

RECEIVED

MAR 13 2012

PUBLIC SERVICE COMMISSION

I WAS DOING A FAVOR FOR A FRIEND
THEY WANTED TO FIND OUT IF THERE WAS ANY GRAVEL
ON THE PROPERTY THEY WERE BUYING
I ARRANGED TO HAVE AN EXCAVATOR DELIVERED TO THE
SITE AND DUG SOME TEST HOLES
NO ONE THOUGHT ABOUT CALLING BEFORE DIGGING
I AM NOT A CONTRACTOR OR HAVE A BUSINESS
I WAS NOT CHARGING FOR DOING THIS
I HAVE NO ABILITY TO PAY A FINE
I HAVE CANCER NOW AND STILL TAKING TREATMENTS
I AM 80 YEARS OLD, NO HOME NO PROPERTY,
NO SAVINGS, NO LIFE INSURANCE,

Vern Maddox



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark
Brian P. Kalk
Kevin Cramer

Executive Secretary
Darrell Nitschke

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

February 9, 2012

Vern Maddox
P.O. Box 402
Berthold, North Dakota 58718-0402

Re: Third Party Damage Complaint

Dear Mr. Maddox:

Enclosed is a copy of a Third Party Damage Complaint against Vern Maddox received by the North Dakota Public Service Commission (Commission) on January 12, 2012 from Whiting Oil and Gas (Whiting). After discussions with Whiting staff, Commission staff determined that the location of the excavation was in Mountrail County, Township 152N, Range 92W, Section 7, SW, SE, NE and NW quarters, near Newtown, North Dakota.

Please respond to the Commission **by March 2, 2012**, with your written account of the event. Your response, the complaint, and other available information will be reviewed to determine whether Commission staff will file a formal complaint.

Your response should also address the following criteria used to determine the amount of civil penalty, if any, to be recommended by Commission staff as part of a formal complaint:

- a) The nature, circumstances and severity of the complaint;
- b) The degree of suspected fault on the part of the excavator;
- c) Excavator's history of prior violations or complaints;
- d) Excavator's ability to pay;
- e) Any good faith effort by the excavator in attempting to achieve compliance; and
- f) The effect the penalty may have on the excavator ability to continue in business.

North Dakota Century Code section 49-07-01.1 provides for a civil penalty not to exceed five thousand dollars for violations of the One Call law.

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

Best regards,

Patrick Fahn
Director, Compliance and Competitive Markets

Description of Event Continued

PART I – SIGNATURE

Signature of Person Filing Complaint <i>Steve McLaughlin</i>	Date <i>1-12-12</i>
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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
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
Telephone: (701) 328-2400

Email to the Commission

PART E – DAMAGE (if applicable)

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

PART F – EXCAVATION

Was a locate requested from North Dakota One-Call?	
<input type="checkbox"/> Yes Locate Ticket Number <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	Start Date on Ticket <input style="width: 150px; height: 20px;" type="text"/>
Did excavator wait until the start date/time on the ticket before commencing excavation?	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A	
Were buried facilities exposed by hand or non-invasive equipment prior to excavation?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A	

PART G – MARKING

Were facilities marked?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were utility/facility marks visible in the area of excavation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were the utility/facilities marked correctly?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the marking complete prior to the start time on the ticket?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Did the excavator pre-mark with white paint?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the facility marked accurately within 24 inches horizontally?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Did the excavator use reasonable care to maintain locate marks for the life of project?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A

PART H – DESCRIPTION OF EVENT

<p>Description of Event</p> <p>A Whiting employee noticed the backhoe in the field in our ROW and notified Rich Brierley, DOT/PSM Coordinator. Rich drove to the location. When he did not find anyone or any identifiers so he put a note on the windshield of the backhoe with his business card stating that they were digging close to a Whiting gas gathering line and to call the One Call center to enter a ticket. Jimmy Thompson, Whiting's Locator, came out and marked the gas gathering line anyhow. Then they took the photos attached to this form.</p>



THIRD PARTY DAMAGE COMPLAINT

Public Service Commission
SFN 59067 (12-11)

PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization Whiting O&G	Person Filing Information Steve Meagher	Position Construction Mgr.	
Address of Person Filing Information 4499 Highway 8	City New Town	State ND	Zip Code 58763	
Telephone Number 701-770-0999	Email Address steve.meagher@whiting.com		Date 11-14-11	

PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Vern Maddox		Telephone Number 390-649-0904	
Address	City	State	Zip Code
Name of Entity for Which Excavation Was Performed Tony Favero		Telephone Number 509-750-5800	
Address	City	State	Zip Code

PART C – DATE AND LOCATION OF THE EVENT

Date of Event 11-11-11	Address of the Excavation and/or Damage		
County Mountrail	City New Town	State ND	Zip Code

PART D – FACILITY INVOLVED

Type of Facility Involved Gas Gathering Line	Operator of Facility and Contact Person (if known) Whiting O&G, Jimmy Thompson		
Address 4499 Hwy 8	City New Town	State ND	Zip Code 58763
Telephone Number 701-897-2099	Email Address (if known) jimmy.thompson@whiting.com		
Brief Description of Facility Involved Near miss of Whiting's gas gathering line. Whiting bellholed to ensure there was no damage.			