



Lucy Beld <lucy@llsons.net>

Locate Message

1 message

locates@sd811.com <locates@sd811.com>

Tue, Oct 17, 2023 at 9:52 AM

To: "info@llandsonsexcavating.com" <info@llandsonsexcavating.com>

The South Dakota 811 Portal is moving! Beginning November 15, 2023 the current South Dakota 811 Portal will no longer be available. The new South Dakota 811 Portal can be found at <https://sdgc.southdakota811.com/ui/login/>. Click [here](#) for more information.

To update or view a map of the dig location click [here](#) to go to the South Dakota 811 Portal Site.

South Dakota 811 Locate Request

Ticket Number:	2329080794	Old Ticket:	
Source:	Portal Ticket	Date:	10/17/2023 9:51:59 AM
Type:	Normal	Update By:	11/7/2023 10:00:00 AM
Seq Num:	1	Expires On:	11/9/2023 10:00:00 AM

Company Information

Excavator:	LL & SONS EXCAVATING, INC.	Type:	Excavator
Address:	44504 SD HWY 22	Contact:	Loren Beld
City, St, Zip:	HAZEL, SD 57242	Contact Phone:	(605) 881-8168
Phone:	(605) 881-8168	Alt Phone:	(605) 628-2638
Fax:		Caller:	Loren Beld
Caller Email:	info@llandsonsexcavating.com	Caller Phone:	(605) 881-8168
Contact Email:	info@llandsonsexcavating.com		

Work Information

State:	SD	Work Date:	10/19/2023 10:00:00 AM
County:	CODINGTON	Done For:	JEREMY NESS
Place:	WATERTOWN	Duration:	2 WEEKS
Address:	1096 S LAKE DR	Explosives::	No
Intersection:	HWY 139	R.O.W.:	No
Nature of Work:	FOOTINGS	Tunnel/Bore:	No
Meet Requested:	No	Meet Date/Time:	
TRSQ:		Depth:	6 FT

Driving Directions

Remarks

Work Date: 10/19/2023 10:00:00 AM MARK ENTIRE LOT

Members

Code	Name	Manually Added
ITT	Interstate Telecommunications Cooperative Inc.	False
MWT	Bluepeak	False
TC2	Midcontinent Communications	False
UW1	CTLQL-CenturyLink	False
WAT	Watertown Municipal Utilities	False

Work Location Bounding Box

Latitude:	44.8937102552474	Longitude:	-97.2388530295978
Second Latitude:	44.8941928845473	Second Longitude:	-97.2384560626633

In the future you can submit your tickets quick and easy online at the [South Dakota 811 Portal Site](#).

The start date and time on the ticket reflects the time zone for where the work is taking place.

Know what's below and also remember to be careful around overhead power lines.

LL & Sons Excavating, Inc.
PO Box 43
Hazel, SD 57242



INVOICE

BILL TO

Midcontinent Comm.
PO Box 5010
Sioux Falls, SD 57117

INVOICE # 13459

DATE 12/22/2023

TERMS Due on receipt

JOB

1096 S Lake Drive, Watertown

DESCRIPTION	QTY	RATE	AMOUNT
10/17/23 Midco marks were not accurate. LL & Sons spent 6 hours locating the line, which was 31" away from marks.			0.00
Vac truck, per hour. Down time.	6	525.00	3,150.00T
320 Cat Excavator, per hour. Down time.	6	375.00	2,250.00T
Labor, per hour. Down time	16	95.00	1,520.00T

All unpaid balances more than 30 days past due are subject to a 1.5% monthly finance charge, with a minimum charge of \$10.00.

SUBTOTAL	6,920.00
TAX	141.24
TOTAL	7,061.24
BALANCE DUE	\$7,061.24



Direct Dial: (605) 271-4144
E-mail: patrick.mccann@midco.com

January 15, 2024

Sent Via Email

Loren Beld
LL & Sons Excavating, Inc.
PO Box 43
27 W Lafayette St.
Hazel SD 57242
Email: loren@llsons.net
CC: todd@wslawfirm.net

Re: Invoices and claims against Midcontinent Communications

Mr. Beld:

Midco acknowledges receipt of the invoices you sent on or about December 27, 2023. After careful review of the invoices, along with the facts and the law, Midco is denying any liability and will not be paying any of these invoices.

