



PLAINS
PIPELINE, L.P.



January 18, 2006

Mr. Patrick Fahn
North Dakota Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

Dear Mr. Fahn:

Enclosed is a report following investigation of a landowner complaint concerning topsoil segregation with regard to a Public Service Commission order No. PU-05-185 for pipeline construction in Richland County, ND.

Please call me at 701-575-4254 ext. 34 if you have any questions.

Respectfully,

Daniel Holli

Daniel Holli
Environmental Specialist



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Report of Landowner Complaint Investigation
Regarding
PSC Order No. PU-05-185.

On Monday, January 9, 2006 Plains Pipeline, L.P. received a telephone call from Pat Fahn of the ND Public Service Commission (PSC) that a tenant, Rex Niles, had called to ask what topsoil removal was considered adequate because he was concerned that insufficient topsoil had been segregated prior to trenching operations on his property. His wife called the PSC late Monday afternoon, the 9th to reiterate their concerns.

On Monday, January 9, 2006 Pat Fahn of the Public service Commission asked Dan Holli of Plains Pipeline, L.P. to place a call to Clinton Filler, the landowner, or Rex Niles, the tenant, to verify their concerns.

On Monday, January 9, 2006, Dan Holli drove to the construction site and observed that topsoil segregation was commencing on a portion of Section 20 T152N R104W in Williams County between Hwy 58 and the Missouri River. The construction crew had been asked to remove topsoil to a depth of at least 12 inches or to a color change and it appeared at the time of observation that a depth of around 12 inches was being removed in this area. It was observed that west of Hwy 58 a trench had been completed and pipeline had been lowered in.

Later Monday afternoon, Dan Holli reported to Pat Fahn that the area currently being worked on was having topsoil removed to a depth of around 12 inches in the area of trenching. Monday evening, Dan Holli spoke with Clinton Filler who asserted that after being asked to remove additional topsoil on land west of Hwy 58, the contractor had not removed what the landowner considered a sufficient amount of topsoil for his comfort prior to trenching.

On Tuesday, January 10, 2006, Ed Shypkoski and Dan Holli visited with Pat Fahn on the telephone to discuss adequate topsoil removal. It was suggested that a number of areas along the pipeline construction in Section 20 be checked to determine depth of topsoil removed and a report be written. On a subsequent conversation, Pat Fahn and Bill Binek arranged with Ed Shypkoski to conduct a site tour to ascertain the extent of topsoil segregation.

On Thursday January 12, 2006, a field visit was held with PSC representatives Pat Fahn and Bill Binek; Plains Pipeline personnel: Dan Holli, Ed Shypkoski, and Ron McCreery; Contractor Superintendent C.D. Calvin; Chief Inspector James Wright; and landowners: Clinton Filler, Rex Niles, and Tim Langwald. Several sites were visited and discussed and pictures were taken of these areas. Please refer to the attached pictures with regard to this discussion.

According to the landowners, the topsoil extends to a depth of around six foot in the river bottoms area. The topsoil is worked, according to the landowners, to a depth of 18 to 24 inches on the field with plant matter incorporated to maintain soil nutrition. A line can be observed on the trench sidewall showing the depth of soil maintenance.

The side wall of several trench segments that had not yet been backfilled were examined for signs of adequate topsoil removal. A tilling mark was observed on the sidewall of the trenches inspected. On some, it was evidenced by a change in color. On others the tilling line was defined by a layer of incorporated plant matter. The depth of tilled soil observable on the sidewall of the trench varied in depth in the various segments.

According to the contractor, the topsoil was excavated to a point where a color change was detected. One to three inches were left above the line of demarcation to prevent mixing of soils. The areas of this report are listed as 1 through 5 and are shown on the accompanying map.

Area 1

Tim Langwald's land between the railroad tracks and the south irrigation canal:

Tim was satisfied and considered that sufficient tilled soil had been segregated.

(Refer to pictures 11 and 12 and picture titled "topsoil strata"). Topsoil is observed to extend to the bottom of the trench.

Area 2

Clinton Filler's land between the north and south irrigation canals:

The contractor believes that up to 8 inches topsoil was removed depending on the depth of the observed color change with 1-3 in. remaining above color change.

A picture provided by the contractor titled "color change picture" indicates the color change observed in this section at the depth of topsoil segregation.

Area 3

Clinton Filler's land between the north irrigation canal and Hwy 58:

(This is the segment that the landowner complaint was lodged against)

Contractor believes that up to 10-11 inches of topsoil was removed depending on the depth of the observed color change with 1-2 inches remaining above color change

A transit used by the landowner measured a soil elevation difference of 2-3 inches between the outside and the inside of the right-of-way at the location of photograph 9.

