



Public Service Commission

State of North Dakota

COMMISSIONERS

Brian Kroshus
Julie Fedorchak
Randy Christmann

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

July 8, 2020

Denny R Portra
Coal Creek Construction, Inc.
PO BOX 1068
Underwood, ND 58576-1068

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

Dear Denny:

Enclosed is a copy of a ND One-Call Complaint, against Coal Creek Construction, Inc., received by the North Dakota Public Service Commission on July 7, 2020, from Andrew Erickson at Southwest Water Authority of Dickinson, ND, Case Number PU-20-332. The location of the damage identified in the complaint is approximately 240 County Road 13, Zap, 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 22, 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 Coal Creek 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 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: Andrew Erickson

2 PU-20-332 Filed: 7/8/2020 Pages: 6
Letter enclosing North Dakota One-Call Complaint



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 SOUTHWEST WATER AUTHORITY	Street Address 4665 1/2 2nd Street SW	City DICKINSON	State and Zip Code ND 58601
Telephone and Cell Phone Number 701-225-0241	Email Address SWWater.com		Date 7-2-2020
<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 COAL CREEK CONSTRUCTION INC	Street Address 326 US HWY 83 NW	City UNDERWOOD	State and Zip Code ND 58576
Telephone and Cell Phone Number 701-442-3188	Email Address ccreek@westriv.com		

PART C - ALLEGED VIOLATION

Operator failed to provide or update the information provided to the notification center on a timely basis

Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation

Excavator failed to provide required information in excavation or location notice

Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation

Notification center failed to inform the excavator of the names of operators of underground facilities in the area

Operator failed to locate and mark underground facility within 48 hours

Excavation started prior to underground facility locate

Operator failed to mark underground facility within 24 inches horizontally

Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period

Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities

Excavator failed to maintain the markings during excavation

Other (identify the specific section of NDCC Chapter 49-23) _____

Location of Violation:
EUGENE SAILER FARM 240 COUNTY ROAD 13 ZAP, ND T-146 R-89 S-24 SW

Date and Time of Violation:
SEPTEMBER 17, 2019 4 PM MDT

Description (summarize the observations on which you rely to allege the violation) If more space is required, please provide the description on a separate page.
SEE ATTACHED

PART D - DAMAGE

Fatalities	Injuries NONE	In-patient Hospitalization NONE
Underground facility type(s) and Operator(s) affected: 2" CL 160 PVC WATERLINE OWNED BY THE STATE WATER COMMISSION AND OPERATED BY SOUTHWEST WATER AUTHORITY		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$	Number of Customers Affected ONE	
Other impact of event: THE LINE STRUCK BY COAL CREEK IS PART OF A PUBLIC WATER SYSTEM REQUIRING A LICENSED WATER/SEWER INSTALLER FOR REPAIRS. DURING THE REPAIR, SAILERS ROAD WAS DAMAGED. BOTH REPAIR BILLS WERE SENT TO COAL CREEK.		
Please attach photos of Event Area or Damaged Facility ATTACHED		

PART I - SIGNATURE

Signature of Person Filing Complaint Andrea Erickson	Date 7-2-2020
---	------------------

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



Our Vision: People and Business Succeeding with Quality Water Our Mission: Quality Water for Southwest North Dakota

MEMORANDUM

To : Lynn M. Mesteth, Attorney at Law, Dwyer Law Office

From: Andrew Erickson, Water Distribution Manager, SWA

Date: April 24, 2020

Subject: Coal Creek Construction (CCC) striking Southwest Pipeline Project (SWPP)

Copy: Mary Massad, Manager/CEO, SWA

On August 23, 2019, CCC called North Dakota One Call (NDOC) and was given ticket # 19112259, to install an electrical line by directional bore method for Roughrider Electric CO-OP at the Eugene Sailer Farm, north of Zap, ND. Southwest Water Authority (SWA) distribution operator, Brad Kilde marked the SWPP waterline with blue pin flags utilizing Geographic Information System (GIS) placed on a hand held Trimble survey instrument prior to the work to begin date of August 28, 2019. This SWPP Contract 7-9D waterline was surveyed by Bartlett & West Engineers shortly after its installation between September 6, 2012 and December 1, 2013. Kilde followed up his waterline marking with a telephone conversation with Chad Portra, the CCC contact person indicated on ticket # 19112259. Kilde informed Portra that his proposed worksite flags were too close to the SWPP waterline and that CCC should pothole the waterline for its exact location to avoid striking the waterline. Before the work was completed ticket # 19112259 expired on September 18, 2019.

On September 17, 2019, CCC called the NDOC to update ticket # 19112259 and was given ticket # 19128177. Southwest Water Authority (SWA) distribution operator, Gary Nordstrom marked the SWPP waterline using the hand held Trimble and GIS information prior to the work begin date of September 20, 2020.

Later that afternoon, I received a call from Eugene Sailer stating that he no longer had water service and that he thought CCC had struck the SWPP waterline providing his water service. I called Nordstrom to investigate Sailer's complaint and shut the water off until the waterline could be repaired. SWA hired Sletton Excavation of Center, ND, to repair the damaged waterline on September 18, 2019. SWA billed CCC for the repair because they chose to proceed with directional drilling without knowing the exact location of the SWPP waterline. CCC actions in this instance defy NDOC law in the N.D.C.C. Chapter 49-23 6b. and 6c. Whether SWA's flagging was accurate or not is a moot point. CCC is at fault because they never asked for SWA assistance in finding the waterline and chose to risk directional drilling without knowing exactly where the waterline was.

On October 25, 2019, I received an email from Roughrider Electric, informing me that Eugene Sailer had complained to them about damage to his driveway caused by the waterline repair on September 18,

2019. SWA repaired Sailer's driveway between October 29th and 31st, 2019. CCC was billed for the road repair done by SWA.

N
↑

#2

24

36'
↑
↓





#1



23

24

09636
SAILER, EUGENE
7-9D

↑
electric
line
route

CR 13

← SWPP
water line