

Bill No. 61 of 1952.

A BILL RESPECTING PIPE LINES

NOTE.

This Bill enacts a new Act to be known as "*The Pipe Line Act, 1952*", which repeals and replaces *The Pipe Line Act*, being chapter 315 of the Revised Statutes of Alberta, 1942.

The repealed Act did not fully cover the subject of pipe lines and it was necessary to refer to other legislation or to regulations in order to find all the provisions relating to matters incidental to pipe line legislation, such as the procedure for appropriating land to be used for pipe lines.

The new *The Pipe Line Act, 1952*, consolidates all the provisions relating to pipe lines within the one Act as far as possible. In addition it makes some changes relating to the procedure in establishing a pipe line and as far as practical it incorporates the substance of existing regulations dealing with pipe lines into the Act itself.

The Act is divided into three Parts. Part I, sections 3 to 10 inclusive, relates to the permit required before a pipe line may be constructed, the material to be submitted with the application, the conditions of granting a permit and the limitations placed upon a grant of a permit.

Part II, sections 11 to 22 inclusive, provides for appropriation of and entry upon lands to be used for the construction of pipe lines. The role of the Board of Public Utility Commissioners is here provided for. The procedure with respect to a Board hearing, the deposit for compensation, costs of application to the Board, and the order of the Board, are dealt with in this Part. The Part also sets out the limits to appropriating power in sections 20 to 22 inclusive.

Part III, section 23, deals with the construction and operation of pipe lines.

Part IV, sections 24 to 36 inclusive, deals with the residue of provisions relating to the subject matter. A holder of a permit to construct a pipe line is, in this Part, prohibited from certain dealings with his pipe line which would not be in the public interest. Provisions dealing with alteration of routes of pipe lines are found in this Part. Section 31 provides for the rescission of a permit. The regulations which the Lieutenant Governor in Council may make are found in section 32. Sections 33 and 34 set out the offences created by the Act and the penalties therefor.

This Bill comes into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 61 of 1952.

An Act respecting Pipe Lines.

(Assented to , 1952.)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short Title.

1. This Act may be cited as "*The Pipe Line Act, 1952*". Short title

Interpretation.

2. In this Act, unless the context otherwise requires,—
- (a) "Crown lands" includes land held by Her Majesty the Queen in the right of the Province of Alberta, and includes lands held by any person under any form of terminable grant from the Crown or which have been disposed of by the Crown pursuant to any Act or regulations and which dispositions may result in the issue of a notification for such lands under the provisions of *The Public Lands Act*, and without restricting the generality of the foregoing, includes public beaches, beds of lakes, rivers or streams, paths, passages, liberties, privileges, easements and all trees and timbers thereon; Interpre-
tation
"Crown
lands"
 - (b) "gas" means all natural gas both before and after it has been subjected to any treatment or process by absorption, purification, scrubbing or otherwise, and includes all other fluid hydrocarbons not defined as oil; "gas"
 - (c) "Minister" means the Minister of Highways; "Minister"
 - (d) "oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, in liquid form; "oil"
 - (e) "permittee" means a person who holds a permit under this Act to construct a pipe line; "permittee"
 - (f) "pipe line" means a pipe line for the transportation of oil or gas, or a pipe line for the transportation of water incidental to the drilling for or production of oil or gas, and includes all property of any kind required for the purpose of the pipe line or in connection with or incidental to, the operation of the pipe line and without restricting the generality of the foregoing, includes all property required for "pipe line"

tanks, surface reservoirs, pumps, racks, storage, loading and other terminal facilities, but does not include a pipe line from a well to a separator or to a tank;

"regulations"

(g) "regulations" means regulations made under this Act.

PART I.

PERMIT FOR A PIPE LINE.

Permit to construct pipe line

3. (1) No person shall commence the construction of a pipe line or any section thereof until the Minister has granted a permit as hereinafter provided authorizing such construction.

