

***AMENDED* AGRICULTURAL IMPACT
MITIGATION PLAN**

MinnCan Project
Minnesota Pipe Line Company



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Minnesota Pipe Line Company – MinnCan Project

AGRICULTURAL IMPACT MITIGATION PLAN

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AGRICULTURAL IMPACT MITIGATION PLAN

Purpose and Applicability

This Agricultural Impact Mitigation Plan (AIMP) was developed in consultation with the Minnesota Department of Agriculture (MDA) and in conjunction with Minnesota Pipe Line Company's (MPL) application for a Routing Permit submitted to the Minnesota Public Utilities Commission (PUC). MPL provided this AIMP as part of its application for a Routing Permit to allow for review and comment by agencies (including MDA), local authorities, Landowners, Tenants and other stakeholders. The overall objective of the AIMP is to identify measures that MPL will implement to avoid, mitigate, or provide compensation for, negative agricultural impacts that may result from Pipeline construction. During the Routing Permit process, MPL will continue to consult with MDA regarding provisions of this AIMP. Once finalized, this AIMP will be incorporated into construction specifications and will provide a basis for construction of the Pipeline on Agricultural Land. In the event of a conflict between MPL's Routing Permit application and the AIMP, the provisions of the AIMP will prevail.

The below prescribed construction standards and policies only apply to construction activities occurring partially or wholly on privately owned Agricultural Land. The measures do not apply to construction activities occurring entirely on public rights-of-way, railroad rights-of-way, publicly owned land, or private land that is not Agricultural Land. MPL will, however, adhere to the same construction standards relating to the repair of agricultural Tile (Item No. 3 in the AIMP) when Tiles are encountered on public highway rights-of-way, railroad rights-of-way, or publicly or privately owned land.

Unless the Easement or other agreement, regardless of nature, between MPL and the Landowner or Tenant specifically provides to the contrary, the mitigative actions specified in the construction standards and policies set forth in this AIMP will be implemented in accordance with the conditions listed below:

General Provisions

All mitigative actions are subject to change by Landowners or Tenants, provided such changes are negotiated in advance of construction and acceptable to MPL.

Unless otherwise specified, MPL will retain qualified contractors to execute mitigative actions; however, MPL may negotiate with Landowners or Tenants to carry out the mitigative actions that Landowners or Tenants wish to perform themselves.

Mitigative actions employed by MPL pursuant to this AIMP, unless otherwise specified in this AIMP or in an Easement or other agreement negotiated with an individual Landowner or Tenant will be implemented within 45 days following completion of Final Clean-up on an affected property, weather permitting or unless otherwise delayed at the request of the Landowner or

Tenant. Temporary repairs will be made by MPL during construction as needed to minimize the risk of additional property damage or interference with the Landowner's or Tenant's access to or use of the property that may result from an extended time period to implement mitigative actions.

Except as otherwise provided in this AIMP, or unless otherwise agreed to by Landowners or Tenants, mitigative actions pursuant to this AIMP will extend to associated future maintenance and repair activities by MPL to the extent that these actions are not inconsistent with MPL's operating policies and procedures.

MPL will implement the mitigative actions contained in this AIMP to the extent that they do not conflict with the requirements of any applicable federal and state rules and regulations and other permits and approvals that are obtained by MPL for the project or they are not determined to be unenforceable by reason of other requirements of federal and state permits issued for the project. To the extent a mitigative action required by this agreement is determined to be unenforceable in the future due to requirements of other federal or state permits issued for the project, MPL will so inform the MDA and work with them to develop a reasonable alternative mitigative action.

By no later than 45 days prior to the construction of the Pipeline, MPL will provide each Landowner and Tenant with a telephone number and address which can be used to contact MPL, both during and following the completion of construction, regarding the agricultural impact mitigation work which is performed on their property or other construction-related matter. If the contact information changes after the completion of construction, MPL will provide the Landowner and Tenant with updated contact information. MPL will respond to Landowner and Tenant telephone calls and correspondence within a reasonable time.

Certain provisions of this AIMP require MPL to consult and/or agree with the Landowner and Tenant of a property. MPL will engage in a good faith effort to secure the agreement of both Landowner and Tenant in such cases. In the event of a disagreement between Landowner and Tenant, MPL's obligation will be satisfied by securing the Landowner's written agreement, unless the Tenant has demonstrated in a court of competent jurisdiction that he or she has the superior legal rights in the matter at issue.

This AIMP is incorporated by reference into the Routing Permit issued by the PUC.

