

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Wayne Drangsholt
Damage Prevention Enforcement

Case No. DM-23-286

ORDER ON CONSENT AGREEMENT

January 4, 2024

Preliminary Statement

On August 2, 2023, the Commission received a North Dakota One-Call Complaint (Complaint) from North Dakota Pipeline Company LLC dba NDPL LLC (Enbridge) alleging a violation by Wayne Drangsholt of North Dakota Century Code (N.D.C.C.) § 49-23-04(1), by failing to contact the notification center and provide an excavation or location notice before beginning any excavation. Furthermore, Mr. Drangsholt's excavation resulted in damage to a Souris River Telephone (SRT) fiber-optic line.

On August 8, 2023, Staff sent a letter to Mr. Drangsholt enclosing the August 2, 2023, Complaint and requested a response by August 31, 2023.

On August 28, 2023, Staff received a response from Mr. Drangsholt.

On December 13, 2023, a Consent Agreement between Public Service Commission Advocacy Staff (Advocacy Staff) and Mr. Drangsholt was filed for the resolution of the Complaint.

Discussion

Wayne Drangsholt is a landowner with an address of 10188 35th Avenue Northwest, Mohall, North Dakota 58761.

On May 3, 2023, Enbridge received notification from the North Dakota One-Call Notification Center (NDOC) of emergency locate ticket number 23023375 placed by SRT. Enbridge contacted SRT to discuss the scope of repair (to repair a cut fiber-optic line) and confirmed that Enbridge had not previously received an excavation notice for this area. An Enbridge representative went to the location and discovered an excavation had occurred within 100 feet of Enbridge's 10-inch steel petroleum transmission pipeline and within 50 feet of Enbridge's cathodic protection system. In conversations with the landowner, Mr. Drangsholt, Enbridge learned the excavation and subsequent damage was done by Mr. Drangsholt.

On May 3, 2023, Mr. Drangsholt began an excavation as defined in N.D.C.C. § 49-23-01(7) for the purpose of enhancing an existing drainage trench within a field at latitude 48.938714, longitude -101.432045. There is no evidence of Mr. Drangsholt contacting NDOC prior to beginning this excavation. Mr. Drangsholt excavated within 100 feet of Enbridge's 10-inch steel petroleum transmission pipeline and within 50 feet of Enbridge's cathodic protection system. Furthermore, Mr. Drangsholt struck SRT's fiber-optic line causing \$18,700 in damage, which was paid for by Mr. Drangsholt. SRT contacted Mr. Drangsholt informing him that SRT received notification of a cut fiber-optic line. SRT provided an emergency excavation notice to NDOC with a work to begin date of May 3, 2023, to repair the fiber-optic line.

On August 28, 2023, Staff received a response from Mr. Drangsholt acknowledging that in the past he has called NDOC prior to excavating; however, for this excavation, he thought the area that he was excavating had nothing he could hit.

On November 15, 2023, Staff spoke with Mr. Drangsholt over the telephone to gain further details regarding the excavation and how the notification of damage to the fiber-optic line was made.

Having investigated the alleged violation, Staff believes Mr. Drangsholt violated N.D.C.C. § 49-23-04(1) by failing to provide an excavation or location notice before beginning any excavation.

Mr. Drangsholt and Advocacy Staff engaged in good faith settlement discussions resulting in a Consent Agreement intended to avoid further administrative proceedings or litigation.

Under the Consent Agreement, Mr. Drangsholt agrees to be assessed a civil penalty of \$1,000 with the \$1,000 civil penalty suspended.

Having considered this matter, the Commission finds the Consent Agreement is reasonable and acceptable. Therefore, the Commission issues the following:

Order

The Commission Orders:

1. The Consent Agreement between Mr. Drangsholt and Advocacy Staff filed with the Commission on December 13, 2023, is approved. A copy of the Consent Agreement is attached to and made a part of this Order on Consent Agreement (Order).
2. Mr. Drangsholt is assessed a civil penalty of \$1,000 with \$1,000 suspended, on the condition Mr. Drangsholt commits no further violation of N.D.C.C. Chapter 49-23 within five years of the date of the Order.

3. In the event the Commission finds Mr. Drangsholt violated N.D.C.C. Chapter 49-23 within five years of the date of the Order, Mr. Drangsholt shall remit the suspended portion of the penalty within the time ordered by the Commission, in addition to any fines or penalties imposed for the subsequent violation.

PUBLIC SERVICE COMMISSION


Sheri Haugen-Hoffart
Commissioner


Randy Christmann
Chair


Julie Fedorchak
Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Public Service Commission
Wayne Drangsholt
Damage Prevention Enforcement

Case No. DM-23-286

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	
)	
vs.)	CONSENT AGREEMENT
)	
Wayne Drangsholt)	
)	
Respondent.)	

