2017 SENATE ENERGY AND NATURAL RESOURCES

SB 2236

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Fort Lincoln Room, State Capitol

SB 2236
2/10/2017
Job #28221

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Pam Dever

Explanation or reason for introduction of bill/resolution: Relating to the pipeline restoration and reclamation oversight program and records of program participant.

Minutes:

Attch#1=DougGoehring; Attch#2,#3,#4=DougGoehring; Attch#5=CharlieSorenson; Attch#6=Kevin-Dalaine Uran(email)

Take Attendance: All committee members present.
Chairwoman Unruh: Let's open SB 2236.
Chairwoman Unruh: For the record. I am Senate Jessica Unruh, Dist 33, Beulah, ND. This is a pilot program that was implemented last session. It was a result of work with pipeline companies, other industry landowners, and the agriculture department. This gives an avenue for folks who are having pipeline reclamation issues to go and get mediation and have a place to hear concerns. The program is run through the Dept. of Agriculture. The program provides educational outreach to help land owners and tenants consider things like pipeline pathways, type of pipeline installation, and type of vegetation being reestablished and a time line issues. This is done before they sign the agreements. You will hear some success stories of the program here today. It has been very successful. This bill makes the program permanent, and also creates a new sub-section – 5 – which states the names may remain private. We have experienced some cases that have not been filed and not asked for help because the names are public and they can be called by the media and are subject to open records. This provide them a layer of protection. (.40-2.52)

Chairwoman Unruh: Any in support?

Doug Goehring, ND Agriculture Commissioner: (3.25-9.40) (see Attch#1) I am here in support which continues to authorize the Pipeline Restoration and Reclamation Oversight Program. He handed out brochures and pictures of some problems and how they were fixed (see Attch#2 and #3) and how complaints are handled flow chart (see Attch#4). This program has benefitted a lot of producers very much. After the program was started, many people saw me later and told me they appreciate the program in place, because we use your name in vain to get some work done now. Sometimes it took 2 or 3 years to get a response on an

issue. They finally say we will call the Ag dept. and they get fast response now. Last session there was a $400,000 appropriation for this, and I tell you we are not near that. We can do this for a lot less because it is a group effort and with the help of Ombudsman. Urge do pass.
Chairwoman Unruh: You mentioned the cost of the program handled in your budget, correct?
Doug: We have identified about $200,00 for the program through the next biennium. We feel we can do it for that. That is general fund money.
Sen. Roers: What kind of problems are you trying to fix?
Doug: Multiple issues. Some with water lines and some with gas lines and some with gathering lines, and some with oil line issues. Many cases it is slumping; and not coming back and doing maintenance. (Showed the pictures again, Attch#3) Establishing vegetation was done when it should not have been, or done improperly.
Sen. Schaible: The issue with keeping the rights of the surface owners and their complaints, confidential issue. Do you deal with this a lot?
Doug: (12.45) It does become a concern with a group in ND and the farmer and ranchers are very private people. They tent to get things done themselves. They do not like to have their name out there and published. Do not like the media or someone that wants to use them as leverage or make an issue with another company. Activists like to reach out to these people and ask for comments so they can build a case against someone.
Sen. Schaible: This change will make this process better?
Doug: It will. Some people will engage the program for services that did not before.
Sen. Cook: Were any of these cases related to DAPL?
Doug: No, they weren't. We got calls, but did not fall in PSC purview. Have concerns as we move forward.
Sen. Cook: I had lots of calls complaining during the early stages of that pipeline being put I, as far as land men coming on property. Why that was not dealt with?
Doug: This bill was under Title 49 or anything that would fall under PSC authority. When we get calls concerning PSC line or situation, after we research it, we then give it to PSC to follow up. We don't want to take authority away from PSC.

Tom Wheeler, Ray, ND: I am a farmer and landowner., I am here representing myself. (16.20) I have seen the effects of the Ombudsman Bill. I have seen side effects of it. The number 63 does not tell the whole story. I had three different companies that were slumping on my land. I contacted the companies and got immediate responses. Things got fixed and it's because of this bill. The companies do not want to be on the list of bad and repeat offenders. I have heard nothing negative about this program. (17.53)

Charlie Sorenson, Ross, ND: I am a farmer, renter of lands, and landowner. I have experience some things during the last 10 years with pipelines on property I farm and rent. We hear lots of promises and occurrences that things are going to be corrected. Rarely do they fix things. I heard about this program during last session. I was raised to fight my own fights and walk on my own two feet. I didn't think this program was very needed. When I reached out to oil companies and pipeline people, they did not respond. (seeAttch#5-pictures he brought). (19.15) Nothing happened to my complaints. Month after month and no results. Finally, I called the Ag Dept. In three days the problem was corrected. As a renter, I have very few leverage tools to flex against a big company. Companies are very responsive to anything that affects their income or regulation. When they get a phone call from the state of

ND, they react. The Ag Dept. really helped me. This program has allowed me to improve the land that I farm and rent. This program needs to continue. (22.55)

Kayla Pulvermacher, ND Farmers Union: This program is a service to our members. Please do pass SB2236.

Troy Coons, NW Landowners Assoc.: I am here in support and represent the members of this association. (28.00-29.35) We were involved with this from the beginning. When it first started, we were contacted by farmers who did not like their names out there. They were contacted by the media and did not like that at all. We are in support of keeping the names private. Please do pass.

Alexis Baxley, ND Petroleum Council: (29.50) We support and urge a do pass SB 2236. We were part of the group helped put it in place two years ago. Our contracts are with landowners. That limits us in what we are able to do with renters.

Julie Ellingson, Stockman's Assoc.: Here in support of SB2236. It is an important tool in conflict resolution and communication. We think the confidentiality component that is added in this bill would be an important addendum to the program. (31.07)

Chairwoman Unruh: Any more in support? Any here in opposition: Any agency testimony? Seeing none we will close the hearing on SB 2236.

(Attch#6 = Kevin and Dalaine Uran by e-mail)

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Fort Lincoln Room, State Capitol

SB 2236
2/10/2017
Job #28191

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Pam Dever

Explanation or reason for introduction of bill/resolution: Relating to the pipeline restoration and reclamation oversight program and records of program participants.

Minutes: Committee work

Chairwoman Unruh: Let's look at SB 2236 from this morning. What does the committee desire?

Sen. Armstrong: I move a do pass om SB 2236.