Entry upon lands

(2) Notwithstanding the provisions of subsection (1) but subject to any regulations which may be issued, a person, before the granting of a permit, may enter into and upon any Crown or other lands lying in the intended route of the pipe line without previous license therefor and make surveys, examinations or other necessary arrangements on the lands for fixing the site of the pipe line right of way and works, and set out and ascertain such parts of the lands as are necessary and proper for the pipe line.

Application for permit

4. (1) A person may make application to the Minister for a permit.

Plan to accompany application for permit

(2) An application for a permit shall be accompanied by a plan in the scale which may be prescribed by regulations showing in detail,—

- (a) the points in the Province between which and the route along which the pipe line is to be constructed;
- (b) the intended size and capacity thereof; and
- (c) the location and capacity of all proposed pumping stations, gate valves, check valves, tanks, surface reservoirs, pumps, racks, storage, loading and other terminal facilities, and connections of all kinds upon the line.

(3) An applicant for a permit shall forward also all such other plans and information relating to the pipe line and its construction as the Minister may require for the proper understanding of the plan or for any other purpose whatsoever.

Filing of application for permit

(4) A copy of the application for a permit and all maps, plans, information and material filed with the Minister shall be filed by the applicant at the same time with The Petroleum and Natural Gas Conservation Board.

Approval of pipe line

5. The Petroleum and Natural Gas Conservation Board shall notify the Minister whether it approves or disapproves

of the pipe line and may recommend to the Minister such changes and alterations in the plan and its details as the Board deems expedient.

6. (1) Upon considering the application, the Minister shall have regard to all the circumstances which appear to him to be relevant and in particular, but not so as to limit the generality of the foregoing, shall have regard to,—

Consideration of application for permit by Minister

- (a) the recommendation of The Petroleum and Natural Gas Conservation Board;
- (b) the financial responsibility of the applicant;
- (c) the objection of an interested party;
- (d) any public interest that, in the opinion of the Minister, may be affected by the granting or refusal of the application;
- (e) the needs and general good of the residents of the Province as a whole.

(2) The Minister may make such changes and alterations in the plan and in the details as he may deem expedient, and may in particular require that the pipe line shall be of any size or capacity.

Minister may determine size or capacity of pipe line

(3) The decision of the Minister as to whether a person is or is not a party interested within the meaning of clause (c) of subsection (1) is final.

Decision of Minister final

7. (1) The Minister may grant a permit to construct a pipe line in accordance with the plan and details originally forwarded to him, or as changed or altered by him, as the case may be, and subject to such conditions as he may express in the permit, or he may refuse to grant the permit.

Minister may grant or refuse permit

(2) The decision of the Minister with respect to an application for a permit is final and not subject to review in any court of law.

8. At any time after the granting of a permit, the Minister, upon such terms and conditions as he may deem proper, may direct the permittee to divert or relocate the pipe line, if, in his opinion, the diversion or relocation is necessary to facilitate the construction, reconstruction or relocation of a highway or any other work affecting a public interest, and may direct the permittee to change or alter the plan of the pipe line to conform to the diversion or relocation of the pipe line and may amend, rescind or add to the terms and conditions expressed in the permit, as he may deem necessary.

Minister may direct diversion or relocation of pipe line for public works

9. At any time after the granting of a permit the Minister upon,—

Minister may direct diversion or relocation of pipe line upon request

- (a) application by the permittee; or
- (b) the recommendation of The Petroleum and Natural Gas Conservation Board; or

(c) the recommendation of the Board of Public Utility Commissioners;

may direct the diversion or relocation of the pipe line and may amend, rescind or add to the terms and conditions expressed in the permit as he may deem necessary, and may alter the plan of the pipe line to conform to the diversion or relocation of the pipe line.

