



Public Service Commission
State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Brian P. Kalk

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

28 March 2016

Timothy Dawson, Director
Office of Administrative Hearings
2911 North 14th Street – Suite 303
Bismarck, ND 58503

Re: Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement

Case No. GS-14-216

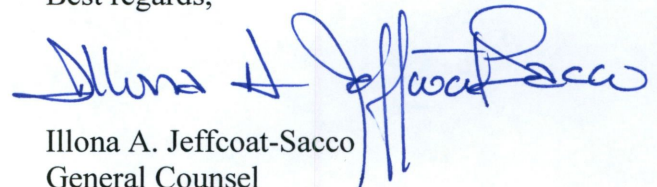
Dear Mr. Dawson:

Enclosed is a request for an Administrative Law Judge the the captioned case. A hearing has not yet been scheduled. When the Notice of Hearing is issued we will forward the Notice to your office.

The Administrative Law Judge will serve as a procedural law judge and the hearing will be electronically recorded.

If you have any questions, please contact me. Thank you.

Best regards,



Illona A. Jeffcoat-Sacco
General Counsel

enclosure

c:/w enclosure Maurice Schurger, Project Manager for Plote Construction ND, LLC



REQUEST FOR ADMINISTRATIVE LAW JUDGE--COMPLAINT
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS
 SFN 17818 (Rev. 06-2007)

Name of Agency, Board, or Commission North Dakota Public Service Commission		
Name of Respondent(s) Plote Construction ND, LLC	Address 1101 Brandt Dr., Hoffman Estates, IL 60192-1676	Telephone Number (847) 695-9300

The above named agency, board, or commission has taken administrative action pursuant to its authority found in North Dakota Century Code Chapter 49-23 _____ (North Dakota Century Code and/or North Dakota Administrative Code).

The administrative action is more fully described as follows: Hearing to determine if Respondent violated N.D.C.C. Chapter 49-23, the North Dakota One-Call Law, and if a violation is found, whether the Commission shall impose a civil penalty.

Has the respondent been provided a copy of the complaint? Yes No

Attached is a copy of the complaint, related documents and correspondence, and certificate, affidavit or admission of service. If the respondent has otherwise been notified about this administrative action, please explain in the comments section below.

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- To serve as a procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 28-32-31(5). See NDCC 54-57-04.
- To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.

Agency Contact Person(s) See attached	Telephone Number
--	------------------

Representation [attorney (or other)] if known:

Agency See attached	Telephone Number
Party See attached	Telephone Number
Party See attached	Telephone Number

Additional Comments A Complaint was served and an Answer was recieved. A Notice of Hearing has not yet been issued. When a Notice is issued we will forward it to your office.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person Illona A. Jeffcoat-Sacco, General Counsel	Date 3/28/2016
Signature of Requesting Person X	Telephone Number (701) 328-2407

Attachment
Request for ALJ
28 March 2016

Re: Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement

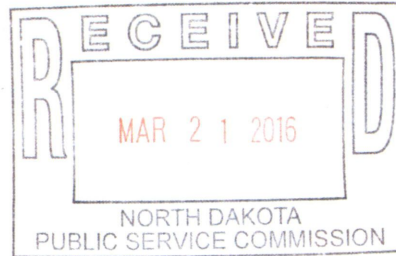
Case No. GS-14-216

AGENCY	Address	Telephone Number
North Dakota Public Service Commission	600 E. Blvd. Ave. Dept. 408 Bismarck, ND 58505-0480	701-328-2400
Representation Illona A. Jeffcoat-Sacco PSC General Counsel & Commission Advisory Counsel	Address Same as above	Telephone Number 701-328-2407
John Schuh Advocacy Staff Counsel	Same as above	701-328-2421
PARTY Plote Construction ND, LLC	Address 1101 Brandt Dr. Hoffman Estates, IL 60192- 1676	Telephone Number 847-695-9300
Representation Maurice Schurger Project Manager	Address Plote Construction ND, LLC 908 Elk Street Alexander, ND 58831	Telephone Number 701-577-9000



908 Elk Street
Alexander, ND 58831
701-577-9000
701-842-2665
www.ploteconstructionnd.com

Public Service Corporation of ND
600 E Boulevard Ave Dept 408
Bismarck, ND 58505-0480



March 17, 2016

RE: Case No. GS-14-216

We received the copy of the complaint sent by certified mail at our office in Alexander ND on March 11, 2016. After reviewing the complaint there seems to be several salient points that are not outlined in the complaint, these are as follows:

1. Paragraph VI of the **Complaint**- The excavation that we were performing on February 18, 2014 was for the purpose digging a trench for MDU to enable MDU to move a 2 inch gas line that had previously been installed in a location that was within the footprint of the Maintenance Building. The trench required for the footing for the building could not be excavated until the encroaching gas line was relocated. While attempting to excavate for the line relocation MDU crews could not dig through the frost with the equipment that they had on-site. The building contractor then asked if we could assist MDU with the excavation for the line relocation with our excavator. As a courtesy to both the building contractor and MDU we agreed to do the excavation but after hitting the line previously we would not dig the trench without having the locating done. At the time we were asked to excavate the trench to relocate the line the frost was approximately 7 feet thick and there was a high probability that the line requiring relocation would be damaged due to the fact that the ground was frozen too hard to dig through by hand. I expressed this reservation to the Building Contractor. The excavation that damaged the line that was to be relocated was for the convenience of MDU. Further, MDU never received a bill from us for digging the trench to relocate their erroneously placed gas line, but we paid for the damage to repair the line that was to be abandoned. We had been told that MDU personnel would be on-site while the excavation took place and the line killed while we were digging, this did not happen.
2. Part H of the **Third Party Damage Complaint, Description of Event**- The individual on site that had the attitude issue with MDU personnel was not our superintendent, he was the superintendent from the Building Contractor. He was quite annoyed that progress on the footings for the building he was trying to build had been held up for three weeks due to the gas line installed in the wrong location. Our personnel cooperated fully with the MDU repair crew and assisted by excavating around the line so that a repair could be made. This fact is attested to by the statement made earlier in the narrative and attributed to the gas line repairman. Since I was the individual Paul Riely spoke to on February 19, 2014 I can state that my attitude about this incident is that we were trying to help MDU relocate a line to replace the line that had been erroneously installed and we hadn't received any cooperation in return. At the time I expressed the opinion that the whole situation could have been avoided through better communication. I have worked with MDU crews in other cities and the communication and cooperation is greatly superior. In a situation like we had here, particularly where the line didn't serve any active customers and we were excavating for MDU, the gas flow would have been shut off and a MDU technician present while the digging was taking place. Paul Riely's stance was that MDU had no culpability at all.

To sum up, we made the following changes to our administrative and jobsite procedures after this incident.

1. Improved the system of requesting locates to ensure the locate requests are made in a timely manner prior to any excavation being performed.
2. Instituted a process to track the life of the locate requests to ensure that locates are updated as required.
3. Instituted a process to transmit locate information to the field crews are affected.
4. Instituted a company policy that we will not excavate in an area based on anyone's assurances other than the locator's that an area has been cleared and if temperatures preclude hand excavation that the ground will be thawed or the excavation delayed until ground conditions are appropriate.

Please take notice of the fact that when we hit this line in January, even though it was not where it was supposed to be we did not dispute the fact that we were at fault. The processes we had in place did not have the backup or redundancy to ensure that locates were requested and in place prior to working and we paid the fine levied, but in the second instance we believe MDU shares in the blame and perhaps by requesting this hearing we can improve cooperation and communication overall.