This Consent Agreement is entered into by and between Wayne Drangsholt and the Public Service Commission (Commission) Advocacy Staff (Staff) (together, the Parties) for resolution of Case No. DM-23-286.

Preliminary Statement

On August 2, 2023, the Commission received a North Dakota One-Call Complaint (Complaint) from North Dakota Pipeline Company LLC dba NDPL LLC (Enbridge). The Complaint alleges Mr. Drangsholt violated N.D.C.C. § 49-23-04(1) of the One-Call Excavation Notice System by failing to contact the notification center and provide an excavation or location notice before beginning any excavation. Furthermore, Mr. Drangsholt's excavation resulted in damage to a Souris River Telephone (SRT) fiber-optic line.

On August 8, 2023, Staff sent a letter to Mr. Drangsholt enclosing the August 2, 2023, Complaint and requested a response by August 31, 2023.

On August 28, 2023, Staff received a response from Mr. Drangsholt acknowledging that in the past he has called the North Dakota One-Call Notification Center (NDOC) prior to excavating; however, for this excavation, he thought the area that he was excavating had nothing he could hit.

On November 15, 2023, Staff spoke with Mr. Drangsholt over the telephone to gain further details regarding the excavation and how the notification of damage to the fiber-optic line was made.

Discussion

On May 3, 2023, Enbridge received notification from NDOC of emergency locate ticket number 23023375 placed by SRT. Enbridge contacted SRT to discuss the scope of repair (to repair a cut fiber-optic line) and confirmed that Enbridge had not previously received an excavation notice for this area. An Enbridge representative went to the location and discovered an excavation had occurred within 100 feet of Enbridge's 10-inch steel petroleum transmission pipeline and within 50 feet of Enbridge's cathodic protection system. In conversations with the landowner, Mr. Drangsholt, Enbridge learned the excavation and subsequent damage was done by Mr. Drangsholt.

On May 3, 2023, Mr. Drangsholt began an excavation as defined in N.D.C.C. § 49-23-01(7) for the purpose of enhancing an existing drainage trench within a field at latitude 48.938714, longitude -101.432045. There is no evidence of Mr. Drangsholt contacting NDOC prior to beginning this excavation. Mr. Drangsholt excavated within 100 feet of Enbridge's 10-inch steel petroleum transmission pipeline and within 50 feet of Enbridge's

cathodic protection system. Furthermore, Mr. Drangsholt struck SRT's fiber-optic line causing \$18,700 in damage, which was paid for by Mr. Drangsholt. SRT contacted Mr. Drangsholt informing him that SRT received notification of a cut fiber-optic line. SRT provided an emergency excavation notice to NDOC with a work to begin date of May 3, 2023, to repair the fiber-optic line.

Alleged Violation:

Excavator Failed to Provide Locate Notice Prior to Beginning Excavation

N.D.C.C. § 49-23-04(1) states "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 Mr. Drangsholt violated N.D.C.C. § 49-23-04(1) by failing to provide an excavation or location notice before beginning any excavation.

Agreement

The Parties 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, the Parties agree to the following, subject to the approval and acceptance of the Commission:

1. Mr. Drangsholt violated N.D.C.C. § 49-23-04(1) by failing to provide an excavation or location notice before beginning any excavation.
2. Mr. Drangsholt agrees to be assessed a civil penalty of \$1,000.

3. The \$1,000 penalty is suspended on the condition that Mr. Drangsholt commits no further violation of N.D.C.C. Chapter 49-23 within five (5) years of the date of the Order.
4. In the event the Commission finds Mr. Drangsholt violated N.D.C.C. Chapter 49-23 within five (5) years of the date of the Order, Mr. Drangsholt 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.
5. If within five (5) years of the date of the Order there is no subsequent violation of N.D.C.C. Chapter 49-23 by Mr. Drangsholt, the \$1,000 penalty is withdrawn.
6. Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violations alleged in this case.
7. Mr. Drangsholt consents to the filing of the Consent Agreement and an Order and hereby waives any further procedural requirements with respect to the issuance of the Order. Provided the Commission adopts this Consent Agreement and issues an Order consistent with it, Mr. Drangsholt 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.
8. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Consent Agreement and Order.

9. This agreement may be executed in counterparts and duplicate copies, each of which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.

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

Dated this 13th day of December, 2023

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

By: _____


Brian Johnson
Special Assistant Attorney General (Bar ID 07937)
Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480
701-328-2407

Dated this 11 day of Dec, 2023

Wayne Drangsholt

By: _____