Minister
may grant
permit to
construct
pipe line at
request of
The
Petroleum
and Natural
Gas Con-
servation
Board

10. Notwithstanding the other provisions of this Act, the Minister, at the request of The Petroleum and Natural Gas Conservation Board, shall grant a permit to construct a pipe line in any case where The Petroleum and Natural Gas Conservation Board has made an order for the construction of a pipe line under section 42 of The Oil and Gas Resources Conservation Act, 1950.

PART II.

TAKING AND USING LAND.

Right of Appropriation or Entry.

Permittee
may
appropriate
land for
pipe line

11. (1) Upon obtaining a permit pursuant to Part I, the permittee may take and appropriate for the purposes of his undertaking so much of the lands or interest therein of the Crown or other persons as may be necessary for the building, construction, laying or operating of the pipe line.

(2) The manner in which and the terms upon which a permittee shall exercise the right to take and appropriate any land or interest therein,—

(a) shall be in accordance with the terms of any agreement effected between the permittee and the owner of any such land, other than Crown land or any interest therein;

(b) in the absence of any such agreement or in the case of Crown lands, shall be as set forth in this Part; and not otherwise.

(3) The interest in Crown lands which a permittee may take shall be by way of license of occupation, right of way or easement.

Application
to
appropriate
land

12. (1) The permittee shall apply to the Board of Public Utility Commissioners for an order setting forth the terms upon which the permittee may take and appropriate land or any interest in land as may be necessary for the efficient and economic operation of the rights of the permittee.

Application
for ap-
propriation
of Crown
land

(2) If the application concerns Crown land, a copy of the application shall be served upon the Minister of Lands and Forests and upon every person having any right, title

or interest in the land, and the application shall have annexed thereto such reference maps, plans or sketches as may be required by the Minister of Lands and Forests, prepared in the form and drawn to the scale required by him.

13. (1) Upon receipt of the application, the Board of Public Utility Commissioners shall fix the date for the hearing of the application, notify the applicant of the date fixed, and require the applicant to give such notice by personal service, advertisement or in such other manner as the Board may direct, to such persons as the Board may direct.

Hearing of
application
to
appropriate
land

(2) The Board shall proceed to hear and determine the application, and upon conclusion of the hearing, or as soon as conveniently may be, the Board shall dispose of the application and may make an order declaring,—

Disposition
of applica-
tion to
appropriate
land

- (a) the amount of land which is required by the permittee as being necessary for the efficient and economic operation of its rights;
- (b) the exact location of such land;
- (c) the nature of the interest acquired by the permittee in the land;
- (d) the name and address of a person, other than the Crown, having any right, title or interest in the land;
- (e) the amount of money payable by the permittee to the Crown or other person for the appropriation of the land or an interest in the land;
- (f) the amount of money payable to the Crown or other person for incidental damages caused by or arising out of the construction of the pipe line;
- (g) the costs of and incidental to the application and by whom payable.

14. (1) At any time during which an application is pending, upon application being made by the permittee, either *ex parte* or upon such notice to such parties as the Board of Public Utility Commissioners in its discretion may direct, the Board, upon being satisfied of the necessity for the immediate exercise of all or any of the rights, the subject matter of the application, may order that upon the applicant making a deposit with the Board of such amount as the Board estimates to be sufficient to secure the payment by the permittee of such sums as may become payable ultimately to the Crown and any other person having any right, title or interest in any land by reason or on account of the exercise, in respect of all or any of the rights of the applicant, the applicant shall be at liberty forthwith to exercise such rights as may be specified in the order, in such manner and subject to such conditions as the Board may deem fit and proper in the circumstances.

Deposit

(2) The amount deposited by the applicant shall stand as charged with and be available for the payment of all

Costs of
application
to
appropriate
land

sums as the Board of Public Utility Commissioners may order to be paid in respect of all or any of the rights which are the subject matter of the application and the costs of and incidental to the application.

(3) In determining the amount of a deposit under this section, the Board of Public Utility Commissioners shall be deemed not to limit or determine the amount which it may ultimately order to be paid in respect of all or any of the rights which are the subject matter of the application.