Vice Chair Kreun: I second.

Chairwoman Unruh: any discussion? Hearing none, read the roll.

YES 7 NO 0 -0-absent **Sen. Roers** will carry the bill.

Date: 2/10/17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2236

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation:
☐ Adopt Amendment
☑ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen Armstrong Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	✓		Sen. Erin Oban	✓	
Vice Chair Curt Kreun	✓				
Sen. Kelly Armstrong	✓				
Sen. Dwight Cook	✓				
Sen. Jim Roers	✓				
Sen. Don Schaible	✓				

Total (Yes) 7 No -0-

Absent -0-

Floor Assignment Sen. Roers

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2236: Energy and Natural Resources Committee (Sen. Unruh, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2236 was placed on the Eleventh order on the calendar.

2017 HOUSE ENERGY AND NATURAL RESOURCES

SB 2236

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Coteau –A Room, State Capitol

SB 2236
3/16/2017
29322

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to the pipeline restoration & reclamation oversight program & records of program participants

Minutes: **Attachment 1-3**

Chairman Porter:

Sen. Unruh, Dist.33: This bill is in relationship to the reclamation oversight pilot program currently administered ag department, implemented last session to help connect landowners and tenants experience pipeline and restoration issues with an independent ombudsman, a third party resource to help them reach resolutions with pipelines. It provides education outreach to help landowners and tenants before signing agreements.

(1) We need to make sure the program permanent, funds come from a special fund in the ag department
(2) Keep the names of surface owners and tenants who utilize this program to be kept private and held confidential.

Doug Goehring, Ag Commission, in support of SB 2236, presented Attachment #1.

Chairman Porter: sent around a copy of Attachment #2 for reference.

Rep. Heinert: Can you talk about Page 1 Line 23 #5, exempting the names?

18:59

Goehring: we've had well over 100 calls with people wanting to use our services, but people just want a problem resolved, they don't want it made public. Too often you have those that have bias, an agenda, and would like to utilize their name or badger them about, we just want to show how bad things are and site all these different people, pester them to be part of our article. People just want to be left alone. They have issues or problems they don't feel it's anyone else's business so they don't want to sign up for the program because

they know those names are public. They know some information is available what their issue was. All they want to do is resolve it with the company.

Rep. Keiser: Does NDSU Extension or the Natural Resource districts cooperating with you, do they have any role, or do they have their own program?

Goehring: We have used NDSU and in fact this has been a group effort because we have the oversight in the program we utilize them. We encourage them the need to work with a range scientist, NDSU extension, county agent, they have great recommendations, maybe not NRCS so much. This has been a group effort. We do get soil maps or NRCS maps for certain areas.

Rep. Ruby: I was under the assumption the health department had a similar program, do you collaborate with them?

Goehring: We have conversations with the health department and some other areas. We're not a regulatory program, so we're not going to write you up and cite you for a violation. We may let the Dept. of Mineral Resources or the Dept. of Health know of a situation they may need to look into. Dept. of Mineral Resources has a reclamation program. What we've found is I have been receiving calls from the time I came into office and through the last 8 years from western ND.

Chairman Porter: What funding source are you using for the budget of $400,000?

Goehring: We told them we could probably operative with $200,000 from the SIF?

Chairman Porter: Is it the SIF or is it coming out of the abandoned oil and gas well plugging site reclamation fund?

Goehring: currently, right now this biennium, it is coming out of there. The new funding source will be SIF.

22:50

Charlie Sorenson, Ross ND, farmer and landowner, presented Attachment #3: I was raised to take care of things myself but I came to realize after dealing with numerous oil companies that I may need help. As a farmer in the area, we run into a problem with dealing with oil companies. That problem is due to the fact that oil companies are very cognoscente of problems that affect their income. As a farmer, I don't affect their income. They're also even more cognoscente of regulation. I don't represent regulation. When I can get someone from the ag department or who represents the state of ND to call them and say they're from the state of ND, they recognize it a regulation. They immediately jump to correct it. This is a problem I can't fix after years and years of phone calls on my own. But when the phone call comes from the state it seems to be corrected. So last summer I started to notate all my problems I have with pipelines and I have a lot of them. By end of harvest, I had more than 20 that have accumulating for the past 2-3 years. Also I was meeting with companies, sending them pictures, constant phone calls, nothing was getting done. This time I decided I had to get these take care of. I submitted on online application with the ag department. Within

a few days I talked to Quinn from the ag dept. We spent 6 hours one day looking at problems from various companies on miles and miles of pipeline and document everything last fall. By the time the ground froze last fall, all the problems had been taken care of because of the pipeline restoration and reclamation program. If I have an issue with this program, it only covers pipelines. I have the same issues that happening with and around oil sites, compressor stations, and seismography, but I don't have any strength in that area to get issues corrected in that area. I would like for you to consider at some point this program should consider to include more items. Because oil production has declined you might th8ink we don't have a need for this program but we do. Even though all the lands I farm now have at least a level surface over them, problems pop up. Often their reclamation is filled with rocks, cribbing material, 4' long oak timbers, pieces of rope, fabric, cable they shove into their trench. It comes up years later. I farm over 50 miles of pipelines. As we speak now another mile is put in, this summer another 3 miles. By fall I'm expecting to have over 55 miles of pipeline. As long as oil is coming out of the ground we'll have pipelines going in. He passed around pictures, Attachment #3

a) South of Ross, a rancher found one of his herd isn't moving anymore, it's in the hole in the picture. As a producer he doesn't have leverage with this company. He contacted me, I forwarded his information to a well-known newspaper reported in ND and used that as leverage against this company to get payment.

b) Hose in the White Earth River from fracking. I have farm fields close to this picture. That's a collapsible hose used to pipe water for fracking. The company abandoned the hose for 2 years, laying in the middle of the river. As a tenant I want this cleaned up. I contacted the company, met with them, showed them pictures, and they would not clean up that 300-400-foot hose in the river. It wasn't until that company came to me later and wanted to put a pipeline on my land, I finally had the opportunity to use some leverage. I wouldn't let them put a surveyor on my property until that hose got cleaned up. They did it in a day, when I had been waiting 2 years!

c) Communications wire. There had been wheat seeded with no problems. I came back and seeded in peas, and now a communications wire started to come up out of the ground a year and a half after the pipeline was installed, which shows problems occur later after the pipeline is installed and we think fully reclaimed.

