

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Public Service Commission  
Central Specialties, Inc.  
Damage Prevention Enforcement

Case No. PU-15-799

AFFIDAVIT OF SERVICE BY CERTIFIED AND REGULAR 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 **15th day of December, 2016**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing photocopy of:

- **Order on Consent Agreement**

The envelope was addressed as follows:

Allan Minnerath  
Central Specialties, Inc.  
6325 County Road 87 SW  
Alexandria, MN 56308-5361  
**Cert. No. 7015 0640 0006 6993 6415**

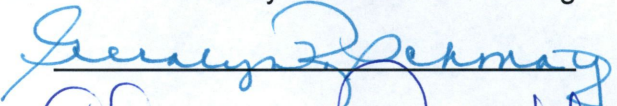
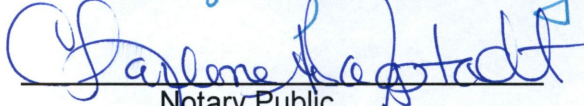
**Geralyn R. Schmaltz** further deposes and says that on the **15th day of December, 2016**, she deposited in the United States Mail, Bismarck, North Dakota, one envelope by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

The envelope was addressed as follows:

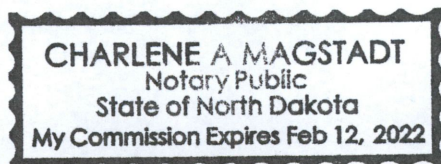
Kent Kahl  
WBI Energy Transmission  
1250 West Century Avenue  
Bismarck, ND 58506

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

Subscribed and sworn to before me  
this **15th day of December, 2016**.

  
  
Notary Public

SEAL



15 PU-15-799 Filed: 12/15/2016 Pages: 7  
Affidavit of Service, Cert. & Reg. Mail - Order on  
Consent Agreement

Public Service Commission

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Central Specialties, Inc.  
Damage Prevention Enforcement**

**Case No. PU-15-799**

**ORDER ON CONSENT AGREEMENT**

**December 14, 2016**

**Preliminary Statement**

On November 22, 2016, the Public Service Commission Advocacy Staff filed a Consent Agreement with Central Specialties, Inc.

**Discussion**

On December 23, 2015, the Commission received a ND One-Call Complaint from WBI Energy alleging a violation by Central Specialties, Inc. (Central) of North Dakota Century Code section 49-23-04 by failing to renew excavation or location notice prior to the expiration of the twenty-one day ticket period.

North Dakota Century Code section 49-23-04 provides that an "excavator shall contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation" and renew the locate prior to expiration of the twenty-one day ticket period. As a result of its investigation, Public Service Commission Advocacy Staff (Advocacy Staff) believed Central violated North Dakota Century Code section 49-23-04(1) and Advocacy Staff initiated an administrative action against Central.

On April 15, 2016, Advocacy Staff filed a formal complaint with the Commission.

On June 13, 2016, Central filed a response to the formal complaint admitting the allegations but requested a hearing for reduction of proposed penalties.

Central and Advocacy Staff engaged in good faith settlement discussions resulting in a Consent Agreement. Advocacy Staff, having reviewed Central's absence of prior offenses, willingness to engage in good faith discussions, and acceptance of culpability, determined that a Consent Agreement is appropriate. The Agreement is intended to resolve all of the violations alleged in the complaint.

Under the Consent Agreement, Central agrees to be assessed a civil penalty of \$15,000. Central agrees to remit \$10,000 of the \$15,000, payable to the North Dakota

Public Service Commission, within ten business days of service of this Order. The remaining \$5000 civil penalty is suspended on the condition that Central commits no further violations of the North Dakota One Call Law (North Dakota Century Code Chapter 49-23) within five years of the date of this order.

In the event the Commission finds Central violated the North Dakota One Call Law within five years of the date of the order, Central shall remit the suspended portion of the penalty, \$5000, within the time ordered by the Commission, in addition to any additional fines or penalties imposed for the subsequent violation.

If within five years of the date of the order there is no subsequent violation of the North Dakota One Call Law by Central, the suspended portion of the penalty, \$5000, is withdrawn.

