

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  CITY OF WAUKEE, IOWA	DOCKET NO. P-874
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE,  
REQUIRING NOTICE, AND NOTIFICATION  
OF INTENT TO TAKE OFFICIAL NOTICE**

(Issued November 5, 2008)

**PROCEDURAL BACKGROUND**

On January 28, 2008, the City of Waukee, Iowa (Waukee), filed with the Utilities Board (Board) a petition for a proposed natural gas transmission pipeline in Dallas County, Iowa. Waukee proposes to construct approximately 14.39 miles of 8-inch diameter steel pipeline to transport natural gas from a connection with a Northern Natural Gas Company pipeline north of Granger, Iowa, to a proposed regulator station in Waukee, Iowa. Waukee proposes to reduce the pressure of the gas at the regulator station for delivery to Waukee customers. The pipeline will be located entirely in Dallas County, Iowa. The petition has been identified as Docket No. P-874.

Waukee has requested the right of eminent domain for 15 parcels along the proposed pipeline route. The parcels and the owners and parties in possession of the parcels are described in Exhibit H to the petition. Objections to the pipeline have been filed by Gina Becke, Tim and Sue Harney, David Wright, Louise A. Juhl, Frank

Drobnich, Donald J. and Rosalene Scott, the City of Clive, Iowa, Jon D. Findley, Edward P. and Betty M. Greif, G and V Real Estate, L.L.C., and C. Edward and Teresa Shafer. Persons filing objections are considered parties to this docket and shall receive service of all filings. The official service list for this docket is maintained in the Board's Records and Information Center.

Pursuant to Iowa Code § 475A.5, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) is a party to all proceedings before the Board. Paragraph 199 IAC 7.4(6)"c" requires that service of all filings in this docket shall be made on the Consumer Advocate at 310 Maple Street, Des Moines, Iowa 50319-0063.

### **REQUIRED NOTICE**

Iowa Code §§ 479.7 and 479.8 and Board rule 199 IAC 10.6 require that a petition for a proposed natural gas pipeline be set for hearing and subrule 199 IAC 10.4(1) requires that notice of the hearing be published for two consecutive weeks in a newspaper of general circulation in each county through which the proposed pipeline will extend. Where, as in this matter, the petition seeks use of the right of eminent domain over specific parcels of real property, the Board is also required to prescribe the notice to be served upon the owners of record and the parties in possession of the property over which the use of the right of eminent domain is sought.

Subrule 10.4(2) requires that a copy of Exhibit H filed with the petition shall be sent with the notice to owners and parties in possession of the parcels where Waukee is seeking use by eminent domain. The notice is to be sent by certified U.S. mail, return receipt requested, no later than the date of the first publication of notice required by subrule 199 IAC 10.4(1). Waukee is then required to file, not later than five days prior to the date of hearing, a certificate of service showing all addresses where the certified notice was sent and the date of mailing.

The Board has attached to this order a form notice that Waukee shall complete and send by certified U.S. mail to owners and parties in possession of the parcels where Waukee is seeking the right of eminent domain. The Board must approve any significant deviations from the form notice made by Waukee. In addition, Waukee will be directed to file an updated Exhibit H five days before the date of the hearing.

### **PROCEDURAL SCHEDULE**

The Board is establishing in this order a procedural schedule including dates for pre-filing testimony and supporting exhibits and a date for hearing. The prefiled testimony will be spread on the record at the hearing and parties will then be provided an opportunity to cross-examine each witness. Board procedures do not allow for additional direct or rebuttal testimony at the hearing except in exceptional circumstances. Additional documentary evidence may be offered at the hearing.

The procedural schedule also provides that objections to the pipeline shall be filed at least five days prior to the date of hearing. Any interested person, company, or city whose rights or interests may be affected by the proposed pipeline may file an objection. Waukee shall be provided the opportunity at the hearing to respond to any objections where Waukee did not have sufficient time to include a response in its prefiled testimony. The objections already filed and any later objections shall be included in the record of this proceeding.

#### **INSPECTION REPORT AND OFFICIAL NOTICE**

Board staff reviewed the petition and notified Waukee of deficiencies in the petition and requested additional information by letters dated February 29, 2008, July 2, 2008, and August 4, 2008. Waukee filed revisions to the petition and provided additional information on May 6, 2008, July 22, 2008, and August 11, 2008.

On March 20, 2008, and September 26, 2008, Jeffrey L. O'Neal, a member of the Board's Safety and Engineering Section, inspected the route of the proposed pipeline. On October 15, 2008, Mr. O'Neal filed a report addressing the petition and the route. In the October 15, 2008, report, Mr. O'Neal requested that Waukee respond to certain questions or provide additional information in prefiled testimony. The questions and additional information address issues concerning the proposed route, the operation of the pipeline, the public convenience and necessity, eminent domain parcels, and the objections of landowners to the pipeline.

The October 15, 2008, report is attached to this order. The Board will direct Waukee to respond to the questions raised and to provide the additional information described by Mr. O'Neal in the inspection report in Waukee's prefiled direct testimony. The Board intends to take official notice of the October 15, 2008, report and to include the report in the record of this proceeding. The Board will establish a date for any party to object to the taking of official notice of the report.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. The following procedural schedule is established:
  - a. Objections to the proposed pipeline shall be filed on or before January 29, 2009. An original and ten copies of all objections must be filed in writing with the Executive Secretary of the Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069. A copy of the objection shall be served on the City of Waukee and the Consumer Advocate Division of the Department of Justice.
  - b. The City of Waukee shall file an original and ten copies of prepared direct testimony and exhibits in support of the proposed pipeline on or before November 26, 2008. The prepared direct testimony shall be served on all parties, including the Consumer Advocate Division of the Department of Justice, and shall respond to the questions and provide the additional information described in the October 15, 2008, report of Mr. Jeffrey L. O'Neal.

c. The Consumer Advocate Division of the Department of Justice and other parties may file prepared testimony addressing the petition and prefiled direct testimony of the City of Waukee on or before December 19, 2008. An original and ten copies of the prepared testimony are required to be filed and the prepared testimony is to be served on all other parties, including the City of Waukee and the Consumer Advocate Division of the Department of Justice.

d. The City of Waukee may file rebuttal testimony on or before January 5, 2009. An original and ten copies of the prepared rebuttal testimony are required to be filed and the prepared testimony is to be served on the other parties, including the Consumer Advocate Division of the Department of Justice.

e. A hearing shall be held beginning at 9 a.m. on February 3, 2009, for the purpose of receiving the prefiled prepared testimony into the record and the cross-examination of all witnesses. If necessary, the hearing shall be continued on February 4, 2009. The hearing shall be held at the Raccoon Valley State Bank Community House, 1016 Main Street, Adel, Iowa. The parties shall appear one-half hour prior to the time of the hearing for the purpose of marking exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515)

281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

f. The parties may file simultaneous briefs on or before February 16, 2009. An original and ten copies of the brief are required to be filed and a copy of the brief is to be served on all other parties, including the Consumer Advocate Division of the Department of Justice.

2. The Utilities Board is proposing to take official notice of the October 15, 2008, report prepared by Mr. Jeffrey L. O'Neal, which is attached to this order. Objections to the official notice shall be filed on or before November 21, 2008.

