

2016 State Damage Prevention Program Grants Progress Report

CFDA Number: 20.720

Award Number: DTPH56-16-G-SDP04

Project Title: State Damage Prevention (SDP) Program Grants - 2016

Date Submitted: April 7, 2016

Submitted by: Jonathan Wolfram / Mike Mendiola

Specific Objective(s) of the Agreement

Under this grant agreement, the Minnesota Office of Pipeline Safety will carry out its responsibilities regarding enforcement, education, training, communication, support, analysis, partnership, and mediation activities associated with its Damage Prevention program. MNOPS continues to utilize a Damage Prevention team in 2016-2017. The team will perform standard pipeline safety functions but focus primarily on damage prevention efforts.

- Develop and implement methods for effective communication
- Foster support and partnership with stakeholders
- Reviewing the adequacy of internal performance measures
- Support a Damage Prevention Education Program for industry stakeholders
- Support Public Awareness and Stakeholder Education
- Resolving disputes to define State authority's role
- Foster and promote the use of improving technologies
- Review the effectiveness of Damage Prevention Programs

In addition to:

- 1) Trends (mandatory and volunteer damage reporting), gas damages, annual review of the One Call center
- 2) Intrastate gas operator mandatory leak reporting on leaks caused by excavation activities
- 3) Surveys from annual MNOPS Conference and feedback from MS216D stakeholder meetings
- 4) Risk model rankings for specialized damage prevention inspections
- 5) Locator workshop evaluations
- 6) Damage prevention presentation evaluations
- 7) Conciliation court verdict review
- 8) Enforcement review - frequently cited codes, complaints, & damage prevention presentation feedback
- 9) Enforcement cases are published on MNOPS' web page. In addition, all damage prevention activities that don't explicitly fit in a single element (1-8) will be attributed to this element. This element supports the work of all the other elements, including any travel that may be needed to accomplish individual elements.

Workscope

Under the terms of this grant agreement, the Grantee will address the following elements listed in 49U.S.C. § 60134 (b) through the actions it has specified in its Application.

- **Element 1 (Effective Communications):** Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective

communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate. **(Applicable)**

- **Element 2 (Comprehensive Stakeholder Support):** A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program. **(Applicable)**

- **Element 3 (Operator Internal Performance Measurement):** A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs. **(Applicable)**

- **Element 4 (Effective Employee Training):** Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one-call center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators. **(Applicable)**

- **Element 5 (Public Education):** A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities. **(Applicable)**

- **Element 6 (Dispute Resolution):** A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues. **(Applicable)**

- **Element 8 (Technology):** A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs. **(Applicable)**

- **Element 9 (Damage Prevention Program Review):** A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews. **(Applicable)**

Accomplishments for this period (Item 1 under Article IX, Section 9.01 Progress Report: “A comparison of actual accomplishments to the objectives established for the period.”)

Objective	Accomplishments (approximate numbers based on grant period as of report date)
Enforcement actions and follow-up collections specific to SDP Grant	32 Damage Prevention Violations Cited. Of these, 4 violation was cited as a result of investigations funded by the SDP Grant, 1 of which was investigated during this report period (see table on page 5).
In-office/Field investigations and research	96 Damage Prevention complaint/incident cases
Statistical analysis and complaint and incident trending	Volunteer Damage Reporting, (VDR) Mandatory gas leak reporting on all intrastate excavation related leaks. (pages 11-13)
Court proceedings and conciliations	Court cases and conciliations ongoing as needed.
Compliance monitoring of one-call center operations, frequent offenders, and types of offenses	The Pipeline Safety Director sits on the one-call center board. Involvement and partnership with the one-call center allows MNOPS to be aware of the one call center activities. Additionally, MNOPS collects and reviews all pipeline related gas releases due to excavation related activities. This allows MNOPS to track and appropriately address frequent offenders.
Rules and law review	MNOPS expects to facilitate MS216D discussions with stakeholders in 2016 and 2017 for proposed statutory changes for 2018 MN legislative review. The first MS216D stakeholder review meeting was held on October 7 th , 2016. The second meeting was held on January 19 th , 2017. The next meeting is scheduled for May 4 th , 2017. The meeting minutes for the Oct. 7 th , 2016 and Jan. 19 th , 2017 meetings are attached at the end of this report.
Outreach <ul style="list-style-type: none"> ▪ Safety presentations to excavators ▪ Safety & training presentations for Operators & locators ▪ Annual conference with Damage Prevention track ▪ Safety messages for the general population 	<p>MNOPS is currently conducting damage prevention meetings for 2017 (Feb-May and on an as-needed basis). The meetings will consist of a presentation reviewing the excavation laws in Minnesota via case studies. The case studies are actual on-site damage investigations performed by MNOPS inspectors. By the progress report end date, 10 presentations were conducted throughout Minnesota where over 456 excavators / utility operators were engaged regarding damage prevention and underground utility safety.</p> <p>MNOPS continues to use the SDP grant to establish greater focus on underground utility damages as a result of Agricultural Tiling. An Ag Awareness Committee has been created to focus on education and awareness of excavation safety in rural agricultural areas. This has been combined</p>

	under the Minnesota Regional CGA.
Involvement in regional Common Ground Alliance	<p>MNOPS participated in 18 regional CGA meetings and 1 national CGA meeting during the grant progress report period.</p> <p>MNOPS has engaged in the formulation of a Regional Base Common Ground Alliance in Minnesota. The damage prevention manager served as the former facilitator for the MNCGA Best Practices Committee. Another member of the damage prevention team currently serves as facilitator for Agricultural Awareness Committee.</p>
Active Participation in area Utility Coordinating Committees	MNOPS participated in 6 State Utility Coordinating Committees.
Participation in the one-call center Operations and Communications Committees	MNOPS Participated in all Gopher State One Call Operations and Communications Committee meetings.

Quantifiable Metrics/Measures of Effectiveness (Item 2 under Article IX, Section 9.01 Progress Report: “Where the output of the project can be quantified, a computation of the cost per unit of output.”)

As of the report date, The Minnesota Office of Pipeline Safety (MNOPS) has been actively conducting Damage Prevention meetings around the State. MNOPS continues to attend and participate in the national CGA meetings and has been participating in the regional CGA meetings. The regional CGA functioned to facilitate and register Damage Prevention Presentation attendees. 2016 was the third year of coordinating the meetings in this fashion. The MNCGA website was used almost exclusively for registrants to attend meetings. MNOPS continues to participate and attend regular Utility Coordinating Committees throughout the State.

During the performance period, MNOPS cited 31 one call law code violations, issued \$8,050 in penalties. The SDP grant funded investigations resulting in 2 violations and \$1,500 in penalties.

The damage data noted below maintains the historic trend downward of damages per 1000 locates for all utilities and for gas utility damages. The 2016 gas utility damages reported to MNOPS were calculated to be 2.07 per 1000 locates, essentially equivalent to the historic low of 2.06 damages per 1000 locates obtained in 2013.

Case Type	Case Count	Total Hours
One Call Damage Investigations and/or Complaints *	1	1.5
Presentation	10	44.5
CGA / MNCGA Activities	26	110.0
UCC Activities	6	29
Public Education Events	6	91.5
Administration**	3	242.1
Total	52	518.6

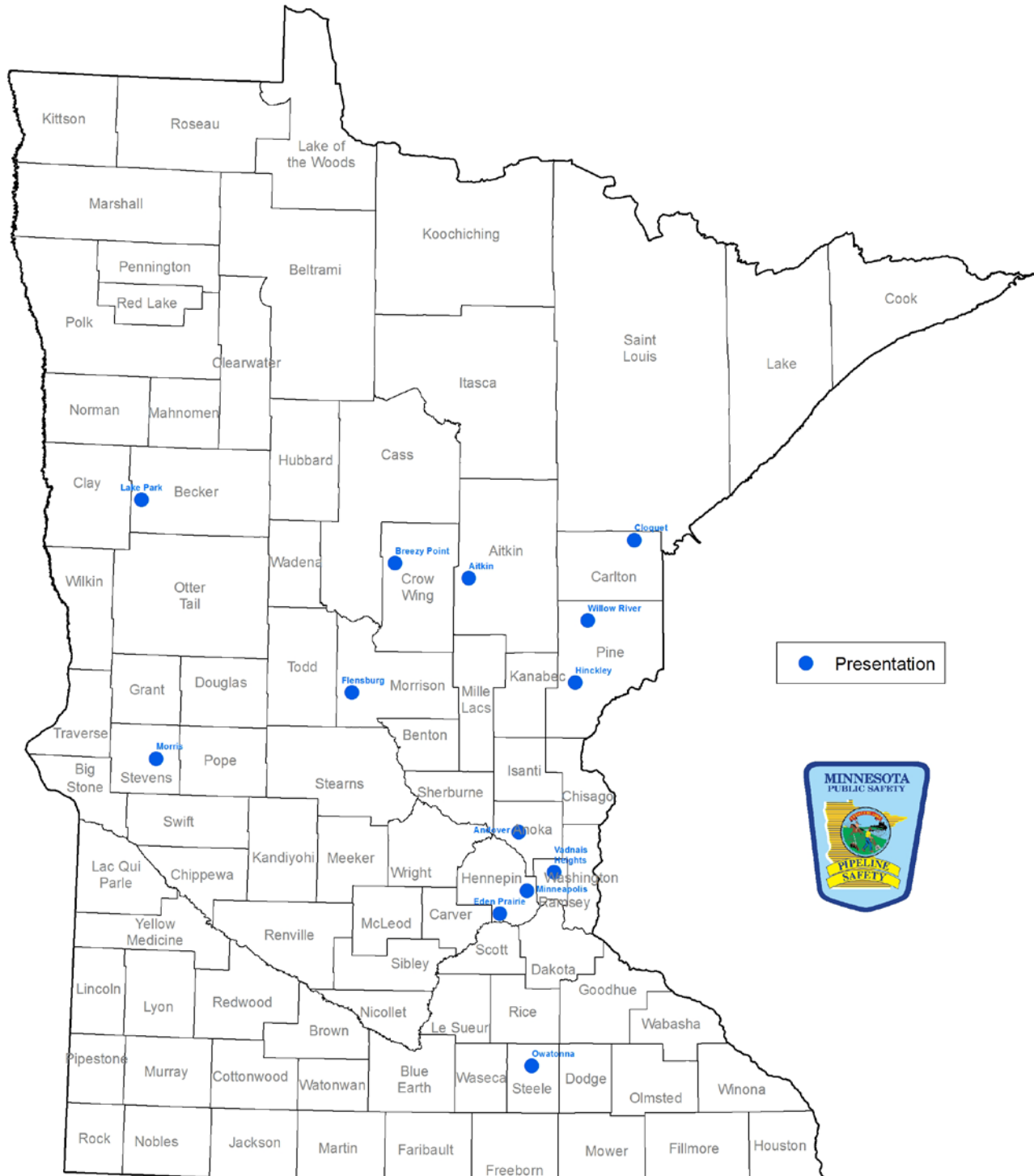
* Majority of One Call damage investigations and/or complaints are covered the State's One Call Grant

