

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

Submitted at 01/15/24 4:16 PM

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| <b>Complaint filed on behalf of or by:</b>    | LL & Sons Excavating, Inc.                             |
| <b>Contact Person:</b>                        | Loren Beld   |
| <b>Phone Number:</b>                          | (605) 881-8168   |
| <b>Ext:</b>                                   |  |
| <b>Name or Company Name:</b>                  | LL & Sons Excavating, Inc.                             |
| <b>Street Address or PO Box:</b>              | PO Box 43<br>Hazel, SD 57242                           |
| <b>Fax:</b>                                   | (605) 628-1361   |
| <b>Email:</b>                                 | <a href="mailto:loren@llsons.net">loren@llsons.net</a> |
| <b>Date:</b>                                  | Jan 15, 2024   |
| <b>Name of excavator / facility operator:</b> | Midcontinent Communications                            |
| <b>Phone:</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<br>Sioux Falls, SD 57107             |
| <b>Fax:</b>                                   |  |

Email: [patrick.mccann@midco.net](mailto:patrick.mccann@midco.net)

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.:**

I have emailed back and forth with Cindy Wooten and Patrick McCann (in-house attorney) at Midco regarding damages and unmarked lines in the past few years.

We sent Invoice 13459 to Midco for our extra downtime/exploratory locating time on Dec 27, 2023. Midco acknowledged this invoice and sent a response on Jan 15, 2024 denying fault.

Mr. McCann does not want to talk on the phone, and wants to communicate with me through an attorney.

I prefer to work with utility owners to resolve matters, but Midco just throws their lawyers at us instead. We cannot trust the marks Midco makes, which causes us to lose time and profit as we have to carefully excavate since we have no idea where there lines actually are. The hopes with invoicing Midco and filing complaints is that they will locate their lines more accurately, and cease billing excavators for repairing lines that they didn't mark accurately.

In the majority of jobs we do, Midco fails to locate correctly most of the time.

They often just follow the marks from Watertown Municipal Utilities.

**Statutory Violations:** SDCL 49-7A-8 Locator failed to mark within 18" horizontally from the exterior sides of the underground facility.

**Other information to support your position:** See pictures 1-3 attached that show Midco's marks in relation to their line.

**Street Address / location of alleged violation:** 1096 S Lake Dr  
Watertown, SD

**Date of alleged violation:** Oct 19, 2023

**Time of alleged violation:** 10:00 AM

**Describe your allegation:** Midco marked the line 30" away from the actual underground utility line, as show in Pictures 1, 2 and 3. The ground at the location is very hard and rocky, and we spent most of the day looking for the line. We hesitate to call Midco for assistance in locating the line as their employees are very hostile and hard to work with.

**Do you believe the alleged violation to be intentional?:** No

**Why or why not?:** I don't believe Midco would intentionally mis-mark their lines, although with the frequent number of damages, I wonder if they are sloppy or are they trying to upgrade their lines at the excavator's expense.

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

**Locate ticket #:** 2329080794

**Start Date on Ticket:** Oct 19, 2023

**Start time on ticket:** 10:00 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?:**

Yes

**Explain:**

The marks were 30" away from the line. There was no damage to the line, but we spent a whole day looking for the line, going deeper and deeper where their marks were.

**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

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

Yes

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

No

**Did the excavator use reasonable care to maintain locate marks for the life of project?:**

Yes

**Type of facility involved:**

coax cable

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

Midcontinent Communications

**Operator address (Street or PO Box):**

3901 N Louise Ave  
Sioux Falls, SD 57107

**Operator Phone:**

(605) 271-4144

|   |                   |
|---|-------------------|
| <b>Depth of Cover (If unsure put N/A):</b>  | 3'                |
| <b>Pressure (If none, write none):</b>  | none              |
| <b>Voltage (If none, write none):</b>   | low voltage cable |
| <b># of cable pairs (If none, write none):</b>  | 1 coax cable      |
| <b>Was the facility damaged?:</b>   | No                |
| <b>If yes, provide detail and an estimate of damage.:</b>   |                   |
| <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>   | No                |
| <b>If yes, provide detail (how many customers for how long).:</b>   |                   |
| <b>Was the one-call notification center immediately notified of the damage, dislocation, or disturbance?:</b> | No                |

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| If No, why not?:   | No damage occurred.   |
| Was the operator of the facility immediately notified of the damage, dislocation, or disturbance?:   | No  |
| If No, why not?:   | We just looked for the line until we found it. Midco service techs are not pleasant to be around. |
| 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 Information: File names should not include symbols. Example:( \$, &, *, % . ) etc. If submitting multiple files, please zip all files into one folder.: | <a href="#">View File</a>   |