



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

Randy Christmann  
Julie Fedorchak  
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Executive Secretary  
Darrell Nitschke

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

October 17, 2017

Glenn Weich  
Veit & Company, Inc.  
C/O The Prentice-Hall Corporation System, Inc.  
1709 N 19<sup>th</sup> St, Suite 3  
Bismarck, ND 58501-2121

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

Dear Mr. Weich:

Enclosed is a copy of a ND One-Call Complaint, with attachments, against Veit & Company, Inc., received by the North Dakota Public Service Commission on October 17, 2017, from James Byerley at West River Telecom of Hazen, ND, Case Number PU-17-376. The location of the damage identified in the complaint is approximately the intersection of Main and Elm Streets in Hebron, 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 November 1, 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 Veit & Company, Inc. 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: James Byerley with attachments

2 **PU-17-376** Filed: 10/17/2017 Pages: 13  
**Letter enclosing North Dakota One-Call Complaint**

Public Service Commission  
Victor Schock



# 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@wrctc.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) _____
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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) *If more space is required, please provide the description on a separate page.*  
 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 13<sup>th</sup> 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 where 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

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

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



TIKRES: 16092807.0 TIMECARD: 7/13/2016 8:52:04 AM

189028.3400240



2016/10/05

Ticket: 16152541.0 Timestamp: 10/5/2016 1:24:00 PM

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2016/10/05

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