**Administration hours is time applied to reviewing operators' damage reporting, case administration, communication with stakeholders, presentation(s) preparation, and assembly of publications

2016 SDP Grant - Damage Prevention Presentations
Summary of Hours & Attendees
Progress Report Period 9/1/2016 – 3/1/2017

Date	Case ID	Description	Hours	Attendees
28-Oct-16	14148707925	2016 DPP - Anoka County Parks	2	25
16-Nov-16	141489079	2016 DPP - MPCA Municipal Groups	3.5	63
20-Feb-17	145709693	2017 49ers DPP Hinckley	3	30
21-Feb-17	145709793	2017 DPP City of Mpls Public Works	3	52
22-Feb-17	145709879	2017 DPP - Mn/DOT Permitting Group	3.5	39
23-Feb-17	145710385	DPP Meyers Excavating	5	42
27-Feb-17	152003185	2017 St Cloud Excavator Training	2	48
28-Feb-17	152003185	2017 St Cloud Excavator Training	2	48
28-Feb-17	145711379	2017 DPP - Crookston	12.5	71
01-Mar-17	145711285	2017 DPP - Baxter LUCC	8	38
Totals = 10			44.5	456

**MINNESOTA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY
PIPELINE SAFETY AND DAMAGE PREVENTION PRESENTATIONS
SEPTEMBER 1, 2016 - MARCH 1, 2017**



Prepared by the Minnesota Department of Public Safety, Office of Pipeline Safety, March 31, 2017.

2016 SDP Grant Summary of CGA/MNCGA Activities

Progress Report Period 9/1/2016 – 3/1/2017

Date	Case ID	Description	Hours
15-Sep-16	27684585	MN Ag Awareness Meeting	4
07-Oct-16	1270571	MS216D Meeting	7
11-Oct-16	1270471	MCGA Quarterly Meeting *	3
11-Oct-16	1270471	MNCGA Quarterly meeting - Committee report *	4
24-Oct-16	27684585	Mtg w/ GSOC, Koch & Viking re: Ag Awareness Focus Project	4
02-Nov-16	1270471	MNCGA Ag Awareness Quarterly Meeting at Koch Refinery	4
04-Nov-16	1270471	SDP Grant - Element 1 - Farm Tap Options Meeting with MERC	2
17-Nov-16	1270471	MNCGA Best Practices Meeting *	3
17-Nov-16	1270471	MNCGA Best Practices Meeting *	4
17-Nov-16	1392771	MNCGA Best Practices Meeting *	6
02-Dec-16	1270471	SDP Grant - Element 1 - MNCGA BP Committee Meeting	1
04-Jan-17	1270471	SDP Grant - Element 1 - Ag Awareness quarterly meeting	4
04-Jan-17	1270471	MNCGA Ag Meeting *	4
04-Jan-17	1392771	MNCGA Ag Meeting *	3
10-Jan-17	1270471	MNCGA Quarterly Meeting *	4
10-Jan-17	1270471	MNCGA Quarterly Meeting *	4
10-Jan-17	1392771	MNCGA Quarterly Meeting *	6
11-Jan-17	1270471	GSOC Board Meeting	5
19-Jan-17	1270571	MS216D Stakeholder Meeting	8
03-Feb-17	1270571	OCC Users Group Meeting	5
09-Feb-17	1270571	MS216D Emergency Notification Subgroup Meeting	2
10-Feb-17	1270571	MS216D Definition of Excavation Subgroup Meeting	2
13-Feb-17	1270571	MS216D Boundary Survey Subgroup Meeting	2
14-Feb-17	1270571	MS216D 48 Hour Notification Subgroup Meeting	2
17-Feb-17	1270471	MNCGA Best Practices Meeting *	3.5
17-Feb-17	1392771	MNCGA Best Practices Meeting *	3.5
Total Meetings: 18		Total Hours:	100.0

* = more than 1 MNOPS inspector attended meeting on this date

***2016 SDP Grant Summary of Utility Coordinating Committee (UCC)
Activities
Progress Report Period 9/1/2016 – 3/1/2017***

Date	Case ID	Description	Hours
13-Dec-16	1270471	MUCC Meeting	1
14-Dec-16	1392771	LUCC Meeting	8
21-Dec-16	1270471	PUCC Meeting	7
1-Feb-17	1270471	PUCC Meeting	5
15-Feb-17	1270471	MUCC Meeting	4
15-Feb-17	1392771	MUCC Meeting	4
Total meetings =	6	Total hours =	29

* = more than 1 MNOPS inspector attended meeting on this date

**2016 SDP Grant Summary of Public Education
Event Activities**

Progress Report Period 9/1/2016 – 3/1/2017

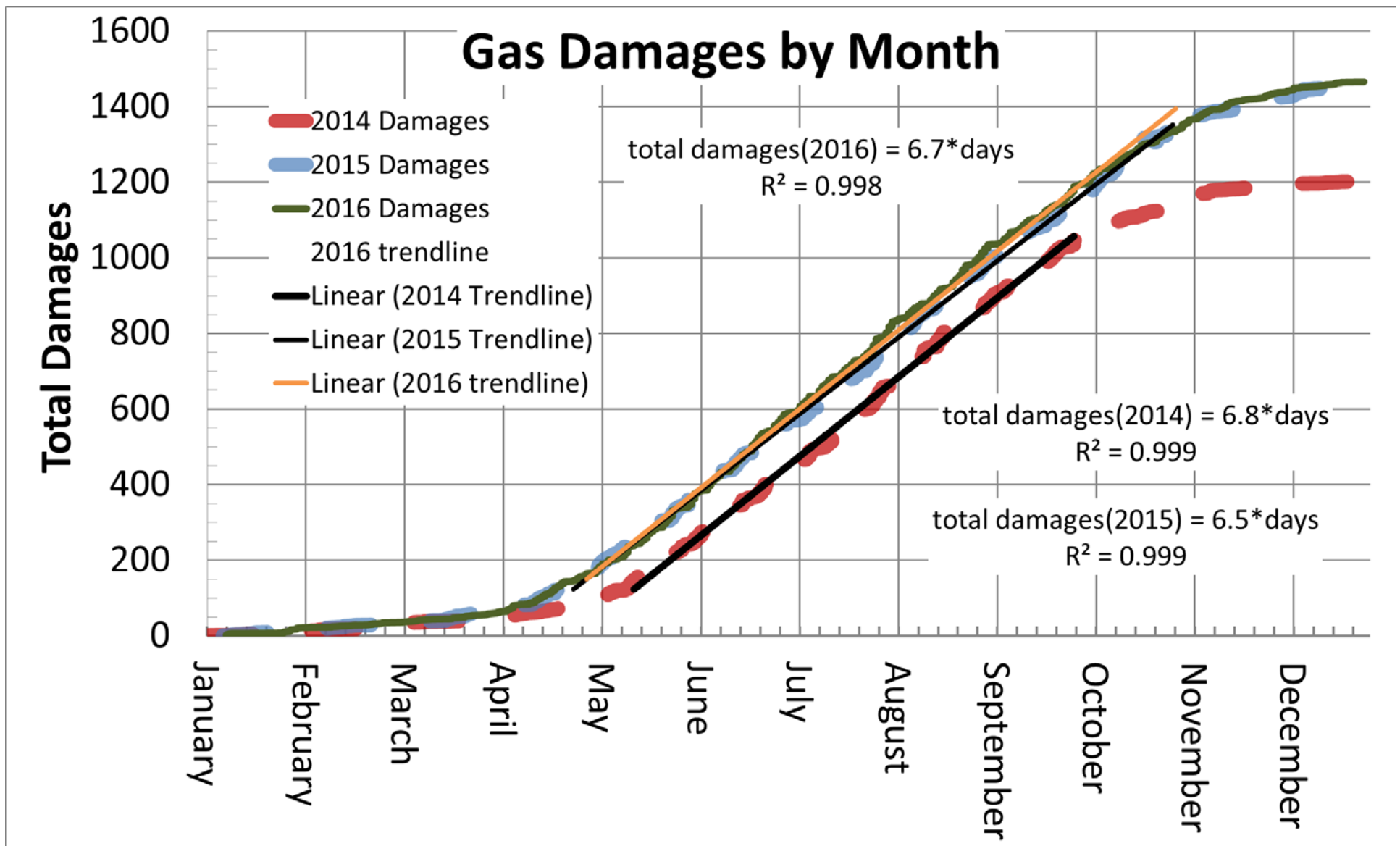
Date	Case ID	Description	Hours
3-Feb-17	27696379	Alexandria Fire Fighter School	15
27-Oct-16	1270771	2016 MSFCA Conference (2 staff) *	20.5
28-Oct-16	1270771	MSFCA Conference (2 staff) *	18.5
24-Sep-16	50589279	Day of the Dozers (3 staff) *	27.5
15-Oct-16	1270871	Stillwater FD Open House (staff) *	10
Total Meetings: 6		Total hours:	91.5