MPL will use good faith efforts to obtain an acknowledgement of completion from each Landowner and Tenant upon the completion of Final Clean-up on their respective property.

If any provision of this AIMP is held to be unenforceable, no other provision will be affected by that holding, and the remainder of the AIMP will be interpreted as if it did not contain the unenforceable provision.

Definitions

- Agricultural Land = Land that is actively managed for *agricultural use as defined by Minn. Stat. Ch. 40A*, and also including land in government set-aside programs.
- Agricultural Inspector = Full-time on-site inspector retained by MPL to verify compliance with requirements of this AIMP during construction of the Pipeline. The Agricultural Inspector will have demonstrated experience with pipeline construction on Agricultural Land.
- Agricultural Monitor = Full-time, on-site monitor retained and funded by MPL, but reporting directly to MDA and responsible for auditing MPL's compliance with provisions of this AIMP.
- MPL = Minnesota Pipe Line Company, its successors and assignees.
- Certifying Agent* = *"Certifying Agent" as defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.*
- Decertified or Decertification* = *Loss of Organic Certification through suspension or revocation under the National Organic Program Standards, Federal Regulations 7 CFR Part 205.*
- Easement = The agreement(s) and/or interest in privately owned Agricultural Land held by MPL by virtue of which it has the right to construct and operate the Pipeline together with such other rights and obligations as may be set forth in such agreement.
- Final Clean-up = Pipeline construction activity that occurs after backfill and before restoration of fences and required reseeded. Final Clean-up activities include: replacing Topsoil, removal of construction debris, removal of excess rock, decompaction of soil as required, installation of permanent erosion control structures, and final grading.
- Landowner = Person(s) holding legal title to Agricultural Land on the Pipeline route from whom MPL is seeking, or has obtained, a temporary or permanent Easement including any Person(s) authorized in writing by any such Person to make decisions regarding the mitigation or restoration of agricultural impacts to such Person's property.
- Non-Agricultural Land = Any land that is not "Agricultural Land" as defined above.

- Organic Agricultural Land* = *Agricultural Land that has received Organic Certification.*
- Organic Buffer Zone* = *“Buffer zone” as defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.*
- Organic Certification or Organic Certified* = *“Certification” or “certified” as defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.*
- Organic System Plan* = *“Organic system plan” as defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.*
- Person = an individual or entity, including any partnership, corporation, association, joint stock company, trust, joint venture, limited liability company, unincorporated organization, or governmental entity (or any department, agency or political subdivision thereof).
- Pipeline = The crude-oil pipeline proposed by MPL (PUC Docket No. PL5/PPL-05-2003)
- Planned Tile = Locations where the proposed installation of Tile is made known in writing to MPL by the Landowner or Tenant either: 1) within 60 days after the signing of an Easement; or 2) before the issuance of a Routing Permit to MPL by the PUC; whichever is sooner.
- Prohibited Substance* = *“Prohibited substance” as defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.*
- Right-of-Way = The Agricultural Land included in permanent and temporary Easements which MPL acquires for the purpose of constructing and operating the Pipeline.
- Tenant = Any Person lawfully residing on or in possession of the land which makes up the "Right-of-Way" as defined in this AIMP.
- Tile = Artificial subsurface drainage system.
- Topsoil = The uppermost horizon (layer) of the soil, typically with the darkest color and highest content of organic matter and nutrients.

Mitigative Actions

1. Pipeline Depth of Cover

- A. Except for above-ground facilities, such as mainline block valves, and except as otherwise stated in this AIMP, the Pipeline will be buried with the following depths of cover on Agricultural Land:
 - 1. The Pipeline will be constructed with the minimum depth of cover of four and one half (4 1/2) feet as required by Minn. Stat. §116I.06, Subd. 1.
 - 2. Where existing or Planned Tile are present, the Pipeline will be installed at a depth that will achieve at least a 1-foot separation between the Pipeline and overlying Tiles as described in 1.C.
 - 3. Where the Pipeline is adjacent to (within 100 feet) an existing pipeline, the depth of cover will be the same as the adjacent pipeline, subject to approval by the Landowner.
- B. Notwithstanding paragraph A of Section 1, unless the Landowner or Tenant determines otherwise in writing, MPL will construct the Pipeline under existing nonabandoned Tile and Planned Tile within eight (8) feet of the surface. MPL may install the Pipeline over Tile buried deeper than eight (8) feet. The Landowner must provide plans for the proposed installation of Planned Tile drawn by a qualified professional with experience in the design and installation of Tile. In determining the proper depth of the Pipeline, MPL will accommodate the depth and grade needed for both existing and planned Tile to function properly. MPL will not change the grade of existing Tile to accommodate the Pipeline without the Landowner's or Tenant's advance written consent.
- C. A minimum of 12 inches of separation will be maintained between the Pipeline and Tile unless the Landowner or Tenant agrees in writing to a lesser separation distance or other physical conditions exist which prevent the minimum distance of separation to be achieved and the Landowner is informed of the physical condition prior to the installation of the Pipeline over the Tile. If the Landowner or Tenant is unavailable, the Agricultural Monitor will be so informed.
- D. On lands subject to erosion, MPL will patrol the pipeline Right-of-Way with reasonable frequency to detect erosion of the topcover. MPL will not knowingly allow the amount of topcover to erode more than 12 inches from its original level. MPL will be responsible for maintaining the proper topcover under this section where erosion has occurred despite the Landowner's or Tenant's best effort to employ accepted conservation farming practices.

