

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
B & G Oilfield Services
Damage Prevention Enforcement

Case No. PU-20-210

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **19th day of August 2021** she deposited in the United States Mail at Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Order on Consent Agreement**

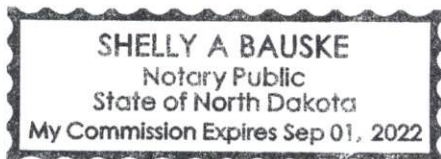
The envelopes were addressed as follows:

Rick Thompson
B & G Oil Field Service
4814 Sunset Blvd.
Williston, ND 58801
Cert. No. 7020 1810 0000 0893 9561

Ryan Farmer
Kinder Morgan
611 37th Ave SE Bldg. 29
Williston, ND 58801
Cert. No. 7020 1810 0000 0893 9578

Each address shown is the respective addressee's last reasonably ascertainable post office mail address.

Subscribed and sworn to before me
this **19th day of August 2021**.



Notary Public

SEAL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
B & G Oilfield Services
Damage Prevention Enforcement**

Case No. PU-20-210

ORDER ON CONSENT AGREEMENT

August 18, 2021

Preliminary Statement

On May 18, 2020, the Commission received a ND One-Call Complaint (Complaint) from Kinder Morgan (KM) alleging a violation by B & G Oilfield Services (B & G) of North Dakota Century Code (NDCC) chapter 49-23: One-Call Excavation Notice System.

On June 9, 2020, the Commission sent a letter to B & G enclosing the May 18, 2020 Complaint, requesting a response by June 24, 2020.

On June 25, 2020, B & G filed a response to the Complaint.

On July 26, 2021, a Consent Agreement between Public Service Commission Advocacy Staff and B & G was filed for the resolution of the Complaint.

Discussion

B & G Oilfield Services is a trade name owned by B & G Roustabout Service, LLC. B & G Roustabout Service, LLC is a domestic limited liability company with a principal address of 4814 Sunset Blvd, Williston, ND 58801.

On May 8, 2020, B&G personnel provided an excavation notice to the North Dakota One Call Notification Center (NDOC), with work to begin on May 13, 2020. The NDOC assigned locate ticket number 20038127 to the excavation notice. The work was related to a hydro excavation to verify the location of another line at latitude 47.936953 and longitude at -103.337359 north of Watford City, ND. The expiration date for the ticket was June 3, 2020.

On May 8, 2020, B&G began an excavation as defined in NDCC section 49-23-01(7) at the location cited in the excavation notice. This excavation took place prior to

receiving notice that all facilities had been located. The Complaint indicated there was no damage to any underground facility as a result of this excavation.

The Complaint alleges that B & G violated NDCC section 49-23-04(4) by beginning an excavation prior to expiration of the location period or receiving notice that all facilities had been located.

NDCC section 49-23-04(4) states an "excavator may begin excavation in a location when the excavator has received notice that all facilities have been located or cleared or at the expiration of the location period or extension of the location period."

Advocacy Staff concluded that B & G violated NDCC section 49-23-04(4) by beginning an excavation prior to receiving notice that all facilities had been located.

B & G and Advocacy Staff engaged in good faith settlement discussions resulting in a Consent Agreement intended to avoid further administrative proceedings or litigation.

Under the Consent Agreement, B & G agrees to be assessed a civil penalty of \$500, with \$250 suspended on condition that B & G commits no further violation of the North Dakota One-Call Law (North Dakota Century Code chapter 49-23) within five years of the date of an Order accepting the Consent Agreement. B & G will make \$250 payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting the Consent Agreement.

Having considered this matter, the Commission finds the Consent Agreement is reasonable and acceptable. Therefore, the Commission issues the following:

Order

The Commission Orders:

1. The Consent Agreement between B & G Oilfield Services and Advocacy Staff, filed with the Commission on July 26, 2021, is approved. A copy of the Consent Agreement is attached to and made a part of this Order on Consent Agreement (Order).
2. B & G Oilfield Services is assessed a civil penalty of \$500.
3. B & G Oilfield Services shall remit \$250 civil penalty, payable to the North Dakota Public Service Commission, within ten business days of service of this Order. The remaining \$250 civil penalty is suspended on condition that B & G commit no further violation of North Dakota Century Code chapter 49-23 within five years of the date of this Order.
4. In the event the Commission finds B & G violated North Dakota One-Call Law within five years of the date of this Order, B & G shall remit the suspended portion of the

penalty, \$250, within the time ordered by the Commission and remit any additional fines or penalties imposed for subsequent violation.