* = more than 1 MNOPS inspector attended meeting on this date

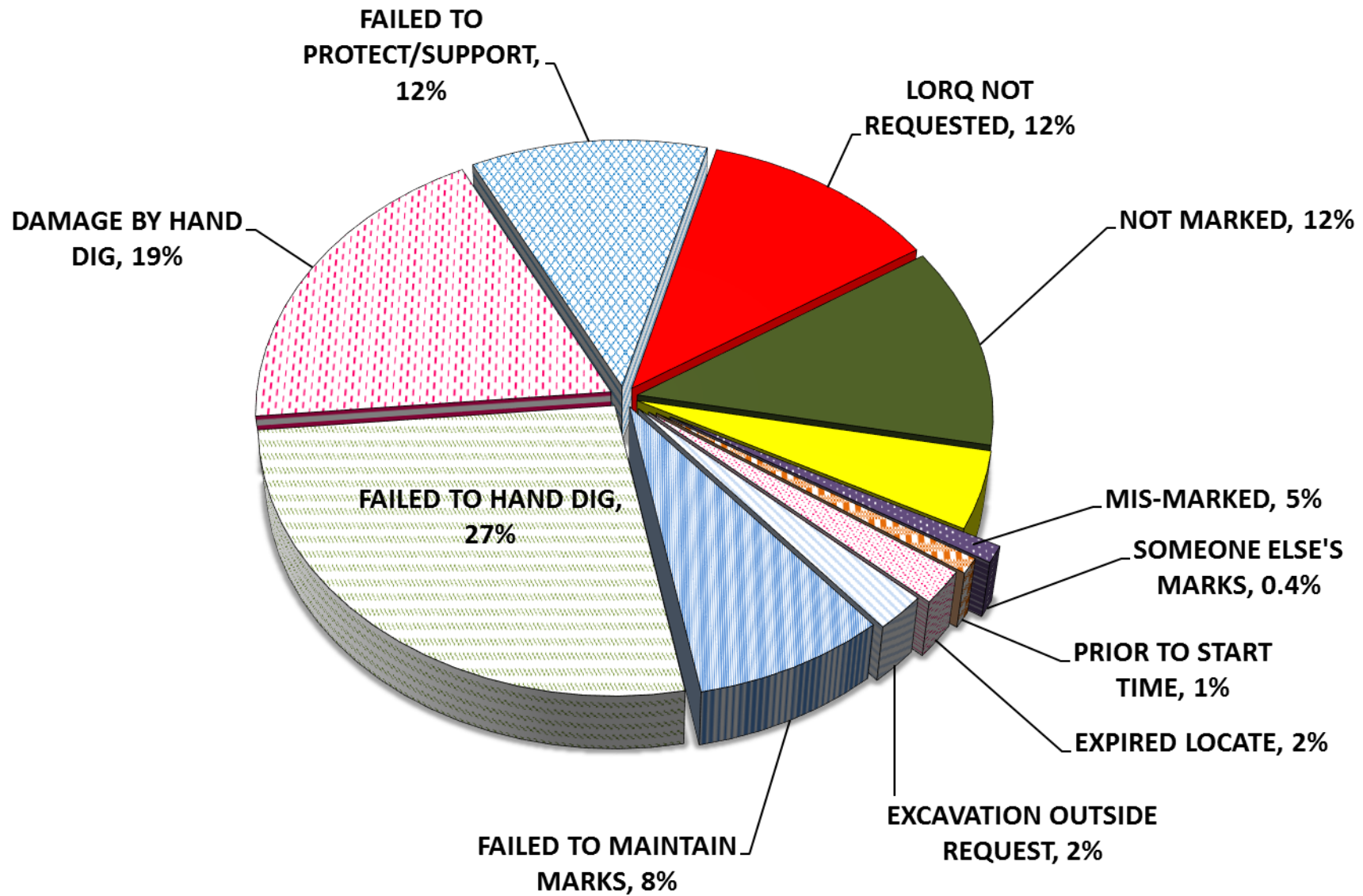
2016 SDP Grant Summary of Damage Reporting

ROOT CAUSE OF DAMAGE	DAMAGES 2014	DAMAGES 2015	DAMAGES 2016
LORQ NOT REQUESTED	14.7%	11.4%	11.7%
NOT MARKED	4.6%	9.4%	12.1%
MIS-MARKED	9.4%	6.7%	4.7%
SOMEONE ELSE'S MARKS	0.6%	1.1%	1.0%
PRIOR TO START TIME	1.8%	1.3%	0.9%
EXPIRED LOCATE	2.4%	2.5%	2.0%
EXCAVATION OUTSIDE REQUEST	1.6%	2.2%	2.2%
FAILED TO MAINTAIN MARKS	6.4%	7.5%	8.2%
FAILED TO HAND DIG	18.2%	26.1%	26.5%
DAMAGE BY HAND DIG	22.5%	21.1%	19.0%
FAILED TO PROTECT/SUPPORT	17.8%	10.7%	11.6%

ROOT CAUSE OF DAMAGE	DAMAGES 2014	DAMAGES 2015	DAMAGES 2016
LORQ NOT REQUESTED	179	157	160
NOT MARKED	56	129	166
MIS-MARKED	114	92	64
SOMEONE ELSE'S MARKS	7	15	14
PRIOR TO START TIME	22	18	13
EXPIRED LOCATE	29	34	28
EXCAVATION OUTSIDE REQUEST	20	31	30
FAILED TO MAINTAIN MARKS	78	104	112
FAILED TO HAND DIG	221	359	363
DAMAGE BY HAND DIG	273	291	260
FAILED TO PROTECT/SUPPORT	217	148	159



2016 Gas Damages by Cause



Issues, Problems or Challenges (Item 3 under Article IX, Section 9.01 Progress Report: “The reasons for slippage if established objectives were not met. “)

MNOPS has not encountered any issues or challenges during the current SDP grant period thus far.

Mid-term Financial Status Report

The mid-term financial report will be sent as a separate attachment to the AA and AOTR (Form SF-425). Included with be a breakdown of costs for each object class category (Personnel, Fringe Benefits, Travel, Equipment, Supplies, Contractual, Other and Indirect Charges).

Plans for Next Period (Remainder of Grant)

Continue with the objectives listed above.

Requests of the AOR and/or PHMSA

No actions requested at this time.

Photos of MNOPS staff public education activities: 2016 MN State Fire Chiefs Association



Photos of MNOPS staff public education activities: 2016 Day of the Dozers



Photos of MNOPS staff public education activities: Stillwater F.D. Open House



'CALL 811 BEFORE YOU DIG' QUESTIONS

1. Q. What number do you need to call before digging in your yard?
A. **811**
2. Q. After you call 811, how long do you need to wait before digging?
A. **2 business days excluding holidays and weekends (I usually add, "So that means if I call on Friday at noon, I have to wait until noon on Tuesday before I can dig.")**
3. Q. If you see yellow paint or yellow flags in your yard, what does that mean?
A. **There is a natural gas line in your yard and you should avoid hitting it**
4. Q. A simple call to 811 reduces your chance of hitting an underground line to less than ____%?
A. **1%**
5. Q. There's a certain color you need to use to mark your proposed excavation (tree planting, stump grinding, installing mailbox/fence/sprinkler system...). What color would that be?
A. **White**
6. Q. If you accidentally hit an underground natural gas or electric line, what should you do?
A. **Call 911 and get you and your family safely away**
7. Q. Is it the law to call before you dig in MN? (ask the same for other states to test their knowledge)
A. **Yes**
8. Q. How much does it cost to call before you dig?
A. **It's free!**
9. Q. How many miles of underground pipe are in MN? Over 25,000? Over 35,000? Over 45,000? Over 65,000? (let them guess or you can play 'Hot or Cold')
A. **Over 65,000 miles of pipe**
10. Q. If you accidentally hit an underground line in your yard, you may affect your neighbors' gas/electric/cable/internet service. True or false?
A. **True**

MNOPS/MDM

August 23, 2016

'CALL 811 BEFORE YOU DIG' QUESTIONS

11. Q. There are enough miles of pipeline in MN to wrap around Earth's equator how many times?
A. **2.5 times (Earth's equator is only 25,000 miles)**
12. Q. There are over ____ million miles of underground lines in the U.S.? 1 million? 5 million? 15 million? (let them guess or you can play 'Hot or Cold')
A. **20 million**
13. Q. If you hit your internet line, what could happen?
A. **No more Netflix, Hulu, or YouTube! If you run a home business, host a website or take online classes, you won't be able to do those either.**
14. Q. In its native form, what does natural gas smell like?
A. **Natural gas is actually odorless. Gas companies purposely add odorant to make it smell like rotten eggs so that you can detect a gas leak by nose.**
15. Q. Did you know that when burned, natural gas leaves no by-product? True or false?
A. **True**
16. Q. Did you know that if you freeze natural gas, it turns into a liquid? True or false?
A. **True (natural gas turns to liquid at -162 degrees F)**
17. Q. If you hit your home's water line in the yard, what could happen?
A. **You won't be able to pour a glass of water, take a shower, water your plants, etc... You could even damage your yard and/or landscaping.**
18. Q. In the U.S., an underground line is damaged every ____ minutes because someone decides to dig without calling 811.
A. **6 minutes**
19. Q. There are enough underground lines in the U.S. to equate to one length of a football field for every man, woman, and child. True or false?
A. **True**
20. Q. Whose life is at risk if you dig without calling 811?
A. **Yours, your family's, your pet's, your neighbors' ... Pretty much anyone nearby you.**

MNOPS/MDM

August 23, 2016



MS216D Stakeholder Review Meeting Minutes

Friday, October 7th, 2016

SBM Fire Station #3, 11920 Ulysses St. NE, Blaine, MN 55434

Attendees:

1. Bruce West	MNOPS
2. Jon Wolfgram	MNOPS
3. Mike Mendiola	MNOPS
4. Dean Parker	Gopher State One Call
5. Barb Cederberg	Gopher State One Call (via teleconference)
6. Estelle Richard	Gopher State One Call
7. Chuck Jensen	Connexus Energy
8. Alicia Berger	Xcel Energy
9. Jeff Murray	Xcel Energy
10. Ben Wallace	USIC
11. Adam McAlpine	USIC
12. Ryan Zelenka	USIC
13. Keith Novy	CenterPoint Energy
14. Steve Olinger	CenterPoint Energy
15. Dean Headlee	CenterPoint Energy
16. Dan Maschka	Northern Natural Gas
17. Chris Madden	City of Duluth
18. Jon Blough	Owatonna Public Utilities
19. Arnold Kraft	ARK Management Assoc., LLC
20. Mike Moore	NuStar Energy
21. Mike Broderick	NuStar Energy (via teleconference)
22. Jerome Viske	Duininck Inc.
23. Craig Knudsen	Dakota Electric
24. Rick Schlegel	API
25. Tracy Lipinski	MP Technologies
26. Ward Westphal	MP Technologies
27. Matthew Miller	BP Pipelines
28. Jeff Law	Korterra
29. Amy Asche	Montana-Dakota Utilities (via teleconference)
30. Jodi Corrow	Minnesota Power (via teleconference)
31. Todd Stansbury	MNOPS
32. Elizabeth Skalne	MNOPS
33. Sylvia Schwarz	MNOPS
34. Thomas Coffman	MNOPS

