



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Brian P. Kalk  
Randy Christmann  
Julie Fedorchak

Executive Secretary  
Darrell Nitschke

600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

September 17, 2014

Susan Stumpf Shearer  
Harvey Sand & Gravel, INC..  
PO BOX 213  
Harvey, ND 58341-0213

Re: One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Ms. Shearer:

Enclosed is a copy of a One-Call Complaint, with attachments, against Harvey Sand & Gravel, INC., received by the North Dakota Public Service Commission on August 21, 2014, from Dave Voeller at Otter Tail Power of Harvey, ND, Case Number PU-14-695. The location of the damage identified in the complaint is approximately 512 Birch Ave, Harvey, ND.

We are sending you this information so that you are aware of the filing and have an opportunity to present any information you may have to assist us in processing this case. **Please respond to Darrell Nitschke, Executive Secretary, North Dakota Public Service Commission, by October 1, 2014**, with your written account of the event, including the applicable One Call locate ticket number for work performed at the address indicated.

Your response, the Third Party Damage complaint, and other available information will be reviewed to determine the next step in this matter. If staff concludes there was a violation of the One Call Law, may file a formal complaint. If Commission staff decides to proceed with a formal complaint, staff will attempt to contact you in advance.

Please contact me at 701-328-3397 or at [vschock@nd.gov](mailto:vschock@nd.gov) with any questions regarding this correspondence.

Sincerely,

Victor Schock  
Compliance and Competitive Markets Division

Enc: Third Party Damage Complaint with attachments  
c: Bruce Carlson with attachments

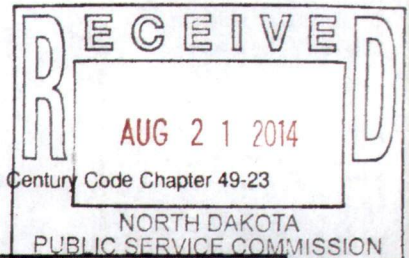


# ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (1-14)

To allege a violation of the One-Call Excavation Notice System Law: North Dakota Century Code Chapter 49-23



## PART A - WHO IS SUBMITTING THIS COMPLAINT (COMPLAINANT)

Company/Person <i>See attached list</i>	Street Address	City <i>Harvey</i>	State and Zip Code <i>ND 58341</i>
Telephone and Cell Phone Number <i>701-693-5231</i>	Email Address <i>dvoeller@otpc.com</i>	Date <i>7-21-14</i>	

Complainant is willing and able to testify on the complaint if matter goes to formal hearing

## PART B - WHO VIOLATED THE ONE-CALL REGULATIONS (RESPONDENT)

Company/Person <i>Harvey Sand and Gravel</i>	Street Address <i>133 Brewster St West Harvey ND</i>	City <i>Harvey ND</i>	State and Zip Code <i>324-4671</i>
Telephone and Cell Phone Number	Email Address		

## PART C - ALLEGED VIOLATION

Operator failed to provide or update the information provided to the notification center on a timely basis

Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation

Excavator failed to provide required information in excavation or location notice

Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation

Notification center failed to inform the excavator of the names of operators of underground facilities in the area

Operator failed to locate and mark underground facility within 48 hours

Excavation started prior to underground facility locate

Operator failed to mark underground facility within 24 inches horizontally

Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period

Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities

Excavator failed to maintain the markings during excavation

Other (identify the specific section of NDCC Chapter 49-23)

Location of Violation:

*512 Birch Ave Harvey ND*

Date and Time of Violation:

*7-21-14 9:00 AM*

Description (summarize the observations on which you rely to allege the violation) If more space is required, please provide the description on a separate page.

## PART D - DAMAGE

Fatalities	Injuries	In-patient Hospitalization
Underground facility type(s) and Operator(s) affected:		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$	Number of Customers Affected	
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

## PART I - SIGNATURE

Signature of Person Filing Complaint <i>Dave Voeller - 693-5231</i>	Date <i>7-21-14</i>
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Send Completed, Original Complaint To:  
 Public Service Commission  
 600 E Boulevard Ave Dept 408  
 Bismarck ND 58505-0480  
 Telephone: (701) 328-2400

To whom it may concern,

On behalf of Otter Tail Power, North Dakota Telephone Company, Midcontinent Communications, and the City of Harvey, we wish to bring to your attention the actions of a particular contractor that has violated the ND One Call rules. This incident is the first to be reported to the Public Service Commission but we have had several previous occasions of a One Call not being made or a lack of proper work procedures on marked UG facilities. As well there have been requests made by the contractor to his customer to make the One Call request. On this occasion the contractor was removing and replacing a driveway. We feel the stakes driven to complete this project would have violated the 12 inch rule. This contractor does take the appropriate action with ND One Call on most of their excavation projects. However the repeated warnings from the Utilities have not been convincing enough to eliminate the occasional violation. We wish for this complaint to persuade the Public Service Commission to hand out a warning and also to be a record of the issues here should a fine be in order in the future.

## Complainants

Otter Tail Power  
401 Jackson Ave  
Harvey ND 58341

Dave Voeller- 693-5231

MIDCONTINENT COMMUNICATIONS  
1005 E. 14<sup>th</sup> ST.  
DEVILS LAKE ND 58301

BOB SCHELL  
701-340-6715

NDTC tel.  
P.O. Box 180  
Devils LAKE ND.

GARY Troftgruben  
701-350-0077

City of Harvey  
120 W. 8<sup>th</sup> St.  
Harvey, ND 58341

Kenny Eiler  
701-324-2000