However, MPL will not be responsible for a Landowner or Tenant removing cover either through the use of specialty landscaping methods or any other farming method that would cause the depth of cover to be altered or causing erosion to occur over the Pipeline through means other than accepted conservation farming practices.

E. MPL will prevent erosion of topsoil from pipeline construction on Organic Agricultural Land.

F. MPL will provide physical barriers to ensure that erosion from pipeline construction adjacent to Organic Agricultural Land does not result in soil entry from the construction site or other conventional lands Organic Agricultural Land.

2. Topsoil Stripping, Storage, and Replacement

- A. MPL will remove Topsoil from the Agricultural Land to be trenched for the Pipeline and for bore pits at road and ditch crossings. The depth of soil to be removed will be the actual depth of the Topsoil or to a specified maximum depth as defined in this AIMP. The maximum depth of Topsoil stripping will be 12 inches on the approximate northern one half of the route and 18 inches (or as otherwise agreed to with MDA) on the approximate southern half of the route. The exact point of demarcation between the north half and the south half of the route will be mutually agreed upon with MDA prior to construction reaching that point. MPL will work with MDA to identify a suitable protocol for communicating the appropriate depth of Topsoil stripping to construction personnel. The Agricultural Inspector or the designated MPL inspector will observe Topsoil operations so that appropriate depths are removed. In areas of active Cropland on the northern portion of the route, the Topsoil will be removed from the area to be excavated above the Pipeline and the adjacent subsoil storage area. On active Cropland on the southern portion of the route, the Topsoil will be removed from the area to be excavated above the Pipeline.
- B. Subsoil material which is removed from the trench will be placed in a stockpile that is separate from stored topsoil.
- C. In backfilling the trench, stockpiled subsoil material will be placed back into the trench before replacing the Topsoil.
- D. The Topsoil will be replaced so that after settling occurs, the Topsoil's original depth and contour (with an allowance for settling) will be achieved. Topsoil materials will not be used for destructive purposes such as padding the pipe. MPL may employ temporary, non-destructive uses of Topsoil such as creating access ramps at road crossings.

- E. *If topsoil or subsoil is removed from Organic Agricultural Land to be trenched for the pipeline, soil horizons must be recreated to restore a soil profile similar to that which was removed. In addition, MPL may not use this soil for any purpose, including creating access ramps at road crossings. No organic subsoil or topsoil may be removed from Organic Agricultural Land and no additional subsoil or topsoil may be brought onto Organic Agricultural Land. If, despite precautions against topsoil loss, Organic Agricultural Land requires non-organic soil to be added for restoration to original contours and horizons, compensation for total crop loss must be provided until organic certification and restoration under section 7 are complete.*

3. Repair of Damaged and Adversely Affected Tile

If Tile is damaged by the Pipeline installation or future construction, maintenance, or repair of the Pipeline, the Tile will be repaired in a manner that restores the Tile's operating condition at the point of repair. If Tiles on or adjacent to the Pipeline's construction area are adversely affected by the Pipeline, MPL will take such actions as are necessary to restore the functioning of the Tile, including the relocation, reconfiguration, and replacement of the existing Tile. The affected Landowner or Tenant may elect to negotiate a fair settlement with MPL for the Landowner or Tenant to undertake the responsibility for repair, relocation, reconfiguration, or replacement of the damaged Tile. In the event the Landowner or Tenant chooses to undertake the responsibility for repair, relocation, reconfiguration, or replacement of the damaged Tile, MPL will not be responsible for correcting Tile repairs after completion of the Pipeline (MPL is responsible for correcting Tile repairs after completion of the Pipeline, provided the repairs were made by MPL or its agents or designees.).