35. Claude Anderson	MNOPS
36. Jeff Blackwell	MNOPS
37. Adam Ratzlaff	MNOPS
38. Sean Mangan	MNOPS
39. Ole Engebretson	MNOPS (via teleconference)
40. Joe Hauger	MNOPS (via teleconference)

MNOPS MS216D General Discussion

- MS216D Historical Overview
 - Last amendments in 2004 (over 20 years)
 - Purpose of stakeholder review and potential changes is to enhance safety regarding operating underground utilities and excavating around them
 - No changes to rules since adoption in 2005
 - Purpose of 2016-2017 stakeholder review meetings is to prepare for 2018 legislative session (if changes are deemed necessary)
- PHMSA Damage Prevention Rule
 - Part 196 – PHMSA enforcement on excavators. Primarily for states deemed inadequate in their own One Call enforcement.
 - Part 198 – PHMSA enforcement on state pipeline safety programs for damage prevention.
 - PHMSA audit on MNOPS’ damage prevention program – data to support current One Call exemptions?
- Damage Reporting Data & Exemptions
 - MNOPS utilizes mandatory damage reporting from pipeline operators and voluntary damage reporting from non-pipeline operators
 - In 2011, 115 non-pipeline companies reported their voluntary damage data, however the number of reports has declined since then
 - In an effort to support current One Call exemptions, MNOPS will seek support from industry stakeholders for increased reporting

MS216D Review Topics

- **Definition of Excavation key comments:**
 - Is the concerning issue more about the definition or the exemptions?
 - Pounding stakes in the ground – there are people getting hurt from driving stakes into underground gas and electric.
 - The definition should be reviewed – redefining so that pounding a stake would be considered excavation but using a hammer to put in lathe is not.
 - What was the feedback from PHMSA’s DP audit?

black = MNOPS comments

blue = utility operator comments

green = excavator comments

orange = one call center comments

purple = locator comments

- What data is MNOPS collecting to substantiate the current exemptions? We have data from mandatory reporting from pipeline utilities but less data from non-pipeline utilities (electric, fiber optic, telecommunications, sewer, water, etc...)
- Damage reporting from pipeline operators show damages from driving stakes resulting in burns and in some cases, fatalities.
- Driving a stake into a gas line can lead to a house explosion. This occurred in Indiana.
- Distinction between locating a line and pounding a stake – should there be a difference between probing for a line 18” deep vs. driving a stake 12” deep?
- Example of a concrete contractor driving pins – forms were put in on Friday. Monday the pins were pulled and they had a gas release in front of a daycare. Definitely a risk. How do we scope the language to be effective on those risks but not be so broad so that a One Call ticket is not needed for a (kid’s) tent in the backyard?
- Has MNOPS reevaluated the language that was developed during the last stakeholder meetings?
 - Yes, but we did want to bring it to this first meeting yet. There are attendees present today that were not involved during the previous meetings and we wanted to allow them the opportunity to provide feedback from a clean slate. After today’s meeting, we will evaluate both today’s feedback and the proposed language developed from the 2013 stakeholder review meetings and continue both discussions for future meetings.
- Are we aware of any other states who have addressed definition of excavation recently? Was driving stakes addressed?
 - Not aware of other states who specifically discussed the issue of driving stakes. We will reach out to other states and learn more.
- For those who operate in multiple states, does extra regulation of hand dig help? What can we learn from those states?
- Would likely have to look at two separate buckets: 1) exemption status and 2) operators & excavators using probes, driving anchors, driving forming pins...
- Does anyone operate in South Dakota? Their definition of excavation is any operation in which earth, rock, or other material in or below the ground is moved or otherwise displaced by means of tools, equipment, or explosives, and includes grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing or driving. Exceptions are tilling, pot hole repair, vehicle operation less than 18”, road or ditch repair less than 18”, digging in cemetery, digging in planned landfill, and any bar test for suspected gas or liquid leaks.
 - We don’t have the same volume in SD as we do in MN
 - Also, SD’s laws are enforced by the One Call center. We can compare with other states but we just want to make sure we’re comparing apples-to-apples given other states’ enforcement abilities.
 - The violator appears before a panel in SD
- We can go back and review the damages per 1000 locates data and try to dissect further – driving a stake in the ROW, road construction, scoping work...
- Can anything be addressed with utilities having little cover? Utilities such as cable, telephone and electrical services are as shallow as 2” deep.

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- Not aware of any states One Call laws that currently enforce a standardized depth for utilities. Typically, the company has a depth standard that they use. For pipelines, there is a federal regulation for depth during construction but it doesn't cover post-construction (i.e. – grade changes).
 - Do we need to consider gravel pits as part of the definition?
 - If there is enough supporting information that is causing an issue then we can certainly discuss it.
 - Are there any stakeholders today and moving forward that we need input from?
 - Curb contractors, fence contractors, landscaping businesses. If you have contacts let's get in touch with them to ensure that we're including them. We don't want to get to a point where we're ready to propose to legislature then get derailed because of missing another stakeholder's input.
 - I would like to see the first and sixth exemptions removed: 1) the extraction of minerals and 6) planting of windbreaks, shelterbelts, and tree plantations
 - Regarding gravel pits, depending on the situation you probably don't need to call for locates every time. What if there are no lines through the gravel pit.
 - The ticket is good for 14 days but you can extend it
 - If you're going to operate the gravel pit for next 50 years with no lines through it, does it make sense to call for locates every time?
 - There's nothing in MS216D to prevent an excavator from calling. Good judgment and common sense may prevail.
 - Perhaps it's more of an educational process with MNOPS, GSOC and others?
 - An exemption for soil boring and core sampling?
 - Is there a reason for the difference between gardening and farming? 12" vs. 18"?
 - Action Item: MNOPS and other industry stakeholders to reach out to concrete contractors, fencing contractors, landscaping business and other companies that perform staking work and invite them to upcoming MS216D stakeholder meetings.
-

• **Definition of Emergency key comments:**

- This issue relates to an increased number of emergency ticket complaints received by MNOPS and GSOC where municipalities and other groups question whether or not there is an emergency situation. The majority of complaints relate to sewer service companies who automatically default to calling in emergency tickets rather than determining if it should be an emergency ticket vs. a normal ticket.
- We have seen cases where multiple sewer service companies bid on the same job or location – 3-4 emergency locates requests for the same property. We have to respond to each ticket – mark three emergency locates if we get three emergency locate requests even if it's for the same location.
- We've had to send a locator to the same location three times because of three different emergency tickets.

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- In some cases, an emergency locate request will be submitted by the sewer service company but no excavation takes place.
 - If no excavation takes place, then why was it called in as an emergency? Was it truly an emergency? An emergency ticket is one of the excavation ticket types.
 - We've seen where sewer companies will call in an emergency ticket before they even get the job. They want the locates on site by the time they get there hoping they are awarded the job.
- As a homeowner, if my sewer is backs up I would consider it an emergency. I'd rather not wait 48 hours to have it fixed.
- Being a municipality, we are also a sewer operator. We consider sewer backups as an emergency.
- Some cases are legitimate emergencies that pose a clear and immediate danger to life, health, or property – where the backup is entering the house. Other cases are where the sewer service drains but not very well - it doesn't back up into the house. Are they both emergencies per the current definition?
- When we get the call of a sewer backup, we send a crew out to expose it. Until we expose it, the cause is labeled as 'unknown' until we see it after we excavate and expose. Similar to a grade A leak, we can't downgrade an 'unknown' until it is investigated.
- If they are doing the bid but not excavating, then it's not an emergency – installation of a pool, deck, dog fences, trees, etc...
- MNOPS can deal with abuses of emergency locate requests
 - Correct. And we have, but it has to be reported to us first. I'm sure there's many that aren't reported to MNOPS.
- Doesn't the One Call center make that judgment when they receive the request?
 - The CSR's have to put the ticket in after reading the definition of emergency to the requestor. Once the operator gets the ticket, they have to respond to it and mark.
- If the excavator didn't white mark, that should be enforceable. It would prevent them from doing it next time.
- What is MNOPS telling municipalities?
 - We ask muni's and other groups that if feel you an emergency locate request didn't meet the definition of 'emergency', then please contact us and we can investigate. We are aware that there are groups who automatically call in for emergency tickets without assessing the nature of the emergency. We've seen emergency tickets where there was argument for a normal ticket.
- Perhaps training and education would be a better fit rather than language of law. We sent mailings to customers to address this stating that we would bill you. The problem lessened after that.
- Other people's thoughts? Address this issue via education vs. law change?
- Only address sewer line backups. General public may not understand what exactly what constitutes an emergency under the One Call law.
- What is MNOPS' authority? If someone abuses, what can MNOPS do?
 - MNOPS can enforce the misuse of an emergency ticket.
 - Can you fine them?

black = MNOPS comments

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- Yes.
 - Municipalities can refuse to issue a permit if they see problem.
 - Plumbers and sewer service companies have to utilize Call Before You Clear if they encounter a conflict during camera verification.
 - There is also the option to submit a scheduled emergency ticket. Some may not be aware of this. Perhaps that's another effort we need to educate further.
 - Action Item: MNOPS and other industry stakeholders to reach out to sewer service companies and invite them to the upcoming MS216D stakeholder meetings. At this time, more feedback may be required to consider new language proposal vs. stronger educational efforts.
-

- **Boundary Survey key comments:**

- MNOPS and GSOC have received increased complaints involving boundary survey requests the past 3-4 years. Engineering, land surveying and subsurface utility engineering (SUE) firms are submitting more of these tickets for the purposes of acquiring information of existing utilities so that they can design their projects accordingly. The majority of the complaints are that the boundary survey tickets are not getting located and/or no response.
- Misuse of boundary survey tickets – 2 block radius for a Taco Bell on ¼ block but they call in for the whole campus for a small section, thus inundating our locators and taking them away from normal tickets that they must also locate.
- We have dealt with cases where the entire MN Zoo area was requested to be located. Also large park areas in the metro area.
- In many cases, there was no intent to excavate. SUE companies request flags and paint so they can use their tools to gather that data then sell the information to...? This information should be utilized for damage prevention, not for profit only.
 - Mn/DOT is requiring more SUE work. That could be one reason for the increase.
 - It can be valuable for persons planning work to minimize interruption for all parties. There are boundary survey tickets where there is no intent to excavate, only to sell information to clients who may buy property. When we ask who the client is, they won't tell you.
 - Boundary survey tickets are a non-excavation ticket type, so no excavation should be taking place. But yes, there were many meet tickets where SUE was involved and we had to address this <above>. Meet ticket is an excavation type ticket.
- The GSOC Handbook states that "if you are a licensed surveyor, use this type of ticket to request facility markings". However, this isn't described in MS216D. Perhaps operators and facility owners are not responding to boundary survey requests because of this?
- Per MS216D, "unless otherwise agreed to between the land surveyor and operator, an operator shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities."
- Cannot have a boundary survey unless prepared by licensed surveyor per MN laws.
- Where are the limits?

