

**2011 HOUSE POLITICAL SUBDIVISIONS**

**HB 1382**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1382  
February 10, 2011  
Job # 14383

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to gas-gathering pipelines and the one-call excavation notice system.

### Minutes:

Proposed amendment #1, Testimony # 2

Chairman Johnson: Reopened the hearing on HB 1382.

Rep. Conklin: This is a safety issue out in the oil field. There is a page of amendments that oil companies, pipeline companies, telephone companies all want to present. I do have a copy of the proposed amendment.

Rep. Shirley Meyer: In your area have there been any instances of pipelines no being located when you make the 811 call and they do not know where they are?

Rep. Conklin: Yes I believe it has happened especially in some of the older lines there are problems with where they are so they need to have a system in place. That is what this is going to do.

Ron Ness, ND Petroleum Council: (See proposed amendment #1). We stand in support of this bill today. One of my oil operators that has been here since the 50s that had 12,000 tickets last year. That means they were required to go out and mark 12,000 tickets in a year. That is about 40/day. Some of the amendments we have are in relation to that. The ND Safety Council had their safety meeting this week and the petroleum council put together a safety meeting of industry within that safety council meeting Tuesday at the civic center. One of the breakout sections was pipelines. The pipeline company got together and took this piece of legislation and thought about what things that we should we be doing to make it safer out there in this one call system. They came up with this sheet of amendments, but essentially that is what we are trying to do here is improve the system because there is so much activity going on out there. A shape file is a file that the pipeline company generally puts this on their computerized system that goes into the 811 system. Went through the proposed amendments.

Rep. Shirley Meyer: What do you mean 12,000 tickets?

Ron Ness: A ticket is an 811 system call and that company is responsible to go there and either contract with someone or mark those lines or pay for it themselves. There will be some experts behind me that can clarify that further if need be.

Rep. Koppelman: Your comment about the 90 day span; if somebody calls two weeks after the line is in service and wants to dig doesn't that information how does that work with 811.

Ron Ness: Currently there is no requirement at all so yes there is a 90 day period in there and that company is going to want to get them in there as fast as possible but likely not possible so maybe you can ask someone else.

Rep. Hatelstad: As soon as that pipeline is completed; not a problem if it is only one company that is laying pipe, but how many companies out there maybe 20 companies laying pipe so they could be running over the top of each other not knowing because the line isn't in service yet? As soon as the pipeline is finished shouldn't people be notified?

Ron Ness: What you are going to find is it is going to take a little time for them to get that into place. It is not the first thing they are going to be able to do when they get that line in and connecting these lines that really have never been required to do this before so we are increasing the standard. It was suggested 180 days; some of the companies thought it would take that long, but we felt it was too long. In the amendment they really wrote in all the things they were kicking around. The changes I have highlighted in yellow. Went through the definition of locate and how it works in the oil field. The rest of the bill is numbering.

Chairman Johnson: You have Roman numeral 1.2.3.4 and they are all new language. Is that stuff that was currently provided through the system, but now you are adding it into the law?

Ron Ness: All they have done is renumbered them. They are in existing law.

Ken Dockweiler, Bridger Pipeline: I have 20 years pipeline experience on the gas side. More recently on the hazardous liquid side.

Rep. Shirley Meyer: with all the activity we have definitely found a lot of old lines that no one knew were there and a lot of people are running into them. Who has the liability for those lines?

Ken Dockweiler: Basically if you own that facility and somebody damages it that is your problem. With regard to lines that maybe are unknown origin that are old and abandoned; then that is harder to figure out. I don't know if ND has good record banks on that and it loses a lot.

Rep. Hatelstad: How often do we find safety issues like this where we are hitting pipelines unmarked?

Ken Dockweiler: It is a rare occurrence, but the safety that goes along with that and risk is significant. We had a fatality in Tioga recently. There have been a couple other high

profile damages. Fortunately on the two later cases no injury or fatalities but certainly very close to what could have been multi fatalities in both cases. It is unclear what happened in these cases. There is a lot of risk out there particularly with the volume. Some of the operators are seeing a huge number of locator tickets on a daily basis. It is a lot of burden.

Rep. Zaiser: Shouldn't care be one of the essential ingredients in what you do?

Ken Dockweiler: There are facilities out there that are not seeing an increase in profit. There are facilities that have been there and continue do their business but they are interfered with by all the extra oil and gas production. For example not all of the oil and gas production requires increased telephone lines out in the rural areas; there are still some there. Certainly the telephone companies are not seeing increased revenue from that increased activity but they still have the increase in the number of tickets that they are experiencing. In some cases you are correct. For my business in particular we are building a pipeline right now and hope to increase our revenue because of that.

Rep. Hatelstad: Do the companies laying these pipelines cooperate with one another so that if you are laying a pipeline here and I am going to do something someplace else I can come to you and say are we going to clash?

Ken Dockweiler: I think as an industry we are pretty good at coordinating. Yes in the early stages their certainly might be some information that we don't share because we want to get into the door before our competitors. As you begin that process you will see pipeline companies go; we are not going to build on the corridor too because all the volume is already committed. One of the things most pipeline companies do is get commitments on our volumes before we start construction like we did in our 4Bears. That locks in some commitment to that pipeline in that regard other companies wouldn't be an incentive for them to come out and build a pipeline in that same corridor for the same purpose. You may have a company that is building all kinds of gathering lines around a transmission pipeline or visa versa. I wouldn't say we coordinate 100% but there is certainly less incentive to build a pipeline or corridor where someone else already has one.

Rep. Beadle: Previously I understand the idea why they wouldn't want to backlog it right away through the statue here but rather they want it to be effective for all the new pipelines that are being put down. What sort of process goes in towards the pipeline companies mapping the pipelines that they have? I am assuming they have records of the pipelines that they already are using right now. Now difficult would that be to get the backlog stuff available for the 811 system?

Ken Dockweiler: Records in some cases particularly in the really old stuff that is out there are somewhat sketchy. In some cases you have fields that are not so productive. The cost associated for getting those mapped and getting them on a system may outweigh the advantage to having it there. I would like to let someone else address that more clearly. We do have all our gas lines on the 811 call. From our standpoint it is a risk benefit. We don't want them damaged anymore that we want someone hitting them.

Rep. Shirley Meyer: What is an updated shake file?

Ken Dockweiler: A shake file is basically a drawing that shows where that line lay. It may actually be more accurate than just township and section lines and GPS.

Niles Hushka, Kadrmas, Lee & Jackson: (See testimony #2).

Rep. Klemin: The original bill where the language is not being changed refers to gas gathering pipelines. In your testimony you referred to oil and gas gathering pipelines. Maybe we need to change the terminology in the bill. Would that be too narrow?

Niles Hushka: I would strongly suggest you do change the language to include all gathering lines because in a mature oil field situation we gather in many different things including NGL's separate from the gas.

Rep. Klemin: What should we call this?

Niles Hushka: Oil and gas gathering systems.

Rep. Zaiser: Do you think some of these old lines that are leaking and maybe causing some ground water contamination do you think it would be appropriate thing to do is have those removed.

Niles Hushka: I think if they are abandoned properly they are no hazards to the environment or to the future. I would strongly suggest you have those companies that have information available on their lines in shake files register that. For a lot of the old infrastructure that is in place it is very difficult to find. We have had to do ground penetrating radar across the entire corridor which is extremely expensive in order to locate these old lines. If it is available I think it would be OK to ask them to provide it. Otherwise it would be a cost burden to ask them to relocate lines that have been in place since the 50s. I think when they are struck they are registered that could help in the future too because we don't know where these are. When we reconstruct roads or plow in telephone cables we do hit something; we register it it would at least be available in the future.

Rep. Hatelstad: Do you anticipate with the Bakken exploration that we are going to go back into a lot of areas that were becoming non productive now and we are going to run into quite a few of those old lines that nobody knows about?

Niles Hushka: Yes we are already running into old lines. What we will do internally document them. I guess the best records in the oil field belong to us because we work for many of the companies and so when we do encounter an old line we internally document it so when we are in the region again we can pull up that information. We don't provide that information to a central agency so they have access to it.

Rep. Hatelstad: So if we put this bill in would you be required to report that information?

