

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ARTHER FERGUSONS D/B/A IDEAL GRAVEL HAULING)	
)	
_____)	CASE NO.
)	2021-00044
ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT)	
)	

OPENING ORDER

Arther Fergusons d/b/a Ideal Gravel Hauling (Mr. Fergusons) has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).¹

Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Act, the Commission has authority to investigate and assess civil penalties for any violation of the Act that results in excavation damage to an underground facility used to transport natural gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.* Any person who violates any provision of the Act is subject to assessment of a civil penalty in the amount of \$250 for the first offense, no more than \$1,000 for the second offense within one year, and no more than \$3,000 for the third and any subsequent offense. Additionally, any person whose violation of the Act results in damage to an underground facility containing any flammable, toxic, corrosive,

¹ KRS 367.4901 through KRS 367.4917.

or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material is subject to an additional penalty of up to \$1,000.

Following receipt of a report of excavation damage to its underground gas pipeline from an operator, Commission Staff (Staff) conducted an investigation and prepared an Incident Report, a copy of which is attached to this Order as an Appendix. In its Incident Report, Staff cites Mr. Ferguson's for violation of the following provision of the Act:

KRS 367.4911(1)(a) – Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Mr. Ferguson's violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident should be conducted.

This proceeding was established on February 1, 2021 with the issuance of an Opening Order. The attempt to perfect service of process for the previously issued Opening Order was unsuccessful. The Opening Order is now being reissued with the intent to perfect service of process on Mr. Ferguson's.

IT IS THEREFORE ORDERED that:

1. Mr. Ferguson's shall submit to the Commission, via email sent to PSCED@ky.gov with the case number of this proceeding in the subject line of the message, a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.

2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.

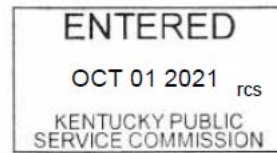
3. An individual may submit a response to the allegations contained in the Staff Incident Report without the representation of an attorney.

4. The Staff Incident Report 32343 in the Appendix to this Order is made a part of the record in this case.

5. Please note that notice of a hearing to be held in this matter will be mailed to Mr. Ferguson's once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00044 DATED OCT 01 2021

TWENTY SEVEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 12/23/2019 11:25:00 AM	Incident ID 32343 Report Submitted 1/22/2020 11:31:39 AM
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OPERATOR INFORMATION

Operator Atmos Energy Corporation Phone (270) 779-4849 Incident Location 4590 Hwy 62, Calvert City 4590 US Highway 62 Calvert City, KY 42029 Marshall	Reported By Anthony Stallins Email anthony.stallins@atmosenergy. Locate Ticket Number N/A
--	--

EXCAVATOR INFORMATION

Name of Excavator Fergusons, Arther Phone 270-560-0141 Excavator Address 1259 Kaler Mill Rd Symsonia, KY 42082	Organization ID Email N/A Locate Ticket Number
---	---

INCIDENT

The Operator reports that the Excavator damaged a ½" service with a shovel and failed to contact the Protection Notification Center (811).

The Damage Report is include as Attachment 1.

Excavation Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage (Per Damage Report)	Amount Billed (Per Invoice)
No call to 811	Non-mechanized /Shovel	\$492.00	\$491.86

INVESTIGATION

The telephone number provide, 270-560-0141, for the Excavator, Arther Fergusons, is the incorrect number. The Operator, Atmos's Anthony Stallins, provided an additional address for Arthur Ferguson (2045 Ted Williams Rd, Paducah, KY) and additional telephone numbers, (270) 655-6713 and (270) 562-0141.

On 09/23/20 an attempt in contacting Mr. Fergusons at (270) 655-6713 resulted in a message stating this number is no longer in service and (270) 562-0141 had a message stating this mail box has not been set-up. Mr. Stallins stated that Mr. Fergusons has not paid for the damage.