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- If I as an owner or buyer of property was going to the point of having a registered land surveyor prepare a survey then it is not a casual request. Under NSPS construction quality surveys, a buyer of a survey can request that locates can be done. This is new in 2016. Not sure if this was done through CGA? National movement that goes beyond MN.
- There's also an engineering/pre-con ticket for the development of plans. However, a lot of groups don't call in that ticket because there is no expectation of flags and paint. They want the flags and paint so they can pick it up with their survey rods and GPS equipment and export the data into GIS. Don't want engineering drawings from 1964 which may not be accurate. Hence, also the increased issues with boundary survey tickets.
- GSOC would be interested in hearing about perceived abuses of boundary survey tickets. The intent is the request should not cover any more than what is necessary, not for the intent to sell information.
 - The concern of SUE companies doing SUE work and selling that information related to meet tickets. We met last year with those parties involved. MNOPS has seen less complaints regarding that issue but some still occur.
- Perhaps we need to consider newer technology and expand the issue to licensed engineers and engineering companies. More and more work is required in the pre-design and planning stages.
- Part of the reason for the MS216D stakeholder meetings is to consider new technology and how it impacts the industry. If technology is driving a need for change for language change, then it should be considered.
- Possibility of looking at all non-excavation tickets to see what is needed? Maybe redo the types of tickets – restructure them?
- Provide GIS mapping of facilities?
 - If the requestor feels that the GIS information is accurate, then may feel more comfortable receiving it.
- GIS maps or other mapping would have to be detailed to 2 feet. If service map only shows that it is in a corner of the yard, then that would not be accurate.
- If you send an engineer a map, they will claim that it is accurate. The paint should be on the ground.
 - Disagree – when they are ready to dig, then would call in a locate ticket and then have the utilities marked. Should trust map enough for planning. If something is wrong, it can be dealt with at that time. Marking twice doesn't seem fair.
 - But the pre-planning and the actual excavation could take place a year apart.
- If the data that the SUE and other engineering companies collect will be for creating plans to sell and make a profit, why can't we charge them for our time? If they're not doing for damage prevention, then it's likely for something to help them make money.
- So if the purpose of a normal locate ticket is to prevent damage and a boundary survey ticket is for profit – what if we separate the two tickets? Can one be charged for?
- Especially if the boundary survey people want it.
- One process for both digging and planning – alleviate damage by designing for less conflict.
- Argument for boundary survey for safety. We can start by working with GSOC to clarify the process. In the meantime, feel free to email or call with boundary survey thoughts and comments.

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➤ Action Item: Continue discussion during future stakeholder meetings.

- **48-Hour Notification key comments:**

- Currently, MN's One Call law requires operators to mark their utilities within 48 hours. In some states like WI, they have 72 hours. In other states, operators have until the end of the second day (11:59pm) to finish a locate request. It appears there is success with this in those states. Would MN benefit from allowing locate requests to be completed incumbent upon an end-of-second day requirement vs. a 48-hour requirement?
- CO have the end-of-day requirement. ND has the end-of-day language awaiting approval. For CO, this has streamlined the ability to plan and perform locates. No need to worry about what time the locate was submitted. Also allows excavators to start at 6am or 7am the following day instead of having to wait for a specific start time. For locators, it allows them to prioritize their work by geographic location vs. chasing start times.
- It could also help minimize damages. Example – there was a significant damage that shut down a railroad because the excavator thought his ticket was good to start digging on in the morning when in fact it wasn't due to start until 2pm. By allowing the start time to be 12:01am after the second day, it's less confusion for the excavator.
- MN does have the "agreed upon" language if excavators want to start early.
 - "Agreed upon" doesn't work so well. When you talk to a lot of excavators, many don't have their ticket in the truck so they end up calling the locators asking "what time does my ticket clear?"
 - So automatically allowing the ticket to clear after the end of the second day eliminates the need to look up information?
 - Correct.
- It's better than the 72-hour rule. Technology has changed. Locators have better prints and equipment but in the end it is still a human being who is walking on foot and locating. There are a lot more utilities in the ground.
- 2 days is a tight window. 3 days is too long but the midnight due date is a good compromise.
- For CO, did they have problems changing the excavators' thought process? There is an advantage of always knowing what time ticket is good rather than trying to figure out when it is due. Many call in early to avoid issues but this can lead to other complications.
- Most crews start their work right away in the morning. Knowing their ticket is good at 12:01am affords the ability to do so.
- I believe MO also has the end-of-second day requirement.
- It sounds like there is general acknowledgment by this group that this would benefit MN. If so, we would likely seek to form a subcommittee to continue discussions and formulate proposed language.

➤ Action Item: Review similar language adopted by CO, ND, and MO and request stakeholders to form a subcommittee.

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- **Civil Penalties key comments:**

- Currently MNOPS has the ability to fine up \$1,000 per day per violation. Exact amounts may vary based on the violation, previous history of the company, level of prudence, degree of impact to public safety, etc... Per MN law, pipeline operators can have higher penalty amounts. Is the current amount adequate to minimize recurrence of damages?
- Simplify the fines so that's it's consistent for everybody? From an enforcement perspective, it would be easier. Still a difference between pipeline and others.
- \$10,000 cap on pipeline operator. Per pipeline safety regulations, it can be \$100,000 or \$200,000 per day. For non-pipeline, MNOPS doesn't always penalize to the \$1,000 cap. It can be less.
- Why are we reviewing this?
 - Some stakeholders feel fine caps should be raised.
 - Goal is to prevent excavation damages. Are the current penalties enough to achieve safety?
- What is PHMSA's input? Do they feel it is significant enough of a deterrent? Wasn't WI scrutinized because of no civil penalties?
 - What PHMSA looks at for each state is: 1) is there state oversight over damage prevention? 2) is there a civil penalty structure? 3) do rules drive damages down? Overall, MN has had a downward trend in damages.
- What are other states doing?
 - \$1,000 is used in other states in some fashion.
 - And that's for states that have enforcement. Some states don't have an authorized agency to pursue enforcement.
- Can MNOPS shut an unsafe excavation down?
 - No, but OSHA or law enforcement can.
- From an excavator viewpoint, if hit then more cost in downtime. If no ticket, the fine amount should be much higher than \$1,000.
- If no ticket, the find should be double.
- For us (muni operator), we can double the fine on an excavator for repeat violations and double the cost of the permit. We can also choose to deny a permit after too many damages.
 - Correct, muni operators can seek support from their city council to enhance their policies to prevent damages. One of which is to choose to deny a permit.

➤ **Action Item: Continue discussion during future stakeholder meetings.**

- **Abandoned Facilities key comments:**

- GSOC and MNOPS have had to address the issue of what should be done with underground facilities where a company goes out of business. When a company goes defunct but the lines are still there, who is responsible to locate those lines?
- If I cut out steel then I can't locate any more. Very difficult to keep record and locate abandoned lines. Typically, it is abandoned because it is in the way of something. Example – I had a utility in a service area but it's not locatable anymore.

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- We had a location where we installed a new line at 8' depth. We encountered abandoned lines at 3' depth. There was no information on the abandoned line. We spend time on the phone trying to determine if it was live or dead. If we knew it was dead before hand, we could cut it and move it out of the way and make it easier to compact our trench. Very few abandoned lines are located.
 - A good scenario is where the excavator can at least reach a contact with utility operator(s) who can help identify the abandoned line. In many other cases, excavators encounter abandoned lines with no contact and no maps.
 - The One Call center has polygons for abandoned facilities but no maps.
 - For underground utility operators with abandoned facilities, GSOC keeps track of that information.
 - In the more recent case related to this, GSOC was able to address the issue after the fact, but in the future, as more companies possibly go defunct, we need to consider a proactive approach to handle abandoned lines.
 - Are we looking to change the law?
 - If it's in the best interest of the state and its stakeholders. Remember also that the current language requires utility owners to maintain maps and other information of their abandoned lines after December 31, 1998.
 - We could also look at a process where if a company goes out of business, they have to submit their maps to someone.
 - Like superfund sites – EPA will go after existing companies who can pay for it.
- Action Item: Continue discussion during future stakeholder meetings.
-

- **Depth of Utilities key comments:**

- Many utilities are installed via directional drilling. Some HDD work is very deep. By law, we have to pothole at each crossing but sometimes we pothole and still don't find it because it's so deep. A lot of time is spent.
- Provide depth information?
- If grade gets cut then it's tough to say a correct depth.
- The typical depth should be known. If you pothole and still don't find it, you can call the locator to assist.
- Locators won't tell you how deep. Some sewer pipe is 26' deep. When we don't find it we also have to question if it's located in the right spot.
- Is there a method, tool or practice to find depth accurately? Perhaps we could apply this topic to the MNCGA best practices group.
- Maybe the permitting authority could maintain location information because they would be knowledgeable of grade changes.
- Most utilities have ideal depths for their utilities but may have to go deeper if necessary. How do we find it once that occurs?
- Natural gas companies have minimum service depths. However, changes in depth of existing facilities is always an issue.

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- We have found lines as shallow as 2". When we installed utilities, there is an inspector there to make sure it is installed according to plan.
- Natural gas projects also have inspectors on site.
- Mn/DOT lines follow the easiest route that tend to zigzag.

