

MUNICIPAL UTILITIES DEPARTMENT

901 Fourth Avenue Southwest

WATERTOWN, SOUTH DAKOTA 57201-4107

PHONE (605) 882-6233

FAX (605) 882-6238

0006-002

RECEIVED

MAY 12 2006

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

5/11/2006

SD One Call Board enforcement committee:

Please consider our complaint against Eagle Excavating. We have had problems with this excavator in the past digging without locates and would like to start the formal complaint process against him to prevent future incidents like the one described from occurring. Luckily with this situation, no one was hurt, and no damage was incurred, however this excavator needs to know that he needs to follow the law to conduct business.

I have enclosed pictures of the excavation showing the yellow warning tape exposed, the small trackhoe used by Eagle Excavating to dig the trench, and pictures of the surrounding area showing no locate marks. We feel confident that there is enough information attached to find Eagle Excavating in violation of the law and would like you to consider a penalty imposed on Eagle Excavating for that violation.

Thank you for your consideration,



Steve Lehner
Assistant General Manager
Watertown Municipal Utilities

Mail completed form to:

PUBLIC UTILITIES COMMISSION
500 EAST CAPITOL AVENUE
PIERRE, SD 57501
ATTN: SOUTH DAKOTA ONE CALL BOARD

UCU 6-002
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MAY 12 2006

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

COMPLAINT

COMPLETE INFORMATION IS REQUIRED - ADDITIONAL PAGES MAY BE USED IF REQUIRED

ALLEGATION OF PROBABLE VIOLATION(S) OF SOUTH DAKOTA ONE CALL LAWS

I. ACTION REQUESTED BY:

COMPLAINT FILED BY INDIVIDUAL OR BUSINESS* PERSON FILING COMPLAINT: Steve Lehner

COMPANY: Watertown Municipal Utilities ADDRESS: 901 4th Ave S.W. PHONE NUMBER: 605-882-6233

SIGNATURE OF COMPLAINANT: *Steve Lehner* DATE: 5/11/06 EMAIL ADDRESS: slehner@watertownmu.co0m

*If the complaint is files on behalf of a Company, the person signing this form should have the proper authority to file the complaint.

II. ACTION REQUESTED AGAINST:

NAME OF EXCAVATOR/FACILITY OPERATOR: Eagle Excavating PHONE NUMBER: 605-882-1691

ADDRESS: 16736 451st Ave, Watertown, SD 57201 - Mark Stromseth

WAS A LOCATE REQUESTED FROM SD ONE CALL? YES NO LOCATE TICKET #: 060870210

START DATE ON TICKET: 3/30/06

DID EXCAVATOR WAIT UNTIL THE START DATE/TIME ON THE TICKET BEFORE COMMENCING EXCAVATION? YES NO N/A

WERE BURIED FACILITIES EXPOSED BY HAND OR WITH NON-INVASIVE EQUIPMENT PRIOR TO EXCAVATION? YES NO N/A

III. FACILITY INVOLVED (IF ANY)

TYPE OF FACILITY INVOLVED: 2" Gas Main OPERATOR OF FACILITY (IF KNOWN): Watertown Municipal Utilities

OPERATOR ADDRESS: 901 4th Ave SW PHONE NUMBER: 605-882-6233

DEPTH OF COVER: 48" PRESSURE: 10 PSI VOLTAGE: NUMBER OF CABLE PAIRS:

IV. MARKING

WERE FACILITIES MARKED? YES NO N/A

WAS THE MARKING COMPLETE PRIOR TO THE START TIME ON THE TICKET? YES NO N/A

DID EXCAVATOR PRE-MARK WITH WHITE PAINT? YES NO N/A

WAS THE FACILITY MARKED ACCURATELY (WITHIN 18 INCHES)? YES NO N/A

DID EXCAVATOR USE REASONABLE CARE TO MAINTAIN LOCATE MARKS FOR LIFE OF PROJECT?
YES NO

HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY? YES NO

IS THERE AGREEMENT? YES NO **IF NO, PLEASE EXPLAIN:** We indicated to Mr Stromseth that we would be filing a complaint, and he said that was fine.

V. DAMAGE (IF ANY)

FATALITIES: none **INJURIES:** none **LENGTH OF HOSPITALIZATION:** none

ESTIMATED PROPERTY DAMAGE (\$): none **NUMBER OF CUSTOMERS AFFECTED:** none
DAMAGED IN: PUBLIC PRIVATE (RIGHT-OF-WAY)

PHOTOS OF THE DAMAGED FACILITY? YES NO

ADDITIONAL INFORMATION: The gas line was not hit, the marking tape buried above the gas line was dug into warning the excavator that he was digging near a gas line, and that is when we happened to find the situation. We would like him cited for digging without a valid ticket.

VI. PROBABLE VIOLATION

SPECIFIC STATUE(S) OR RULE(S) THAT WAS VIOLATED: 49-7A-5,

ADDRESS/LOCATION OF PROBABLE VIOLATION: 3013 N Serentiy Dr.

DATE/TIME OF PROBABLE VIOLATION: 5/10/2006 10:20 am

HAVE YOU DISCUSSED THIS PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST: YES NO

IF YES, NAME OF THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION: Mark Stromseth - please see attached documentation

DESCRIPTION OF PROBABLE VIOLATION: SDCL 49-7A-5 Notification of proposed excavation. Eagle Excavating dug without valid locates. A previous locate ticket was called in on March 28th with a start date of March 30th and an expiration date of April 20th at 11:30 CST. Eagle Excavating dug a trench on May 10th after the expiration date of the original ticket, and nearly hit our 2" gas main. There was no attempt made to expose any facility at the dig site by hand as outlined in section 6 of the one-call handbook. After we stopped excavation and asked for a ticket, Mr. Stromseth called in a ticket which gave a start date of 5/12/06 at 10:35CDT. Please see attached photos and account description by our construction foreman - Jerry Burns.