Respectfully submitted



Maurice Schurger

Project Manager

CC: Project File, PSC Complaint File, Warren Fuller

Larry Plote, Clay Padgett

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Maurice Schurger
 Plote Construction ND, LLC
 908 Elk Street
 Alexander, ND 58831
 Cert. No. 7015 3010 0000 6559 9296
 GS-14-216



2. Article Number (Transfer from service label)

7015 3010 0000 6559 9296

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
 B. Received by (Printed Name) C. Date of Delivery
 Tammy Bjornson 3/14/16
 D. Is delivery address different from item 1? Yes No

13 GS-14-216 Filed 03/16/2016 Pages: 2
 Return receipt - 7015-3010-0000-6559-9296
 USPS

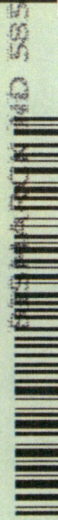
3. Service Type

<input checked="" type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail (over \$500)	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Insured Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery

Domestic Return Receipt

GS14-216

USPS TRACKING#



First-Class-Mail
Postage & Fees Paid
USPS
Permit No. G-70

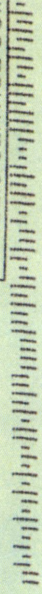
13 GS-14-216 Filed: 3/16/2016 Pages: 2
Return receipt - 7015-3010-0000-6559-9296

USPS

nd ZIP+4® in this box*

RECEIVED
ND Public Service Commission
600 E. Boulevard Avenue Dept. 408
Bismarck, ND 58505-0480
MAR 16 2016

NORTH DAKOTA
PUBLIC SERVICE COMMISSION



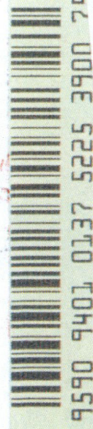
SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Corporation Service Company
 Registered Agent for Plote Construction ND, LLC
 1709 N 19th St, Suite 3
 Bismarck, ND 58501-2121
Cert. No. 7015 3010 0000 6559 9289
GS-14-216

12



2. Article Number

7015 3010 0000 6559 9289

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
 Trent Johnson 3-1-16

D. Is delivery address different from item 1? Yes
 . If YES, enter delivery address below: No

GS-14-216 Filed 03/03/2016 Pages: 2
Return receipt - 7015-3010-0000-6559-9289
USPS

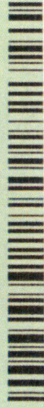
Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)

Delivery
 Return Receipt for Merchandise
 Signature Confirmation™
 Signature Confirmation Restricted Delivery

GS 14-216

Domestic Return Receipt

USPS TRACKING#



12 GS-14-216 Filed: 3/3/2016 Pages: 2
Return receipt - 7015-3010-0000-6559-9289

USPS

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

ps, and ZIP+4® in this box•

ND Public Service Commission
600 E. Boulevard Avenue Dept. 408
Bismarck, ND 58505-0480

MAR - 3 2016

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement

Case No. GS-14-216

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **29th day of February, 2016**, 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 photocopy of:

- **Cover Letter For Refiled Formal Complaint**
- **Refiled Formal Complaint With Attached Exhibit 1**
- **Formal Complaint**
- **Motion Finding Complaint States a *Prima Facie* Case**
- **Affidavit of Service by Certified Mail**

The envelopes were addressed as follows:

Maurice Schurger
Plote Construction ND, LLC
908 Elk Street
Alexander, ND 58831

Cert. No. 7015 3010 0000 6559 9296

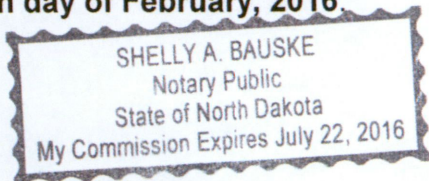
Corporation Service Company
Registered Agent for Plote Construction ND, LLC
1709 N 19th St. Suite 3
Bismarck, ND 58501-2121

Cert. No. 7015 3010 0000 6559 9289

The addresses shown are the respective addressee's last reasonably ascertainable mailing address.

Subscribed and sworn to before me
this **29th day of February, 2016**.

SEAL



Notary Public

11 **GS-14-216** Filed: 2/29/2016 Pages: 25
Affidavit of Service, Cert. Mail – Refiled Formal
Complaint with Exhibit & Commission Motion

February 24, 2016

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-4080

RE: Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement
GS-14-216

Dear Mr. Nitschke:

On February 3, 2013, Advocacy Staff (Staff) filed a Formal Complaint in Public Service Commission Case No. GS-14-216. Staff inadvertently failed to attach the April 29, 2014 letter referenced in Section V of the Formal Complaint.

Enclosed for filing, please find a copy of the Formal Complaint filed February 3, 2016 along with the referenced April 29, 2014 letter.

Sincerely,



John M. Schuh
Advocacy Counsel

Enclosures

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement

Case No. GS-14-216

Public Service Commission,)
Complainant,)
vs.)
Plote Construction ND, LLC)
Respondent.)

Complaint

The North Dakota Public Service Commission Advocacy Staff (Staff), for its complaint against Plote Construction ND, LLC, alleges and shows the following:

I

Plote Construction ND, LLC (Plote) is a registered North Dakota company with offices located at 1100 Brant Dr, Hoffman Estates, IL 60192-1676.

II

Montana-Dakota Utilities Company (MDU) is a registered Delaware corporation with offices located at 1200 West Century Avenue, Bismarck, ND 58506-5650.

III

North Dakota Century Code section 49-23-05(5) provides:

To avoid damage to and minimize interference with underground facilities in and near the construction area, an excavator shall conduct the excavation in a careful and prudent manner.

North Dakota Century Code section 49-23-01(3) provides:

"Careful and prudent manner" means excavating within twenty-four inches [60.96 centimeters] of the outer edges of an underground facility located manually and marked by the owner or operator by stakes, paint, or other customary manner, and supporting and protecting the uncovered facility.

North Dakota Century Code section 49-23-05 provides:

To avoid damage to and minimize interference with underground facilities in and near the construction area, an excavator shall:

- 1. Maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the facility.**
- 2. Provide support in a manner approved by the operator for underground facilities in and near the construction area, including backfill operations to protect the facilities. Backfill must be of a material equal to or better in both quality and quantity to the existing backfill.**
- 3. Assume ownership of materials used to mark the facility, use reasonable efforts to maintain markings during excavation, and when possible remove all tangible marking materials used to mark the facility.**
- 4. Assume the cost of excavation to expose the facility unless otherwise indicated by owner of facility.**
- 5. Conduct the excavation in a careful and prudent manner.**
- 6. Properly manage spoil material to prevent shifting or falling material that could damage belowground facilities.**

North Dakota Century Code section 28-32-22 provides:

Unless otherwise prohibited by specific statute or rule, informal disposition may be made of any adjudicative proceeding, or any part or issue thereof, by stipulation, settlement, waiver of hearing, consent order, default, alternative dispute resolution, or other informal disposition, subject to agency approval. Any administrative agency may adopt rules of practice or procedure for informal disposition if such rules do not substantially prejudice the rights of any party. Such rules may establish procedures for converting an administrative matter from one type of proceeding to another type of proceeding.

North Dakota Century Code section 49-07-01.1 provides:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the

commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapters 49-22 and 49-23, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. A violation occurring under chapter 49-23, in addition to any other penalty, is subject to a civil penalty not to exceed twenty-five thousand dollars. The commission shall develop policies for the assessment of penalties under chapter 49-23 which will take into consideration the severity of damages and the conduct of the offender. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

North Dakota Administrative Code section 69-02-04-05 provides:

In any proceeding in which the commission is authorized to act after opportunity for hearing, opportunity is afforded by service of notice fixing a reasonable period of time within which any person desiring to be heard may file a protest or request for a hearing. If a protest or request for hearing is not filed within the time provided, the commission may dispose of the matter on the basis of the pleadings, other submittals, and the studies and recommendations of the staff. A party not requesting oral hearing in the party's pleading is deemed to have waived a hearing for the purpose of the decision, but not for the purpose of applying for rehearing with respect to the decision. If a person requests a hearing but does not show good cause, the commission may determine the matter without a hearing.

IV

On April 14, 2014, the Commission received a ND One-Call Complaint from Paul Riely, District Gas Superintendent for MDU. The complaint alleges a violation by Plote of North Dakota Century Code section 49-23-04(1) of the One-Call Excavation Notice System.

V

By its April 29, 2014 letter, attached as Exhibit 1, Staff informed Plote of MDU's complaint filing, and requested a response by May 20, 2014. Plote's May 8, 2014

response asserted that Plote was told by the general contractor for the site that utility service to the site would be turned off on the date of the excavation.

VI

As alleged by MDU's complaint, on February 18, 2014, Plote began an excavation as defined in North Dakota Century Code section 49-23-01(7) while digging footings for a maintenance building at 621 East 42nd Street in Williston, North Dakota. As a result of this excavation, damage was caused by a back-hoe to MDU's 2-inch medium pressure natural gas main distribution line causing an unintentional release of gas. MDU alleges that the cost to repair its facilities was approximately \$1051.41.

VII

Based on its investigation Staff determined that Plote personnel provided an excavation notice to the North Dakota One Call Notification Center (NDOC) on January 30, 2014, with work to begin in the area cited in the complaint to begin on February 3, 2014. The NDOC assigned locate ticket number 14006256 to the excavation notice, which indicates the work was being performed was underground utility, attached as Exhibit 3. Under North Dakota Century Code section 49-23-04(3)(g), the expiration date for the locate ticket is February 24, 2014. On February 18, 2014, Plote personnel began an excavation to dig footings for a maintenance building. Plote notified MDU of the damage on February, 18, 2014. No customers lost service as the area was a new residential development under construction. MDU has been reimbursed for cost of the damages from the excavation.

VIII

Plote violated North Dakota Century Code section 49-23-05(5) by failing to conduct the excavation in a careful and prudent manner.