On 09/24 & 25/20 an attempt in contacting Mr. Fergusons at 270-562-0141 resulted in a message stating this mail box has not been set-up.

On 09/25/20 the following was conducted:

The Marshall Co. PVA (270-527-4728) provided the following information regarding the incident location: The property was purchased 05/18/18 by the Jeter Management and Holding Company, Crystal Jeter, a real estate company and there is no record of ownership by Mr. Fergusons.

A call to Jeter Management and Holding (270-559-1921) resulted in a message stating this is Crystal Jeter, wherein a message was left.

On 09/29/20 Ms. Jeter stated that Ideal Gravel and Hauling, 270-562-0141, was contracted to spread gravel over the lot and that is why no Locate Ticket was obtained. Ms. Jeter stated that the gas line was very close or on top of the surface and Ideal Gravel damaged the gas service with a shovel spreading the gravel. Ms. Jeter stated that if something were to have driven over the gas service the results would been the same. Ms. Jeter stated that the area was located prior for sign installation and the incident location was not marked.

On 09/30/20, via email the Operator, Atmos's Anthony Stallins, stated that the crew leader repairing the line stated that Mr. Fergusons was cleaning out the ditch with a shovel to allow water to flow. Mr. Stallins stated that the depth of the

gas line was not recorded in Atmos's records. Mr. Stallins provided photograph of the incident location that depicts a ditch and building on the lot.

Mr. Stallins's email and photographs are include as Attachment 2.

On 10/01 & 02/20 an attempt in contacting Ideal Gravel and Hauling, 270-562-0141, resulted in a message stating no voicemail box is set up.

On 10/02/20 an attempt in contacting the Excavator at 270-804-7070, the number listed for Symsonia Grocery and Fuel, resulted in an individual identified himself as A.J. and whom wanted to know why I kept calling him and this was a bother. *Note:* This was the first call to 270-804-7070. A.J. stated that the owner of the property obtained the LT, the service line was a inch below grade, it was damage with a shovel and the Atmos supervisor on site told him this service was not in their records, therefore would not have been located. Staff asked A.J. if he was aware of the KY Dig Law and he stated "yes". A.J. stated, again, that this was a bother, this was ruining his morning and no payment of a penalty would be made.

On 10/02/20 811, Carly Dunsmore, conducted a search from 11/01/19 thru 01/31/20 and found no LTs for the above noted incident.

Ms. Dunsmore's email is include as Attachment 3.

On 10/02/20 Mr. Stallins provide an Invoice and Third Party Damage Claims Recovery letter indicating Mr. Ferguson's was billed \$491.86 for the damage. Mr. Stallins stated no payment has been received.

The Invoice and Third Party Damage Claims Recovery letter are include as Attachment 4.

On 10/05/20 an attempt to inform Mr. Ferguson's of the findings of this investigation at 270-804-7070 and 270-562-0141 resulted in receiving fax machine tones and a message no voicemail box is set up and due to Mr. Ferguson's statements on 10/02/20 a Demand Letter will be sent imposing the first time penalty of \$1,250.00.

Note: Facebook address: Ideal Gravel and Hauling 11972 KY-131, Symsonia, KY 42082 or per Google Map Symsonia Grocery and Fuel, (270) 804-7070, 11972 KY-131, Symsonia, KY 42082. Per Graves Co. PVA (270-242-3301) the owner of the property at 11972 KY-131, Symsonia is Darrel & Linda Portis purchased 2003. A recording on the Ideal Gravel and Hauling Facebook page identified the individual as A.J. The KY Secretary of State's web site has no listing for Ideal Gravel and Hauling.

Copies of Facebook and Google Maps are included as Attachment 5.

