



Public Service Commission State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Brian Kroshus

600 East Boulevard Avenue Dept. 408
Bismarck, ND 58505-0480
Web: www.psc.nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

August 9, 2021

Mr. Steve Kahl
Executive Secretary
ND Public Service Commission
600 E Boulevard Avenue Dept. 408
Bismarck, ND 58505-0480

via Hand Delivery

Re: Case No. PU-20-249
Public Service Commission
Bohlman Trenching Service, Inc.
Damage Prevention Enforcement

Dear Mr. Kahl:

Enclosed is a copy of the Consent Agreement to be filed in the above captioned case.

Best Regards,

Brian Johnson
Legal Counsel

Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-20-249
vs.)	
)	CONSENT AGREEMENT
Bohlman Trenching Service, Inc.,)	
Respondent .)	

Preliminary Statement

This Consent Agreement is entered into by and between Bohlman Trenching Service, Inc. (Bohlman) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-20-249.

On June 5, 2020, the Commission received a ND One-Call Complaint from David Lacy (David). The complaint alleged a violation by Bohlman of North Dakota Century Code (NDCC) section 49-23-04(1) by failing to provide an excavation or location notice before beginning any excavation.

On June 11, 2020, Commission staff issued a letter informing Bohlman of David's complaint filing and requested a response by June 25, 2020. In a phone conversation with Bohlman on June 15, 2021, David Bohlman agreed that Bohlman did not have a valid locate ticket at the time of its excavation.

On June 3, 2020 Bohlman personnel provided and excavation notice to the North Dakota One Call Notification Center (NDOC), with work to begin on June 6, 2020. The

NDOC assigned locate ticket number 20058357 to the excavation notice, which indicates the work was installation of culvert and water lines at 514 1st Ave NE, Reynolds, ND. The expiration date for the ticket was June 27, 2020.

On June 5, 2020, Bohlman began an excavation as defined in NDCC section 49-23-01(7) while performing culvert and water line installation at the location cited in the excavation notice. This excavation took place prior to the work to begin date on the ticket. No damage resulted from this excavation.

NDCC section 49-23-04(1) states that except in an emergency, an excavator shall contact the notification center and provide an excavation or location notice before beginning any excavation. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice.

Having investigated the alleged violation, Staff believes that Bohlman violated NDCC section 49-23-04(1).

Bohlman 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 Bohlman agree to the following, subject to the approval and acceptance of the Commission:

1. Bohlman violated NDCC section 49-23-04(1) by failing to provide an excavation or location notice before beginning any excavation.
2. Bohlman agrees to be assessed a civil penalty of \$500. Bohlman 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 Bohlman 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 Bohlman violated the NDCC section 49-23 within five years of the date of the Order, Bohlman 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 Bohlman, 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. Bohlman 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, Bohlman 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 Bohlman and bind Bohlman for purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 9th day of August, 2021

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

By:  _____

Brian Johnson
Special Assistant Attorney General Bar ID 07937
North Dakota Public Service Commission
600 East Boulevard Avenue Dept. 408
Bismarck ND, 58505
701-328-2407

Dated this 31 day of July, 2021

Bohlman Trenching Service, Inc.

By:  _____

Name: David Bohlman