



Public Service Commission

State of North Dakota

COMMISSIONERS

Brian Kroshus
Julie Fedorchak
Randy Christmann

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: 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 3, 2019

John Fossum
Fox Hills Fencing
PO BOX 391
Bowman, ND 58623-0391

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

Dear John:

Enclosed is a copy of a ND One-Call Complaint, against Fox Hills Fencing, received by the North Dakota Public Service Commission on June 28, 2019, from Ryan Farmer at Kinder Morgan, of Williston, ND, Case Number PU-19-215. The location of the incident identified in the complaint is approximately 91st St SW, 1 mile west of 152nd Ave SW near Bowman, 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 Executive Secretary, North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept 408, Bismarck, ND 58505-0480 by July 19, 2019**, 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 Fox Hills Fencing 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 with any questions regarding this correspondence.

Sincerely,

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

Enc: ND One-Call Complaint
c: Ryan Farmer

2 **PU-19-215** Filed: 7/3/2019 Pages: 2
Letter enclosing North Dakota One-Call Complaint

Public Service Commission Staff

Victor Schock



ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (5-17)

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 Kinder Morgan	Street Address 611 37th Ave SE bldg 29	City Williston	State and Zip Code North Dakota 58801
Telephone and Cell Phone Number 701-774-6110	Email Address Ryan_Farmer@kindermorgan.com		Date 6/28/19
<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 Fox Hills Fencing	Street Address P.O. Box 391	City Bowman	State and Zip Code North Dakota 58623
Telephone and Cell Phone Number 701-260-0702	Email Address FOXHILLSFENCING@HOTMAIL.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 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 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) _____
Location of Violation: 91st St SW 1 mile west of 152nd Ave SW Rural of Bowman ND
Date and Time of Violation: 6-19-19 at approx 2:00pm
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. Line patroler visited site of locate request for proposed fencework on 6-19 at approx 2pm. Met with workers with Fox Hills Fencing and was told the fence was already constructed. Line patroler informed them that their locate request was not valid until 6-20. They stated they were told by their boss to build the fence that morning. Fence encroached upon KM owned ROW without markings or personnel being present and without notification of intent to excavate early.

PART D – DAMAGE

Fatalities No damage to facility	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 	Date 6-28-19
--	-----------------

Submit

If the "Submit" function is not working properly, please print the completed form and then either email to ndpsc@nd.gov, fax to 701-328-2410 or send to Public Service Commission, 600 E Boulevard Ave Dept 408, Bismarck ND 58505-0480.

Telephone: (701) 328-2400