

# OLANDER CONTRACTING CO.

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GENERAL CONTRACTORS  
MUNICIPAL – HEAVY CONSTRUCTION

February 17, 2004

Mr. Larry Englerth  
Executive Director  
South Dakota One Call Notification Board  
1012 North Sycamore Avenue  
Sioux Falls, SD 57110

RE: Complaint OC04-001 by Golden West Telecommunications Coop, Inc. against Olander Contracting Company

Dear Sir:

This letter will serve as our response to the referenced complaint by Golden West against our company.

We have reviewed the complaint by Scott Harkless of Golden West and have found its content to be unintelligible, rambling, incoherent and vindictive. Therefore, we will not attempt to address multiple issues and alleged misconduct that he accuses our firm of perpetrating.

The main issue is whether Olander Contracting Co. did make One-Call contacts for any work it performed in the Southern Hills and Back Nine Golf Course addition. The answer is an affirmative yes on all counts.

Olander Contracting Co. performs excavation work in six states and maintains a close working relationship with all utility companies that have buried cables, gas lines, petroleum lines, sewer and water infrastructure in the area. It is imperative to our company that we locate buried utilities as any damages for properly located items would have to be paid by our company. We have been in business for nineteen (19) years and have always utilized all of our firm's resources to properly locate the existing utilities either by direct contact to all of the concerned parties or by the One-Call system.

We thoroughly understand the One-Call system and realize and appreciate its importance. We all always investigate for utilities prior to excavating in any given area even beyond the One-Call contacts, as we understand that they don't always have everything marked; such as private water lines and power lines, septic tanks, drainfields, and water wells. This investigation is performed by our job supervisor by making personal contacts prior to performing work.

Our firm has an exemplary record of interfacing with the utility companies and has never had any major or disastrous events, which relate to cutting or damaging buried utilities.

The particular project that Golden West's representative is accusing our firm of not notifying One Call properly is located within the confines of the City of Hot Springs Municipal golf course, Mr. Steve Sumanek and Mr. Kelvin Lorenz' personal property.

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We take issue with Mr. Harkless's claim for the following reasons:

1. Our firm has been working in the Hot Springs area for the past three years and has maintained an excellent working relationship with the City of Hot Springs, Fall River County, South Dakota DOT, Fall River Water User's District, Mr. Steve Sumanek, Mr. Kelvin Lorenz, Black Hills Power and Light and Golden West Communications.
2. Our firm worked along five miles of buried fiber-optic and conventional cable belonging to Golden West during construction of the Fall River Water User's District main water supply line. Our construction ditch consisted of solid rock with the trench being only 2-5' away from the cable. Many crossings had to be made and during the entire construction season our firm did no damage to the Golden West cables. Mr. Lee Carr was the locator for Golden West and always requested that we call him directly for any locates. At no time did Golden West require a new One-Call for locates every 21 days.
3. The aforementioned procedure followed by Golden West and Olander Contracting Co. was changed on 1-12-04 when Mr. Harkless contacted me and requested the 21 day notice be utilized continually even though we were working in areas that locates had been performed.
4. Our firm did call for locates in the area in question and all utilities responded prior to our firm commencing work. Apparently the issue that Mr. Harkless is having a problem with is the fact that all utilities responded timely except GoldenWest. Our supervisor called Mr. Lee Carr for a locate and he turned him down as he stated his orders were not to respond to our firm's locate requests and those orders had come down from Harkless. Our firm was working in an area that had been previously located by all of the utility companies including Golden West. Any new utilities that were installed including power, telephone, and cable TV were trenched in by the developers of the golf course property – Steve Sumanek and Kelvin Lorenz. Both of these parties had been contacted for locates and were cleared for excavation.
5. All work that has been performed by our firm during the last two years in the Hot Springs area has been within the confines of the municipal golf course and on private property owned by Sumanek and Lorenz. Our firm has installed all of the sewer, watermains and services for the City of Hot Springs, Sumanek and Lorenz and has been cognizant of the new utility locations as the developers installed them and forwarded the data to our firm.
6. Golden West apparently has filed the complaint against our firm as a revenge motivated action. I would contemplate this complaint was precipitated due to the fact that on several occasions I have told both Harkless and Schroeder of Golden West that their organization should be held to the same standards as other contractors; they should have to make a One-Call when installing their utilities. In fact, their installers have told us that they don't make the call. We can attest to this as the Golden West crews have trenched through our installed sewer and water lines on the golf course property. Mr. Lorenz or Sumanek or our firm was not notified of their trenching operations by One-Call prior to the damage to the sewer and waterlines.
7. The One-Call manual states that an agreement for a continuing – on going locate status agreement can be reached by mutually agreement between the parties, thereby saving the expense for all parties of new locates every 21 days. Golden West declined our request.

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8. Olander Contracting Co. has never declined to make a One-Call request and does not intend to ever side-step this issue.
9. Mr. Harkless' statement in the complaint that Olander Contracting Co. has no desire to comply with the One-Call requirements is utterly ridiculous, false, and highly incendiary. Mr. Harkless should be retrained from such incendiary statements and actions and disciplinary actions may be in order.

After a review of the complaint and our firm's reply, we would request that the Board rule that Olander Contracting Co. did not commit an intentional act regarding a violation of any One-Call statutes.

We reviewed the factors relating to penalty assessment and respond as follows:

- a. The amount of damage – none as no existing utilities existed or were tunneled or exposed.
- b. Degree of threat to public safety – none
- c. Public inconvenience – none
- d. Respondent's plans for future compliance – Make One-Calls as usual, independent investigation, 21 day continuing notice if agreement can't be reached.
- e. Previous violations – none
- f. Other matters – none

Our firm would request the removal of One-Call board member Mr. Jerry Schroeder due to a conflict of interests for the hearing of this matter.

Our firm and its employees pride themselves on the quality and safety of our contracting operations. We look forward to working with One-Call and appreciate the network of services that is provided.

Please call if further information is required.

Thank you.

Yours truly,

Olander Contracting Co.

*dmj*

Barry Q. Olander  
President

CC: Golden West Telecommunications