(Refer to pictures 9 and 10) Topsoil is observed to extend to the bottom of the trench.

Area 4

Tim Langwald's land between Hwy 58 and the Missouri River:

Contractor believes that up to 11-12 inches of topsoil was removed depending on the depth of the observed color change with about 1 in. of soil left over the color change.

(Refer to Pictures 3 through 8)

#3,4 and 5 are taken from the east end looking west. River sand is observed at about 3.5 feet below the ground surface with topsoil observed from that point to the surface.

#6 is looking at the north edge of the ROW to show how much surface soil was segregated prior to trenching. This spot is also visible in picture 3 near the topsoil arrow.

#7 and 8 are taken from the west end looking east. Topsoil is observed to extend to the bottom of the excavation at this point.

Area 5

East of the Missouri River, all topsoil was removed to a depth of around 18 inches exposing a layer of river sand. The topsoil was segregated to the side of the Right-of-way and the trench spoil pile was placed on top of the horizontal plane of exposed river sand.

(Refer to pictures 1 and 2).

In summary, the contractor asserts that topsoil segregation was done to their best judgment based on color differences in the soil. Following topsoil segregation, the spoil pile resulting from trenching was placed onto the horizontal surface of the right-of-way remaining below topsoil segregation. The contractor asserts that this flat surface is frozen and the trench spoil pile will easily be removed and returned to the trench without mixing into the horizontal surface it had been resting on. This returned soil will be tire packed back into the trench. Segregated topsoil will then be restored.

This means that the volume of soil segregation in question that will exist following construction will be in a layer 24 inches wide, extending the length of the trench, and varying in depth as determined by the landowner preferred soil maintenance practices. All other portions of the right of way will remain undisturbed as the segregated topsoil is put back in place.

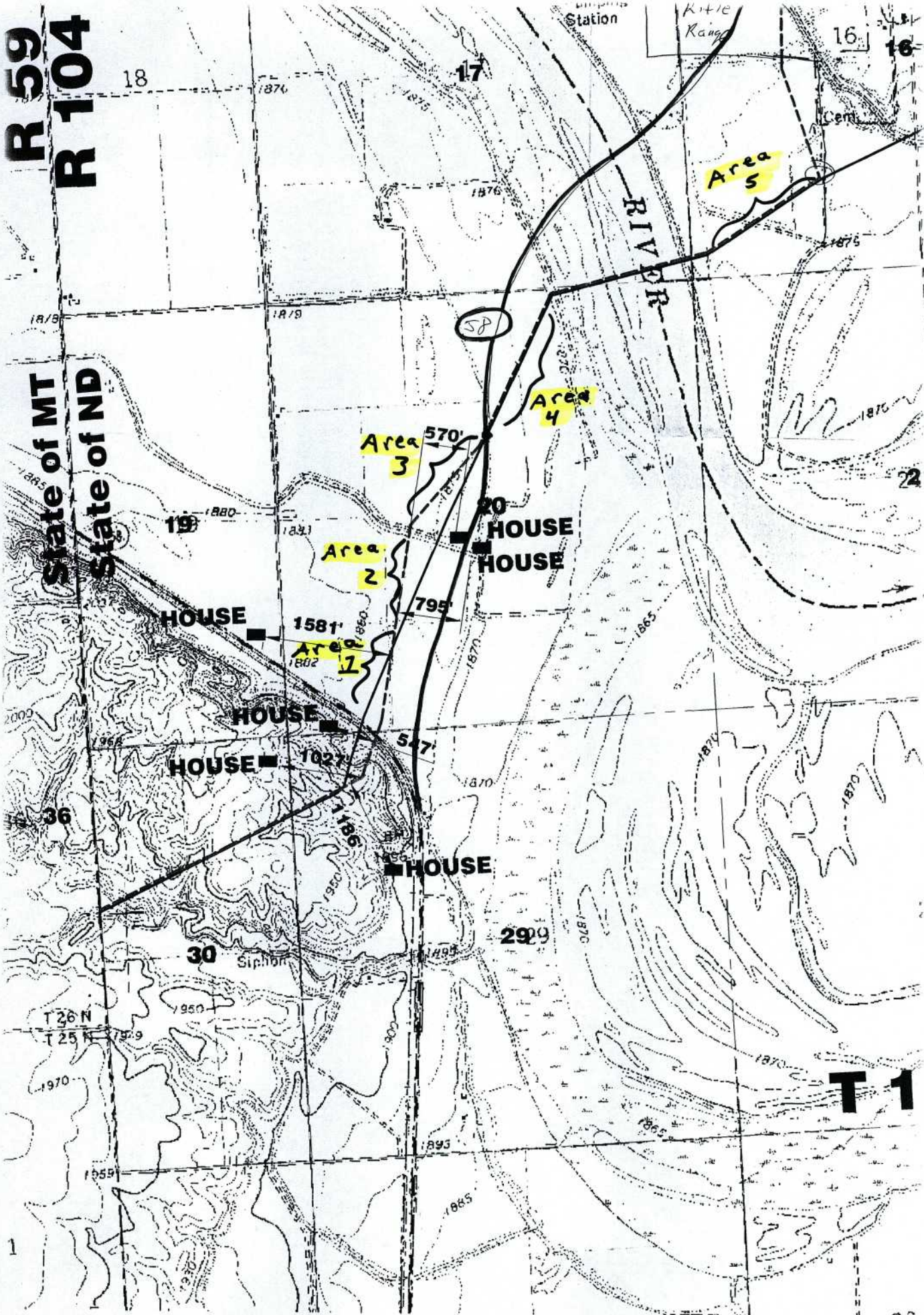
In conclusion, Plains Pipeline, L.P. believes that the Public Service Commission Order No. PU-05-185 was complied with to the extent that:

