

1. COMPLAINT DOCKET NUMBER: OC15-009

2. RESPONDENT INFORMATION

Reply filed on behalf of (company name):First Rate Excavate

Contact Person: Jason Wright

Phone: (605) 331-5626

Ext: na

Address or PO Box: 1509 E 39th St N

Sioux Falls, South Dakota 57105

United States

Fax:

Email: jayw@firstrateexcavate.com

Date: Oct 27, 2015

Were you previously aware of these allegations?: Yes

Provide detail including whom you spoke with: I had received a call from the City of Sioux Falls engineering dept. informing me of a home owner being upset about an excavation for new basement be on there property line. I explained to him that it was an over dig to provide a safe work environment for the foundation contractor and that it would be backfilled once the foundation was poured.

3. BASIC FACTS

Do you dispute the alleged violation of SD One Call statute or rule occurred?: Yes

If yes, what specifically do you dispute?: First Rate called in locates for the property that the new foundation was dug. The operator that dug the basement did not realize he was over the property line with his excavation until the neighbor ran a string line on the property. Only then did he realize he had gone over 8"-12".

Do you dispute the complainant's statements regarding the intentional or unintentional nature of the alleged violation?: Yes

If yes, please explain: First Rate Excavate does not intentionally damage or dig on private property. This instance was a mistake made by a operator new to digging basements attempting to make a hole safe the foundation contractor.

4. EXCAVATION / LOCATE INFORMATION: if applicable

Was a locate requested from SD One Call?: Yes

Locate ticket #: 1525797392

Start date on ticket: Aug 25, 2015

Start time on ticket: 03:24 PM

IMPORTANT: IF A LOCATE TICKET IS TO BE CONSIDERED AS EVIDENCE, A COPY OF THE LOCATE TICKET MUST BE ATTACHED WHEN SUBMITTING THIS FORM.

Did excavation begin before the start date / time on the ticket?: No

Was a minimum horizontal clearance of 18 inches maintained between a marked facility and mechanical equipment?: No

Were buried facilities exposed by hand or non-invasive equipment prior to excavation?: No

Were facilities marked?: No

Was the marking complete prior to the start time on the ticket?: Yes

Was the excavation site pre-marked with white paint?: No

Was the facility marked accurately (within 18 inches)?: Yes

Was there reasonable care to maintain locate marks for the life of project?: Yes

Did the complainant correctly describe the type of facility involved?: No

If not, provide detail:

5. DAMAGES: (Please provide pictures)

Did the complainant correctly describe the damages that resulted from the alleged violation?: No

If no, provide detail: There were no damages to utilities

Were damages on public right of way or private property?: Private

Did complainant correctly describe how operator service was affected?: Yes

If no, provide detail:

Was anyone injured as a result of facility damage?: No

If yes, provide detail:

Length of hospitalization:

Were there fatalities?: No

If yes, provide detail:

Other information regarding injuries or damages:

6. STATUTORY VIOLATION (if known):

Do you believe the statutes listed (if any) by the complainant were violated?: No

Why or why not?:

7. FUTURE COMPLIANCE:

Describe your plans and procedures to ensure compliance with SD One Call statutes and rules: We are reviewing this instance and talking to the operators to see if any changes are need to be made. As homes are being built closer to property lines we looking to see if adjacent properties need to be located prior to excavation.

8. PAST VIOLATIONS:

Has a complaint been filed against you in the past for SD One Call violations?: Yes

If yes, when was it filed?: May 24, 2014

9. OTHER INFORMATION:

Please provide any additional information to support your position:

LOCATE TICKETS, PHOTOS, WITNESS STATEMENTS AND ANY OTHER DOCUMENTATION TO SUPPORT YOUR ARGUMENT MUST BE ATTACHED WHEN SUBMITTING THIS FORM.

Attachment #1

Attachment #2

Attachment #3

Attachment #4

Attachment#5

Attachment #6

Attachment #7

Attachment #8

Attachment #9

Attachment #10

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