BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,	)	**Case No. PU-21-338**
	)	
Complainant,	)	**NOTICE OF MOTION FOR**
vs.	)	**ORDER OF DEFAULT**
	)	
JP Hager Enterprises, LLC.,	)	
	)	
Respondent.	)	

TO: JP Hager Enterprises, LLC., 521 6th St E, Harvey, ND 58341-1212.

PLEASE TAKE NOTICE that the Public Service Commission, Advocacy Staff, Movant in the above proceeding, respectfully moves for an order declaring JP Hager Enterprises, LLC. in default. The motion is attached to this notice and by reference made a part hereof.

YOUR ARE HEREWITH NOTIFIED that the Notice of Motion and Motion for Judgment of Default has been submitted pursuant to N.D.C.C. § 28-32-21(e) and N.D. Admin. Code art. 69-02. The Public Service Commission may deem the Formal Complaint admitted and may enter an order in default as the facts and law may warrant. If the Public Service Commission rules in favor of Advocacy Staff's motion, you have (7) days after service of the default notice, order and grounds to file a written motion with the Public Service Commission requesting that the default order be vacated and stating the grounds relied upon.

Bismarck, North Dakota, this 21st day of March, 2022.

Brian Johnson
Special Assistant Attorney General Bar ID 07397
North Dakota Public Service Commission
600 East Boulevard Avenue Dept. 408
Bismarck ND, 58505
701-328-2407

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,	)	**Case No. PU-21-338**
	)	
Complainant,	)	
	)	**MOTION FOR**
vs.	)	**ORDER OF DEFAULT**
	)	**AND MEMORANDUM OF**
JP Hager Enterprises, LLC.,	)	**LAW**
	)	
Respondent.	)	

MOTION FOR ORDER OF DEFAULT

Public Service Commission Advocacy Staff ("Advocacy Staff") respectfully seeks an order in default against Respondent, JP Hager Enterprises, LLC. In support of the motion, Advocacy Staff states the following:

MEMORANDUM

Pursuant to N.D.C.C. § 28-32-21(e) and N.D. Admin. Code § 69-02-02-03(1), a Formal Complaint "may inform the respondent that an answer to the complaint must be served upon the complainant and the agency with which the complaint is filed within twenty days after service of the complaint, or the agency may deem the complaint to be admitted." On February 28, 2022, JP Hager Enterprises, LLC. received the Formal Complaint filed with the Commission via certified mail. JP Hager Enterprises, LLC. failed to respond to the Formal Complaint within the time allotted under N.D.C.C. § 28-32-21(e). Having failed to answer the complaint, the Commission may deem the Formal Complaint to be admitted by JP Hager Enterprises, LLC`. and "enter an order in default as the facts and law may warrant." N.D.C.C. § 28-32-21(e).

BACKGROUND

On July 26, 2021, the Commission received a ND One-Call Complaint from Dave Voeller with Otter Tail Power Company (OTP). The complaint alleges violations by JP Hager Enterprises, LLC (JP Hager) of North Dakota Century Code section 49-23-04(l) of the One-Call Excavation Notice System by failing to provide an excavation or location notice before beginning any excavation. *See Attached ND One-Call Complaint.* On July 28, 2021, Commission staff issued a letter informing JP Hager of OTP's complaint filing and requested a response by August 11, 2021. JP's September 2, 2021 response agreed that it did not have valid excavation notices prior to beginning its excavations. On October 6, 2021 the Commission appointed Advocacy Staff to the case effective October 6, 2021.

On November 1, 2021, Advocacy Staff and JP Hager filed a Consent Agreement intending to resolve all issues in this proceeding. On January 18, 2022, the Commission issued an Order denying the Consent Agreement without prejudice, allowing for a modified Settlement Agreement or other administrative action. Staff has attempted to reach JP Hager by phone on 11/17/2021 and via emails on 12/9/2021 and 1/18/2021. As of March 21, 2022, Staff has received no response to the phone calls or emails.

