



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

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Bismarck, North Dakota 58505-0480  
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Phone: 701-328-2400  
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April 21, 2017

Connie M. Kassian  
Centurylink Communications, LLC.  
1101 16<sup>th</sup> St NE  
Mandan, ND 58554

Re: ND One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Ms. Kassian,

Enclosed is a copy of a ND One-Call Complaint, with attachments, against CenturyLink Communication, LLC, received by the North Dakota Public Service Commission on April 13, 2017, from Matt Olson, at Veit & Company, Inc., of Mandan, ND, Case Number PU-17-147. The location of the incident identified in the complaint is approximately the intersection of Old Red Trail and Highland Road West in Mandan, ND.

I am sending you this information so that you are aware of the complaint and may respond with information concerning the complaint. **Please respond to Darrell Nitschke, Executive Secretary, North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept 408, Bismarck, ND 58505-0480 by May 8, 2017**, with your written account of the event, including the applicable One Call locate ticket number for work performed at the address indicated.

Your response and the ND One-Call Complaint will be reviewed to determine whether there may be a violation of the One-Call Excavation Notice System law.

If I do not receive a response by the date noted, I will determine whether there was a violation, without your side of the story, based on the facts contained in this complaint. If I conclude a violation did occur I will file a formal complaint against CenturyLink Communication, LLC with the Commission, which may result in a penalty up to \$25,000 per violation as approved by the North Dakota Legislative Assembly in 2013 under North Dakota Century Code Section 49-07-01.1.

Please contact me at 701-328-3397 or at [vschock@nd.gov](mailto:vschock@nd.gov) with any questions regarding this correspondence.

Sincerely,

Victor Schock  
Public Utilities Division  
North Dakota Public Service Commission  
600 E Boulevard Ave, Dept 408  
Bismarck, ND 58505-0480

Enc: ND One-Call Complaint with attachments  
c: Matt Olson with attachments

2 **PU-17-147** Filed: 4/21/2017 Pages: 8  
**Letter enclosing ND One-Call Complaint**

Public Service Commission

Victor Schock



# ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (1-14)

To allege a violation of the One-Call Excavation Notice System Law: North Dakota Century Code Chapter 49-23

## PART A – WHO IS SUBMITTING THIS COMPLAINT (COMPLAINANT)

Company/Person Matt Olson - Veit & Company, Inc.	Street Address 2801 Memorial Highway	City Mandan	State and Zip Code North Dakota, 58554
Telephone and Cell Phone Number 701-730-8609	Email Address molson@veitusa.com		Date 4/11/2017
<input type="checkbox"/> Complainant is willing and able to testify on the complaint if matter goes to formal hearing			

## PART B – WHO VIOLATED THE ONE-CALL REGULATIONS (RESPONDENT)

Company/Person Connie Kassian	Street Address 1101 18th St. NE	City Mandan	State and Zip Code ND, 58554
Telephone and Cell Phone Number 701-222-6889	Email Address connie.kassian@centurylink.com		

## PART C – ALLEGED VIOLATION

<input checked="" type="checkbox"/> Operator failed to provide or update the information provided to the notification center on a timely basis <input type="checkbox"/> Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation <input type="checkbox"/> Excavator failed to provide required information in excavation or location notice <input type="checkbox"/> Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation <input type="checkbox"/> Notification center failed to inform the excavator of the names of operators of underground facilities in the area <input checked="" type="checkbox"/> Operator failed to locate and mark underground facility within 48 hours <input type="checkbox"/> Excavation started prior to underground facility locate <input type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally <input type="checkbox"/> Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period <input type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities <input type="checkbox"/> Excavator failed to maintain the markings during excavation <input type="checkbox"/> Other (Identify the specific section of NDCC Chapter 49-23) _____
Location of Violation: Old Red Trail (from Highland Road west to 49th Ave. NW) in Mandan, ND.
Date and Time of Violation: 4/11/2017, 12:02 PM CST
Description (summarize the observations on which you rely to allege the violation) <i>If more space is required, please provide the description on a separate page.</i> <p>Veit has tried to work with Century Link throughout the process of this project in coordinating the location and relocation of below ground utilities in the project area. They refuse to work with us, as well as locate and relocate the utilities. We have sent various emails, made several calls and invited them to meetings to try and address their lack of response. They claim that it is not their responsibility to mark their own utilities and threaten us with backcharges if we strike their utilities.</p> <p><b>REF: Attached emails per 4/1/17 Conversation.</b></p>

