

December 10, 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 (Case No. PU-12-800)

Dear Mr. Lardy:

Enclosed is a copy of a Third Party Damage Complaint received by the North Dakota Public Service Commission (Commission) on November 29, 2012 from Reservation Telephone Cooperative. The location of the excavation was at or near the intersection of US Highway 85 and 11<sup>th</sup> Avenue South, Watford City, North Dakota.

Please respond to the Commission **by December 24, 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.

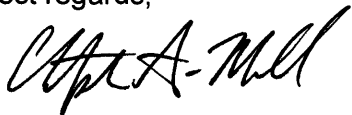
Your response should also address the following criteria used to determine the amount of civil penalty, if any, to be recommended by Commission staff as part of a formal complaint:

- 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 701-328-4052 or e-mail to [camarohl@nd.gov](mailto:camarohl@nd.gov).

Best regards,



Christopher A. Marohl  
Public Utility Analyst

**Fahn, Patrick J.**

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**From:** -Info-Public Service Commission  
**Sent:** Thursday, November 29, 2012 3:13 PM  
**To:** Fahn, Patrick J.  
**Cc:** DeSaye, Cara G.  
**Subject:** FW: Third Party Damage Complaint - 2 separate complaints  
**Attachments:** PSC - SJ Louis 090612 - 112912.pdf; PSC - SJ Louis 042012 - 112912.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Red Category

**From:** Alicia M. Brenna [<mailto:brennalaw@gmail.com>]  
**Sent:** Thursday, November 29, 2012 12:12 PM  
**To:** -Info-Public Service Commission  
**Cc:** Brooks Goodall  
**Subject:** Third Party Damage Complaint - 2 separate complaints

Please see attached.

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*Alicia M. Brenna  
Brenna Law Firm, PLLC  
4031 110th Ave NW  
Keene, ND 58847  
701-675-2188  
701-770-1870  
701-675-2189 fax*

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## 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 Reservation Telephone Cooperative	Person Filing Information Alicia M. Brenna	Position attorney
Address of Person Filing Information PO Box 68	City Parshall	State ND	Zip Code 58770
Telephone Number 701-675-2188	Email Address brennalaw@gmail.com	Date 11/29/2012	

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

Name of Excavator S.J. Louis	Telephone Number 320-253-9291		
Address 1351 Broadway St. W	City Rockville	State ND	Zip Code 56369
Name of Entity for Which Excavation Was Performed City of Watford City	Telephone Number 701-444-2533		
Address PO Box 494	City Watford City	State ND	Zip Code 58854

### PART C – DATE AND LOCATION OF THE EVENT

Date of Event 04/20/2012	Address of the Excavation and/or Damage Highway 85 and 11th Avenue		
County McKenzie	City Watford City	State ND	Zip Code 58854

### PART D – FACILITY INVOLVED

Type of Facility Involved communications	Operator of Facility and Contact Person (if known) Reservation Telephone Cooperative		
Address PO Box 68	City Parshall	State ND	Zip Code 58770
Telephone Number 701-862-3115	Email Address (if known) brooksg@restel.com		
Brief Description of Facility Involved Excavator cut fiber optic line - 24 fiber, also copper cable - 50 pair.			

**PART E – DAMAGE (if applicable)**

Fatalities	Injuries	Length of Hospitalization, If Applicable
Estimated Value of Property Damage: \$ \$15,996.75		Number of Customers Affected 120
Damaged Within <input checked="" type="checkbox"/> Public Property <input type="checkbox"/> Private Property		Photos of Damaged Facility <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If yes, please include copies)

**PART F – EXCAVATION**

Was a locate requested from North Dakota One-Call?		Start Date on Ticket
<input checked="" type="checkbox"/> Yes    Locate Ticket Number <input type="checkbox"/> No <input type="checkbox"/> Unknown	04/23/2012	
Did excavator wait until the start date/time on the ticket before commencing excavation?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input 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 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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input type="checkbox"/> N/A
Did the excavator pre-mark with white paint?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input 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  Locate ticket No. 12035648  The excavator was installing City sewer.
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**Description of Event Continued**

[Empty box for description of event]

**PART I – SIGNATURE**

Signature of Person Filing Complaint	Date
/s/ Alicia M. Brenna <input type="checkbox"/>	11/29/12 <input type="checkbox"/>

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**