Order of
Board of
Public
Utility
Commis-
sioners re
appropria-
tion of land

15. Upon the making of any order by the Board of Public Commissioners pursuant to this Part, and upon the Board certifying in writing that the permittee has paid all the sums of money payable pursuant to the order, or in the alternative, that the permittee has deposited with the Board a sum sufficient to pay all sums payable under the order, the permittee shall be at liberty to exercise every right to take and appropriate the land or the interest in land described in the order conferred upon the permittee by this Act.

Application
of The
Public
Utilities
Act

16. The provisions of Part I of *The Public Utilities Act* relating to the procedure of the Board of Public Utility Commissioners and the enforcement of orders of the Board shall be applicable to proceedings and orders of the Board under this Part in so far as the same do not conflict with the provisions of this Part.

Orders to be
tabled in
Legislature

17. (1) All orders made by the Board of Public Utility Commissioners pursuant to any of the provisions of this Act shall be laid upon the table of the Legislative Assembly within fourteen days after the commencement of the session held next after the making of the orders.

Effective
date of
order

(2) An order shall take effect upon the making thereof or upon such later date as may be mentioned in the order and when made, unless and until disallowed by the Legislative Assembly at the session thereof held next after the making of the order, shall have the same force and effect as if it had been enacted as a part of this Act.

Excavation
for laying
pipe line

18. (1) Subject to the provisions of the permit and the order of the Board of Public Utility Commissioners, the permittee may break up, dig and trench and use so much of a street, square, highway, lane or public place as is necessary for the laying of the pipe line and works connected therewith.

(2) The permittee shall take care to preserve, as far as may be, a free and uninterrupted passage to and over a street, square, highway, lane or public place while his works are in progress.

Excavation
on neighbor-
ing land for
laying pipe
line

19. A permittee, subject to the provisions of the permit and the order of the Board of Public Utility Commissioners,

may break up and uplift all lands as well as all passages common to neighbouring proprietors or tenants and dig and cut trenches therein for the purpose of laying down pipe lines, or taking up or repairing the same, and doing as little damage as may be in the execution thereof.

Limitation to Appropriation.

20. (1) Subject to the provisions of subsection (2), the land that may be appropriated for the right of way of a pipe line shall not exceed sixty feet in breadth. Appropriation of land limited

(2) If, for the efficient construction, maintenance or operation of his pipe line or for constructing or taking any works or measures approved or ordered by the Minister, a permittee at any time requires more ample space than he possesses or is limited to under subsection (1), he may apply to the Minister for authority to take, without the consent of the owner, the additional land required for such purpose. Application for appropriation of additional land

21. No permittee is entitled to the mines, ores, metals, coal, slate, oil, gas or other minerals in or under land taken by him under compulsory powers given to him by this Act, except only the portion thereof that is necessary to be dug, carried away or used in the construction of the works and all such mines and minerals shall be deemed to be excepted from the appropriation of the land or interest in the land. Permittee not entitled to mines and minerals

22. (1) No permittee shall lay down or erect a pipe line within six feet of the mains, pipes, wires or conductors previously laid down or erected for the supply of gas, water, electricity or telephone services through any street, square or public place of a municipality without the prior consent of the company or municipality to which such mains, pipes, wires or conductors belong, or without the payment to the company or municipality of such compensation as may be agreed upon. Space between new and existing pipe lines

(2) If the consent required by subsection (1) cannot be obtained, or the compensation cannot be agreed upon between the parties, the question shall be referred to the Board of Public Utility Commissioners whose decision thereon shall be final and binding on all the parties concerned.

(3) Notwithstanding the provisions of subsection (1), if it is impractical to cut trenches for the pipe line at a distance of six feet or more, then they shall be cut at as nearly six feet from the mains, pipes, wires or conductors previously laid down or erected as the circumstances of the case will admit.