VIOLATION
KRS 367.4911

(1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

of Offences
(Including this incident)

Excavator	Last Offence Incident #	Last Offence Incident Date	Last Offence Resolved Date
1 st	N/A	N/A	N/A

Attachment 1

Gas Excavation Damage Report

Atmos Energy Corporation

Submitted 1/22/2020 Incident ID: 32343

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32343\)](#)

Reported By:

Name: Anthony Stallins
Phone: (270) 779-4849
Email: anthony.stallins@atmosenergy.com

Gas Line Incident Occured:

Date: 12/23/2019
Time: 11:25 AM

Details:

Reported Date: 12/24/2019 6:11 AM

Incident Location Address:

Location: 4590 HWY 62 , CALVERT CITY
Address: 4590 US Highway 62
City: Calvert City
State: KY
County: Marshall
Zip: 42029
Confirm Code: Y

Number of Customers out: 1

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the atmosphere? *

3/2020

Locate Request Ticket No.: N/A

Excavator: Home Owner

Excavator Address:

First Name: Arther
Last Name: Fergusons
Phone: 270-560-0141
Email: N/A
Address: 1259 Kaler Mill Rd
City: Symsonia

State: KY
Zip: 42082
Confirm Code: Y
Excavation Damage: No notification made to the One
Call Center

Description of Incident • Cut 1/2" service at 4590 Hwy. 62 Calvert City • No locate • 1 customer is off •
C&M crew in route

Summary Information

1/22/2020

Full details such as the cause Arther Fergusons, homeowner, cut a 1/2" PE service with a shovel while digging out a ditch. Mr. Fergusons did not have a locate ticket.
Extent of the damage Damage PE was repaired and service restored to the one affected customer.
Cost of the damage \$492.00
Steps taken to prevent re-occurrence We will invite Arther Fergusons to the next Atmos Energy Damage Prevention/KY 811 Dig Law Training in Paducah/Mayfield.
Amount billed to excavator \$492.00

Attachment 2

Tout, Eric V (PSC)

From: Stallins, Anthony A <Anthony.Stallins@atmosenergy.com>
Sent: Wednesday, September 30, 2020 3:03 PM
To: Tout, Eric V (PSC)
Cc: Stallins, Anthony A
Subject: FW: 32343, 12/23/2019, 4590 Hwy 62, Calvert City, Fergusons, Arther
Attachments: 4590 Hwy 62, Calvert City - Google.JPG; Atmos Picture.jpg

Eric,

Talked with the crew leader who repaired the line. What he remembers, Mr. Fergusons was clearing the ditch to allow water to flow with a shovel when he hit the gas service. The depth of our line was not recorded on our paperwork. I've included the only picture we have in our folder. Basically a picture of the building. There appears to be a shovel in the lower left had part of the picture. We are checking to see if we might have additional pictures.

Will let you know what I find out.

Thanks, Anthony

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, September 29, 2020 12:45 PM
To: Stallins, Anthony A <Anthony.Stallins@atmosenergy.com>
Subject: [EXT] 32343, 12/23/2019, 4590 Hwy 62, Calvert City, Fergusons, Arther

CAUTION: Don't be quick to click. This e-mail originated from outside of Atmos Energy. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anthony,

Spoke to the owner of this property, Jeter Management and Holding Company, Crystal Jeter, a real estate company, and she states that gravel was being spread over the lot and the pipe was close to the surface or on top of the ground when it was damaged with a shovel. This is listed as a Homeowner and Ms. Jeter stated that Ideal Gravel and Hauling was contracted to spread the gravel. Your thoughts?

Thanks,

Eric V. Tout
Kentucky Public Services Commission
Division of Inspections / Damage Prevention
211 Sower Blvd., Frankfort, KY 40601
Office: 502-782-2622
Fax: 502-564-1582





AGENT ON DUTY

DS

DS

Attachment 3

Tout, Eric V (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Friday, October 2, 2020 10:29 AM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 32343

Good morning,

We searched between 11/1/19 and 1/31/20. Unfortunately, we were unable to find any tickets submitted by the specified excavators for address 4590 US RT 62, in Marshall County. If you have any more information, we would be happy to further assist you.