IX

North Dakota Century Code section 49-07-01.1 provides:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapter 49-22, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

X

The North Dakota Public Service Commission Damage Prevention Plan provides:

D PROPOSED CIVIL PENALTIES:

1. The following criteria must be used by Commission staff to determine if a civil penalty should be proposed when filing a formal complaint:
 - a. The nature, circumstances and severity of the complaint;
 - b. The degree of suspected fault on the part of the respondent;
 - c. The respondent's history of prior violations or complaints;
 - d. The respondent's ability to pay;
 - e. Any good faith effort by the respondent in attempting to achieve compliance; and
 - f. The effect the penalty may have on the respondent's ability to continue in business.

XI

The Respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the complaint, or the

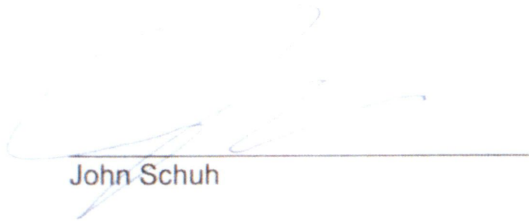
Commission may deem the complaint to be admitted. Answers must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

Prayer for Relief

Based on the foregoing, Staff seeks the following relief:

1. That the Commission find Plote in violation of North Dakota Century Code ch.49-23 for failing to comply with the One Call requirements enumerated in North Dakota Century Code section 49-23-05(5).
2. That the Commission impose an appropriate civil penalty up to \$25,000, but at least \$2000.
3. Such other relief that the Commission finds just and proper.

Dated this 3rd day of February, 2016


John Schuh

Public Service Commission Advocacy Counsel
State Capitol – 12th Floor
600 E Boulevard Ave – Dept. 408
Bismarck, North Dakota 58505-0480
701-328-2412

Victor Schock
Public Utility Analyst
Public Service Commission Advocacy Staff
State Capitol – 12th Floor
600 E Boulevard Ave – Dept 408
Bismarck, North Dakota 58505-0480
701-328-3397



Public Service Commission
State of North Dakota

COMMISSIONERS

Brian P. Kalk
Randy Christmann
Julie Fedorchak

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 4
Bismarck, North Dakota 58505-0
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2444
ND Toll Free: 1-877-245-6444
Fax: 701-328-2444
TDD: 800-366-6888 or 701-328-2444

April 29, 2014

CASE GS-14-216

Maurice Schurger
Plote Construction ND, LLC
P.O. Box 408
Alexander, ND 58831

Re: Third Party Damage Complaint

Dear Mr. Schurger:

Enclosed is a copy of a Third Party Damage Complaint against PLOTE CONSTRUCTION ND, LLC, (PLOTE) received by the North Dakota Public Service Commission (Commission) on February 14, 2014, from MONTANA DAKOTA UTILITIES (MDU). The location of the damage was at 621 E 42nd St, in the county of Williams, in the city of Williston, in North Dakota.

Please respond to the Third Party Complaint by May 20, 2014, 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 PLOTE;
- c) PLOTE's history of prior violations or complaints;
- d) PLOTE's ability to pay;
- e) Any good faith effort by PLOTE's in attempting to achieve compliance; and
- f) The effect the penalty may have on PLOTE's ability to continue in business.

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

Please send or e-mail written response to the Commission at the address above or call me at 701-220-5779.

Best regards,


Aaron A Morman
Pipeline Safety Inspector/Program Manager

C. Paul Reily-MDU

3 GS-14-216 Filed: 4/29/2014 Pages: 1
Letter enclosing third-party damage complaint



MONTANA-DAKOTA

UTILITIES CO.

A Division of MDU Resources Group, Inc.

220 2nd Ave East
P.O. Box 1407
Williston, ND 58802-1406
(701) 572-2152



April 14, 2014

Public Service Commission
600 E Blvd. Ave. Dept. 408
Bismarck, ND 58505-0480

To whom it may concern:

In response to the request at the bottom of the Third Party Damage Complaint form, SFN 59067 (11-12), regarding my authority to file a complaint on behalf of a company, please refer to the following information.

As the District Gas Superintendent for the Williston District of Montana-Dakota Utilities, I am "responsible for construction, operation, and maintenance of the gas transmission and distribution systems; and providing safe, reliable, economic service to our customers." This includes responding to any problems found with excavators working in vicinity with our natural gas system.

If you have any questions, feel free to contact me.

Sincerely

Paul Riely
District Gas Superintendent
(701) 572-1614
paul.riely@mdu.com



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

PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization Montana-Dakota Utilities Co.	Person Filing Information Paul Riely	Position District Gas Superintendent	
Address of Person Filing Information PO Box 1406	City Williston		State ND	Zip Code 58802
Telephone Number 701-572-1614	Email Address paul.riely@mdu.com		Date 25 February 2014	

PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Plote Construction		Telephone Number 701-577-9000		
Address 14025 Bennett Loop	City Williston	State ND	Zip Code 58801	
Name of Entity for Which Excavation Was Performed Sterling Construction Corporation		Telephone Number		
Address 3900 Edison Lakes Parkway, Suite 201	City Mishawaka	State IN	Zip Code 46546-2008	

PART C – TIME AND LOCATION OF THE EVENT

Date and Time of Event 2/18/14, 1500 hours	Address of the Excavation and/or Damage 621 E 42nd St		
County Williams	City Williston	State ND	Zip Code 58801

PART D – FACILITY INVOLVED

Type of Facility Involved Gas Distribution Main Line	Operator of Facility and Contact Person (if known) Montana-Dakota Utilities Co., Paul Riely		
Address 220 2nd Ave East	City Williston	State ND	Zip Code 58801
Telephone Number 701-572-1614	Email Address (if known) paul.riely@mdu.com		
Brief Description of Facility Involved loop fed 2" PE medium pressure natural gas distribution main line			

PART E – DAMAGE (if applicable)

Fatalities None	Injuries none	Length of Hospitalization, If Applicable na
Estimated Value of Property Damage: \$ \$1051.41		Number of Customers Affected 0
Damaged Within <input type="checkbox"/> Public Property <input checked="" type="checkbox"/> Private Property		Photos of Damaged Facility <input checked="" 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	Start Date on Ticket: 11/26/2013
<input type="checkbox"/> No <input type="checkbox"/> Unknown	
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 type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A

PART H – DESCRIPTION OF EVENT

<p>Description of Event</p> <p>On or about 1100 hours on 18 February 2014, Clay Pagdett an equipment operator with Plote Construction started to excavate in the area of our natural gas distribution system. This was the same operator with the same company who had damaged the same line a couple weeks earlier. I was notified by phone at 1532 hours on 18 February by the developer, that the contractor had again damaged our distribution main. A gas crew was immediately dispatched to the scene to repair the damage. The following is a statement of what he saw when he arrived on scene "I arrived on location and seen that the operator was working less than 50' from blowing gas. I ask the operator to dig a bell hole for us to squeeze off the 2" line. After squeezing the line I seen that the line had been hit not once but four times and the operator kept on working in the blowing gas. I than called my supervisor . When he arrived he took pictures. I made my repairs and left."</p>

Description of Event Continued

When I arrived on scene, I looked at the multiple damages and photographed the damages for our records. The following is an explanation of the type and location of the damages: The first damage was to a repair coupling located on the East side of the excavation, the coupling was damaged, but no gas loss took place. The second damage was to a second repair coupling 3 feet to the east. The coupling was severely damaged, but no gas loss took place. The third damage was to the gas main 10 feet to the east of the second. This damage caused a gas release through an approximate 2" diameter hole. The fourth damage was two feet from the third, with gas loss from a 2" diameter hole. The fifth damage was to the gas main about 15 feet from the fourth damage. This damage caused a gas release through a 1/2" x 3' crack in the plastic main. The operator continued to dig in the vicinity of the gas release, the entire time, even during the repair of the gas main. When MDU's gas crew foreman talked with the equipment operator, the operator had a very nonchalant attitude about the damage, and gave off a do not care attitude. It was very apparent, that they did not follow the 2' had dig zone during this project. That afternoon I left a message with the Project manager for Plote Construction, Maurice Schurger. I also left a message with Larry Plote, the ND Division Manager. I was able to speak with Maurice on 19 February 2014 at 0940 hours. During the conversation he would not admit any fault, and appeared to attempt to push the blame back on the utility. I have not yet received a return call from Larry Plote.

