



Public Service Commission  
State of North Dakota

COMMISSIONERS

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June 25, 2018

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

*VIA Hand Delivery*

Re: Case No. PU-18-161  
Public Service Commission  
Cass County Soil Conservation District  
Damage Prevention Enforcement

Dear Mr. Nitschke:

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

Best Regards,

Jack Schuh  
Advocacy Counsel

Enclosure

3 **PU-18-161** Filed: 6/25/2018 Pages: 4  
**Executed Consent Agreement**

Public Service Commission Advocacy Staff  
John Schuh, Advocacy 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-18-161</b>
	)	
<b>vs.</b>	)	
	)	<b>CONSENT AGREEMENT</b>
<b>Cass County Soil Conservation District,</b>	)	
	)	
<b>Respondent.</b>	)	

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**Preliminary Statement**

This Consent Agreement is entered into by and between Cass County Soil Conservation District (CCSCD) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-18-161.

On May 18, 2018, the Commission received a ND One-Call Complaint from CHS, Inc. under Case No. PU-18-161. The complaint alleged a violation by CCSCD 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 CCSCD violated North Dakota Century Code section 49-23-04(1). —

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

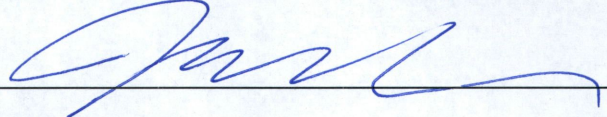
1. CCSCD violated North Dakota Century Code section 49-23-04(1) in Case No. PU-18-161 by failing to contact the notification center and provide an excavation or location notice before beginning an excavation.
2. CCSCD agrees to be assessed a civil penalty of \$500, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order)
3. CCSCD 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, CCSCD 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 CCSCD and bind CCSCD for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 25<sup>th</sup> day of June, 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 20<sup>th</sup> day of June, 2018

Cass County Soil Conservation District

By: 