Niles Hushka: No it would take an enhancement of the legislation to require that when an abandoned line is uncovered that it would have to be registered also.

Rep. Hatelstad: It would only make sense.

Niles Hushka: It would be easy and no cost burden and it would provide a very good long term data of the field.

Bob Graveline, Utility Shareholders of ND: These utility companies have been strong supporters of the one call system and are among the founding organizations. I don't know if I am in favor or opposed to the bill. I would like the committee to give us time to review this and see if there is an impact that could affect the distribution companies.

Rep. Zaiser: What are your feeling in the documentation of old and abandoned lines that are discovered as was indicated by Rep. Hatelstad?

Bob Graveline: The utility companies have all their information already documented with one call so I would suggest that question be asked of someone that owns the gathering lines because the distribution and utilities do not own them.

Rep. Zaiser: What are your thoughts on them being required to document lines when they are found?

Bob Graveline: We do support the one call system, which is an identification of whatever goes into the ground. Personally it seems to make sense. I think the enforcement would be difficult when you take into account the thousands of farmers we have out there that put something into the field and if it is no harm no foul I don't know how you would administer such a requirement.

Rep. Hatelstad: If you run into an abandoned line as a part of company policy would you report that or would you keep it as an internal document?

Ken Dockweiler: I am not aware of any reason why we would report that. As far as any clearing house that would take that data and have it there for other operators. Right now as a practice we would not report that.

Rep. Hatelstad: Would you see a problem requiring that if we added that to this bill?

Ken Dockweiler: I would have to see what the proposal was because on just on the surface I would say that is minimal. The question I would have is if I find something how much research am I going to have to do as far as where this entire thing goes and where it comes from that could get expensive. Be careful how you craft it so you don't create a huge expense.

Opposition: None

Hearing closed.

Chairman Johnson: Appointed a subcommittee including: Rep. Hatelstad, Chairman; Rep. Shirley Meyer and Rep. Beadle so as you get information you can feed it through those representatives.

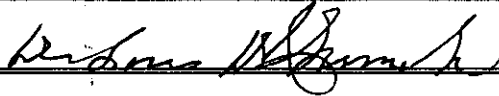
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1382  
February 17, 2001  
Job # 14679

☐ Conference Committee

Committee Clerk Signature



### Minutes:

Proposed amendment #1

Chairman Johnson: Reopened the hearing on HB 1382. Rep. Hatelstad, Rep. Meyer and Rep. Beadle worked on a subcommittee to iron this one out.

Rep. Hatelstad: We worked with representatives of the oil industry and the excavators. (See proposed amendment #1). We worked with representatives of electric company and representatives from the public service commission and think we have a bill that everybody can live with. Went over the amendment. Basically we want to make sure that everything whichever the direction the pipeline or the utilities lines go that it is going to be marked rather than just the main line, but all the trunk lines and t's etc. will all be checked. Everything is done with the idea of safety in mind. In Section 2 the main question there was when was the pipeline or utility company; who is installing the facility when should they notify one call and the decision was before you can put the facility in affect you have to notify one call.

Rep. Klemin: Just a question on the verb being; what about using the word is instead of being in Section 2 before an underground facility is put into service.

Chairman Johnson: Is is OK.

Rep. Hatelstad: On Section 3 in a white marking the excavation route; we set it up so the one call center at the direction of their board of directors would set up the parameters and there is quite a number of states out there that have legislation and a number of manuals out there with best practices and we thought rather than we do that the one call board would be able to design the parameters.

Rep. Koppelman: What is white mark?

Rep. Hatelstad: In other words the route has to be marked. The excavator does that.

Rep. Koppelman: Who does the marking?

Rep. Klemin: As I understand the white mark; that is the only area they want to have checked for underground facilities where they are going to run the pipelines.

Chairman Johnson: An example is if you want to put a tree here you can have them just say is it OK to put trees here?

Rep. Klemin: This would also apply to a residence. Can I as a home owner who is going to dig the hole go out there and white mark that?

Rep. Hatelstad: Just put a flag in the ground where you are going to do it and then the utility then would come and search that particular area. The white marking is a flag.

Rep. Klemin: It is a little white flag?

Rep. Hatelstad: Yes. In part B contact the one call center up to 48 hours before so we know what is going to happen. C things are included in the notice so everybody knows what is being done. Part 2 the one call center and that is their procedures to set up right.

Chairman Johnson: Why was the emergency deleted?

Rep. Hatelstad: Because it is for every procedure not just for an emergency.

Rep. Beadle: It also says when you delete emergencies they will have procedures in place for emergencies but this language is all encompassing as opposed to just have procedures for emergency situations.

Rep. Hatelstad: On page 3 with all the old lines out there we are asking if you start searching or digging and encounter an old pipeline that is not being used and is unidentified or a pipeline that is being used and is not identified that they notify the one call center immediately. So we find out and locate all these old facilities.

Rep. Zaiser: What would happen if a recently abandoned line that carried natural gas or oil and perhaps might still be some that could potentially spill and get into some underground water table? Is that addressed in here in terms of where that could be?

Rep. Hatelstad: As soon as an unregistered line is hit then there are certain procedures that must be followed. I am guessing the hazardous materials there must be rules and regulations that have to be followed right away and are not necessarily in here but are someplace else.

Rep. Hatelstad made a motion to change being to is in Section 2: Seconded by Rep. Kilichowski

Rep. Hatelstad made a motion to move the amendment .01004 with the additional change of the word being to is: Seconded by Rep. Beadle

Discussion: None

Voice vote carried.



Do Pass As Amended Rep. Hatelstad: Seconded by Rep. Beadle

Chairman Johnson: I would like to say thank you to the committee. That helps out a lot.

Vote: 14 Yes 0 No 0 Absent Carrier: Rep. Hatelstad:

Rep. Hatelstad: I just wanted to thank the representatives of the industry and the representative from the PFC that have worked diligently.

Hearing closed.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1382

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act amend and reenact subsections 11 and 15 of section 49-23-01, subdivision a of subsection 3 of section 49-23-03, and section 49-23-04 of the North Dakota Century Code, relating to the one-call excavation notice system.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsections 11 and 15 of section 49-23-01 of the North Dakota Century Code are amended and reenacted as follows:

11. "Locate" means an operator's markings of an underground facility showing the approximate horizontal location, including all lines, line direction, intersections, tees, and lateral facilities.
15. "Underground facility" means an underground line, pipeline, cable, facility, system, and its appurtenances used to produce, store, convey, gather, transmit, or distribute communications, data, electricity, power, television signals, heat, gas, oil, petroleum products, carbon dioxide, water, steam, sewage, hazardous liquids, and other similar substances. Privately owned and operated underground facilities which do not extend beyond the boundary of the private property are excluded.

**SECTION 2. AMENDMENT.** Subdivision a of subsection 3 of section 49-23-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. Submitting the information required by the notification center before an underground facility being put into service to allow the center to notify the operator of excavation activity;

**SECTION 3. AMENDMENT.** Section 49-23-04 of the North Dakota Century Code is amended and reenacted as follows:

**49-23-04. Excavation.**

1. Except in an emergency, an excavator shall ~~contact~~:
  - a. White mark the excavation as required by the notification center.
  - b. Contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator. If an operator determines more time is necessary for location, the operator may request a twenty-four-hour extension of the excavation or location notice by notifying the notification center. The notification center shall notify the excavator of the extension. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice. ~~The~~
  - c. Include in the notice must contain:

- a- (1) The name, address, and telephone number of the person making the notification;
- b- (2) The name, address, and telephone number of the excavator;
- c- (3) The date and time when excavation is scheduled to begin;
- d- (4) The depth of planned excavation;
- e- (5) The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring;
- f- (6) Whether the use of explosives is anticipated and any other information as may be required by the notification center; and
- g- (7) The location of the excavation by any one or more of the following means:
  - (1) (a) A specific street address;
  - (2) (b) A reference to a platted lot number of record; or
  - (3) (c) A specific quarter section by section number, range, township, and county. In this case, the location shall be further described by coordinates measured in feet from the nearest one-fourth corner or section corner.

