



July 6, 2020

Darrell Nitschke, Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Department 408
Bismarck, ND 58505-0480

RE: ND One Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Mr. Nitschke:

This letter is in response to the One-Call complaint filed by Midcontinent Communications, of Minot, ND, Case Number PU-20-273. The location of the damage identified in the complaint is approximately 6th Street between 27th and 31st Avenues in Minot, ND.

The complaint Part C alleged violation that Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage to underground facilities is false. All underground excavation work had already been completed in this area of the project. The first fiber hit was when Vincent Olson was operating an excavator to place rip rap at the end of the storm sewer pipe that had previously been installed. Due to the weight of the machine and shallow bury depth of the fiber, he hit the fiber optic while walking out of the ditch. Prior to this, Wagner Construction's pipe crew that installed the storm and sanitary sewer in the area had taken every precaution to conduct their excavation in a careful and prudent manner to avoid damage to underground facility. Wagner had excavated, exposed and protected the fiber optic line during the entire time of excavation over a period of several days.

The second hit happened down the road from the initial hit. Which resulted from the dirt crew prepping the existing road bed for installation of Class 5. The crew was using a GPS Dozer which was set at the design grade for the road.

After an internal investigation it was brought to our attention the fiber optic line we exposed, was buried no more than 12-18". This depth would make the fiber optic line non-compliant with the policy set forth by the ND DOT Policy for Accommodation of Utilities in State Right-of-Way, which states fiber optic wire must be installed at a minimum of 36 inches.

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Response to North Dakota One-Call Complaint
Wagner Construction, Inc.
Trevor Plasky, Project Manager

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The complaint Part C alleged violation that Excavator failed to maintain the markings during excavation are false. Wagner does not believe that the requested locate area was completely marked where the first initial fiber hit was, as no excavations had been performed there. We would request that the locator who performed the locates, provide pictures. The locate ticket #20043011 was valid at the time the work was being completed.

It was unfortunate that the operator hit the line while performing our above dirt work, even with all precautions in place. We feel that we have complied with the One-Call Excavation Notice System Law as it pertains to acting as a responsible contractor. Wagner will continue to work with the owner to resolve this matter.

Sincerely,

A handwritten signature in blue ink that reads "Trevor Plasky".

Trevor Plasky
Project Manager