

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-14-216
)	
vs.)	CONSENT AGREEMENT
)	
Plote Construction ND, LLC.,)	
)	
Respondent .)	

Preliminary Statement

On April 14, 2014, the Commission received a ND One-Call Complaint from Montana-Dakota Utilities Company (MDU). The complaint alleged a violation by Plote Construction ND, LLC (“Plote”) of North Dakota Century Code section 49-23-05(5) by failing to excavate in a careful and prudent manner.

North Dakota Century Code section 49-23-05(5) provides that an “excavator shall conduct the excavation in a careful and prudent manner.” As a result of its investigation, Public Service Commission Advocacy Staff (“Advocacy Staff”) believed Plote violated North Dakota Century Code section 49-23-05(5) and Advocacy Staff initiated an administrative action against Plote.

Plote and Advocacy Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that entry of this Consent Agreement is the most appropriate means of resolving this administrative action, Advocacy Staff and Plote make the following agreement, subject to the approval and acceptance of the

Commission:

1. On February 23, 2016, Advocacy Staff filed a formal complaint with the Commission.
2. On March 21, 2016, Plote filed a response contesting the allegations.
3. Plote and Advocacy Staff engaged in good faith settlement discussions.
4. This Agreement is intended to resolve the violation alleged in the complaint.

Advocacy Staff and Plote agree to settle this matter on the following terms:

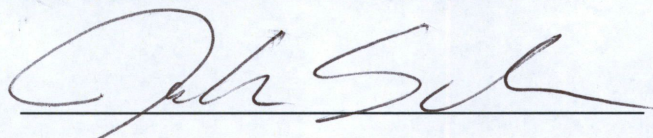
- a. The Formal Complaint alleges Plote violated North Dakota Century Code section 49-23-05(5).
- b. Pursuant to good faith settlement discussions, Plote agrees to be assessed a civil penalty of \$2,000, payable to the North Dakota Public Service Commission within ten business days of service of an order accepting or adopting the Consent Agreement.
- c. If approved by the Commission, Plote expressly waives any further procedural requirements with respect to the issuance of the Consent Agreement and Order. Plote waives its right to contest this matter or the validity of this Consent Agreement and Order, including all rights to administrative or judicial hearings or appeals.
- d. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
- e. It is understood and agreed that this settlement of the contested violation is a compromise of a disputed claim and payment of the \$2,000.00 civil

penalty to the North Dakota Public Service Commission should not be construed as an admission of liability on the part of Plote, by whom liability is expressly denied.

5. This agreement may be executed in counterparts and duplicate copies, each which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.
6. The undersigned is authorized to act on behalf of Plote and bind Plote for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 15th day of December, 2016

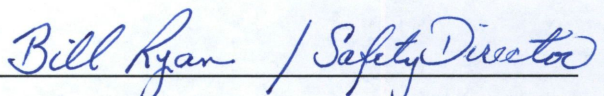
PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

By: 

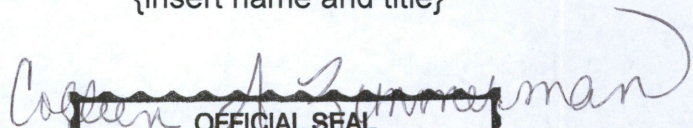
John M. Schuh
Advocacy Counsel
12th Floor, Dept. 408
600 Boulevard Ave.
Bismarck, ND 58505-0480

Dated this 1st day of December, 2016

Plote Construction

By: 

{insert name and title}


OFFICIAL SEAL
COLLEEN A. ZIMMERMAN
Notary Public - State of Illinois
My Commission Expires 1/23/2020