



# Public Service Commission State of North Dakota

## COMMISSIONERS

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July 10, 2020

Dean Geiger  
Dean's Excavating  
207 121<sup>st</sup> Ave SW  
Minot, ND 58701

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

Dear Dean:

Enclosed is a copy of a ND One-Call Complaint, against Dean's Excavating, received by the North Dakota Public Service Commission on July 10, 2020, from Tina Beach at Cenex Pipeline, of Laurel, MT, Case Number PU-20-340. The location of the incident identified in the complaint is approximately coordinates 48.145347, -101.157041 near Logan, 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 24, 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 Dean's Excavating 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: Tina Beach

2 PU-20-340 Filed: 7/10/2020 Pages: 6  
Letter enclosing North Dakota One-Call Complaint

Public Service Commission



# 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 Cenex Pipeline	Street Address 803 Hwy 212 S	City Laurel	State and Zip Code MT
Telephone and Cell Phone Number 406-628-5443	Email Address tina.beach@chsinc.com		Date 07/10/2020
<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 Dean Geiger/Dean's Excavating	Street Address 207 121st Ave SW	City Minot	State and Zip Code ND 58701
Telephone and Cell Phone Number 701-240-5923	Email Address deangeiger@hotmail.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:  
In Logan, 48.145347 & -101.157041

Date and Time of Violation:  
On 06/08 during aerial inspection between 11:41am and 4:39pm.

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.*

On June 8th during Cenex Pipeline Aerial Inspection pilot Allen Rickman observed a foundation for a building being built about 100 feet from the Cenex Pipeline. Field staff was dispatched and they confirmed that Dean's Excavating was digging a foundation for a new home. Dean Geiger stated he thought the Homeowner and contractor had made the call and so he didn't make one. Our field staff reports there was no flags in the area. He did flag our line as you can see of the pictures. Nathan our field staff also advised he did talk with Dean's Excavating and they advised they were aware of the one call law but again thought the landowner had called a locate in. On 07/09/2020 I personally called Mr. Geiger as during additional aerial inspections it appeared the foundation had been poured and completed and we never did get a one call at this location. When speaking with Mr. Geiger he said there were flags present when he arrived on site so he assumed the landowner had called. Contractor and owner Whitmeyer stated he thought that Dean's excavating had called. I advised Dean's excavating he would be legally responsibility & he should ensure he has a valid locate to dig anytime.

## PART D – DAMAGE

Fatalities None	Injuries None	In-patient Hospitalization None
Underground facility type(s) and Operator(s) affected: Although no direct damage was done, Cenex Pipeline is concerned that Dean's Excavating a professional excavating service in ND, would ever do a project without having a valid locate ticket. This could have been an environmental catastrophe as well as injured Mr. Geiger and the landowner.		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$		Number of Customers Affected N/A
Other impact of event: This was a near miss but neither the excavator nor the property owner placed a one call.		
Please attach photos of Event Area or Damaged Facility		

## PART I – SIGNATURE

Signature of Person Filing Complaint 	Date 7/10/2020
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**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

## -Info-Public Service Commission

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**From:** Beach, Tina <Tina.Beach@chsinc.com>  
**Sent:** Friday, July 10, 2020 10:06 AM  
**To:** -Info-Public Service Commission  
**Cc:** Washek, Nathan  
**Subject:** Near Miss by a professional excavator-failed to make a locate request.  
**Attachments:** CCE07102020.pdf; aerial inspection photo1.png; Theodolite\_2020.06.10\_12.50.58\_000228photo1.JPG; Theodolite\_2020.06.10\_12.52.17\_000229photo2.JPG

**CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Dear PSC;

I spoke with Dean Geiger yesterday he clearly does understand the fact he should have made a one call. However, the fact that there were no flags present upon our arrival and Mr. Geiger claims there were flags all over the place and he assumed the landowner had made the call. Ultimately as a professional excavator it is his responsibility to ensure he has a active locate to be working. This was a near miss and could have resulted in an environmental disaster, possible death or injury to himself or the landowner, had he been 100 feet closer to our pipeline. In my discussions with Dean I am not certain he realizes how fortunate he was not to have struck our pipeline or any other utilities in the area. To this day this homeowner/contractor and or Dean's excavating have not submitted a locate for the home they are building in this location. Note the extensive dirt work and how close they are to Cenex Pipeline as noted by the yellow flags. If you have further questions feel free to give me a call.

Tina R. Beach  
Public Awareness Specialist



[tina.beach@chsinc.com](mailto:tina.beach@chsinc.com)  
Direct: 406-628-5443  
Mobile: 206-445-4121

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Farmer-owned with  
global connections

**Know what's below.**  
**Call  before you dig.**

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Date & Time: Wed, Jun 10, 2020, 12:50:57 CDT  
Position: +048.144845° / -101.157092° (±65.5ft)  
Altitude: 1617ft (±21.7ft)  
Datum: WGS-84  
Azimuth/Bearing: 319° N41W 5671mils True (±13°)  
Elevation Angle: -08.5°  
Horizon Angle: +00.9°  
Zoom: 1.0X  
Paul Steen - CHS / Cenex Pipeline



Date & Time: Wed, Jun 10, 2020, 12:52:17 CDT  
Position: +048.145371° / -101.157752° (±16.0ft)  
Altitude: 1616ft (±10.5ft)  
Datum: WGS-84  
Azimuth/Bearing: 127° S53E 2258mils True (±13°)  
Elevation Angle: -06.1°  
Horizon Angle: +04.0°  
Zoom: 1.0X  
Paul Steen - CHS / Cenex Pipeline

