

North Dakota[®]

Public Service Commission

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April 4, 2013

Ernest Tormaschy
10226 Highway 10
Gladstone, ND 58630-9530

Re: Third Party Damage Complaint (Case No. PU-13-145)

Dear Mr. Tormaschy:

Enclosed is a copy of a Third Party Damage Complaint received by the North Dakota Public Service Commission (Commission) on April 2, 2013 from CenturyLink. The location of the excavation was near the old Green River rest area off Interstate 94 at about mile marker 70.5, approximately 1.5 miles from Gladstone, North Dakota.

Please respond to the Commission by **April 19, 2013**, with your written account of the event. Your response, the complaint, and other available information will be reviewed to determine whether Commission staff will file a formal complaint.

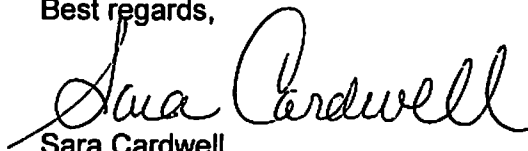
Your response should also address the following criteria used to determine the amount of civil penalty, if any, to be recommended by Commission staff as part of a formal complaint:

- a) The nature, circumstances and severity of the complaint;
- b) The degree of suspected fault on the part of the excavator;
- c) Excavator's history of prior violations or complaints;
- d) Excavator's ability to pay;
- e) Any good faith effort by the excavator in attempting to achieve compliance; and
- f) The effect the penalty may have on the excavator's ability to continue in business.

North Dakota Century Code section 49-07-01.1 provides for a civil penalty not to exceed five thousand dollars for violations of the One Call law.

If you have any questions please call me at 701-328-4052 or e-mail to scardwell@nd.gov.

Best regards,



Sara Cardwell
Public Utility Analyst



THIRD PARTY DAMAGE COMPLAINT
Public Service Commission
SFN 59067 (12-11)



PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization CenturyLink	Person Filing Information Joe Shepherd	Position Area Plant Supervisor	
Address of Person Filing Information 1101 16th Street NE	City Mandan	State ND	Zip Code 58554	
Telephone Number 701-222-7244	Email Address joe.shepherd@centurylink.com	Date 04/02/2013		

PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Ernest Tormaschy	Telephone Number 701-225-2439		
Address 10223 Highway 10	City Gladstone	State ND	Zip Code 58630-9530
Name of Entity for Which Excavation Was Performed Same as above	Telephone Number		
Address	City	State	Zip Code

PART C – DATE AND LOCATION OF THE EVENT

Date of Event 03/30/2013	Address of the Excavation and/or Damage Green River rest area I-94 mile marker 70.5		
County Stark	City Gladstone	State ND	Zip Code 58630

PART D – FACILITY INVOLVED

Type of Facility Involved Fiber Optics	Operator of Facility and Contact Person (if known) Centurylink/ Joe Shepherd		
Address 1101 16th Street NE	City Mandan	State ND	Zip Code 58554
Telephone Number 701-222-7244	Email Address (if known) joe.shepherd@centurylink.com		
Brief Description of Facility Involved Main fiber optic cable and copper cable between Bismarck and Dickinson, ND. Involved the cities of Dickinson, Belfield, Fairfield and Medora North Dakota. This included 911 and cell phone sites for 14 hours. Centurylink has a temporary fix but need to do a permanent fix that includes replacing 700' feet of fiber cable and boring the Green River to get the splice out of the river bottom. The total cost could exceed \$50,000.			

PART E – DAMAGE (If applicable)

Fatalities	Injuries	Length of Hospitalization, If Applicable
Estimated Value of Property Damage: \$		Number of Customers Affected
Damaged Within <input type="checkbox"/> Public Property <input type="checkbox"/> Private Property		Photos of Damaged Facility <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, please include copies)

PART F – EXCAVATION

Was a locate requested from North Dakota One-Call?	
<input checked="" type="checkbox"/> Yes Locate Ticket Number <input type="checkbox"/> No <input type="checkbox"/> Unknown	Start Date on Ticket: 03/30/2013
Did excavator wait until the start date/time on the ticket before commencing excavation?	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A	
Were buried facilities exposed by hand or non-invasive equipment prior to excavation?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A	

PART G – MARKING

Were facilities marked?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were utility/facility marks visible in the area of excavation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were the utility/facilities marked correctly?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the marking complete prior to the start time on the ticket?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Did the excavator pre-mark with white paint?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the facility marked accurately within 24 inches horizontally?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Did the excavator use reasonable care to maintain locate marks for the life of project?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A

PART H – DESCRIPTION OF EVENT

Description of Event Land owner removed 6' of dirt along the Green River without calling for locates. They cut the facilities and didn't call to report the damage. Took our employees several hours to locate the damage.

Description of Event Continued

PART I – SIGNATURE

Signature of Person Filing Complaint Joe Shepherd	Date 04/02/2013
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Please include additional documents and photos, if applicable.

***If you are filing on behalf of a company, please provide information supporting your authority to file this complaint.**

Send Completed, Original Complaint To:
Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
Telephone: (701) 328-2400

Email to the Commission