



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

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February 9, 2012

Mark Lardy  
S. J. Louis Construction, Inc.  
P.O. Box 459  
1351 Broadway Street West  
Rockville, MN 56369-0459

Re: Third Party Damage Complaint

Dear Mr. Lardy:

Enclosed is a copy of a Third Party Damage Complaint received by the North Dakota Public Service Commission (Commission) on January 31, 2012 from Aux Sable Midstream, LLC. The location of the excavation was ½ mile west of Highway 83 on 142 Avenue Northwest. We determined this location is in Ward County, Township 157N, Range 82W, Section 31, NW quarter, near Ruthville, North Dakota. After discussion with Houston Engineering staff (Travis Johnson), Commission staff determined that S. J. Louis Construction, Inc. was the excavator at the location.

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's 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](mailto:pfahn@nd.gov).

Best regards,

Patrick Fah  
Director, Compliance and Competitive Markets



# THIRD PARTY DAMAGE COMPLAINT

Public Service Commission  
SFN 59067 (12-11)

## PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Company*	Company/Organization Aux Sable Midstream LLC	Person Filing Information Kris Nielsen	Position ND Operations Superintendent	
Address of Person Filing Information 6138 74th Ave NW	City Palermo		State ND	Zip Code 58769
Telephone Number 701-897-2318	Email Address Kris.Nielsen@auxsable.com		Date 1-24-12	

## PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator		Telephone Number		
Address	City	State	Zip Code	
Name of Entity for Which Excavation Was Performed Houston Engineering		Telephone Number 701-323-0200		
Address 3712 Lockport St	City Bismarck	State ND	Zip Code 58503	

## PART C – DATE AND LOCATION OF THE EVENT

Date of Event 1-5-12 to 1-20-12	Address of the Excavation and/or Damage 1/2 mile west of hwy 83 on 142 Ave NW, T157N-R82W-Sec.31NW, estimate 3/10ths of mile to nearest pipeline marker			
County Ward	City Ruthville	State ND	Zip Code 58703	

## PART D – FACILITY INVOLVED

Type of Facility Involved Pipeline	Operator of Facility and Contact Person (if known) Aux Sable Midstream LLC			
Address 6138 74th Ave NW	City Palermo	State ND	Zip Code 58769	
Telephone Number 701-897-2318	Email Address (if known) Kris.Nielsen@auxsable.com			
Brief Description of Facility Involved (NAWS) Prairie Rose Pipeline crossing				

**PART E – DAMAGE (if applicable)**

Fatalities None	Injuries None	Length of Hospitalization, If Applicable None
Estimated Value of Property Damage: \$ 0		Number of Customers Affected 0
Damaged Within <input type="checkbox"/> Public Property <input checked="" 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?  
 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 G – MARKING**

Were facilities marked?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were utility/facility marks visible in the area of excavation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were the utility/facilities marked correctly?	<input checked="" type="checkbox"/> Yes <input 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 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 checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the facility marked accurately within 24 inches horizontally?	<input checked="" type="checkbox"/> Yes <input 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**

**Description of Event**

Aux Sable Pipeline group had been monitoring this crossing as pipe had been laid out above grade since December time frame. Aux Sable Pipeline group had been inspecting this crossing site periodically and had flagged the Prairie Rose Pipeline even though a ND One Call had not been received for this crossing. On 1-20-12 Aux Sable Pipeline group had done a routine inspection and found that 12 to 18" of top soil had been removed from directly over the Prairie Rose Pipeline. It also appeared that during the top soil excavation an Aux Sable flag had been removed via excavator and replaced by hand.

On 1-23-12, I had contacted both Travis Johnson at Houston Engineering and Bob Bachmeier (NDPA Inspector) and discussed this issue.

**Description of Event Continued**

[Empty box for Description of Event Continued]

**PART I – SIGNATURE**

Signature of Person Filing Complaint Kris Nielsen	Date 1-24-12
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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**





















