Written Testimony of

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Hearing on: "Promoting and Improving Safety and Efficient Pipeline Infrastructure"

Before the U.S. House Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines and Hazardous Materials

Tuesday, February 25, 2025
2167 Rayburn House Office Building

Introduction

Chairman Webster, Ranking Member Titus, and members of the subcommittee, thank you for the opportunity to appear before you and testify this morning. I am Emanuel Paris, vice president of Alex E. Paris Contracting Company, located in Atlasburg, Pennsylvania. Our company was established in 1928, performing a variety of construction projects including both large and small diameter pipeline installation, cross country pipeline, utility line construction and a variety of civil and commercial projects.

I'm here today representing the Distribution Contractors Association (DCA) and the Pennsylvania Utility Contractors Association (PUCA). DCA is a national association representing contractors, suppliers and manufacturers who provide distribution construction services including installation, replacement and rehabilitation of natural gas distribution systems as well as gas transmission pipelines in communities across the country. PUCA is one of the largest state-wide utility construction associations in the country, serving excavation contractors in a range of underground facility markets.

The excavation construction industry has a vested interest in legislation that would reauthorize the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the nation's pipeline safety program. In the 118th Congress, two bills were introduced and passed through their respective committees in the House, but failed to advance to a floor vote in the House. Our hope is to help advance a new pipeline safety bill in the 119th Congress that includes bipartisan language intended to improve state pipeline safety programs and ensure the safety of both pipeline operators and contractors when protesting activities are conducted near pipeline infrastructure and related equipment located on pipeline projects.

Avoiding Pipeline Damage During Excavation

While there are many facets to pipeline safety, our industry is especially concerned with the enduring problem of damage to underground facilities during excavation activity. Organizations like ours and leading damage prevention organizations like the Common Ground Alliance (CGA) have long supported the concept of sharing responsibility in damage prevention. A fundamental responsibility included in this process is ensuring for accurate and timely locating and marking of subsurface facilities prior to excavation. We believe the next pipeline safety reauthorization bill should include language that would

take steps toward improved pipeline mapping, underground facility locating, and ensuring all relevant stakeholders are required to participate in the 811 process and meet their respective responsibilities.

Problems associated with unmarked or mismarked facilities, or facilities not marked on time in accordance with state law, are gaining attention. According to the Common Ground Alliance's *2023 Damage Information Reporting Tool (DIRT) Report*, excavators face essentially 50-50 odds of being able to legally start work on time due to utilities not providing timely locates – undermining confidence in the 811 system.

Moreover, according to CGA, failure to locate underground facilities accurately and on time was the root cause attributed to 34% of damages to underground utilities in 2023. Records of underground utilities are often inaccurate or incomplete and are largely unavailable to damage prevention stakeholders like designers, locators, and excavators. Improving damage prevention mapping technology and accessibility to damage prevention stakeholders has strong potential to reduce damages and increase the efficiency of the excavation process.

Excavation contractors put safety first, and preventing damages to underground facilities during excavation activity is fundamental in their work. To that end, we support policy that reflects shared responsibility among all stakeholders and promotes four principal "pillars" of the damage prevention process:

1) full participation in the 811 process, including membership of all owners/operators of underground facilities to the state 811 center;
2) accurate and timely locating of underground facilities;
3) visually identifying ("potholing") of underground facilities; and
4) full and balanced enforcement of state damage prevention law.

While these fundamental responsibilities in damage prevention are evident, strong enforcement must be administered in a balanced and equitable manner. Locating and accurate marking responsibilities subject to facility operators should be held in the same regard as one-call notification and safe digging practices subject to excavators.

This committee's pipeline safety reauthorization bill considered in the last congress addressed challenges to the damage prevention process by proposing improvements to state damage prevention programs.

Specifically, we believe state pipeline safety authorities should support and encourage adoption of leading practices to improve their damage prevention programs. These leading practices include:

- Examining and limiting exemptions to the damage prevention process, including municipal exemptions;
- Requiring a "positive response" from the facility owner prior to excavation to ensure that underground facilities are marked, or that the excavation area is clear of any underground facilities;
- Requiring marking of all lines and laterals, including sewer lines and laterals;
- Encouraging training for locate professionals; and
- Encouraging the use of state-of-the-art technologies to locate underground facilities, especially geographic information systems (GIS), which offer the most detailed and prolific pipeline mapping available.

For the most part, stakeholders involved the excavation industry agree that these leading practices will undoubtably improve the damage prevention process in many states across the nation.

While ensuring for safe excavation is paramount, breakdowns in the damage prevention process also result in significant financial loss. According to a 2021 study sponsored by the Infrastructure Protection Coalition (IPC) entitled "811 Emergency," failures in the 811 system are costing $61 billion a year in waste and excess costs and creating unnecessary hazards for public safety, particularly in states where the implementation and accountability are most lax.