PART 1 - SIGNATURE

Signature of Person Filing Complaint <i>Paul W. King</i>	Date <i>4/16/14</i>
---	------------------------

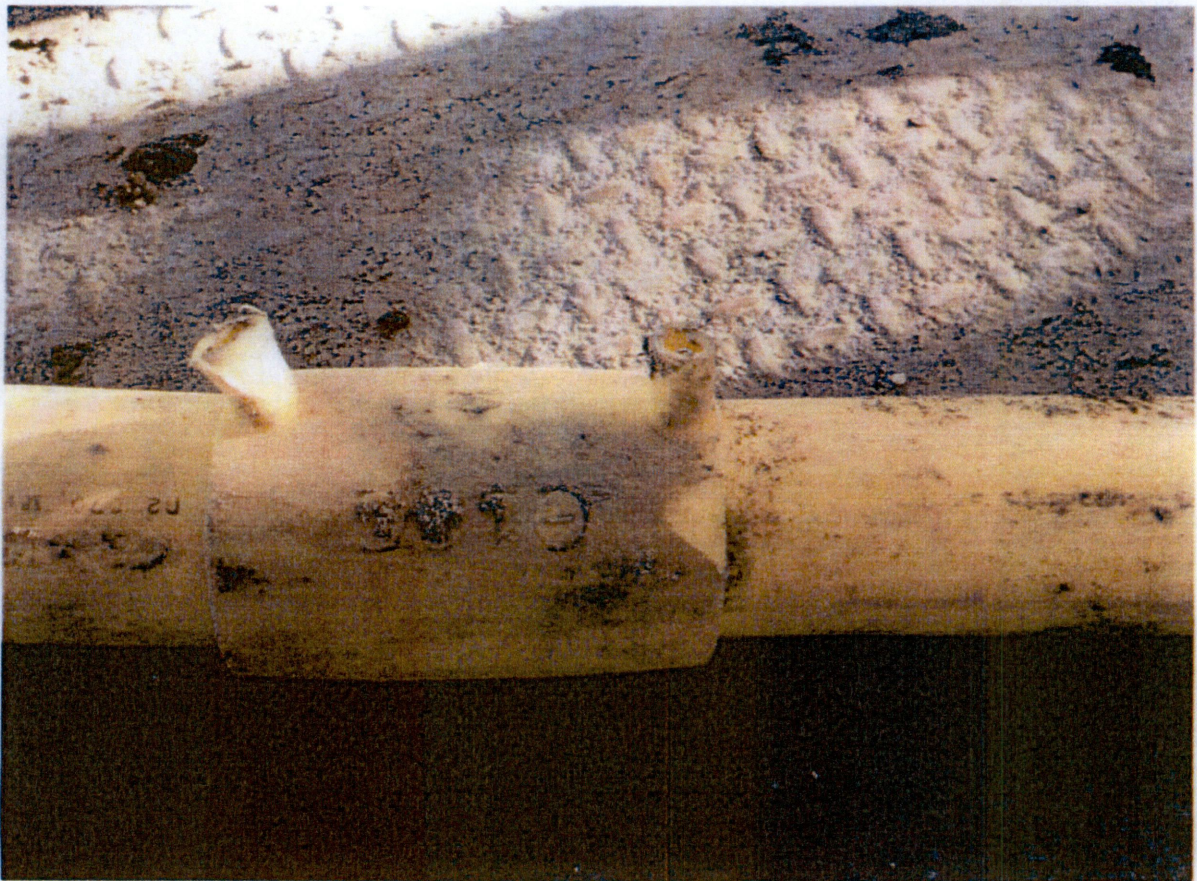
Please include additional documents and photos, if applicable.

***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

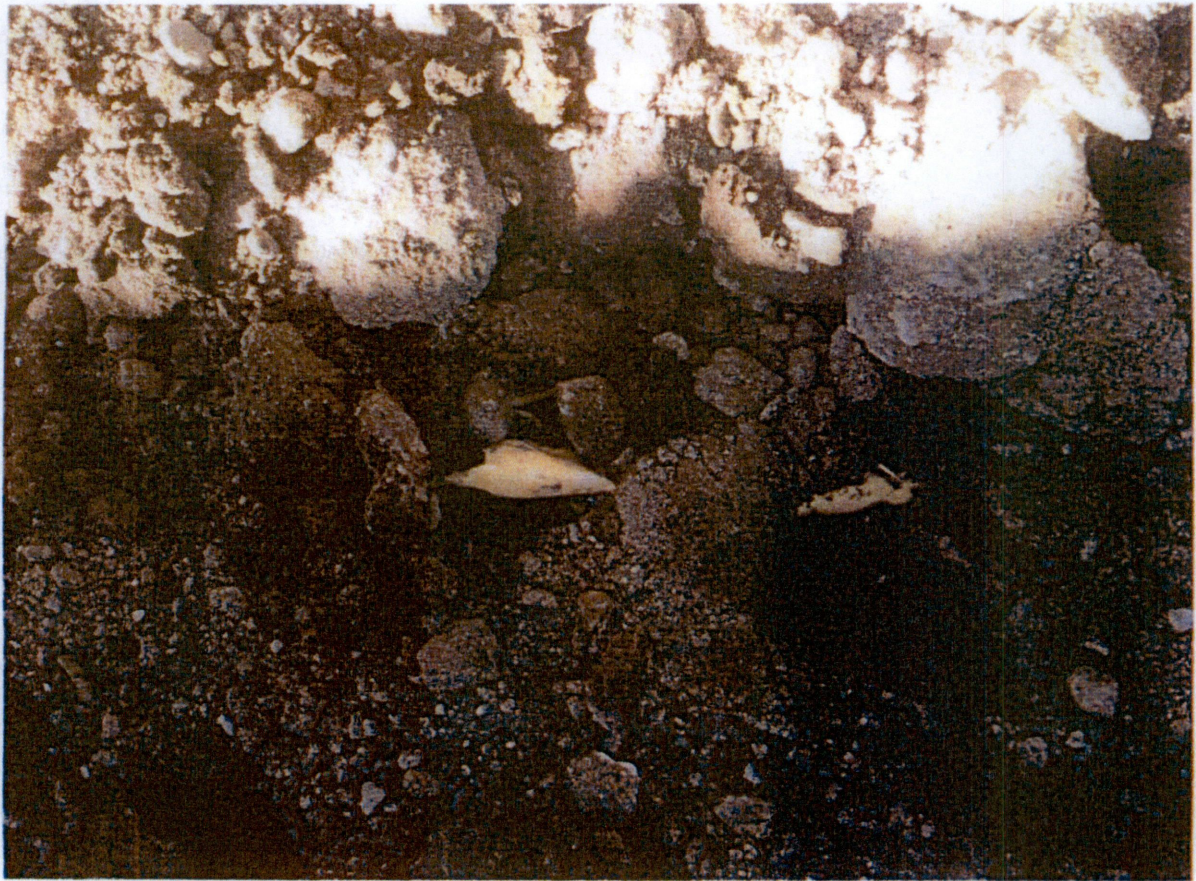
Damage 1



Damage 2



Damage 3





Damage # 5



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement

Case No. GS-14-216

Public Service Commission,)
Complainant,)
vs.)
Plote Construction ND, LLC)
Respondent.)

Complaint

The North Dakota Public Service Commission Advocacy Staff (Staff), for its complaint against Plote Construction ND, LLC, alleges and shows the following:

I

Plote Construction ND, LLC (Plote) is a registered North Dakota company with offices located at 1100 Brant Dr, Hoffman Estates, IL 60192-1676.

II

Montana-Dakota Utilities Company (MDU) is a registered Delaware corporation with offices located at 1200 West Century Avenue, Bismarck, ND 58506-5650.

III

North Dakota Century Code section 49-23-05(5) provides:

To avoid damage to and minimize interference with underground facilities in and near the construction area, an excavator shall conduct the excavation in a careful and prudent manner.

North Dakota Century Code section 49-23-01(3) provides:

“Careful and prudent manner” means excavating within twenty-four inches [60.96 centimeters] of the outer edges of an underground facility located manually and marked by the owner or operator by stakes, paint, or other customary manner, and supporting and protecting the uncovered facility.

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- 2. Provide support in a manner approved by the operator for underground facilities in and near the construction area, including backfill operations to protect the facilities. Backfill must be of a material equal to or better in both quality and quantity to the existing backfill.**
- 3. Assume ownership of materials used to mark the facility, use reasonable efforts to maintain markings during excavation, and when possible remove all tangible marking materials used to mark the facility.**
- 4. Assume the cost of excavation to expose the facility unless otherwise indicated by owner of facility.**
- 5. Conduct the excavation in a careful and prudent manner.**
- 6. Properly manage spoil material to prevent shifting or falling material that could damage belowground facilities.**

North Dakota Century Code section 28-32-22 provides:

Unless otherwise prohibited by specific statute or rule, informal disposition may be made of any adjudicative proceeding, or any part or issue thereof, by stipulation, settlement, waiver of hearing, consent order, default, alternative dispute resolution, or other informal disposition, subject to agency approval. Any administrative agency may adopt rules of practice or procedure for informal disposition if such rules do not substantially prejudice the rights of any party. Such rules may establish procedures for converting an administrative matter from one type of proceeding to another type of proceeding.

