



Public Service Commission  
State of North Dakota

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COMMISSIONERS

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July 12, 2021

Mr. Steve Kahl  
Executive Secretary  
ND Public Service Commission  
600 E Boulevard Avenue Dept. 408  
Bismarck, ND 58505-0480

***via Hand Delivery***

Re: Case No. PU-20-363  
Public Service Commission  
Northwest Excavating, LLC  
Damage Prevention Enforcement

Dear Mr. Kahl:

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

Best Regards,

Brian Johnson  
Legal Counsel

Enclosure

4 **PU-20-363** Filed: 7/12/2021 Pages: 5  
**Consent Agreement**

Public Service Commission  
Brian Johnson, Legal Counsel



NDOC assigned locate ticket number 20043180 to the excavation notice. The work related to a water line installation at 9455 West Ridge Road, Hankinson, ND. The expiration date for the ticket was June 9, 2020.

On July 2, 2020, Northwest began an excavation as defined in NDCC section 49-23-01(7) at the location cited in the excavation notice. As a result of this excavation, \$7500 worth of damage was estimated to a 72-count fiber optic line, and 6 customers experience a service disruption.

NDCC section 49-23-04(1) states 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 violation, Staff believes that Northwest violated NDCC section 49-23-04(1).

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

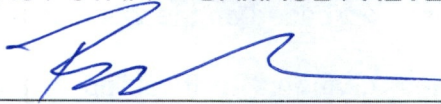
1. Northwest violated NDCC section 49-23-04(1) for failing to provide an excavation or location notice before beginning any excavation.

2. Northwest agrees to be assessed a civil penalty of \$1000, payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting or approving the Consent Agreement (Order).
3. Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violation alleged in the Case.
4. Northwest consents to the filing of the Consent Agreement and an Order 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, Northwest understands and agrees to waive all rights to contest the violation, 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, including all rights to administrative or judicial hearings or appeals.
5. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Consent Agreement and Order.
6. 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.
7. The undersigned is authorized to act on behalf of Northwest and bind Northwest

for purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 12<sup>th</sup> day of July, 2021

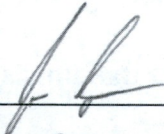
PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF – DAMAGE PREVENTION

By: 

Brian Johnson  
Special Assistant Attorney General Bar ID 07397  
North Dakota Public Service Commission  
600 East Boulevard Avenue Dept. 408  
Bismarck ND, 58505  
701-328-2407

Dated this 12 day of July, 2021

Northwest Excavating, LLC

By: 

Name: Jesse Soper