Thank you,
Carly Dunsmore
Member Services
P: 833-538-0923
F: 317-386-7820



On Fri, Oct 2, 2020 at 10:06 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide all locate tickets 21 days before the incident date for:

Incident Date: 12/23/2019

Operator: Atmos Energy Corporation

Incident Location: 4590 Hwy 62, Calvert City

County: Marshall

Excavator: Possible tickets obtained by, Arther Ferguson, Ideal Gravel and Hauling, and Jeter Management and Holding Company, Crystal Jeter or Jeter Realty

Thanks,

Eric V. Tout

Kentucky Public Services Commission

Division of Inspections / Damage Prevention

211 Sower Blvd., Frankfort, KY 40601

Office: 502-782-2622

Fax: 502-564-1582

Attachment 4



INVOICE

ARTHER FERGUSONS
1259 KALER MILL
SYMSONIA KY 42082

Page: 1
Claim Number 000200039902
Invoice No: 288690
Invoice Date: 27-JAN-20
Customer No: 154026
Sales Rep: Patrick T. Mattingly
Payment Terms: NET10
Due date: 06-FEB-20

For billing questions, please call: 270-247-3312 Total Amount Due 491.86 USD

LINE	DESCRIPTION	QUANTITY	UNIT	UNIT AMT	NET AMT
1	Material	1	Job	23.77	23.77
2	Tools and Equipment	1	Job	64.50	64.50
3	Labor	1	Job	387.61	387.61
4	Gas Loss	4	mcf	3.9939	15.98

PAGE TOTAL 491.86

Please include Remittance Slip to ensure timely application of your Payment

CHECK REMITTANCE TO:

ATMOS ENERGY CORP
P. O. BOX 841425
Dallas TX 75284-1425

ELECTRONIC REMITTANCE TO:

ATMOS ENERGY CORP
Bank of America
ACH Routing# 111000012
Bank Wire Routing# 026009593
Acct# 3756617812
Ref: 288690



BILL TO:

ARTHER FERGUSONS
1259 KALER MILL
SYMSONIA KY 42082

Customer No: 154026
Invoice No: 288690
Total Amount Due: 491.86 USD



Third Party Damage Claims Recovery

ARTHER FERGUSONS
1259 KALER MILL
SYMSONIA KY 42082

Date of Loss:	23-DEC-19	Invoice#	288690
Damages:	\$491.86		
Location of Damage:	4590 Hwy 62 Calvert City Ky		
Description of Damage:	Contractor Hit Service With Hand Tools Working On Water Improvement Did Not Call 811 Before Digging		
Claim #:	000200039902		

Dear Sir/ Madam

The enclosed invoice is for reimbursement of damages to Atmos Energy company property. Our investigation indicates that you are responsible for the damages resulting from the incident referenced above. Payment in full of the enclosed invoice is due upon receipt. **Do not send this Payment with your gas bill.**

You may contact me as shown below if you have any questions. Also, if you are covered by liability insurance, please ask your carrier to contact me so that any further correspondence may be handled with the adjuster. **Any disputes must be submitted in writing within 10 days of the invoice date to the email or mailing address noted below.**

Sincerely,

Patrick T. Mattingly
Phone :270-247-3312
Fax :270-247-3671
patrick.mattingly@atmosenergy.com
Para informacion en espanol, por favor llamar al 270-247-3312

900 Commonwealth Dr
Mayfield KY 42066



PRINT BATCH CONTROL

Control Count : 1
Control Amount : \$491.86

Attachment 5

Email or Phone

Password

Log In

Forgot account?



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Like

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IDEAL Gravel Hauling

11 hrs ·

ENDING RESULTS! Magnificent!
Another Rip Rap job WELL DONE!



3

Like

Comment

Share



IDEAL Gravel Hauling

September 29 at 3:21 PM ·

Anyone for some relax time in some cooler weather around a nice new fire pit?