North Dakota Century Code section 49-07-01.1 provides:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the

commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapters 49-22 and 49-23, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. A violation occurring under chapter 49-23, in addition to any other penalty, is subject to a civil penalty not to exceed twenty-five thousand dollars. The commission shall develop policies for the assessment of penalties under chapter 49-23 which will take into consideration the severity of damages and the conduct of the offender. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

North Dakota Administrative Code section 69-02-04-05 provides:

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IV

On April 14, 2014, the Commission received a ND One-Call Complaint from Paul Riely, District Gas Superintendent for MDU. The complaint alleges a violation by Plote of North Dakota Century Code section 49-23-04(1) of the One-Call Excavation Notice System.

V

By its April 29, 2014 letter, attached as Exhibit 1, Staff informed Plote of MDU's complaint filing, and requested a response by May 20, 2014. Plote's May 8, 2014

response asserted that Plote was told by the general contractor for the site that utility service to the site would be turned off on the date of the excavation.

VI

As alleged by MDU's complaint, on February 18, 2014, Plote began an excavation as defined in North Dakota Century Code section 49-23-01(7) while digging footings for a maintenance building at 621 East 42nd Street in Williston, North Dakota. As a result of this excavation, damage was caused by a back-hoe to MDU's 2-inch medium pressure natural gas main distribution line causing an unintentional release of gas. MDU alleges that the cost to repair its facilities was approximately \$1051.41.

VII

Based on its investigation Staff determined that Plote personnel provided an excavation notice to the North Dakota One Call Notification Center (NDOC) on January 30, 2014, with work to begin in the area cited in the complaint to begin on February 3, 2014. The NDOC assigned locate ticket number 14006256 to the excavation notice, which indicates the work was being performed was underground utility, attached as Exhibit 3. Under North Dakota Century Code section 49-23-04(3)(g), the expiration date for the locate ticket is February 24, 2014. On February 18, 2014, Plote personnel began an excavation to dig footings for a maintenance building. Plote notified MDU of the damage on February, 18, 2014. No customers lost service as the area was a new residential development under construction. MDU has been reimbursed for cost of the damages from the excavation.

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Plote violated North Dakota Century Code section 49-23-05(5) by failing to conduct the excavation in a careful and prudent manner.

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X

The North Dakota Public Service Commission Damage Prevention Plan provides:

D PROPOSED CIVIL PENALTIES:

1. The following criteria must be used by Commission staff to determine if a civil penalty should be proposed when filing a formal complaint:
 - a. The nature, circumstances and severity of the complaint;
 - b. The degree of suspected fault on the part of the respondent;
 - c. The respondent's history of prior violations or complaints;
 - d. The respondent's ability to pay;
 - e. Any good faith effort by the respondent in attempting to achieve compliance; and
 - f. The effect the penalty may have on the respondent's ability to continue in business.

XI

The Respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the complaint, or the

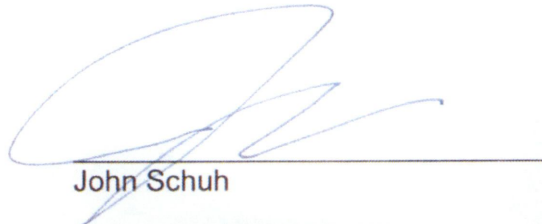
Commission may deem the complaint to be admitted. Answers must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

Prayer for Relief

Based on the foregoing, Staff seeks the following relief:

1. That the Commission find Plote in violation of North Dakota Century Code ch.49-23 for failing to comply with the One Call requirements enumerated in North Dakota Century Code section 49-23-05(5).
2. That the Commission impose an appropriate civil penalty up to \$25,000, but at least \$2000.
3. Such other relief that the Commission finds just and proper.

Dated this 3rd day of February, 2016



John Schuh

Public Service Commission Advocacy Counsel
State Capitol – 12th Floor
600 E Boulevard Ave – Dept. 408
Bismarck, North Dakota 58505-0480
701-328-2412

Victor Schock
Public Utility Analyst
Public Service Commission Advocacy Staff
State Capitol – 12th Floor
600 E Boulevard Ave – Dept 408
Bismarck, North Dakota 58505-0480
701-328-3397

APPROVED

DATE: 2-24-16

[Signature]

MOTION

February 24, 2016

**Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement**

Case No. GS-14-216

I move the Commission find the Formal Complaint filed by the North Dakota Public Service Commission Advocacy Staff on February 3, 2016, states a *prima facie* case, and serve the complaint on the Respondent in Public Service Commission, Plote Construction ND, LLC, Damage Prevention Enforcement, Case No. GS-14-216.

February 24, 2016

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-4080

RE: Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement
GS-14-216

Dear Mr. Nitschke:

On February 3, 2013, Advocacy Staff (Staff) filed a Formal Complaint in Public Service Commission Case No. GS-14-216. Staff inadvertently failed to attach the April 29, 2014 letter referenced in Section V of the Formal Complaint.

Enclosed for filing, please find a copy of the Formal Complaint filed February 3, 2016 along with the referenced April 29, 2014 letter.

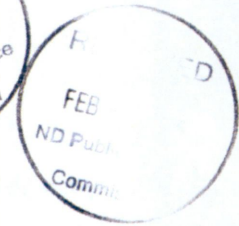
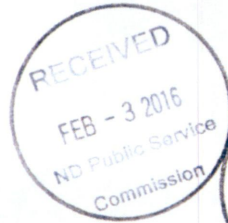
Sincerely,



John M. Schuh
Advocacy Counsel

Enclosures

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



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Plote Construction ND, LLC
Damage Prevention Enforcement

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 - d. The respondent's ability to pay;
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The Respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the complaint, or the

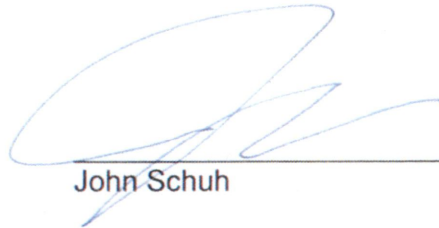
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2. That the Commission impose an appropriate civil penalty up to \$25,000, but at least \$2000.
3. Such other relief that the Commission finds just and proper.

Dated this 3rd day of February, 2016



John Schuh

Public Service Commission Advocacy Counsel
State Capitol – 12th Floor
600 E Boulevard Ave – Dept. 408
Bismarck, North Dakota 58505-0480
701-328-2412

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Public Utility Analyst
Public Service Commission Advocacy Staff
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Public Service Commission
State of North Dakota

COMMISSIONERS

Brian P. Kalk
Randy Christmann
Julie Fedorchak

Executive Secretary
Derrell Nitschke

600 East Boulevard, Dept. 4
Bismarck, North Dakota 58505-0
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2
ND Toll Free: 1-877-245-6
Fax: 701-328-2
TDD: 800-366-6888 or 701-328-2

April 29, 2014

CASE GS-14-216

Maurice Schurger
Plote Construction ND, LLC
P.O. Box 408
Alexander, ND 58831

Re: Third Party Damage Complaint

Dear Mr. Schurger:

Enclosed is a copy of a Third Party Damage Complaint against PLOTE CONSTRUCTION ND, LLC, (PLOTE) received by the North Dakota Public Service Commission (Commission) on February 14, 2014, from MONTANA DAKOTA UTILITIES (MDU). The location of the damage was at 621 E 42nd St, in the county of Williams, in the city of Williston, in North Dakota.

Please respond to the Third Party Complaint by **May 20, 2014**, 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 PLOTE;
- c) PLOTE's history of prior violations or complaints;
- d) PLOTE's ability to pay;
- e) Any good faith effort by PLOTE's in attempting to achieve compliance; and
- f) The effect the penalty may have on PLOTE's ability to continue in business.

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

Please send or e-mail written response to the Commission at the address above or call me at 701-220-5779.

Best regards,


Aaron A Morman
Pipeline Safety Inspector/Program Manager

C. Paul Reilly-MDU

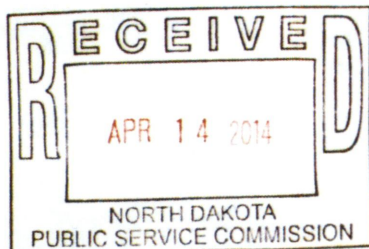
3 GS-14-216 Filed: 4/29/2014 Pages: 1
Letter enclosing third-party damage complaint



MONTANA-DAKOTA
UTILITIES CO.

A Division of MDU Resources Group, Inc.

220 2nd Ave East
P.O. Box 1407
Williston, ND 58802-1406
(701) 572-2152



April 14, 2014

Public Service Commission
600 E Blvd. Ave. Dept. 408
Bismarck, ND 58505-0480

To whom it may concern;

In response to the request at the bottom of the Third Party Damage Complaint form, SFN 59067 (11-12), regarding my authority to file a complaint on behalf of a company, please refer to the following information.

