

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Public Service Commission  
NC3, LLC  
Damage Prevention Enforcement

Case No. PU-20-96

AFFIDAVIT OF SERVICE BY CERTIFIED 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 **24th day of September 2020**, she deposited in the United States Mail, at Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Complaint With Supporting Documents**
- **Prima Facie Motion**

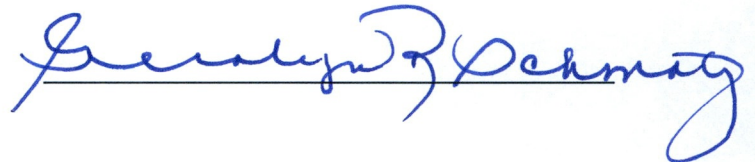
The envelopes were addressed as follows:

NC 3, LLC  
44926 State Hwy 92  
Clearbrook, MN 56634  
Cert. No. 7019 2280 0000 0692 7757

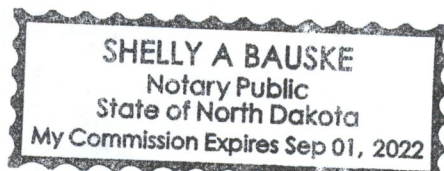
C T Corporation  
Registered Agent for NC 3, LLC  
120 West Sweet Avenue  
Bismarck, ND 58504  
Cert. No. 7019 2280 0000 0692 7764

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

Subscribed and sworn to before me  
this **24th day of September 2020**.



SEAL



Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Public Service Commission  
NC3, LLC.  
Damage Prevention Enforcement

Case No. PU-20-096

Public Service Commission, )  
Complainant, )  
vs. )  
NC3, LLC, )  
Respondent. )

Complaint

The Public Service Commission of North Dakota (Commission), by and through Advocacy Staff (Staff), for its complaint against NC3, LLC, alleges and shows the following:

I

NC3, LLC (NC3) is a foreign corporation with principal offices located at 44926 State 92, Clearbrook, MN 56634-4210, and a registered agent address of C T Corporation System, 120 W Sweet Ave, Bismarck, ND 58504.

II

Walsh Water Users, Inc. (Walsh) is a registered North Dakota Non-profit Corporation authorized to do business in North Dakota.

III

North Dakota Century Code (N.D.C.C.) 49-23-04(1) provides:

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.

in the Northeast corner of the intersection of US Hwy 81 and 71<sup>st</sup> St NE, which is outside the excavation area cited in ticket 19134710. As a result of this excavation, damage was caused to Walsh's water line. Walsh alleges that the cost to repair its facilities was approximately \$2133.26.

## VIII

NC3 violated N.D.C.C. 49-23-04(1) by failing to provide an excavation notice to the NDOC Notification Center at least forty-eight hours before beginning its excavation.

## IX

The Commission Damage Prevention Plan provides:

### **D PROPOSED CIVIL PENALTIES:**

1. The following criteria must be used by Commission staff to determine if a civil penalty should be proposed when filing a formal complaint:
  - a. The nature, circumstances and severity of the complaint;
  - b. The degree of suspected fault on the part of the respondent;
  - c. The respondent's history of prior violations or complaints;
  - d. The respondent's ability to pay;
  - e. Any good faith effort by the respondent in attempting to achieve compliance; and
  - f. The effect the penalty may have on the respondent's ability to continue in business.

## X

The Respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the complaint, or the Commission may deem the complaint to be admitted. Answers must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

### **Prayer for Relief**

**STATEMENT**  
**Walsh Water Users, Inc.**  
 PHONE (701) 352-3915  
 P. O. BOX 309  
 GRAFTON, NORTH DAKOTA 58237

Date 09/30/19 ~~X9~~

Name NC 3, LLC  
44926 State Hwy92  
Clearbrook, MN 56634

Scott: 702-286-4317

PLEASE DETACH AND RETURN THIS STUB WITH CHECK

AMOUNT PAID \$ \_\_\_\_\_

DATE	DESCRIPTION	CHARGE	CREDIT	BALANCE
9/30/19	Hit Line:			
	HWY 81 & 71st St NE			1,732.50
TOTAL:				1,732.50

**WALSH WATER USERS, INC.**  
 GRAFTON, NORTH DAKOTA 58237

ALL ACCOUNTS DUE AND PAYABLE  
 10th OF THE MONTH.