➤ **Action Item: Consider this topic for the Best Practices group.**

• **Each Excavator to Have Their Own Ticket key comments:**

- GSOC Handbook (page 18) suggests that everyone must have their own ticket. However, MS216D can be interpreted differently. Multiple subcontractors will work under the general's ticket.
- There have been cases where there were multiple tree contractors. Don't know which contractor will plant on each street.
- MNOPS and GSOC have conveyed at damage prevention meetings and elsewhere that if you are an excavator, you should have your own ticket.
- Propose verbiage to require everyone to have their ticket?
- Need to add a requirement that each excavator must have their own ticket.
- Interpretation – page 65 of GSOC Handbook – attorney general. Not an exclusive statement. Not every person is required to have a ticket.
- MNOPS enforcement?
 - Violation is that they are doing something careless or expired, etc... Someone else can work under a ticket as long as all other requirements are met.
- What is the benefit of keeping it the way it is?
 - Having a sub with their own ticket = ownership of their excavation.
- If you have a ticket and the sub is working in the same area, does it make sense to require another ticket?
 - It would be in the best interest for subs to have their own ticket
- All subs should have their own
- From locators view, if subcontractors don't have tickets, it is difficult to know who is excavating and to ensure that things are marked for all excavators. They will generally say "I thought he had a ticket".
 - It would fall to the sub if agreement doesn't cover sub's work
- General contractors cover themselves by saying that subcontractors must get their own tickets for liability reasons.
- The general expectation is that subs should have their own ticket
- Is this similar in other states?
 - Shouldn't matter. If people are not generating tickets, then it's not safe.
- When Michels bores for us they get their own ticket
- We are getting own tickets for Xcel jobs
- Consensus to consider language change to require every excavator to have their own ticket?
 - I think we need to have more contractor presence than we have today. Sometimes contractor and subcontractors are both excavating at the same job.

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- Action item: Stakeholders to reach out to additional contractors and invite them to upcoming MS216D stakeholder meetings.
-

• **Meet Tickets key comments:**

- Do we still have the language that was drafted last time?
 - We do and I apologize again for not having it available for this meeting. Since we have members here today that weren't part of the last stakeholder meetings, we wanted to allow everyone a fresh viewpoint to start with. After today's meeting, we will include and reconsider the draft language that the group then proposed.
 - We will also publish that information on our website along with meeting minutes and other draft language developed during these ongoing meetings.
- Meet tickets stacked too close time-wise. Makes it difficult for our locators to attend some meets.
- Everyone wants to meet at 8am on Monday.
- We usually call to request a different time for a meet if we can't make it.
- We talked about a software tool to schedule meets. Did not go anywhere.
- Tool proposed for excavators to schedule a meet. Could see all the meets already scheduled in an area to see times that might not work. Some states schedule meets. It may be a one call or other type of operation.
- How do states address meet tickets in 12:01 ticket due time schemes? Half of meet tickets give an area bounded by XX:XX starting tomorrow. Could be a concern for locators.
- How about "parent" and "children" tickets. Notice of meet ticket – "sibling" tickets would know of meet tickets. This would address issues in a communication fashion rather than a law change.
- Meets can save utility locators a lot of time rather than individual tickets. Do a whole town – initial meet and try to call in new meet every two weeks. Advantage for locators – tickets are called in every two weeks to ensure they can be paid.
- Also need telephone number of operator contact. We can get the number for locators but not operators.
- Phone numbers for all locators and operators should be on the ticket.
- It has changed. In the past, there were three separate columns. One for locator, one for utility operator, one for emergency contact. Not sure when it changed, but for some time now, tickets only provide one column for utility operator contact. Sometimes those numbers lead you to customer service centers who don't have knowledge of the site.
 - Excavators are required to call the utility operator in case of a hazardous condition but that number for an emergency is not available on the ticket.
 - We could go back and look to have operator's and locator's numbers back on the ticket.
- Substantial number of homeowners – if emergency numbers added back on tickets, we may also get non-emergency calls from homeowners. May need to receive more input to ensure that everyone wants emergency numbers.
- We can form a user's group to discuss further.

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- Action Item: Consider forming a user's group to develop enhancements for meet tickets.
 - Action Item: One Call center to consider reestablishing locator and emergency contact info on tickets.
-

Moving forward, the plan is to continue meeting quarterly and continue discussions as needed. For topics where language change is deemed prudent, we will consider forming subcommittees. All stakeholders are welcome to volunteer as lead facilitators for subcommittees. MNOPS will coordinate such efforts appropriately.

MEETING ADJOURNED at 15:30 CDT

*** Please join us for the next MS216D stakeholder review meeting on January 19th, 2017 at Connexus Energy, 14601 Ramsey Boulevard, Ramsey, MN 55303 from 10am to 3:30pm.**

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MS216D Stakeholder Review Meeting Minutes

Thursday, January 19th, 2017

Connexus Energy, 14601 Ramsey Blvd. NW, Blaine, MN 55303

Attendees:

1. Bruce West	MNOPS
2. Jon Wolfgram	MNOPS
3. Mike Mendiola	MNOPS
4. Dean Parker	Gopher State One Call (via teleconference)
5. Barb Cederberg	Gopher State One Call
6. Estelle Richard	Gopher State One Call
7. Darrell Leonard	MERC
8. Daryl Hemann	MERC
9. Sam Richert	Xcel Energy
10. Jerry Cobenais	Xcel Energy
11. Jeff Murray	Xcel Energy
12. Ben Wallace	USIC
13. Keith Novy	CenterPoint Energy
14. Dean Headlee	CenterPoint Energy
15. Phil Lesnar	Northdale Construction
16. Dan Maschka	Northern Natural Gas
17. Tom Hoffman	Agralite Electric Cooperative
18. Rachel Sorrentino	Lakes Superior Consulting
19. Mike Gorham	NW Gas
20. Chris Madden	City of Duluth
21. Howard Jacobson	City of Duluth
22. Jon Blough	Owatonna Public Utilities
23. Arnold Kraft	ARK Management Assoc., LLC
24. Erick Grochow	Valley-Rich Co.
25. Mike Moore	NuStar Energy
26. Mike Broderick	NuStar Energy (via teleconference)
27. Keven Maxa	Austin Utilities
28. Kim Boyd	One Call Concepts/Gopher State One Call
29. Eric Klute	Mn/DOT
30. Jerome Viske	Duininck Inc.
31. Betty Jo Kiesow	Dakota Electric
32. Tom Schmitz	Dakota Electric
33. Rick Schlegel	Koch
34. Ward Westphal	MP Technologies

35. Matthew Miller	BP Pipelines
36. Jodi Corrow	Minnesota Power
37. Stephanie Menning	MN Utility Contractors Association
38. Walt Kelly	Walt Kelly Consulting
39. Doug Miller	KMEP
40. Todd Morrison	Enterprise Products
41. Nick Nicholson	Enterprise Products
42. Mike Schoepp	MDU/Great Plains Natural Gas
43. Nancy Graham	Virginia Public Utilities
44. Angie Bennet	Koch Pipeline
45. Todd Stansbury	MNOPS
46. Elizabeth Skalne	MNOPS
47. Claude Anderson	MNOPS
48. Adam Ratzlaff	MNOPS
49. Jeff Cremin	MNOPS
50. Pat Donovan	MNOPS

MNOPS MS216D General Discussion

- MS216D Historical Overview
 - Last amendments in 2004 (over 20 years)
 - Purpose of stakeholder review and potential changes is to enhance safety regarding operating underground utilities and excavating around them
 - No changes to rules since adoption in 2005
 - Purpose of 2016-2017 stakeholder review meetings is to prepare for 2018 legislative session (if changes are deemed necessary)
- PHMSA Damage Prevention Rule
 - Part 196 – PHMSA enforcement on excavators. Primarily for states deemed inadequate in their own One Call enforcement.
 - Part 198 – PHMSA enforcement on state pipeline safety programs for damage prevention.
 - PHMSA audit on MNOPS’ damage prevention program – data to support current One Call exemptions?
- Damage Reporting Data & Exemptions
 - MNOPS utilizes mandatory damage reporting from pipeline operators and voluntary damage reporting from non-pipeline operators
 - In 2011, 115 non-pipeline companies reported their voluntary damage data, however the number of reports has declined since then
 - In an effort to support current One Call exemptions, MNOPS will seek support from industry stakeholders for increased reporting

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MS216D Review Topics

Definition of Excavation: Current language reads as follows...

Subdivision 5 - Excavation.

"Excavation" means an activity that moves, removes, or otherwise disturbs the soil by use of a motor, engine, hydraulic or pneumatically powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include:

- (1) the extraction of minerals;
- (2) the opening of a grave in a cemetery;
- (3) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch;
- (4) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more;
- (5) gardening unless it disturbs the soil to a depth of 12 inches or more; or
- (6) planting of windbreaks, shelterbelts, and tree plantations, unless any of these activities disturbs the soil to a depth of 18 inches or more.

Proposed 2013 draft language added the following exemptions:

- (7) The use of non-mechanized hand tools or equipment unless it involves driving, twisting or like activities into the soil at any depth in a manner that is reasonably capable of damaging an underground facility;*
- (8) An underground facility operator or representative using non-mechanized hand tools or equipment to locate the operator's underground facilities, provided reasonable precaution has been taken to protect the underground facilities;*
- (9) An excavator using non-mechanized hand tools or equipment within two feet on either side of a marked location of an underground facility, provided that a valid notice the requirement of section 216D.04, subdivision 1 has been generated and provided reasonable precaution has been taken to protect all underground facilities; or*
- (10) Vacuum excavation provided reasonable precaution has been taken to protect the underground facilities.*

➤ Definition of Excavation key comments:

- Change definition of excavation to stay as it is except at the end add "driving of stakes with any means" that would include hammers, etc. maybe we could zero in on change we are really after
- PHMSA is looking for states to justify exemptions they have in place
- Is adding 7-10 complicating the definition?
- If adding more seems to complicate the definition, perhaps we can go back and refine the main body of the definition?