As the District Gas Superintendent for the Williston District of Montana-Dakota Utilities, I am "responsible for construction, operation, and maintenance of the gas transmission and distribution systems; and providing safe, reliable, economic service to our customers." This includes responding to any problems found with excavators working in vicinity with our natural gas system.

If you have any questions, feel free to contact me.

Sincerely

Paul Riely
District Gas Superintendent
(701) 572-1614
paul.riely@mdu.com



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

PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization Montana-Dakota Utilities Co.	Person Filing Information Paul Riely	Position District Gas Superintendent	
Address of Person Filing Information PO Box 1406	City Williston	State ND	Zip Code 58802	
Telephone Number 701-572-1614	Email Address paul.riely@mdu.com		Date 25 February 2014	

PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Plote Construction		Telephone Number 701-577-9000	
Address 14025 Bennett Loop	City Williston	State ND	Zip Code 58801
Name of Entity for Which Excavation Was Performed Sterling Construction Corporation		Telephone Number	
Address 3900 Edison Lakes Parkway, Suite 201	City Mishawaka	State IN	Zip Code 46546-2008

PART C – TIME AND LOCATION OF THE EVENT

Date and Time of Event 2/18/14, 1500 hours	Address of the Excavation and/or Damage 621 E 42nd St		
County Williams	City Williston	State ND	Zip Code 58801

PART D – FACILITY INVOLVED

Type of Facility Involved Gas Distribution Main Line	Operator of Facility and Contact Person (if known) Montana-Dakota Utilities Co., Paul Riely		
Address 220 2nd Ave East	City Williston	State ND	Zip Code 58801
Telephone Number 701-572-1614	Email Address (if known) paul.riely@mdu.com		
Brief Description of Facility Involved loop fed 2" PE medium pressure natural gas distribution main line			

PART E – DAMAGE (if applicable)

Fatalities None	Injuries none	Length of Hospitalization, If Applicable na
Estimated Value of Property Damage: \$ \$1051.41		Number of Customers Affected 0
Damaged Within <input type="checkbox"/> Public Property <input checked="" type="checkbox"/> Private Property		Photos of Damaged Facility <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If yes, please include copies)

PART F – EXCAVATION

Was a locate requested from North Dakota One-Call?		Start Date on Ticket
<input checked="" type="checkbox"/> Yes Locate Ticket Number		11/26/2013
<input type="checkbox"/> No		
<input type="checkbox"/> Unknown		
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 type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A

PART H – DESCRIPTION OF EVENT

<p>Description of Event</p> <p>On or about 1100 hours on 18 February 2014, Clay Pagdett an equipment operator with Plote Construction started to excavate in the area of our natural gas distribution system. This was the same operator with the same company who had damaged the same line a couple weeks earlier. I was notified by phone at 1532 hours on 18 February by the developer, that the contractor had again damaged our distribution main. A gas crew was immediately dispatched to the scene to repair the damage. The following is a statement of what he saw when he arrived on scene "I arrived on location and seen that the operator was working less than 50' from blowing gas. I ask the operator to dig a bell hole for us to squeeze off the 2" line. After squeezing the line I seen that the line had been hit not once but four times and the operator kept on working in the blowing gas. I than called my supervisor . When he arrived he took pictures. I made my repairs and left."</p>

Description of Event Continued

When I arrived on scene, I looked at the multiple damages and photographed the damages for our records. The following is an explanation of the type and location of the damages: The first damage was to a repair coupling located on the East side of the excavation, the coupling was damaged, but no gas loss took place. The second damage was to a second repair coupling 3 feet to the east. The coupling was severely damaged, but no gas loss took place. The third damage was to the gas main 10 feet to the east of the second. This damage caused a gas release through an approximate 2" diameter hole. The fourth damage was two feet from the third, with gas loss from a 2" diameter hole. The fifth damage was to the gas main about 15 feet from the fourth damage. This damage caused a gas release through a 1/2" x 3' crack in the plastic main. The operator continued to dig in the vicinity of the gas release, the entire time, even during the repair of the gas main. When MDU's gas crew foreman talked with the equipment operator, the operator had a very nonchalant attitude about the damage, and gave off a do not care attitude. It was very apparent, that they did not follow the 2' had dig zone during this project. That afternoon I left a message with the Project manager for Plote Construction, Maurice Schurger. I also left a message with Larry Plote, the ND Division Manager. I was able to speak with Maurice on 19 February 2014 at 0940 hours. During the conversation he would not admit any fault, and appeared to attempt to push the blame back on the utility. I have not yet received a return call from Larry Plote.

PART 3 - SIGNATURE

Signature of Person Filing Complaint <i>Paul W. King</i>	Date 4/16/14
---	-----------------

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

Damage 1



Damage 2



Damage 3





Damage 4

Damage # 5



APPROVED

DATE: 2-24-16

[Signature]

MOTION

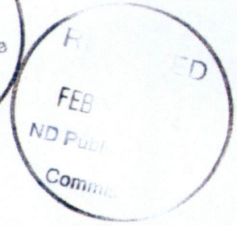
February 24, 2016

Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement

Case No. GS-14-216

I move the Commission find the Formal Complaint filed by the North Dakota Public Service Commission Advocacy Staff on February 3, 2016, states a *prima facie* case, and serve the complaint on the Respondent in Public Service Commission, Plote Construction ND, LLC, Damage Prevention Enforcement, Case No. GS-14-216.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement

Case No. GS-14-216

Public Service Commission,)
Complainant,)
vs.)
Plote Construction ND, LLC)
Respondent.)

Complaint

The North Dakota Public Service Commission Advocacy Staff (Staff), for its complaint against Plote Construction ND, LLC, alleges and shows the following:

I

Plote Construction ND, LLC (Plote) is a registered North Dakota company with offices located at 1100 Brant Dr, Hoffman Estates, IL 60192-1676.

II

Montana-Dakota Utilities Company (MDU) is a registered Delaware corporation with offices located at 1200 West Century Avenue, Bismarck, ND 58506-5650.

III

North Dakota Century Code section 49-23-05(5) provides:

To avoid damage to and minimize interference with underground facilities in and near the construction area, an excavator shall conduct the excavation in a careful and prudent manner.

North Dakota Century Code section 49-23-01(3) provides:

"Careful and prudent manner" means excavating within twenty-four inches [60.96 centimeters] of the outer edges of an underground facility located manually and marked by the owner or operator by stakes, paint, or other customary manner, and supporting and protecting the uncovered facility.

North Dakota Century Code section 49-23-05 provides:

To avoid damage to and minimize interference with underground facilities in and near the construction area, an excavator shall:

1. Maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the facility.
2. Provide support in a manner approved by the operator for underground facilities in and near the construction area, including backfill operations to protect the facilities. Backfill must be of a material equal to or better in both quality and quantity to the existing backfill.
3. Assume ownership of materials used to mark the facility, use reasonable efforts to maintain markings during excavation, and when possible remove all tangible marking materials used to mark the facility.
4. Assume the cost of excavation to expose the facility unless otherwise indicated by owner of facility.
5. Conduct the excavation in a careful and prudent manner.
6. Properly manage spoil material to prevent shifting or falling material that could damage belowground facilities.

North Dakota Century Code section 28-32-22 provides:

Unless otherwise prohibited by specific statute or rule, informal disposition may be made of any adjudicative proceeding, or any part or issue thereof, by stipulation, settlement, waiver of hearing, consent order, default, alternative dispute resolution, or other informal disposition, subject to agency approval. Any administrative agency may adopt rules of practice or procedure for informal disposition if such rules do not substantially prejudice the rights of any party. Such rules may establish procedures for converting an administrative matter from one type of proceeding to another type of proceeding.

North Dakota Century Code section 49-07-01.1 provides:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the

commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapters 49-22 and 49-23, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. A violation occurring under chapter 49-23, in addition to any other penalty, is subject to a civil penalty not to exceed twenty-five thousand dollars. The commission shall develop policies for the assessment of penalties under chapter 49-23 which will take into consideration the severity of damages and the conduct of the offender. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

North Dakota Administrative Code section 69-02-04-05 provides:

In any proceeding in which the commission is authorized to act after opportunity for hearing, opportunity is afforded by service of notice fixing a reasonable period of time within which any person desiring to be heard may file a protest or request for a hearing. If a protest or request for hearing is not filed within the time provided, the commission may dispose of the matter on the basis of the pleadings, other submittals, and the studies and recommendations of the staff. A party not requesting oral hearing in the party's pleading is deemed to have waived a hearing for the purpose of the decision, but not for the purpose of applying for rehearing with respect to the decision. If a person requests a hearing but does not show good cause, the commission may determine the matter without a hearing.