1. The contractor asserts that topsoil had been segregated on the right-of-way to within 1-3 inches of a color change that was believed to indicate the presence of non-topsoil.
2. The landowners indicated on the field visit that topsoil extends to six feet – well below the depth of trench excavation on the west side of the Missouri River.
3. East of the river in area 5, all topsoil was segregated to the depth of river sand.
4. The landowner Tim Langwald considered topsoil segregation adequate in areas 1 and 4.

Plains Pipeline, L.P. believes that the contractor on the project put forward a good faith effort to comply with the topsoil removal requirements as specified in the order and that the contractor used judgment to determine how deep to segregate topsoil based on an observed color change while clearing the frozen ground.

R 59
R 104

State of MT
State of ND



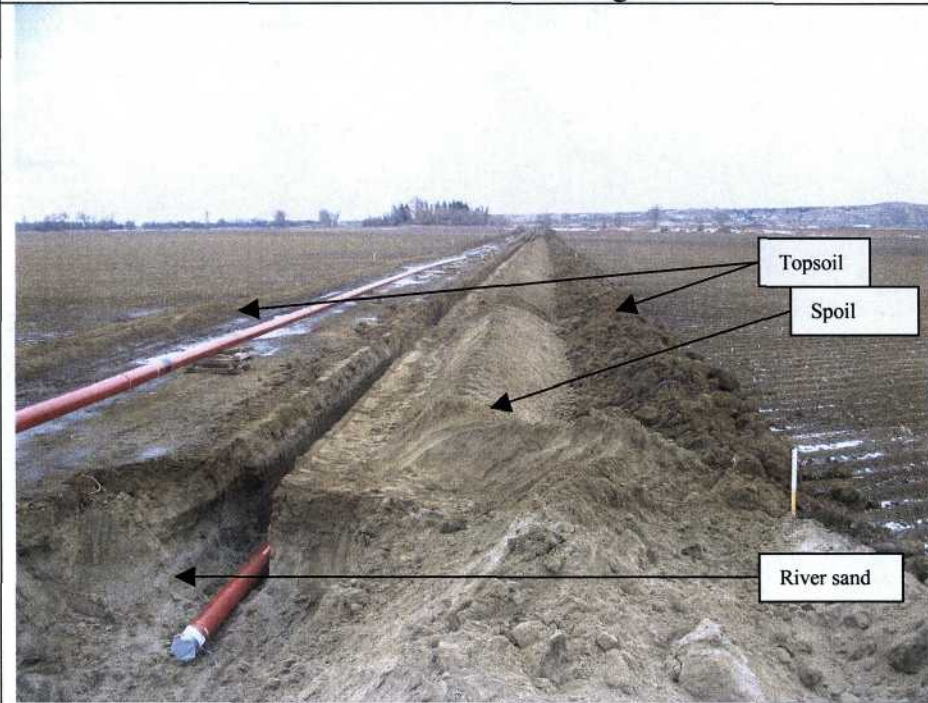
Pictures of Topsoil Segregation



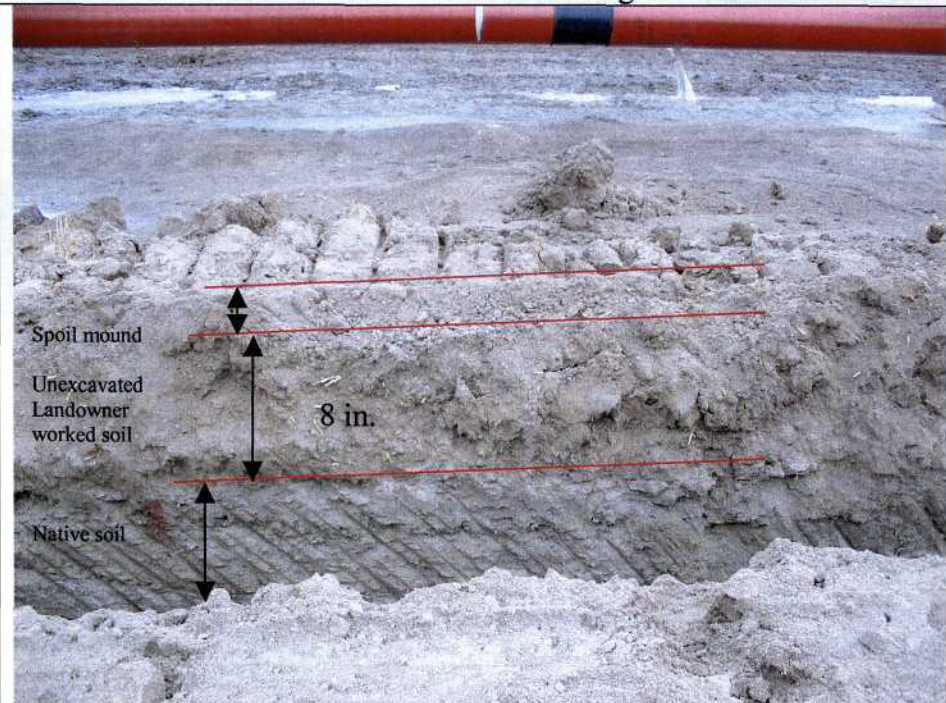
