



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Brian P. Kalk  
Kevin Cramer  
Bonny M. Fetch

Executive Secretary  
Darrell Nitschke

600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
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October 4, 2012

Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 E. Blvd. Ave. Dept. 408  
Bismarck, ND 58505-0480

Re: Public Service Commission v. Shores Companies, Inc.  
Damage Prevention Enforcement  
PSC Case No. GS-12-31

Dear Mr. Nitschke:

Enclosed is a Notice of Motion and Motion for Default, Affidavit of Christopher Marohl, and a proposed Order Finding Respondent in Default in the captioned case.

Best regards,

A handwritten signature in black ink, appearing to read "Mark Gruman", with a long horizontal flourish extending to the right.

Mark Gruman  
PSC Legal Counsel

c/w enclosures: Dennis Shores

PUBLIC SERVICE COMMISSION

_____	)	
Public Service Commission	)	CASE NO. GE-12-31
	)	
Complainant,	)	
	)	
vs.	)	
	)	<b>NOTICE OF MOTION AND</b>
Shores Companies, Inc.	)	<b>MOTION FOR DEFAULT</b>
	)	
Respondent.	)	
_____	)	

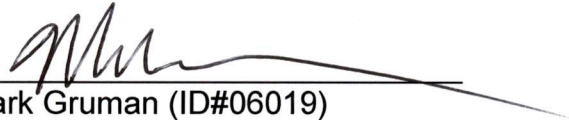
TO: **Respondent Shores Companies, Inc.** c/o Dennis Shores 14620 Berg Rd NW  
Evansville, MN 56326

**PLEASE TAKE NOTICE** that the Public Service Commission, Advocacy Staff, Movant in the above proceeding, respectfully moves for an order declaring Shores Companies, Inc. in default. The motion and affidavit are attached to this notice and by reference made a part hereof.

**YOU ARE HEREWITH NOTIFIED** that the Notice of Motion and Motion for Default Judgment has been submitted pursuant to N.D.C.C. § 28-32-30, N.D. Admin Rule 69-02 and Rule 55 of the North Dakota Rules of Civil Procedure. The motion will be decided on the merits. If the Public Service Commission rules in favor of Advocacy Staff's motion, you have (7) days after service of the default notice, order and grounds to file a written motion with the Public Service Commission requesting that the default

order be vacated and stating the grounds relied upon.

Bismarck, North Dakota, this 4<sup>th</sup> day of October, 2012.



Mark Gruman (ID#06019)  
Legal Counsel  
Advocacy Staff  
Public Service Commission  
State Capitol – 12<sup>th</sup> Floor  
600 E Boulevard Ave – Dept 408  
Bismarck, North Dakota 58505-0480  
701-328-2400

PUBLIC SERVICE COMMISSION

_____	)	
Public Service Commission	)	CASE NO. GE-12-31
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
Shores Companies, Inc.	)	AFFIDAVIT OF
	)	CHRISTOPHER MAROHL
Respondent.	)	
	)	
_____	)	

Christopher A. Marohl being duly sworn states as follows:

1. That he is a citizen of the United States of America, of legal age, residing at Bismarck, North Dakota.
2. That he is a Public Utility Analyst for the North Dakota Public Service Commission (Commission) and as such is charged with the duty of enforcing the provisions of North Dakota Century Code Chapter 49-23.
3. Shores Companies, Inc. (Shores) is a Minnesota corporation with principle offices at 14260 Berg Road NW, Evansville, MN 56326-8201.
4. Belle Fourche Pipeline Company (Belle Fourche) is a Wyoming corporation with principle offices at 455 N Poplar PO Box 2360, Casper, WY 82602-2360.
5. On December 23, 2011, the Public Service Commission (Commission) received a Third Party Damage Complaint from Belle Fourche. The third party complaint alleged a violation by Shores of North Dakota Century Code Chapter 49-23.

6. Based on Staff's investigation, Shores originally obtained North Dakota One Call (One Call) ticket number 11133777 on October 14, 2011 for work to begin on October 18, 2011.
7. As alleged by Belle Fourche, a Belle Fourche employee located the path of its facility with pin flags on October 17, 2011.
8. As alleged by Belle Fourche, a Belle Fourche employee agreed to meet with Shores at the excavation site at 2:00 pm on October 17, 2011. The Belle Fourche employee left after waiting for one hour after the agreed upon time. No other communication to have a Belle Fourche employee on site during excavation was made.
10. As alleged by Belle Fourche, Shores struck the Belle Fourche line on November 13, 2011 causing approximately 200 barrels of crude oil to be spilled in Stark County, North Dakota, 30 days after obtaining its One Call ticket.
11. Based on Staff's investigation, Shores did not update its original One Call ticket until November 16, 2011 with ticket number 11155260, three days after striking the Belle Fourche line.
12. Belle Fourche alleges the oil line was compromised resulting in approximately 200 barrels of crude oil to be spilled.
13. On December 20, 2011 Kenneth D. Dockweiler of Belle Fourche completed, and signed, a Third Party Damage Complaint Form.
14. On January 12, 2012 Patrick Fahn, Director of Compliance and Competitive Markets, mailed the Third Party Damage Complaint Form to Dennis Shores, Shores Companies Inc., 14620 Berg Rd. NW Evansville MN 56326, along with a

cover letter requesting that he provide to Commission Staff a written account of the alleged event, informing him that his response will be reviewed prior to Commission Staff determining whether a formal complaint was necessary.