3. The City of Waukee shall complete and send the eminent domain notice attached to this order by certified mail to owners and parties in possession of parcels listed in Exhibit H, as amended, on or before the first date of publication of notice of the hearing in the local newspaper.

4. The City of Waukee shall file a certificate of service showing all addresses where the certified notice required in Ordering Clause 3 was sent and the date of mailing on or before January 29, 2009.

5. The City of Waukee shall have notice of the hearing published pursuant to Iowa Code § 479.7 and 199 IAC 10.4. Proof of publication of the notice required by 199 IAC 10.4 shall be filed by the City of Waukee on or before January 27, 2009.

6. The City of Waukee shall file an updated Exhibit H on January 29, 2009.

7. Copies of all filings and prepared testimony may be obtained from the Board's Records and Information Center. The Records and Information Center shall send a copy of this order and attachments to all persons listed on the official service list in this docket.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 5<sup>th</sup> day of November, 2008.

## EMINENT DOMAIN NOTICE

### BEFORE THE IOWA UTILITIES BOARD OF THE UTILITIES DIVISION OF THE DEPARTMENT OF COMMERCE

To [Insert Name of Owner or Party in Possession]:

Notice is given that the City of Waukee, Waukee, Iowa, under the provisions of Iowa Code chapter 479 (2007), has filed a petition with the Iowa Utilities Board for a permit to construct, operate, and maintain a natural gas pipeline. The proposed route of the pipeline is described in Attachment A to this notice. [Attach Petition Exhibit A]

The nature and purpose of the pipeline is to provide a supply of natural gas to the City of Waukee. The pipeline is approximately 14.39 miles of 8-inch diameter steel pipeline with a maximum operating pressure of 800 pounds per square inch gauge (psig).

To obtain the right to construct the pipeline, the City of Waukee is requesting that the Board grant it the authority to acquire the necessary interests in certain property by condemnation. The City of Waukee is seeking to condemn an interest in land in which you are the owner or party in possession. A copy of the pertinent Exhibit H filed with the Board for the affected property is described in Attachment B: [Attach Petition Exhibit H For The Affected Parcel]

**The Iowa Utilities Board has scheduled a hearing on the proposed pipeline route for February 3, 2009, at 9:00 a.m. at the Raccoon Valley State Bank Community House located at 1016 Main Street, Adel, Iowa. If necessary the hearing will be continued on February 4, 2008.**

The Board has established a procedural schedule with dates for prefilng testimony by the City of Waukee and other parties. The procedural schedule establishes a date by which objections to the pipeline must be filed. The procedural schedule provides for the prefilng of prepared direct testimony in accordance with the procedural schedule and Board rules. At the hearing, parties will be given the opportunity to cross-examine Waukee's witnesses and other parties' witnesses. Persons with questions about the procedural schedule or Board rules should contact the Board's Records and Information Center at 350 Maple Street, Des Moines, Iowa 50319 or at (515) 281-5563. Copies of Waukee's petition, Board orders, and prefiled testimony and exhibits can be obtained from the Board's Records and Information Center. Information can also be obtained on the Board's Web site at [www.state.ia.us/iub](http://www.state.ia.us/iub).

The Board may grant a permit in whole or in part upon terms, conditions, and restrictions as to safety requirements and as to location of the route. To grant a permit, the Board must determine whether the services proposed will promote the public convenience and necessity. If the Board grants the City of Waukee the right of eminent domain, the right of eminent domain is granted for the life of the proposed pipeline. The permit granted by the Board is for a 25-year period, which is subject to renewal for as long as the pipeline is in use.

The matter of just compensation for property rights taken by eminent domain is not determined by the Board. Compensation is determined by a Compensation Commission appointed from your county pursuant to Iowa Code Chapter 6B.

The name, address, and telephone number of the person designated by the City of Waukee as the person to contact regarding the pipeline is:

[Insert City of Waukee Designated Contact Information]

Attached to this notice is a statement of the rights of individual property owners with respect to the acquisition of interests in their property.

[Attach Statement of Property Owner Rights in 61 IAC chapter 34]

Dated at Des Moines, Iowa, [Insert Month, Date, and Year].

**UTILITIES BOARD**

John R. Norris, Chairman

Krista K. Tanner

ATTEST:

Judi K. Cooper  
Executive Secretary

Darrell Hanson

Docket No. P-874

**Department of Commerce  
UTILITIES DIVISION  
SAFETY & ENGINEERING SECTION**

**TO: Docket No. P-874**

**FROM: Jeffrey L. O'Neal**

**DATE: October 15, 2008**

**SUBJ: Staff Review of City of Waukee Petition for Pipeline Permit for  
Approximately 14.39 Miles of 8-inch Diameter Natural Gas  
Pipeline in Dallas County, Iowa**

**Background**

On October 3, 2007, the City of Waukee (Waukee) held an informational meeting, as required by Iowa Code § 479.5 and 199 IAC 10.3, in Waukee, Iowa, for a proposed natural gas transmission pipeline to be constructed in Dallas County, Iowa. This meeting was a prerequisite for filing a petition for pipeline permit and for entering into easement negotiations with landowners. Don Stursma, Manager of the Safety and Engineering Section for the Iowa Utilities Board (Board), was the presiding officer.

On January 28, 2008, Waukee filed a Petition for Pipeline Permit with the Board. By letters dated February 29, 2008, July 2, 2008, and August 4, 2008, I advised Waukee of petition deficiencies requiring correction, and requested additional information. On May 6, 2008, July 22, 2008, and August 11, 2008, Waukee filed revisions to its petition and exhibits and provided additional information. With the final revisions the petition appears to be in sufficient order to set for hearing.

Waukee is a municipal gas utility and operates a natural gas distribution system in Waukee. In its petition, Waukee proposes to construct approximately 14.39 miles of 8-inch diameter steel pipeline. The pipeline would transport natural gas from a connection with a Northern Natural Gas Company (Northern) pipeline north of Granger, Iowa, to a proposed regulator station in Waukee, Iowa, where the pressure would be reduced for delivery to customers through Waukee's natural gas distribution system. Petition Exhibit C shows the proposed pipeline would be designed, constructed and tested for a maximum allowable operating pressure (MAOP) of 800 pounds per square inch gauge (psig), and would have a maximum actual operating pressure of 250 psig.

The proposed pipeline requires a pipeline permit because it will meet the definition of a transmission line under 49 CFR Part 192, and because it will operate at a pressure greater than 150 psig. (See 199 IAC 10.16.) It will meet

the definition of a transmission line because it will transport gas from a transmission line (and ultimately from gathering lines and/or storage facilities) to a distribution center, and because at the MAOP, it would operate at a hoop stress of more than 20 percent of specified minimum yield strength (SMYS). (See 49 CFR § 192.3.)

## Petition and Exhibits

The petition filing includes the following:

**Petition.** The petition requests a pipeline permit from the Iowa Utilities Board pursuant to Iowa Code chapter 479 for approximately 14.39 miles of 8-inch diameter pipeline for the transportation of natural gas in Dallas County. It also requests the right of eminent domain for securing right-of-way for the project.

**Exhibit A.** This exhibit provides a legal description of the pipeline route. The description meets the requirements of 199 IAC 10.2(1)a.

**Exhibit B.** This exhibit is a map of the pipeline route, which uses as its base aerial photographs of the route. The map meets the requirements of 199 IAC 10.2(1)b.

