



Public Service Commission

State of North Dakota

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April 28, 2015

Doug Unruh
Phoenix Construction
PO BOX 1871
Bismarck, ND 58502-1871

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

Dear Mr. Unruh:

Enclosed is a copy of a ND One-Call Complaint, with attachments, against Phoenix Construction, received by the North Dakota Public Service Commission on April 24, 2015, from Keith Demke, Director of Utility Operations for the City of Bismarck, in Bismarck, ND, Case Number PU-15-166. The location of the damage identified in the complaint is approximately 133 South Bell Street, Bismarck, ND.

I am sending you this information so that you are aware of the Complaint 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 May 12, 2015**, with your written account of the event, including the applicable One Call locate ticket number for work performed at the address indicated.

I will review your response, the ND One-Call Complaint, and other available information to determine the next step in this matter. If I conclude there was a violation of the One Call law, I may file a formal complaint with the Commission. If I decide to proceed with a formal complaint, I will attempt to contact you in advance.

Please contact me at 701-328-3397 or at vschock@nd.gov with any questions regarding this correspondence.

Sincerely,

Victor Schock
Compliance and Competitive Markets Division

Enc: ND One-Call Complaint with attachments
c: Keith Demke with attachments

2 PU-15-166 Filed: 4/28/2015 Pages: 4
Letter enclosing North Dakota One Call Complaint



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 City of Bismarck Public Works/ Keith Demke	Street Address Po Box 5503	City Bismarck	State and Zip Code ND 58506-5503
Telephone and Cell Phone Number 701-355-1704 701-220-5059	Email Address kdemke@bismarcknd.gov		Date April 24, 2015
<input checked="" type="checkbox"/> 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 Phoenix Construction/ Doug Unruh	Street Address 4620 Sky Way	City Bismarck	State and Zip Code ND 58501
Telephone and Cell Phone Number 701-222-1416	Email Address		

PART C – ALLEGED VIOLATION

<input type="checkbox"/> Operator failed to provide or update the information provided to the notification center on a timely basis <input checked="" type="checkbox"/> Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation <input type="checkbox"/> Excavator failed to provide required information in excavation or location notice <input type="checkbox"/> Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation <input type="checkbox"/> Notification center failed to inform the excavator of the names of operators of underground facilities in the area <input type="checkbox"/> Operator failed to locate and mark underground facility within 48 hours <input checked="" type="checkbox"/> Excavation started prior to underground facility locate <input type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally <input type="checkbox"/> Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period <input checked="" type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities <input type="checkbox"/> Excavator failed to maintain the markings during excavation <input checked="" type="checkbox"/> Other (identify the specific section of NDCC Chapter 49-23) <u>49-23-06 Excavator failed to provide notice of damage, backfilled without notice or repair</u>
Location of Violation: 133 S. Bell Street, Bismarck
Date and Time of Violation: Uncertain - late November-early December 2014
Description (summarize the observations on which you rely to allege the violation) <i>If more space is required, please provide the description on a separate page.</i> Recently, we noticed that a 36-inch diameter storm sewer was not draining and appeared to be plugged. On April 21, 2015 using televising equipment we determined that the pipe was collapsed and filled with dirt at the location where Phoenix Construction built an addition onto the structure at 133 S. Bell Street. We were not notified by ND One Call to provide utility location information at the time this work was done. According to the building owner, when the contractor was excavating for the building foundation he hit something at this location. He pulled out pieces of vitrified clay pipe and then backfilled.

PART D – DAMAGE

Fatalities na	Injuries na	In-patient Hospitalization na
Underground facility type(s) and Operator(s) affected: Collapsed 36 inch diameter storm sewer		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ Not determined at this time	Number of Customers Affected See below	
Other impact of event: The collapsed sewer presents a flooding risk to residents and businesses upstream who rely on this drainage system to convey storm water run off. No customers have been affected to date, however the potential exists for flooding in this neighborhood in case of heavy rainfall. This main also serves as an emergency bypass for sewage. While it's use is rare, if it were to be needed and is unusable, the result would be basements flooding with backed up sewage.		
Please attach photos of Event Area or Damaged Facility		

PART I – SIGNATURE

Signature of Person Filing Complaint 	Date 4/24/2015
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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

*Director of Utility Operations
City of Bismarck*

04/21/15
MH STOP: FL059110J
04/21/15
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Looking at
damaged location
from the west.