Wednesday May 10th approximately 10:20 am, I was in Northwoods subdivision on North Serenity drive, and I observed a small trackhoe owned by Eagle Excavating digging directly on top of our 2" gas main. I noticed there weren't any flags or paint of any kind on the ground, so I stopped and asked the operator if he had a one-call ticket for that location. He said that the owner Mark Stromseth did have a locate ticket. When I looked in the hole, they already had the yellow marking ribbon exposed in the trench. I then called Mark Meier, our locator, and asked him if he had a one call ticket for that location, and he said that he did not have anything for that address that he could remember. The operator said he was more worried about hitting the water main than the gas line because he was not sure where the water main was, but he said he know where everything else was. I also called Codington Clark Electric and rural water to let them know that there was an excavator digging and they did not have anything located either. After a short time, the owner (Mark Stromseth) arrived. He said he had a ticket but could not find it, so he thought it might be over 21 days old! I told him that we (Watertown Municipal Utilities) might be filing a complaint with SD One Call and he said that would be fine with him because he had a confirmation number. He also told Dave Zaug from Codington Clark Electric that he pretty much knew where all of their lines were because they work in that area all the time. I told him at that time that he could not dig anymore until they had a valid locate ticket. He said they called in a new ticket just before he arrived. When I arrived at the shop I pulled up SD One Call's web site and punched up all tickets for Serenity Drive. They had just called in a new ticket and the previous ticket for 3013 N serenity drive was called in on March 28th and expired on April 20th.

Jerry Burns

A handwritten signature in cursive script that reads "Jerry Burns". The signature is written in black ink and is positioned below the printed name.

Gas construction foreman











South Dakota One Call

SEQUENCE NUMBER 0210 CDC = XPR

Type: *** R O U T I N E

*** Class: TRANSMIT

Transmit: 03/28/06

At: 1127 CST

Prepared: 28-MAR-06

Time: 1126 CST By: LAZ

Ticket No.: 060870210

Operators Notified:

COD=/COD-CLARK ELEC / CRW=/CLARK RURAL WTR/ UWS=/QWEST LOCAL-ELM/
WAT=/WATERTOWN MUA /

Excavator Information:

Caller: MARK STROMSETH Phone: 605-882-1691

Excavator: EAGLE EXCAVATING
Address: 16736 451ST AVE
City: WATERTOWN, SD 57201
Phone: 605-882-1691 Fax: 605-886-4750

Contact: MARK STROMSETH Phone: 605-237-2450 CELL
Alt. Contact: JENNY STROMSETH Phone: 605-882-1691

Location Information:

County: CODINGTON City/Village: WATERTOWN

Map Ref: 44562-097046 Grids: 3
Exc. Site Address: 3013 N SERENITY DR
Nearest Intersection: 19TH AVE
Type of Work : EXCAV FOR BASEMENT/WTR/SWR
Work Being Done For: TOM HELWIG
Depth: 8 FT Explosives: N Tunnel/Bore: N
Start Date: 03/30/06 Time: 1130 CST Duration: 07 DAYS
Meeting Required: N Best Time to Contact: 0700 - 0700
Exc. Site (Marking Instr.): R.O.W.: N TRSQ:

MARK ENTIRE LOT

GPS Lat/Long:

Remarks:

EXPIRES APR 20 @ 11:30 CST

CALLER UNABLE TO PROVIDE SPECIFIC INFO

Total Grids: 3

44562-097046, 44562-097048, 44562-097050

End Ticket

South Dakota One Call

SEQUENCE NUMBER 0375 CDC = XPR

Type: *** R O U T I N E *** Class: TRANSMIT

Transmit: 05/10/06 At: 1035 CDT

Prepared: 10-MAY-06 Time: 1037 CDT By: ORW

Ticket No.: 061300375

Operators Notified:

COD=/COD-CLARK ELEC / CRW=/CLARK RURAL WTR/ UWS=/QWEST LOCAL-ELM/
WAT=/WATERTOWN MUA /

Excavator Information:

Caller: MARK Phone: 605-882-1691

Excavator: EAGLE EXCAVATING
Address: 16736 451ST AVE
City: WATERTOWN, SD 57201
Phone: 605-882-1691 Fax: 605-886-4750

Contact: MARK STROMSETH Phone: 605-237-2450 CELL
Alt. Contact: JENNY STROMSETH Phone: 605-882-1691

Location Information:

County: CODINGTON City/Village: WATERTOWN

Map Ref: 44562-097046 Grids: 3
Exc. Site Address: 3013 N SERENITY DR
Nearest Intersection: HWY 81
Type of Work : WATER LINE
Work Being Done For: TOMMY HELWIG
Depth: 6' Explosives: N Tunnel/Bore: N
Start Date: 05/12/06 Time: 1035 CDT Duration: 01 DAY
Meeting Required: N Best Time to Contact: 0700 - 0700
Exc. Site (Marking Instr.): R.O.W.: Y TRSQ:
LOC OUT BY STREET IN DITCH AREA

GPS Lat/Long:

Remarks:

EXPIRES JUN 02 @ 10:35 CDT

Total Grids: 3

44562-097046, 44562-097048, 44562-097050

Total TRSQs: 2

117N 52W 16-SW, 117N 52W 17-SE

End Ticket