The IPC report includes an in-depth examination of its operations in every state, and shows that these costs and the increased risk to public safety could be substantially reduced if states adopted more effective practices and procedures already in use in other parts of the country. The provisions described above are consistent with the findings of the IPC report.

GIS Mapping

Optimal damage prevention begins early in the planning and design stages of a pipeline project. Understanding the risk and developing designs that mitigate risk is best achieved using industry-driven standards and utility engineering best practices. Providing excavators with well-contrived designs that avoid or mitigate utility conflicts along with standardized digital data on utility infrastructure enables better construction planning and execution by leveraging virtual design and construction technologies that eliminate potential for damages. Moreover, these methods expedite construction, providing

tremendous cost savings on projects. A fundamental need is to electronically document utilities properly and in a standardized fashion at the time of installation.

The last pipeline safety reauthorization bill enacted into law, commonly referred to as the "PIPES Act of 2020," included language that would require operators of gas distribution pipelines to identify and manage traceable, reliable, and complete records, *including* maps and other drawings. Accurate mapping of underground utility infrastructure facilitates locating, and use of geographic information systems (GIS) is the most effective way to identify and document a wide range of data about the underground infrastructure in a given area.

GIS can create, manage, visualize, analyze, and map different layers of data by creating maps and scenes related to underground facilities. GIS connects data to a map, integrating location data with a range of limiting information regarding the subsurface facilities in that area, and it allows for layering of data tied to geographic points. Rather than restricting the user to limited features on a static map, GIS mapping allows for viewing customizable combinations of data layers in a single dynamic tool.

Ensuring the use of readily available GIS mapping technologies would be the most efficient way to identify and document the exact location of underground pipelines (as well as other subsurface infrastructure). This precise mapping system is an increasingly utilized to ensure for the accurate locating and marking of underground facilities.

The goal of moving toward superior GIS mapping of underground facilities is shared by industries outside of excavation construction industry. Several letters in support of GIS mapping put together by DCA and PUCA in the last congress were signed on and supported by other national associations and organizations representing engineers, equipment manufacturers and distributors, technology experts and labor unions. Providing incentives for state pipeline safety programs to encourage and even require use of GIS mapping is clearly supported by a growing number of stakeholders.

Attached for your consideration is an overview of the state of damage prevention and initiatives to improve underground facility mapping, including expanding access to GIS mapping technologies.

The Infrastructure Investment and Jobs Act of 2021 provided an unprecedented $550 billion in *new* investments in American infrastructure, and a significant portion of those dollars will go toward improvements to underground systems. This means an unprecedented amount of excavation activity coming our way. The provisions described above would take needed steps to encourage states to reduce exemptions to the 811 process, require locating employ state-of-the-art technologies, such as GIS mapping along with published standards for documenting utility infrastructure, which will only improve the damage prevention process.

Increased Penalties for Physical Attacks on Pipeline Infrastructure

Our members also support language that would hold those who engage in physical attacks on pipeline infrastructure accountable. Specifically, the House bills considered in the last congress would have established a criminal penalty of up to 10 years in prison for those who cause a defect to or disruption of a pipeline system. Importantly, the provision would include pipeline facilities under construction.

While most agree on the right to peaceful activism, including peaceful protests to existing and pending pipeline construction projects, we strongly support legislative language that would hold those who engage in criminal activities during protests more accountable.

Past proposals related to this problem would have revised existing criminal penalties for damaging or destroying a pipeline facility by specifying that vandalism, tampering or disrupting the operation of a pipeline facility would be punishable by criminal fines and imprisonment. Importantly, leading proposals included pipeline facilities under construction within their scope. While interfering or tampering with the operation of a pipeline would clearly compromise pipeline safety, vandalism and destruction of nearby equipment used to build a pipeline can be just as dangerous.

Several states have enacted laws intended to deter pipeline vandalism. Tampering with or vandalizing this critical infrastructure or nearby equipment used to build it can create serious safety risks to the public, pipeline employees and even the perpetrators. Additionally, acts of vandalism could result in devastating environmental impacts. Therefore, we encourage the committee to adopt language that would enact criminal penalties for criminal protesting activities, and these penalties would be subject to vandalism and destruction of both pipeline infrastructure as well as the equipment and materials needed to build it.

The excavation construction industry looks forward to working with all you on advancing pipeline safety reauthorization legislation to includes language to improve state pipeline safety programs through promotion of several leading practices to help avoid damages to underground facilities during excavation activities.

I'd like to again thank the subcommittee for the opportunity to speak with you today, and I look forward to answering any questions you have on these important issues.