

**Formstack Submission For: [South Dakota One Call Complaint Form](#)**

Submitted at 04/28/22 11:07 AM

**Complaint filed on behalf of or by:**

NorthWestern Energy

**Contact Person:**

Frank Luczak

**Phone Number:**

(605) 995-4429

**Ext:**

**Name or Company Name:**

NorthWestern Energy

**Street Address or PO Box:**

300 S Burr St  
Mitchell, SD 57301

**Fax:**

**Email:**

[frank.luczak@northwestern.com](mailto:frank.luczak@northwestern.com)

**Date:**

Apr 28, 2022

**Name of excavator / facility operator:**

H & W Contracting LLC

**Phone:**

(605) 339-8834

**Ext:**

**Name or Company Name:**

H & W Contracting LLC

**Street Address or PO Box:**

3416 W Hovland Drive  
Sioux Falls, SD 57107

**Fax:**

<b>Email:</b>	<a href="mailto:john@h-wcontracting.com">john@h-wcontracting.com</a>
<b>Is this party aware of your allegations?:</b>	Yes
<b>The South Dakota One Call Board expects communication to occur between both parties before filing complaints. Please provide details of who you spoke with, including the date and time, and what was discussed.:</b>	<p>I spoke with the operators on site at approximately 1240 22 APR 2022. The operator only made a couple of comments "We did see the caution tape..." and "if this had been flagged this wouldn't have happened." Indicating that the paint marks were not good enough</p> <p>I also spoke with John Rennich at approximately 1500 22 APR 2022. I explained to him what I had seen on the site and the comments made by the operator. I informed him that the locates were good for this site and that it appeared that someone had scuffed out the marks and covered them with sod. I told him that NorthWestern Energy would be billing them for the damages and also my intent to file a complaint with SD One Call.</p>
<b>Statutory Violations:</b>	<p>20:25:03:05.02 Excavator responsibilities for the preservation of markings</p> <p>20:25:03:05.03 Excavator responsibilities when excavating near markings</p>
<b>Other information to support your position:</b>	
<b>Street Address / location of alleged violation:</b>	407th Ave and N Harmon Drive Mitchell, SD
<b>Date of alleged violation:</b>	Apr 22, 2022
<b>Time of alleged violation:</b>	10:56 AM
<b>Describe your allegation:</b>	H & W dug through an electric primary cable at the intersection of 407th and N Harmon Drive. When NWE technicians arrived on site they could not find the paint marks that they had placed previously. After a bit of looking around the remains of the mark

was found underneath a chunk of sod that had to be moved by the technician. The mark had been mostly scuffed out and was barely visible. (Technician took short video before and after the sod was moved.)

When I arrived on site shortly after our technicians I observed the same scuffed out marks with the piece of sod laying next to it. I also overheard several comments from the operator on site. The operator admitted that they found the Caution tape yet continued to dig. The operator also made the comment that "if this had been flagged this would not have happened."

The locate marks including the covered up one were accurate in relation to the cable location. One of our technicians had also been on site earlier that morning in communication with the operator to ensure that they had everything they needed as far as locating needs from NorthWestern Energy.

**Do you believe the alleged violation to be intentional?:**

Yes

**Why or why not?:**

I believe this was intentional due to the fact that the area around the obscured mark was not disturbed. The disturbance was limited to exactly where the paint mark was. There was also no other dirt piles or sod in the immediate vicinity where the piece of sod was placed to cover up the mark. Additionally, they admitted to seeing the caution tape and continued to dig resulting in the hit.

**Was a locate requested from SD One Call?:**

Yes

**Locate ticket #:**

2209765784

**Start Date on Ticket:**

Apr 11, 2022

**Start time on ticket:**

05:00 PM

<b>Did the excavator wait until the start date / time on the ticket before commencing excavation?:</b>	Yes
<b>If no or not sure, when did excavation begin (date)?:</b>	
<b>If no or not sure, when did excavation begin (time)?:</b>	
<b>Did the excavator maintain a minimum horizontal clearance of 18 inches between a marked facility and mechanical equipment?:</b>	No
<b>Explain:</b>	Excavator dug right up to and through the line with the hydraulic-excavator
<b>Were buried facilities exposed by hand or non-invasive equipment prior to excavation?:</b>	No
<b>Were facilities marked?:</b>	Yes
<b>Was the marking complete prior to the start time on the ticket?:</b>	Yes
<b>Did the excavator pre-mark with white paint?:</b>	N/A
<b>Was the facility marked accurately (within 18 inches)?:</b>	Yes
<b>Did the excavator use reasonable care to maintain</b>	No

**locate marks for the life of project?:**

**Type of facility involved:** Single Phase Electric Primary

**Operator of facility (if known):** NorthWestern Energy

**Operator address (Street or PO Box):** 300 S Burr  
Mitchell, SD 57301

**Operator Phone:**

**Depth of Cover (If unsure put N/A):** 48"

**Pressure (If none, write none):** none

**Voltage (If none, write none):** 12.5kV

**# of cable pairs (If none, write none):** none

**Was the facility damaged?:** Yes

**If yes, provide detail and an estimate of damage.:** Single phase primary line severed. Cost of repairs %1,119.75.

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

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

**If yes, provide detail.:**

**Length of hospitalization:**

<b>Were there fatalities?:</b>	No
<b>If yes, provide detail.:</b>	
<b>Was operator service affected? :</b>	Yes
<b>If yes, provide detail (how many customers for how long).:</b>	13 customers for approximately 3 hours
<b>Was the one-call notification center immediately notified of the damage, dislocation, or disturbance?:</b>	Yes
<b>If No, why not?:</b>	
<b>Was the operator of the facility immediately notified of the damage, dislocation, or disturbance?:</b>	Yes
<b>If No, why not?:</b>	
<b>Was there an escape of any flammable, toxic, or corrosive gas or liquid?:</b>	No
<b>If Yes, but if 911 was not called, or if you don't know, explain why.:</b>	
<b>Please provide a Fire Department or Emergency Services incident report, if available :</b>	Not Available
<b>Attachment:</b>	

**Attachment Information:**  
**File names should not**  
**include symbols. Example:(**  
**\$. &, \*, %.) etc.:**