Rep. Anderson: can you tell us who you contacted to take care of the water hose?

Sorenson: I contacted the company directly. This is actually more than a hose. I had 800 feet laying out on my field. It froze on them; they blew the ends off. It's heavy and thousands of pounds. I said I'm seeding this field; I need it cleaned up. They drug it onto another field I farm. Then they left this mess. I went to the water company who is their subcontractor. They were very well aware of it and I couldn't get anywhere. In my phone I have 75+ phone numbers in my phone; who do I talk to, to handle something like that? To have one number where I can go to and then I can go about my daily work.

Rep. Anderson Crop damage, do you get paid for crop damage?

Sorenson: We could go on for several hours here. I support the having the oil industry here. I rough necked for 2 years in 2000-2001. I understand where they're coming from and why they do things. When a pipeline goes in, there's a payment for easement, a payment for damages, and sometimes a payment for crop damages. The landowner, in ND century code,

is who the agreement is with. The landowner is paid for the easement, the surface damages and crop damages. As a renter, I need to go to the owner and ask for that money for damages from the landowner, who has already spent the money and gone to AZ. In a competitive land rent environment, I have to ask that particular land owner for crop damages. It's cutting my own throat and I don't do it. In 2014, between the time I seeded my crop and the time I harvested my crop, I had 27 miles of pipeline at 100' width, that's nearly 300 acres of damage. I had to eat that loss, I have no other choice. Some companies, 30-40% of them, will put a clause in it, where the landowner can sign off if there's a tenant, the company will go to the tenant and make a separate agreement. I think that's the way it should be.

Rep. Anderson: Is there a difference between rural water districts putting in lines or oil companies? I would assume the rural water district would pay the tenant for crop damages.

Sorenson: In my situation I haven't been paid by rural water districts. At the same time, I'm part of that district and I have a benefit there. As far as an oil pipeline, I don't own any minerals, I don't have a benefit.

Chairman Porter: further testimony in support

41:44

Ken Junkert, pipeline manager for the department. The funding source for the program, is the abandoned oil and gas well plugging and reclamation fund. I just wanted to correct where the funds come from.

Julie Ellingson, ND Stockmen's Association. We support this project becoming permanent.

43:00

Troy Coons, NW Landowners Association. We worked with the Ag Commissioner's office and petroleum Council in development of this program. We're still in support of it.

Alexis Brinkman with the ND Petroleum Council: We are today to support this program as well.

Chairman Porter: further support? opposition? Closed the hearing

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Coteau –A Room, State Capitol

SB 2236
3/16/2017
29331

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to the pipeline restoration & reclamation oversight program & records of program participants

Minutes:

Chairman Porter: Called the committee to order on SB 2236. Discussion?

Rep. Lefor: I move a Do Pass

Rep. Anderson: second

Chairman Porter: We have a motion for a Do Pass on SB 2236. Discussion?

Rep. Devlin: Last session I felt this way. I'm totally opposed to this; I believe it belongs in the PSC. If there's some other issues, mineral resources division, health division, legal division in the attorney general's office, but I didn't think then and I don't think now we have to make the pilot permanent. I totally object to lines 23-24. I think as the gentlemen brought a newspaper into the issue with the problem he was having, all of a sudden things got changed. If you keep these issues public, the pipelines will do a better job of working with the landowners.

Rep. Anderson: To further address some of Rep. Devlin concerns- I think the reason they went to the ag department was they wanted to rely on some of the county extension service sand Natural Resource Districts for seeding purposes. They had the grass plans, and understood what type of vegetation had to be put back on the soil.

Rep. Lefor: Another point, last session we put it there because in addition to what Rep. Anderson said was, these people trust the people in the ag industry trust. Lot of times we see it gets highly emotional. When they're working with someone they trust, things can be resolved before taking them further.

Rep. Devlin: Who don't we trust in the PSC and why don't we trust them.

Chairman Porter: Is that rhetorical or do you want me to answer that?

Rep. Devlin: That's was the issue. We couldn't trust the PSC so we set it up a separate one which I opposed. I'd like some specifics because I think they do a great job in the State of ND. I don't think there's a better PSC anywhere in the nation. I keep hearing this we can't trust what they're doing so we had to put it in the ag department. I guess I'd like some specifics.

Chairman Porter: the only thing I can offer is from last session, in the testimony of the groups that were in favor of the SB 2271, they wanted to work with farmers and the PSC was directed to contract with other local farmers that had experience in dealing with these companies. They felt more comfortable doing that than being with the regulators. It wasn't anything to dis the PSC and it wasn't anything against the PSC. It was more they wanted someone who talked farm talk.

Rep. Anderson: They also, ag department had a mediation service in place. So that was another big reason they decided to go through the ag department. So the landowners could go through the ag department and work it out through the pipeline company.

Vice Chairman Damschen: I think it isn't that we can't trust the PSC, I think there's just some people that don't, probably in the ag sector. Not that they have a valid concern, but they probably wouldn't go to anybody except the ag department. That's a thought, I don't' have strong facts to back that.

Rep. Devlin: I certainly would not want to start a debate with Vice Chairman Damschen because I would lose that every time! I would point out that if a taxpayer, landowner or individual of any type in the state of ND doesn't trust whatever particular agency is doing, and we're going to set up a new department to work better for them, the growth of government in ND is going to be astronomical.

Rep. Keiser: I do agree this is a case of mission creep. You got to protect against that. On the other hand, going back two years, it was an agriculture issue that was being raised. We want to farm, we want to ranch and these problems are creating a problem. I will suggest to the committee that the fear the companies have in not responding to any issue is not associated with the ag department calling. It would be the ag department calling the PSC because future sitings and regulations come from the PSC. They're the ones with the authority. This is mission creep. The folks that wanted the legislation felt more comfortable with it in that department. That was the decision but it is a clear case of mission creep and overlap.

Chairman Porter: Seeing no further discussion, the clerk will call the roll on SB 2236.
Yes 9 No 3 Absent 2 Do Pass prevails. Rep. Mitskog is carrier.