PUBLIC SERVICE COMMISSION


Randy Christmann
Commissioner


Julie Fedorchak
Chair


Brian Kroshus
Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-20-210
vs.)	
)	CONSENT AGREEMENT
B&G Oilfield Services,)	
Respondent.)	

Preliminary Statement

This Consent Agreement is entered into by and between B&G Oilfield Services (B&G) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-20-210.

On May 18, 2020, the Commission received a ND One-Call Complaint from Kinder Morgan (KM). The complaint alleged a violation by B&G of North Dakota Century Code (NDCC) section 49-23-04(4) for beginning an excavation prior to expiration of the location period or receiving notice that all facilities have been located.

On June 9, 2020, Commission staff issued a letter informing B&G of KM's complaint filing and requested a response by June 24, 2020. B&G's June 25, 2020 response did not dispute KM's claim.

On May 8, 2020, B&G personnel provided an excavation notice to the North Dakota One Call Notification Center (NDOC), with work to begin on May 13, 2020. The NDOC assigned locate ticket number 20038127 to the excavation notice. The work

related to a hydro excavation to verify the location of another line at latitude 47.936953 and longitude at -103.337359 north of Watford City, ND. The expiration date for the ticket was June 3, 2020.

On May 8, 2020, B&G began an excavation as defined in NDCC section 49-23-01(7) at the location cited in the excavation notice. This excavation took place prior to receiving notice that all facilities had been located. No damage to any underground facility was mentioned on the ticket as a result of the excavation.

NDCC section 49-23-04(4) states an “excavator may begin excavation in a location when the excavator has received notice that all facilities have been located or cleared or at the expiration of the location period or extension of the location period.”

Having investigated the alleged violation, Staff believes that B&G violated NDCC section 49-23-04(4).

B&G and Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that entry of this Consent Agreement is the most appropriate means of resolving this administrative action, Staff and B&G agree to the following, subject to the approval and acceptance of the Commission:

1. B&G violated NDCC section 49-23-04(4) for beginning an excavation prior to receiving notice that all facilities had been located.
2. B&G agrees to be assessed a civil penalty of \$500. B&G agrees to remit \$250 of the \$500, payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting or approving the Consent

Agreement (Order). The remaining \$250 civil penalty is suspended on the condition that B&G commits no further violation of NDCC section 49-23 within five years of the date of the Order.

3. In the event the Commission finds B&G violated the NDCC section 49-23 within five years of the date of the Order, B&G shall remit the suspended portion of the penalty, within the time ordered by the Commission, in addition to any additional fines or penalties imposed for the subsequent violation.
4. If within five years of the date of the Order there is no subsequent violation of the NDCC section 49-23 by B&G, the remaining \$250 penalty is withdrawn.
5. Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violation alleged in the Case.
6. B&G consents to the filing of the Consent Agreement and an Order and hereby waives any further procedural requirements with respect to the Order's issuance. Provided the Public Service Commission adopts this Consent Agreement and issues an Order consistent with it, B&G understands and agrees to waive all rights to contest the violation, the right to be represented by counsel, the right to present evidence and arguments to the Commission, the right to cross examine witnesses, or contest the validity of this Consent Agreement and Order, including all rights to administrative or judicial hearings or appeals.
7. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Consent Agreement and Order.

8. This agreement may be executed in counterparts and duplicate copies, each which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.
9. The undersigned is authorized to act on behalf of B&G and bind B&G for purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 26th day of July, 2021

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION


By:  _____

Brian Johnson
Special Assistant Attorney General Bar ID 07397
North Dakota Public Service Commission
600 East Boulevard Avenue Dept. 408
Bismarck ND, 58505
701-328-2407

Dated this 26th day of July, 2021

B&G Oilfield Services

By: Rick Thompson - Director of HSE & Training

Name:  _____