On February 4, 2022, Advocacy Staff filed a Formal Complaint alleging JP Hager violated N.D.C.C. § 49-23-04(l) on three separate occasions by failing to provide an excavation or location notices before beginning any excavations. *See Attached Formal Complaint.* On February 23, 2022, the Commission found the Formal Complaint stated a *prima facie* case. Service of the Formal Complaint was initiated on February 25, 2022 via certified mail by Geralyn R. Schmaltz to Jason Hager, Registered Agent for JP Hager Enterprises, LLC, 521 6th St. E, Harvey, ND 58341

(Cert. No. 7021 2720 0001 0491 5494). A return receipt was signed by J Hager on February 28, 2022. *See Attached Return Ticket.*

In Section IX of the Formal Complaint, JP Hager was informed that "[t]he respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the complaint, or the Commission may deem the complaint to be admitted." Having received no answer to the Formal Complaint by March 20, 2022, the Commission may deem the Formal Complaint to be admitted and enter an Order of Default pursuant to N.D.C.C. § 28-32-21(e). As of March 21, 2022, JP Hager has not responded and has not responded to any attempt by Advocacy Staff to communicate.

CONCLUSION

For these reasons, Advocacy Staff respectfully requests the Public Service Commission enter an Order of Default against JP Hager, impose an appropriate civil penalty up to $25,000, but at least $1500, and such other relief that the Commission finds just and proper.

Dated: March 21, 2022

Respectfully,

Brian Johnson
Special Assistant Attorney General Bar ID 07397
North Dakota Public Service Commission
600 East Boulevard Avenue Dept. 408
Bismarck ND, 58505
701-328-2407

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	Street Address	City	State and Zip Code
David Voeller Otter Tail Power	1545 Advent St	Harvey	ND 58341
Telephone and Cell Phone Number	**Email Address**		**Date**
701-693-5231	dvoeller@otpco.com		7-27-21

☐ 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	Street Address	City	State and Zip Code
JP Hager Enterprises Jason Hager	2838 18th St NE	Harvey	ND 58341-9348
Telephone and Cell Phone Number		**Email Address**	
701-693-1665			

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:
209 9th St E Harvey ND, 800 Birch Ave Harvey ND, 109 Brewster St West Harvey ND, 819 Lincoln Ave Harvey ND

Date and Time of Violation:
June 28th 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.*

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): $	Number of Customers Affected
No damage to UG however there was time involved to uncover and inspect UG to avoid failure in the future	

Other impact of event:

Please attach photos of Event Area or Damaged Facility

PART I – SIGNATURE

Signature of Person Filing Complaint	Date
Dave Voeller	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

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Public Service Commission **JP Hager Enterprises, LLC.** **Damage Prevention Enforcement**	**Case No. PU-21-338**
Public Service Commission, **Complainant,** **vs.** **JP Hager Enterprises, LLC.,** **Respondent.**	**Complaint**

The Public Service Commission of North Dakota (Commission), by and through Advocacy Staff (Staff), for its complaint against JP Hager Enterprises, LLC., alleges and shows the following:

I

JP Hager Enterprises, LLC. (JP) is a North Dakota Limited Liability Company with offices located at 521 6th St E, Harvey, ND 58341-1212.

II

Otter Tail Power Company (OTP) is a foreign corporation authorized to do business in North Dakota.

III

North Dakota Century Code (N.D.C.C.) 49-23-04(1) provides:

> 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.

North Dakota Century Code (N.D.C.C.) 28-32-22 provides:

Unless otherwise prohibited by specific statute or rule, informal disposition may be made of any adjudicative proceeding, or any part or issue thereof, by stipulation, settlement, waiver of hearing, consent order, default, alternative dispute resolution, or other informal disposition, subject to agency approval. Any administrative agency may adopt rules of practice or procedure for informal disposition if such rules do not substantially prejudice the rights of any party. Such rules may establish procedures for converting an administrative matter from one type of proceeding to another type of proceeding.