Date: 3-16-17

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2236

House Energy & Natural Resources **Committee**

☐ **Subcommittee**

Amendment LC# or Description:

Recommendation
☐ Adopt Amendment
☑ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐

Motion Made By Rep. Lefor **Seconded By** Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep. Bosch	✓		Rep. Ruby		✓
Rep. Devlin		✓	Rep. Seibel	AB	
Rep. Heinert	✓				
Rep. Keiser		✓	Rep. Mitskog	✓	
			Rep. Mock	AB	

Total (Yes) 9 No 3

Absent 2

Floor Assignment Rep. Mitskog

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2236: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). SB 2236 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2236

COMMISSIONER
DOUG GOEHRING

ndda@nd.gov
www.nd.gov/ndda

SB 2236
2-10-17
Attd #1
p8

NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
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BISMARCK, ND 58505-0020

Testimony of Doug Goehring, Agriculture Commissioner
North Dakota Department of Agriculture
Senate Bill 2236
Senate Energy and Natural Resources Committee
Fort Lincoln Room
February 10, 2017

Chairman Unruh and members of the Senate Energy and Natural Resources Committee, I am Agriculture Commissioner Doug Goehring. Thank you for the opportunity to appear before the committee. I am here today in support of SB 2236, which continues authorization of the pipeline restoration and reclamation oversight program.

The program established by SB 2271 for the 15-17 Biennium supported two important functions to help rebuild relationships between landowners and pipeline companies in North Dakota. The first function is providing outreach, technical support, and education to landowners. The Department received a substantial number of calls and questions from landowners/tenants and pipeline companies about the program. In order to maximize our outreach efforts, we held town-hall meetings in western North Dakota and provided program information at many meetings over the last two years throughout the state. Our outreach efforts provided resources and tips to help ensure landowners' reclamation concerns are addressed up-front, before pipeline work starts.

The second program function addresses reclamation issues after pipeline installation work has been completed. The Department has contracted with five ombudsmen who serve as neutral

third parties working directly with landowners and companies to address reclamation issues, develop a timeline for response, and follow-up to ensure work is completed in a satisfactory manner.

The program has received a total of 62 landowner requests for assistance so far this biennium. Three of these cases were outside the scope specifically laid out in SB 2271. Ombudsmen worked on a total of 59 cases in 14 counties. The department has talked to hundreds of landowners about pipeline reclamation issues. Many have reported back that reclamation issues have been addressed based on education and outreach or the understanding that ombudsmen may be assigned to the issue if pipeline companies do not take the initiative to resolve reclamation issues.

The program has the following goals:

1. **Recognized resource**: We are a resource that can evaluate issues and identify options after an impartial review of the reclamation complaint.
2. **Create trust**: We strive to create surface owner/tenant trust in working with pipeline companies by creating a venue to address concerns and enhance communication.
3. **Save resources**: Valuable resources will be saved by preventing disputes and resolving them in a timely manner in place of costly litigation.
4. **Providing a Balanced approach**: The program supports surface owners/tenants and the energy industry by using a non-regulatory approach to balance land use needs and foster relationships between land stakeholders.

Going forward, more pipelines will continue to be placed on the landscape. Feedback so far has indicated that the program outreach and education and ombudsmen have helped facilitate progress in resolving reclamation issues. We have found that by addressing pipeline reclamation issues in the early stages there is a higher degree of resolution. Reclamation issues can often be resolved before further erosion of landowner/tenant confidence, and loss of productivity by both parties. Effective outreach and education of key stakeholders is important to creating buy-in and cooperation. This program continues to play an important role in enhancing landowner/tenant trust and cooperation in our state's energy development future, by providing timely, effective, and impartial complaint management between landowners, tenants and pipeline companies.

Accordingly, Chairman Unruh and committee members, I urge a "do pass" on SB 2236. I would be happy to answer any questions you may have.

Thank you.

Reclamation

- Define goals/timeframes for successful land recovery
  - Vegetation restoration
  - Weed control
  - Topographic feature recovery
- Disturbed areas should be monitored and documented to ensure land recovery goals will be met
  - Determine the duration and frequency of monitoring and maintenance

Point of Contact

Clearly identify the pipeline company contact who will be working with you throughout the entire process.

To find pipeline company contacts, go to www.ndoil.org → Oil Can! → Easement Information Center → Pipeline Company Contact Information.

To request gathering line data, go to www.nd.gov → Oil and Gas Division Website → Gathering Pipelines → Request Information About Gathering Lines On Your Land.

Pipeline Reclamation Problems? WE CAN HELP!

The North Dakota Department of Agriculture's pipeline and reclamation oversight pilot program connects landowners and surface tenants experiencing pipeline reclamation issues with an independent ombudsman. The role of the ombudsman is to help surface owners/tenants and pipeline companies identify and bring resolution to pipeline reclamation issues.

Pipeline reclamation problems addressed in the early stages have a higher degree of resolution and can often be resolved before further erosion of confidence and loss of productivity by all parties.

If you are not getting an adequate response for pipeline reclamation problems directly from the pipeline company, contact the North Dakota Department of Agriculture at 1-800-242-7535 or go to our website at www.nd.gov/ndda to request assistance in resolving them.

NORTH DAKOTA DEPARTMENT OF AGRICULTURE

600 E. Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020
(701) 328-2231
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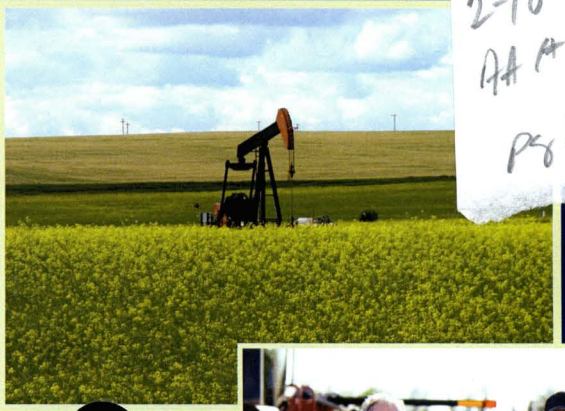
www.nd.gov/ndda

The North Dakota Department of Agriculture is an equal opportunity employer and provider.

10/15

SB 2276
2-10-17
Att #2
pg 1



LANDOWNER TIPS FOR SUCCESSFULLY WORKING WITH PIPELINE COMPANIES

NORTH DAKOTA DEPARTMENT of AGRICULTURE

AGRICULTURE COMMISSIONER
DOUG GOEHRING

Surface owners and tenants are in the best position to identify concerns or potential problems that may occur from pipeline installation. Consider the following as you work with the pipeline company to successfully site a pipeline on your land. Your efforts will improve communication and avoid many issues before problems occur.