Having considered this matter, the Commission finds the Consent Agreement filed on November 22, 2016 is reasonable and acceptable. Therefore, the Commission issues the following:

### Order

The Commission Orders:

1. The Consent Agreement filed by Central and Advocacy Staff on November 22, 2016 is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
2. Central will remit a penalty of \$10,000, payable to the North Dakota Public Service Commission within ten business days of service of this Order.

### PUBLIC SERVICE COMMISSION

  
Randy Christmann  
Commissioner

  
Julie Fedorchak  
Chairman

  
Brian P. Kalk  
Commissioner

**BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA**

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|                                   |   |                           |
|-----------------------------------|---|---------------------------|
| <b>PUBLIC SERVICE COMMISSION,</b> | ) |                           |
|                                   | ) |                           |
| <b>Complainant,</b>               | ) | <b>Case No. PU-15-799</b> |
|                                   | ) |                           |
| <b>vs.</b>                        | ) | <b>CONSENT AGREEMENT</b>  |
|                                   | ) |                           |
| <b>Central Specialties, Inc.,</b> | ) |                           |
|                                   | ) |                           |
| <b>Respondent.</b>                | ) |                           |

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**Preliminary Statement**

On December 23, 2015, the Commission received a ND One-Call Complaint from Kent Kahl from WBI. The complaint alleged a violation by Central Specialties Inc. ("Central") of North Dakota Century Code section 49-23-04 by failing to renew excavation or location notice prior to the expiration of the twenty-one day ticket period.

North Dakota Century Code section 49-23-04 provides that an "excavator shall contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation" and renew the locate prior to expiration of the twenty-one day ticket period. As a result of its investigation, Public Service Commission Advocacy Staff ("Advocacy Staff") believed Central violated North Dakota Century Code section 49-23-04(1) and Advocacy Staff initiated an administrative action against Central.

Central and Advocacy Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Advocacy Staff, having reviewed Central's absence of prior offenses, willingness to engage in good faith discussions, and

acceptance of culpability, has determined that a Consent Agreement is appropriate.

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 Central make the following agreement, subject to the approval and acceptance of the Commission:

1. On April 15, 2016, Advocacy Staff filed a formal complaint with the Commission.
2. On June 13, 2016, Central filed a response to the formal complaint admitting the allegations but requested a hearing for reduction of proposed penalties.
3. This Agreement is intended to resolve all of the violations alleged in the complaint. Advocacy Staff and Central agree to settle this matter on the following terms:

- a. Central agrees to be assessed a civil penalty of \$15,000. Central agrees to remit \$10,000 of the \$15,000, payable to the North Dakota Public Service Commission, within ten business days of service of an Order approving the Consent Agreement. The remaining \$5000 civil penalty is suspended on the condition that Central commits no further violations of the North Dakota One Call Law (North Dakota Century Code Chapter 49-23) within five years of the date of this order.
- b. In the event the Commission finds Central violated the North Dakota One Call Law within five years of the date of the order, Central shall remit the suspended portion of the penalty, \$5000, within the time ordered by the

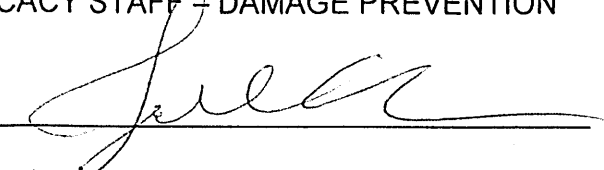
Commission, in addition to any additional fines or penalties imposed for the subsequent violation.

- c. If within five years of the date of the order there is no subsequent violation of the North Dakota One Call Law by Central, the suspended portion of the penalty, \$5000, is withdrawn.
  - d. If approved by the Commission, Central expressly waives any further procedural requirements with respect to the issuance of the Consent Agreement and Order. Central 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.
  - e. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
4. 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.
5. The undersigned is authorized to act on behalf of Central and bind Central for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 22<sup>nd</sup> day of November, 2016

PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF - DAMAGE PREVENTION

By: \_\_\_\_\_

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

Dated this 17<sup>th</sup> day of NOVEMBER, 2016

Central Specialties, Inc.

By: \_\_\_\_\_

  
Allan Minnerath, Owner

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