Where the damaged Tile is repaired by MPL, the following standards and policies will apply to the Tile repair:

- A. MPL will contact affected Landowners or Tenants for their knowledge of Tile locations prior to the Pipeline's installation. Tile that is damaged, cut, removed or otherwise discovered will be distinctly marked by placing a highly visible flag at the edge of the construction Right-of-Way directly opposite such Tiles. This marker will not be removed until the Tile has been permanently repaired and such repairs have been approved and accepted by the Landowner or Tenant or the Agricultural Monitor.
- B. Tiles will be repaired with materials of the same or better quality as that which was damaged.
- C. If water is flowing through a damaged Tile, temporary repairs will be promptly installed and maintained until such time that permanent repairs can be made.

- D. Where Tiles are damaged or severed by the Pipeline trench, repairs will be made according to the following standards:
1. Where Tiles are severed by the Pipeline trench, use of double-walled drain tile pipe, or its equivalent material, will be used to construct Tile repairs.
 2. Within the trench, 1 1/2 inch river gravel, 4 inch crushed stone, sandbags, or bags of concrete will be backfilled under Tiles, as needed to provide support to the Tiles and to prevent settling. Concrete blocks are also acceptable forms of support as are protective pads on the Pipeline
 3. The support member will be of sufficient strength to support loads expected from normal farming practices (*i.e.*, loads up to a 10-ton point load) on the surface directly above the repaired Tile.
 4. The support member will extend a minimum of 2 feet into previously undisturbed soil on both sides of the trench and will be installed in a manner that will prevent it from overturning. If the Tile repairs involve clay Tile, the support member will extend to the first Tile joint beyond the minimum 2 foot distance.
 5. There will be a minimum clearance as required by 1.C.
 6. The grade of the Tile will not be changed.
- E. Before completing permanent Tile repairs, Tiles will be examined by suitable means on both sides of the trench for their entire length within the work area to check for Tile that might have been damaged by construction equipment. If Tiles are found to be damaged, they will be repaired so they operate as well after construction as before construction began.
- F. MPL will make reasonable efforts to complete Permanent Tile repairs within 14 days after Final Clean-up, taking into account weather and soil conditions.
- G. Following completion of the Final Clean-up, MPL will also be responsible for correcting Tile repairs that fail due to Pipeline construction, provided those repairs were made by MPL. MPL will be responsible for correcting and repairing Tile breaks, or other damages to Tile systems that occur on the Rights-of-Way to the extent that such breaks are the result of Pipeline construction. For the purpose of this paragraph, it is presumed that, during the first 5 years after construction, Tile breaks or other damages to Tile systems within the Rights-of-Way are the result of Pipeline construction unless MPL can demonstrate otherwise. MPL will not be responsible for Tile repairs which MPL has paid the Landowner or Tenant to perform.

4. Installation of Additional Tiles

MPL will be responsible for installing such additional Tile and other drainage measures as are necessary to properly drain wet areas on the Rights-of-Way caused by the construction and/or existence of the Pipeline. For the purpose of this paragraph, during the first 5 years after construction of the Pipeline, it is presumed that wet areas located in the Rights-of-Way are caused by the construction and/or existence of the Pipeline unless MPL can demonstrate that the construction and/or existence of the Pipeline is not the cause of the wet areas.

5. Rock Removal

The following conditions with respect to rock removal will apply on Agricultural Land:

- A. The Pipeline trench, or bore pits, or other excavations will not be backfilled with soil containing rocks of greater concentration or size than existed prior to the Pipeline's construction.
- B. If trenching, blasting, or boring operations are required through rocky terrain, suitable precautions will be taken to minimize the potential for oversize rocks to become interspersed with the soil material that is placed back in the trench.
- C. Soil removed from the Pipeline trench, bore pits, or other excavations containing unacceptable rock concentrations or sizes (see 5.A. above) will be hauled off the Landowner's premises or disposed of on the Landowner's premises at a location that is mutually acceptable to the Landowner or Tenant and MPL, and at MPL's expense. MPL may elect to remove excess rock from the soil and use the soil as backfill material.
- D. After completion of the compaction alleviation activities required in Section 7, below, MPL will remove rocks which are three (3) inches in diameter from the surface of disturbed soil on the entire construction area if the off Right-of-Way areas do not contain rocks larger than 3 inches in diameter. Where rock removal is required, the amount of rock on the surface of the Right-of-Way after construction will be similar to that on adjacent off-Right-of-Way areas. Rocks will be hauled off the Landowner's premises or disposed of on the Landowner's premises at a location that is mutually acceptable to the Landowner or Tenant and MPL, and at MPL's expense.