2. The notification center shall:

- a. Provide a toll-free telephone number and assign an inquiry identification number to each excavation notice and retain a record of all excavation notices received for at least six years.
- b. Immediately transmit the information contained in an excavation notice to every operator that has an underground facility in the area of the proposed excavation.
- c. Inform the persons giving notice of an intent to engage in an excavation activity the names of participating operators of underground facilities to whom the notice will be given.
- d. Establish procedures for assuring positive response from the affected operator in all emergency excavation notices.

- 3. a. An operator, within forty-eight hours, or any extension of that period, after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator.
- b. For purposes of this section, the approximate horizontal location of the underground facilities is a strip of land two feet [60.96 centimeters] on either side of the underground facilities. This subdivision does not apply to an underground facility to convey water.
- c. When an operator cannot establish the exact location of the underground facility to convey water, the operator shall mark the location as accurately as possible and the excavator may proceed

with caution. When excavation operations approach the estimated location of the underground facility to convey water, the exact location of the facility must be determined by safe and acceptable means. The uncovered facility must be supported and protected to prevent damage.

- d. Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American public works association.
- e. If the operator cannot complete marking of the excavation area before the excavation commencement time stated in the excavation notice, the operator shall promptly contact the excavator.
- f. After facilities are located by an operator, an excavator shall notify the notification center if:
  - (1) The excavator postpones the excavation commencement time stated in the excavation notice by more than forty-eight hours, or any extension of that period, or cancels the excavation;
  - (2) The markings have been obliterated or obscured;
  - (3) Weather conditions have impeded visibility of the markings;
  - (4) The site shows evidence of recent excavation; or
  - (5) The excavator has other reason to believe the markings are incorrect or missing.
- g. An excavator may not use a location more than ten days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.
- h. If in the course of excavation the excavator is unable to locate the underground facility or discovers that the operator of the underground facility has incorrectly located the underground facility, or discovers a previously unidentified underground facility, the excavator shall promptly notify the operator or, if unknown, the one-call notification center.
- i. A facility owner, excavator, or other person may not present or presume that an underground facility is abandoned, or treat an underground facility as abandoned, unless the facility has been verified as abandoned by reference to installation records or by testing. The notification center shall establish a method of providing personnel from a facility owner qualified to safely inspect and verify whether a facility is abandoned or inactive if necessary. An inactive facility must be considered active for purposes of this section.

4. If an excavation is being made in a time of emergency, all reasonable precautions must be taken to protect the underground facilities. In an emergency, the excavator shall give notification in compliance with this chapter, as soon as practical, that an emergency exists. As soon as practical, each operator shall provide all location information that is reasonably available to the excavator."

Renumber accordingly

Date: 2-17-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1382

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Further Amend

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By

Rep. Hatelstad

Seconded By

Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Sec 2. Change being to is.

VR  
2/18/11  
104

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1382

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15. "Underground facility" means an underground line, pipeline, cable, facility, system, and its appurtenances used to produce, store, convey, gather, transmit, or distribute communications, data, electricity, power, television signals, heat, gas, oil, petroleum products, carbon dioxide, water, steam, sewage, hazardous liquids, and other similar substances. Privately owned and operated underground facilities which do not extend beyond the boundary of the private property are excluded.

**SECTION 2. AMENDMENT.** Subdivision a of subsection 3 of section 49-23-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. Submitting the information required by the notification center before an underground facility is put into service to allow the center to notify the operator of excavation activity;

**SECTION 3. AMENDMENT.** Section 49-23-04 of the North Dakota Century Code is amended and reenacted as follows:

**49-23-04. Excavation.**

1. Except in an emergency, an excavator shall ~~contact~~:
  - a. White mark the excavation as required by the notification center.
  - b. Contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator. If an operator determines more time is necessary for location, the operator may request a twenty-four-hour extension of the excavation or location notice by notifying the notification center. The notification center shall notify the excavator of the extension. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice. The
  - c. Include in the notice must contain:

- a- (1) The name, address, and telephone number of the person making the notification;
- b- (2) The name, address, and telephone number of the excavator;
- e- (3) The date and time when excavation is scheduled to begin;
- d- (4) The depth of planned excavation;
- e- (5) The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring;
- f- (6) Whether the use of explosives is anticipated and any other information as may be required by the notification center; and
- g- (7) The location of the excavation by any one or more of the following means:
  - (1) (a) A specific street address;
  - (2) (b) A reference to a platted lot number of record; or
  - (3) (c) A specific quarter section by section number, range, township, and county. In this case, the location shall be further described by coordinates measured in feet from the nearest one-fourth corner or section corner.

2. The notification center shall:

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- b. Immediately transmit the information contained in an excavation notice to every operator that has an underground facility in the area of the proposed excavation.
- c. Inform the persons giving notice of an intent to engage in an excavation activity the names of participating operators of underground facilities to whom the notice will be given.
- d. Establish procedures for assuring positive response from the affected operator in all emergency excavation notices.

- 3.
- a. An operator, within forty-eight hours, or any extension of that period, after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator.
  - b. For purposes of this section, the approximate horizontal location of the underground facilities is a strip of land two feet [60.96 centimeters] on either side of the underground facilities. This subdivision does not apply to an underground facility to convey water.
  - c. When an operator cannot establish the exact location of the underground facility to convey water, the operator shall mark the location as accurately as possible and the excavator may proceed

with caution. When excavation operations approach the estimated location of the underground facility to convey water, the exact location of the facility must be determined by safe and acceptable means. The uncovered facility must be supported and protected to prevent damage.

- d. Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American public works association.
  - e. If the operator cannot complete marking of the excavation area before the excavation commencement time stated in the excavation notice, the operator shall promptly contact the excavator.
  - f. After facilities are located by an operator, an excavator shall notify the notification center if:
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4. If an excavation is being made in a time of emergency, all reasonable precautions must be taken to protect the underground facilities. In an emergency, the excavator shall give notification in compliance with this chapter, as soon as practical, that an emergency exists. As soon as practical, each operator shall provide all location information that is reasonably available to the excavator."



Renumber accordingly

Date: 2-17-11  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1382

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 01004 + 15

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Hatelstad Seconded By Rep. Braden

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Vote  
carried*

Date: 2-17  
Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1382

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Hatelstad Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Hatelstad

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

**REPORT OF STANDING COMMITTEE**

**HB 1382: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1382 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsections 11 and 15 of section 49-23-01, subdivision a of subsection 3 of section 49-23-03, and section 49-23-04 of the North Dakota Century Code, relating to the one-call excavation notice system.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsections 11 and 15 of section 49-23-01 of the North Dakota Century Code are amended and reenacted as follows:

11. "Locate" means an operator's markings of an underground facility showing the approximate horizontal location, including all lines, line direction, intersections, tees, and lateral facilities.
15. "Underground facility" means an underground line, pipeline, cable, facility, system, and its appurtenances used to produce, store, convey, gather, transmit, or distribute communications, data, electricity, power, television signals, heat, gas, oil, petroleum products, carbon dioxide, water, steam, sewage, hazardous liquids, and other similar substances. Privately owned and operated underground facilities which do not extend beyond the boundary of the private property are excluded.

