



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 17, 2020

Lonnie Kern
BEK Consulting LLC
PO BOX 1010
Dickinson, ND 58602-1010

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

Dear Lonnie:

Enclosed is a copy of a ND One-Call Complaint, against BEK Consulting LLC, received by the North Dakota Public Service Commission on July 17, 2020, from Kevin Busscher at Montana Dakota Utilities, of Dickinson, ND, Case Number PU-20-343. The location of the damage identified in the complaint is approximately 1219 McKenzie St, New England, 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 31, 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 BEK Consulting LLC 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: Kevin Busscher

2 PU-20-343 Filed: 7/17/2020 Pages: 22
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 MDU/ Kevin Busscher | Street Address 1133 W Broadway | City Dickinson | State and Zip Code North Dakota 58601 |
| Telephone and Cell Phone Number 701-260-1469 | Email Address kevin.busscher@mdu.com | | Date 7/7/20 |
| <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 BEK Consulting/ Russel | Street Address 913 38th Ave E PO box 1010 | City Dickinson | State and Zip Code North Dakota, 58602 |
| Telephone and Cell Phone Number 701-483-9235 | Email Address | | |

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 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: 1219 McKenzie Street New England ND. (Nearest address, damage occurred in rear alley) |
| Date and Time of Violation: 7/7/20 Approx 8:20am |
| 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> Line was located correctly, BEK had spot the main and then continued to excavate directly on top of the marks. Damage was done by large track hoe. Operator was working alone with nobody spotting for him. |

PART D – DAMAGE

| | | |
|---|-----------------------------------|------------------------------------|
| Fatalities None | Injuries None | In-patient Hospitalization None |
| Underground facility type(s) and Operator(s) affected: 2" PE Distribution main | | |
| Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ 1219.33 | Number of Customers Affected 5 | |
| Other impact of event: | | |
| Please attach photos of Event Area or Damaged Facility | | |

PART I – SIGNATURE

| | |
|--|-----------------|
| Signature of Person Filing Complaint Kevin Busscher | Date 7/16/20 |
|--|-----------------|

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

1 PU-20-343 Filed 07/17/2020 Pages: 21
North Dakota One-Call Complaint
Montana-Dakota Utilities Co.
Kevin Busscher



INCIDENT INVESTIGATION #193834



1219 McKenzie St, New England, ND

LOCATION DETAILS

Event Date: 07/07/2020 08:16 AM America/Denver

Right-of-Way: Public Utility Easement

AFFECTED FACILITY

Near Miss: No

Type of Operation Affected: Gas

Line Size and Type: 2" Plastic

Facility part of joint trench: Yes

Asphalt or concrete removed: No

Damage Surface Type and Depth: Dirt 18" - 36"

Arrival Date and Time: 07/07/2020 10:29 AM America/Denver



Distance from Ped to Ped: 0ft

Dimensions of Asphalt or Concrete Removed:

Repairs Taking Place Upon Arrival? Yes

Who Performed Repairs: Utility Company

Contractor Representative: Jarrod Johnston

Contractor Representative Phone Number: (701) 609-9561

Personnel On Site: 1 foreman, 1 supervisor, 1 repairmen

Vehicles/Equipment Being Used For Repairs:

Guards or Barricades On Site:

Facilities Replaced or Repaired: Repaired

Replacement Type: Permanant

Occurred During: Business Hours

Time Occurred:

DAMAGER

Company Name: BEK Consulting

Contact: Mark Lardy

Contact Phone: (320) 423-3357

Type of Work: Utility Installation

Damage Responder: Emerald, Martin

UTILITY INFORMATION

Utility Company Name: Montana Dakota Utilities

Utility Contact Name: Kevin Busscher

Utility Contact Phone: (701) 260-1469

Utility Representative: Kevin

Utility Rep Tech#:

Utility Rep. Present on Arrival: No

EXCAVATION INFORMATION

Excavator Type: Contractor

Excavation Equipment: Backhoe/Trackhoe

Work Performed: Water

Excavator downtime? Yes

Downtime hours: No

Downtime cost: No

NOTIFICATION AND LOCATING

One Call Center notified: No

Locator Type: Contract Locator

Work area white-lined: Yes

Ticket Number: 20080473

Date Located: 07/06/2020 05:16 PM America/Denver

Located By: Emerald Martin

INTERRUPTION AND RESTORATION

Event cause Interruption: Yes

Interruption hours: 5

Customers Affected (approx.): 5

ROOT CAUSE

Damage within described dig area: Yes

Damage within legal time of request limit: Yes

Marks destroyed by construction: No

Marks destroyed by weather: No

Whiskers or flags used: Yes

Offsets were used on hard surfaces: No

Line was on prints: Yes

At Fault: Excavator

Documentation Issue: No

Documentation Issue Comments:

Tolerance Zone: No

Marking Standards: No

Marking Standards Comments:

Locate Requested: No

Damage with Tolerance Zone: No

No Locates on Facility: No

Damage Exposed Facility: No

COMMENTS

Assessment Comments: Accurate marks, exposed utilities 10-15ft from where the damage occurred. Damage to plastic gas main, electric concentric, and communication line. Contractor at fault.