Pipeline Route

If you have concerns with the pipeline route, work with the pipeline company to adjust, determine or evaluate an alternative route. Also, consider current and future land use needs which may be impacted by the pipeline route and easement restrictions.

Landowner Considerations:

- Document, inventory and photograph the landscape before and after pipeline installation. This will be helpful in determining your landscape recovery goals
- Identify current and future land use
  - Farmland
  - Hay land
  - Rangeland/pasture
  - Landowner/surface tenant access points
  - Livestock grazing (grazing period when in use)

  - Fences/gates
  - Corrals
  - Outbuildings
  - Sensitive areas (e.g. springs)
- Consider vegetation, soil and topography.
  - Present plant species
  - Future plant species
  - Noxious weed control
  - Topsoil depth
  - Subsoil properties
  - Landforms and water bodies
  - Slope

Easement

- Timeframe for construction
- Permanent easement width
- Construction easement width
  - Type of pipeline installation
    - Trenched
    - Plowed

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    - Backhoed
- Location of risers/surface structures

Pipeline Construction

Pipeline construction may affect the use of your land during and after construction. Consider the following:

- Construction timeline
- Number and size of pipes
- Pipe burial depth
- Type of pipeline
  - Oil
  - Gas
  - Water
- Erosion control
- Dust control
- Construction site cleanup
- Landowner/surface tenant easement access points

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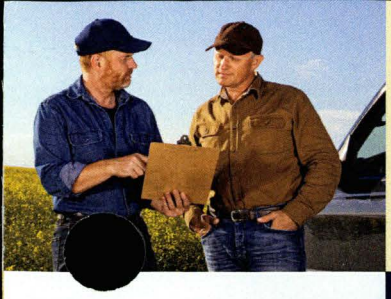

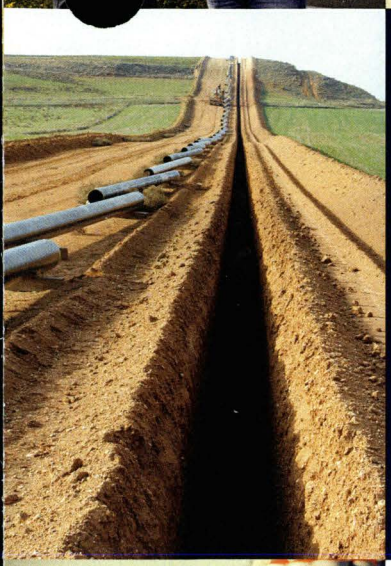

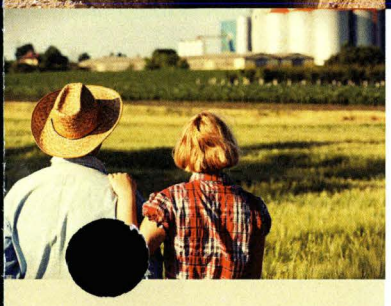

PIPELINE RESTORATION AND RECLAMATION OVERSIGHT PILOT PROGRAM

The North Dakota Department of Agriculture's pipeline restoration and reclamation oversight program connects landowners and tenants experiencing pipeline reclamation and restoration issues with an independent ombudsman, a third party resource to help reach a reasonable resolution.

The program also provides educational outreach to help landowners/tenants consider things such as pipeline pathways, type of pipeline installation, soil impacts, type of vegetation being reestablished, timelines and other issues before signing agreements.

Vision Statement
The ombudsmen are the recognized lead facilitators for promoting fairness when resolving pipeline reclamation and restoration issues, concerns, and disputes.

Mission Statement
To enhance landowner trust and cooperation in North Dakota's energy development future by providing timely, effective, and impartial complaint management between surface owners/tenants and pipeline companies.

Values
These values guide activities and actions of the pilot program. They demonstrate the agriculture commissioner's belief that the manner in which the pilot program is administered must be purposeful in progressing the goals North Dakota is trying to achieve by creating the pilot program.

The pilot program values:

- Fairness
- Respect
- Integrity
- Equity

This pilot program also values a working environment that fosters innovation and collaboration.

NORTH DAKOTA DEPARTMENT of AGRICULTURE

AGRICULTURE COMMISSIONER
DOUG GOEHRING

PILOT PROGRAM PROCESS

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The ombudsmen proceed by way of independent and impartial examinations initiated upon complaints by surface owners/tenants. The ombudsman's objective is to develop a service culture characterized by fairness, dedication, openness, and accountability. The ombudsmen may use informal facilitation or recommend mediation to avoid actions that can be costly and damaging to the surface owner/tenant and the pipeline company.

NDDA will:

Establish methods for surface owners/tenants to issue complaints

Complaints will be taken by:

- Phone
- Email
- Web
- Personal interview

Establish a method to track and assign complaint cases to an ombudsmen

Prepare periodic reports to the agriculture commissioner regarding pilot program activity

Contract with qualified ombudsmen

The ombudsman will:

Make initial contact with the surface owner/tenant within 48 hours of receiving the complaint

Conduct a site examination with the surface owner/tenant and document all issues associated with the complaint

Meet with surface owner/tenant and pipeline company on site to review reclamation/restoration issues

Work with surface owner/tenant and pipeline company to develop a plan and timeline to address the complaint

Periodically monitor agreed upon reclamation/restoration site work

Provide final report to the agriculture commissioner

Site prior to reclamation

Same site after reclamation

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THE OMBUDSMAN

Ombudsman
Noun [om•buds•man]
Definition: One who investigates, reports on, and helps settle complaints.

The ombudsman will manage complaint cases by receiving, reviewing, and attempting to resolve complaints from surface owners/tenants. In addition, the ombudsman will analyze complaint data and provide the agriculture commissioner with recommendations for the improvement of the pilot program. The ombudsman will have frequent contact with surface owners/tenants, and representatives from pipeline companies by conducting outreach and managing complaints.

