



October 1, 2013

Senator Mike Nofs, Chairman  
Michigan Senate Energy & Technology Committee  
State Capitol Building  
Lansing, MI 48909

**Re: Senate Bill 540**

Dear Senator Nofs,

TransCanada appreciates the significant commitment to the development of Senate Bill 540, draft comprehensive underground damage prevention legislation. It is regrettable that TransCanada cannot support Senate Bill 540 in its current form.

While the legislation seeks to improve Michigan's underground damage prevention efforts overall, it falls short of reasonable protection efforts for natural gas pipeline transmission facilities located in rural and agricultural areas of the state. A significant majority of TransCanada's 2,600 miles of pipeline assets are located in these areas. Moreover, the exemptions contained within SB 540 would also appear to run counter to rulemaking that the federal Pipeline Hazardous Material Safety Administration (PHMSA) is currently undertaking (Pipeline Safety: Pipeline Damage Prevention Programs - Docket No. PHMSA-2009-0192) (see attachments) as a result of the passage of the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006. This rulemaking, in part, specifically highlights the need to limit exemptions to the states' one-call programs unless those states can provide written justification supporting the exemption to PHMSA.

As a major transporter of natural gas to Michigan and many other states, TransCanada has experience with damage that can occur by agricultural operations in particular when damage prevention procedures are not followed. Based upon the language of the proposed bill, TransCanada has serious concerns that high-pressure natural gas and oil pipelines will effectively not be subject to one-call requirements, mainly due to their locations in rural and agricultural areas of the state with active farming operations. Michigan's underground damage prevention should require all users of mechanized equipment, including agricultural equipment to contact a one-call center before engaging in activities that could damage underground facilities. While excavation damage is 100 percent preventable, it remains a leading cause of pipeline incidents involving fatalities and injuries. Unfortunately, there are too many documented instances where proper location of pipeline facilities has not taken place and pipelines strikes have been the result. The language contained within (Section 3(B)), in our opinion will continue to expose our pipeline facilities and public to risk of third party damage, contrary to public policy. It is TransCanada's position that this exemption will lead agricultural operators and excavators to exercise less diligence when digging around our facilities.

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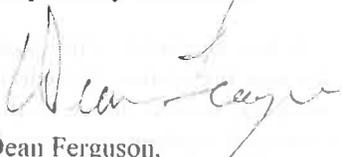
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Congress and PHMSA have consistently acknowledged the importance of strong state damage prevention programs. PHMSA undertook an extensive and systematic evaluation of state damage prevention program effectiveness against nine essential elements. During this study, Michigan's damage prevention program was evaluated by PHMSA. Notably, the state program failed on Element 7: "*Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education and the use of civil penalties for violations assessable by the appropriate State Authority.*" Michigan's program was also found to be only marginally effective on several other elements.

The Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 contained several provisions aimed at advancing damage directives to eliminate exclusions and increase enforcement. While states currently have primary responsibility for damage prevention, Congress gave PHMSA enforcement authority when a state's damage prevention laws are deemed to be weak, incomplete, or not adequately enforced. Under the current iteration, SB 540 is incomplete, fails to adequately protect critical infrastructure assets and fails to fully ensure public safety. Accordingly, without amendment, the state of Michigan is at risk of placing its citizens in harm's way unnecessarily and inviting possible federal agency scrutiny and intervention.

For TransCanada, nothing is more important than safety when it comes to how we design, build and operate our energy infrastructure system. Whether it's the power we provide to customers, the natural gas we supply to millions of homes and businesses or the oil that is delivered to refineries – **safety is at the heart of everything we do.** With a current enterprise value of about \$58 billion, making smart investments in the health and safety of our people, our assets and the community is a responsibility that we place a top priority on. To this end, TransCanada actively participates as a Platinum Sponsor of the Common Ground Alliance, an organization dedicated to ensuring public safety, environmental protection, and the integrity of services by promoting effective damage prevention practices. In recent years, the association has established itself as the leading organization in an effort to reduce damages to all underground facilities in North America through shared responsibility among *all* stakeholders. TransCanada is also an active participant in State One-Call programs, including holding a Director position on Miss Dig. These activities help educate stakeholders and increase public safety, but they cannot be effective without support through strong enforcement from the State authorities. TransCanada strongly urges the committee to consider statutorily requiring a call to 811 when any excavation will be occurring over 18" in depth, without exception.

Respectfully submitted,



Dean Ferguson,  
Senior Vice President and General Manager  
TransCanada, US Pipelines

Copy: Senate Technology and Energy Committee Members  
Michigan Public Service Commission -  
John Quakenbush, Chairman  
Greg White, Commissioner  
Sally Talberg, Commissioner  
Jeff Wiese, Associate Administrator – Pipeline Hazardous Material Safety Administration  
(PHMSA)