North Dakota Century Code (N.D.C.C.) 49-07-01.1 provides:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapters 49-22 and 49-23, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. A violation occurring under chapter 49-23, in addition to any other penalty, is subject to a civil penalty not to exceed twenty-five thousand dollars. The commission shall develop policies for the assessment of penalties under chapter 49-23 which will take into consideration the severity of damages and the conduct of the offender. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

North Dakota Administrative Code section 69-02-04-05 provides:

In any proceeding in which the commission is authorized to act after opportunity for hearing, opportunity is afforded by service of notice fixing a reasonable period of time within which any person desiring to be heard may file a protest or request for a hearing. If a protest or request for hearing is not filed within the time provided, the commission may dispose of the matter on the basis of the pleadings, other submittals, and the studies and recommendations of the staff. A party not requesting oral hearing in the party's pleading is deemed to have waived a hearing for the purpose of the decision, but not for the purpose of applying for rehearing with respect to the decision. If a person requests a hearing but does not show good cause, the commission may determine the matter without a hearing.

IV

On July 26, 2021, the Commission received a ND One-Call Complaint from Dave Voeller at OTP. The complaint alleges violations by JP of N.D.C.C. 49-23-04(1) of the One-Call Excavation Notice System by failing to provide an excavation or location notices before beginning any excavation.

V

On July 28, 2021, Commission staff issued a letter informing JP of OTP's complaint filing, and requested a response by August 11, 2021, attached as Exhibit 1. JP's September 2, 2021 response, attached as Exhibit 2, agreed that it did not have valid excavation or location notices prior to beginning its excavations.

On November 1, 2021, Staff and JP filed a Consent Agreement intending to resolve all issues in this proceeding.

On January 18, 2022, the Commission issued an Order denying the Consent Agreement without prejudice, allowing for a modified Settlement Agreement or other administrative action.

Staff has attempted to reach JP by phone on 11/17/2021 and via emails on 12/9/2021 and 1/18/2021. As of February 4, 2021 Staff has received no response to the phone calls or emails.

VI

As alleged by OTP's complaint, on or about June 28, 2021, JP began excavations as defined in NCCC section 49-23-01(7) while performing concrete installation at 909 Lincoln Ave, 109 Brewster St W, and 209 9th St E in Harvey, ND. There is no evidence of

JP contacting the North Dakota One Call Notification Center prior to beginning these excavations. No damage resulted from the excavations.

VII

JP violated N.D.C.C. 49-23-04(1) in all three locations by failing to provide excavation or location notices before beginning any excavation.

VIII

The Commission Damage Prevention Plan provides:

D PROPOSED CIVIL PENALTIES:

1. The following criteria must be used by Commission staff to determine if a civil penalty should be proposed when filing a formal complaint:

    a. The nature, circumstances and severity of the complaint;
    b. The degree of suspected fault on the part of the respondent;
    c. The respondent's history of prior violations or complaints;
    d. The respondent's ability to pay;
    e. Any good faith effort by the respondent in attempting to achieve compliance; and
    f. The effect the penalty may have on the respondent's ability to continue in business.

IX

The Respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the complaint, or the Commission may deem the complaint to be admitted. Answers must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

Prayer for Relief

Based on the foregoing, Staff seeks the following relief:

1. That the Commission find JP Hager Enterprises, LLC. in violation of N.D.C.C. chapter 49-23 in three separate instances for failing to comply with the One Call requirements enumerated in North Dakota Century Code section 49-23-04(1).

2. That the Commission impose an appropriate civil penalty up to $25,000, but at least $1,500.

3. Such other relief that the Commission finds just and proper.

Dated this 4th day of February, 2022.

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

Public Service Commission
State of North Dakota

EXHIBIT 1

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

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

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	Street Address	City	State and Zip Code
David Voeller Otter Tail Power	1545 Advent St	Harvey	ND 58341
Telephone and Cell Phone Number	**Email Address**		**Date**
701-693-5231	dvoeller@otpco.com		7-27-21

☐ 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	Street Address	City	State and Zip Code
JP Hager Enterprises Jason Hager	2838 18th St NE	Harvey	ND 58341-9348
Telephone and Cell Phone Number		**Email Address**	
701-693-1665			

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:
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) *If more space is required, please provide the description on a separate page.*

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	Date
Dave Voeller	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

Thompson, Pamela J.

From: Voeller, Dave <DVoeller@otpco.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

EXHIBIT 2

Hamre, John G.

