



Public Service Commission

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

June 23, 2025

Mr. Steve Kahl
Executive Secretary
North Dakota Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480

via Hand Delivery

Re: Case No. DM-24-368
Public Service Commission
Jomax Construction Company, Inc.
Damage Prevention Enforcement

Dear Mr. Kahl:

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

Best regards,

A handwritten signature in blue ink, appearing to read "Brian Johnson".

Brian Johnson
Legal Counsel

Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Public Service Commission
Jomax Construction Company, Inc.
Damage Prevention Enforcement

Case No. DM-24-368

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	
)	
vs.)	CONSENT AGREEMENT
)	
)	
Jomax Construction Company, Inc.)	
)	
Respondent.)	

This Consent Agreement is entered into by and between Jomax Construction Company, Inc. (Jomax) and the Public Service Commission (Commission) Advocacy Staff (Staff) (together, the Parties) for resolution of Case No. DM-24-368.

Preliminary Statement

On November 7, 2024, the Commission received a North Dakota One-Call Complaint (Complaint) from Kinder Morgan. The Complaint alleges that Jomax violated North Dakota Century Code (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 an excavation.

On March 27, 2025, Staff received a response acknowledging that while Jomax had an active excavation notice, the scope of the excavation area had expanded and an updated excavation notice to include the new area was not filed.

Discussion

On October 3, 2024, a Kinder Morgan employee witnessed Jomax conducting an excavation as defined in N.D.C.C. § 49-23-01(7) for the purpose of installing a pipeline approximately five miles southeast of Watford City, North Dakota adjacent to Highway 37. The Kinder Morgan employee notified Jomax of the above issue and Jomax contacted the North Dakota One-Call Notification Center (NDOC) to file an excavation notice for this area. While Jomax had a valid excavation notice for the original project area, there is no evidence of Jomax contacting NDOC prior to excavating in the expanded project area.

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 Jomax 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 these proceedings 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. Jomax violated N.D.C.C. § 49-23-04(1) by failing to provide an excavation or location notice before beginning any excavation.
2. Jomax agrees to be assessed a civil penalty of \$500.
3. Jomax agrees to remit the \$500 civil penalty, payable to the North Dakota Public Service Commission within ten (10) business days of service of an Order accepting or approving the Consent Agreement.
4. 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.
5. Jomax 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, Jomax 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.

6. Jomax agrees to provide the Commission with a U.S. Department of the Treasury Internal Revenue Service Form W-9 within ten (10) business days of service of an Order accepting or approving the Consent Agreement.
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 of 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 Jomax and bind Jomax for the purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 23rd day of June, 2025

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 17th day of June, 2025

Jomax Construction Company, Inc.

By:  _____

Brian Reynolds, President
Jomax Construction Company, Inc.
4312 10th St. Pl.
Great Bend, KS 67530-3446

C T Corporation System
Registered Agent for
Jomax Construction Company, Inc.
120 W. Sweet Ave.
Bismarck, ND 58504