

Memorandum

To: Commissioners Kroshus, Fedorchak and Christmann

From: Victor Schock Public Utility Analyst

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Date: July 9, 2020

Re: ND One-Call Complaint
Case No. PU-19-383

On December 16, 2019 a ND One-Call Complaint was received from Seth Dixon with SRD Excavation/Utilities (SRD), alleging that Agri Industries, Inc. (Agri) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to locate its underground facility within 24 inches horizontally. The complaint asserted that the underground irrigation water facilities owned by Agri would not be considered 'water' as defined in the North Dakota One-Call law, and therefore would not be exempted from locating them within 24 inches horizontally.

Staff investigation found that between May and August of 2019 SRD personnel damaged Agri's underground irrigation water facilities on 8 different occasions during which time they had valid One-Call tickets. SRD alleged in its complaint that the damages were due to Agri's failure to mark their facilities within 24 inches horizontally.

Agri's January 12, 2020 response asserted that they have been marking their lines as required under the North Dakota One-Call law.

Based on a thorough review of the North Dakota One-Call law with Commission legal staff, it was determined that the irrigation water facilities owned by Agri would fall into the definition of water as it is presently defined. This means that Agri is not required to locate its irrigation water facilities within 24 inches horizontally, but rather they must locate as accurately as possible.

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.