

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

Submitted at 10/24/23 8:47 AM

<b>Complaint filed on behalf of or by:</b>	Midcontinent Communications
<b>Contact Person:</b>	Patrick McCann
<b>Phone Number:</b>	(605) 271-4144
<b>Ext:</b>	
<b>Name or Company Name:</b>	Midcontinent Communications
<b>Street Address or PO Box:</b>	3901 N Louise Ave Sioux Falls, SD 57107
<b>Fax:</b>	
<b>Email:</b>	<a href="mailto:patrick.mccann@midco.com">patrick.mccann@midco.com</a>
<b>Date:</b>	Oct 24, 2023
<b>Name of excavator / facility operator:</b>	Loren Beld/LL & Sons Excavating, Inc.
<b>Phone:</b>	(605) 881-8168
<b>Ext:</b>	
<b>Name or Company Name:</b>	LL & Sons Excavating, Inc.
<b>Street Address or PO Box:</b>	44504 SD Hwy 22 44504 SD Hwy 22 Hazel, SD 57242

**Fax:**

**Email:**

[info@llandsonsexcavating.com](mailto:info@llandsonsexcavating.com)

**Is this party aware of your allegations?:**

Yes

**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.:**

Midco previously had contact with the excavator when making repair to the damaged underground facilities. Midco provided the excavator with a demand letter on September 20, 2023. Midco e-mailed Mr. Beld on October 16, 2023, informing him of our intent to file suit no earlier than October 20, 2023.

**Statutory Violations:**

SDCL 49-7A-8 - Excavator failed to maintain a minimum horizontal clearance of 18" between marked underground facilities and the cutting edge of any mechanical equipment.

SDCL 49-7A-8 - Excavator failed to expose underground facilities with hand tools or other approved non-invasive methods.

SDCL 49-7A-12 - Excavator failed to immediately notify the one-call notification center and operator of the facility upon damage.

SDCL 49-7A-12 - Excavator concealed or attempted to conceal damage to an underground facility.

20:25:03:05.02 - Excavator failed to protect and preserve marks and flags for proper and safe excavation work.

**Other information to support your position:**

On 6/27/23 the excavator filed 811 ticket 2317805875 requesting locates for work to be done on 6/29/23 at 10:45 AM.

Midco marked the locates with paint and flags on

6/28/23 at 4:39 PM as shown in the attached documentation.

On 7/11/23 the excavator filed a re-spot request with a work date of 6/29/23 at 10:45 AM.

Midco marked the locates with paint and flags on 7/11/23 at 6:04 PM as shown on the attached documentation.

On or about July 21, 2023, the excavator was digging a water line at 1394 South Lake Drive, Watertown, Codington County, South Dakota. While conducting mechanical excavation for the water line, the excavator cut through Midco's duct and .750 cable line severing service to Midco's customers.

The excavator did not call to inform Midco that it had hit the line, rather it filled in trench and left for the night. Midco received automated notice from its systems that an outage had occurred and arrived to discover the damage.

Midco's locates were verified accurate.

To restore service to its customers, Midco had to run a temporary span, then it had to remove the direct bury trench and add 1 ¼" duct trench. Midco replaced 1,035 feet of .750 cable to restore service. While on site making repairs, the excavator again cut Midco's line and acknowledge he had hit Midco's cable "again."

The cost to repair the damage done by the excavator is \$16,022.51.

**Street Address / location of alleged violation:**

1394 South Lake Drive  
Watertown, SD

**Date of alleged violation:**

Jul 21, 2023

**Time of alleged violation:**

05:00 PM

**Describe your allegation:**

On 6/27/23 the excavator filed 811 ticket 2317805875 requesting locates for work to be done on 6/29/23 at 10:45 AM.

Midco marked the locates with paint and flags on 6/28/23 at 4:39 PM as shown in the attached documentation.

On 7/11/23 the excavator filed a re-spot request with a work date of 6/29/23 at 10:45 AM.