From: Schock, Victor F.
Sent: Friday, September 3, 2021 11:03 AM
To: -Info-Public Service Commission
Subject: FW: Otter Tail Power complaint against JP Hager Enterprices case PU-21-338

Please file as response in above captioned case.

Thanks,

Victor Schock

From: Jason Hager <jphager85@gmail.com>
Sent: Thursday, September 2, 2021 3:57 PM
To: Schock, Victor F. <vschock@nd.gov>
Subject: Re: Otter Tail Power complaint against JP Hager Enterprices case PU-21-338

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

Victor,
I apologize for my late response.

To address these complaints from Dave Voeller/ OtterTail power, I will say this:

I did not call in locates for the locations at 109 Brewster and 909 Lincoln Ave. I also did not create damage of underground facilities at these locations or the other two as stated in Dave's complaint.
At 109 Brewster , Carolyn Fieckert, the property has a 5' tall retaining wall to the south side of property and a large thicket of trees.
With this being said, I visually located the power line and mid continent line that comes in over head across the property from the south and attaches to house into meter/Box. The NDTC line is mounted on the west side of house thru existing concrete side walk to the street to the north side of property to a buried vault with a very prominent scar(improper backfill, causing a deflection in soil).
I had the local propane company locate the propane line where this excavation was taking place, we had dug out the line and put a pvc sleeve over it in case it were to be replace in future. I removed and existing 12"concrete slab from this location which had another 3" of sand over top of another 4" patio under this entire garage slab. I then had to replace with gravel fill to make up the 19" of concrete/sand to get new pad up to height for a 5" garage slab.
Dave's comments and pictures about the stakes are also untrue and he can not comprehend that just because a wood stake a certain length when you purchase them that, that length is pounded into ground. I buy 18-24" wood stakes because that is what is sold here locally. Dave does not account for the height of forms which are 5 1/2 inches or the fact that the stakes get 6-8" cut off of them after they are pounded in.
If you look at the photos that Dave graciously provided you will see new full length stakes. You will see a stake pounded next to the forms. You will also see that the top of the stake is in perfect new condition with out any splits cracks or indents from being pounded with a sledge hammer almost as if it was cut off with a saw to height of form.
Also in picture laying next to a cut off price of 2x6 is the top half the stake laying on the ground.
In the other photo of just dirt which is the south part of garage you you will see the retaining wall next fence on left side of picture. Part of the old existing sidewalk that was buried 15" below. You also see a broken wire. That wire was from

3 PU-21-338 Filed 09/02/2021 Pages: 3
Response to North Dakota One-Call Complaint
JP Hager Enterprises, LLC
Jason Hager

an abandoned line that ran from the house and come up thru the clothes line that was there. That wire was for a small light mounted to clothesline.

Property at 909 Lincoln for Jon Franklin
I had to pour a 13x13' patio with a 4x12' sidewalk. This patio/sidewalk is located under an existing overhead deck that sits about 10' into the air. Existing dirt elevation was 4-5" below walk in doors. I had to hand dig out 3-4" of black dirt, fill back 4" of gravel and put new concrete level with bottom of walk doors. I used 2x4 forms with 6" stakes as not penetrate deep into soil.

I did not call in Locate for this project. The previous fall My brother (Hager Excavating) and I had locates called in in order to demo the adjacent building attached to current one. I knew of where utilities were at from previous work we performed.
NDTC was trenched in 3' underground from back alley. I confirmed this depth with Brad from NDTC that same morning at gas station before I hand dug patio.
Otter tail was overhead, I had to deal with Dave the day he disconnected the power to this building, so I could install new siding on building then Dave reattached power lines.
I then had to help the local electrician install the new service conduit to wall and into panel.

800 birch ave , Nick Hertz, Hertz Funeral Homes.
I had a locate called in.
I left 2 employees on site to set a 9x16" pad for a propane tank. Before I left I instructed them not to pound a stake at corner of building cause this is where power is running thru.
When we came back later it was noticed that they had pounded a stake in that very spot.
Dave pulled me aside, stated he was upset about that stake. and said he wanted to have a learning moment with the guys, so we dug it up together to inspect the wires. It is true that the stake came within 1-2" of the wire. It did not come in contact with the wire, it did not damage the wire in any way. Everyone was surprised by how close that is was.
For Dave to bring this up over a year later I feel is uncalled for especially after the steps taken afterwards to inspect and take accountability.

