

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Liberty Resources LLC
Damage Prevention Enforcement**

Case No. PU-18-355

AFFIDAVIT OF SERVICE BY CERTIFIED AND REGULAR MAIL

**STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH**

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **2nd day of May 2019**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Order On Consent Agreement**

The envelope was addressed as follows:

Larry Griffin
Vice President
Liberty Resources LLC
1200 17th Street, Suite 2200
Denver, CO 80202
Cert. No. 7018 2290 0000 6607 8053

Geralyn R. Schmaltz further deposes and says that on the **2nd day of May 2019**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by first class mail, fully prepaid, securely sealed each containing a photocopy of of the same document.

The envelope was addressed to:

Brent Pingel
Whiting Oil and Gas
701 4th Avenue NW
Watford City, ND 58854

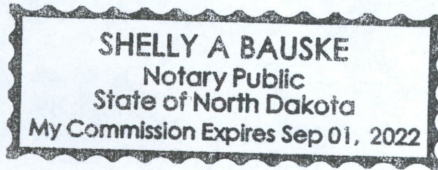
The addresses shown are the respective addressee's last reasonably ascertainable post office addresses.

Subscribed and sworn to before me
this **2nd day of May 2019**.

Gerard Rochman

Shelly A Bauske
Notary Public

SEAL



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Liberty Resources, LLC
Damage Prevention Enforcement**

Case No. PU-18-355

ORDER ON CONSENT AGREEMENT

May 1, 2019

Preliminary Statement

On October 3, 2018, the Commission received a ND One-Call Complaint from Whiting Oil and Gas Corporation (Whiting) alleging a violation by Liberty Resources II, LLC (Liberty) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System.

On October 5, 2018, the Commission sent a letter to Liberty enclosing the October 3, 2018 ND One-Call Complaint.

On October 22, 2018, Liberty filed a response to the October 3, 2018 ND One-Call Complaint.

On April 1, 2019, a Consent Agreement between Public Service Commission Advocacy Staff (Advocacy Staff) and Liberty was filed for the resolution of the complaints.

Discussion

Liberty Resources II, LLC is a foreign limited liability company with office(s) located at 1200 17th Street, Denver, Colorado 80202-5854.

Whiting alleges a violation by Liberty of North Dakota Century Code section 49-23-03(3)(b) for failure to update the information provided to the One-Call Notification Center on a timely basis.

North Dakota Century Code section 49-23-03(3) provides that "An operator shall participate in and share the costs of the one-call excavation notice system by:

- a. Submitting the information required by the notification center to allow the center to notify the operation of excavation activity;
 - b. Updating the information provided to the notification center on a timely basis;
- ..."

As a result of its investigation, Advocacy Staff concluded that Liberty violated North Dakota Century Code section 49-23-03(3).

Staff investigation found that on March 25, 2018, a One-Call excavation notice was called in for an area owned by Whiting. The notice was assigned ticket number 18135926. Whiting stated in their original complaint that Liberty had saltwater lines in the area of this excavation, however, Liberty was not on the list of operators notified on the ticket. This indicates that, if there were lines in the excavation area, they were not registered as required. Based on Liberty's October 19, 2018 and October 22, 2018 responses and confirmation from the one call notification center, Staff determined that Liberty owns and operates numerous saltwater gathering lines that were placed into service as early as 1980 but had not been registered with the one call notification center until after receiving the complaint filing from Advocacy Staff.

Liberty and Advocacy Staff engaged in good faith settlement discussions resulting in a Consent Agreement intended to avoid further administrative proceedings or litigation.

Under the Consent Agreement, Liberty agrees to be assessed a civil penalty of \$6,500. Liberty agrees to remit \$5,500 of the \$6,500, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order). The remaining \$1,000 civil penalty is suspended on the condition that Liberty commits no further violation of North Dakota Century Code chapter 49-23 within five years of the date of the Order.

Having considered this matter, the Commission finds the Consent Agreement filed on April 1, 2019, is reasonable and acceptable. Therefore, the Commission issues the following:

Order

The Commission Orders:

1. The Consent Agreement of Liberty and Advocacy Staff, filed March 28, 2019, is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
2. Liberty is assessed a civil a penalty of \$6,500.
3. Liberty shall remit \$5,500 civil penalty, payable to the North Dakota Public Service Commission within ten business days of service of this Order. The remaining \$1,000 civil penalty is suspended on the condition that Liberty commits no further violation of North Dakota Century Code chapter 49-23 within five years of the date of the Order.
4. In the event the Commission finds Liberty violated North Dakota Century Code chapter 49-23 within five years of the date of this Order, Liberty shall remit the suspended

portion of the penalty, \$1,000, within the time ordered by the Commission and, in addition, any penalties assessed for the subsequent violation.

PUBLIC SERVICE COMMISSION



Julie Fedorchak
Commissioner



Brian Kroshus
Chairman



Randy Christmann
Commissioner

Having investigated the alleged violations, Staff believes that Liberty violated North Dakota Century Code section 49-23-03(3)(b) by failing to update the information provided to the One-Call Notification Center on a timely basis.

Staff investigation found that on March 25, 2018 a One-Call excavation notice was called in for an area owned by Whiting. The notice was assigned ticket number 18135926. Whiting stated in their original complaint that Liberty had saltwater lines in the area of this excavation, however they were not on the list of operators notified on the ticket. This would indicate that if there were lines in the excavation area, they were not registered as required. Based on Liberty's October 19, 2018 and October 22, 2018 responses and confirmation from the one call notification center, Staff determined that Liberty did own and operate numerous saltwater gathering lines that were placed into service as early as 1980 but had not been registered with the one call notification center until after they received the complaint filing from Staff.

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

1. Liberty violated North Dakota Century Code section 49-23-03(3)(b) by failing to update the information provided to the One-Call Notification Center on a timely basis.

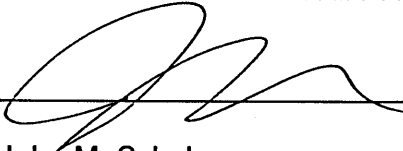
2. Liberty agrees to be assessed a civil penalty of \$6,500. Liberty agrees to remit \$5,500 of the \$6,500, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order). The remaining \$1,000 civil penalty is suspended on the condition that Liberty commits no further violation of North Dakota Century Code 49-23 within five years of the date of the Order.
3. Liberty consents to the filing of the Consent Agreement and an Order in this Case and hereby waives any further procedural requirements with respect to the Order's issuance. Provided the Public Service Commission adopts this Consent Agreement and issues an Order consistent with it, Liberty 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 Liberty and bind Liberty for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 1st day of April, 2019

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

By: _____



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

Dated this 26 day of March, 2019

Liberty Resources II, LLC

By: _____



Larry Griffin
Vice President Operations