Midco marked the locates with paint and flags on 7/11/23 at 6:04 PM as shown on the attached documentation.

On or about July 13, 2023, at approximately 5:19 PM, the excavator was digging a water line at 1394 South Lake Drive, Watertown, Codington County, South Dakota. While conducting mechanical excavation for the water line, the excavator cut through Midco's duct and .750 cable line severing service to Midco's customers.

The excavator did not call to inform Midco that it had hit the line, rather it filled in trench and left for the night. Midco received automated notice from its systems that an outage had occurred and arrived to discover the damage.

Midco's locates were verified accurate.

To restore service to its customers, Midco had to run a temporary span, then it had to remove the direct bury trench and add 1 ¼" duct trench. Midco replaced 1,035 feet of .750 cable to restore service. While on site making repairs, the excavator again cut Midco's line and acknowledge he had hit Midco's cable "again."

The cost to repair the damage done by the excavator is \$16,022.51.

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

No

**Why or why not?:**

We would not believe that Mr. Beld would intentionally damage Midco's line but will defer to the board.

Midco previously filed suit against Mr. Beld for other damages that occurred on October 19, 2021, for which it was paid and dismissed said suit. Midco also separately filed suit for damages which occurred on June 10, 2022. After prevailing at court trial, Midco was awarded a judgment for the damages.

Including the second cut that occurred while on site, this would total four times that Mr. Beld's company has cut Midco in three years.

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

Yes

**Locate ticket #:**

2317805875

**Start Date on Ticket:**

Jun 29, 2023

**Start time on ticket:**

10:45 AM

**Did the excavator wait until the start date / time on the ticket before commencing excavation?:**

Yes

**If no or not sure, when did excavation begin (date)?:**

**If no or not sure, when did excavation begin (time)?:**

**Did the excavator maintain a minimum horizontal clearance of 18 inches between a marked facility and mechanical equipment?:** No

**Explain:**

Excavator dug over locates with mechanical equipment and did not expose underground facilities by hand or other approved means.

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

**Were facilities marked?:** Yes

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

**Did the excavator pre-mark with white paint?:** N/A

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

**Did the excavator use reasonable care to maintain locate marks for the life of project?:** No

**Type of facility involved:** Telecommunications services

**Operator of facility (if known):** Midcontinent Communications

<b>Operator address (Street or PO Box):</b>	3901 N. Louise Ave. Sioux Falls, SD 57107
<b>Operator Phone:</b>	(605) 271-4144
<b>Depth of Cover (If unsure put N/A):</b>	N/A
<b>Pressure (If none, write none):</b>	None
<b>Voltage (If none, write none):</b>	None
<b># of cable pairs (If none, write none):</b>	None
<b>Was the facility damaged?:</b>	Yes
<b>If yes, provide detail and an estimate of damage.:</b>	Midco's out of pocket costs to repair the damage was \$16,022.51.
<b>Were damages on public right of way or private property?:</b>	Public
<b>Was anyone injured as a result of facility damage?:</b>	No
<b>If yes, provide detail.:</b>	
<b>Length of hospitalization:</b>	
<b>Were there fatalities?:</b>	No
<b>If yes, provide detail.:</b>	
<b>Was operator service affected? :</b>	Yes

**If yes, provide detail (how many customers for how long).:**

23 customers lost connectivity to 28 devices from approximately 5:19 PM to approximately 9:52 PM.

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

No

**If No, why not?:**

The excavator filled in the trench and left for the day. The did not contact Midco or 811 to report the damage. Midco discovered the damage through its automated systems.

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

No

**If No, why not?:**

The excavator filled in the trench and left for the day. The did not contact Midco or 811 to report the damage. Midco discovered the damage through its automated systems.

**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.:**

**Please provide a Fire Department or Emergency Services incident report, if available :**

Not Available

**Attachment:**



**Attachment Information:** File names should not include symbols. Example:( \$, &, \*, %. ) etc. If submitting multiple files, please zip all files into one folder.:

[View File](#)