during
5 excavations performed in connection with pipeline
6 construction or burial. Standards adopted under this
7 subdivision may include requirements for any of the
8 following:
- 9 (A) The segregation of topsoil and subsoil during
10 excavation.
11 (B) The removal of rocks, construction debris, or other
12 materials from the topsoil before replacement.
13 (C) The prevention of topsoil erosion.
14 (D) The alleviation of topsoil compaction.
15 (E) The restoration of soil on an affected landowner's
16 property to the soil's preconstruction condition.
- 17 (3) Standards requiring a pipeline company to prevent or
18 remedy damage to underground drainage tiles during
19 construction of the pipeline. Standards adopted under this
20 subdivision may require a pipeline company to do any of the
21 following:
- 22 (A) Take certain actions to prevent damage to
23 underground drainage tiles, including locating and staking
24 all tile lines before construction.
25 (B) Maintain a specified distance between underground
26 drainage tiles and the pipeline during the placement or
27 construction of the pipeline.
28 (C) Probe or examine tile lines located in construction sites
29 to determine whether any tile has been damaged during
30 construction.
31 (D) Repair or replace any underground drainage tiles that
32 are damaged during construction.
- 33 (4) Standards for the removal of construction debris from an
34 affected landowner's property during and after all
35 construction activity.
- 36 (5) Standards for restoring land to its preconstruction
37 condition, including the restoration of the land's elevation and
38 contour through leveling or other land restoration practices.
- 39 (6) Standards governing the removal of trees from an affected
40 landowner's property in connection with the construction of
41 a pipeline.
- 42 (7) Standards governing a pipeline company's duties to an
43 affected landowner when the pipeline company's construction
44 activities cause an interruption in the affected landowner's
45 use of an irrigation system on agricultural land.
- 46 (8) Standards governing the determination of routes to be
47 used by a pipeline company in accessing a temporary or
48 permanent easement on an affected landowner's property for

- 1 construction or maintenance purposes, including the location
 2 of any temporary roads used in connection with construction
 3 activities.
- 4 **(9) Standards governing a pipeline company's use of surface**
 5 **rights-of-way, including any:**
- 6 (A) valve sites;
 7 (B) metering stations;
 8 (C) compression stations; or
 9 (D) other locations in which pipeline facilities or
 10 appurtenances are located.
- 11 **(10) Standards governing the pumping of water from any**
 12 **open trenches on an affected landowner's property during**
 13 **construction.**
- 14 **(11) Subject to IC 32-24-1-3(g), standards requiring a pipeline**
 15 **company to:**
- 16 (A) provide advance notice to; or
 17 (B) seek the permission of;
 18 an affected landowner before entering the landowner's
 19 property to perform survey, inspection, construction, or
 20 maintenance activities.
- 21 **(12) Standards establishing a method for an affected**
 22 **landowner to report any construction activities or repairs**
 23 **that:**
- 24 (A) are performed by a pipeline company on the affected
 25 landowner's property; and
 26 (B) violate, or appear to the landowner to violate, any
 27 standards that are:
- 28 (i) included in the guidelines adopted by the division
 29 under this section and agreed to by the pipeline
 30 company; or
 31 (ii) otherwise agreed to by the pipeline company.
- 32 **(13) Standards for:**
- 33 (A) compensating affected landowners for damage to
 34 private property as a result of construction activities; or
 35 (B) repairing or replacing private property that is
 36 damaged as a result of construction activities.
- 37 **Standards adopted under this subdivision may specify that a**
 38 **pipeline company's obligations with respect to damaged**
 39 **property extends beyond the initial construction of the**
 40 **pipeline to include damages caused by the pipeline company**
 41 **during future construction, operation, maintenance, and**
 42 **repair activities related to the pipeline.**
- 43 **(14) Standards setting forth the time frame in which a pipeline**
 44 **company must make any repairs or take any other mitigative**
 45 **actions that are:**
- 46 (A) prescribed in the guidelines adopted by the division
 47 under this section; and
 48 (B) agreed to by the pipeline company.

1 **(15) Standards requiring a pipeline company to indemnify an**
 2 **affected landowner against any claims or damages resulting**
 3 **from or arising out of:**

4 **(A) the pipeline company's construction, maintenance,**
 5 **operation, repair, removal, or use of pipeline on the**
 6 **landowner's property; or**

7 **(B) the existence of the pipeline on the landowner's**
 8 **property;**

9 **except for claims or damages resulting from or arising out of**
 10 **the landowner's negligence, intentional acts, or willful**
 11 **omissions.**

12 **(16) Any other standards that:**

13 **(A) the division determines are necessary and in the public**
 14 **interest; and**

15 **(B) do not conflict with the requirements of :**

16 **(i) any federal, state, or local regulations or rules; or**

17 **(ii) any permits or approvals required to be obtained by**
 18 **a pipeline company in connection with a pipeline**
 19 **construction project.**

20 **(b) The division may adopt the guidelines required by**
 21 **subsection (a) using the same streamlined procedures by which**
 22 **emergency rules may be adopted under IC 4-22-2-37.1. The**
 23 **division shall cause the guidelines adopted under subsection (a) to**
 24 **be published in the Indiana Register as a nonrule policy document.**