6. Removal of Construction Debris

Construction-related debris and material which is not an integral part of the Pipeline will be removed from the Landowner's property at MPL's cost. (Note: Such material to be removed would include litter generated by the construction crews.)

7. Compaction, Rutting, Fertilization, Liming, and Soil Restoration

- A. Compaction will be alleviated as needed on Cropland traversed by construction equipment. Cropland that has been compacted will be plowed using appropriate deep-tillage and draft equipment. Alleviation of compaction of the Topsoil will be performed during suitable weather conditions, and must not be performed when weather conditions have caused the soil to become so wet that activity to alleviate compaction would damage the future production capacity of the land as determined by the Agricultural Monitor. MPL will continue to work with MDA to evaluate the suitability of methods to alleviate soil compaction (e.g. incorporation of bedding manure).
- B. In the case of a claim for damages related to soil compaction, upon written request, MPL will retain a Professional Soil Scientist, who is also licensed by the State of Minnesota, or an appropriately qualified Minnesota licensed professional engineer to perform a soil survey for soil compaction using appropriate field equipment such as a soil penetrometer to investigate such claim. In addition, where there are row crops, samples will be taken in the middle of the row, but not in rows where the drive wheels of farm equipment normally travel. Copies of the results of the above-described survey will be provided to the Landowners and/or Tenants making such claim at MPL's expense within 45 days of completion of the soil survey.
- C. MPL will restore rutted land to as near as practical to its pre-construction condition.
- D. MPL will reasonably compensate Landowners and/or Tenants, as appropriate, for damages caused by MPL during Pipeline construction, including the cost of soil restoration. *On Organic Agricultural Land, cost of soil restoration shall include application of compost, soil building through cover crops and remineralization inputs, such as rock phosphate.*
- E. If there is a dispute between the Landowner and Tenant and MPL as to what areas need to be ripped or chiseled, the depth at which compacted areas should be ripped or chiseled, or the necessity or rates of lime, fertilizer, and organic material application, the Agricultural Monitor's opinion will be considered by MPL.
- F. *Because of an expected adverse impact to Organic Agricultural Land due to an organic farmer's reliance upon soil properties of aggregation, organic matter content, particulate organic matter, and soil biological activity, in order to maintain crop nutrition and vigor and to control crop diseases and pests while maintaining Organic Certification, for the purpose of determining damages under Section 19:*

1. *Tests for compaction, soil aggregation, organic matter content, particulate organic matter and microbial biomass must be conducted by a Professional Soil Scientist or an appropriately qualified Minnesota licensed professional engineer as described in paragraph B before pipeline construction at MPL's expense; and*
2. *Productivity losses on any compacted, rutted or affected soils are presumed for ten subsequent years, unless tests for compaction, soil aggregation, organic matter content, particulate organic matter, and microbial biomass, conducted at MPL's expense, demonstrate that there is no statistical difference between those factors as they existed before construction and after construction. In the eleventh year following construction, if requested by the Landowner or Tenant, tests for compaction, soil aggregation, organic matter content, particulate organic matter, and microbial biomass must be conducted at MPL's expense. If such tests demonstrate there is a statistical difference between those factors as they existed before construction and after construction, and/or post-construction productivity is less than pre-construction, then productivity losses are presumed for all subsequent years, unless tests for compaction, soil aggregation, organic matter, particulate organic matter, and microbial biomass in subsequent years show otherwise.*
3. *On Organic Agricultural Land used to grow first quality product for retail, crop loss must be compensated until product quality is restored to pre-pipeline condition.*

8. Land Leveling

Following the completion of the Pipeline construction, MPL will restore the area disturbed by construction to its original pre-construction elevation and contour. If uneven settling occurs or surface drainage problems develop, as a result of Pipeline construction, MPL will provide additional land leveling services, or compensation, within 45 days of receiving a Landowner's or Tenant's written notice, weather permitting.

9. Prevention of Soil Erosion

MPL will work with Landowners and Tenants to prevent excessive erosion on lands disturbed by construction. MPL will implement reasonable methods as described in MPL's Upland Erosion Control, Revegetation and Maintenance Plan. *On Organic Agricultural Land, MPL will implement erosion control methods consistent with the Landowner or Tenant's Organic System Plan. MPL will ensure that no Prohibited Substances are used in erosion control on Organic Agricultural Land or in erosion control adjacent to Organic Agricultural Land in such a way as to allow Prohibited Substances to enter Organic Agricultural Land.*

10. Repair of Damaged Soil Conservation Practices

Soil conservation practices (such as terraces, grassed waterways, etc.) which are damaged by the Pipeline's construction will be restored to their pre-construction condition.