**SECTION 2. AMENDMENT.** Subdivision a of subsection 3 of section 49-23-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. Submitting the information required by the notification center before an underground facility is put into service to allow the center to notify the operator of excavation activity;

**SECTION 3. AMENDMENT.** Section 49-23-04 of the North Dakota Century Code is amended and reenacted as follows:

**49-23-04. Excavation.**

1. Except in an emergency, an excavator shall ~~contact~~
  - a. White mark the excavation as required by the notification center.
  - b. Contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator. If an operator determines more time is necessary for location, the operator may request a twenty-four-hour extension of the excavation or location notice by notifying the notification center. The notification center shall notify the excavator of the extension. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice. ~~The~~
  - c. Include in the notice must contain:
    - a- (1) The name, address, and telephone number of the person making the notification;
    - b- (2) The name, address, and telephone number of the excavator;

- e- (3) The date and time when excavation is scheduled to begin;
  - d- (4) The depth of planned excavation;
  - e- (5) The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring;
  - f- (6) Whether the use of explosives is anticipated and any other information as may be required by the notification center; and
  - g- (7) The location of the excavation by any one or more of the following means:
    - (4) (a) A specific street address;
    - (2) (b) A reference to a platted lot number of record; or
    - (3) (c) A specific quarter section by section number, range, township, and county. In this case, the location shall be further described by coordinates measured in feet from the nearest one-fourth corner or section corner.
2. The notification center shall:
- a. Provide a toll-free telephone number and assign an inquiry identification number to each excavation notice and retain a record of all excavation notices received for at least six years.
  - b. Immediately transmit the information contained in an excavation notice to every operator that has an underground facility in the area of the proposed excavation.
  - c. Inform the persons giving notice of an intent to engage in an excavation activity the names of participating operators of underground facilities to whom the notice will be given.
  - d. Establish procedures for assuring positive response from the affected operator in all emergency excavation notices.
3. a. An operator, within forty-eight hours, or any extension of that period, after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator.
- b. For purposes of this section, the approximate horizontal location of the underground facilities is a strip of land two feet [60.96 centimeters] on either side of the underground facilities. This subdivision does not apply to an underground facility to convey water.
- c. When an operator cannot establish the exact location of the underground facility to convey water, the operator shall mark the location as accurately as possible and the excavator may proceed with caution. When excavation operations approach the estimated location of the underground facility to convey water, the exact location of the facility must be determined by safe and acceptable means. The uncovered facility must be supported and protected to prevent damage.

- d. Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American public works association.
  - e. If the operator cannot complete marking of the excavation area before the excavation commencement time stated in the excavation notice, the operator shall promptly contact the excavator.
  - f. After facilities are located by an operator, an excavator shall notify the notification center if:
    - (1) The excavator postpones the excavation commencement time stated in the excavation notice by more than forty-eight hours, or any extension of that period, or cancels the excavation;
    - (2) The markings have been obliterated or obscured;
    - (3) Weather conditions have impeded visibility of the markings;
    - (4) The site shows evidence of recent excavation; or
    - (5) The excavator has other reason to believe the markings are incorrect or missing.
  - g. An excavator may not use a location more than ten days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.
  - h. If in the course of excavation the excavator is unable to locate the underground facility or discovers that the operator of the underground facility has incorrectly located the underground facility, or discovers a previously unidentified underground facility, the excavator shall promptly notify the operator or, if unknown, the one-call notification center.
  - i. A facility owner, excavator, or other person may not present or presume that an underground facility is abandoned, or treat an underground facility as abandoned, unless the facility has been verified as abandoned by reference to installation records or by testing. The notification center shall establish a method of providing personnel from a facility owner qualified to safely inspect and verify whether a facility is abandoned or inactive if necessary. An inactive facility must be considered active for purposes of this section.
4. If an excavation is being made in a time of emergency, all reasonable precautions must be taken to protect the underground facilities. In an emergency, the excavator shall give notification in compliance with this chapter, as soon as practical, that an emergency exists. As soon as practical, each operator shall provide all location information that is reasonably available to the excavator."

Renumber accordingly

**2011 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1382**

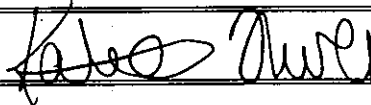
## 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

HB 1382  
March 24, 2011  
15951

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to the one call excavation notice system.

Minutes:

Testimony attached.

**Representative Tom Conklin:** District 4. This is a simple bill about gas lines and...I will let Mr. Hatlestad explain that.

**Representative Patrick Hatlestad:** District 1 in Williston. See attached testimony #1.

**Representative Marvin Nelson:** District 9. See attached testimony #2.

**Vice Chairman Sorvaag:** You are for the bill if you get the amendment?

**Representative Marvin Nelson:** Yes.

**Ron Ness:** North Dakota Petroleum Council. Initially this bill said that once you put in a gas pipeline into service you had 90 days to notify the one call center, we moved it up to as soon as it is put into service; we have had 2 serious incidents relating to safety this fall. The pipeline companies came together and drafted some amendments to improve safety. As I indicated, the Hose worked out the provisions; essentially we are trying to be as safe as possible. Using the white markings is the issue when you relate it to the oil and gas industry you are doing the entire 2 sections of a certain area. We are trying to narrow the focus so you know where that excavator is going. We are trying to provide more safety by narrowing the scope of where they mark and locate these lines. One of my companies had 12,000 locates last year so it has gotten to be a growing industry and isn't safety first the priority? The developer will ultimately be paying the bill. Second, the worker is the one who is taking the risk here and we want to ensure the safety of the worker. We urge you to support this bill. As technology changes we need faster ways to do things.



**Vice Chairman Sorvaag:** I keep hearing you brought all the parties involved and I talked to the parties in my part of the bill and they didn't know about this bill as it stands in its current form.

**Ron Ness:** The utilities, the contractors, the one call board system. To my knowledge the rooms on the days they were heard in the House.

**Ken Dockweiler:** I have spent 20 years in the pipeline business and am closely connected to liquid pipelines. As was mentioned there were several incidents dealing with safety and we want to talk to that a little bit. The reason I wanted to come in my work as a gas operator I have seen changes in other states where the safety was made more efficient. Once the project is identified we are ready to go, they must call 48 hours in advance to locate the underground facilities. They make the call to the notification center; the notification center has a database that tracks where operators are in what areas. One of the challenges right now with the explosion of work that is happening is to get it done. The other things that are covered in the one call bill are if you see something that is not marked there is the option to get a hold of someone who knows.

**Vice Chairman Sorvaag:** You can white mark now, yes?

**Ken Dockweiler:** Yes. There is certainly some excavating but the problem is there are a lot of places that are not white marked. Sometimes we get a location for 2 quarter sections so from a clarity standpoint to narrow that down is very helpful. Putting it in the rule helps to make more people comply with that and to help that process be cleaner.

**Senator Nelson:** What do you do when you come across something that is not marked?

**Ken Dockweiler:** That is a challenge. Unfortunately as it is now there is not a good mechanism to track that. The question is, can we manage that. When we run across a facility obviously there is some concern about it being an abandoned facility and are there hazardous materials in there or has it been cleaned out. So it is a challenge, even with the provision that has been added it would take some time to identify lines.

**Chairman Dever:** If this bill had been in affect prior to the 2 accidents would they have been prevented.

**Ken Dockweiler:** There is some preliminary findings that there was noncompliance with the rule as it exists. In our experience with the 2nd incident there is still some investigation.

**Chairman Dever:** The likelihood would have been reduced with this bill.

**Ken Dockweiler:** Any time we can better the communication of the parties via white lining or the positive response competent that is being added. .

**Senator Marcellais:** Do you work closely with the tribal preservation officer?

**Ken Dockweiler:** Obviously when things are discovered we are required to address those.

**Senator Nelson:** Do you have some specific rules about coming across things of historical significance?

**Ken Dockweiler:** I can't comment to that as I don't know what our practice is.

**Tony Straquadine:** Government Affairs Manager for Alliance Pipeline. See attached testimony #2.

**Senator Nelson:** You said 48 business hours, is that 6 days or 2 days?

**Tony Straquadine:** 2 days which only including the standard work week.

**Senator Nelson:** What is the minimum depth at which something is placed?

**Tony Straquadine:** It is currently defined in the statue as excavation it is not defined as to placement of a sign.

**Dale Niezwaag:** Dakota Gasification Company. We are in support of this bill.

**Ilona Jeffcoat-Sacco:** Public Service Commission. See attached testimony #3.

**Chairman Dever:** The one call center is located where?

**Ilona Jeffcoat-Sacco:** Minnesota but the board meets in Mandan.

**Senator Cook:** What is going to start getting identified that is not currently identified today?

**Ilona Jeffcoat-Sacco:** I think that you could interpret current language to cover some of the items that are added but it is always best to have it clear and specific. The timeframe for when you report the location is now specific and the other thing that I would pick out is the white marking part being in law as opposed to best practice.

**Senator Cook:** I believe in looking at this it has become nothing but a white marking bill. The 90 requirement, is that the time requirement you are talking about?

**Ilona Jeffcoat-Sacco:** No, I meant section 2 lines 18&19 on page 1.

**Senator Cook:** I am trying to understand why the original bill was introduced to require gas gathering pipelines mapped and filed. Was that an indication that they weren't?