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- Regarding #10, who determines what a reasonable precaution is?
- In 2013, we had difficulty determine reasonable precaution
- Would it be better not to have extra exemptions?
- How do we account for vacuum excavations in today's practices?
- Reasonable should be defined
- If the excavator is within 25 feet of our pipeline, we have to be on site. My 'reasonable' is to maintain that level of safety
- Defining it would be difficult since there is different criteria for each utility operator
- Can we include something like "contact the operator" so that each company has an opportunity to provide what their criteria requirements to the excavator?
- How prescriptive do we want regulations to be? If left open, 'reasonable' provides us the ability to enforce based on performance. For example, X company has violated MS216D 10 times now. That would give us leverage. Prescriptive locks us in.
- Vacuum excavations should require locate requests
 - Agreed
- I don't want to have to call another ticket then wait two more days while locating – can't have vacuum excavators excavating randomly but would be nice to not have to call ticket when hand digging – WI has no exemption, every time I probe my pipeline I have to call in ticket, have to make ticket to make ticket...
- An exemption may allow installing power poles to be installed without locate requests. I don't want power poles over my pipeline
- Many companies send a crew who solely do vacuum excavation to locate utilities before the actual excavation crew arrives on site
- When vacuum excavation happens when we are not around it damages coating and it can cut into steel at 40,000 psi – we will generally meet but there is still a one call ticket in place
- Emergency example - 2:00 am hit can't get emergency locates in time, need to get gas shut off – otherwise sit there and wait – vacuum excavation valuable tool not just for locates but for emergency excavation
- We've had cases where the pressure caused broken tracer wire on our pipelines
- vacuum excavation considered hand digging technique – think of how MNOPS would enforce – if vac exaction done carefully would likely not take enforcement if not careful would take enforcement
- And that's where we have benefit of ability to enforce – determine who was violating party – reasonable precautions – if they are negligent that's one thing but if the excavator is doing their best to avoid damages, we take that into consideration
- As the one call law currently sits, law was written before vacuum excavation. It doesn't appear that we are hearing a compelling case for exempting vac excavations across the board
- Structure the new language that vacuum excavation be allowed for pot holing?
- If we restructure to get rid of vacuum that problem goes away
- Could say carefully vac within 2 feet of marks?
- Call vac ex safe digging – separate from regular excavation?
- Flip side – if everyone calls in every vac – tickets skyrocket

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- Is psi increasing on vacuum excavations?
- Yes – pull coating right off pipe with vac excavations
- We've been in towns where they say you can vac but need to turn psi down
- Operators and utility owners usually say what pressure is allowable around their lines
- No enforcement on vac pressure
- CGA looking at max pressure, looked at it as best practice rather than regulation
- Correct, we looked at it last year within MNCAG best practices group – discussed bringing it to MS216D discussion
- If exempt vacuum ex from vacuum ex – won't know they are doing it – should be added to #9 because might be crossing someone
- Tolerance zone, if excavator must find precise location of facility – must use shovel, if operator, can they use excavation to find their facilities? If frozen ground may be quicker to hydrovac
- .04 page 68 sub 3 – facility operator – specific to operator for locating, is it adding something in there using vac as method to locate rather than definition of excavating
- Would it affect both?
- 3rd party had ticket – we have to dig up to find broken tracer wire to find pipe – would now require a ticket
- Still have to wait 2 days until locates are complete
- Power poles placed using vac ex – can mark electric and gas – sitting 6" from existing line
- I think we should not have #10
- I would want the opportunity to locate my facilities when anyone digging to make sure they don't hit me regardless of method
- Have there been cases where hydrovac damaged electric and caused harm?
- If vac ex over 3-phase power line I would want to know that
- Define excavation as widely as we do, think about driving stakes and pins as excavation, listed, then all this stuff goes away. Vac ex still covered. Can debate if want broader exemption than just emergency
- There's already emergency exemption
- So would we rather not have #10 vac ex exemption – allow currently language to include it and look at pins?
- Still generate a lot more tickets – if don't exempt vac ex, every time I go out to pot hole, only broken tracer wires
- Not putting vac ex in exemption in 2' zone to locate – when I get ticket all utilities should be marked, need to locate – need to call in another ticket and wait 2 days
- You're not the one who is going to pot hole, this contractor is calling in a ticket, I want to vac ex because I can't locate it, I need to vac ex to locate, won't respond in time if I have to call ticket
- Exemption vacuum excavation when used by an operator to locate their own facility when responding to a ticket

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- Action Item: Form subgroup to continue discussions for Definition of Excavation / Exemptions / Hydrovac Excavating. Members include Rachel Sorrentino, Mike Gorham, Rick Schlegle, Arnie Kraft, Dean Headlee, Mike Broderick, Ward Westphal, Sam Richert, Matt Miller, Keven Maxa, Nancy Graham and Matt Miller
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Emergency Excavation Notice: Current language reads as follows...

Per 7560.0325 Emergency Excavation Notices. Subpart 2.

If an emergency is such that providing notice or waiting for an operator would result in an undue risk to life, health, or significant loss of property, the excavator may excavate without providing prior notice or waiting for an operator to mark an underground facility. In this situation, the excavator shall provide notice as soon as practicable and take all reasonable precautions to avoid or minimize damage. Excavation prior to notice under this subpart does not relieve an excavator from any responsibility for damage to an underground facility pursuant to Minnesota Statutes, section 216D.06.

Proposed language from 2013...

If an emergency is such that providing notice ~~or waiting for an operators~~ of underground facilities would result in the escape of flammable, toxic, or corrosive gas or liquid in quantities sufficient to create an immediate hazard or an undue risk to life, health or significant loss of property, the ~~excavator operator of the facility, or its designated representative,~~ may excavate without providing prior notice or waiting for ~~an operators~~ of other underground facilities to mark an underground facility. In this situation, the ~~operator excavator~~ of the facility shall provide notice as soon as practicable and take all reasonable precautions to avoid or minimize damage to other underground facilities. Excavation prior to notice under this subpart does not relieve an ~~excavator operator~~ from any responsibility for damage to an underground facility pursuant to Minnesota Statutes, section 216D.06.

➤ Emergency Excavation Notice key comments:

- For those of you who were part of the 2013 meetings regarding this topic, any insights you can provide?
- Utility operators concerned that current definition did not relieve them of responsibility prior to putting in emergency ticket and did not cover contractors working on their behalf. That is why the language is proposed.
- Also wanted to it spell out – current language says undue – wanted to put boundaries around that so everything can't be called an emergency
- Particular instance where service for a tap we were helping gas company – have equipment there – to shut gas off. Had to dig to find pinch point and hit fiber optic – liability in excess of \$10,000 – double liability – facility that can't be located, exposed, hit tap, another incident where helping with other incident – someone could have died but were double penalized because tried to help out. Excavator and operator – won't do emergency locates with undue reason, if helping operator to repair – not liable when trying to help when damage occurs that would not have happened if weren't trying to help out.
 - In that instance you working on behalf of operator, correct?

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- If fiber optic – they see you as excavator
 - Text does not absolve liability just prevents MNOPS from violation
 - Liability established because of language – sometimes excavator and operator are same thing
 - Just to keep excavators from digging without operators OK – put responsibility on operator to designate excavator – does not absolve them from responsibility
 - Ticket in first time – fiber not included in ticket
 - Does the 2013 language not consider water/sewer emergencies?
 - Still need emergency ticket for water/sewer emergencies
 - If water going into someone's house, possibility I would not wait
 - Should be covered under existing language
 - Qualified with flammable, etc. water is not
 - or liquid in quantities to cause hazard
 - significant loss of property
 - Water is not corrosive but can still cause major damage
 - add sentence at end, if toxic, corrosive etc. immediate rather than calling emergency ticket
 - Sewer contractors with emergency tickets and emergency abuse?
 - City might have a broken water main – more than one person calling in anticipation of bidding on job– we are going to use you – who will do the work?
 - One address, three sewer contractors calling in
 - Yes, there have been cases where sewer contractors automatically submitting emergency locate requests in anticipation of getting the job
 - Probably best to have MNOPS investigate if we feel there's an abuse of emergency locate requests
 - Agreed, ticket abuse can be handled by MNOPS
 - MNOPS will proceed relying on you as operators of violations of emergency ticket use. Will leave sewer contractors to MNOPS for enforcement
- Action Item: Form subgroup to continue discussions for Emergency Notification. Members include Mike Gorham, Arnie Kraft, Keven Maxa, and Nancy Graham.
-

- **Boundary Survey key comments:**
- Boundary survey – question on exact purpose, who has responsibility, expectations after receiving boundary survey request
 - Further thoughts? Newer technology, GIS/GPS application, request – level of reliability of information? Part of discussion sub surface utility engineering, sue companies that ascertain what is in ground to provide information to client
 - Can it be expanded from just licensed surveyors to licensed engineers?
 - Meaning can someone else use this type of ticket
 - Why do we need to have licensed anyone?
 - Law does not limit – front of handbook says licensed surveyors law does not limit
 - Sub 6a of .01 – very specific of definition of land surveyor

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- Reason for SUE companies mandating current utilities – use boundary survey vs. xxx current practice is boundary survey and not land surveyor
- When purpose is getting free service and not protecting utilities – reselling our information that we are putting money out for, it would be solved quicker if operators could charge for this
- Companies requesting locate tickets, SUE companies pick up information to sell to clients, how is that making operators of facilities feel good about someone picking up information?
- And if information is not used and four years down the line is operator liable if things change?
- Where is liability if something changes?
- SUE or alt surveys – by eng company – have disclaimer telling client still must call GSOC but don't warrant information
- Also, the SUE companies won't tell us who they are getting information for
- They can use design ticket – if they don't want to wait two weeks for design ticket because don't want to wait – if not digging, can't use regular ticket or boundary survey – I agree with XXX – more and more being done for profit not safety
- Land surveyors not locating in time has been issue, SUE engineers – people don't want to wait 15 days for markings
- I understand the questions, being engineer, required to put some information on plan, mis-education of engineers on which ticket to use, putting pins in, have to have utilities located, for engineers must wait 15 days if not excavating. That is where the issue is. I see the value for the land surveyor tickets. Could mark specific area rather than entire lot. Should locate where pins are.
- MNDOT has predesign meetings
- If project requires bids, they show up to get information – road projects (mostly) MNDOT, county, city – project owner – put out bids – utilities shown on plans so contractors know how much stuff to work around, project owner works with affected utilities
- Most jobs have plan set as part of the job set
- Is topic of boundary survey one that needs to be reviewed?
- I think it should be changed so we can charge people for our services if warranted
- Replace with design survey so we can charge
- Take boundary survey out
- Does GSOC know how many boundary surveys called in?
- Probably 1000 – meeting with MN land surveyors – not just pins, must include underground surveyors – should include land surveyors in our meetings
- Other states may be going the other way – 2016 survey standards have been refined once again – expectation that one call center may be called into play in process of identifying underground utilities – hot button item – going to be more prevalent in future rather than less

➤ Action Item: Form subgroup to continue discussions for Boundary Surveys. Members include Barb Cederberg, Chris Madden, Betty Jo, Keven Maxa, and Connie Villari (added post-meeting).

48-Hour Notification: Current language reads as follows...

Per MS216D.04 Subd. 1a.

Except in an emergency, an excavator shall and a land surveyor may contact the notification center and provide notice at least 48 hours, excluding Saturdays, Sundays, and holidays and not more than 14 calendar days before beginning any excavation or boundary survey.

