



# Public Service Commission State of North Dakota

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COMMISSIONERS

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November 1, 2021

Mr. Steve Kahl  
Executive Secretary  
ND Public Service Commission  
600 E Boulevard Avenue Dept. 408  
Bismarck, ND 58505-0480

***via Hand Delivery***

Re: Case No. PU-21-338  
Public Service Commission  
JP Hager Enterprises, LLC  
Damage Prevention Enforcement

Dear Mr. Kahl:

Enclosed is a copy of the Consent Agreement to be filed in the above captioned case.

Best Regards,

Brian Johnson  
Legal Counsel

Enclosure



Brewster St W, and 209 9<sup>th</sup> St E in Harvey, ND. There is no evidence of JP personnel contacting the North Dakota One Call Notification Center prior to beginning these excavations. No damage resulted from JP's excavations.

NDCC section 49-23-04(1) states that except in an emergency, an excavator shall contact the notification center and provide an excavation or location notice before beginning any excavation. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice.

Having investigated the alleged violation, Staff believes that JP violated NDCC section 49-23-04(1) in all three locations cited above.

JP and Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that entry of this Consent Agreement is the most appropriate means of resolving this administrative action, Staff and JP agree to the following, subject to the approval and acceptance of the Commission:

1. JP violated NDCC section 49-23-04(1) by failing to provide excavation or location notice before beginning any excavation in three separate incidents.
2. JP agrees to be assessed a civil penalty of \$1,500. JP agrees to remit \$500 of the \$1,500, payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting or approving the Consent Agreement (Order). The remaining \$1000 civil penalty is suspended on the condition that JP commits no further violation of NDCC section 49-23 within five years of the date of the Order

3. In the event the Commission finds JP violated the NDCC section 49-23 within five years of the date of the Order, JP shall remit the suspended portion of the penalty, within the time ordered by the Commission, in addition to any additional fines or penalties imposed for the subsequent violation.
4. If within five years of the date of the Order there is no subsequent violation of the NDCC section 49-23 by JP, the remaining \$1000 penalty is withdrawn.
5. Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violation alleged in the Case.
6. JP consents to the filing of the Consent Agreement and an Order and hereby waives any further procedural requirements with respect to the Order's issuance. Provided the Public Service Commission adopts this Consent Agreement and issues an Order consistent with it, JP understands and agrees to waive all rights to contest the violation, the right to be represented by counsel, the right to present evidence and arguments to the Commission, the right to cross examine witnesses, or contest the validity of this Consent Agreement and Order, including all rights to administrative or judicial hearings or appeals.
7. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Consent Agreement and Order.
8. This agreement may be executed in counterparts and duplicate copies, each which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.

9. The undersigned is authorized to act on behalf of JP and bind JP for purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 1<sup>st</sup> day of November, 2021

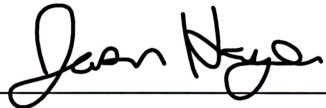
PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF – DAMAGE PREVENTION

By: 

Brian Johnson  
Special Assistant Attorney General Bar ID 07937  
North Dakota Public Service Commission  
600 East Boulevard Avenue Dept. 408  
Bismarck ND, 58505  
701-328-2407

Dated this 27TH day of October, 2021

JP Hager Enterprises, LLC

By: 

Name: Jason Hager