



Alliance Pipeline Inc.  
1520 8<sup>th</sup> Street SE  
Valley City, ND  
58072

APPENDIX D

**North Dakota Legislative Council  
Natural Resources Committee**

**Testimony of Michael J. McGrath  
U.S. Integrity and Compliance Coordinator**

**Alliance Pipeline Inc.  
6385 Old Shady Oak Road, Suite 150  
Eden Prairie, MN 55344**

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Mr. Chairman Flakoll and members of the Committee:

My name is Michael J. McGrath and I am presently the U.S. Integrity and Compliance Coordinator for Alliance Pipeline. Prior to joining Alliance, I was employed by the Minnesota Office of Pipeline Safety (MNOPS) from 1988 through 2006. At MNOPS, I was responsible for the state's pipeline safety enforcement program, as well as the development and implementation of a nationally recognized state damage prevention program which included a very active education and enforcement program. I request the opportunity to offer comments on the first draft amendments to the North Dakota One Call statutes (subsection 7 (b) of section 49-23-01 and Section 3 of section 49-23-06).

Alliance operates 324 miles of 36-inch, high pressure, interstate natural gas pipeline in the State of North Dakota. We are a member of the North Dakota One Call agency. Alliance was instrumental in implementing the North Dakota Pipeline Association to better coordinate communication between North Dakota Pipelines and emergency responders. We have an area management office in Valley City, and we employ 14 highly skilled, dedicated employees focused on the safe and efficient operation of our system throughout North Dakota.

**Subsection 7 (b) of section 49-23-01:**

Current State Law requires that Agriculture activities that "disturb the soil to a depth of eighteen inches (45.72 centimeters) or more" would be subject to One Call notification requirements. The proposed amendment to Subsection 7 (b) of section 49-23-01 of the North Dakota Century Code would **remove the requirement that all** "plowing cultivating, planting, harvesting and similar operations in connection with agricultural activities" not be included in the definition of "Excavation" for purposed of this One Call bill.

Alliance is concerned that removing a depth requirement from the agricultural exemption in North Dakota law could result in a greater threat to underground utilities, and a potentially unsafe environment for North Dakota Farmers and agricultural workers. With advances in agricultural techniques, greater horsepower and deeper tilling implements, disturbing North Dakota soils to a depth greater than 18 inches may become more prevalent. Alliance is also concerned that removing the 18 inch exemption and leaving the "...similar operations in connection with agricultural activities..." language may result in potentially exempting other excavation activities that would clearly threaten utilities such as pipelines (e.g. drain tiling).

Neighboring States that include the 18 inch agricultural amendment are Minnesota and South Dakota. Wyoming only exempts tilling for agricultural purposes.

Alliance is not aware of any situations where the requirement to call for agricultural activities at > 18 inch depth has been an issue.

Alliance encourages the Natural Resources Committee to NOT remove the eighteen inch soil disturbance depth from the current North Dakota One Call Statute.

**Section 3 of section 49-23-06:**

In working with the North Dakota One Call Board, Alliance recognizes that any changes to include penalties & enforcement provisions in this law be implemented in an impartial and balanced way. The Amendment language proposed in this section 3.a and 3.b as drafted is specific to "Excavators" and leads to the presumption that only Excavators can be subject to penalty and enforcement under this law.

Broadening this bill to include Underground Facility Operators being subject to penalties for lack of compliance with this statute will aid in the acceptance by all parties subject to this statute. It is also important to specify that an Underground Facility Operator failing to comply with this law would be responsible to bear the cost of repair to their facility, should damage result from the Underground Facility Operator's failure to comply.

Alliance encourages the Natural Resources Committee to "balance" this amendment by including any party (excavator or Underground Utility operator) as being subject to the Penalty / Enforcement language of this bill.

For the safety and protection of North Dakota citizens, it is Alliance Pipeline's belief – as well as our highest priority – that ensuring the safety of those citizens that live and work near our facilities, our employees, our families and the communities in which we operate be paramount. As a whole, the North Dakota pipeline industry wishes to help you and North Dakota citizens prevent avoidable disasters.

Alliance Pipeline supports the above changes and strongly encourages each and every one of you to support it as well. The safety of the citizens of North Dakota depends on it.

Mr. Chairman, I thank the Committee for the opportunity to testify today. I'd be happy to answer any questions.