



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

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Executive Secretary  
Darrell Nitschke

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March 23, 2018

Darrell Nitschke  
Executive Director  
ND Public Service Commission  
600 E. Boulevard Ave. Dept. 408  
Bismarck, ND 58505-0480

*Via Hand Delivery*

Re: Case No. PU-18-78  
Public Service Commission  
Red Lake Builders Inc.  
Damage Prevention Enforcement

Dear Mr. Nitschke:

Enclosed is a copy of the Consent Agreement to be filed in the above proceeding.

Best Regards,

A handwritten signature in blue ink, appearing to read "John Schuh".

John Schuh  
Legal Counsel

Enclosure

**4** **PU-18-78** Filed: 3/23/2018 Pages: 4  
**Executed Consent Agreement**

Public Service Commission  
John Schuh, Legal Counsel

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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<b>PUBLIC SERVICE COMMISSION,</b>	)	
	)	
<b>Complainant,</b>	)	<b>Case No. PU-18-78</b>
	)	
<b>vs.</b>	)	
	)	<b>CONSENT AGREEMENT</b>
<b>Red Lake Builders, Inc.,</b>	)	
	)	
<b>Respondent .</b>	)	

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**Preliminary Statement**

This Consent Agreement is entered into by and between Red Lake Builders, Inc. (RLB) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-18-78.

On February 7, 2018, the Commission received a ND One-Call Complaint from Polar Communications (Polar) under Case No. PU-18-78. The complaint alleged a violation by RLB of North Dakota Century Code section 49-23-04(1) for failure to contact the notification center and provide an excavation or location notice before beginning an excavation.

North Dakota Century Code section 49-23-04(1) provides that "Except in an emergency, an excavator shall contact the notification center and provide an excavation or location notice before beginning any excavation. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice.

Having investigated the alleged violations, Staff has concluded that RLB violated

North Dakota Century Code section 49-23-04(1).

RLB and 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, Staff and RLB agree to the following, subject to the approval and acceptance of the Commission:

1. RLB violated North Dakota Century Code section 49-23-04(1) in Case No. PU-18-78 by failing to contact the notification center and provide an excavation or location notice before beginning an excavation.
2. RLB agrees to be assessed a civil penalty of \$500, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order).
3. RLB consents to the filing of the Consent Agreement and an Order and hereby waives any further procedural requirements with respect to its issuance. Subject to the Order, RLB understands and agrees to waive all rights to contest the violations, the right to be represented by counsel, the right to present evidence and arguments to the Commission, the right to cross examine witnesses, or contest the validity of this Consent Agreement and Order Adopting this Consent Agreement, including all rights to administrative or judicial hearings or appeals.
4. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
5. This agreement may be executed in counterparts and duplicate copies, each

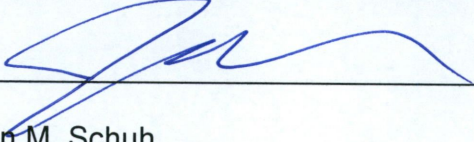
which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.

6. The undersigned is authorized to act on behalf of RLB and bind RLB for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 23<sup>rd</sup> day of March, 2018

PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF – DAMAGE PREVENTION

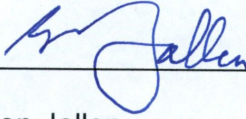
By: \_\_\_\_\_

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

Dated this 26 day of February, 2018

Red Lake Builders, Inc.

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

  
Gordon Jallen  
Construction Manager