PLEASE PAY LAST  
 AMOUNT ABOVE

**STATEMENT**  
**WALSH RURAL WATER DISTRICT**  
 PHONE (701) 352-3915  
 P. O. BOX 309  
 GRAFTON, NORTH DAKOTA 58237

Date 09/30/19 ~~X9~~

Name NC 3, LLC  
44926 State Hwy 92  
Clearbrook, MN 56634

Scott: 702-286-4317

PLEASE DETACH AND RETURN THIS STUB WITH CHECK

AMOUNT PAID \$ \_\_\_\_\_

DATE	DESCRIPTION	CHARGE	CREDIT	BALANCE
09/30/19	Water Loss:			
	50gpm @ 2h	30.00		30.00
	Parts & Supplies	185.00		215.00
	Manager 2h	93.76		308.76
	Service Operator 4h	92.00		400.76
TOTAL:				400.76

**WALSH WATER USERS, INC.**  
 GRAFTON, NORTH DAKOTA 58237

ALL ACCOUNTS DUE AND PAYABLE  
 10th OF THE MONTH.

PLEASE PAY LAST  
 AMOUNT ABOVE

# North Dakota One Call

**Ticket No:** 19134710  
 LORQ ROUTINE  
**Original Call Date:** 09/26/19 10:52 am  
**Op:** iashark  
**Work to Begin Date:** 10/01/19 12:01 am  
**Op:** iashark  
**Expiration Date:** 10/22/19 12:01 am

## CALLER INFORMATION

**Company Name:** N C 3  
**Contact Name:** COURTNEY G  
**Phone:** 218-684-0500  
**Alt Contact:** BRYAN  
**Alt. Phone:** 218-289-4696  
**Caller Address:** 44926 STATE HWY 92 CLEARBROOK, MN 56634  
**Email Address:** scott.steinmetz@outlook.com

## DIG SITE INFORMATION

**Type of Work:** FIBER OPTIC INSTALL  
**Work Being Done For:** C3ENTURY LINK  
**Depth:** 4FT  
**Explosives:** N  
**Tunneling/Boring:** Y  
**White Lining/Site Identification:** WHITE MARKING

## DIG SITE LOCATION

**County:** WALSH  
**Place:** GRAFTON  
**City Limits:** N  
**Address:**  
**Street:** US HWY 81  
**Intersecting Street:** 71ST ST NE  
**Location of Work:** FROM THE ABOVE INTERSECTION MARK IN THE SOUTH WEST CORNER  
 GOING SOUTH FOR 2500FT TO THE DRAINAGE DITCH TO INCLUDE THE WEST  
 R-O-W  
  
**Remarks:**  
**Map Twp:** 157N  
**Rng:** 53W  
**Sect-Qtr:** 12-NW-NE  
**Map Coord NW Lat:** 48.4412371  
**Lon:** -97.4175592  
**SE Lat:** 48.4341738  
**Lon:** -97.4144654

## MEMBERS NOTIFIED





APPROVED

DATE: 23 SEPT. 2020



STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Public Service Commission  
NC3, LLC  
Damage Prevention Enforcement

Case No. PU-20-096

**MOTION**

**September 23, 2020**

I move the Commission find the Formal Complaint filed by the North Dakota Public Service Commission Advocacy Staff on August 31, 2020, states a *prima facie* case, and serve the Complaint on the Respondent in Public Service Commission, NC3, LLC, Damage Prevention Enforcement, Case No. PU-20-096.

AR