**Exhibit C.** This exhibit and its attachments provide engineering and technical information about the proposed pipeline and some details about features being crossed.

**Exhibit D.** The purpose of this exhibit is to show the petitioner has the financial ability to pay damages of up to \$250,000 arising from construction or operation of the pipeline. See Iowa Code § 479.26 and 199 IAC 10.2(1)d. The exhibit contains an affidavit of David Ellis, Certified Public Accountant, regarding the assets and net worth of the City of Waukee, filed on May 6, 2008. Waukee had earlier (on January 28, 2006) filed different documents as Exhibit D, including copies of statements from the City of Waukee's Annual Report for the fiscal year ending June 30, 2006. ***It is recommended Waukee be asked to clarify whether it intended the Exhibit D filed on May 6, 2008, to replace the Exhibit D filed on January 28, 2006, or supplement it.***

**Exhibit E.** As provided in Iowa Code § 479.24, Chapter 479 does not authorize the construction of a pipeline longitudinally on railroad or highway right-of-way, or crossing railroad or highway right-of-way at other than an approximate right angle<sup>1</sup>, without the consent of the railroad company or highway authority. In this context highway means any public road. Exhibit E is to show the required consents have been obtained.

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<sup>1</sup> An approximate right angle is defined in 199 IAC 10.1(1) as within 5 degrees of a 90 degree angle.

The proposed pipeline route includes both longitudinal occupancy of highway right-of-way and highway crossings at other than an approximate right angle. It does not cross any railroads or longitudinally occupy any railroad right-of-way. Exhibit E contains copies of permits from all of the applicable highway authorities for the proposed pipeline. Exhibit E appears to satisfy the requirements of 199 IAC 10.2(1)e and 10.14(2).

Exhibit F. In this exhibit the petitioner is required to address a list of topics specified in 199 IAC 10.2(1)f, including: the purpose of the project and how the proposed pipeline will promote the public convenience and necessity; the nature of the lands, waters and public or private facilities to be crossed; the possible use of alternative routes; present and future land use and zoning; and the inconvenience or undue injury which may result to property owners.

Exhibit G. This is an affidavit required by Iowa Code § 479.6(11) stating the required information meeting was held, along with copies of the mailed notice letter and the published notice of the informational meeting.

Exhibit H. This exhibit describes the properties for which eminent domain is requested, and the easement rights being sought. Waukee is requesting eminent domain for 15 parcels.

In reviewing the filing, it was noted that the page numbers shown on the Exhibit H pages numbered 19 and greater filed on August 11, 2008, are not consistent with the page numbers on the Exhibit H pages filed on earlier dates. It appears the insertion of a new page number 19 in the August 11, 2008, filing resulted in the page numbers for all subsequent pages in the document being increased by one in that filing. However, the Exhibit H pages that were replaced by the August 11, 2008, filing can be identified by the content of the pages.

Exhibit I. Exhibit I is the land restoration plan required by Iowa Code § 479.29(9) and 199 IAC 9.2 and 9.3. The plan only applies to agricultural land. Waukee's Land Restoration Plan appears to comply with the applicable provisions of 199 IAC Chapter 9.

Statement of Damage Claims. This is a statement describing how damages resulting from the construction of the pipeline will be determined and paid. Iowa Code § 479.43 requires the company prepare such a statement before construction, and the Board at 199 IAC 10.2(3) requires a copy be filed before a permit will be issued.

## **Route**

On March 20, 2008, and September 26, 2008, I inspected the portions of the route that could be observed from the roads along the route. Aerial photos on

the Exhibit B maps and aerial photos available on Dallas County's web site were also used to review portions of the route.

The proposed route would begin at a connection to a Northern delivery station north of Granger, Iowa, and run generally westerly and southerly to a proposed regulator station in Waukee, where the gas pressure would be reduced for delivery into Waukee's existing natural gas distribution system.

The proposed route crosses one rural residential property (eminent domain parcel 19.) Otherwise the route is on land that is currently in agricultural use or is undeveloped land, or is on public road right-of-way. However, an objection filed by owners of a property that is crossed by the proposed route states their property is for residential development and the ground has been platted with lots and presented to the City of Granger for annexation. (See the Objections section of this report, item number 5.)

The route crosses Iowa Highway 141, Iowa Highway 44, U.S. Highway 6, several county roads and/or city streets. The route crosses several streams, and it crosses one foreign pipeline.

The proposed route runs through flat to rolling terrain. No conflicts with safety standards or significant impediments to pipeline construction were noted on the proposed route.

Beginning at the Northern delivery station the route runs westerly through private property for about 2 miles. A little over a mile of this section of the route runs near the north side of 180<sup>th</sup> street. At both ends of this section of the route, it deviates away from 180<sup>th</sup> Street, running north of some rural residential properties along the road.

The route then turns south, crossing Iowa Highway 141, and continues in a southerly direction through private property for roughly 7 miles, running near the north-south centerline of the sections. This section of the route passes near houses at some of the road crossings, but otherwise is remote from roads or houses. This portion of the route also passes near a water tower that was under construction near the crossing of Iowa Highway 44.

At 250<sup>th</sup> Street the route turns and runs east for approximately ½ mile to W Avenue. This portion of the route is on private property on the south side of 250<sup>th</sup> Street.

At W Avenue the route turns and runs south within the road right of way of W Avenue/Alice's Road for about 4.5 miles, first on the east side of the road, and later crossing to the west side of the road. The northernmost 2 miles of this section of the route is surrounded by land that is mostly in agricultural use or currently undeveloped, although one objector has stated property adjacent to the road here is zoned, preliminarily platted and has engineering improvement plans

for the site.<sup>2</sup> The route in the mile between Meredith Drive and Douglas Parkway runs near new housing developments (where there are some existing houses, some houses under construction, and some empty lots) on both sides of the road, and the route runs across the road from a number of existing houses located on the west side of Alice's Road. In the mile between Douglas Parkway and Hickman Road/U.S. Highway 6, there are a few houses and other buildings across the road from the pipeline route, plus an electric transmission line and an electric substation on the same side of the road as the pipeline. In the half-mile from Hickman Road to the southern endpoint, there are several commercial buildings across the road from the proposed pipeline.

The portion route on W Avenue/Alice's Road is outside of city limits at its northern end, then as it goes south it passes through areas that are within the city limits of Urbandale, Clive and Waukee.

Near its southern end, the route crosses the road and runs east a short distance on private property to its endpoint east of the road. The endpoint is just south of some commercial buildings on W Avenue/Alice's Road.

Waukee included as part of Exhibit F maps labeled Exhibit F-2 showing three different route options that were considered, and a description of how it selected the route that it proposed. Exhibit F-6 shows Waukee's initial route evaluation found Route A to be the most desirable of three routes that were compared, and found Route C to be the least desirable of those routes. Exhibit F-3 includes a fourth option that was considered, but was not selected.

Exhibit F states that in addition to the evaluation criteria documented in Exhibit F, Waukee also considered requests from the City of Clive (Exhibit F-4) and the City of Urbandale (Exhibit F-5) that the route not run through the middle of the sections within those cities, but that the route run along Alice's Road through those cities instead.