**Ilona Jeffcoat-Sacco:** That is what I thought when I saw that language. The mapping sort of morphed into the GIS mapping.

**Doug Neibauer:** South Central Water District. See attached testimony #4.

**Mark Dougherty:** Membership Services Director for the Associated General Contractors of North Dakota.

**Doreen Redman:** North Dakota Association of Builders. In opposition to the bill, specifically section 3. I would invite Rory Schlosser up to explain further.

**Rory Schlosser:** Schlosser Excavating. We are in opposition to the bill and do not see any need for change at this time. I recommend a do not pass.

**Rick Ripplinger:** Dakota Fence. I am in opposition to this bill, we give good solid information, faxing and emailing drawings. I just feel that we can effectively communicate so we can dig safely without the white line in there. If I had to install a guardrail in Bowman County I feel like I can effectively communicate that without driving to Bowman to make it with paint and 2 days later go down to Bowman to install the rail.

**Jerry Blomeke:** Board of Directors of North Dakota One Call. See attached testimony #5.

**Jamie Ruud:** Estimator Project manager. See attached testimony #6.

## 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

HB 1382  
March 31, 2011  
16226

☐ Conference Committee

Committee Clerk Signature

*Katie Aivell*

### Explanation or reason for introduction of bill/resolution:

Relating to the one call excavation notice system.

### Minutes:

*No testimony attached.*

Chairman Dever opened the committee to discussion on HB 1382. A motion for a do pass was made by Senator Cook with a second by Vice Chairman Sorvaag to remove all of sections 2 and 3. Roll was taken, the motion passed and with the amended bill before them A motion for a do pass was made by Vice Chairman Sorvaag with a second by Senator Berry. Roll was taken, the motion passed and Vice Chairman Sorvaag volunteered to carry the amended bill to the floor.

11.0675.02001  
Title.03000

Adopted by the Government and Veterans  
Affairs Committee  
March 31, 2011

*JB*  
3-31-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1382

Page 1, line 1, remove the comma

Page 1, line 2, remove "subdivision a of subsection 3 of section 49-23-03, and section 49-23-04

Page 1, remove lines 16 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 28

Renumber accordingly

Date: 3/31/11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1382

Senate GVA Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Cook Seconded By Seuwaag

Senators	Yes	No	Senators	Yes	No
Chairman Dever	<input checked="" type="checkbox"/>		Senator Marcellais	<input checked="" type="checkbox"/>	
Vice Chairman Sorvaag	<input checked="" type="checkbox"/>		Senator Nelson	<input checked="" type="checkbox"/>	
Senator Barry	<input checked="" type="checkbox"/>				
Senator Cook	<input checked="" type="checkbox"/>				
Senator Schaible	<input checked="" type="checkbox"/>				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 3/31/11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1382

Senate GVA Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sorvaag Seconded By Berry

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment Sorvaag

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

**REPORT OF STANDING COMMITTEE**

**HB 1382, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1382 was placed on the Sixth order on the calendar.**

Page 1, line 1, remove the comma

Page 1, line 2, remove "subdivision a of subsection 3 of section 49-23-03, and section 49-23-04

Page 1, remove lines 16 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 28

Renumber accordingly



**2011 TESTIMONY**

**HB 1382**

Line 7 after the word "map" insert or updated shape file

Line 8 delete "~~completion of construction~~" and replace with "putting the line in service"

Line 9 after the word "system." Insert "This section is effective for gas gathering lines put in service after August 1, 2011."

#### Recommended amendments to ND ONE-CALL EXCAVATION NOTICE SYSTEM

A. To clarify the inclusion of CO2 pipelines, cables & pipelines:

##### 49-23-01. Definitions.

11. "Locate" means an operator's markings of underground facilities, which markings shows all changes in line direction, including any tee or lateral facility and are no more than 50 feet apart, depending on circumstances, clearly identifies the approximate horizontal location of the underground facilities.

15. "Underground facility" means an underground line, pipeline, cable, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, television signals, heat, gas, oil, petroleum products, carbon dioxide, water, steam, sewage, hazardous liquids, and other similar substances. Privately owned and operated underground facilities which do not extend beyond the boundary of the private property are excluded.

B. Adds requirement for White Markings for all proposed excavations, and Positive Response requirement for ALL locate requests:

##### 49-23-04. Excavation.

1. ~~1.~~ Except in an emergency, an excavator shall:

a. Use white markings to define the entire area where the excavation will occur. Include an area of safety margin within the area delineated by white markings. If after excavation has begun, it is determined that the excavation will need to move beyond the original white marked area, excavator must submit a new ticket for the expanded area.

a.b. At least forty-eight hours before beginning any excavation, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator contact the notification center and provide an excavation or location notice. If an operator determines more time is necessary for location, the operator may request a twenty-four-hour extension of the excavation or location notice by notifying the notification center. The notification center shall notify the excavator of the extension. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice. The notice must contain:

- i. The name, address, and telephone number of the person making the notification;
- ii. The name, address, and telephone number of the excavator;
- iii. The date and time when excavation is scheduled to begin;
- iv. The depth of planned excavation;
- v. The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring;
- vi. Whether the use of explosives is anticipated and any other information as may be required by the notification center; and
- vii. The location of the excavation by any one or more of the following means:

(1) A specific street address;

(2) A reference to a platted lot number of record; or

(3) A specific quarter section by section number, range, township, and county. In this case, the location shall be further described by coordinates measured in feet from the nearest one-fourth corner or section corner.

2. The notification center shall:

d. Establish procedures for assuring positive response from the affected operator in all emergency excavation notices.

Same  
Ticket

Remember

HB 1382  
Gas Gathering Systems  
Testimony in Favor  
February 10, 2011

Good Morning Chairman and Committee Members.

This legislation is short but powerful. It speaks to today's conditions however it enables a much better future for our oil producing regions. This legislation which will simply require that gathering system pipelines be located, mapped and then recorded will prevent damages not only to the active pipelines and therefore benefit producers but it will also help prevent environmental damages and could in fact save lives.

Today oil and gas gathering systems are non-regulated. I strongly support this aspect of the systems. Because they are non-regulated there is no requirement for these lines to be located, mapped and then recorded. The vast majority of oil and gas producing wells within our state will have at least one pipeline installed from the well site to a processing or collection location. These lines are installed along the easiest possible route in order to make them affordable. In most cases they are located just outside of public rights of ways. They are installed at relatively shallow depth sometimes only 36 inches deep. They are permanent and therefore will be in the ground forever.

Our company is currently working on several large electrical transmission lines. One of these lines is in northern Montana in an old oilfield that today is mostly abandoned. We are crossing over many gathering lines that no one was aware of. The original owners of the wells are no longer around and even if they were no one knows who owns these lines. We have excavated several and have found that they do have crude oil in them. They are dangerous and a longer term liability because they are corroded and will soon begin to leak.

Today we do not allow public utility lines like water lines or power lines to be buried without being registered. We track these so that when new infrastructure is built within the utility corridor these roads and pipelines can be planned and then built to avoid the original networks. Today in oil country it is impossible to find in advance without costly location techniques, the exact location of gathering lines. When these lines are struck during construction they spill fluids or natural gas. This results in gathering system disruptions and creates dangerous construction work conditions. Most gathering companies already collect location information because they need it to maintain their systems.

This is good legislation that will not result in additional costs and will save time and maybe even lives in the future. I encourage you to support this legislation.

Thanks  
Niles Hushka  
Kadrmass, Lee & Jackson

Chairman Dever and members of the Government and Veterans Affairs Committee, for the record I am Representative Patrick Hatlestad, District One, Williston.

How do you spell Safety? HB 1382 says it, defines it, confines it, executes it. Industries involved have only one #1 priority – SAFETY. SAFETY IS NEVER PLACED ON THE BACK BURNER **-It is and will always be FRONT AND CENTER.** One does not have to look for motivating factors that prompts the industries to emphasize safety. They are strong environmental stewards with deep concerns for environmental issues that may cause damages and perhaps threaten people's lives. They are people people. Plus, it just makes cents/sense.

