



Public Service Commission

State of North Dakota

COMMISSIONERS

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600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
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Phone: 701-328-2400
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TDD: 800-366-6888 or 711

July 28, 2021

Jason Hager
JP Hager Enterprises, LLC
521 6th ST E
Harvey, ND 58341-1212

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

Dear Jason:

Enclosed is a copy of a ND One-Call Complaint, against JP Hager Enterprises, LLC, received by the North Dakota Public Service Commission on July 26, 2021, from Dave Voeller at Otter Tail Power Company, of Harvey, ND, Case Number PU-21-338. The location of the damage identified in the complaint is 209 9th St E, 800 Birch Ave, 109 Brewster St W and 909 Lincoln Ave in Harvey, 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 August 11, 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 JP Hager Enterprises, 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: Dave Voeller

2 PU-21-338 Filed: 7/28/2021 Pages: 7
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 David Voeller Otter Tail Power	Street Address 1545 Advent St	City Harvey	State and Zip Code ND 58341
Telephone and Cell Phone Number 701-693-5231	Email Address dvoeller@otpc.com		Date 7-27-21
<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 JP Hager Enterprises Jason Hager	Street Address 2838 18th St NE	City Harvey	State and Zip Code ND 58341-9348
Telephone and Cell Phone Number 701-693-1665	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 checked="" 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: 209 9th St E Harvey ND, 800 Birch Ave Harvey ND, 109 Brewster St West Harvey ND, 909 Lincoln Ave Harvey ND
Date and Time of Violation: June 28th 2021
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> Please see the Email that will follow this completed form

PART D – DAMAGE

Fatalities	Injuries	In-patient Hospitalization
Underground facility type(s) and Operator(s) affected: UG service to the addresses listed above came close to being damaged		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ No damage to UG however there was time involved to uncover and inspect UG to avoid failure in the future	Number of Customers Affected	
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

PART I – SIGNATURE

Signature of Person Filing Complaint Dave Voeller	Date 7-26-21
------------------------------------------------------	-----------------

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-21-338 Filed 07/26/2021 Pages: 5
North Dakota One-Call Complaint
Otter Tail Power Company
David Voeller

Thompson, Pamela J.

From: Voeller, Dave <DVoeller@otpc.com>
Sent: Monday, July 26, 2021 3:30 PM
To: Schock, Victor F.
Subject: Complaint on JP Hager Enterprises

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

To Whom it may concern,

After multiple incidents and warnings without any changes seen by Jason Hager of JP Hager enterprises it is time to turn this matter over to NDPSC. Two previous jobs done in 2020, one at 209 9th St East Harvey ND for Graumann apts. and the other at 800 Birch Ave Harvey ND for Hertz Funeral Home have moved this matter to the present situation. Both these projects had stakes driven within inches of the marked UG and at 800 Birch the stake was on top of the mark so I requested I be able to spot the cable to inspect if damage had occurred to avoid a future failure. The stake came within an inch of damaging the cable. These situations have done little to change the practice of Jason Hager. The project at 209 9th St East, I had to confront him in order to get a locate at that time.

I am including pictures of the two most recent jobs that were done at the end of June 2021 to verify what I am reporting. The first two show the excavation as well as the setup for 109 Brewster St West Harvey ND. Please note the stakes in the fore ground are driven to within a couple inches of the top of the stake. The third picture shows the stakes he uses and they are plenty long enough to reach buried UG. Both these jobs did not have UG owned by Otter Tail Power in the property however it is not up to the excavator to make that call if UG exists or not and Jason has multiple jobs that UG was there and no locate was called in. The other address where his work occurred was 819 Lincoln Ave Harvey ND for the customer Marsai-S LLC.

Please feel free to reach out to me for any clarification. Thank You, Sincerely, Dave Voeller Otter Tail Power.

Schock, Victor F.

From: Voeller, Dave <DVoeller@otpco.com>
Sent: Wednesday, July 28, 2021 8:32 AM
To: Schock, Victor F.
Subject: Address and Name correction

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

Victor,

The address that is incorrect is 819 Lincoln Ave and the name is Marsais LLC. The correct address is 909 Lincoln Ave with the name of the business being Mosaic Company Properties. I got a little confused when searching our system for the business locations and stated the wrong one. They both have a unique name and that is what threw me off. The address would show up on the complaint form and the page with the explanation. I trust I caught this in time to avoid any inconvenience for you. Thank you for making this correction for me. Dave





