

# Memorandum

To: Commissioners Kroshus, Fedorchak and Christmann

From: Victor Schock Public Utility Analyst

VS

Date: September 18, 2020

Re: ND One-Call Complaint  
Case No. PU-19-357

On November 4, 2019, a ND One-Call Complaint was received from Brady Carpenter with North Prairie Rural Water Association alleging that Darryl Duchsherer (Mr. Duchsherer) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to provide site identification information for his excavation notice.

Staff investigation found that on November 2, 2019 Mr. Duchsherer provided an excavation notice to the North Dakota One Call Center with a work to begin date of November 6, 2019. The North Dakota One Call Center assigned ticket no. 19156943 to the excavation notice which states the work being done was 'grading'. The excavation location noted in the ticket is Township 152N, Range 77W, the NW ¼ of Section 13 and the NE ¼ of Section 14, which is land owned by Mr. Duchsherer. In the remarks section of the ticket, it states "Caller request for locators to call before they start marking".

North Dakota Century Code Section 49-23-04(2) states:

Unless otherwise exempted, the ticket request must include site identification information by one or more of the following means: white marking, digital white lining, project staking, geographic information system shape file, detailed drawing, map, or other means agreed upon by the parties to the ticket. Site identification under this subsection is not required if:

- a. The precise location of excavation can be clearly and adequately identified on the location notice and is limited to a single street address or a platted lot number of record;
- b. The precise location of excavation can be clearly and adequately identified on the location notice and the excavation is an emergency excavation; or
- c. Prior to any excavation, the excavator requests and conducts a meeting with the affected operators at the location of the excavation

Staff believes the request for locators to call before they start marking satisfies the exception in part c. of 49-3-04(2), and therefore Mr. Duchsherer was not required to provide site identification for this excavation notice.

Based on its investigation staff does not intend to file a formal complaint, recommends that no further action be taken and the case be closed.

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Public Service Commission Staff

Victor Schock