



Public Service Commission

State of North Dakota

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk

Executive Secretary
Darrell Nitschke

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
Web: www.nd.gov/psc
E-mail: ndpsc@nd.gov
Phone 701-328-2400
Toll Free 1-877-245-6685
Fax 701-328-2410
TDD 800-366-6888 or 711

16 March 2011

Richard Strand
Lakeside Construction
1131 136th Ave. NE
Finley, ND 58230

Re: Third Party Damage Complaint
Case No. PU-10-633

Dear Mr. Strand:

Enclosed is a copy of the original letter sent to your office on December 13, 2010 and the Third Party Damage Complaint against Lakeside Construction received by the ND Public Service Commission on November 29, 2010 from Otter Tail Power Company. Also enclosed is a list of the criteria the Commission staff must use in determining if a civil penalty should be proposed.

We are forwarding this complaint **for your response** to these enclosed items by March 31, 2011. After receipt and review of your response the Commission staff will determine the next course of action. This may include discussions and negotiations to develop a resolution, staff filing a formal complaint requesting a penalty, or a staff recommendation to the Commission that no further action be taken and the case closed.

If you have any questions please call or e-mail me at 701-328-4077 or pfahn@nd.gov.

Best regards,

Patrick Fahn
Director, Compliance and Competitive Markets

Enclosures

C: Scott Fritz, Otter Tail Power Company

3 **PU-10-633** Filed: 3/16/2011 Pages: 6
**Letter enclosing original letter and the third party
damage complaint**



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13 December 2010

Richard Strand
Lakeside Construction
1131 136th Ave. NE
Finley, ND 58230

Re: Third Party Damage Complaint
Case No. PU-10-633

Dear Mr. Strand:

Enclosed is a copy of a Third Party Damage Complaint against Lakeside Construction received by the ND Public Service Commission on November 29, 2010 from Otter Tail Power Company.

We are forwarding this complaint for your response by January 7, 2011. After receipt and review of your response the Commission staff will determine the next course of action. This may include discussions and negotiations to develop a resolution, staff filing a formal complaint requesting a penalty, or a staff recommendation to the Commission that no further action be taken and the case closed.

If you have any questions please call or e-mail me at 701-328-4077 or pfahn@nd.gov.

Best regards,

Patrick Fahn
Director, Compliance and Competitive Markets

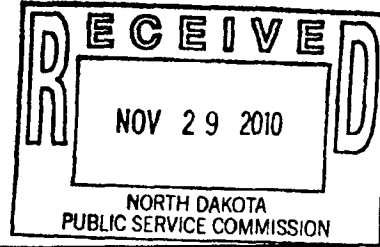
Enclosures

C: Scott Fritz, Otter Tail Power Company

2 **PU-10-633** Filed: 12/13/2010 Pages: 4
Letter enclosing Third Party Damage Complaint



THIRD PARTY DAMAGE COMPLAINT
Public Service Commission
SFN 59067 (7-09)



PART A - WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization Otter Tail Power	Person Filing Information Scott Fritz	Position One Call Admin.
Address of Person Filing Information 215 South Cascade Street	City Fergus Falls	State Mn	Zip Code 56537
Telephone Number 218-739-8521	Email Address sfritz@otpc.com	Date 11/1/10	

PART B - DATE AND LOCATION OF THE EVENT

Date of Event 10/23/10	Description of Event Contractor dig in w/o locate.	Address of the Excavation and/or Damage Sect. 29 Finley Twp. Indust	
County Steele	City Finley	State ND	Zip Code 58230

PART C - WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Lakeside Construction/Richard Strand Owner		Telephone Number 701-361-8097	
Address 1131 136th Ave. N.E.	City Finley	State ND	Zip Code 58230
Name of Entity for Which Excavation Was Performed Mike Peterson Enterprises		Telephone Number	
Address Industrial Drive	City Finley	State ND	Zip Code 58230

PART D - ADDITIONAL INFORMATION

Was a locate requested from North Dakota One-Call?

Yes Locate Ticket Number Start Date on Ticket
 No
 Unknown

Did excavator wait until the start date/time on the ticket before commencing excavation?

Yes No Unknown N/A

Were buried facilities exposed by hand or non-invasive equipment prior to excavation?

