



# Public Service Commission State of North Dakota

## COMMISSIONERS

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June 19, 2020

Kalan Wagner  
Wagner Construction, Inc.  
3151 Highway 53  
International Falls, MN 56649

Re: ND One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Kalan:

Enclosed is a copy of a ND One-Call Complaint, against Wagner Construction, Inc., received by the North Dakota Public Service Commission on June 18, 2020, from Reggie Schaan at Midcontinent Communications, of Minot, ND, Case Number PU-20-273. The location of the damage identified in the complaint is approximately 6<sup>th</sup> ST between 27<sup>th</sup> and 31<sup>st</sup> Avenues in Minot, 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 July 6, 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 Wagner Construction, 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](mailto: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: Reggie Schaan

2 **PU-20-273** Filed: 6/19/2020 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 Midco--Reggie Schaan	Street Address 717 20th Ave SE	City Minot	State and Zip Code ND 58701
Telephone and Cell Phone Number 701-578-0443 cell 701-578-0443	Email Address reggie.schaan@midco.com		Date 6-18-2020
<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 Wagner Construction	Street Address 6401 Highway 2 and 52 West	City Minot	State and Zip Code ND
Telephone and Cell Phone Number 218-283-3700	Email Address unavailable		

## 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 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 checked="" type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities <input checked="" type="checkbox"/> Excavator failed to maintain the markings during excavation <input type="checkbox"/> Other (identify the specific section of NDCC Chapter 49-23) _____
Location of Violation: 6th Street between 27th and 31st Avenues, Minot ND
Date and Time of Violation: June 3, 2020 at 4:08 PM and 5:30 PM for a second cut
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

## PART D – DAMAGE

Fatalities	Injuries	In-patient Hospitalization
Underground facility type(s) and Operator(s) affected: 96 count fiber-same line cut twice		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ \$34,706.00	Number of Customers Affected 1030	
Other impact of event: When fiber is cut services to many locations is affected—including medical and government facilities.		
Please attach photos of Event Area or Damaged Facility		

## PART I – SIGNATURE

Signature of Person Filing Complaint 	Date 6-18-2020
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Submit
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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

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North Dakota One-Call Complaint  
Midco Communications, Inc.  
Reggie Schaan

## Wagner Excavation ND One-Call Complaint

On June 3<sup>rd</sup>, 2020 at approximately 4:08 PM, Dan Ryan, Construction Coordinator – Minot, received a call from Jesse with Wagner Construction. Jesse told Dan he thinks he hit our 96-count fiber. As a point of reference, this cut was on 6<sup>th</sup> St. SE between 27<sup>th</sup> and 31<sup>st</sup> Ave which is in the area of an on-going road project for the past few weeks.

Technicians started breaking out and traying the fiber approximately 5:10 PM. The plan was to restore the business customers first followed by the nodes, first one being the Gate City Bank circuit, which started at 5:30 PM.

As fiber splicing was being performed and circuits were coming back on-line, approximately 6:00 PM, the excavation operator from Wagner Construction informed us they cut the same 96-count fiber we were restoring, another 700 feet to the south of the first cut. Reggie Schaan went to look at the possible second cut location and indeed they (Wagner) had cut Midco's 96-count fiber. Again, there were no locate flags or paint marking the Midco fiber as Wagner failed to maintain markings during the excavation. Project Engineer from Apex Engineering when asked why they were digging with no locates replied "I'm not even sure why they are digging in this spot, they should not have been digging here".