



Public Service Commission

State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Brian Kroshus

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

April 20, 2021

Liberty Fence, Inc.
PO Box 10962
Fargo, ND 58106-0962

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

Dear Liberty Fence, Inc.:

Enclosed is a copy of a ND One-Call Complaint, against Liberty Fence, Inc., received by the North Dakota Public Service Commission on April 16, 2021, from Brady Horner of West Fargo, ND, Case Number PU-21-146. The location of the damage identified in the complaint is approximately 1162 9th Ave W, West Fargo, 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 May 4, 2021**, 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 Liberty Fence, 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: Brady Horner

2 PU-21-146 Filed: 4/20/2021 Pages: 7
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 Brady Horner	Street Address 1162 9th Ave West	City West Fargo	State and Zip Code ND 58078
Telephone and Cell Phone Number 701-446-7291	Email Address brady.horner92@gmail.com		Date 04/14/2021

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 Liberty Fence Company	Street Address 2707 12th Ave S	City Moorhead	State and Zip Code MN 56560
Telephone and Cell Phone Number 218-233-9512	Email Address libertyfence@cableone.net		

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:
1162 9th Ave W West Fargo ND58078

Date and Time of Violation:
04/14/2021

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 the date listed above Liberty Fence Company dug the holes for the posts and put a post in line where it was flagged and located by ND One Call. Midco had to fix line that was damaged. Hired licensed contractor should be responsible for damaging the clearly marked lines.

PART D – DAMAGE

Fatalities	Injuries	In-patient Hospitalization
Underground facility type(s) and Operator(s) affected: Midcontinent Communications		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ \$3,000	Number of Customers Affected ?	
Other impact of event: Now they have to dig up the yard to bury the line		
Please attach photos of Event Area or Damaged Facility		

PART I – SIGNATURE

Signature of Person Filing Complaint Brady J Horner	Date April 15, 2021
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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

Hamre, John G.

From: Brady Horner <brady.horner92@gmail.com>
Sent: Thursday, April 15, 2021 7:58 PM
To: -Info-Public Service Commission
Subject: Complaint against contractor
Attachments: ND ONE-CALL COMPLAINT.pdf

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

Hello,

I am Brady Horner, and I am currently having a fence professionally installed in my yard. ND one call was contacted and did the locates in my yard prior. The contractor hit the Midco coax line when digging for a post. It was clearly marked and flagged to be in that exact spot and they still hit it. I have attached the complaint form and pictures as well. If you need any more information let me know.

Thanks,
Brady





