

International Certification Services, Inc.

301 5th Ave Southeast, Medina, North Dakota 58467 USA Ph: (701) 486-3578 Fax: (701) 486-3580
E-mail: info@ics-intl.com Website: www.ics-intl.com

Corporate Headquarters in Rural North Dakota

Operating the FVO Organic Certification Program

The FVO Program is accredited by IFOAM, Conseil des appellations agroalimentaires du Québec (CAAQ), and (USDA) ISO 65

19 July, 2006

Judge Heydinger,

International Certification Services, Inc. certifies Gardens of Eagan as an organic producer under the USDA National Organic Program as well as under its internationally accredited IFOAM (International Federation of Organic Agriculture Movements) program. It has come to our attention that the ecological integrity of this exemplary organic farming operation is currently being threatened by the potential installation of an oil pipeline through the farm premises. We wish to share our perspective about the negative impacts – both for this farm itself and for organic farming operations in general – that such a pipeline or similar actions would cause.

Gardens of Eagan has provided us with copies of the documents submitted by them and their counsel in response to the proposed pipeline installation. We wholly agree with the content of those submissions, and as such shall not strive to recreate them here. Nonetheless, our experience working with organic farming operations worldwide affords us certain knowledge that we wish to emphasize to authorities as they consider the fate of Gardens of Eagan and other organic farms in light of such proposed land use and development.

The use of the organic land in question by the pipeline company will, in our estimation, inevitably and without a doubt cause long-term harm to the soil and immediate surrounding ecology, perhaps irremediably so for all practical purposes. We can categorize the damages as follows:

- *Disruption and damage of soil structure and soil micro- and macro-biology*

In organic systems the soil can be thought of as a living organism itself. Each farming operation is specific to the soil it stewards. Activities such as tillage, planting, and amendment are done with consideration to foster the greatest degree of soil life, a combination of minerals, water, air, organic matter, and living organisms (bacteria, fungi, insects, others – the list of species far too long to fully know and understand) in a dynamic physical structure and cycle of life that constantly transforms and feeds itself. All parts of the system must be functional to constitute a living organic soil and thus a successful farming operation.

Compaction of the soil by machinery, pipelines, and related infrastructural equipment will undoubtedly ruin soil structure, killing countless life forms currently existent, suppressing life and productivity of the soil. Lifeless soil easily erodes and then is lost. Building good soil is a years-long process. Destruction can occur in a quick event such as installation of this pipeline. Rebuilding of the damaged soil is again a years-long process.

- *Disruption and loss of biodiversity*

Biodiversity is directly impacted by the installation of the pipeline, as virtually any species in the way of the installation will be killed, chased out, or deterred from passing through the site. Nature does not have borders as humans might. Travel lanes for both small and large species are disrupted by the advent of the pipeline. These species play an important role in maintaining the ecological balance not only of the farm but of the ecology of the region in general. They complete the food chain and help maintain balance of species. This brings equilibrium to potential agronomic disease and pest problems. Systems without

sufficient diversity usually suffer in one way or another and must be restored to diversity to flourish again. Organic production systems rely on such holistic balance, as opposed to conventional systems which use chemicals as curative measures. Where it is laid, the pipeline will effect a permanent disruption of at least some species' existence and life cycle and effectively create a barrier to others. While some species may ultimately return, others might not, depending on the degree of negative impact of the pipeline installation. The long-term negative effects of the installation and pipeline on the organic farming operations could thus be persistent.

▪ *Contamination of lands by various materials involved in the installation and operation of the pipeline*

The above two points are aggravated by the fact that the soil where the pipeline is laid and the space around it *will* be contaminated – by the equipment used to effect the installation, structural components of the pipeline and its support infrastructure, and/or leaks in the pipeline. History clearly shows (with the company in question here as well as with other similar companies) that oil leaks do occur. The reality of using heavy equipment is that this machinery operates with materials that are toxic to life and explicitly prohibited by organic production standards, and are counter to the holistic management essential to successful organic farming. Incidental leaks from equipment, use of heavy metals in the form of solder, and chemically-treated fence posts are just a few examples of such types of contamination, not to mention the devastating impact of an actual leak in the line. Organic farmers are required to maintain equipment in their operations in good order and only use materials on organic land if they comply with specific lists of allowed materials. Exposure of the land to non-compliant materials can render the land ineligible for organic certification for at 3 years, regardless of whether the exposure was unintentional.

In summary, the unavoidable contamination as described above, in combination with the deleterious effects of the construction on soil structure and biology of the ecosystem will be a damaging blow to the land in question, removing affected areas from organic certification for at least three years, not to mention the unknown additional years needed for the land to recover from the abuse sustained by the installation and produce again in a manner that is economically viable for the farm. Furthermore, organic standards require that buffer zones be maintained on organic lands to protect them from potential or actual contamination threats from surrounding areas. The land around the pipeline will likely need to be buffered in such a manner, the exact delineation of which depends on the particulars of the construction. This means additional loss of certifiable land from the organic farm holding.

The loss of farmland should never be taken lightly, and the loss of organic farmland far less lightly still. Most farmers struggle to remain economically viable even under generally favorable circumstances.

Again, we respectfully refer you to the documents submitted already by Gardens of Egan as to the specific concerns and suggestions for mitigation of negative impacts of land-use planning as is involved in this case. We support Gardens of Egan's proposals that Agricultural Impact Mitigation Plans (AIMP's) be required to specifically protect organic agriculture, to wit:

1. Pipelines should avoid organic farms if there are feasible alternatives.
2. If there are no feasible alternatives, specific precautions should be used in pipeline construction and maintenance on or near organic farms to protect soils from contamination and erosion and to rebuild and restore any organic soil or biodiversity which is disturbed. This would include the training and supervision of operators on the site to conduct activities in a manner that takes substantive precautions to avoid contamination and undue negative environmental impact otherwise, including documentation of all such training and activities.
3. Organic farmers should have the option to require that the farm be purchased or otherwise duly compensated in the event of an oil leak or spill or organic decertification. We emphasize that damages would need to be assessed in more than mere dollar terms. An analogy might be when your car is "totaled" by the insurance company, the compensation awarded falls short of the actual value of the vehicle. Damages must be considered in terms of land value, market loss, reputation damaged by any news that an operation was adversely affected, and other infrastructural costs

associated with recovering from the damaging events. Overall, AIMP's should require practices that preserve organic farms, not just compensation for damage or destruction of organic resources.

We stay available to assist in this discussion further. Any questions or comments are welcome. We hope for a decision favorable to the fate of Gardens of Eagan and other organic producers now and in the future.

Sincerely,

International Certification Services, Inc.