25 **(c) The guidelines adopted by the division under subsection (a)**
 26 **shall not be binding on any pipeline company or affected**
 27 **landowner but may be used by a pipeline company or an affected**
 28 **landowner to simplify negotiations involved in establishing a price**
 29 **for any:**

30 **(1) easement; or**

31 **(2) other interest in land;**

32 **needed by the pipeline company to construct a pipeline.**

33 **(d) In adopting the guidelines required by subsection (a), the**
 34 **division may consider adopting less intrusive or less costly**
 35 **alternative guidelines for pipeline companies that locate, or plan to**
 36 **locate, a pipeline along existing rights of way or easements. The**
 37 **division may consider the following methods of minimizing the**
 38 **burdens or costs of compliance for pipeline companies described in**
 39 **this subsection:**

40 **(1) The establishment of less stringent guidelines governing**
 41 **the construction, maintenance, or repair of the pipeline.**

42 **(2) The establishment of less stringent schedules or deadlines**
 43 **for construction, maintenance, or repair activities.**

44 **(3) The consolidation or simplification of construction,**
 45 **maintenance, or repair guidelines.**

46 **(4) An exemption from part or all of a particular guideline.**

47 **(e) In adopting the guidelines required by subsection (a), the**
 48 **division may consult with other states, or agencies of other states,**

1 that have adopted similar guidelines for the construction of
2 pipelines. The division may also consult with any of the following:

- 3 (1) Other state agencies in Indiana.
4 (2) Any political subdivisions in Indiana in which pipelines are
5 located or proposed to be located.
6 (3) Public utilities, municipally owned utilities, or
7 cooperatively owned utilities.
8 (4) Pipeline companies.
9 (5) Organizations representing agricultural interests in
10 Indiana.
11 (6) Other individuals or organizations that have an interest in,
12 or are knowledgeable about, pipelines or pipeline
13 construction.

14 **Sec. 10. (a)** For purposes of this section, a pipeline company
15 proposes to construct a pipeline in Indiana if it does any of the
16 following:

- 17 (1) Files an application for a certificate of public convenience
18 and necessity with the Federal Energy Regulatory
19 Commission.
20 (2) Undertakes:
21 (A) environmental, engineering, or cultural surveys; or
22 (B) other studies or surveys;
23 in Indiana in preparation for filing an application described
24 in subdivision (1).
25 (3) Holds public meetings or hearings in Indiana concerning
26 a proposed pipeline.
27 (4) Enters upon land in Indiana for the purpose of
28 determining the route or location of a proposed pipeline.
29 (5) Contacts landowners in Indiana for the purpose of
30 negotiating the price for:
31 (A) easements; or
32 (B) other interests in land;
33 necessary for the construction of a pipeline.
34 (6) Undertakes other actions in preparation for the
35 construction of a pipeline.

36 (b) The division shall send, by certified mail, the following to
37 each pipeline company that proposes to construct a pipeline in
38 Indiana:

- 39 (1) A copy of the guidelines adopted by the division under
40 section 9 of this chapter.
41 (2) A notice that includes the following:
42 (A) A statement that the division has adopted the pipeline
43 construction guidelines included with the notice.
44 (B) A statement indicating:
45 (i) that the pipeline construction guidelines have been
46 mailed to all affected landowners, as determined by the
47 division under section 11(a) of this chapter; and
48 (ii) that the division has encouraged the affected

1 landowners to agree to the guidelines in any negotiations
2 for easements or other land interests with the pipeline
3 company.

4 (C) A statement asking the pipeline company to agree to
5 comply with the construction guidelines included with the
6 notice. The statement required by this clause must specify
7 a method and deadline by which the pipeline company
8 must do one (1) of the following:

9 (i) Indicate the pipeline company's agreement to comply
10 with the guidelines.

11 (ii) Reject the guidelines and request a conference with
12 the division to negotiate different or amended guidelines.

13 (iii) Reject the division's guidelines and negotiate
14 construction standards with individual landowners as
15 necessary to obtain easements or other interests in land.

16 (D) A statement indicating that any guidelines agreed to by
17 the pipeline company under clause (C) shall not be binding
18 on the pipeline company or affected landowners but may
19 be used by the pipeline company and an individual
20 landowner to simplify negotiations involved in establishing
21 a price for any:

22 (i) easement; or

23 (ii) other interest in land;
24 needed by the pipeline company to construct the pipeline.

25 (E) A statement including the contact information for the
26 one (1) or more project coordinators designated by the
27 division under section 12 of this chapter.

28 (c) The division shall mail the guidelines and notice in
29 accordance with subsection (b):

30 (1) as soon as the division learns of the proposed pipeline as a
31 result of the pipeline company performing one (1) or more
32 actions described in subsection (a); or

33 (2) not later than three (3) business days after the Federal
34 Energy Regulatory Commission provides notice under 18
35 CFR 157.9(a) of the pipeline company's application for a
36 certificate of territorial authority;

37 whichever occurs earlier.