Knowledge, Skills, and Abilities
To be an effective ombudsman, the individual must have the following attributes:
- Concern for fairness
- Effective consensus-building and facilitator skills
- Good listening skills
- Established analytical ability
- Effective stress management skills
- General knowledge of subject matter
- Keep professionally current by pursuing continuing education and training

Primary Functions
An ombudsman has the following primary functions:
- Problem prevention
- Conflict resolution
- Communication facilitation

Functional Description
The ombudsman will:
- Serve as a designated neutral resource for surface owners and tenants to raise concerns and request assistance to informally resolve conflicts and problems
- Monitor and track inquiries, complaints, and disputes
- Seek to provide effective and equitable conflict resolution
- Focus on customer service to provide an identifiable and accessible process for receiving complaints and resolving disputes
- Direct surface owners/tenants to the correct process or agency (outside the ombudsman program) when appropriate
- Make recommendations to the agriculture commissioner if a general problem trend is identified

The ombudsman will not:

Provide legal counsel or assistance in negotiating an easement

Interfere with or supersede any agreements between surface owners/tenants and pipeline companies

Conduct any regulatory functions

Investigate any pipeline installed before January 1, 2006

Investigate any pipeline regulated by the Public Service Commission under North Dakota Century Code Title 49.

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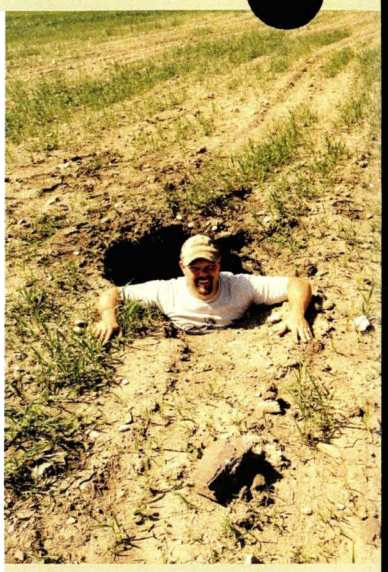
PILOT PROGRAM GOALS

1 Recognized Resource
We are a resource that can evaluate issues and identify options after an impartial review of the complaint

2 Create Trust
Create surface owner/tenant trust in working with pipeline companies by creating a venue to address concerns and enhance communication

3 Save Resources
Save valuable resources by preventing disputes and resolving them in a timely manner in place of costly litigation

4 Balanced Approach
Support surface owners/tenants and the energy industry by using a non-regulatory approach to balance land use needs and foster the relationship between land stakeholders



PILOT PROGRAM OBJECTIVE STATEMENTS

- Pipeline reclamation and restoration problems addressed in the early stages have a higher degree of resolution and can often be resolved before further erosion of confidence by the surface owner/tenant and before loss of productivity by both parties

- Effective education of key stakeholders regarding the goals of the program will create buy-in and cooperation

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FOR FURTHER INFORMATION

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Bismarck, ND 58505-0020
701-328-2231 or 800-242-7535
www.nd.gov/ndda

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May 2016

NORTH DAKOTA DEPARTMENT of AGRICULTURE

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NORTH DAKOTA DEPARTMENT of AGRICULTURE

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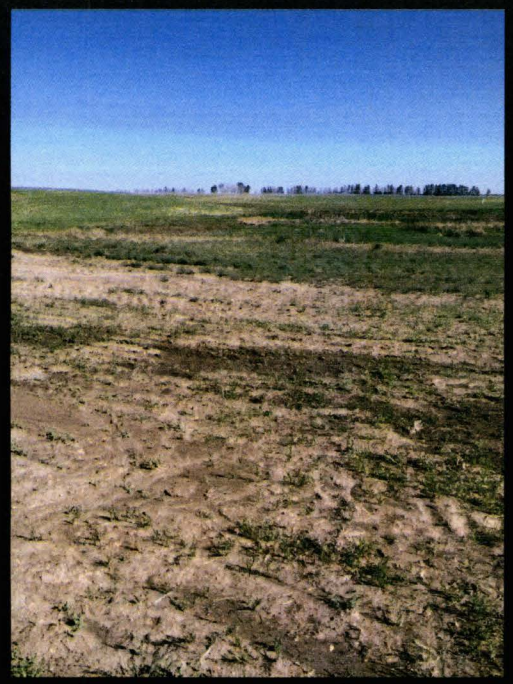

NORTH DAKOTA DEPARTMENT of AGRICULTURE

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Complaint

North Dakota LEGENDARY Public Service Commission

Title 49

NORTH DAKOTA DEPARTMENT of AGRICULTURE

NORTH DAKOTA DMR Department of Mineral Resources

January 1, 2006

Landowner/Surface Tenant

Ombudsman

Pipeline Company

Reclamation Problem Resolution

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SB 2236

RECEIVED
FEB - 7 2017
State Capitol
Bismarck, North Dakota

February 3, 2017

To: Senator Jessica Unruh

The pipeline reclamation program was very helpful to us. It's sometimes difficult for landowners to work with these pipeline companies that have no idea the negative impacts that these pipeline routes have on private land. Farmers and ranchers don't have time to babysit these companies and make sure they are doing the reclamation correctly. With a program like this available to landowners issues are resolved in a civil manner which creates less tension between parties. The people that came to our site from the Ag Dept were great to work with and very knowledgeable. They understand what our concerns were and why we had problems. It's nice to see people from the State that care about the land like landowners do. If you have driven around Mountrail County it's easy to see the majority of the pipeline reclamations are done poorly. This ends up costing the county huge amounts of money, especially trying to control the noxious weeds that are growing on these pipelines. Seeding grass species that aren't suited for the site is another big issue. These pipeline companies don't understand the differences in native versus introduced seed. We had this problem with our pipelines; the Reclamation Program helped us make the pipeline company understand what they were seeding wasn't right for the site.

North Dakota needs a program like this that isn't for one side or the other – the main focus is to solve issues by making both parties terms and conditions feasible. This creates a better partnership between the oil companies and the landowners. Most of the landowners are not against oil production, they just want to see reclamation done right and right now it's not. We sincerely believe that the Reclamation Program with the State Ag Dept is a very important to landowners in oil country. It seems Landowners continue to lose rights for their land with the oil companies but this is one important program that can go a long way in giving us a say in what needs to be done to preserve our land for the next generation.

Sincerely,
Kevin + Dalaine Uran
Kevin and Dalaine Uran

New Town, ND

by e-mail

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SB 2236
Goehring

COMMISSIONER
DOUG GOEHRING

ndda@nd.gov
www.nd.gov/ndda

NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK, ND 58505-0020

Testimony of Doug Goehring, Agriculture Commissioner
North Dakota Department of Agriculture
Senate Bill 2236
House Energy and Natural Resources Committee
Coteau A Room
March 16, 2017

Chairman Porter and members of the House Energy and Natural Resources Committee, I am Agriculture Commissioner Doug Goehring. Thank you for the opportunity to appear before the committee. I am here today in support of SB 2236, which continues authorization of the pipeline restoration and reclamation oversight program.

