

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

Submitted at 06/02/22 3:19 PM

Complaint Docket Number:	OC22-003
Reply filed on behalf of (company name):	H&W Contracting, LLC
Contact Person:	John Rennich
Phone Number:	(605) 339-8834
Ext:	
Name or Company Name:	H&W Contracting, LLC
Street Address or PO Box:	3416 W. Hovland Dr Sioux Falls, SD 57107
Fax:	(605) 339-9175
Email:	john@h-wcontracting.com
Date:	Jun 02, 2022
Were you previously aware of these allegations?:	Yes
Provide detail including whom you spoke with.:	Frank Luczak with Northwestern Energy called to inform me that he was going to file a claim based on a damage that occurred to their utility.
Do you believe the statutes listed (if any) by the complainant were violated?:	No
Why or why not?:	As you can see by Frank's pictures/videos there is spade trench along the location of the damaged line.

Our guys were spading for and trying to locate the line, along with numerous other communication lines in that area. Our guys had spaded down through and when they didn't find anything they were assuming they are old or mismarked locates as they were not updated with flagging like the other utilities and only had a couple marks and didn't extend further north or south of the excavation that was occurring.

My guys ended up hitting the electrical marking tape in the same bucket as the line. My foreman made a comment that they hit the tape and keep digging and which was all within the same motion.

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

Yes

If yes, what specifically do you dispute?:

We had preserved the minimal markings that were in the field. If not then our crew would not have taken the time to hand dig to try and locate. This line continues up the hill to the north and was supposed to be marked as part of another ticket, 220-976-5784, that had an exact same start time and date but continued another 500' north yet was not marked until after the damage.

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

Yes

If yes, please explain.:

We hand dug around the area and were using the excavator to dig down after trying to locate by hand. See attachment 5 that was presented with the claim. You can see the trench dug with spade down to the line and was hit right after. Utility company claims we did not try to locate by hand but in the pictures they provided you can see a trench along the edge of the bank that shows it was spaded down as we tried to locate the line.

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

Copy of the locate ticket:

If no, please explain why no locate request was made.:

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? : Yes

Were buried facilities exposed by hand or non-invasive equipment prior to excavation? : Yes

Were facilities marked? : Yes

Was the marking complete prior to the start time on the ticket?: Not Sure

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?:

Yes

Provide details:

Our crews had thought since the markings were minimal, older paint and no flagging that it might have been a previously mismarked line. We had hand dug for a while trying to find it and were deeper than the utilities typically are installed. At that time it ended up being the next scoop with the excavator to clear the path that hit the tape and electrical line. The paint on the line was older than the other markings and didn't have any flagging. Plus it didn't run the full length of the ticket, until after the damage.

Did the complainant correctly describe the damages that resulted from the alleged violation?:

No

Provide details:

Damages are correct as what happened to their line. We just were not negligent as described by the utility provider.

We asked utility provider for pictures of the locate that was performed on the initial ticket and they could not provide as we were told they don't take photos.

Was the one-call notification center immediately notified of the damage, dislocation, or disturbance?:

Yes

File: [View File](#)

If No, why not?:

Was the operator of the facility immediately notified of the damage, dislocation, or disturbance?: Yes

If No, why not?:

Was there an escape of any flammable, toxic, or corrosive gas or liquid?: No

If Yes, but if 911 was not called, or if you don't know, explain why.:

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

If no, provide details.: Damages are correct as what happened to their line. We just were not negligent as described by the utility provider.

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

Did complainant correctly describe how operator service was affected?: No

Provide Details: I don't think we went into detail on this as we were aware that line was active once it was hit so knew that it would affect customers.

Was anyone injured as a result of facility damage?:

No

If yes, provide details.:

Length of hospitalization:

Were there fatalities?:

No

If yes, provide details.:

Other information regarding injuries or damages:

Describe your plans and procedures to ensure compliance with SD One Call statutes and rules.:

Our company does One Call tickets for all excavations. We don't start before the ticket is valid. Our crews utilize shovels and spades to hand dig to locate the lines that are properly marked.

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

No

If yes, when was it filed?:

Please provide any additional information to support your position.:

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