11. Interference with Irrigation Systems

- A. If the Pipeline and/or temporary work areas intersect an operational (or soon to be operational) spray irrigation system, MPL will establish with the Landowner or the Tenant, an acceptable amount of time the irrigation system may be out of service.
- B. If, as a result of Pipeline construction activities or future construction, maintenance, or repair of the Pipeline, an irrigation system interruption results in crop damages, either on the Right-of-Way or off the Right-of-Way, compensation of Landowners and/or Tenants, as appropriate, will be determined as described in section 19 of this AIMP.
- C. If it is feasible and mutually acceptable to MPL and the Landowner or the Tenant, temporary measures will be implemented to allow an irrigation system to continue to operate across land on which the Pipeline is also being constructed.

12. Mitigation of Harm to Organic Agricultural Management

- A. *In addition to any other mitigative actions, if the pipeline crosses Organic Agricultural Land, MPL will take every reasonable precaution to prevent the entry of Prohibited Substances onto Organic Land, including but not limited to the following:*
 - a) Pressure wash all construction equipment before entering Organic Agricultural Land so that water does not drain on such land;*
 - b) Inspect all hydraulic hoses by a heavy-equipment certified mechanic before entry on Organic Agricultural Land and replace any worn hoses before entering Organic Agricultural Land;*
 - c) Bar any refueling, servicing or maintenance of vehicles on Organic Agricultural Land or land that drains onto Organic Agricultural Land;*
 - d) Test water before pumping and prohibit pumping of water that contains prohibited substances that do not comply with National Organic Program Standards;*
 - e) Ensure that any pipeline segments or other materials covered with coatings, epoxies or other Prohibited Substances are covered at all times*

prior to actual installation to minimize exposure of Organic Agricultural Land to such Prohibited Substances.

f) Prevent use of herbicides, pesticides, fertilizers or other Prohibited Substances on Organic Agricultural Land or adjacent to Organic Agricultural Land in such a way as to allow Prohibited Substances to enter Organic Agricultural Land.

g) Any additional mitigative actions recommended by the Agricultural Monitor or the Certifying Agent for the Tenant or Landowner.

B. In addition to any other mitigative actions, if the pipeline crosses Organic Agricultural Land, MPL will take every reasonable precaution to minimize conflict with the Landowner or Tenant's Organic System Plan, to prevent introduction of disease vectors through tobacco use and to limit the scope and duration of decertification of Organic Agricultural Land.

C. If pipeline construction across Organic Agricultural Land adversely impacts beneficial bird or insect habitat identified in the Landowner or Tenant's Organic System Plan, MPL will replace and restore any habitat impacted by construction.

13. Mitigation of Natural Resource Impacts

Unless otherwise required by a state or federal agency or other governmental body, MPL will not mitigate for impacts to other natural resources (wetlands, woodlands, etc.) utilizing Agricultural Land as mitigation lands. If Agricultural Land is used for woodland/wetland impact mitigation, MPL will attempt to negotiate a mitigation ratio not to exceed a 1:1 ratio. *MPL will not mitigate for impacts to other natural resources by utilizing Organic Agricultural Lands and will avoid routing across Organic Agricultural Land where there are feasible alternatives.*

14. Ingress and Egress

Prior to the Pipeline's installation, MPL and the Landowner and the Tenant will reach a mutually acceptable agreement on the means of entering and leaving the Right-of-Way should access to the Right-of-Way not be practical or feasible from adjacent segments of the Right-of-Way or from public highway or railroad right-of-way. Temporary access ramps may be constructed using locally obtained Topsoil as needed to facilitate the movement of equipment between public highways and the Right-of-Way, *except that Topsoil may not be removed from Organic Agricultural Land for such purposes.*

15. Temporary Roads

A. The location of temporary roads to be used for construction purposes will be negotiated with the Landowner or the Tenant.

- B. The temporary roads will be designed so as to not impede proper drainage and will be built to minimize soil erosion on or near the temporary roads.
- C. Upon abandonment, temporary roads may be left intact through mutual agreement of the Landowner and the Tenant and MPL unless otherwise restricted by federal, state or local regulations.
- D. If the temporary roads are to be removed, the Agricultural Land upon which the temporary roads are constructed will be returned to its previous use and restored to equivalent condition as existed prior to their construction. Restoration techniques for temporary roads will be similar to those employed in restoring the Pipeline Right-of-Way, e.g. decompaction.