38 Sec. 11. (a) For purposes of this section, the division shall, to the
39 extent practicable, determine the affected landowners with respect
40 to a proposed pipeline project from any of the following:

41 (1) Any actions described in section 10(a) of this chapter that
42 are undertaken by the pipeline company.

43 (2) Any information on the pipeline's location, including any
44 maps, that is included in a notice given by:

45 (A) the pipeline company under 18 CFR 157.6(d)(1); or

46 (B) the Federal Energy Regulatory Commission under 18
47 CFR 157.9(a).

48 (3) The tax records of each county that contains land that will

- 1 **be crossed or used by the proposed pipeline.**
- 2 **(b) The division shall send, by certified mail, the following to**
- 3 **each affected landowner:**
- 4 **(1) A copy of, or reference to, the guidelines adopted by the**
- 5 **division under section 9 of this chapter.**
- 6 **(2) A notice that includes the following:**
- 7 **(A) A statement that the division has adopted the pipeline**
- 8 **construction guidelines included with, or referenced in, the**
- 9 **notice.**
- 10 **(B) A statement indicating:**
- 11 **(i) that the pipeline construction guidelines have been**
- 12 **mailed to the pipeline company; and**
- 13 **(ii) that the division has asked the pipeline company to**
- 14 **agree to the guidelines in any negotiations for easements**
- 15 **or other land interests with affected landowners.**
- 16 **(C) A statement indicating the date by which the pipeline**
- 17 **company must:**
- 18 **(i) agree to comply with the guidelines;**
- 19 **(ii) reject the guidelines and negotiate different or**
- 20 **amended guidelines with the division; or**
- 21 **(iii) reject the division's guidelines and decide to**
- 22 **negotiate construction standards with individual**
- 23 **landowners in connection with negotiating a price for**
- 24 **easements or other interests in land necessary for the**
- 25 **construction of the pipeline.**
- 26 **The statement required by this clause must specify a date**
- 27 **after which the affected landowner may contact a toll free**
- 28 **telephone number established by the division to provide**
- 29 **information on the status of any construction guidelines**
- 30 **agreed to by the pipeline company.**
- 31 **(D) A statement indicating that any guidelines agreed to by**
- 32 **the pipeline company shall not be binding on the pipeline**
- 33 **company or affected landowners but may be used by the**
- 34 **pipeline company and an individual landowner to simplify**
- 35 **negotiations involved in establishing a price for any:**
- 36 **(i) easement; or**
- 37 **(ii) other interest in land;**
- 38 **needed by the pipeline company to construct the pipeline.**
- 39 **(E) A statement encouraging the affected landowner to**
- 40 **agree to any construction guidelines that the pipeline**
- 41 **company agrees to follow, to the extent that the landowner**
- 42 **determines that the guidelines are not contrary to the**
- 43 **landowner's best interests.**
- 44 **(F) A statement including:**
- 45 **(i) contact information for the one (1) or more project**
- 46 **coordinators designated by the division under section 12**
- 47 **of this chapter;**
- 48 **(ii) contact information for the Federal Energy**

- 1 **Regulatory Commission, including a local or toll free**
 2 **telephone number; and**
 3 **(iii) the commission's web site address.**
- 4 **(c) The division shall mail the information required under**
 5 **subsection (b) not later than twenty (20) days after:**
- 6 **(1) the division learns of the proposed pipeline as a result of**
 7 **the pipeline company performing one (1) or more actions**
 8 **described in section 10(a) of this chapter; or**
 9 **(2) the Federal Energy Regulatory Commission provides**
 10 **notice under 18 CFR 157.9(a) of the pipeline company's**
 11 **application for a certificate of territorial authority;**
 12 **whichever occurs earlier."**
- 13 Delete pages 3 through 10.
 14 Page 11, delete lines 1 through 35.
 15 Page 11, line 36, delete "3." and insert "**12**".
 16 Page 12, line 9, delete "4" and insert "**13**".
 17 Page 12, line 11, delete "4." and insert "**13**".
 18 Page 12, line 13, delete "pipeline construction standards set forth in"
 19 and insert "**guidelines adopted by the division under section 9 of this**
 20 **chapter.**".
 21 Page 12, delete line 14.
 22 Page 12, line 29, delete "3" and insert "**12**".
 23 Page 12, between lines 36 and 37, begin a new paragraph and insert:
 24 "**(b) The division shall update the information required under**
 25 **subsection (a)(1) whenever:**
 26 **(1) one (1) or more guidelines adopted under section 9 of this**
 27 **chapter are amended or repealed by the division; or**
 28 **(2) one (1) or more new guidelines are adopted by the**
 29 **division.**".
 30 Page 12, line 37, delete "(b)" and insert "(c)".
 31 Page 13, line 1, delete "3" and insert "**12**".
 32 Page 13, line 37, delete "IC 8-1-22.6-7)." and insert "**IC**
 33 **8-1-22.6-8).**"
 34 Renumber all SECTIONS consecutively.
 (Reference is to SB 529 as printed February 23, 2007.)

Senator JACKMAN