209 9th st E Theresa Graumann.
No locate was called. I was instructed to remove existing concrete for these apartments and replace it back exactly how it was. No dirt work was to be done to keep costs as low as possible.
Dave seen us tearing out concrete stopped yelled about not having a locate, located his wires and had make the side walk smaller on east side to stay away from his power lines.

No Damage to underground facilities occurred at any of these locations.

I did not call in locates at these locations for the simple facts of:
Being a traveling contractor and sometimes projects get postponed or cancelled out on road and I try to find filler jobs to keep my crew busy so they won't quit for not getting their hours.
I was under the impression that as long as we didn't dig deeper then 12" we didn't need a locate. I just always went with that because that's what was always said by the older guys/contractors that I learned from in the past.

I try to use my due diligence to make sure I wouldn't damage and utilities. I have great working relations with the other local utilities companies, talking to them weekly during & after working hours. Usually you can see the scars in the lawns/dirt from where these companies install utilities and don't grade their backfill. It's also a sleepy town where not much new work happens and you are at these places repeatedly over the years and have a memory of past locations.

We are not out here just digging away with reckless abandon, no matter what Dave wants to believes and how unprofessional he thinks contractors are.

Most people in this community cringe at having to deal with Dave. His know- it-all attitude, demeaning lectures about how to perform everyone else's jobs are unjust and unwarranted.

These complaints are being filed 1year to 30 days after the jobs are complete with no damage to structure or underground facilities. Harassment and defamation is what I will call it.

That's what I have to say as for these complaints.

Have a great day, Victor. I will patiently wait for your decision on this matter.

Jason Hager

JP HAGER ENTERPRISES
521 6th St E
Harvey, ND 58341
701-341-1665.

On Aug 26, 2021, at 3:05 PM, Schock, Victor F. <vschock@nd.gov> wrote:

Jason,

Please see attached complaint that was received against JP Hager Enterprises.
If I do not hear back from you by September 1, I will be forced to complete my investigation with only the information I have received from Otter Tail which is attached.

Thanks,

Victor Schock
Public Utility Analyst
North Dakota Public Service Commission
600 E Boulevard Ave, Dept 408
Bismarck, ND 58505-0480
(701)328-3397
vschock@nd.gov

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<PU-21-338.pdf>

PU-21-338

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jason Hager
JP Hager Enterprises
521 6th St. E
Harvey, ND 58341
Cert. No. 7021 2720 0001 0491 549
Case No. PU-21-338

9590 9402 6453 0346 0124 51

2. Article Number (Transfer from service label)

7021 2720 0001 0491 5494

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X J Hager ☐ Agent ☒ Addressee

B. Received by (Printed Name) JG Cool C.9

C. Date of Delivery 2-28-22

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

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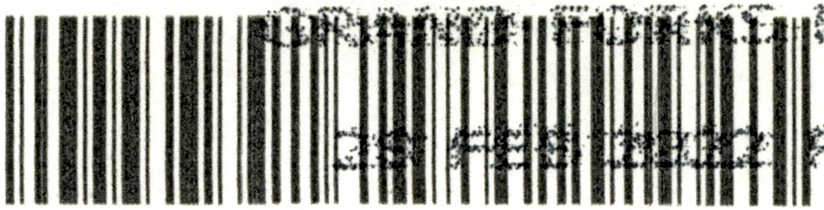
Return receipt
United States Postal Service

3. Service Type

- ☒ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricte Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

USPS TRACKING #



9590 9402 6453 0346 0124 51

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

RECEIVED
MAR - 2 2022

United States Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

ND Public Service Commission
Attn: Public Utilities Division
600 E Boulevard Ave. Dept. 408
-0480

13 **PU-21-338** Filed: 3/2/2022 Pages: 2
Return receipt

United States Postal Service