## PART D – DAMAGE

Fatalities N/A	Injuries N/A	In-patient Hospitalization N/A
Underground facility type(s) and Operator(s) affected: Fiber Optice Lines in ROW of Old Red Trail on south and north sides of newly constructed road. Extends from Highland Road west to 40th Ave. NW.		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$	Number of Customers Affected	
Other impact of event: If the Fiber line is not marked, Veit ands their subcontractor cannot install the trees per project plans & specifications.		
Please attach photos of Event Area or Damaged Facility		

## PART I – SIGNATURE

Signature of Person Filing Complaint Matt Olson - Veit & Company, Inc.	Date 4/11/2017
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Send Completed, Original Complaint To:

Public Service Commission  
600 E Boulevard Ave Dept 408  
Bismarck ND 58505-0480  
Telephone: (701) 328-2400

## Matt Olson

---

**From:** Ryan Schmaltz <ryans@occinc.com>  
**Sent:** Tuesday, April 11, 2017 12:51 PM  
**To:** Kassian, Connie  
**Cc:** 'Dokter, Monte R.'; Albitre, Remick; Matt Olson; Patrick.Gallagher@kljeng.com; Jim Holman; Robert Fetherson; Rollo Wallmow; Blaine Sherbrooke; Tyler Braaten; Mike Thorson; Schock, Victor F.  
**Subject:** Re: FW: NDDOT Project SU-1-988(040)051 - Old Red Trail (Mandan, ND) - Locate of Fiber on South Side of Old Red Trail

Connie,

I would like to address a couple things about this ticket and hopefully clear up a few comments in your previous email.

Below is the location of work description which is indicated on the locate request:

**"WORK IS TO BE PERFORMED FROM 100 FEET EAST OF HIGHLAND ROAD WEST TO CROWN POINT ROAD IN THE GREEN SPACES. GREEN AREA WORK SHALL EXTEND NORTH AND SOUTH OF THE NEW CURB POURED ALONG OLD RED TRAIL, NORTH TO THE EXISTING HOME PROPERTY BOUNDARIES AND SOUTH TO 43RD ST. NW."**

The area Veit is requesting to be located runs along Old Red Trail from east of Highland Rd, running west to Crown Point Rd. It then goes on to indicate that from Old Red Trail, are area north to the home property boundaries and south to 43rd St NW. You indicate below their ticket was only written for the north side of the road but to me, the above description covers both the north and south side of Old Red Trail.

You also indicate below that stakes were not on site. Veit did not indicate on the locate request that there was a staked path, nor is one required by the ND One Call law.

For those reason, I don't see the ticket being written incorrectly.

The North Dakota Century Code (49-23-04, Paragraph 3, section a) states, "An operator (Century Link), within forty-eight hours, or any extension of that period, after receiving an excavation notice from the center, excluding Saturdays, Sundays and holidays, unless otherwise agreed to between the excavator and operator, shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator."

49-23-04, Paragraph 3, section e states, "If the operator cannot complete marking of the excavation area before the excavation commencement time stated in the excavation notice, the operator shall promptly contact the center."

The center has no record of Century Link or your contract locator notifying them of an extension. Veit has informed me that no extension request was made by Century Link or your contract locator directly to them.

The law also states (ND Century Code 49-23-04, Paragraph 1, section j), "An excavator may begin excavation in a location if the location period (48 hours) has passed without notification of a requested extension..."

Veit can legally begin their excavation per the NDCC above. However, knowing there could be a Century Link facility in the area, it appears from the email thread that Veit contacted Century Link, provided a valid ticket number, and informed you that nothing has been marked well beyond the 48 hour locate period. Per North Dakota Century Code 49-23-04, paragraph 3, section j, "If in the course of excavation the excavator is unable to locate the underground facility or discovers that the operator of the underground facility has incorrectly located the underground facility, the excavator shall promptly notify the operator or, if unknown, the one-call notification center."

It IS NOT the responsibility of the contractor (Veit) to contact your contract locator. Your contract locator is not listed as the utility on the locate request nor does your contract locator own or operate the underground facilities within the excavation area.

Please let me know if there are any other questions.

## Ryan Schmaltz

North Dakota One Call

Director of Education & Public Relations

Phone – (701) 751-1019

Cell – (701) 610-1057

<http://www.ndonecall.com/>

On 4/11/2017 12:13 PM, Kassian, Connie wrote:

Hi Monte,

I am not certain if a PSC complaint is due...Veit's ticket was incorrectly wrote..it was for the north side of the road and not the south side. And the stakes were not on sight. The locates are being done even though ticket was written wrong.

