



Public Service Commission
State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

**RESPONSE REQUIRED BY
JULY 21, 2023**

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

June 27, 2023

Michelle Stark
City Auditor
City of Kenmare
PO Box 816
Kenmare ND 58746-0816

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

Enclosed is a copy of the North Dakota One-Call Complaints against the City of Kenmare received by the North Dakota Public Service Commission (Commission) on June 23, 2023, from John Ware Excavating, Kenmare, North Dakota, Case Numbers DM-23-238 and DM-23-239. The locations identified in the complaints are 215 4th Avenue NE, Kenmare, North Dakota and 309 10th Street NE, Kenmare, North Dakota.

I am sending you this information so that you are aware of the complaints and may respond with information concerning the complaints. **Please respond to Executive Secretary, North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept 408, Bismarck, ND 58505-0480 by July 21, 2023**, with your written account of the events, including the applicable One-Call locate ticket number(s) for work performed at the locations indicated above and in connection with the enclosed complaints.

Your response and the North Dakota One-Call Complaints 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 these complaints. If I conclude a violation did occur, I will file with the Commission a formal complaint against the City of Kenmare, which may result in a penalty up to \$25,000 per violation in accordance with North Dakota Century Code Section 49-07-01.1.

Please contact me at 701-328-4097 or kcrockford@nd.gov with any questions regarding this correspondence.

Sincerely,

Konrad Crockford
Director, Compliance Division

Enc: North Dakota One-Call Complaint 2 DM-23-239 Filed 06/27/2023 Pages: 3
Letter enclosing North Dakota One-Call Complaint
Public Service Commission
c: John Ware
John Ware Excavating 2 DM-23-238 Filed 06/27/2023 Pages: 3
Letter enclosing North Dakota One-Call Complaint
Public Service Commission



ONE-CALL COMPLAINT
PUBLIC SERVICE COMMISSION
 SFN 59067 (08/2022)

INSTRUCTIONS: To allege a violation of the One-Call Excavation Notice System (N.D.C.C. Chapter 49-23), complete this form in its entirety.

SECTION I – COMPLAINANT (Individual/entity completing form)

Company/Entity Name (if applicable) John Ware Excavating			
Contact Person John Ware	Email Address johnwareexcavating@gmail.com	Telephone Number 701-339-9489	
Mailing Address 206 2nd Ave SE	City Kenmare	State ND	Zip Code 58746
Complainant is willing and able to testify on the complaint if matter proceeds to a formal hearing.		<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

SECTION II – RESPONDENT (Individual/entity who allegedly violated the One-Call law)

Company/Entity Name (if applicable) City of Kenmare			
Contact Person	Email Address cityofkenmare@gmail.com	Telephone Number 701-385-4232	
Mailing Address PO Box 816	City Kenmare	State ND	Zip Code 58746

SECTION III – ALLEGED VIOLATION

OPERATOR – A person or entity who owns or operates an underground facility (i.e.: natural gas, electric, sewer, etc.).

Operator failed to mark or clear underground facility within locate period. Operator failed to mark underground facility within 24 inches horizontally.

EXCAVATOR – A person or entity who conducts excavation (i.e.: homeowner, property owner, company, etc.).

Excavation started prior to underground facility locate. Excavator failed to provide locate notice prior to beginning excavation.

Excavator failed to conduct the excavation in a careful and prudent manner. Excavator failed to renew locate request prior to expiration of the 21-day period.

OTHER – May be issue/concern with One-Call Center or other alleged violation that is not listed under operator or excavator.