HB 1382 started small and got big, growing from a 3 line, gas gathering pipeline, One Call, safety bill to a 3 page underground facilities safety bill with an MAJOR emphasis on SAFETY. We quickly recognized

that once you dig, more is involved than just gas lines. Representatives from oil, utilities, regulators, and excavators worked out, what we felt was, a fair and reasonable process of protecting the safety of existing underground facilities, the mapping of those facilities, and setting the process for establishing the rules and regulations covering the laying of new facilities and the mapping of "old" currently unmapped facilities. There is a major concern, not knowing location or ownership but knowing they are out there, these old gathering lines some containing crude oil, all corroding and some may be leaking. We need to locate, trace, map and where possible remove or encapsulate.


**Section 1** improved and expanded the definition of locate and underground facilities.

**Section 2** requires notification, to the One-Call system, of a facility BEFORE it is activated. Page 2 of the bill lists the information required in the notice to the One-Call system.

**Section 3** authorizes the Governing Board of the One Call system to set the rules and regulations governing the system: marking, handling various events, and the emergency notification procedure. Current legislation in other states and a manual of best practices currently in use offer an excellent template for One Call rules and regulations.

With oil exploration returning to previous unproductive areas or areas of limited production, there was a concern over the many unmarked line that may exist. A requirement was added that if an "old, unmarked line" is discovered during the excavation process, notification must be made to the One Call system. The One Call system will then attempt to trace, map and add the line to the One Call System.

Safety first, the number one priority. No one wins when there is a system disruption.



Testimony Representative Marvin Nelson for the Senate Government and Veteran's Affairs Committee.

3-24-11

Suggested Amendment:

Add 49-23-01-7

f. Soil testing for fertilizer recommendations.

To explain a bit about soil testing for fertilizer recommendations.

It is quite different in different parts of the country. In wetter areas, they simply test the topsoil, in the drier areas, soil testing is primarily done to manage nitrogen and so needs to be deeper, the standard for most crops in ND is 24 inches. For each sample about 20 cores are taken from the field.

This is shown in the first couple of maps.

There are more intense sampling methodologies coming into usage, zones or grids. Grids are simply squares that are smaller than the field, 2.5 acres seems to be the national standard now, they aren't generally used in ND due to the high cost and they don't fit our generally rolling terrain. There are also zones and those are shown in the other map. That is a rather minimal zoning using three zones per field which each then become their own production unit. Producers use variable rate equipment to automatically change rates of application across the field.

The logistics are totally beyond the ability of One-call or Utilities to handle.

Estimates at the peak two months are 2,000 to 3,000 a day which if you take each probe as a locate that means 40,000 to 60,000 spot location per day.

One call came to the ND Agricultural Consultant's Association years ago and asked us to try it, which I and several others did. The system did not work. It would take me over 2 hours on the phone for one days locates, computer entry was actually slower and I wasn't doing each probe I was doing each field.

Not a single utility ever marked anything. First I would get calls from managers telling me how it was impossible for them to do this and then their employees would ask me to ride around a couple of hours in a pickup and they would tell me they had a line on the east side here and the north side there.

Sometime in mid-afternoon, I'd be ready to go to work.

Bottom line, no one calls because the system is unworkable.

At that time they were asking us to mark locates with a white flag as is currently in this bill. Marking them that way would take at least as much time as sampling the field. It really makes no difference to us though, the system is unworkable with or without the white marking for soil testers.

One-call has now had over a decade to come up with a workable solution and they haven't done it, they really have no incentive to do it. If for some reason we did comply, the utilities would not do the locates anyway because it would take most of their personnel to do it, in areas of high levels of soil testing like the Red River Valley, I don't think they could do it with their entire staff.

The bottom line is the cost of compliance is higher for all concerned than the protection given.

We don't want to be in disturbed soil, we want to avoid such spots but we need the information in our hands of where the lines and pipes are so we can avoid it. Some testers set up points like I do, once a field is set it's pretty safe. Many others, especially fertilizer dealers, do not, they just wing it each year.



There are no gps spots to work with. In order to protect those structures they need the information in their hand.

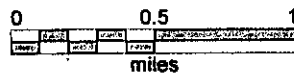
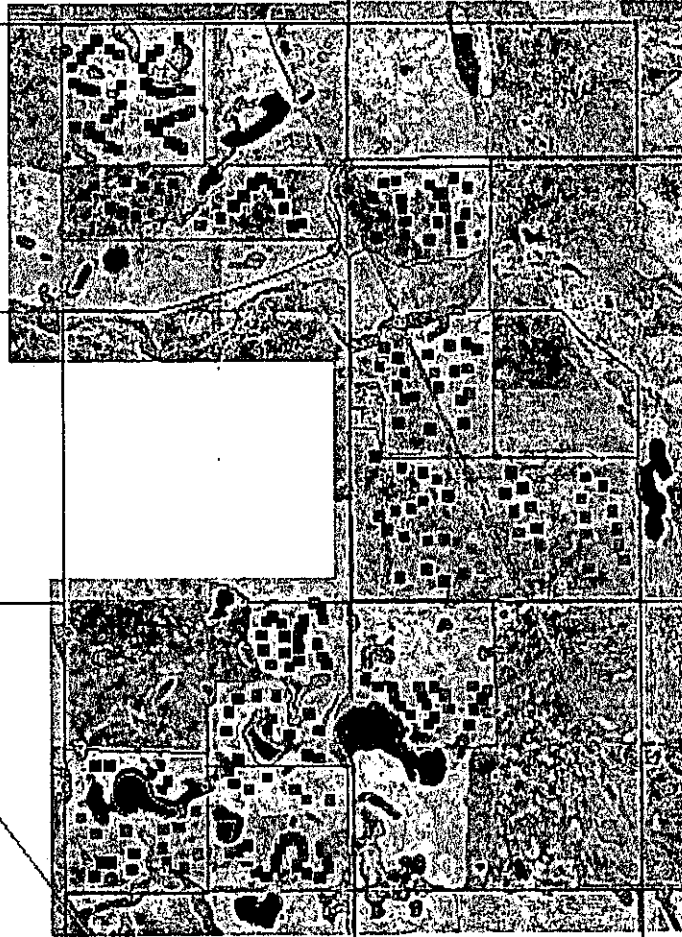
One last thing, the exemption is actually beneficial to the utilities if a structure is damaged.

I know of one case where a soil tester in Minnesota did indeed hit a power line. It broke the line. As he was testing he kept seeing trucks driving all over trying to locate the break. He went over, told them where it was and their cost of fixing it was much reduced because it would have been extremely difficult to find the break and they very likely would have ended up burying new line. They were so happy he told him where it was they didn't even think of charging him.

People will be concerned with what happens if someone hits and damages a pipeline. Which would they want, someone hitting the pipeline and saying nothing due to liability concerns or someone marking the spot and contacting them?

I would hope that a system could be made that would work for all concerned at a reasonable cost, that system does not currently exist and appears that it never will with the present law. I would ask that you temporarily change the law so that the One call system and the utilities have an incentive to create a workable solution.