As I previously indicated via e-mail, there is no statutory authority which obligates Midco to pay these invoices *even if* the evidence supported a claim that Midco failed to accurately locate its underground facilities. Which the evidence does not. The statute merely provides a safe harbor for excavators and states that “any excavator damaging or injuring [unlocated or inadequately marked] facilities is not liable for such damage[.]” SDCL 49-7A-9.

Additionally, our team reviewed your claims for downtime, and they are unsupported by our contemporaneous records. Please see our attached review.

Again, we are willing to consider a reasonable offer to settle our claim against LL & Sons, but these invoices are unsupported by the facts and law, and furthermore appear to have been issued solely in response to our litigation rather than the ordinary course of business.

Sincerely,

Patrick McCann
General Counsel and VP of Legal
Midcontinent Communications (“Midco”)

Response to Invoices from LL & Sons

Invoice #13463

Locate was off by 15 feet. I was the one that located this drop. I located it with power as that is where I found the signal with my locator. Contractor called in the damage locate at 11:51 AM on 7/13/2023. I had a tech onsite and had this cable repaired and out of the contractor's way at 12:16PM on 7/13/2023 which resulted in down time of 25 minutes. Contractor is billing for 3 hours down time.

Invoice # 13462

This one speaks of an abandoned line to the building. I don't believe we should be held accountable for an abandoned line. The ticket was called in at 12:54 PM 7/12/2023 and we had completed out the abandoned line and advised the contractor of this at 1:29 PM 7/12/2023 which was less than 1 hour.

