



Public Service Commission

State of North Dakota

COMMISSIONERS

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600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
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December 17, 2019

John M Ames
Agri Industries, Inc.
PO BOX 1166
Williston, ND 58802-1166

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 Agri Industries, Inc., received by the North Dakota Public Service Commission on December 16, 2019, from Seth at SRD Excavation/Utilities, Inc., of Williston, ND, Case Number PU-19-383. The location of the incident identified in the complaint is approximately the West Acres Subdivision, Williston, 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 January 2, 2020**, 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 Agri Industries, Inc. 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: Seth

3 **PU-19-383** Filed: 12/17/2019 Pages: 3
Letter enclosing North Dakota One-Call Complaint

Public Service Commission

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 SRD Excavation/Utilities, Inc	Street Address 13375 58th st nw	City Williston	State and Zip Code ND 58801
Telephone and Cell Phone Number 701 770 5652	Email Address seth@srdlc.net	Date 12/16/19	
<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 River Rain	Street Address PO Box 1166	City Williston	State and Zip Code ND 58802
Telephone and Cell Phone Number 701 609 1689	Email Address river.rain.agri@gmail.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 checked="" 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 checked="" type="checkbox"/> Other (identify the specific section of NDCC Chapter 49-23) <u>Operator failed to properly locate line after several attempts to get them to.</u>
Location of Violation: west acres subdivision
Date and Time of Violation: 5/10/2019-8/31/2019
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> see attached paperwork.

PART D - DAMAGE

Fatalities irrigation line	Injuries	In-patient Hospitalization
Underground facility type(s) and Operator(s) affected: River Rain		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ 12,500	Number of Customers Affected 30	
Other impact of event: Many hours of excavator loss time repairing their facility and loss production work time.		
Please attach photos of Event Area or Damaged Facility		

PART I - SIGNATURE

Signature of Person Filing Complaint 	Date 12/16/19
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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

We began constructing fiber in the west acres subdivision in Williston, ND in early May. We worked in this subdivision from May to the end of AUG 2019. During this time while trying to locate River Rains irrigation lines in the subdivision we noticed that the locate marks were consistently well over 3' off and in most cases we could not even locate the line within a 8' window of the marks. When River Rain was contacted about this they were very rude to the point of demeaning our company telling us that we are "the worst company they have ever seen, that in the state of ND they aloud a 10' window for their water line". According the century code "Water" is defined as Potable water, wastewater and storm water. We had brought these concerns to River Rain as well and asked for some help to get this properly located, we had even set up with a private locator with radio detection to help them out and we were told by River Rain that they would cover any cost to do anything to properly locate the line. As a direct result of very in accurate locate marks this line was damaged a total of 8 times. 1 time out of the 8 it was within the 2' marks and the line was in such pour condition that the pothole crew actually broke it with a shovel will spotting it.

SRD repaired the line 6 out of the 8 times it was hit trying to help out River Rain. In return River Rain Billed us for 8 damaged lines totaling almost \$12,300.00. SRD has paid these in full and is asking for your assistance in this matter to recover funds that were essentially illegally billed to SRD from River Rain according to the ND century code. SRD would like be able to recoup its lost time for fixing the lines that were located incorrectly as well as the lost production time caused by the direct result of River Rain.

When damages happened or calling them to come double check locate marks it would take hours to get a response on the phone. Then they would come out and set the parts next to the hole repair and drive off. At the end of the project after multiple hits way off the locate marks we told them we would not repair the line anymore because of all the lost time and they fixed one themselves but billed us for repairing everyone. When the project was complete SRD made invoices for the lost time repairing their lines in totaling almost \$15,000. When a call was made the operators owner to find out when they would be paid He once again began to blame it on SRD saying he is aloud 10' because of it being water when in fact it does not fall under the definition of water according the century code.