IV

On April 14, 2014, the Commission received a ND One-Call Complaint from Paul Riely, District Gas Superintendent for MDU. The complaint alleges a violation by Plote of North Dakota Century Code section 49-23-04(1) of the One-Call Excavation Notice System.

V

By its April 29, 2014 letter, attached as Exhibit 1, Staff informed Plote of MDU's complaint filing, and requested a response by May 20, 2014. Plote's May 8, 2014

response asserted that Plote was told by the general contractor for the site that utility service to the site would be turned off on the date of the excavation.

VI

As alleged by MDU's complaint, on February 18, 2014, Plote began an excavation as defined in North Dakota Century Code section 49-23-01(7) while digging footings for a maintenance building at 621 East 42nd Street in Williston, North Dakota. As a result of this excavation, damage was caused by a back-hoe to MDU's 2-inch medium pressure natural gas main distribution line causing an unintentional release of gas. MDU alleges that the cost to repair its facilities was approximately \$1051.41.

VII

Based on its investigation Staff determined that Plote personnel provided an excavation notice to the North Dakota One Call Notification Center (NDOC) on January 30, 2014, with work to begin in the area cited in the complaint to begin on February 3, 2014. The NDOC assigned locate ticket number 14006256 to the excavation notice, which indicates the work was being performed was underground utility, attached as Exhibit 3. Under North Dakota Century Code section 49-23-04(3)(g), the expiration date for the locate ticket is February 24, 2014. On February 18, 2014, Plote personnel began an excavation to dig footings for a maintenance building. Plote notified MDU of the damage on February, 18, 2014. No customers lost service as the area was a new residential development under construction. MDU has been reimbursed for cost of the damages from the excavation.

VIII

Plote violated North Dakota Century Code section 49-23-05(5) by failing to conduct the excavation in a careful and prudent manner.

IX

North Dakota Century Code section 49-07-01.1 provides:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapter 49-22, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

X

The North Dakota Public Service Commission Damage Prevention Plan provides:

D PROPOSED CIVIL PENALTIES:

1. The following criteria must be used by Commission staff to determine if a civil penalty should be proposed when filing a formal complaint:
 - a. The nature, circumstances and severity of the complaint;
 - b. The degree of suspected fault on the part of the respondent;
 - c. The respondent's history of prior violations or complaints;
 - d. The respondent's ability to pay;
 - e. Any good faith effort by the respondent in attempting to achieve compliance; and
 - f. The effect the penalty may have on the respondent's ability to continue in business.

XI

The Respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the complaint, or the

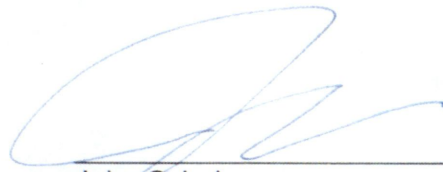
Commission may deem the complaint to be admitted. Answers must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

Prayer for Relief

Based on the foregoing, Staff seeks the following relief:

1. That the Commission find Plote in violation of North Dakota Century Code ch.49-23 for failing to comply with the One Call requirements enumerated in North Dakota Century Code section 49-23-05(5).
2. That the Commission impose an appropriate civil penalty up to \$25,000, but at least \$2000.
3. Such other relief that the Commission finds just and proper.

Dated this 3rd day of February, 2016



John Schuh

Public Service Commission Advocacy Counsel
State Capitol – 12th Floor
600 E Boulevard Ave – Dept. 408
Bismarck, North Dakota 58505-0480
701-328-2412

Victor Schock
Public Utility Analyst
Public Service Commission Advocacy Staff
State Capitol – 12th Floor
600 E Boulevard Ave – Dept 408
Bismarck, North Dakota 58505-0480
701-328-3397

**Public Service Commission
Tower Systems, Inc.
Damage Prevention Enforcement**

Case No. PU-14-845

I move the Commission appoint John Schuh as advocacy staff in Public Service Commission, Robert Gibb & Sons, Inc., Damage Prevention Enforcement, Case No. GS-13-613; Public Service Commission, Plote Construction ND, LLC, Damage Prevention Enforcement, Case No. GS-14-216; Public Service Commission, Rock Solid Excavating, Inc., Damage Prevention Enforcement, Case No. GS-14-633; Public Service Commission, On Grade Excavation LLC, Damage Prevention Enforcement, Case No. PU-14-664; Public Service Commission, Merryman Excavation, Inc., Damage Prevention Enforcement, Case No. GS-14-696; Public Service Commission, Envision Land & Development, LLC, Damage Prevention Enforcement, Case No. PU-14-702; Public Service Commission, MBC Corp., Damage Prevention Enforcement, Case No. GS-14-725; Public Service Commission, Landwehr Construction, Inc., Damage Prevention Enforcement, Case No. GS-14-727; Public Service Commission, R.J. Corman Derailment Services, LLC, Damage Prevention Enforcement, Case No. GS-14-740; Public Service Commission, Keller Paving & Landscaping, Inc., Damage Prevention Enforcement, Case No. GS-14-741; and Public Service Commission, Tower Systems, Inc., Damage Prevention Enforcement, Case No. PU-14-845.

PJF

APPROVED

DATE: 10-8-14
[Signature]

MOTION

October 8, 2014

**Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement**

Case No. GS-14-216

I move the Commission reassign the appointment of advocacy staff to Victor Schock effective October 1, 2014, in Public Service Commission, Plote Construction ND, LLC Damage Prevention Enforcement, Case No. GS-14-216.

PJF

APPROVED

DATE: 8-20-14
§

MOTION

August 20, 2014

**Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement**

Case No. GS-14-216

I move the Commission rescind the May 6, 2014 motion and appoint Aaron Morman as advocacy staff effective April 14, 2014, in Public Service Commission, Plote Construction ND, LLC, Damage Prevention Enforcement, Case No. GS-14-216.

PJF



908 Elk Street
Alexander, ND 58831
701-577-9000
701-842-2665

www.ploteconstructionnd.com

May 8, 2014

Public Service Commission
State of North Dakota
Mr. Aaron Morman
600 East Boulevard, Dept 408
Bismarck, ND 58505-0480



RE: Case GS-14-216

Dear Sir:

In response to the above referenced complaint I offer the following information:

As you are aware this line was struck on two occasions, when the first strike occurred we failed to check to see if the locates on this project had been updated before we started to dig. After the strike occurred and it turned out that we did not have current line locates we changed our internal procedures triggering updates within the required timeframe for all open projects on a continuous basis. The updates on the line locates do not stop being requested until the project is complete. When the first strike occurred we discovered that the power line and the gas line in the trench were installed in a location that fell within the spread footing of the building. The result being that the lines would have to be moved or the building location would have to be moved. Our project foreman was the one digging the trench; he stopped digging as soon as he was aware the gas line had been struck.

This was the occasion that there was an exchange of words between our employee and the MDU supervisor who accused our employees of installing the gas and electric lines in the wrong place. He said as we had dug the trench for the lines we should have known they were there. As it turns out we did not dig the trench, a subcontractor of either MDU or Mountrail Williams had dug the errant trench. According to our foreman the real heated words were between someone from MDU and a representative of Sterling Construction who is the general contractor.

The result of this occurrence indicated that we needed to change our internal procedures to ensure that the line locates are kept current. This was done and continues today. We paid the charges assessed to us by MDU.

The second incident, the one that triggered your inquiry occurred on 2/18/2014. Our client Sterling Construction needed the excavation for the footings for the Maintenance Building completed as soon

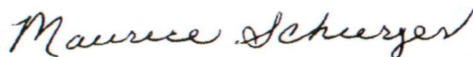
as possible so that construction on the Maintenance Building could begin. The sewer lift station necessary to operate the sanitary sewer system with the Northgate complex is controlled from the Maintenance Building. We were told by Sterling Construction that they would get the gas and electricity shut down until the excavation for the footing was being completed. When we were informed by Sterling Construction that the shutdown would occur we scheduled time to complete the excavation. The footing excavation was complete and our foreman was checking the elevation in the excavation when he discovered the leaking gas. By this time he had returned the excavator to the area onsite where the machinery is stored. About 1.5 hours to 2 hours later MDU repairmen arrived to stop the leak. It was requested of our foreman that he bring our excavator back to the trench and excavate an area around the line to enable the repair to be made. When this was done he returned the machine to the storage area. There were never any cross words spoken between the MDU repairmen or our foreman according to our foreman. The cross words that he heard were between MDU supervisor and Sterling Construction supervisor.

The result of this occurrence is; we paid the repair charges assessed us by MDU. We established a policy that if the ground conditions are such that we cannot excavate safely and do the necessary hand excavation due to extreme cold we will not perform the work. Further, if work has to occur where there is a high likelihood of damage to a line which requires a line be deadened, work will not proceed until a supervisory individual from the affected utility verifies that the line is inactive.

