



Public Service Commission State of North Dakota

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July 24, 2013

John Emerson
ROBERT GIBB & SONS, INC.
205 40TH ST SW PO BOX 10188
FARGO, ND 58106-0188

Re: Third Party Damage Complaint

Dear Mr. Emerson:

Enclosed is a copy of a Third Party Damage Complaint against ROBERT GIBB & SONS, INC (GIBB & Sons) received by the North Dakota Public Service Commission (Commission) on July 11, 2013 from CENEX PIPELINE (CENEX). The location of the damage was at N 47.78260, W 103.56694 located at or near 25th Street and 139th Ave. near the city of Arnegard, ND in the county of McKenzie.

Please respond to the Commission by **August 13, 2013**, 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 Gibb & Sons;
- c) Gibb & Sons' history of prior violations or complaints;
- d) Gibb & Sons' ability to pay;
- e) Any good faith effort by Gibb & Sons in attempting to achieve compliance; and
- f) The effect the penalty may have on Gibb & Sons' 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 or e-mail me at 701-220-5779 or aarmorman@nd.gov.

Best regards,

Aaron A Morman
Pipeline Safety Inspector/Program Manager

C: Michelle Slyder -Cenex



THIRD PARTY DAMAGE COMPLAINT

Public Service Commission

SFN 59067 (11-12)



PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization Cenex Pipeline	Person Filing Information Michelle Slyder	Position DOT Compliance Coordinator	
Address of Person Filing Information 803 Highway 212 S	City Laurel	State MT	Zip Code 59044	
Telephone Number 406-861-9284	Email Address michelle.slyder@chsinc.com	Date 07/11/2013		

PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Robert Gibb & Sons		Telephone Number 701-282-5900	
Address 205 40th Street	City Fargo	State ND	Zip Code 58103
Name of Entity for Which Excavation Was Performed Caliber ND, LLC		Telephone Number	
Address	City	State	Zip Code

PART C – TIME AND LOCATION OF THE EVENT

Date and Time of Event 07/09/2013 3:02 p.m.	Address of the Excavation and/or Damage N 47.78260 W 103.56694 Location is between Alexander and Arnegard.		
County McKenzie +	City Nearest City is Arnegard +	State ND +	Zip Code 58834 +

PART D – FACILITY INVOLVED

Type of Facility Involved Transmission Pipeline	Operator of Facility and Contact Person (if known) Cenex Pipeline - Michelle Slyder		
Address 803 Highway 212 S	City Laurel	State MT	Zip Code 59044
Telephone Number 406-861-9284	Email Address (if known) michelle.slyder@chsinc.com		
Brief Description of Facility Involved 8" Refined Fuels Interstate Transmission Pipeline Transporting Gasoline at the location at the time of the release.			

PART E – DAMAGE (if applicable)

Fatalities None	Injuries None	Length of Hospitalization, If Applicable N/A
Estimated Value of Property Damage: \$ To Be Determined		Number of Customers Affected To Be Determined
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?	
<input checked="" type="checkbox"/> Yes Locate Ticket Number <input type="checkbox"/> No <input type="checkbox"/> Unknown	Start Date on Ticket 07/10/2013 (latest ticket of multiple)
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A

PART H – DESCRIPTION OF EVENT

<p>Description of Event</p> <p>There were multiple locate requests by Robert Gibb & Sons for the work in this area. The following summary covers tickets received by Cenex Pipeline, filed by the excavator, that cover the area of the damage. Below each ticket Cenex Pipeline has provided a summary of our response to each request.</p> <p>The initial ticket filed by the excavator is #13075248 dated 06/17/2013.</p> <ul style="list-style-type: none"> • Perry Bender, Cenex Pipeline Instrument Technician/Locator, called the excavator on June 17th upon receipt of the original ticket to get additional information. On June 19th Steve Klein, another Cenex Pipeline Instrument Technician/Locator, marked the pipeline at the proposed excavation location with flags based on the excavator's staking of the excavation site. <p>A Re-spot ticket #13083863 was filed on 06/25/2013 and was an exact replica of the original ticket.</p> <ul style="list-style-type: none"> • After talking through the details with the excavator, Steve Klein requested the excavator set up a time to pot hole the pipeline. The line was potholed on June 25th by Robert Gibb and Sons at 1:00 p.m. under the supervision of Steve Klein. • At this time, Steve Klein also verbally notified the excavator that due to multiple crossings being planned by the excavator, Cenex Pipeline staff must be on-site during all excavations activities on the pipeline ROW. The excavator agreed to contact Steve Klein prior to starting any excavation on the ROW. Cenex Pipeline staff never received any further communication from the contractor to notify us that they were planning to excavate on the ROW. <p>A Modify ticket #13093161 was filed on 07/06/2013 and was also an exact replica of the original ticket and the re-spot.</p> <ul style="list-style-type: none"> • The valid start date for this ticket was 07/10/2013. • The remarks section of the ticket says No remark on site is needed.
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Description of Event Continued

At the damage location associated with the above referenced tickets, the excavator did not contact the Cenex Pipeline representative, per his request, prior to excavating near our pipeline, as was requested. The excavator damaged Cenex Pipeline 373 feet west of the hydro excavation of the planned crossing of Cenex Pipeline and outside of the excavation area staked by the excavator. The marker flags and pothole were in place in the field at the time the excavator damaged the pipeline.

