

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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

Case No. DM-24-368

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Shelly A. Bauske** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **3rd day of July 2025** she deposited in the United States Mail at Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Order on Consent Agreement**

The envelopes were addressed as follows:

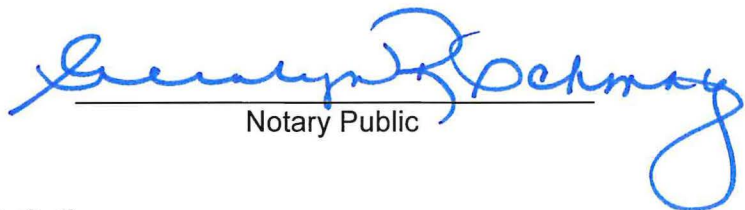
Brian Reynolds, President  
Jomax Construction Company, Inc.  
4312 10<sup>th</sup> St. Pl.  
Great Bend, KS 67530-3446  
**Cert. No. 9589 0710 5270 0336 3996 46**

C T Corporation System  
Registered Agent for  
Jomax Construction Company, Inc.  
120 W. Sweet Ave.  
Bismarck, ND 58504  
**Cert. No. 9589 0710 5270 0336 3996 53**

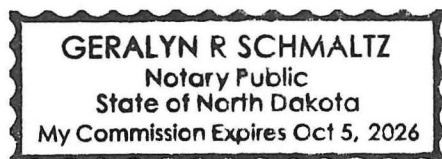
Each address shown is the respective addressee's last reasonably ascertainable post office mail address.

Subscribed and sworn to before me  
this **3rd day of July 2025**.

  
\_\_\_\_\_

  
\_\_\_\_\_  
Notary Public

SEAL



**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

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

**Case No. DM-24-368**

**ORDER ON CONSENT AGREEMENT**

**July 2, 2025**

**Preliminary Statement**

Jomax Construction Company, Inc. (Jomax) is a foreign corporation with a principal address of 4312 10<sup>th</sup> Street Place, Great Bend, KS 67530-3446.

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.

On June 23, 2025, a Consent Agreement between Public Service Commission Advocacy Staff (Advocacy Staff) and Jomax was filed for the resolution of the Complaint.

**Discussion**

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.

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

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 Jomax and Advocacy Staff filed with the Commission on June 23, 2025, is approved. A copy of the Consent Agreement is attached to and made a part of this Order on Consent Agreement (Order).
2. Jomax is assessed a civil penalty of \$500.
3. Jomax shall remit the \$500 civil penalty payable to the North Dakota Public Service Commission, within ten (10) business days of service of this Order.
4. Jomax agrees to provide the Commission, within ten (10) business days of service of this Order, a U.S. Department of the Treasury Internal Revenue Service Form W-9 for purposes of the identification requirement of Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), the performance is restitution, remediation, or an amount paid to come into compliance with the law.

### PUBLIC SERVICE COMMISSION

  
Sheri Haugen-Hoffart  
Commissioner

  
Randy Christmann  
Chair

  
Jill Kringstad  
Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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

Case No. DM-24-368

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

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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 23<sup>rd</sup> 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