The program established by SB 2271 for the 15-17 Biennium supported two important functions to help rebuild relationships between landowners and pipeline companies in North Dakota. The first function is providing outreach, technical support, and education to landowners. The Department received a substantial number of calls and questions from landowners/tenants and pipeline companies about the program. In order to maximize our outreach efforts, we held town-hall meetings in western North Dakota and provided program information at many meetings over the last two years throughout the state. Our outreach efforts provided resources and tips to help ensure landowners' reclamation concerns are addressed up-front, before pipeline work starts.

The second program function addresses reclamation issues after pipeline installation work has been completed. The Department has contracted with five ombudsmen who serve as neutral third

parties working directly with landowners and companies to address reclamation issues, develop a timeline for response, and follow-up to ensure work is completed in a satisfactory manner.

The program has received a total of 64 landowner requests for assistance so far this biennium. Three of these cases were outside the scope specifically laid out in SB 2271. Ombudsmen worked on a total of 61 cases in 14 counties. The department has talked to hundreds of landowners about pipeline reclamation issues. Many have reported back that reclamation issues have been addressed based on education and outreach or the understanding that ombudsmen may be assigned to the issue if pipeline companies do not take the initiative to resolve reclamation issues.

The program has the following goals:

1. **Recognized resource**: We are a resource that can evaluate issues and identify options after an impartial review of the reclamation complaint.
2. **Create trust**: We strive to create surface owner/tenant trust in working with pipeline companies by creating a venue to address concerns and enhance communication.
3. **Save resources**: Valuable resources will be saved by preventing disputes and resolving them in a timely manner in place of costly litigation.
4. **Providing a Balanced approach**: The program supports surface owners/tenants and the energy industry by using a non-regulatory approach to balance land use needs and foster relationships between land stakeholders.

Going forward, more pipelines will continue to be placed on the landscape. Feedback so far has indicated that the program outreach and education and ombudsmen have helped facilitate progress in resolving reclamation issues. We have found that by addressing pipeline reclamation

issues in the early stages there is a higher degree of resolution. Reclamation issues can often be resolved before further erosion of landowner/tenant confidence, and loss of productivity by both parties. Effective outreach and education of key stakeholders is important to creating buy-in and cooperation. This program continues to play an important role in enhancing landowner/tenant trust and cooperation in our state's energy development future, by providing timely, effective, and impartial complaint management between landowners, tenants and pipeline companies.

Accordingly, Chairman Porter and committee members, I urge a "do pass" on SB 2236. I would be happy to answer any questions you may have.

Thank you.

Complaint

North Dakota LEGENDARY Public Service Commission

Title 49

NORTH DAKOTA DEPARTMENT of AGRICULTURE

NORTH DAKOTA D M R Department of Mineral Resources

January 1, 2006

Landowner/Surface Tenant

Ombudsman

Pipeline Company

Reclamation Problem Resolution

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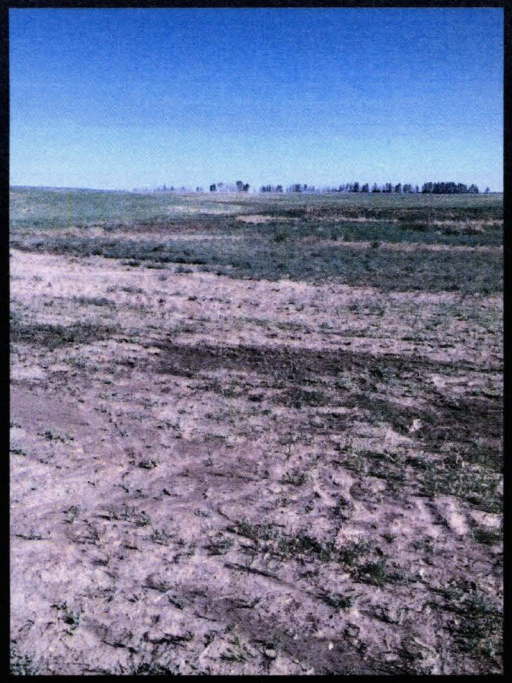
NORTH DAKOTA DEPARTMENT of AGRICULTURE

NORTH DAKOTA DEPARTMENT of AGRICULTURE



NORTH DAKOTA DEPARTMENT of AGRICULTURE

Reclamation

- Define goals/timeframes for successful land recovery
  - Vegetation restoration
  - Weed control
  - Topographic feature recovery
- Disturbed areas should be monitored and documented to ensure land recovery goals will be met
  - Determine the duration and frequency of monitoring and maintenance

Point of Contact

Clearly identify the pipeline company contact who will be working with you throughout the entire process.

To find pipeline company contacts, go to www.ndoil.org → Oil Can! → Easement Information Center → Pipeline Company Contact Information.

To request gathering line data, go to www.nd.gov → Oil and Gas Division Website → Gathering Pipelines → Request Information About Gathering Lines On Your Land.

Pipeline Reclamation Problems? WE CAN HELP!

The North Dakota Department of Agriculture's pipeline and reclamation oversight pilot program connects landowners and surface tenants experiencing pipeline reclamation issues with an independent ombudsman. The role of the ombudsman is to help surface owners/tenants and pipeline companies identify and bring resolution to pipeline reclamation issues.

Pipeline reclamation problems addressed in the early stages have a higher degree of resolution and can often be resolved before further erosion of confidence and loss of productivity by all parties.

If you are not getting an adequate response for pipeline reclamation problems directly from the pipeline company, contact the North Dakota Department of Agriculture at 1-800-242-7535 or go to our website at www.nd.gov/ndda to request assistance in resolving them.

