



Public Service Commission  
State of North Dakota

COMMISSIONERS

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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

July 1, 2016

George Labrie Jr.  
Big Horn Underground, LLC.  
PO BOX 646  
Chetek, WI 54728

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

Dear MR Labrie:

Enclosed is a copy of a ND One-Call Complaint, against Big Horn Underground, LLC., received by the North Dakota Public Service Commission on June 30, 2016, from Eric Nihill at Montana Dakota Utilities, of Jamestown, ND, Case Number PU-16-400. The location of the damage identified in the complaint is approximately the intersection of Toxtrot Road and 16<sup>th</sup> Street, Jamestown, ND.

I am sending you this information so that you are aware of the complaint and may respond with information concerning the complaint. **Please respond to Darrell Nitschke, Executive Secretary, North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept 408, Bismarck, ND 58505-0480 by July 20, 2016**, with your written account of the event, including the applicable One Call locate ticket number for work performed at the address indicated.

Your response and the ND One-Call Complaint will be reviewed to determine whether there may be a violation of the One-Call Excavation Notice System law.

If I do not receive a response by the date noted, I will determine whether there was a violation, without your side of the story, based on the facts contained in this complaint. If I conclude a violation did occur I will file a formal complaint against Big Horn Underground, LLC. with the Commission, which may result in a penalty up to \$25,000 per violation as approved by the North Dakota Legislative Assembly in 2013 under North Dakota Century Code Section 49-07-01.1.

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  
North Dakota Public Service Commission  
600 E Boulevard Ave, Dept 408  
Bismarck, ND 58505-0480

Enc: ND One-Call Complaint  
c: Eric Nihill

2 **PU-16-400** Filed: 7/1/2016 Pages: 2  
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 Montana Dakota Utilities/Eric Nihill	Street Address 701 12th Ave SE	City Jamestown	State and Zip Code ND 58401
Telephone and Cell Phone Number 701-252-9833 ext 6657	Email Address eric.nihill@mdu.com		Date 6/29/2016
<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 Big Horn Underground/George Labrie - President	Street Address 521 N. Main street	City Bloomer	State and Zip Code Wisconsin, 54724
Telephone and Cell Phone Number 715-668-9598 cell 715-645-0585	Email Address georgelabrie@bighomunderground.com		

## 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 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 type="checkbox"/> Excavation started prior to underground facility locate <input type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally <input checked="" 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 type="checkbox"/> Other (Identify the specific section of NDCC Chapter 49-23) _____
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Location of Violation:  
Intersection of Toxtrot Road and 16th Street, Jamestown, ND

Date and Time of Violation:  
6/29/16 - 3:15 PM

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.*

Contractor spotted 2" plastic main initially. When they directional bored, they bored approximately 3 feet from where they spotted main and could not see the crossing and hit main. Upon further investigation, we found that the locates they had called in were past the 21 day dig period and were expired. Ticket number 16063691 that was provided to us by contractor, was expired at the time of the hit.

## PART D – DAMAGE

Fatalities none	Injuries none	In-patient Hospitalization none
Underground facility type(s) and Operator(s) affected: Natural gas - Montana Dakota Utilities		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ \$1000.00	Number of Customers Affected 0	
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

## PART I – SIGNATURE

Signature of Person Filing Complaint Eric Nihill	Date 6/30/16
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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