INCIDENT AND SURVEY COMPARISON PHOTOS

SURVEY PHOTO



Date: 07/06/2020 05:13 PM America/Denver

Latitude: 46.543889

Longitude: -102.865556

Heading: 116 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544152

Longitude: -102.865834

Heading: 332 degrees

SURVEY PHOTO



Date: 07/06/2020 05:13 PM America/Denver

Latitude: 46.543889

Longitude: -102.865556

Heading: 27 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544076

Longitude: -102.865770

Heading: 366 degrees

SURVEY PHOTO



Date: 07/06/2020 05:14 PM America/Denver

Latitude: 46.544167

Longitude: -102.865556

Heading: 326 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544178

Longitude: -102.865788

Heading: 220 degrees

SURVEY PHOTO



Date: 07/06/2020 05:14 PM America/Denver

Latitude: 46.544167

Longitude: -102.865556

Heading: 255 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544187

Longitude: -102.865801

Heading: 146 degrees

SURVEY PHOTO



Date: 07/06/2020 05:14 PM America/Denver

Latitude: 46.544167

Longitude: -102.865833

Heading: 103 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544271

Longitude: -102.865863

Heading: 178 degrees

SURVEY PHOTO



Date: 07/06/2020 05:14 PM America/Denver

Latitude: 46.544167

Longitude: -102.865556

Heading: 255 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544200

Longitude: -102.865821

Heading: 168 degrees

SURVEY PHOTO



Date: 07/06/2020 05:14 PM America/Denver

Latitude: 46.544167

Longitude: -102.865556

Heading: 326 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544263

Longitude: -102.865848

Heading: 161 degrees

SURVEY PHOTO



Date: 07/06/2020 05:14 PM America/Denver

Latitude: 46.544167

Longitude: -102.865833

Heading: 103 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544274

Longitude: -102.865825

Heading: 174 degrees

SURVEY PHOTO



Date: 07/06/2020 05:13 PM America/Denver

Latitude: 46.543889

Longitude: -102.865556

Heading: 116 degrees

INCIDENT COMPARISON PHOTO



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544191

Longitude: -102.865813

Heading: 356 degrees

NEW INCIDENT PHOTOS



Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544189

Longitude: -102.865772

Heading: 311 degrees

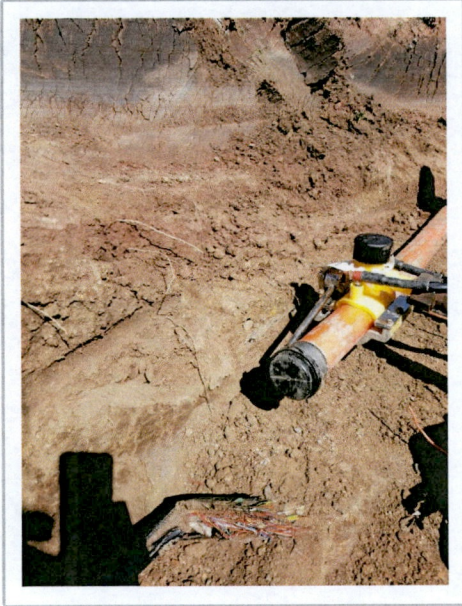


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Latitude: 46.544196

Longitude: -102.865785

Heading: 259 degrees

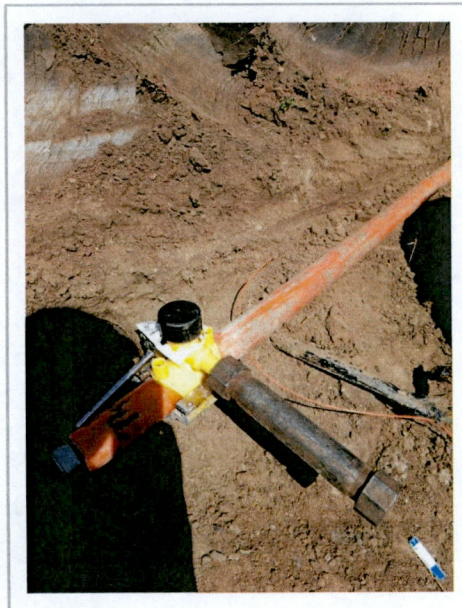


Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544226

Longitude: -102.865774

Heading: 328 degrees

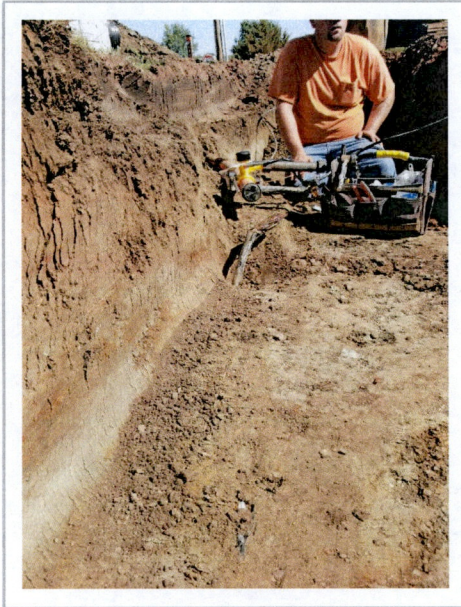


Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544233

Longitude: -102.865789

Heading: 288 degrees



Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544224

Longitude: -102.865784

Heading: 65 degrees



Date: 07/07/2020 10:29 AM America/Denver

Latitude: 46.544180

Longitude: -102.865767

Heading: 167 degrees



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544209

Longitude: -102.865817

Heading: 57 degrees



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544209

Longitude: -102.865817

Heading: 48 degrees



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544231

Longitude: -102.865804

Heading: 22 degrees

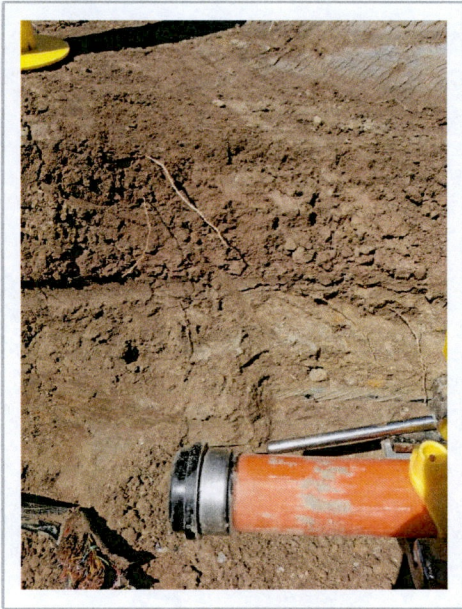


Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544217

Longitude: -102.865808

Heading: 21 degrees



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544218

Longitude: -102.865806

Heading: 241 degrees



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544218

Longitude: -102.865806

Heading: 235 degrees



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544179

Longitude: -102.865826

Heading: 186 degrees



Date: 07/07/2020 10:50 AM America/Denver

Latitude: 46.544201

Longitude: -102.865837

Heading: 136 degrees