

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

**Public Service Commission  
Riley Brothers Construction & ND DOT  
Damage Prevention Enforcement**

**Case No. WM-09-640**

**AFFIDAVIT OF SERVICE BY CERTIFIED & REGULAR MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Cara DeSaye** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **25<sup>th</sup>** day of **August, 2010**, she deposited in the United States Mail, at Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed, with each containing a photocopy of:

**Order Approving Stipulation**

The envelopes were addressed as follows:

William Pearce  
Registered Agent for Riley Brothers Construction  
200 N. 3<sup>rd</sup> St. Ste. 150  
PO Box 1855  
Bismarck ND 58502-1855

Darlene Hennen  
Riley Brothers Construction, Inc.  
46369 208th St.  
P.O. Box 535  
Morris, MN 56267

**Certified No. 7010 1060 0001 0644 4000**

**Certified No. 7010 1060 0001 0644 3997**

**Cara DeSaye** further deposes and says that on the **25<sup>th</sup>** day of **August, 2010**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same:

Donna Patrick  
One Call Coordinator  
Nustar Pipeline Operating Parnership L.P  
7340 West 21<sup>st</sup> North, Suite 200  
Wichita, KS 67205

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

*Cara Delaney*

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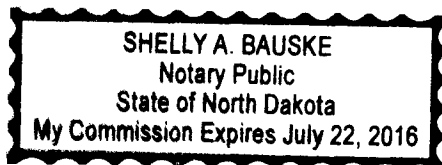
Subscribed and sworn to before me  
this **25th** day of **August, 2010**

*Shelly A Bauske*

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Notary Public

SEAL



**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Riley Brothers Construction & ND DOT  
Damage Prevention Enforcement**

**Case No. WM-09-640**

**ORDER APPROVING STIPULATION  
August 24, 2010**

**Preliminary Statement**

On April 29, 2010, North Dakota Public Service Commission Advocacy Staff (Advocacy Staff), filed a complaint against Riley Brothers Construction, Incorporated.

On May 12, 2010, the Public Service Commission (Commission) found that the Complaint states a prima facie case and served the Complaint on the Respondent, Riley Brothers Construction (Riley Brothers).

On May 24, 2010, Riley Brothers filed its answer to the complaint.

On July 2, 2010, Advocacy Staff filed a Stipulation between the Advocacy Staff and Riley Brothers.

On July 14, 2010, the Commission passed a Motion approving the Stipulation.

**Discussion**

By signing the Stipulation, the Respondent admitted the violation, agreed to imposition of a \$500.00 penalty, and waived any procedural irregularity and the right to hearing on the Complaint.

Having reviewed the pleadings and the Stipulation, the Commission agrees that the Stipulation is a reasonable resolution of this matter and should be approved.

Therefore, the Commission makes the following:

## Order

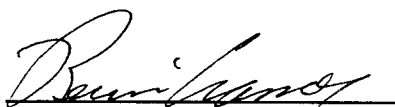
The Commission orders:

1. The Stipulation entered into between Complainant and Respondent is approved.
2. Respondent, Riley Brothers Construction Incorporated, violated North Dakota Century Code Chapter 49-23 by failing to comply with the One Call procedures required by North Dakota Century Code Section 49-23-04.
3. Respondent, Riley Brothers Construction Incorporated, shall pay a civil penalty in the amount of \$500.00 within 30 days of the issuance of this Order.

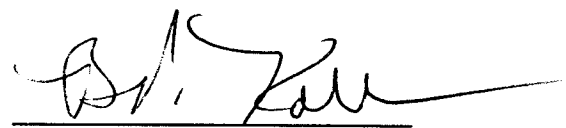
### PUBLIC SERVICE COMMISSION



Tony Clark  
Commissioner



Kevin Cramer  
Chairman



Brian P. Kalk  
Commissioner

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

**Public Service Commission,**

**Case No. WM-09-640**

**Complainant,**

**vs.**

**Riley Brothers Construction**

**Respondent.**

**STIPULATION**

WHEREAS, the North Dakota Public Service Commission Advocacy Staff (Advocacy Staff), Complainant, filed with the North Dakota Public Service Commission (Commission) a Complaint dated 29 April 2010, against Riley Brothers Construction, Incorporated (Riley Brothers), Respondent; and

WHEREAS, the Respondent, Riley Brothers, admits service of the Complaint and agrees that the facts alleged in the Complaint are true and are grounds for the Commission finding a violation and imposing a penalty, and that the terms of this Stipulation are appropriate;

THEREFORE, IT IS HEREBY agreed by and between Riley Brothers and Advocacy Staff:

1. The Respondent, Riley Brothers, by signing this Stipulation, waives any procedural irregularity and the right to hearing on the Complaint now pending in this action;
2. The Commission may enter an Order finding a violation and imposing a civil penalty in the amount of \$500.00, which Riley Brothers agrees to pay within 30 days of issuance of the Order.
3. In the event the Commission, in its discretion, does not approve this Stipulation, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any enforcement action by either party to this Stipulation, except that Respondent agrees that if the Commission rejects this Stipulation and this case proceeds to hearing, Respondent will assert no claim that the Commission was prejudiced by its review and discussion of this Stipulation or of any records relating to this Stipulation.

4. This agreement for the disposition of this case is a matter of public record and the obligations of the Commission with respect to matters of public record are governed by the laws of North Dakota and Commission policy.
5. Riley Brothers and Advocacy Staff recognize that the Advocacy Staff representatives who have engaged in discussion about this Stipulation and disposition of this matter can only make recommendations to the Commission. The parties further recognize that these recommendations are not binding upon the Commission, which will ultimately decide the case, and this agreement is subject to acceptance by the Commission.
6. Riley Brothers understands that Riley Brothers has the right and has been afforded the opportunity to have this agreement reviewed by an attorney, and that in the event Riley Brothers chooses to execute this document without availing itself of this right, Riley Brothers will be deemed to have waived such right.
7. Riley Brothers specifically waives any claim that any disclosures made to the Commission for the purpose of consideration of this agreement may have prejudiced Respondent's rights to a fair and impartial hearing in the event this agreement is not accepted by the Commission and further proceedings are necessary.
8. Riley Brothers agrees that there have been no inducements, threats, or promises made in order to obtain Riley Brother's agreement to this Stipulation.
9. Riley Brothers and the Advocacy Staff further agree that all statements contained in this agreement are based upon the facts known to the Advocacy Staff as of the date of the execution of this agreement.

Dated this 2<sup>nd</sup> day of July 2010

Dated this 2<sup>nd</sup> day of July 2010

By: Chris Riley  
Cl Riley (name)  
President (title)  
Riley Brothers Construction  
P.O. Box 535  
Morris, MN 56267  
320-589-2500  
[darleneh@rileybrothers.com](mailto:darleneh@rileybrothers.com)

By: Illona A. Jeffcoat-Sacco  
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Attorney for North Dakota  
Public Service Commission  
Advocacy Staff