Log In

or

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Related Pages



McCracken County Sheriff's Office
Law Enforcement Agency

IDEAL Gravel Hauling

Home Improvement in Paducah, Kentucky

5

Closed Now

Community

See All

309 people like this

315 people follow this

2 check-ins

About

See All



(270) 562-0141

Contact IDEAL Gravel Hauling on Messenger

Home Improvement

Opens at 9:00 AM
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Facebook is showing information to help you better understand the purpose of a Page. See actions taken by the people who manage and post content.

Page created - May 22, 2019

People

309 likes

2 visits



Joe's Tractor And Backhoe Servi...
Demolition & Excavation Company



West Kentucky Star
News & Media Website



J.P. Roberts
News Personality



Banks Market
Supermarket

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Places **Paducah, Kentucky** Home Improvement
IDEAL Gravel Hauling

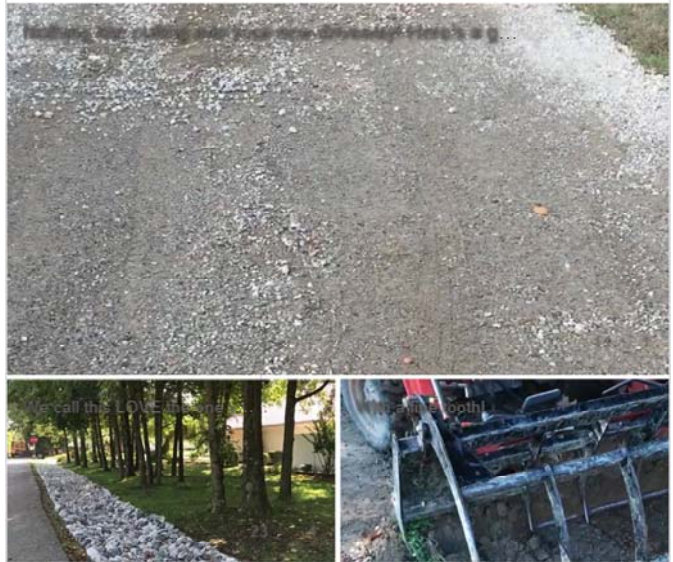
7

5 Comments

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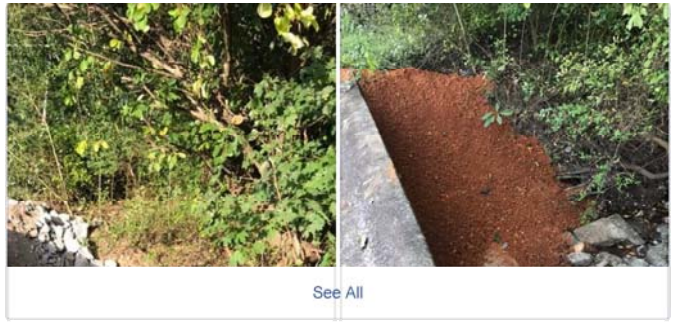


See more of IDEAL Gravel Hauling on Facebook

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FIND US

m.me/414855319066388

Call (270) 562-0141

HOURS

Closed Now 9:00 AM - 5:00 PM

MORE INFO

About

If your looking for dense grade, bank gravel, sand, mulch, soil, composite, pea gravel, wash gravel give us a call. We haul & professionally spread! We also do a wide variety of property works.

Home Improvement

Places Paducah, Kentucky Home Improvement IDEAL Gravel Hauling About

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Facebook © 2020

See more of IDEAL Gravel Hauling on Facebook

Log In

or

Create New Account

Map interface showing a location marker for IDEAL Gravel Hauling. The map displays a network of roads including State Route 131, State Route 348 W, State Route 348 E, and State Route 534. Other roads shown include Kaler Mill Rd, Reid Ln, Brookhaven Ln, McGuire Rd, Meta Ln, Edward St, Cedar Ln, Lisa Ln, Ham Rd, Elva Loop, and Symsonia Rd. A search bar on the left contains the text "IDEAL Gravel Hauling, 11972 KY-1". The bottom right corner features a satellite view inset, a scale bar for 1000 ft, and navigation controls.