The text of Exhibit F describes the beginning point of the pipeline at the same location proposed by Waukee in its petition, but the route options shown on the maps labeled as Exhibit F-2 begin at a point approximately 1 mile north and 1 mile west of the proposed beginning point for the pipeline. ***It is recommended Waukee be asked to explain in its testimony why these are different.*** From Iowa Highway 141 to 250<sup>th</sup> Street, the route proposed by Waukee in its petition mostly follows Route A as shown on Exhibit F-2. From 250<sup>th</sup> Street south, the route proposed by Waukee follows 250<sup>th</sup> Street, then W Avenue/Alice's Road.

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<sup>2</sup> The Jerry Wright property is located on the east side of Alice's Road in the NW ¼ of Section 14, T-79N, R-26W. The proposed route would place the pipeline within the road right-of-way of Alice's Road, not on the Jerry Wright property. This objection is discussed in the Objections section of this report, under item number 6.

This matches Route C from 250<sup>th</sup> Street to a point north of Meredith Drive, and from Douglas Parkway to the southern end of the pipeline.

In addition, the endpoint was originally proposed to be located on the west side of Alice's Road, but is currently proposed to be located on the east side of the road. ***Waukee should be asked to explain the reason for this change in its testimony.***

***It is also recommended Waukee be asked to explain in its testimony why it did not propose building a new pipeline along the same route as the existing Northern pipeline that serves Waukee, instead of proposing a new pipeline on a new route.***

Exhibit B shows the route will cross wetland areas in two locations. ***It is recommended Waukee be asked to describe how it plans to construct the pipeline across these wetland areas. It is recommended Waukee be asked to describe what permits or approvals if any it will need to construct the pipeline across these wetland areas, and whether it has received these permits or approvals.***

Dallas County property records available on its web site show the portion of the SE ¼ of Section 3 that is crossed by the pipeline route, plus a portion of the N ½ of the section also crossed by the pipeline route, is owned by Xenia Rural Water District. During my inspection of the route, I observed a "Water Supply Protection Area" sign on a gate on an entrance to this property near the proposed pipeline route. ***It is recommended Waukee be asked to address the following in its prefiled testimony: Will any special precautions be required in constructing the pipeline across this property. Will any permits or approvals be required? If so, have those been acquired by Waukee? Has Waukee obtained an easement for this property?***

## **Engineering and Safety**

Natural gas pipelines must comply with the federal pipeline safety standards found in 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards." These standards have been adopted by the Board in 199 IAC 10.12(1)*b*. The information filed by Waukee shows the proposed pipeline would be designed, constructed and tested in compliance with the pipeline safety standards adopted by the Board. During construction, Board staff anticipates inspecting the construction and testing of the pipeline for compliance with these standards.<sup>3</sup>

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<sup>3</sup> Inspection of agricultural land restoration is the responsibility of the county. See Iowa Code § 479.29(2).

The federal pipeline safety standards at 49 CFR § 192.5 define a “class location” system that ranks pipelines based on the number of buildings intended for human occupancy near the pipeline, and proximity to buildings or areas where groups of people gather. Pipelines are ranked as either Class 1, 2, 3, or 4, and the higher classifications are subject to more stringent safety standards. Based on my observations of the route, it appears the proposed pipeline would be in a Class 1 location (low population density area) north of Meredith Drive, and it appears much of the route south of Meredith Drive may be in a Class 3 location (higher population density area.) Petition Exhibit C-1 designates the route north of Meredith Drive as a Class 1 location, and designates the entire route south of Meredith Drive as a Class 3 location. Although portions of the route south of Meredith Drive may not yet contain enough buildings to qualify as a Class 3 location, it seems prudent to designate the entire area as Class 3 location, because of the potential for future development in this area, and to simplify the Class location designations. The information provided in petition Exhibit C shows the entire pipeline will meet the design and testing requirements for a Class 3 location. Due to the proximity to developed areas and the potential for future development near the pipeline route, designing and testing the entire pipeline to Class 3 location standards seems reasonable and prudent.

The information provided in petition Exhibit C shows the proposed pipeline would be designed and tested to qualify the pipeline for a maximum allowable operating pressure (MAOP) of 800 psig in a Class 3 location under the federal minimum pipeline safety standards. Exhibit C shows the pipeline would have a maximum actual operating pressure of 250 psig.

Board rules require pipelines in tilled agricultural land must be installed with a minimum cover of 48 inches. See 199 IAC 10.12(3). Federal pipeline safety rules at 49 CFR § 192.325 require that buried transmission pipelines in normal soil be installed with a minimum cover of 30 inches in Class 1 locations and 36 inches in public road ditches and in Class 2, 3, and 4 locations. (Less cover is allowed for pipelines in consolidated rock.) The Notice of Public Informational Meeting filed by Waukee on September 11, 2007, states the proposed pipeline will be buried at a minimum depth of 48 inches on both agricultural and non-agricultural land. ***It is recommended Waukee be asked to explain for the record whether it intends to bury the pipeline with a minimum cover of 48 inches in all areas.*** This would match the requirement in Board rules for agricultural land and would exceed the minimum requirements of the rules for non-agricultural land.

Waukee currently operates a natural gas distribution system in Waukee, but it does not currently operate a gas transmission pipeline. While many of the pipeline safety regulations in 49 CFR Part 192 are identical for distribution pipelines and transmission pipelines, Part 192 contains some requirements for transmission lines that differ from the requirements for distribution systems. In a letter included with its May 6, 2008, filing, Waukee stated it had contracted with Aquila, Inc. (Aquila) to operate and maintain this pipeline. In a letter included with its July 22, 2008,

filing, Waukee stated the pipeline will be operated and maintained using Aquila's procedures.

On July 14, 2008, Aquila's Iowa natural gas assets were sold to Black Hills/Iowa Gas Utility Company, LLC, and its Iowa natural gas operations are now doing business as Black Hills Energy (Black Hills.)<sup>4</sup>

Black Hills operates both distribution pipelines and transmission pipelines in Iowa, and has been periodically inspected by Board staff for compliance with the pipeline safety standards adopted by the Board.

***It is recommended Waukee be asked to address in its prefiled testimony who will operate the pipeline, and which written plans and procedures will be used to operate and maintain the pipeline in compliance with 49 CFR Parts 192 and 199, including the Operations and Maintenance Plan, Emergency Response Plan, Damage Prevention Plan, Public Awareness Program, Operator Qualification Program, Integrity Management Program (if required for this pipeline), and Anti-Drug and Alcohol Misuse Plan. Waukee should be asked to address what qualified personnel will be available to promptly respond to leaks, emergencies, line locate and marking requests, and other issues that might arise. It is suggested Waukee file with its testimony a copy of its contract with Black Hills for operation of this pipeline.***

South of Douglas Parkway the pipeline would run parallel to an electric transmission line located on the same side of the road as the pipeline. A fault on the electric line could ground one of the conductors. Also, the electric line has a shield wire that acts as a lightning rod to intercept and ground lightning strikes. The current from a grounded fault or lightning can be picked up by a metal pipeline, which can create a hazard or cause damage to the pipeline. For this reason the federal pipeline safety standards in § 192.467(f) require a pipeline be protected from such damage where located in close proximity to electric transmission towers. Waukee's August 11, 2008, letter states adequate separation will be maintained between the pipeline and electric transmission towers and grounding systems to protect the pipeline from such damage, stating a minimum separation of 10 feet will be maintained. In addition, electrical fields from electric transmission lines can induce currents or charges in the pipeline that could cause welding problems or hazard for workers during construction, and could interfere with corrosion protection systems after construction. The cover letters with Waukee's July 22, 2008, and August 11, 2008, filings stated mitigation of possible electromagnetic induction will be achieved with the installation of horizontally buried zinc ribbon anodes in this area, and the pipe will be grounded to avoid possible problems during construction.