# Sample conventional sampling



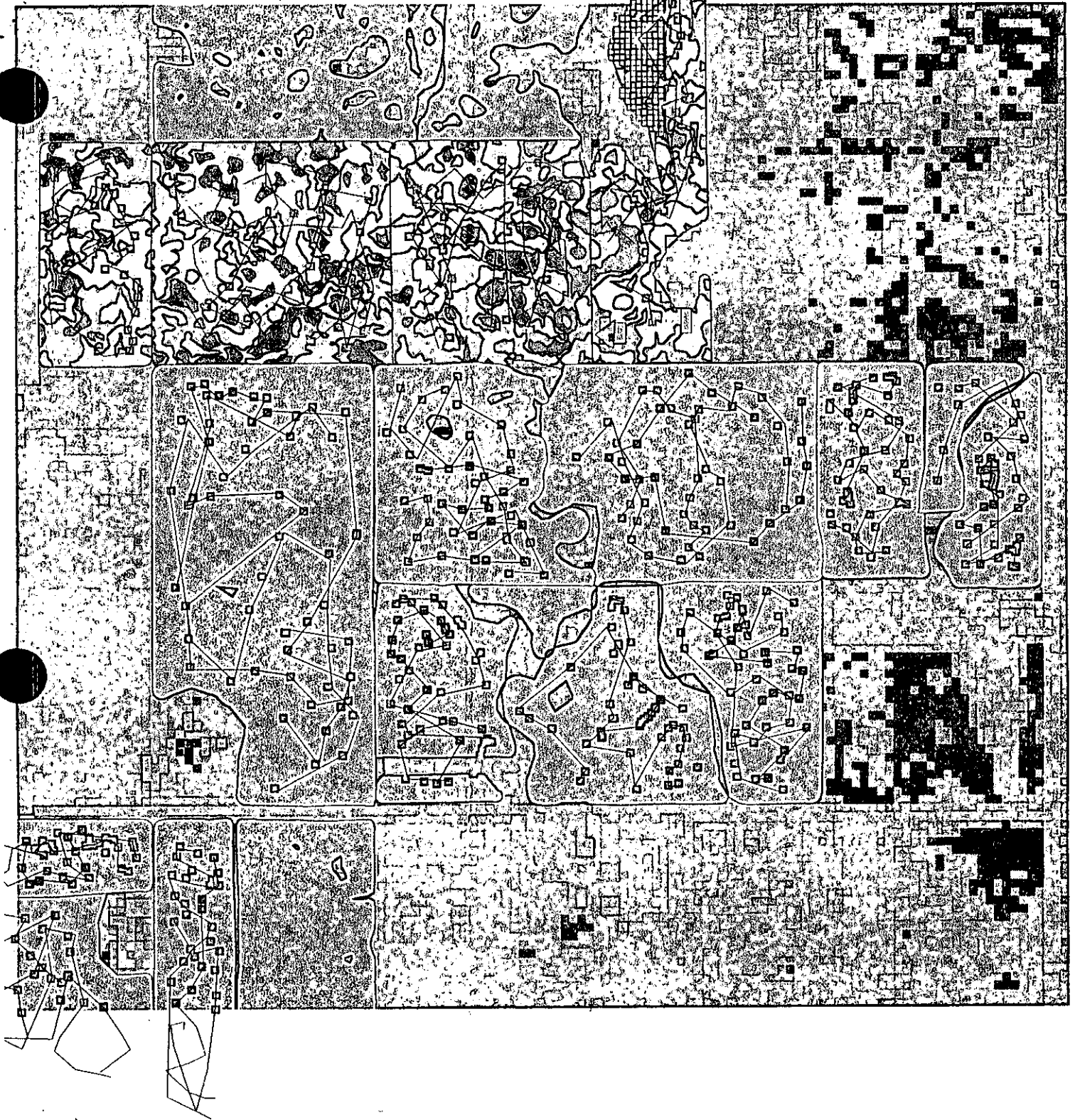
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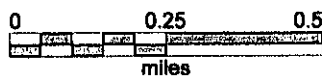
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feet



# SAMPLE ZONE M



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

Telephone (952) 983-1000  
Toll-free 1-800-717-9017

**Testimony in Support to**  
**Engrossed House Bill 1382**  
**Senate Government & Veteran Affairs Committee**  
**March 24, 2011**



**Know what's below.**  
**Call before you dig.**

**Chairman Dever, Senate Government & Veteran Affairs Committee members,**

for the record my name is Anthony (Tony) Straquadine, Jr. I am the Government Affairs Manager for Alliance Pipeline, based out of Eden Prairie, MN. I appear before you today as a lobbyist on behalf of Alliance Pipeline and as a member of the North Dakota Petroleum Council to support House Bill 1382 which amends the North Dakota Century Code - CHAPTER 49-23, ONE-CALL EXCAVATION NOTICE SYSTEM.

As you may know, Alliance Pipeline is an Interstate Natural Gas pipeline that has been safely & efficiently operating 323 miles of high pressure, rich natural gas pipeline in North Dakota for the past 10 years. As an energy transportation system, Alliance recognizes our obligation to ensure safety is our first and foremost obligation. We are regulated by the Federal Energy Regulatory Commission (commercial terms) and the Department of Transportation – Pipeline & Hazardous Material Safety Administration (design & operating safety).

In February 2010, Alliance began to receive high energy natural gas from North Dakota's Bakken production – with a new interconnection with the Prairie Rose Pipeline system, which originates in the Stanley / Parshall area. With available pipeline capacity, we continue to work with North Dakota Producers to provide future transportation options.

Testimony in Support of HB 1382  
Tony Straquadine  
Alliance Pipeline

CGA develops these Damage Prevention Best Practices using a "consensus approach". For a practice to become a "best practice" all stakeholder groups<sup>1</sup> must agree that they could live with the practice; if one group disagreed the practice would not become a "best practice".

I would now like to highlight some of the significant changes introduced in HB 1382:

- **Page 1 Line 11 – 15:** these changes provide improved clarity to the definitions provided in the One Call Excavation Notice System.
- **Page 1 Line 18 – 19:** These define "when" an underground facility owner must submit location information to the North Dakota One Call Center, for inclusion in their State-wide database (i.e. prior to being put into service).
- **Page 2 Line 1:** Provides for the North Dakota One Call Center (under the direction of the North Dakota One Call Board) the ability to adopt CGA's Best Practice 5.2 - known as White Lining. More specifically, the North Dakota One Call Center would adapt rules that clarify when the excavation site cannot be clearly and adequately identified on the locate ticket, thereby having the excavator designate the route and / or area to be excavated using white pre-marking (white paint, flags, stakes or a combination of these) prior to the arrival of the locator. This pre-marking allows the excavators to accurately communicate to facility owners / operators where excavation is to occur.

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<sup>1</sup> CGA Stakeholder groups include: Oil & Gas transmission / distribution; telecommunications, railroads, utilities, electric, water, sewer, cable-TV, once call centers, excavators, locators, design engineers, regulators as well as government entities including federal, state & local.

Testimony in Support of HB 1382  
Tony Straquadine  
Alliance Pipeline

- **Page 4 Line 14 & 15:** Clarifies what an excavator must do should they discover a previously unidentified underground facility. This makes sense, as it may indicate an omission in the North Dakota One Call Center's database, or potentially indicate that an underground facility was either Not Adequately located or Mismarked by the facility owner. Both of these circumstances may lead to unsafe circumstance and put the excavator at risk of an unsafe situation.

The changes outlined above are intended to provide for increased Worker Safety, protecting vital underground infrastructure and ensuring public safety during excavation activities conducted in the vicinity of existing underground facilities. They are reasonable, consistent with nationwide "Best Practices" and require the involvement of the North Dakota One Call Center, as directed by the North Dakota One Call Board.

In conclusion, I would urge a **DO PASS** recommendation for **Engrossed House Bill 1382**. I would be happy to try to answer any questions.

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## **Engrossed House Bill 1382**

**Presented by:** Illona A. Jeffcoat-Sacco  
General Counsel  
Public Service Commission

**Before:** Senate Government and Veterans Affairs Committee  
Honorable Dick Dever, Chairman

**Date:** March 24, 2011

### **TESTIMONY**

Mister Chairman and committee members, I am Illona A. Jeffcoat-Sacco, General Counsel with the Public Service Commission. The Commission asked me to testify today in support of Engrossed House Bill 1382.

The Commission appreciates having the opportunity to work with stakeholders before the House Political Subdivisions Committee on the House amendments to the bill.

Further, the Commission implements the One-Call Excavation Notice System law, and we have no technical concerns with Engrossed House Bill 1382 that might hamper our ability to do so.

Mister Chairman, this concludes our testimony. I will be happy to answer any questions you may have.





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**TESTIMONY ON HOUSE BILL NO. 1382**

**Government and Veterans Affairs**

**March 24, 2011**

**By: Doug Neibauer, Executive Director- South Central Regional Water District (SCWD)**

**DO NOT PASS: HB 1382**

For the record, my name is Douglas Neibauer and I manage South Central Regional Water District (SCWD), which provides a domestic supply of water to 5013 accounts in Burleigh, SE McLean, and small areas in Emmons and McIntosh Counties through a water distribution system with about 1850 miles of buried waterline.

