



U.S. Department of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

June 10, 2020

Via E-mail

Mr. Brian Kroshus
Chairman
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505

Dear Chairman Kroshus:

On May 6, 2020, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of North Dakota's enforcement of its excavation damage prevention law. PHMSA conducted this evaluation pursuant to 49 United States Code § 60114 and 49 Code of Federal Regulations Part 198, Subpart D—State Damage Prevention Enforcement Programs. Based on this evaluation, PHMSA has determined that the enforcement of North Dakota's excavation damage prevention law is "adequate."

PHMSA would like to note that 49 USC § 60114(d)(3)(B) and 49 CFR Part 198.55(a)(6)(iii)(B) requires an excavator who causes damage to a PHMSA-regulated pipeline that results in a release of natural or other gas or hazardous liquid to promptly report the release to emergency responders by calling the 911 emergency telephone number or another emergency telephone number. North Dakota Code NDCC 49-23-06 1.a. does not explicitly require a 911 call to be made under these conditions. Additionally, PHMSA urges the state to review the exemptions for excavators in the damage prevention law, as well as the definition of "excavation" to ensure the law does not inadvertently exempt or exclude anyone from these reporting requirements.

As I am sure you are aware, excavation damage continues to be one of the leading causes of pipeline failures, a number of which result in fatalities, serious injuries, and environmental damage. Nationwide statistics show that effective enforcement of state damage prevention laws reduces excavation damage and pipeline incidents, resulting in enhanced public safety.

In closing, PHMSA appreciates your dedication to pipeline safety. Should you or your staff

Mr. Brian Kroshus

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have any questions regarding this letter, please contact Mr. David Appelbaum, PHMSA State Evaluator, at (202) 617-6329 or by email at David.Appelbaum@dot.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Tahamtani', with a long, sweeping horizontal line extending to the right.

Massoud Tahamtani
Deputy Associate Administrator, Policy and Programs
Office of Pipeline Safety

cc: Mr. Patrick Fahn, Director, Public Utilities Division,
North Dakota Public Service Commission