Invoice #13461

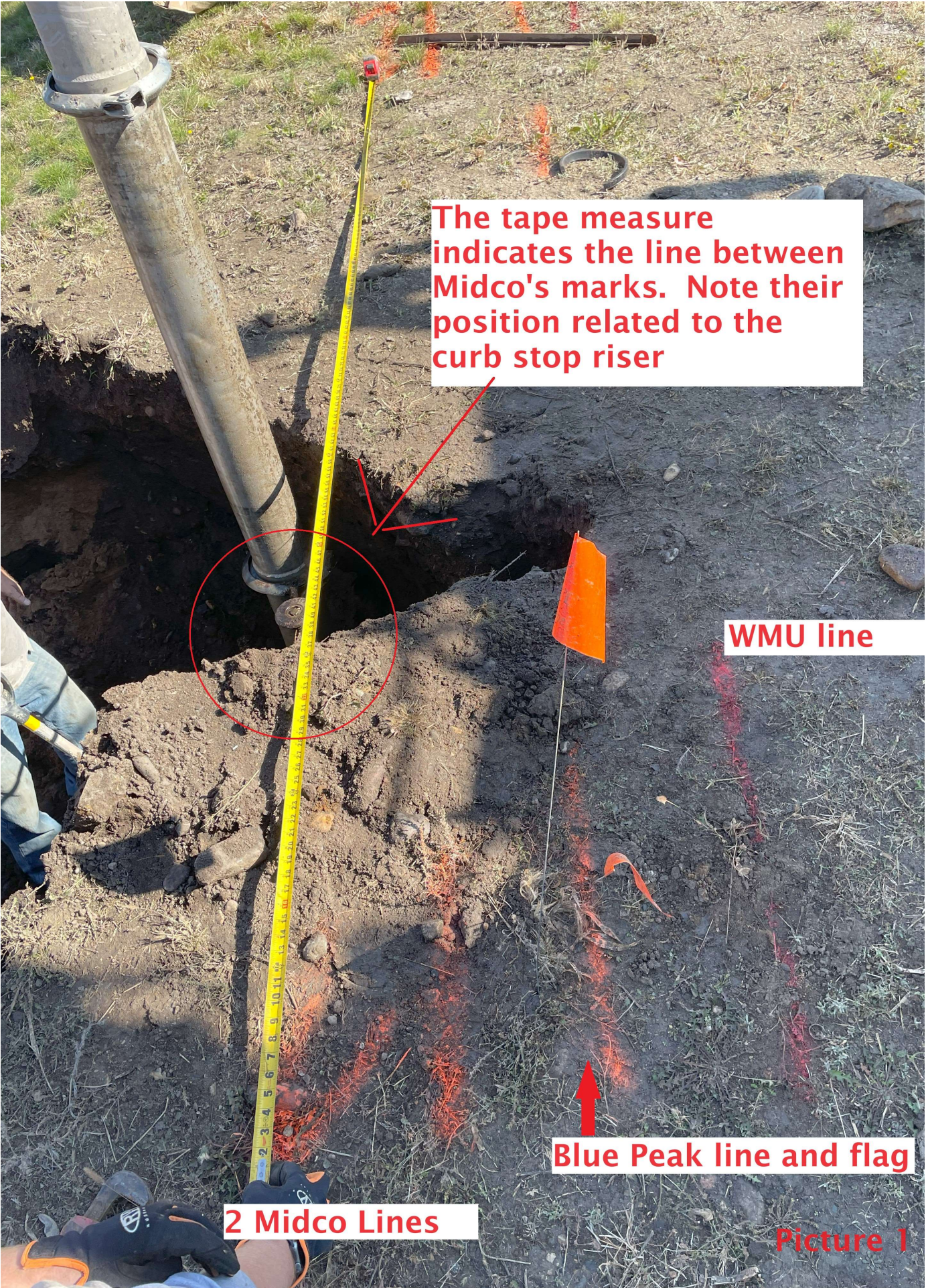
This is an invoice for the damaged that we filed the on call complain on. Our locates were accurate and were not off by 40 inches like he is stating. In regards to the downtime. He never called the say he hit the wire so we temp fixed the line after hours on 7/13/2024 when he had filled the hole back in and was not onsite while we fixed it. The next day we showed up and he had the hole opened up so we temp fixed our damaged line while the hole was open. It took us from 8:15 AM on 7/14/2023 to 9:15 AM on 7/14/2023 to repair the damaged cable.

Invoice #13460

We located the original ticket on 11/14/2023. Locator had marked the line with power. Contractor called in a respot/verification ticket which was the correct thing to do. My locator went back and was still getting the line marked with power. This ticket was completed 11/15/2023 at 12:12 PM. On 11/16/2023 the contractor was digging and hit our cable which was improperly marked. Contractor called in the damage ticket at 8:55 AM on 11/16/2023. I dispatched a technician and we had our line repaired and out of the contractors way at 10:28 AM on 11/16/2023. Spoke to tech Josh Petersen who was the tech that fixed this and he states the contractor never stopped digging while we were fixing our wire. So not sure what warrants downtime.

Invoice #13459

Midco locator marked the mainline joint with the power company which is where the line is located at. Contractor never called for a verification ticket for us to come back out onsite and also never called in for a damage ticket so I am not exactly sure what he is actually billing us for. If a contractor can't find a line they have the ability to call in for a verification ticket for assistance in locating the underground lines.



The tape measure indicates the line between Midco's marks. Note their position related to the curb stop riser

WMU line

Blue Peak line and flag

2 Midco Lines

Picture 1



Note that Midco's furthest line is approx. 10" from the riser.

This picture shows the marks in relation to the curb stop riser which was shown in Picture 1. The actual lines are approximately under the feet shown in this picture.

Picture 2



This picture shows the curb stop riser is 40" away from the WMU power line. Midco's line is approx. 3" further, putting it 43" inches from the riser. Midco's closest mark (Picture 2) is 10" from the riser, putting the line 33" off.

WMU line

Midco & Blue Peak

Picture 3