PART III.

CONSTRUCTION AND OPERATION.

Operation of a Pipe Line.

Order
authorizing
permittee to
operate
pipe line

23. (1) No permittee shall operate any pipe line until he has applied for and obtained from the Board of Public Utility Commissioners a declaratory order permitting the operation of the pipe line and setting forth the conditions subject to which it may be operated.

(2) The Board, as a condition of granting the declaratory order, may stipulate that until such time as the permittee is declared to be a common purchaser by order of The Petroleum and Natural Gas Conservation Board, the permittee shall not own or operate, directly or indirectly, any oil or gas well, oil or gas lease or oil or gas holdings or interest in the Province.

PART IV.

GENERAL.

Addition to
or extension
of pipe line

24. No permittee shall make any alteration, addition or extension to his pipe line or to any other pipe line or work connected therewith unless the alteration, addition or extension is authorized by the Minister, and the provisions of this Act regarding a pipe line shall apply to all such alterations, additions and extensions.

Order to
alter or
discontinue
pipe line

25. Unless an order has been granted by the Board of Public Utility Commissioners authorizing the permittee to do so, and notice of the order has been given to the Minister, no permittee shall alter or discontinue the pipe line and works or any part of them, or substitute others in their stead.

Protection
to public

26. A permittee shall locate and construct his pipe line and all works connected therewith so as not to endanger the public health or safety.

Compensa-
tion for
damages

27. A permittee, in the exercise of a power granted by this Act, shall do as little damage as possible and shall make full compensation for all damage caused by or arising out of the exercise of the powers granted by this Act.

Obstruction
or inter-
ference with
mine

28. No permittee shall locate or construct his pipe line or a part thereof without the authority of the Minister so as to obstruct or interfere with or injuriously affect the working of or the access or adit to a mine then opened, or

for the opening of which preparations, at the time of the location of his pipe line are being lawfully and openly made.

29. (1) No owner, lessee or occupier of mines and minerals lying under a pipe line or any of the works connected therewith or within forty yards therefrom or such greater distance that may be prescribed with respect to any mineral, shall work the mines or minerals until leave to do so has been obtained from the Minister, or in the case of oil or gas leave to do so has been obtained from The Petroleum and Natural Gas Conservation Board.

Working
of mines or
minerals

(2) Notwithstanding the provisions of subsection (1), leave shall not be required in the case of a well taking oil or gas from lands lying under a pipe line or any of the works connected therewith, if the well is not drilled within three hundred and thirty feet of the pipe line.

(3) Upon an application for leave to work mines and minerals the owner, lessee or occupier of the mines and minerals lying under a pipe line or any of the works connected therewith, shall submit a plan of the portion of the pipe line to be affected thereby, and of the mining works or plant proposed to be constructed or operated which may affect the pipe line, and shall give all reasonable and necessary information and details as to the extent and character of the mining works or plant.

Application
to work
mines and
minerals

(4) The Minister, or The Petroleum and Natural Gas Conservation Board, as the case may be, may grant the application upon such terms and conditions for the protection and safety of the public as to the Minister or to the Board seems expedient, and may order that such other works be executed or measures taken, as under the circumstances appear to the Minister or to the Board best adapted to remove or diminish the danger arising or likely to arise from mining operations.

30. (1) No permittee shall,—

Disposition
of pipe line

- (a) sell, assign, transfer, convey or lease his permit or his pipe line or any interest therein in whole or in part;
- (b) enter into any agreement or contract for,—
 - (i) the amalgamation of his pipe line with any other persons; or
 - (ii) the operation of his pipe line by any other person;
- (c) mortgage or otherwise create a charge upon a pipe line or any interest therein;

unless an order of the Board of Public Utility Commissioners permitting the same has first been obtained.

(2) Where the Board makes an order under subsection (1) it shall send a copy of the order to the Minister.