Now regarding my conversation with Paul Reily, there didn't seem to be a need to accept blame because he made it quite clear during the conversation that blame had already been determined. My side of the conversation with him was to try to ascertain what had taken place on the site and what could be done in the future to avoid situations such as this occurring again. The result of the conversation was the policy outlined above that was put in place within our Company.

Around March 19, 2014 we dug a trench parallel with the affected line away from the building so that the gas and power lines could be relocated, we did not charge our client or MDU for digging this trench. Interactions between Developers, Utilities, Locators and Contractors need to be a team effort with all parties cooperating with one another to avoid safety issues and property damage while achieving realistic installation goals for the developer. As someone who has come to this area from another state having had the opportunity to work with Utilities in many different areas of the Country including other MDU operations the Spirit of Cooperation is slipping or not present here. Perhaps it is time for a dialogue between the Utilities, Developers, Locators and Contractors moderated by the Public Service Commission. The primary goal of the complaint/response process is to prevent accidents from re-occurring; speaking for Plote Construction this is our goal too!

Best Regards,



Maurice Schurger

Project Manager

Plote Construction ND LLC

CC: File, 13002/MDU



Public Service Commission
State of North Dakota

COMMISSIONERS

Brian P. Kalk
Randy Christmann
Julie Fedorchak

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 4
Bismarck, North Dakota 58505-0
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2444
ND Toll Free: 1-877-245-6444
Fax: 701-328-2444
TDD: 800-366-6888 or 701-328-2444

April 29, 2014

CASE GS-14-216

Maurice Schurger
Plote Construction ND, LLC
P.O. Box 408
Alexander, ND 58831

Re: Third Party Damage Complaint

Dear Mr. Schurger:

Enclosed is a copy of a Third Party Damage Complaint against PLOTE CONSTRUCTION ND, LLC, (PLOTE) received by the North Dakota Public Service Commission (Commission) on February 14, 2014, from MONTANA DAKOTA UTILITIES (MDU). The location of the damage was at 621 E 42nd St, in the county of Williams, in the city of Williston, in North Dakota.

Please respond to the Third Party Complaint by **May 20, 2014**, 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 PLOTE;
- c) PLOTE's history of prior violations or complaints;
- d) PLOTE's ability to pay;
- e) Any good faith effort by PLOTE's in attempting to achieve compliance; and
- f) The effect the penalty may have on PLOTE's ability to continue in business.

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

Please send or e-mail written response to the Commission at the address above or call me at 701-220-5779.

Best regards,

Aaron A Morman
Pipeline Safety Inspector/Program Manager

C. Paul Reily-MDU

3 GS-14-216 Filed: 4/29/2014 Pages: 1
Letter enclosing third-party damage complaint

APPROVED

DATE: 5-6-14

MOTION

May 6, 2014

Public Service Commission
Plote Construction ND, LLC
Damage Prevention Enforcement

Case No. GS-14-216

I move the Commission appoint Aaron Morman and Patrick Fahn as advocacy staff effective April 14, 2014, in the Public Service Commission damage enforcement action concerning Plote Construction ND, LLC, Case No. GS-14-216.

PJF

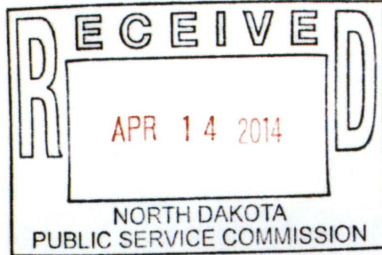


MONTANA-DAKOTA

UTILITIES CO.

A Division of MDU Resources Group, Inc.

220 2nd Ave East
P.O. Box 1407
Williston, ND 58802-1406
(701) 572-2152



April 14, 2014

Public Service Commission
600 E Blvd. Ave. Dept. 408
Bismarck, ND 58505-0480

To whom it may concern;

In response to the request at the bottom of the Third Party Damage Complaint form, SFN 59067 (11-12), regarding my authority to file a complaint on behalf of a company, please refer to the following information.

As the District Gas Superintendent for the Williston District of Montana-Dakota Utilities, I am "responsible for construction, operation, and maintenance of the gas transmission and distribution systems; and providing safe, reliable, economic service to our customers." This includes responding to any problems found with excavators working in vicinity with our natural gas system.

If you have any questions, feel free to contact me.

Sincerely

Paul Riely
District Gas Superintendent
(701) 572-1614
paul.riely@mdu.com



THIRD PARTY DAMAGE COMPLAINT

Public Service Commission

SFN 59067 (11-12)

PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization Montana-Dakota Utilities Co.	Person Filing Information Paul Riely	Position District Gas Superintendent	
Address of Person Filing Information PO Box 1406	City Williston		State ND	Zip Code 58802
Telephone Number 701-572-1614	Email Address paul.riely@mdu.com		Date 25 February 2014	

PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Plote Construction		Telephone Number 701-577-9000		
Address 14025 Bennett Loop	City Williston	State ND	Zip Code 58801	
Name of Entity for Which Excavation Was Performed Sterling Construction Corporation		Telephone Number		
Address 3900 Edison Lakes Parkway, Suite 201	City Mishawaka	State IN	Zip Code 46546-2008	

PART C – TIME AND LOCATION OF THE EVENT

Date and Time of Event 2/18/14, 1500 hours	Address of the Excavation and/or Damage 621 E 42nd St		
County Williams	City Williston	State ND	Zip Code 58801

PART D – FACILITY INVOLVED

Type of Facility Involved Gas Distribution Main Line	Operator of Facility and Contact Person (if known) Montana-Dakota Utilities Co., Paul Riely		
Address 220 2nd Ave East	City Williston	State ND	Zip Code 58801
Telephone Number 701-572-1614	Email Address (if known) paul.riely@mdu.com		
Brief Description of Facility Involved loop fed 2" PE medium pressure natural gas distribution main line			

PART E – DAMAGE (if applicable)

Fatalities None	Injuries none	Length of Hospitalization, If Applicable na
Estimated Value of Property Damage: \$ \$1051.41		Number of Customers Affected 0
Damaged Within <input type="checkbox"/> Public Property <input checked="" type="checkbox"/> Private Property		Photos of Damaged Facility <input checked="" 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	Start Date on Ticket <input type="text" value="11/26/2013"/>
<input type="checkbox"/> No	
<input type="checkbox"/> Unknown	
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 type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A

PART H – DESCRIPTION OF EVENT

<p>Description of Event</p> <p>On or about 1100 hours on 18 February 2014, Clay Pagdett an equipment operator with Plote Construction started to excavate in the area of our natural gas distribution system. This was the same operator with the same company who had damaged the same line a couple weeks earlier. I was notified by phone at 1532 hours on 18 February by the developer, that the contractor had again damaged our distribution main. A gas crew was immediately dispatched to the scene to repair the damage. The following is a statement of what he saw when he arrived on scene "I arrived on location and seen that the operator was working less than 50' from blowing gas. I ask the operator to dig a bell hole for us to squeeze off the 2" line. After squeezing the line I seen that the line had been hit not once but four times and the operator kept on working in the blowing gas. I than called my supervisor . When he arrived he took pictures. I made my repairs and left."</p>

Description of Event Continued

When I arrived on scene, I looked at the multiple damages and photographed the damages for our records. The following is an explanation of the type and location of the damages: The first damage was to a repair coupling located on the East side of the excavation, the coupling was damaged, but no gas loss took place. The second damage was to a second repair coupling 3 feet to the east. The coupling was severely damaged, but no gas loss took place. The third damage was to the gas main 10 feet to the east of the second. This damage caused a gas release through an approximate 2" diameter hole. The fourth damage was two feet from the third, with gas loss from a 2" diameter hole. The fifth damage was to the gas main about 15 feet from the fourth damage. This damage caused a gas release through a 1/2" x 3' crack in the plastic main. The operator continued to dig in the vicinity of the gas release, the entire time, even during the repair of the gas main. When MDU's gas crew foreman talked with the equipment operator, the operator had a very nonchalant attitude about the damage, and gave off a do not care attitude. It was very apparent, that they did not follow the 2' had dig zone during this project. That afternoon I left a message with the Project manager for Plote Construction, Maurice Schurger. I also left a message with Larry Plote, the ND Division Manager. I was able to speak with Maurice on 19 February 2014 at 0940 hours. During the conversation he would not admit any fault, and appeared to attempt to push the blame back on the utility. I have not yet received a return call from Larry Plote.

PART 1 - SIGNATURE

Signature of Person Filing Complaint	Date
<i>Paula King</i>	4/16/14

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

Damage 1



Damage 2



Damage 3





Damage 4

Damage # 5