15. On or about April 10, 2012 Dennis Shores, on behalf of Shores, submitted to the Commission Staff an explanation of events, denying liability yet not providing any explanation regarding the purposed allegation that Shores violated North Dakota Century Code Chapter 49-23 by failing to contact One Call and provide an updated excavation or location notice.
16. Through phone discussions with Staff, Dennis Shores acknowledged his organization had violated North Dakota Century Code Chapter 49-23 by failing to contact One Call and provide an updated excavation or location notice.
14. The Commission does not have on record any history of previous violations or complaints for this excavator.
15. Shores has not made a good faith effort in attempting to achieve compliance with North Dakota Century Code Chapter 49-23. Shores failed to meet with the representative of Belle Fouche at the agreed upon time, and thereafter excavated outside of the 10 day life of the one call ticket.
16. Shores made no indications towards its ability to pay a fine or the effect the penalty may have on its ability to continue in business.
17. On August 23, 2012 Commission Advocacy Staff filed with the North Dakota Public Service Commission a formal complaint alleging Shores in violation of North Dakota Century Code Chapter 49-23.

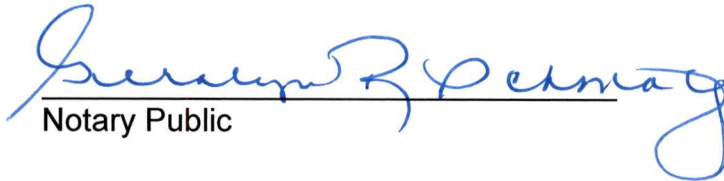
18. The August 23, 2012 formal complaint included conspicuous language indicating that an answer to the formal complaint must be served upon the Commission by Shores within twenty days after service of the formal complaint, or the formal complaint may be deemed admitted. This language cited N.D.C.C. § 28-32-21(e), rather than N.D. Admin Rule 69-02-02-03(1), which requires that an answer must be served upon 20 days after service of both the complaint and notice of hearing.
19. That on August 29, 2012 the Commission found that Advocacy Staff's formal complaint stated a prima facie case.
20. That on August 29, 2012 Cara DeSaye of Commission Staff conveyed a copy of the formal complaint to Shores via certified mail (attached).
21. That on September 13, 2012 the Commission scheduled a Formal Hearing for October 31, 2012 concerning this matter.
22. That on September 13, 2012 Cara DeSaye of Commission Staff conveyed a copy of the formal complaint, and notice of the September 13, 2012 formal hearing, to Shores via certified mail (attached).
23. That no communications have been received by the Commission from Shores as of the date of this affidavit, including an answer.
24. That the required time period for Shores to file an answer has expired.

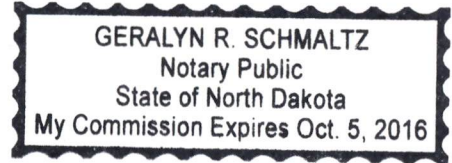
25. That this affidavit is made for the purpose of providing a record for the attached motion for default judgment.

Dated this 4<sup>th</sup> day of October, 2012.

By:   
Christopher Marohl

Subscribed and sworn to before me  
this 4<sup>th</sup> day of October, 2012.

  
Notary Public



PUBLIC SERVICE COMMISSION

_____	)	
Public Service Commission	)	CASE NO. GE-12-31
	)	
Petitioner,	)	
	)	
vs.	)	
	)	ORDER FINDING
Shores Companies, Inc.	)	RESPONDENT
	)	IN DEFAULT
Respondent.	)	
	)	
_____	)	

The Public Service Commission, Advocacy Staff, (Advocacy Staff) has moved the Public Service Commission (Commission) for Default Judgment pursuant to N.D.C.C. § 28-32-30, N.D. Admin Rule 69-02 and Rule 55 of the North Dakota Rules of Civil Procedure.

It appears from the record that Shores Companies, Inc. (Shores) is in default as of October 3, 2012 for failing to file an Answer within 20 days after the formal complaint and notice of hearing was mailed to Shores (certified) on September 13, 2012.

**ORDER**

**THEREFORE** on the Motion of Commission Advocacy Staff's counsel, Shores is in default concerning this matter. That the Commission therefore finds Shores in violation of North Dakota Century Code Chapter 49-23 for failing to comply with the One Call procedures as outlined in North Dakota Century Code § 49-23-04, as so alleged in Advocacy Staff's August 23, 2012 formal complaint.

**IT IS FURTHER ORDERED** that Respondent, Shores Companies, Inc., 14620 Berg Rd NW Evansville, MN 56326, shall deposit the penal sum of \$2,000 with the Commission.

**PUBLIC SERVICE COMMISSION**

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**Kevin Cramer  
Commissioner**

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**Brian P. Kalk  
Chairman**

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**Bonny M. Fetch  
Commissioner**