

# Memorandum

To: Commissioners Kalk, Christmann and Fedorchak

From: Victor Schock Public Utility Analyst

Date: March 16, 2016

Re: ND One-Call Complaint  
Case No. PU-15-781

On December 7, 2015, a ND One-Call Complaint was received from Larry Novak who is a McKenzie county landowner alleging that Territorial-Landworks, Inc. (Territorial) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to remove all tangible marking materials used to mark the facility upon completion of the excavation.

Staff investigation found that on October 16, 2015 Territorial called in a One-Call ticket for Mr. Novak's property as part of their survey work for a proposed pipeline. Territorial did attempt to remove all pin flags from Mr. Novak's property when notified by Tesoro (pipeline operator) that Mr. Novak had contacted them asking for the pin flags to be removed.

When Territorial received the complaint in early December 2015 they were under the impression that all pin flags were already removed. However, in an effort to ensure they were in full compliance and ensure landowner satisfaction, they sent a crew back to look for any missing flags at the next available opportunity in early January 2016. The crew was able to locate additional flags in an area of Mr. Novak's property that they had not requested locate information for in their One-Call ticket. They removed those flags and notified the Commission of their findings.

On March 15, 2016 Staff contacted Mr. Novak to inquire about the incident. Mr. Novak confirmed the flags had been removed since he had filed the complaint, and he is satisfied with the outcome. Staff explained to Mr. Novak the particular set of events that resulted in the errant flags being left on his property.

Based on its investigation Staff believes that Territorial took reasonable actions at the time of their excavation/survey work to remove what they believed to be all of the tangible marking materials from Mr. Novak's property.

Based on its investigation staff does not intend to file a formal complaint, and recommends that no further action be taken and the case be closed.