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<sup>4</sup> See "Order Accepting Notice Of Closing And Changing Docket Captions In Docket Nos. EEP-08-3 and RPU-08-3," issued July 25, 2008, in Docket Nos. SPU-07-12, EEP-08-3, and RPU-08-3.

Subpart O of 49 CFR Part 192 requires pipeline operators to develop and implement an Integrity Management Program for gas transmission pipelines in high consequence areas (HCAs) as defined by the rules. An HCA is an area within the potential impact radius (PIR) for the pipeline that contains an identified site as defined in the rules, or that contains 20 or more buildings intended for human occupancy. Based on the pipe diameter and MAOP specified in petition Exhibit C, the PIR for this pipeline would be 156 feet. During my inspection of the route I observed some commercial buildings along Alice's Road south of Hickman Road that might be within the PIR for the pipeline and that might meet the definition of an identified site, depending on the number of people that occupy those buildings. Waukee will need to conduct a review of the route to look for HCAs after construction as required by the rules, and if the pipeline does contain any HCAs, Waukee will need to develop and implement an Integrity Management Program. If the pipeline does not include any HCAs, most of the requirements under Subpart O will not apply to this pipeline.

In 2007, the federal Department of Transportation adopted a new rule, 49 CFR § 192.476, regarding design and construction features to reduce the risk of internal corrosion. In the cover letter with its May 6, 2008, filing, Waukee described how it plans to comply with the requirements of § 192.476. It appears the proposed pipeline will comply with the requirements of § 192.476.

Natural gas is naturally odorless. The distinctive odor is added to make the gas detectable by smell in the event of a leak. 49 CFR § 192.625 requires natural gas in all distribution lines and in certain types of transmission lines must be odorized. Exhibit C states the gas in the proposed pipeline will be odorized.

## **Eminent Domain**

Iowa Code § 479.24 provides, "A pipeline company granted a pipeline permit under this chapter shall be vested with the right of eminent domain to the extent necessary and as prescribed and approved by the board, ..." As of the date of this report, Waukee is requesting eminent domain for 15 parcels. Owners of 5 of these parcels have filed objections.

The width of an easement obtained by eminent domain is limited to 75 feet, unless the company presents sufficient evidence to demonstrate that a greater area is required. See Iowa Code § 479.24. For each of the eminent domain parcels, the requested permanent easement is 30 feet wide, with the pipeline to be centered in this in this permanent easement. The requested temporary construction easement is an additional 30 feet wide, adjacent to the permanent easement. The permanent easement plus the temporary easement is a total of 60 feet wide.

Exhibit H lists the “Permanent Easement Rights Being Sought” and the “Temporary Easement Rights Being Sought” for each parcel. The easement rights being sought appear to be identical for all of the parcels.

It appears at least arguable that, under Iowa Code §§ 479.24 and 6B.2B, a party seeking eminent domain must have made a good faith effort to obtain voluntary easements. ***Waukee should address this consideration in prefiled testimony or at hearing.***

***It is recommended Waukee be asked whether, with the exception of the eminent domain parcels, it has acquired all needed easements for the proposed pipeline.***

One of the eminent domain parcels (Parcel 19) is a rural residential property. All of the other eminent domain parcels appear to currently be in agricultural use or undeveloped land.

The individual parcels are discussed below:

1. Parcel 6

Owners: Edward M. Spellman estate, Martin E. Spellman, Daniel J. Spellman, Patrick J. Spellman.

The owners of this parcel have not filed an objection.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

The property appears to be mostly in agricultural use, but the property also contains areas of timber. The pipeline route through this parcel appears to be mostly on flat to gently rolling agricultural land, but it crosses a stream (a tributary of Beaver Creek) bordered by trees in the northern part of the property.

2. Parcel 10

Owners: Catherine J. Jennewein, Ronald M. Reid, John R. Reid (a/k/a J. Raymond Reid), Patrick C. Reid, and Robert R. Reid as tenants in common.

The owners of this parcel have not filed an objection.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

The property appears to be mostly in agricultural use, but a tributary of Beaver Creek, which is bordered by trees, runs through the property. The proposed route through this property appears to be mostly on agricultural land, but it crosses a tributary of Beaver Creek about  $\frac{1}{4}$  mile south of the road. The portion of the route that was visible from the road, north of the trees at the stream crossing, was fairly flat.

### 3. Parcel 13

Owners: JJ Farms,  $\frac{1}{4}$  interest, and Rose Mary Spellman  $\frac{1}{4}$  interest, and Gerald T. Spellman,  $\frac{1}{2}$  interest.

The owners of this parcel have not filed an objection.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

The property appears to be mostly in agricultural use. It appears the south half of the proposed route through this property is on agricultural land, but the north half runs near and through an area of trees near a tributary of Beaver Creek that the route crosses in the north half of the property. I was not able to tell how much of the northern half of the route will be in the area of trees and how much will be on agricultural land.

### 4. Parcel 14

Owners: C. Edward Shafer and Teresa J. Shafer.

The owners of this parcel have filed an objection. See the Objections section of this report, item number 11.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

The property appears to be entirely in agricultural use. The route through this property appears to be on flat to gently rolling agricultural land. Exhibit B shows the route crosses a tributary of Beaver Creek on this property about  $\frac{1}{4}$  mile from the road, but I was not able to see it from the road.

5. Parcel 15

Owners: Edward P. Greif and Betty M. Greif.

The owners of this parcel have filed objections. See the Objections section of this report, item numbers 7 and 11.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

I was not able to get a very good look at this parcel from the road. Based on aerial photos, this property appears to be entirely in agricultural use.

6. Parcel 16

Owners: Robert N. Marsh and Debra Jean German Hobbs.

The owners of this parcel have not filed an objection.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

I was not able to get a very good look at this parcel from the road. Based on aerial photos, this property appears to be entirely in agricultural use.

7. Parcel 17

Owner: Melvin R. Marsh.

The owner of this parcel has not filed an objection.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

I was not able to get a very good look at this parcel from the road. Based on aerial photos, this property appears to be entirely in agricultural use.

8. Parcel 18

Owner: G and V Real Estate, L.L.C.

The owner of this parcel has filed an objection. See the Objections section of this report, item number 10.

The proposed easement runs from north to south through the middle of the property.

The property appears to be in agricultural use, except where a stream (Walnut Creek) crosses the property in the north half of the property.

Exhibit C-3 states a valve will be installed on the north side of 230<sup>th</sup> Street in the SW ¼ of Section 27, T-80N, R-26W. Eminent domain parcel 18 includes a portion of the SW ¼ of Section 27, T-80N, R-26W. Exhibit H(18) does not specifically describe any above ground facilities to be installed on that parcel, although the rights requested for each of the eminent domain parcels do include the right to construct “... a line for the transmission of gas and all appurtenances and appliances necessary in connection therewith...” In a cover letter with its May 6, 2008, filing, Waukee explained what “appurtenances and appliances” is intended to include; one of the examples given was valves. ***It is recommended Waukee be asked to answer the following questions: Will the valve be installed on eminent domain parcel 18 or in the road right of way? Is Waukee requesting eminent domain to install aboveground facilities (other than marker signs, but including any valve boxes or pits) on parcel 18, or on any of the eminent domain parcels? If so, please describe the facilities, where they will be located, and how much land will be required for the aboveground facilities.***

#### 9. Parcel 19

Owners: Benjamin J. Ihde and Bonnie J. Ihde.