16. Weed Control

On land over which MPL has above-ground facilities (i.e., valve sites, pump stations, etc.), MPL will provide for weed control in a manner that does not allow for the spread of weeds onto adjacent Agricultural Land during operation of the Pipeline. Weed control spraying will be in accordance with State of Minnesota regulations. *On Organic Agricultural Land, MPL will implement weed control methods consistent with the Landowner or Tenant's Organic System Plan. MPL will ensure that no Prohibited Substances are used in weed control on Organic Agricultural Land or adjacent to Organic Agricultural Land in such a way as to allow Prohibited Substances to enter Organic Agricultural Land.*

17. Pumping of Water from Open Trenches

- A. In the event it becomes necessary to pump water from open trenches, MPL will pump the water in a manner that will avoid damaging adjacent Agricultural Land, crops, and/or pasture. Such damages include, but are not limited to: inundation of crops for more than 24 hours and deposition of sediment in ditches and other water courses.
- B. If water-related damage during pumping of water from open trenches results in a loss of yield, compensation of Landowners and/or Tenants, will be determined as described in section 19 of this AIMP.
- C. Standards for pumping of water will apply to the extent that they do not conflict with federal, state, and local regulations.
- D. *If there is any feasible alternative, MPL will not allow water from open trenches to be pumped onto Organic Agricultural Land.*
- E. *Any area on Organic Land upon which water from open trenches has been pumped, and any required Organic Buffer Zone from such area, will be*

presumed to be decertified for a three-year period unless the Landowner's or Tenant's Certifying Agent determines otherwise.

18. Construction in Wet Conditions

- A. Should the Agricultural Monitor determine that, due to wet conditions, continued construction activity would result in damage to the future production capacity of the land included in the construction area, the Agricultural Monitor may request MPL's Agricultural Inspector to temporarily halt the construction activity on that Landowner's property (not on the entire construction spread) until the Agricultural Monitor consults with supervisory personnel of MPL.
- B. If construction is continued over the Agricultural Monitor's objection, and damage results, *it is presumed the damage is caused by the Pipeline construction unless MPL can demonstrate otherwise.* The Landowner or Tenant may seek a determination of damages. Compensation for Landowners and/or Tenants, as appropriate, will be determined as described in section 19 of this AIMP.
- C. *Because of an organic farmer's reliance upon soil properties for production capacity, it shall be presumed that construction activity in wet conditions will result in damage to the future production capacity of the land.*

19. Procedures for Determining Construction-Related Damages and Providing Compensation

- A. MPL will develop and put into place a procedure for the processing of anticipated Landowners' or Tenants' claims for construction-related damages. The procedure will be intended to standardize and minimize Landowner and Tenant concerns in the recovery of damages, to provide a degree of certainty and predictability for Landowners, Tenants and MPL, and to foster good relationships among MPL, Landowners and their Tenants over the long term.
- B. Negotiations between MPL and any affected Landowner or Tenant will be voluntary in nature and no party is obligated to follow any particular procedure or method for computing the amount of loss for which compensation is sought or paid. In the event a Landowner or a Tenant decide not to accept compensation offered by MPL, the compensation offered is only an offer to settle, and the offer shall not be introduced in any proceeding brought by the Landowner or a Tenant to establish the amount of damages MPL must pay. In the event that MPL and a Landowner Tenant are unable to reach an agreement on the amount of compensation, any such Landowner or Tenant may seek recourse through the court system of the State of Minnesota.

- C. *Because of the potential for introduction of Prohibited Substances on Organic Agricultural Land, for the purposes of a claim for damages under Section 19, the Right-of-Way, any temporary road, and any required Organic Buffer Zone from the Right-of-Way or temporary road, is presumed to be decertified for a three-year period unless the Landowner's or Tenant's Certifying Agent determines otherwise.*
- D. *Any Decertified Organic Agricultural Land will be considered to have a total crop loss during the period of Decertification.*
- E. *All easements on Organic Agricultural Land will provide for the purchase of the entire farm at the option of the Landowner in the event of an oil release or permanent loss of organic certification.*

20. Advance Notice of Access to Private Property

- A. MPL will provide the Landowner and/or Tenant with a minimum of 24 hours prior notice before accessing his/her property for the purpose of constructing the Pipeline.
- B. Prior notice will consist of a personal contact or a telephone contact, whereby the Landowner and the Tenant is informed of MPL's intent to access the land. If the Landowner and/or Tenant cannot be reached in person or by telephone, MPL will mail or hand-deliver to the Landowner and the Tenant's home a dated, written notice of MPL's intent. The Landowner and Tenant need not acknowledge receipt of the written notice before MPL can enter the Landowner's property.