**CONNIE M. KASSIAN**  
ENGINEERING & CONSTRUCTION  
1101 16th St. NE  
Mandan, ND 58554  
701-222-6889 OFFICE  
701-214-9743 WIRELESS  
701-663-3428 FAX  
[connie.kassian@centurylink.com](mailto:connie.kassian@centurylink.com)



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*Stronger Connected*

---

**From:** Matt Olson [<mailto:molson@veitusa.com>]

**Sent:** Tuesday, April 11, 2017 12:02 PM

**To:** Kassian, Connie; Albitre, Remick; Pulkrabek, Cody

**Cc:** Patrick Gallagher; Jim Holman; Robert Fetherson; [ryans@occinc.com](mailto:ryans@occinc.com); Rollo Wallmow; Blaine Sherbrooke; Tyler Braaten

**Subject:** RE: NDDOT Project SU-1-988(040)051 - Old Red Trail (Mandan, ND) - Locate of Fiber on South

Side of Old Red Trail

**Importance:** High

Connie,

No it is not. We will be filling out a contractor complaint form with the PSC, and Mr. Ryan Schultz is attached to this email. We have had communication with him. We will not be held responsible for doing our due diligence.

Ryan, for your records, our new ticket number for the start of this 2017 Spring Work is 17012067, filed on 3/31/2017.

Thank you for your cooperation.

Respectfully,

**VEIT**

**Matt Olson**

*Project Manager/Estimator*

*Direct: 701-667-7665*

*Mobile: 701-730-8609*

*Fax: 701-667-7670*

[VeitUSA.com](http://VeitUSA.com)

**SAFE BY CHOICE**  
VEIT

**From:** Kassian, Connie [<mailto:Connie.Kassian@CenturyLink.com>]

**Sent:** Tuesday, April 11, 2017 11:53 AM

**To:** Matt Olson <[molson@veitusa.com](mailto:molson@veitusa.com)>; Albitre, Remick <[Remick.Albitre@centurylink.com](mailto:Remick.Albitre@centurylink.com)>; Pulkrabek, Cody <[Cody.Pulkrabek@centurylink.com](mailto:Cody.Pulkrabek@centurylink.com)>

**Cc:** Patrick Gallagher <[Patrick.Gallagher@kljeng.com](mailto:Patrick.Gallagher@kljeng.com)>; Jim Holman <[jholman@veitusa.com](mailto:jholman@veitusa.com)>; Robert Fetherson <[rfetherson@veitusa.com](mailto:rfetherson@veitusa.com)>

**Subject:** RE: NDDOT Project SU-1-988(040)051 - Old Red Trail (Mandan, ND) - Locate of Fiber on South Side of Old Red Trail

It is the excavator's responsibility. If you cut our fiber, you will be held responsible...Have you called the number I gave you?

**CONNIE M. KASSIAN**  
ENGINEERING & CONSTRUCTION  
1101 16th St. NE  
Mandan, ND 58554  
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[connie.kassian@centurylink.com](mailto:connie.kassian@centurylink.com)



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**From:** Matt Olson [<mailto:molson@veitusa.com>]

**Sent:** Tuesday, April 11, 2017 11:50 AM

**To:** Kassian, Connie; Albitre, Remick; Pulkrabek, Cody

**Cc:** Patrick Gallagher; Jim Holman; Robert Fetherson

**Subject:** RE: NDDOT Project SU-1-988(040)051 - Old Red Trail (Mandan, ND) - Locate of Fiber on South Side of Old Red Trail

Connie,

That is what we are trying to do. All other locates in the area have been completed, except for your fiber. We are doing our due diligence to communicate this to you ahead of time. We expect that you will call Summit to locate your cable. All other utility providers that we work with do this on their own behalf, we are flabbergasted as to why Century Link doesn't want to do this or work with a contractor.

Please coordinate your locates with Summit. Thank you.