The owners of this parcel have not filed an objection.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

This is a rural residential property, containing two buildings: a house and another building. Exhibit H(19) shows the house is 236 feet from the edge of the proposed permanent pipeline easement, and the other building is 77 feet from the edge of the proposed permanent pipeline easement.

Several buildings are located on the adjacent property to the east of parcel 19. It appears the nearest building on the adjacent property may be about 30 feet from the proposed location of the pipeline, and about 15 feet from

the edge of the requested pipeline easement. It was not apparent what these buildings are used for. ***It is recommended Waukee be asked if it knows what these buildings are used for.*** There is a house on this adjacent property. The house is one of the easternmost buildings on the adjacent property, so of the buildings on that property, it is at the greatest distance from the currently proposed pipeline route.

Exhibit F-3, page 3 of 5, shows one of the alternate routes considered by Waukee jogged to the east around the east side of the buildings on the adjacent property to the east of parcel 19, instead of crossing parcel 19. ***It is recommended Waukee be asked to explain in its testimony why it chose to cross this residential property (Parcel 19), rather than going around it.***

#### 10. Parcel 21

Owner: Louise A. Juhl.

The owner of this parcel has filed objections. See the Objections section of this report, item numbers 3 and 11.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

This property is  $\frac{1}{4}$  mile from the nearest road. I was not able to see much of it from the road. What I was able to see of the property from the road was flat to gently rolling agricultural land. Based on aerial photos, this property appears to be entirely in agricultural use.

#### 11. Parcel 23

Owner: Lois Marie Moser Mills.

The owner of this parcel has not filed an objection.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line. Due to the shape of the parcel, there are two separate easement locations on this parcel, with a gap between them where the pipeline crosses a different property.

Due to the terrain, I was not able to see much of this property from the road. The portion of the route I could see from the road was gently rolling

land planted in row crops. Based on aerial photos, this property appears to be entirely in agricultural use.

A water tower was under construction near this location on September 26, 2008. ***It is recommended Waukee be asked to address the following in its prefiled testimony: Does the pipeline route cross the property on which the water tower is being built? If so, who owns the property and does Waukee have an easement agreement to cross that property?***

#### 12. Parcel 24

Owner: Ruisch Family, L.L.C.

The owner of this parcel has not filed an objection.

The proposed easement runs parallel and adjacent to the east edge of the property. The pipeline would be installed in the center of the 30-foot wide permanent easement, or 15 feet west of the east property line.

The portion of the route I could see from the road was on gently rolling land planted in row crops. Based on aerial photos, this property appears to be entirely in agricultural use.

#### 13. Parcel 40

Owner: Mary J. Nizzi.

The owner of this parcel has not filed an objection.

The proposed easement begins on the east edge of the property, at a point across Xavier Avenue from the Northern delivery station that will supply gas to the proposed pipeline, then runs west through the property until it is west of two rural residential properties on 180<sup>th</sup> Street, then runs diagonally southwest to a point near the southern edge of the property and runs west near and parallel to the southern edge of the property to the west edge of the property.

This property appears to be entirely in agricultural use. The eastern portion of the property was pasture, in which the route crosses a tributary of Beaver Creek that has a few trees along it. The western portion of the property was planted in row crops.

#### 14. Parcel 43

Owner: R. Susan Berube revocable trust dated January 6, 1998, R. Susan Berube, grantor and R. Susan Berube and Robert L. Berube, co-trustees.

The owners of this parcel have not filed an objection.

The proposed easement begins on the west edge of the property at a point north of an adjacent rural residential property, then runs diagonally southeast to a point near the southern edge of the property, then runs east near and parallel to the southern edge of the property, to the east edge of the property.

This property appears to be entirely in agricultural use. The pipeline route through this property is on flat to gently rolling agricultural land that was planted in row crops.

#### 15. Parcel 44

Owners: Donald J. Scott and Rosalene M. Scott.

The owners of this parcel have filed objections. See the Objections section of this report, item numbers 2 and 11.

The proposed easement runs from east to west through this property, north of two adjacent rural residential properties.

The property appears to be in agricultural use. Exhibit B shows the proposed easement crosses a tributary of Beaver Creek on this property. As far as I could see, the pipeline route through this property is on flat to gently rolling agricultural land that was planted in row crops.

## Objections

To date 11 objections have been received on behalf of 14 individuals, the City of Clive, and a real estate company. ***Waukee should respond to each of the objections in its prefiled testimony.***

The objections are discussed below:

1. On September 7, 2007, the Dennis T. Henderson, City Manager, City of Clive, filed an objection stating the City of Clive (Clive) objected to the proposed route running through the middle of Section 22, asserting it would

disrupt the development plan for this area. Clive suggested the route be changed to the right-of-way of Alice's Road, preferably on the west side of Alice's Road, but possibly on the east side if sufficient cause could be shown. Another alternative suggested by Clive was changing the route to the right-of-way of Warrior Lane. This letter was filed before the informational meeting was held, in apparent response to the notice of the meeting.

Most of Section 22, T-79N, R-26W, is within the city limits of Clive. There has been some residential development on the east side of the section, and there are also a few houses along the roads on the north and west edges of the section, but most of this section is currently undeveloped.

On September 11, 2007, Waukee filed in this docket a copy of notice of informational meeting for this project that it had mailed to potentially affected property owners prior to the informational meeting. A map included with that notice showed the proposed pipeline route running from north to south through the middle of Section 22, T-79N, R-26W. When Waukee filed its petition for pipeline permit on January 28, 2008, it proposed a route running on Alice's Road right of way, rather than running down the middle of Section 22. Part of the current proposed route is on the west side of the road, and part of the route is on the east side of Alice's Road.

The current proposed route appears to be consistent with one of the alternative routes suggested by Clive, although part of the route does not follow Clive's first choice of running entirely along the west side of Alice's Road. There are numerous houses, and many driveways entering Alice's Road, along the west side of Alice's Road in the SE  $\frac{1}{4}$  of Section 22, T-79N, R-26W, where the proposed route switches to the east side of the road. It appears that through this area, the east side of the road (as currently

proposed by Waukee) is a better location for the pipeline than the west side of the road.

Petition Exhibit E shows Clive has granted Waukee permission to construct the pipeline within the right-of-way of Alice's Road. However, granting permission to construct the pipeline does not negate the objection. Unless the objector withdraws the objection, the objection is still before the Board for consideration. See "Decision and Order Granting Franchise" issued in Dockets No. E-21043, E-21044, E-21045, on March 9, 1993.

2. On October 10, 2007, Donald J. Scott, filed an objection to the pipeline going through his property. He stated that tile lines are never the same after they had been cut and repaired. He suggested the pipeline be placed in the ditches. Mr. Scott's objection lists his affected property as Section 34, Des Moines Township, R-34W, Dallas County. Iowa DOT county maps show Des Moines Township of Dallas County is in T-81N, R-26W.

