

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

Submitted at 08/30/22 7:44 PM

Complaint Docket Number: OC22-012

Reply filed on behalf of (company name): Wagner Building & Supply Co. Inc.

Contact Person: Todd Doom

Phone Number: (605) 384-3654

Ext: 114

Name or Company Name: Wagner Building & Supply Co. I

Street Address or PO Box: 39379 SD Highway 46
Wagner, SD 57380

Fax: (605) 384-3654

Email: tdoom@wbsi.biz

Date: Aug 30, 2022

Were you previously aware of these allegations?: Yes

Provide detail including whom you spoke with.: Per the original complaint we spoke with Frank Luczak of Northwestern Energy.

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

Why or why not?: SD 49-7A-12

This statute requires the reporting of any damage to an underground utility. As per statute we reported the damage. Though offering to repair the damage ourselves may have been unwise it does violate the statute.

Administrative Rule 20:25:03:05.03

We located the utility line in question by hand digging at the marked location. Having determined the depth of the line in this fashion as 30" we proceeded carefully with power equipment. However, the line had previously been severed by another party, brought to the surface for repair and improperly reburied to only 18". Our power equipment struck the line at this depth and caused the splice to separate.

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

Yes

If yes, what specifically do you dispute?:

It is alleged that we proceeded with improper care to guard against damaging the line. However, the line was located by hand digging and found to be at 30" of depth. When struck by our equipment only a short distance away (1' to 2') it was at a depth of only 18" because of a previous cut and repair.

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

Yes

If yes, please explain.:

Again, we responsibly revealed the line and proceeded carefully from that point.

Was a locate requested from SD One Call?:

Yes

Locate ticket #:	2214400454
Start date on ticket:	May 24, 2022
Start time on ticket:	07:47 AM
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?:	Yes
Was the excavation site pre-marked with white paint?:	Yes
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:	Description was accurate
Did the complainant correctly describe the damages that resulted from the alleged violation?:	Yes
Provide details:	Description was accurate
Was the one-call notification center immediately notified of the damage, dislocation, or disturbance?:	No
File:	
If No, why not?:	We immediately contacted the effected utility (in this case, Northwestern Energy).
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?:

Yes

If no, provide details.:

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

Private

Did complainant correctly describe how operator service was affected?:

Yes

Provide Details:

Description was accurate

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:

There were no injuries.

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

In this PARTICULAR case additional training may not have helped, but in a more general sense we will be instructing our workers to proceed with more care and less urgency when working near all utilities. The

nature of our work brings in constant contact with water, sewer, power and communication utilities. Familiarity breeds complacency and we need to impress upon all our workers to be more diligent when working near located utilities.

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

Yes

If yes, when was it filed?:

Aug 10, 2022

Please provide any additional information to support your position.:

It does not seem reasonable to expect us to have anticipated a change in depth of a utility line of over 12" only 2' from the point where we hand-revealed the line. Obviously we damaged the line but we believe we exercised the appropriate care in this circumstance. Please see the attached letter for a more complete explanation of our position.

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

[View File](#)

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