



Public Service Commission

State of North Dakota

COMMISSIONERS

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600 East Boulevard, Dept. 408
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Fax: 701-328-2410
TDD: 800-366-6888 or 711

October 14, 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 October 12, 2020, from Dawn Roness at Montana Dakota Utilities, of Minot, ND, Case Number PU-20-423. The location of the damages identified in the complaint is multiple addresses 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 October 28, 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 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: Dawn Roness

2 **PU-20-423** Filed: 10/14/2020 Pages: 2
Letter enclosing North Dakota One-Call Complaint

Public Service Commission Staff
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 Montana Dakota Utilities / Dawn Roness	Street Address 1130 20th Ave SW	City Minot	State and Zip Code ND 58701
Telephone and Cell Phone Number 701 857-9902 and 701 720-0879	Email Address dawn.roness@mdu.com		Date 10/12/2020
<input 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 / Jesse McIntosh	Street Address 3151 HWY 53	City International Falls	State and Zip Code MN 56649
Telephone and Cell Phone Number 218-240-1462	Email Address unknown		

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: 5 31st Ave SE, 2 31st Ave SE, 100 31st Ave SE, 31st Ave SE & 2nd St
Date and Time of Violation: 9/29/2020, 9/26/2020, 9/14/2020, 9/11/2020
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> Currently for the 2020 construction season, Wagner Construction has been responsible for nine natural gas hit lines in the Minot area. In visiting with them, they have told us that they are implementing more safety practices and reviewing their procedures - only for MDU to be hit a couple of days later. In September alone, they have had four that they are responsible for. I listed the Operator, Jesse McIntosh, as he was on two of the four. At MDU safety is first and foremost - not only for our employees, but also the contractors working around our facilities and our customers. We would hope that by filing this complaint, Wagner Construction will do as they say and join us in having safety as a top priority. This can be achieved by spotting the underground facilities, refreshing the locates and hand digging when close to a facility.

PART D – DAMAGE

Fatalities None	Injuries None	In-patient Hospitalization None
Underground facility type(s) and Operator(s) affected: Natural Gas - Montana Dakota Utilities		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ varies - 1,000 - 6,0000	Number of Customers Affected 1 to 4	
Other impact of event: Not only is this an impact on their day - it also pulls MDU away from the scheduled work we have lined up. This impacts other customers that have been waiting for underground work.		
Please attach photos of Event Area or Damaged Facility		

PART I – SIGNATURE

Signature of Person Filing Complaint Dawn Roness	Date 10/12/2020
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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