Donald J. Scott is listed as one of the owners of eminent domain parcel 44.

Attorney Ralph R. Brown has since filed an appearance on behalf of this objector. See item number 11 below.

***It is recommended that Waukee's response to this objection include a discussion of why Waukee did not propose placing the pipeline within the road right-of-way of 180<sup>th</sup> Street adjacent to this property.***

3. On October 11, 2007, Louise Juhl, filed an objection to the proposed route because of accessibility of a pipeline located in the middle of the section, effects on tile lines and agricultural use of the land, and effects on future use and marketability of the property. She suggested the pipeline should be placed in R30 road right-of-way, and that upgrading existing feeder lines should also be considered. The objection listed the affected property as SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , and W 10 ac. NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , all in Section 34, T-80N, R-26W, (Grant Twp), Dallas County, Iowa.

Louise A. Juhl is listed as the owner of eminent domain parcel 21. Petition Exhibit H shows Waukee is requesting condemnation for an easement through this property in the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 34, T-80N, R-26W, Dallas County, Iowa.

Attorney Ralph R. Brown has since filed an appearance on behalf of this objector. See item number 11 below.

The Iowa DOT county map shows County Road R30 follows W Avenue from Urbandale to 190<sup>th</sup> Street, then follows 190<sup>th</sup> Street east for about  $\frac{1}{2}$  mile, then follows Wendover Avenue north to 180<sup>th</sup> Street and beyond.

***It is recommended that Waukee's response to this objection include a discussion of why Waukee did not propose placing the pipeline within the road right-of-way of County Road R30 east of this parcel.***

4. On October 12, 2007, Frank Drobnich filed an objection stating he does not want the pipeline on his property. He stated he does deep tillage, so the opportunity for him hitting the gas line is enhanced. He mentioned a gas line explosion southeast of Woodward.<sup>5</sup> He stated that the gas pipeline will

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<sup>5</sup> On March 25, 2004, Northern's 16-inch diameter, 800 psig, B line to Des Moines ruptured in a farm field near Woodward, Iowa, and the gas ignited. There were no injuries. Gas service was not impacted, except for a few rural customers. Northern estimated total repair cost at \$200,000, including \$65,000 for lost gas. Northern's investigation found the pipeline failed where it had been hit and damaged by excavation equipment during tile repair work conducted in December 2003.

diminish the value of his property, and questioned why the pipeline has to go down the middle of the section.

Mr. Droblich lists his affected property as Section 3, Grant Township, R-26W, Dallas County. This can also be described as Section 3, T-80N, R-26W, Dallas County. Property records on the Dallas County's web site show Frank Droblich owns the SW ¼ of Section 3, T-80N, R-26W. Exhibits A and B show the proposed route does not cross the SW ¼ of Section 3. It runs through the SE ¼ of Section 3, near the boundary between the SE ¼ and the SW ¼ of Section 3. Based on a note on Exhibit B, it appears the proposed pipeline would be approximately 15 feet east of Mr. Droblich's property. **As part of its response, Waukee should be asked whether the proposed route passes through property owned by Frank Droblich, and whether Waukee will require an easement from Mr. Droblich. If so, has Waukee obtained an easement from Mr. Droblich?**

The SW ¼ of Section 3 appears to be mostly in agricultural use or undeveloped, but there is a residence in this quarter section at the address listed in Mr. Droblich's objection.

5. On October 15, 2007, Tim & Sue Harney filed an objection, stating this property is for residential development and the ground has already been platted with lots and presented to the City of Granger for annexation. The Harneys' address is approximately one half mile north of the pipeline route on the east side of Wendover Avenue. Dallas County property records available on the county's web site show Tim and Sue Harney own property crossed by the proposed pipeline route in the SE ¼ of Section 35, T-81N, R-26W. The proposed route runs near and parallel to the southern edge of this property, approximately 65 feet north of the centerline of the adjacent road, 180<sup>th</sup> Street.

Most of this property was fairly flat agricultural land planted in row crops, but in the western portion of this property, along a tributary of Beaver Creek shown on Exhibit B, a strip of land adjacent to the road, on or near the proposed pipeline route, was not planted in crops.

***It is recommended Waukee be asked to address the following questions in its prefiled testimony, and if the Harneys intend to participate further in this proceeding, it would be helpful if they would also address these questions: Will the proposed route interfere with the proposed development plans for this property? Please explain. If so, could the pipeline route across this property be modified to reduce or eliminate this interference? Please explain.***

***It is recommended that Waukee's response to this objection also include a discussion of why Waukee did not propose placing the***

***pipeline within the road right-of-way of 180<sup>th</sup> Street adjacent to the Harneys' property.***

6. On October 22, 2007, David Wright filed an objection to any location and/or construction of the proposed pipeline on the Jerry Wright property in the NW ¼ of Section 14 that is located on the east side of Alice's Road, because the property is already zoned, preliminarily platted and has engineering improvement plans for the site. The objection also stated the new city water tower is located at the SW corner of the property and the pipeline could pose a serious problem should an accident ever occur with the pipeline. The objection explained the objection was being stated for the record in case there was discussion of locating the pipeline along the eastern side of Alice's Road.

The route being proposed at the time this objection was filed was one-half mile west of the Jerry Wright property. Since that time, a portion of the proposed route has been moved to the east side of Alice's Road near the west edge of the Jerry Wright property. The proposed route would place the pipeline within the road right-of-way, not on the Jerry Wright property. ***It is recommended Waukee be asked whether it will require an easement for the Wright property, and if so, whether it has obtained the easement.***

The water tower is roughly 70 yards from the east shoulder of the road. It does not appear the pipeline at its proposed location (within the road right-of-way) would affect the water tower.

7. On October 26, 2007, Edward Greif filed an objection stating he did not want a high-pressure gas line going across his farm. He stated safety issues arise, and it devalues property. He described his affected property as Section 22, Township 80, Range 26, Dallas County.

Edward P. Greif is listed as one of the owners of eminent domain parcel 15.

Attorney Ralph R. Brown has since filed an appearance on behalf of this objector. See item number 11 below.

8. On November 2, 2007, Gina Becke sent an e-mail to the IUB objecting to the proposed pipeline near her property, citing concerns about the safety of her neighborhood, the health of her friends and family and her own health, and lower property value. Ms. Becke subsequently provided her address to Board staff as 730 SE Murphy Drive, Waukee, Iowa.

Prior to the informational meeting for this project, Waukee mailed a notice of informational meeting to potentially affected property owners and published

the notice in the Dallas County News. A map included with that notice showed the proposed pipeline route running from north to south through the middle of the NE ¼ of Section 34, T-79N, R-26W, adjacent to the east edge of a residential area of Waukee, then east through the middle of the section to the proposed pipeline's southern endpoint. Gina Becke's residence is located in that residential area, approximately 1/8 mile west of the proposed route shown in the notice of informational meeting. When Waukee filed its petition for pipeline permit on January 28, 2008, it proposed a route running along the east edge of Section 34, within the right-of-way of Alice's Road, rather than running down the interior of the section. The current proposed route is approximately ¼ mile east of this residential area, and about 3/8 mile east of the Gina Becke property.

It does not appear the currently proposed route would affect Gina Becke's property.