Per Colorado's One Call Law

§ 9-1.5-103. Plans and specifications--notice of excavation--duties of excavators--duties of owners and operators

- (3)(b) Notice of the commencement, extent, and duration of the excavation work shall be given at least two business days prior thereto not including the day of actual notice.

Per North Dakota's One Call Law

12. "Locate period" means the later of:

a. The forty - eight hour period beginning at 12:01 a.m. of the day after the location request was submitted to the notification center; excluding any Saturday, Sunday, or holiday; and any twenty - four hour extension provided through the notification center; or

b. The period between the submission of a location request to the notification center and the noted date and time of excavation.

➤ **48-Hour notification key comments:**

- During the last meeting, the group discussed proposing to change to a start day rather than a start time. Basically allowing extra timeframe – instead of chasing start times on locate requests, manage by geographical area, know that have until end of day to finish tickets
- State of Colorado has a law that we can follow as an example - 9-1.5-103 – 3(b) MDM read language of CO law
- ND just passed this law – may be push back but excavators like it because it add clarity – reduces confusion between utility operators and excavators – works smoothly
- MO also has something similar that appears to work positively
- The CO language could be stated more clearly

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- 12:00 language works well
 - For contractor, time is money, if can start at beginning of day, get a full day of work – consensus – move forward – review this law for betterment of MN – look at what CO, MO and soon to be ND
- Action Item: Form subgroup to continue discussions regarding 48-hour notification. Members include Sam Richert, Ben Wallace, Keith Novy and Arnie Kraft.
-

Civil penalties current language reads as follows...

216D.08 CIVIL PENALTIES; PROCEEDS TO SAFETY ACCOUNT; RULES.

Subdivision 1. **Penalties.**

A person who is engaged in excavation for remuneration or an operator other than an operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed by the commissioner not to exceed \$1,000 for each violation per day of violation. An operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed under section 299F.60. The district court may hear, try, and determine actions commenced under this section. Trials under this section must be to the court sitting without a jury. If the fine exceeds the maximum limit for conciliation court, the person appealing the fine may request the commissioner to conduct an administrative hearing under chapter 14.

➤ Civil Penalties key comments:

- For those involved in 2013, any insight you can provide?
- Felt it was already covered in MN Rule 299J
- Covered in three areas – excavator 216D, pipeline 216D, pipeline 299. If we revising language in one would affect the others.
- Reading the current language, it could be clearer. More clarity in MS216D. Lower max civil penalty on 216D vs 299
- Both maximums?
- Both maximums. For pipeline operators, there is also the application of 192.614
 - Does not apply to excavator
- Should \$1000 maximum be increased? First violation could be up to \$1000, subsequent violations could be \$2500 and further. Still have the ability to enforce multiple violations. Could be incentive to comply.

- Action Item: Form subgroup to continue discussions regarding civil penalties. Members include Claude Anderson, Elizabeth Skalnek, Dean Headlee, and Walt Kelly.
-

Abandoned facilities: Current language(s) as follows...

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MS216D.04 Excavation; Land Survey

(f) After December 31, 1998, operators shall maintain maps, drawings, diagrams, or other records of any underground facility abandoned or out-of-service after December 31, 1998.

(g) An operator or other person providing information pursuant to this subdivision is not responsible to any person, for any costs, claims, or damages for information provided in good faith regarding abandoned, out-of-service, or private or customer-owned underground facilities.

7560.0100 Definitions

Subpart 1A. Abandoned Facility.

"Abandoned facility" means an underground facility that is no longer in service and is physically disconnected from a portion of the operating facility that is in use or still carries service. An abandoned facility has been deemed abandoned by the operator.

7560.0125 ABANDONED AND OUT-OF-SERVICE FACILITIES. §

Subpart 1. Duty of operators to provide readily available information.

Operators shall provide readily available information, as shown on maps, drawings, diagrams, or other records used in the normal course of business, on the approximate location of abandoned and out-of-service facilities to an excavator by the excavation date and time noted on the excavation or location notice unless otherwise agreed between the excavator and the operator. An operator fulfills an obligation to provide information on these facilities by doing one or more of the following:

§

- A. locating and marking the approximate location of the facility according to the current color code standard used by the American Public Works Association, as required in Minnesota Statutes, section 216D.04, subdivision 3, with an abandoned or out-of-service facility identified by an uppercase A surrounded by a circle;
- B. providing informational flags at the area of proposed excavation;
- C. communicating information verbally; or
- D. providing copies of maps, diagrams, or records.

Proposed language from 2013...

Operators shall provide readily available information, as shown on maps, drawings, diagrams, or other records used in the normal course of business, on the approximate location of abandoned and out-of service facilities to an excavator by the excavation date and time noted on the excavation or location notice unless otherwise agreed between the excavator and the operator. An operator fulfills an obligation to provide information on these facilities by doing one or more of the following:

- A. locating and marking the approximate location of the facility according to the current color code standard ~~referenced~~ used by the ~~Common Ground Alliance~~ American Public Works Association, as required in Minnesota Statutes, section 216D.04, subdivision 3, with an abandoned or out-of-service facility identified by an uppercase A surrounded by a circle;
- B. providing informational flags at the area of proposed excavation;

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C. communicating information verbally; or

D. providing copies of maps, diagrams, or records; or

E. directing the excavator to where readily available electronic versions of maps, diagrams or records are available.

➤ **Abandoned facilities / out-of-business companies key comments:**

- Do we need to look at redefining 'operator'?
- Legal discussion – can someone be held accountable for something they no longer own?
- Sell customer list?
- Holding company may not have ability to locate abandoned facilities
- The proposed 2013 language was unfinished – part way on it – that is where it ended. Is there any state office a company could give records to? GSOC? Multi utility – MN GEO office – together with PUC – arbiter – could we have utility turn records to MNGEO? – if excavator runs across abandoned facility call MNGEO?
- Perhaps putting this in definition isn't the right place. Put in section of statute that deals with that. Putting code requirements in definitions may not be best
- Need to further evaluate how to handle companies going out of business – who is available to provide information on it?
- Recent example: encountered telephone line and assumed it was abandoned. Called every entity – no one knew anything about it. I had to directional drill two weeks later, either someone will claim telephone line or I will break through. Within 48 hours it was located and determined it was live.
- Still have lines abandoned long time ago – spend too much time on tracking down out-of-business
- Grant money for programs to handle this?
- Look into what other states are doing
- If company goes broke and another operator takes over, they should have to take over abandoned lines as well
- There are cases where company A goes out of business, company B acquires a portion of business. Company B acquires some of the abandoned but not all.
- Is seems that the contractor digging is ultimately responsible. This makes it difficult to do our work efficiently many times
- Run into abandoned utility, does not show up on ticket, no one knows whose it is
- Plus you can't assume it's abandoned, come across stuff all the time that was missed
- If excavators encounter lines with no information, it impacts their work
- Example - teleco lines not marked, go off what was told to us as best as we can – multiple instances was told line is dead. We cut it and get angry phone calls and visits, later on get bills. Told them no we are not paying it, your rep told us it was dead.
- How big of an issue is it? One occasion or three occasions?
- Big enough issue to include our office on some discussions
- Repository would be better than trying to hold bankrupt companies responsible
- In other countries one call center is repository

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- Action Item: Form subgroup to continue discussions regarding abandoned facilities and out-of-business companies. Members include Mike Mendiola, Eric Klute and Mike Broderick.
-

Other items:

- For facilities over 8" diameter, consider locating the facility within 18" and excavators exposing within 24"? This would be similar to New Jersey
 - This would hold facility operators to a higher standard than currently
 - Is there related experience to this in MN?
 - West of Edina where there was a mismark due to steel gas main about one foot away from new gas main. Abandoned gas line was exposed and the new PE gas main was hit
 - Another option – maintain locate difference but require more pothole requirements. In Montana, a signal jumped to another line and the line was hit. More potholing likely would have prevented it.
 - Do we want to burden the excavators with extra 6"?
 - Is it worth changing for an extra 6"?
 - Many answered "No, not at this time."
-

- How about excavators who put in tickets but don't ever dig? I had an excavator do this 9 times in my area.
 - 16-17 times in my area
 - The purpose of a normal locate request is with the intent to dig. If no digging occurs within 14 days, MNOPS can investigate.
 - Some states allow excavator to be billed for repeat locate requests without digging activity.
 - Those cases need to be reported to MNOPS
 - We do get many of those same complaints but sometimes it's difficult because they are not reported to us in a timely manner
 - We should reiterate this at the damage prevention meetings
 - Unfortunately bad excavators don't attend those meetings
 - The sooner you let us know about problem violators, the better
 - We used to implement a filtering system of trying to work with the violator first before contacting MNOPS, but the violator kept hitting our gas. Now we just contact MNOPS right away.
 - Depending on the situation, MNOPS may choose to issue an NPV or use the approach of "How can we help to get you to comply and dig safe?"
 - We should have the locators' names on the tickets
 - At one time, the tickets used to have the facility owner's number, locator's number and emergency contact. Perhaps the one call center can see if this can be reestablished
-

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- Has anyone had difficulty with projects where there are multiple locate tickets for one site? 11 tickets in my case.
 - It's easily possible, especially if it's a commercial site
 - Large commercial building projects, easily 75 tickets in at one site my area between general and subcontractors.
 - As long as they are following the law they are in compliance but we understand it can cause confusion for locating needs. If this occurs, let us know and we can look into your specific case.
-

- Can we address contractor downtime? I've had cases where the gas line was not marked, we dig and hit it then get billed for the repair. Plus, my crew has to sit idle until the gas is shut off and that costs us money.
 - Unfortunately, MNOPS doesn't have the ability to intercede with billing/invoicing issues but if you feel that you received a bill erroneously we can discuss with the operator. If it's a gas damage, the gas company should have a damage report describing the cause of the damage.
 - The excavator can backcharge to the operator or take it to civil court.
-

Moving forward, the plan is to continue meeting quarterly and continue discussions as needed. For topics where language change is deemed prudent, we will consider forming subcommittees. All stakeholders are welcome to volunteer as lead facilitators for subcommittees. MNOPS will coordinate such efforts appropriately.

MEETING ADJOURNED at 15:30 CDT

*** Please join us for the next MS216D stakeholder review meeting on May 4th, 2017 at Austin Utilities, 1908 14th Street NE, Austin, MN 55912 from 10am to 3:30pm.**

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