Respectfully,



**Matt Olson**

*Project Manager/Estimator*

*Direct: 701-667-7665*

*Mobile: 701-730-8609*

*Fax: 701-667-7670*

[VeitUSA.com](http://VeitUSA.com)



**From:** Kassian, Connie [<mailto:Connie.Kassian@CenturyLink.com>]

**Sent:** Tuesday, April 11, 2017 11:43 AM

**To:** Matt Olson <[molson@veitusa.com](mailto:molson@veitusa.com)>; Albitre, Remick <[Remick.Albitre@centurylink.com](mailto:Remick.Albitre@centurylink.com)>; Pulkrabek, Cody <[Cody.Pulkrabek@centurylink.com](mailto:Cody.Pulkrabek@centurylink.com)>

**Cc:** Patrick Gallagher <[Patrick.Gallagher@klieng.com](mailto:Patrick.Gallagher@klieng.com)>; Jim Holman <[jholman@veitusa.com](mailto:jholman@veitusa.com)>; Robert Fetherson <[rfetherson@veitusa.com](mailto:rfetherson@veitusa.com)>

**Subject:** RE: NDDOT Project SU-1-988(040)051 - Old Red Trail (Mandan, ND) - Locate of Fiber on South Side of Old Red Trail

The excavator is responsible for locates. If the excavator who holds the ticket, and all locates have not been cleared, the excavator is responsible to make sure all locates are completed. That is the excavators responsibility. You need to either call one call back, look at your ticket.... will have a contact number also. For your convenience you may call our contract locator – summit – 406-207-3178 directly.

**CONNIE M. KASSIAN**  
ENGINEERING & CONSTRUCTION  
1101 16th St. NE  
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[connie.kassian@centurylink.com](mailto:connie.kassian@centurylink.com)



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**From:** Matt Olson [<mailto:molson@veitusa.com>]

**Sent:** Tuesday, April 11, 2017 11:37 AM

**To:** Kassian, Connie; Albitre, Remick; Pulkrabek, Cody

**Cc:** Patrick Gallagher; Jim Holman; Robert Fetherson

**Subject:** RE: NDDOT Project SU-1-988(040)051 - Old Red Trail (Mandan, ND) - Locate of Fiber on South Side of Old Red Trail

Connie,

We have already done that, and have any active ticket (17012067). None of your fiber optic lines are located and we put the ticket in on 3/31/2017.

Respectfully,



**Matt Olson**

*Project Manager/Estimator*

*Direct: 701-667-7665*

*Mobile: 701-730-8609*

*Fax: 701-667-7670*

[VeitUSA.com](http://VeitUSA.com)



**From:** Kassian, Connie [<mailto:Connie.Kassian@CenturyLink.com>]

**Sent:** Tuesday, April 11, 2017 11:35 AM

**To:** Matt Olson <[molson@veitusa.com](mailto:molson@veitusa.com)>; Albitre, Remick <[Remick.Albitre@centurylink.com](mailto:Remick.Albitre@centurylink.com)>; Pulkrabek, Cody <[Cody.Pulkrabek@centurylink.com](mailto:Cody.Pulkrabek@centurylink.com)>

**Cc:** Patrick Gallagher <[Patrick.Gallagher@kljeng.com](mailto:Patrick.Gallagher@kljeng.com)>; Jim Holman <[jholman@veitusa.com](mailto:jholman@veitusa.com)>; Robert Fetherson <[rfetherson@veitusa.com](mailto:rfetherson@veitusa.com)>

**Subject:** RE: NDDOT Project SU-1-988(040)051 - Old Red Trail (Mandan, ND) - Locate of Fiber on South Side of Old Red Trail

Matt,

You will need to call the ND one call system to get our facilities located. Call 811 or 1800 795 0555...

**CONNIE M. KASSIAN**  
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1101 16th St. NE  
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**CenturyLink**

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**From:** Matt Olson [<mailto:molson@veitusa.com>]

**Sent:** Tuesday, April 11, 2017 11:16 AM

**To:** Albitre, Remick; Kassian, Connie; Pulkrabek, Cody

**Cc:** Patrick Gallagher; Jim Holman; Robert Fetherson

**Subject:** NDDOT Project SU-1-988(040)051 - Old Red Trail (Mandan, ND) - Locate of Fiber on South Side of Old Red Trail

**Importance:** High

Century Link Team,

In preparation for tree plantings, Veit requests that you locate your fiber optic line from the church directly south of Highland Road to west of 40<sup>th</sup> Ave. NW. If the weather cooperates we expect to be planting trees by no later than the week of April 24<sup>th</sup>.

If you have any questions please advise. Thanks for your cooperation.

Respectfully,



**Matt Olson**

Project Manager/Estimator

Direct: 701-667-7665

Mobile: 701-730-8609

Fax: 701-667-7670

[VeitUSA.com](http://VeitUSA.com)



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**Ryan Schmaltz**

North Dakota One Call

Director of Education & Public Relations

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Cell – (701) 610-1057