9. On November 7, 2007, Jon D. Findley filed an objection, asserting the project is neither necessary nor in the best interests of the residents of the local area or the county, and it violates existing conservation objectives of local jurisdictions. Mr. Findley stated that if the pipeline is deemed necessary, it should continue north in the public right-of-way of W Ave. A map attached to the objection showed his recommended route running north along the east side of W Avenue north of 250<sup>th</sup> Street toward Highway 44, instead of turning west along 250<sup>th</sup> Street, then north through the middle of Section 3 as proposed by Waukee. ***It is suggested Waukee's testimony in response to this objection include an explanation of why the proposed pipeline route follows W Avenue/Alice's Road south of 250<sup>th</sup> Street, but it does not follow W Avenue north of 250<sup>th</sup> Street.***

Mr. Findley describes his affected property as the SE ¼ of Section 3, T-79N, R-26W. Petition Exhibits A and B show the proposed route does not cross the SE ¼ of Section 3. It runs through the SW ¼ of Section 3, near the boundary between the SW ¼ and the SE ¼ of Section 3.

It appears the pipeline would run near the west edge of Mr. Findley's property, on the adjacent property. The proposed route also runs parallel to the southern boundary of Mr. Findley's property, across the road on an easement on private property. ***As part of its response, Waukee should be asked whether the currently proposed route passes through property owned by Jon D. Findley, and whether Waukee will require an easement from Mr. Findley. If so, has Waukee obtained an easement from Mr. Findley?***

Findley argues that Waukee's growth rate has slowed tremendously, and that reduced supplies of natural gas, accompanied by an increase in cost, will reduce the demand for natural gas and stimulate the demand for renewable energy sources. Findley asks the Board to deny Waukee's petition, arguing

Waukee has not demonstrated the project promotes the public convenience and necessity, and that the project violates the principles of the State of Iowa and Dallas County in attempting to preserve the rural nature of the area and its wildlife habitat. Findley notes the original map distributed in September showed the proposed route following the half-mile property lines all the way from Highway 6 to the Granger area, but the current proposed route no longer runs through the middle of Sections 10 and 15. Findley presumes the route was changed to avoid disturbance to natural, undisturbed areas in those sections, and argues the same reasoning should apply to Section 3.

Findley describes a property near the center of Section 3 owned by Dallas Center-Grimes Community School District as wooded with a creek nearly parallel to the proposed route, which would be crossed by the proposed route. Findley asserts the property is being managed as a Conservation Area, and any encroachment on this property would be a violation of this designation. Findley states this is an inappropriate location for a creek crossing, because flooding is common and because of the meandering nature of the creek. Findley asserts a creek crossing in the right-of-way of 250<sup>th</sup> Street would be easier to maintain.

Dallas County property records available on its web site show a property crossed by the proposed pipeline route near the center of Section 3 (and adjacent to the NW portion of Mr. Findley's property) is owned by Dallas Center-Grimes Community School District. During my field inspection I noted a sign that said "James K. Kent and Mary Kent Dukes Conservancy Area" next to a locked gate on V Avenue west of this property. I was not able to observe the area where the pipeline crosses this property because of its distance from the road. ***Waukee should be asked whether it has obtained an easement to cross this property. Waukee should discuss whether this creek crossing poses any difficulties, and how Waukee plans to construct the pipeline across this property. Are any permits or approvals required to cross this property? If so, please describe them. Has Waukee obtained all the required permits or approvals?***

10. On March 4, 2008, attorney Todd A. Elverson filed a copy of a letter he sent to Graham Land Acquisition Associates, Inc.<sup>6</sup> on behalf of his client, G and V Real Estate, L.L.C. The letter refers to a longer, alternate route across G and V Real Estate property, describing it as a much-improved alternate route from running straight north and south across the property. The letter offers to accept the alternate route across the property for a proposed payment. The

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<sup>6</sup> As explained in a letter sent to landowners that was filed as part of Exhibit G, Graham Land Acquisition Associates is a right-of-way and permitting consulting firm that has been retained to assist with permitting for the proposed pipeline.

letter does not describe the location of the property, nor does it describe location of the alternate route.

G and V Real Estate, L.L.C., is listed in petition Exhibit H as the owner of eminent domain parcel 18.

***If this objector, or any other, wishes to propose an alternate route across its property or any other specific modification of the proposed pipeline, it would be helpful if information on the specific route or proposal were filed with the Board prior to the hearing.***

11. On March 18, 2008, attorney Ralph R. Brown filed "Objections of Affected Landowners and Entry of Appearance" of behalf of the following:

C. Edward and Teresa Shafer  
Edward P. and Betty M Greif  
Louise A. Juhl  
Donald J. and Rosalene Scott

The appearance filing did not provide any details regarding the locations of the affected properties or the nature of the objections. However, Donald Scott, Louise Juhl and Edward Greif had previously filed objections in this docket, as described above, and all of the landowners listed in this appearance are listed in Exhibit H as owners of properties for which Waukee is requesting eminent domain to secure easements for the proposed pipeline.

### **Public Convenience and Necessity**

Iowa Code § 479.12 requires that before a permit is granted, the Board must find that "the services proposed to be rendered will promote the public convenience and necessity." In Petition Exhibit F, Waukee states its daily natural gas usage has almost doubled over the past 10 years and is projected to double again over the next 8 years, and the peak day gas usage has increased even more dramatically. Waukee states demand has peaked at 4 MCF, while current capacity from Northern is 3.9 MCF. ***These numbers appear much smaller than expected. It is recommended Waukee be asked to specify the time period for these numbers (per day or hour) and to confirm the units (thousand cubic feet or million cubic feet), and to file a revised Exhibit F if appropriate.*** Waukee asserts its existing gas supply is limited due to the size of the pipeline from its supplier. Waukee states the capacity limitation has been temporarily resolved by a connection to the MidAmerican Energy distribution system, but this temporary solution will not support Waukee's demand in 3 to 5 years, so a long-term solution is needed.

Petition Exhibit C shows that when operated at an inlet pressure of 250 psig and an outlet pressure of 170 psig, the proposed pipeline would transport 16,800 thousand cubic feet (mcf) per day.

Objector Jon D. Findley argues the proposed pipeline is not needed, asserting that Waukee's growth rate has slowed tremendously, and that reduced supplies of natural gas, accompanied by an increase in cost, will reduce the demand for natural gas and stimulate the demand for renewable energy sources. Findley asks the Board to deny Waukee's petition, arguing Waukee has not demonstrated the project promotes the public convenience and necessity

***Waukee needs to address the public convenience and necessity issue in its testimony. As part of this testimony, Waukee should describe its current sources of gas, why it needs a new pipeline, and what, if anything, will happen to its current sources of gas after the new pipeline is built. It is requested Waukee explain how much gas is currently being provided through the connection with MidAmerican Energy's distribution system. It is also requested Waukee explain how much of an increase over Waukee's existing sources of supply will be provided by the proposed pipeline.***

### **Conclusions/Recommendations**

I have reviewed the petition and exhibits in this docket. The filing appears in sufficient order to set a date for hearing. This report identifies, in ***bold italic type***, items that it is recommended Waukee be asked to address in its prefiled testimony, or that it is suggested that objectors address if they intend to participate further in the proceedings in this docket, in order to improve the record on which a decision will be based.