Rescission
of permit

31. (1) The Minister may rescind a permit authorizing the construction of a pipe line for failure of the permittee to comply with any provision of this Act or the regulations.

(2) Upon the rescission of a permit by the Minister, no oil or gas shall be carried by the pipe line until further order of the Minister and of the Board of Public Utility Commissioners.

Regulations.

Lieutenant
Governor in
Council
may make
regulations—
providing
for inspec-
tion of
pipe lines

32. (1) The Lieutenant Governor in Council may make regulations,—

prescribing
pressure

governing
distribution
system

providing
for installa-
tion of
conduits,
etc.

providing
for gas
testing

requiring
oil or gas
to be
treated

providing
for proper
laying of
pipe lines
providing
for
settlement
of damages

fixing
percentage
of loss

providing
for
protection

providing
for re-
construction
or removal
of pipe lines

(a) providing for the inspection of pipe lines during their construction, and thereafter and for the cost of any inspection, and as to the persons by whom the cost is to be borne;

(b) prescribing the pressure to which any pipe line for the transportation or transmission of oil or gas may be subjected;

(c) governing any pipe or any system or arrangement of pipes which constitutes a distribution system to ultimate consumers;

(d) fixing the number of and providing for the installation of conduits, services, governors and meters;

(e) providing for the analysis and testing of gas by competent and technical persons;

(f) requiring oil or gas conducted or to be conducted through any pipe line or lines, to be treated if necessary in a treating or purification plant, and providing for the installation of, and general requirements to be observed with respect to any such plant;

(g) providing for the laying of all pipe lines under the direction and inspection of proper persons;

(h) providing that pipe lines are not to be constructed, maintained or operated until the damages arising from the laying of the pipe lines have been paid or otherwise settled for;

(i) fixing the percentage of loss allowable to the owner of any pipe line;

(j) prescribing the measures to be taken during the construction of pipe lines, compressor stations, pumping stations, regulating stations, house service lines, the installation of meters and other measuring devices for the protection of life and property during construction and thereafter;

(k) providing for the reconstruction or removal of pipe lines, pipe line connections, compressor stations, pumping stations, regulators, meters, treating plants, purifying plants, tanks and all other oil or

gas operating machinery and appurtenances, which through deterioration or otherwise, have become or may become a danger or menace to life and property;

- (l) prescribing a schedule of fees for applications for permits, declaratory orders, or any other application or order which may be made under or pursuant to this Act; prescribing schedule of fees
- (m) governing generally all such matters as he may consider necessary, advisable and convenient for the purpose of carrying into effect the provisions of this Act. to effectively carry out Act

(2) Every regulation shall be published in *The Alberta Gazette* and shall come into force either on the date of publication or on such later date as may be prescribed for that purpose and upon so coming into force shall have the same force and effect as if the same had been expressly enacted as a part of this Act. Publication of regulations

33. Any person who wilfully does any damage or otherwise obstructs, hinders or embarrasses construction, completion, maintaining or repairing of any pipe line for which a permit has been granted shall be guilty of an offence against this Act. Offence to hinder construction of pipe line

34. Every person who contravenes the terms of any order made pursuant to this Act or a provision of this Act or any regulation, is guilty of an offence and liable upon summary conviction to a fine, which in the case of a corporation shall not exceed one thousand dollars for a single offence or one hundred dollars a day for a continuing offence, and in the case of a natural person shall not exceed one hundred dollars for a single offence or twenty dollars a day for a continuing offence, together with costs in every case. Penalties

35. *The Pipe Line Act*, being chapter 315 of the Revised Statutes of Alberta, 1942, is hereby repealed. Repeal

36. This Act shall come into force on the day upon which it is assented to. Coming into force

No. 61.

FIFTH SESSION
ELEVENTH LEGISLATURE

1 Elizabeth II

1952

BILL

An Act respecting Pipe Lines.

Received and read the

First time

Second time.....

Third time.....

HON. MR. TAYLOR.