NORTH DAKOTA DEPARTMENT OF AGRICULTURE

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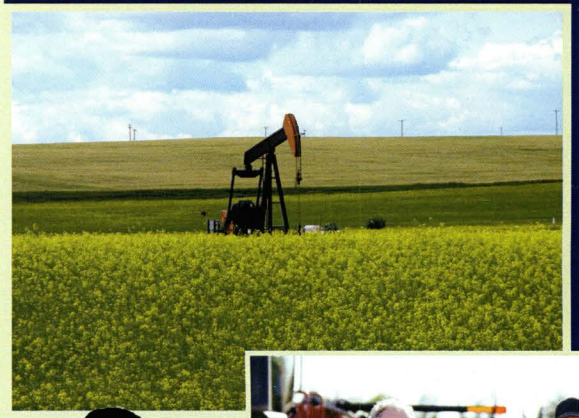

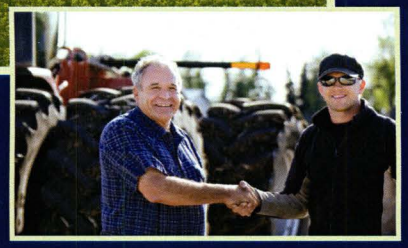

LANDOWNER TIPS FOR SUCCESSFULLY WORKING WITH PIPELINE COMPANIES

NORTH DAKOTA DEPARTMENT of AGRICULTURE

AGRICULTURE COMMISSIONER
DOUG GOEHRING

Surface owners and tenants are in the best position to identify concerns or potential problems that may occur from pipeline installation. Consider the following as you work with the pipeline company to successfully site a pipeline on your land. Your efforts will improve communication and avoid many issues before problems occur.

Pipeline Route

If you have concerns with the pipeline route, work with the pipeline company to adjust, determine or evaluate an alternative route. Also, consider current and future land use needs which may be impacted by the pipeline route and easement restrictions.

Landowner Considerations:

- Document, inventory and photograph the landscape before and after pipeline installation. This will be helpful in determining your landscape recovery goals
- Identify current and future land use
  - Farmland
  - Hay land
  - Rangeland/pasture
  - Landowner/surface tenant access points
  - Livestock grazing (grazing period when in use)

  - Fences/gates
  - Corrals
  - Outbuildings
  - Sensitive areas (e.g. springs)
- Consider vegetation, soil and topography.
  - Present plant species
  - Future plant species
  - Noxious weed control
  - Topsoil depth
  - Subsoil properties
  - Landforms and water bodies
  - Slope

Easement

- Timeframe for construction
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- Construction easement width
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    - Trenched
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- Location of risers/surface structures

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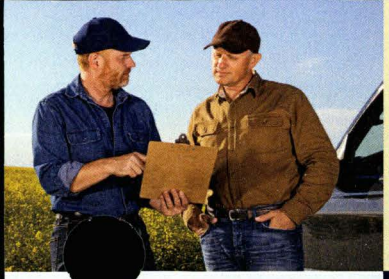

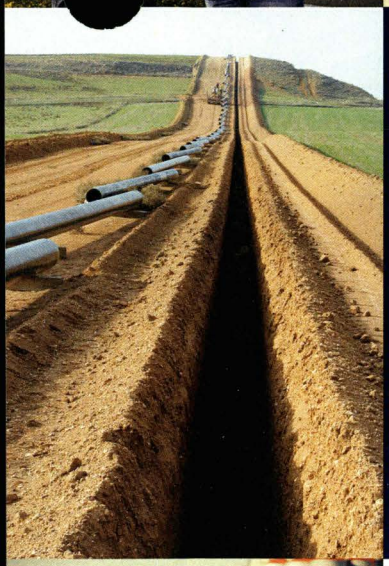

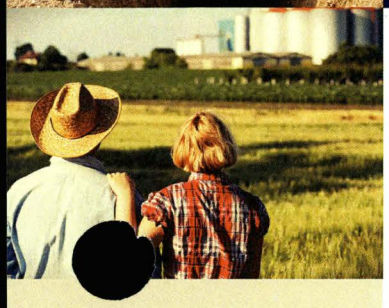

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AGRICULTURE COMMISSIONER
DOUG GOEHRING

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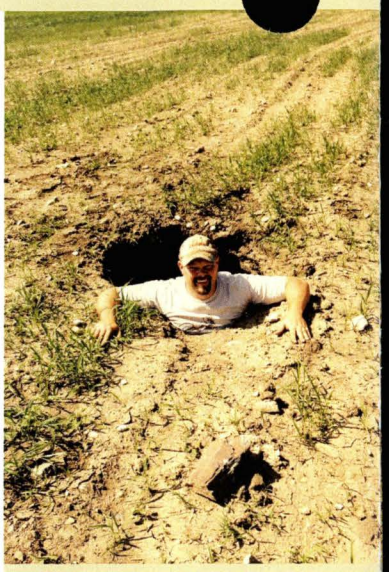

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May 2016

2
SB2236
3-16-17
Porter

Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2271
(Senators Unruh, Armstrong, O'Connell)
(Representatives D. Anderson, Kempenich, Schatz)

AN ACT to create and enact section 4-01-31 of the North Dakota Century Code, relating to a pipeline restoration and reclamation oversight program; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 4-01-31 of the North Dakota Century Code is created and enacted as follows:

4-01-31. Pipeline restoration and reclamation oversight pilot program - Generally.

1. The agriculture commissioner shall establish a pilot program that shall provide technical assistance and support to surface owners and surface tenants on pipeline restoration and followup support to surface owners and surface tenants on pipeline reclamation.

2. The agriculture commissioner may contract for ombudsmen for the purposes of being a resource for technical assistance and followup on pipeline issues. The ombudsmen may not investigate or assist with any pipeline installed before January 1, 2006, or regulated by the public service commission under title 49, and may not assist in easement negotiations.

3. The pilot program may provide technical education, support, and outreach on pipeline-related matters in coordination with other entities.

4. The agriculture commissioner may contract with local individuals, deemed trustworthy by the surface owners and surface tenants, to be ombudsmen. The agriculture commissioner is not subject to the provisions of chapter 54-44.4 when contracting for the services of ombudsmen.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the abandoned oil and gas well plugging site reclamation fund in the state treasury, not otherwise appropriated, the sum of $400,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of establishing and administering a pipeline restoration and reclamation oversight pilot program, without additional full-time employees, under section 1 of this Act, for the period beginning with the effective date of this Act, and ending June 30, 2017.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate	Speaker of the House
Secretary of the Senate	Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2271 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 41 Nays 6 Absent 0

President of the Senate	Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 89 Nays 3 Absent 2

Speaker of the House	Chief Clerk of the House

Received by the Governor at _____M. on _____, 2015.

Approved at _____M. on _____, 2015.

Governor

Filed in this office this _____day of _____, 2015,

at _____ o'clock _____M.

Secretary of State

#3 3-16-17 SB 2236 Sorenson