

RECEIVED

FEB 29 2012

February 28, 2012



PUBLIC SERVICE COMMISSION

Public Service Commission
State of North Dakota
600 East Boulevard, Dept 408
Bismarck, ND 58505

Sent via fax and Certified Mail

Re: Third Party Damage Complaint

Dear Mr. Fahn,

We are in receipt of your letter dated February 9, 2012 (attached). Our understanding of events is that there is a petroleum pipe line that our waterline crosses. We were stripping 8"-10" of topsoil every 500' to stage sand for the pipe bedding. The foreman did not call One Call because his understanding was that he was not required to call unless he was digging 16" or more in depth, not knowing what the One Call in North Dakota requires. There was no reason for the crew to be working in that area that far in advance of the pipe operator. The pipeline was clearly marked and for some unknown reason they stripped that area. The crew was instructed not to be working anywhere near that area because of the pipeline. Bottom line is that we were aware of it being there, crew instructed not to work in that area and it shows employee misconduct.

Employees have received One Call training and before a project is to start our Safety Department will contact Pipeline Safety with a request for on-site training.

Sincerely,

Michael J Boufford
Safety, Risk Manager
S J Louis Construction Inc

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Response to informal third party damage complaint
S. J. Louis Construction, Inc.
Michael Boufford

SAFETY FIRST



Public Service Commission

State of North Dakota

FEB 13 2012

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ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

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.

Best regards,

Patrick Fahn
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

PART I – SIGNATURE

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

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