SCWD is suggesting a do not pass on HB 1382 in its present form. A proposed amendment to House Bill No 1382 is requiring all locates to have a positive response from the affected operator in all excavation notices. **(Page No. 3 Line 6-7 "Establish procedures for assuring positive response from the affected operator in all emergency excavation notices"**. This would require all utilities to make contact with the affected operator and would be extremely difficult, time consuming and costly. SCWD receives about 6000 locates request annually, with about 95% of these locates request coming in the months of April through November which is the normal construction schedule in our area. To require the above mentioned positive response for all locates would require additional time for the utility locates request and would require an additional labor force to accomplish this task. Please consider removing the change on Page No. 3 Line 7 which would leave the word emergency in the positive response procedure. Thank You for opportunity to testify!

TESTIMONY IN OPPOSITION TO HB 1382

NORTH DAKOTA SENATE

GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

Jerry Blomeke – General Manager

Cass Rural Water District

Mr. Chairman and members of the committee, my name is Jerry Blomeke and I am the General Manager of Cass Rural Water District in Kindred, ND. I also serve on the Board of Directors North Dakota One Call, Inc.

I am here to speak in opposition to HB 1382. My primary reason for opposing this bill is the section on page three regarding "positive response". Under current law positive response is required only for emergency locate requests and consists of the One Call Center placing a phone call to the each of the affected utilities to make certain they have received the locate request. Those affected utility operators will then either locate their facilities or contact the excavator to let them know the area is clear. In 2010 the One Call Center generated nearly 638,000 locate tickets. Of these only 4.66% were emergency tickets requiring positive response. If this legislation becomes law all tickets would require positive response which in turn will add to the cost of the One Call System. At a minimum the ticket price will increase by nearly 5% and could increase by as much as 12% depending on how the positive response system is implemented.

In addition positive response will make the One Call System more cumbersome for utility operators. This is especially true for those operators that receive their locate tickets via fax machine since additional phone calls will need to be made in order to make a positive response. Essentially we would be adding work to the system without any commensurate benefit.

I have served on the Board of Directors of North Dakota One Call for nearly ten years. At no time during my tenure on the board has any utility or excavator asked for positive response to all locate requests. Since there has been little time to get input and there are a number of questions about how this change would be implemented all of the rural water managers I have spoken with oppose this change. Consequently, I ask a vote of do not pass on HB1382.

**Testimony**  
**HB 1382**  
**Senate Government and Veterans Affairs Committee**

Good morning Chair Dever and members of the North Dakota Senate Government and Veterans Affairs Committee! My name is Mark Dougherty and I am the Membership Services Director for the Associated General Contractors of North Dakota.

I am here in opposition to House Bill 1382.

The AGC represents 350 member contractors and related businesses in and around North Dakota. Part of my job as Membership Services Director is to represent the excavator stakeholder group on the North Dakota One Call Board of Directors and I am currently serving my third term on the Board. The One Call Board is an eight member board comprised of a representative from each of the following groups: cities over 5,000; cities under 5,000; rural water groups; electric service providers; telecommunication service providers; gas and pipeline service providers; cable television service providers and excavators.

The bill you have before you now is nothing like the bill originally introduced in the House of Representatives. The original bill was a one line bill that simply read: "An operator of gas-gathering pipelines shall provide a map of the location of gas-gathering pipelines within ninety days of completion of construction to the statewide notification center for the one-call excavation notice system." The bill was hog-house amended into the present form during a sub-committee meeting held very near the time when House bills had to be reported out of committee prior to cross-over. I did attend the sub-committee meeting and presented our opposition to the proposed amendments presented that day. Our opposition is specific to the white marking and positive response requirements presented in bill Section 3.

During my seven years of service on the North Dakota One Call Board of Directors we (the board) have discussed the possible use of white marking and/or positive response at our regular quarterly meetings. For several years we gave white flags away at the State's one-call excavator dinners to encourage their voluntary use. The outcome of our white flag give away promotion has been a significant increase in the use of white marking when the excavation area becomes difficult to describe to the One Call Center customer service representative or on an ITIC ticket form. The positive response discussions by the One Call Board have occurred at least every three years during negotiation of our one call center service provider contract. The board's request for proposal has always included a request for quote on positive response. To date the One Call Board has not instituted white marking or positive response requirements for the North Dakota one call system due to a complete lack of demand by the system

stakeholders and an absence of complaints from stakeholders which may have been remedied by either of the two requirements.

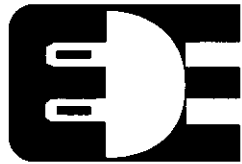
For your understanding of the two requirements of Section 3 of HB 1382 we provide the following:

**White marking** is a requirement for the excavator to mark their excavation area by placing white flags or white paint markings on the ground to define the proposed area of excavation. The white marking would have to be done prior to the excavator making the one call or submitting the I-ticket. Currently the excavator has to make the one call or submit an I-ticket then wait 48 hours before they can start their excavation. If HB 1382 passes the excavator will be required to spend an additional day to allow for the white markings to be in place prior to the utility locating being started. This could mean an additional day's work lost to excavators in a State with the shortest construction season of any state in the country. It could also cost consumers additional dollars when the excavator is required to drive long distances to complete the white markings on remote project sites. This is a normal happening for our members. Their office may be in Fargo and the project could be in Williston causing them to mobilize a crew just to white mark the site. You all know how far it is from Fargo to Williston and the time and expense involved in the trip. This adds cost to projects and further complicates a process that for the most part works well for all stakeholders.

**Positive response** is a requirement for the utility operators to respond to either the excavator or the one-call notification center each time a locate request has been completed or the excavation site has been cleared. This adds an amount of time to the utility locators day that from all reports is very full just completing the locating part of their job. As excavators we'd like to have the utility locators concentrate on completing the utility marking requested so we can get busy making our excavations. At this time I am not aware of any excavator who is asking for this service from the one-call system.

In conclusion based on the above stated lack of one-call stakeholder demand and added cost in dollars and time for the white marking and positive response required by HB 1382 we urge the Senate Government and Veterans Affairs committee to send a **do not pass** recommendation to the full Senate and to **vote no** on HB 1382 on the Senate floor.

Thank you for the opportunity to be heard and I will stand for questions.



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Re: HB 1382 – White Marking

Senator Dever and Members of the Senate Government & Veterans Affairs Committee,

Limited Route - It essentially means that we are limited to a route that we do not know if it is possible until their markings are down. If there is a conflict and we have to move across the street we would have to mark an area again and wait an additional two days. If ELM or utility decides we are not within so many feet of their line and they decide not to mark it a "small" route change could create conflict.

Half a State away from excavation - There is also an issue with being onsite for marking two days prior to digging. We currently do work all over the state and this essentially would mean a separate trip to the jobsite two working days prior to our mobilization to the site. Construction schedules change constantly and this essentially means each time I call a ticket we would have to make a trip to the site to mark a potential route or review that some homeowner hasn't mowed or removed my flags from the site.

Additional Cost to Owner – We potentially would need to include additional expenses in our project bids for the additional site trips. So if there is a locating company already in the area of the proposed area then why would the citizen or contractor need to make the 10 hour trip to do the same thing for which a locating contractor is already being paid to do?

Leading into site – In my experience it is best to have more information on a project route than not enough. There are times when the utility companies paint and flags get rubbed out by another contractor working in the area and if the additional markings are in place leading into the work site you are able to verify that there is a utility in the area.

Detail in the Call should eliminate need - One Call already recommend the white paint & flags and we currently try to accommodate when possible but if you can describe the route in detail I don't think it should be mandated.

Additional Risk to Contractors - This bill puts additional risk on a contractors, which the contracting world already carries a ton of risk. It gives the locator an out in a case where the call was made with a detailed description and the neighbor kid pulled all of the white flags out of the ground. We are normally onsite within a day or so to begin excavations after a ticket comes available.

Positive Response – You may have more than one entity responding to a locate (say MDU & Qwest) and as an excavator you may get a call from MDU that their line is clear, if they are not completely clear an excavator may take it as all utilities are clear and could potentially get into Qwest's line.

Utility Marking Questions – We currently provide 2 phone numbers on the ticket, if the locator has questions they can contact us for a meeting, clarification or I have provided a map to these people on a number of occasions. The current system doesn't allow for adding maps but we have in the past emailed, faxed and dropped off with the locating contractor (ELM).

James Ruud  
Estimator/Project Manager  
Edling Electric, Inc.  
701-255-2831 ext 20



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