



ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (5-17)

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 West River Telecom Coop./James Byerley	Street Address 101 Main St W	City Hazen	State and Zip Code ND 58545
Telephone and Cell Phone Number 701-748-4217	Email Address jamesb@wrtc.com		Date 9-12-17
<input checked="" 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 Veit/ Glenn Weich	Street Address 2801 Memorial Highway	City Mandan	State and Zip Code ND 58554
Telephone and Cell Phone Number Glenn Weich 701-220-2609			Email Address gwelsh@veitusa.com

PART C – ALLEGED VIOLATION

<input 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 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 checked="" type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities <input checked="" 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: Intersection of Main and Elm Hebron, ND
Date and Time of Violation: October 13, 2016
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> Addition pages attached

PART D – DAMAGE

Fatalities None	Injuries None	In-patient Hospitalization none
Underground facility type(s) and Operator(s) affected: 288 fiber optic cable damaged serving Hebron Emergency 911 services, Voice and Broadband services		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ 13,213.72		Number of Customers Affected 200
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

PART I – SIGNATURE

Signature of Person Filing Complaint	Date
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Submit

If the "Submit" function is not working properly, please print the completed form and then either **email to** ndpsc@nd.gov, **fax to** 701-328-2410 or **send to** Public Service Commission, 600 E Boulevard Ave Dept 408, Bismarck ND 58505-0480.

Telephone: (701) 328-2400

West River Telecommunication Cooperative (WRT) provides Voice and Broadband service in the City of Hebron over fiber optic facilities. ELM is a contractor hired by WRT to locate WRT facilities per North Dakota Century Code. Viet is a contractor hired by the City of Hebron to complete work on the Hebron municipal facilities. On October 13th 2016 Veit damaged WRT facilities in the intersection of Main and Elm in the city of Hebron. The facilities damaged by Veit were marked correctly by ELM per requests submitted to the North Dakota One Call system by Veit.

The attached picture 7-13-16 (1) is a picture taken by ELM on 7-13-16. In this picture you are looking south. It was the South West corner of this intersection that Veit damaged WRT facilities. WRT have two areas of facilities running North and South in this intersection. The west facilities to the right of the center of the picture are marked by two stripes on the asphalt between the crosswalk and the concrete valley gutter. The second facilities are marked by one stripe on the left side of the concrete valley gutter. This is the specific facilities that VEIT damaged in the South West corner of this intersection.

The attached picture 10-5-16(1) is a picture taken by ELM on 10-5-16. In this picture it shows excavation on the right side where it seems the fiber has been spotted. Note the center of the picture just north of the two barricade barrels is an orange mark indicating the fiber that was eventually damaged on October 13 by Veit.

The attached picture 10-5-16(3) is a picture taken by ELM on 10-5-16. This is the same area as picture 10-5-16(1). Just to the south of the two traffic barrels is another orange marking indicating the path of the fiber facility damaged by Veit.

The attached picture 10-5-16(2) is a picture taken by ELM on 10-5-16. This picture shows an orange mark in the lower left corner. This was the fiber eventually damaged by Veit. The damage occurred in about the location of the traffic barrel shown in this picture.

The attached picture 10-6-16(2) is a picture taken by ELM on 10-6-16. This picture shows two orange marks on the sidewalk located at the top edge of the concrete. Approximately three feet to the left of the two orange marks is a single orange mark. This is the fiber that was damaged in the south west corner of this intersection.

The attached picture 10-13-16(1) is a picture taken by ELM on 10-13-16. This picture shows an orange mark indicating the facilities damaged. Construction dirt was moved away with the investigators boot to clearly see the orange marking.

The attached picture 10-13-16(2) is a picture taken by ELM on 10-13-16. In this picture you can see the two orange marks indicating the fiber that was not damaged by Veit. The marks are in the center of the picture on this side of the excavation edge.

The attached picture 10-13-16(3) taken by WRT on 10-13-16. In this picture the orange mark a few feet south of the hand hole was covered with dirt. We move the dirt away to expose the marking. The damaged facilities is just south of the construction person in the picture.

ELM located WRT facilities accurately and promptly per the requests submitted to the North Dakota One Call system by Veit. Veit failed to use reasonable efforts to maintain markings during excavation and conduct the excavation in a careful and prudent manner which resulted in the damaging of a 288 fiber cable knocking out emergency 911 services, voice and broadband services to both residential and business customers.

WRT invoiced Veit \$13,213.72 for the expense to restore the damaged facilities. Veit has not paid the invoice and would not return my calls to discuss the matter. Eventually I was contacted by Dan Johnson of The Travelers Indemnity Company of America. I provided Dan the same information in this letter and he provided me the attached letter indicating the facilities were not marked correctly. Dan would not provide me any documentation to support his claims.



The Travelers Indemnity Company of America
385 Washington Street
MC 9275-SB04C
Saint Paul, MN 55102
Telephone: (651) 310-2235
Fax: (855) 914-5252

August 23, 2017

West River Telecommunications
Attn: James Byerley
PO Box 467
Hazen, ND 58545

RE:	Invoice Number:	16174
	Our Claim Number:	B6A9519
	Claimant:	West River Telecommunications
	Insured:	Veit & Company Inc.
	Loss Date	10/13/2016

Dear Mr. Byerley:

This letter is in regards to the claim you reported for damage to West River Telecommunications conduit and lines located near Main Ave and Elm Street in Hebron, ND. You allege that Veit did not exercise due care during excavation which ultimately resulted in the damage of the underground communication line.

After a review of the facts of loss and the additional information that you provided, we do not feel that our insured is liable for your damages. At this time there is no information to show that the loss came from Veit's operations. Veit made an appropriate digger's hotline request and the locator failed to properly locate the line that was struck.

Therefore, we must respectfully deny your property damage claim as we do not feel Veit was negligent and ultimately liable for your damages. If you have any information that you feel affects our decision here, please forward that report and we will reconsider our position. If you should have any questions or would like to discuss further, please contact me.

Sincerely,

Dan Johnson
Claim Professional
Telephone: (651) 310-2235
Fax: (855) 914-5252
DAJOHNS3@TRAVELERS.COM



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2016/10/05

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