Write Issue/Concern: _____

SECTION IV – DESCRIPTION/DAMAGE

Date and Time of Event 06-17-2023	Location (Address, City, State / Nearest Intersecting Streets / Lat & Long) 215 4th Ave NE Kenmare ND 58746	One-Call Ticket Number 23055354
Underground Facility Affected <input type="checkbox"/> Electric <input type="checkbox"/> Gas <input type="checkbox"/> Cable <input type="checkbox"/> Communications <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Sewer/Storm Water <input type="checkbox"/> Petroleum <input type="checkbox"/> Other _____		
Material & Size of Underground Facility (Poly, Steel, Coated Pipe / Fiberoptic / 2 KW / 1.5 in, 2 in / etc.)		Operator(s) Affected
Estimated Value of Damage	Injuries (List Number, If Any) Fatalities Injuries Hospitalizations	Number of Customers Affected
Description of the alleged violation/concern. If more space is required, attach additional page(s). No damages. Refusing to stump grind until locate is done to prevent damages. The city was notified on 06-19-2023 that the locate was not completed with no response as to when they would locate the utility. Another request as to when the city would be resuming locating request through the 811 site was emailed to the city on 06-21-2023 with no response. Please notice different location and different ticket number.		

SECTION V – SIGNATURE OF COMPLAINANT

Signature 	Printed Name John Ware	Date 06/22/2023
---------------	---------------------------	--------------------



ONE-CALL COMPLAINT
PUBLIC SERVICE COMMISSION
 SFN 59067 (08/2022)

INSTRUCTIONS: To allege a violation of the One-Call Excavation Notice System (N.D.C.C. Chapter 49-23), complete this form in its entirety.

SECTION I – COMPLAINANT (Individual/entity completing form)

Company/Entity Name (if applicable) John Ware Excavating		
Contact Person John Ware	Email Address johnwareexcavating@gmail.com	Telephone Number 701-339-9489
Mailing Address 206 2nd Ave SE	City Kenmare	State ND Zip Code 58746
Complainant is willing and able to testify on the complaint if matter proceeds to a formal hearing.		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

SECTION II – RESPONDENT (Individual/entity who allegedly violated the One-Call law)

Company/Entity Name (if applicable) City of Kenmare		
Contact Person	Email Address	Telephone Number 701-385-4232
Mailing Address PO Box 816	City Kenmare	State ND Zip Code 58746

SECTION III – ALLEGED VIOLATION

OPERATOR – A person or entity who owns or operates an underground facility (i.e.: natural gas, electric, sewer, etc.).

Operator failed to mark or clear underground facility within locate period. Operator failed to mark underground facility within 24 inches horizontally.

EXCAVATOR – A person or entity who conducts excavation (i.e.: homeowner, property owner, company, etc.).

Excavation started prior to underground facility locate. Excavator failed to provide locate notice prior to beginning excavation.

Excavator failed to conduct the excavation in a careful and prudent manner. Excavator failed to renew locate request prior to expiration of the 21-day period.

OTHER – May be issue/concern with One-Call Center or other alleged violation that is not listed under operator or excavator.

Write Issue/Concern: _____

SECTION IV – DESCRIPTION/DAMAGE

Date and Time of Event 06-17-2023	Location (Address, City, State / Nearest Intersecting Streets / Lat & Long) 309 10th St NE Kenmare ND 58746	One-Call Ticket Number 23055343
Underground Facility Affected <input type="checkbox"/> Electric <input type="checkbox"/> Gas <input type="checkbox"/> Cable <input type="checkbox"/> Communications <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Sewer/Storm Water <input type="checkbox"/> Petroleum <input type="checkbox"/> Other _____		
Material & Size of Underground Facility (Poly, Steel, Coated Pipe / Fiberoptic / 2 KW / 1.5 in, 2 in / etc.)		Operator(s) Affected
Estimated Value of Damage	Injuries (List Number, If Any) Fatalities _____ Injuries _____ Hospitalizations _____	Number of Customers Affected
Description of the alleged violation/concern. If more space is required, attach additional page(s). No damages. Refusing to stump grind until locate is done to prevent damages. The city was notified on 06-19-2023 that the locate was not completed with no response as to when they would locate the utility. Another request as to when the city would be resuming locating request through the 811 site was emailed to the city on 06-21-2023 with no response.		

SECTION V – SIGNATURE OF COMPLAINANT

Signature 	Printed Name John Ware	Date 06/22/2023
---------------	---------------------------	--------------------