1 S16 east of Missouri River -- east end looking west



2 S16 east of Missouri River -- east end looking north across ROW



3 S20 between Hwy 58 and Missouri River – east end looking west



4 S20 between Hwy 58 and Missouri River– east end looking south across cut



5 S20 between Hwy 58 and Missouri River— east end looking south across cut



6 S20 between Hwy 58 and Missouri River— east end looking north



7 S20 between Hwy 58 and Missouri River— west end looking east



8 S20 between Hwy 58 and Missouri River— west end looking north across cut



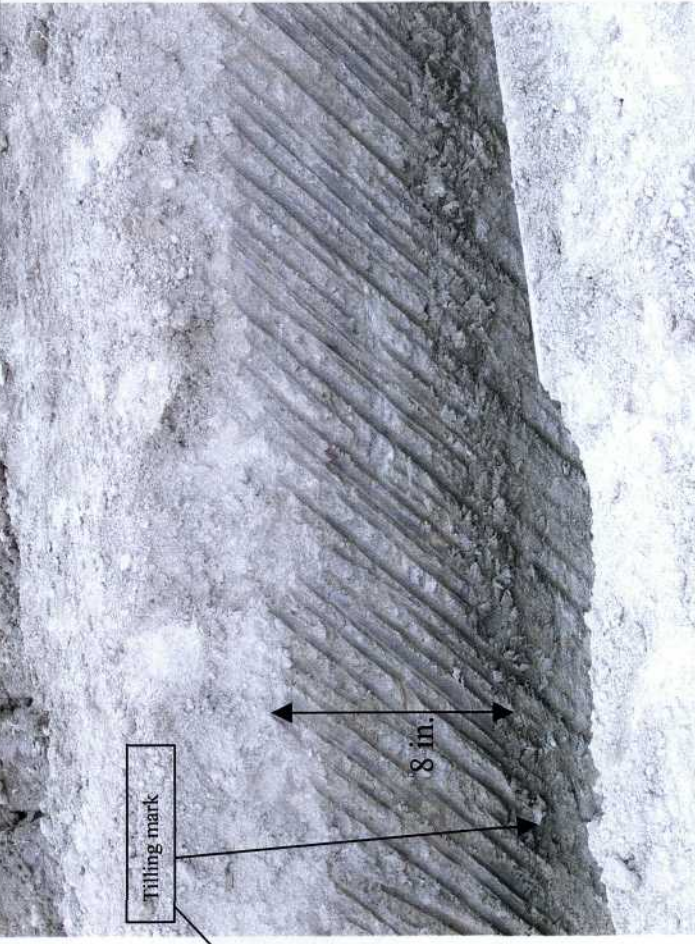
9 S20 between canal and Hwy 58 – south end looking north



10 S20 between canal and Hwy 58 – south end looking west across cut



11 S20 between railroad and canal – south end looking north



12 S20 between railroad and canal – south end closeup of cut

Color Change Picture



Color Change

Picture of Topsoil Strata on South end of Section 20 near the railroad tracks