Note - this excavator had recently crossed Cenex Pipeline at another location in proximity to this area. At this other location, the excavator filed multiple locate requests and followed the Cenex Pipeline crossing and encroachment requirements and notified the Cenex Pipeline personnel as requested, prior to excavating, allowing Cenex Pipeline personnel to be on-site for this other crossing location.

PART I – SIGNATURE

Signature of Person Filing Complaint	Date
Michelle Slyder <input type="checkbox"/>	07/11/2013 <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

Excavation Damage Location - Note this is running in a different orientation than what was staked by the excavator in the field and outside the staked area.



Excavator installed flags marking the outer edge of their easement to the west of the original location of the planned crossing.



Canex Pipeline Flags Installed on 6/19/2013



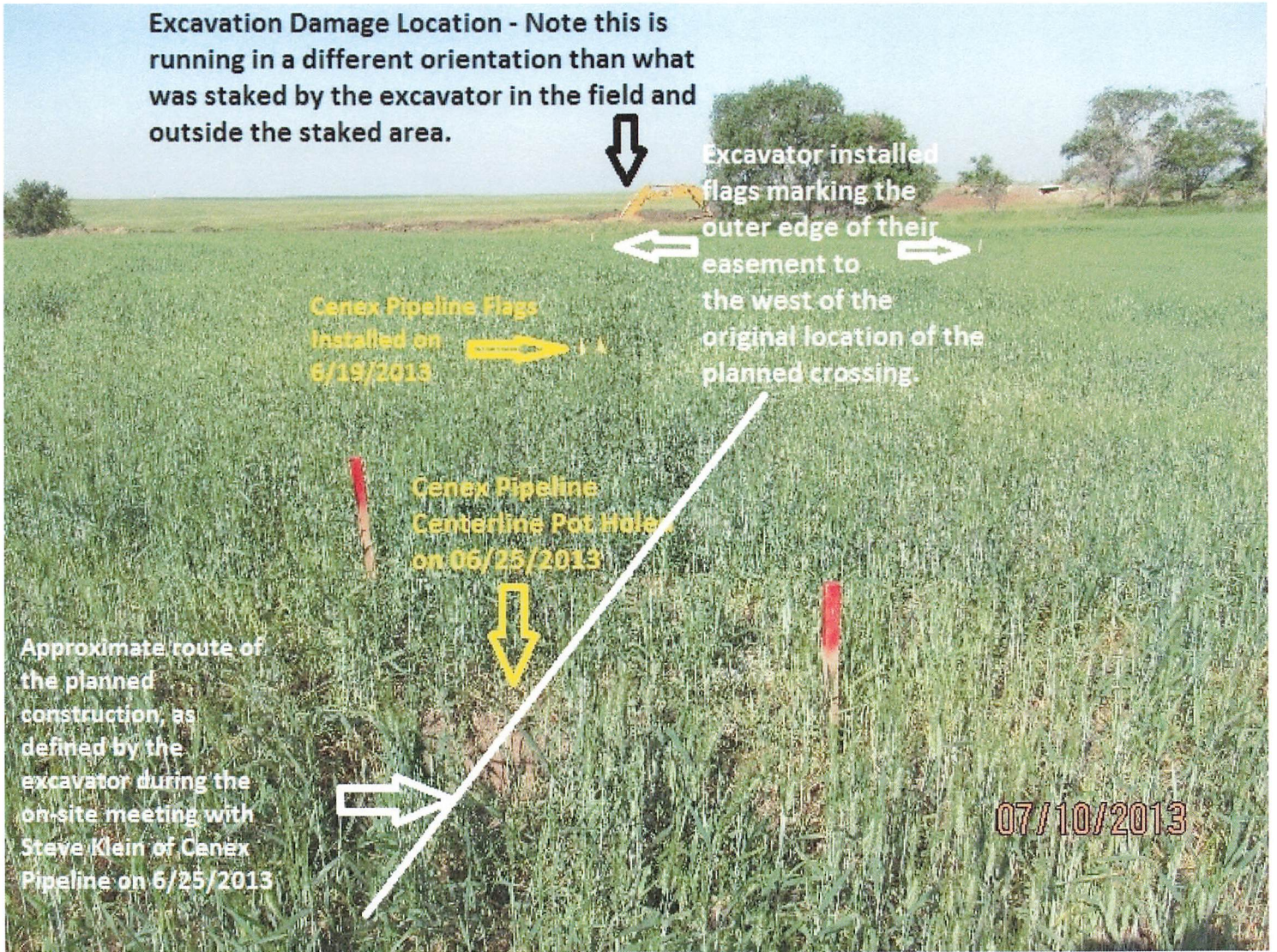
Canex Pipeline Centerline Pot Hole on 06/25/2013



Approximate route of the planned construction, as defined by the excavator during the on-site meeting with Steve Klein of Canex Pipeline on 6/25/2013



07/10/2013



T150N
R101W
Sec 26