Yes No Unknown N/A

PART E - FACILITY INVOLVED

Type of Facility Involved 3 phase primary	Operator of Facility and Contact Person (if known) Otter Tail Power Co./ Scott Fritz		
Address 215 South Cascade St.	City Fergus Falls	State Mn	Zip Code 56537
Telephone Number 218-739-8521/218-770-7068	Email Address (if known) sfritz@otpc.com		
Brief Description of Facility Involved 3 phase primary dig-in. All three fuses blown. Half the town of Finley blinked			

PART F – MARKING

Were facilities marked?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Were utility/facility marks visible in the area of excavation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Were the utility/facilities marked correctly?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Was the marking complete prior to the start time on the ticket?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Did the excavator pre-mark with white paint?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Was the facility marked accurately (within 18 inches)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Did the excavator use reasonable care to maintain locate marks for the life of project?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A

PART G – DAMAGE (if applicable)

Fatalities 3 phase primary	Injuries None	Length of Hospitalization, If Applicable
Estimated Value of Property Damage: \$		Number of Customers Affected 0
Damaged In <input type="checkbox"/> Public <input checked="" type="checkbox"/> Private		Photos of Damaged Facility <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, please include copies)
Additional information		

PART H – SIGNATURE

Signature of Person Filing Complaint Scott Fritz	Date 11/8/10
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Please include additional documents and photos, if applicable.

***If you are filing on behalf of a company, please provide information supporting your authority to file this complaint.**

Send Completed, Original Complaint To:
Public Service Commission
Testing and Safety Division
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
Telephone: (701) 328-2400



215 S. Cascade Street
PO Box 496
Fergus Falls, MN 56538-0496

Direct: 218-739-8521
Fax: 218-739-8973

Scott Fritz
Civil Design/One Call Administrator
Asset Management and Support

sfritz@otpc.com
www.otpc.com

1848

PROPERTY DAMAGE REPORT



GENERAL INFORMATION		Claim No.
DATE OF INCIDENT	10-23-10	TIME <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m. 14:30
LOCATION: Street Address	Industrial Drive	City and State Finley ND
Witness: Name/Address	Richard Sxrand - Owner	701-361-8097

DAMAGE TO PROPERTY OF OTHERS		
Owner's Name	Address	
Property Damage	Has owner filed claim? <input type="checkbox"/> yes <input type="checkbox"/> no	Amount \$

DAMAGE TO COMPANY PROPERTY	
Property Damage	Dug up 3-phase primary. Damaged all 3 cables

PARTY RESPONSIBLE FOR INCIDENT	
Name of Driver	Lakeside Construction 1131 136 th Ave NE Finley ND 58230
Insurance Company	Citizen's Insurance 300 Central Ave. Finley ND 58730
Vehicle License Number	Driver's License Number
Owner of Vehicle	Insurance Co.

Describe fully how incident happened.

Lakeside was blading area to get ready for 2 new grain bins. Were digging down to replace with fill and dug into our 3-phase line. Contractor took word from landowner there was nothing there. Had to install 6 splice sq wire to repair.

Preventable Non-Preventable

Accountable Parties: _____

Signatures: _____

J. Foss
Signature of person completing form

<p>MANAGER'S RECOMMENDATION</p> <p><input type="checkbox"/> Deny claim</p> <p><input type="checkbox"/> Pay claim due to our negligence or liability</p> <p><input type="checkbox"/> Pay claim due to public relations</p> <p><input type="checkbox"/> Make partial payment due to public relations involved</p> <p><input checked="" type="checkbox"/> Area to bill <i>Inv 187172</i></p> <p style="text-align: right;"><i>10-12-10</i></p> <p><i>J. Greene</i> (Manager)</p>	<p>REPAIR CHARGES (time or other)</p> <p><i>WO # 120964</i></p> <p>XXXXXXXXXX</p>
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COMPLETION DIRECTIONS: Upon completion of this form, forward to Manager for recommendation completion (at left). Manager forward white copy to Safety Services. Retain pink copy for division file.

D PROPOSED CIVIL PENALTIES:

- 1) The following criteria must be used by Commission staff to determine if a civil penalty should be proposed when filing a formal complaint:
 - a) The nature, circumstances and severity of the complaint;
 - b) The degree of suspected fault on the part of the respondent;
 - c) The respondent's history of prior violations or complaints;
 - d) The respondent's ability to pay;
 - e) Any good faith effort by the respondent in attempting to achieve compliance; and
 - f) The effect the penalty may have on the respondent's ability to continue in business.

The criteria may also be used by Commission staff in making a recommendation to the Commission regarding a proposed penalty requested in a formal complaint filed by entity other than staff, and by the Commission in determining whether or not to impose a penalty and the amount of that penalty.

- 2) North Dakota Century Code section 49-07-01.1. provides a civil penalty not to exceed five thousand dollars for violations of the One Call law. Any penalty may be compromised by the commission and may be recovered in a civil action in district court.