Google Maps 11972 KY-131



Image capture: Jul 2008 © 2020 Google

Symsonia, Kentucky

Google

Street View



Google Maps 11998 KY-131



Image capture: Jul 2008 © 2020 Google

Symsonia, Kentucky

Google

Street View



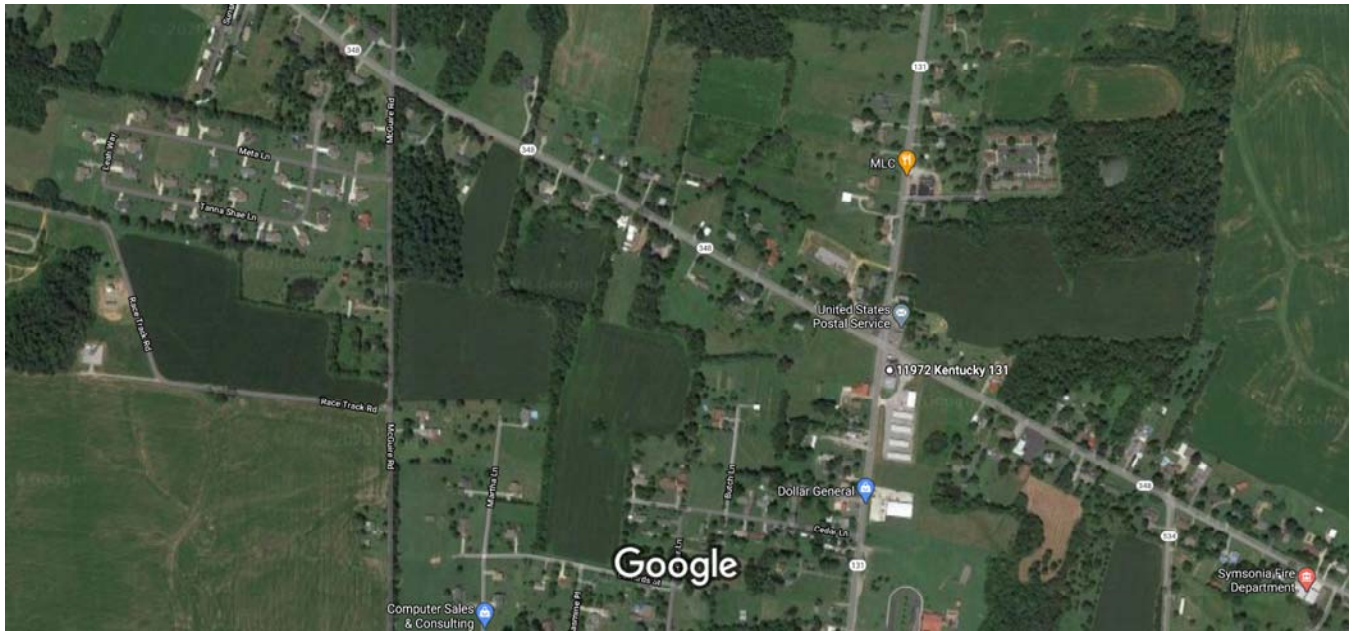


Imagery ©2020 Maxar Technologies, USDA Farm Service Agency, Map data ©2020 50 ft

DELAYS

Light traffic in this area

No known road disruptions. Traffic incidents will show up here.



Imagery ©2020 Maxar Technologies, USDA Farm Service Agency, Map data ©2020 500 ft

DELAYS

Light traffic in this area

No known road disruptions. Traffic incidents will show up here.

Arther Fergusons D/B/A Ideal Gravel Hauling
2045 Ted Williams Dr
Paducah, KENTUCKY 42003