21. Indemnification

For any Pipeline installation covered by this AIMP, MPL will indemnify the respective Landowners and Tenants, their heirs, successors, legal representatives, and assigns from and against all claims, injuries, suits, damages, (including, but not limited to, crop loss, repairs to irrigation systems and Tile, real and personal property damages) costs, losses, and reasonable expenses resulting from or arising out of the construction of such Pipeline, including damage to such Pipeline or any of its appurtenances and the leaking of its contents, to the extent arising from the violation by MPL or its contractors of the construction standards required by this AIMP except where such claims, injuries, suits, damages, costs, losses, and expenses are caused by the negligence or intentional acts, or willful omissions of such Landowners and Tenants, their contractors, heirs, successors, legal representatives, and assigns.

22. Excavation after Pipeline Installation

If, after Pipeline installation the Landowner or Tenant must make repairs to a Tile that lies within the Right-of-Way, or is to install new Planned Tile, MPL will, at its own expense:

- A. If the Pipeline is below the Tile, MPL will provide a person to be present when the excavation work is being performed but will not perform the excavation work.
- B. If the Pipeline is above the Tile, MPL will be responsible for reasonable extra costs incurred by the Landowner or Tenant to excavate and expose the Pipeline, as mutually agreeable to MPL and the Landowner or Tenant.
- C. The Landowner or Tenant will be responsible for contacting Gopher State One Call prior to any excavation near the Pipeline.

23. Role and Responsibilities of Agricultural Monitor

The Agricultural Monitor will be retained and funded by MPL, but will report directly to MDA. The primary function of the Agricultural Monitor will be to audit MPL's compliance with this AIMP. The Agricultural Monitor will not have the authority to direct construction activities and will work through MPL's Agricultural Inspector if compliance issues are identified. The Agricultural Monitor will have full access to Agricultural Land crossed by the MinnCan Project and will have the option of attending meetings where construction on Agricultural Land is discussed. Specific duties of the Agricultural Monitor will include but are not limited to the following:

1. Participate in preconstruction training activities sponsored by MPL.
2. Monitor construction and restoration activities on Agricultural Land for compliance with provisions of this AIMP.
3. Report instances of noncompliance to MPL's Agricultural Inspector.
4. Prepare regular compliance reports and submit to MDA.
5. Act as liaison between Landowners and Tenants and MDA.
6. Maintain a written log of communications from Landowners and/or Tenants regarding compliance with this AIMP and Easements. Report Landowner complaints to MPL's Agricultural Inspector or right-of-way representative.
7. *Monitor construction and restoration activities on Organic Agricultural Land for any aspect that could cause impairment or Decertification. Where the Agricultural Monitor observes construction and restoration*

activities that could cause Decertification, the Agricultural Monitor will carefully document those instances according to Independent Organic Inspectors Association protocol, and will make the documentation available to the Minnesota Department of Agriculture, the Landowner, the Tenant, the Landowner's or Tenant's Certifying Agent, and to MPL.

8. *Observe and carefully document the location of any water pumped from open trenches onto Organic Agricultural Land as described in Section 17.*

24. Qualifications and Selection of Agricultural Monitor

The Agricultural Monitor will have a bachelor's degree in agronomy, soil science or equivalent work experience. In addition, the Agricultural Monitor will have demonstrated practical experience with pipeline construction and restoration on Agricultural Land. MPL will provide resumes of candidates that meet the qualifications listed above for review and final selection by MDA. *The selected Agricultural Monitor will be trained, at MPL's expense, in organic inspection, by the Independent Organic Inspectors Association, unless the Agricultural Monitor received such training during the previous three years.*

25. Role of the Agricultural Inspector

The Agricultural Inspector will:

1. Be full-time member of MPL's environmental inspection team.
2. Be responsible for verifying MPL's compliance with provisions of this AIMP during construction.
3. Work collaboratively with other MPL inspectors, right-of-way agents, and the Agricultural Monitor in achieving compliance with this AIMP.
4. Observe construction activities on Agricultural Land on a continual basis.
5. Have the authority to stop construction activities that are determined to be out of compliance with provisions of this AIMP.
6. Document instances of noncompliance and work with construction personnel to identify and implement appropriate corrective actions as needed.
7. Provide construction personnel with training on provisions of this AIMP before construction begins.
8. Provide construction personnel with field training on specific topics such as protocols for topsoil stripping.