

6-30-2020

Complainant

Roger French

1213 Laurel Lane

Brookings SD 57006

507-221-0258

Complaint Against:

Zacharias Construction

46543 SD-38

Hartford SD 57033

605-528-7220

Complaint

These incidents happened at the junction of 4th ave. and South Roberts Street in Humboldt SD.

I started working on the following issues by first contacting Nick Ritter of Prunty construction last August 30th in 2019. He prolonged our communication beyond the ninety day requirement to file the complaint, unknow to me at that time. He did not turn the claim into his insurance company until sometime mid January of this year. I thought Nick and I was working on sort of a gentleman's agreement to work out something fair for my daughter's loss of income due to his company's actions. Prunty Construction is the general contractor. I specifically told him I would prefer to work it out with him because I preferred not to turn his company or Zacharias construction into South

Dakota one call. He eventually filed a claim with his insurance without my knowledge nor my daughter's knowledge. His insurance company is United Fire and Casualty out of Iowa. This company then also turned the claim into Zacharias insurance company named Bidco Insurance, also out of Iowa. Again we had no idea he turned in the claim until after the fact. To this day we do not know what he wrote in the claim. We have since been trying to work with each of their insurance companies. We have been working to resolve this issue for the past ten months.

Tammy is a work at home single parent. She relies on the internet to make her living. Because of the street construction in Humboldt SD her internet was disrupted four different times. Once by Prunty Construction and three times by Zacharias Construction. Totaling a downtime of 20.25 hours with a loss of income and bonuses of \$3,289.70.

On 8-23-2019 Zacharias Construction hit the internet cable with their dozer. This was admitted to me by one of the Zacharias brothers. According to Jon Fischer of Stockwell Engineering this hit "bordered negligence". I believe at this time approximately 20-30 feet of internet cable was ripped out of the ground. This cable laid in Tammy's yard for weeks. Tammy's work down time was six hours of overtime because of this hit.

On 9-3-2019 Zacharias again hit the cable. This time the temporary line was lying over the road in plain sight. I will send a picture of the temporary line. Tammy's down time on this was 4.5 OT hours.

On 9-4-2019 Zacharias hit the cable again. Again visible to the naked eye. They were bringing the road to grade, they then gradually began building the road over the temporary line eventually burring the temporary line. One of the brothers was going to disconnect the temporary line, I told him Tammy was in working on the internet so he did not disconnect it. At this point Zacharias construction for sure knew Tammy needed the internet for her work. The temporary internet line was approximately the size of an orange electrical extension cord. I watched them run the excavator, bobcat and packer over the line as well as run the packer within inches of the connections. I am enclosing a picture. Beth Saylor the onsite inspector also stood by and basically watched them do this as well. Beth Saylor knew after the first hit by Prunty that Tammy worked from home using the internet. Tammy's down time on this day was 3.5 OT hours.

Bitco Insurance did accept responsibility for the cut line on 8-23-2019.

Bitco, Zacharias insurance company is saying that they are not liable for the hits on 9-3 and 9-4-2019 because Midco did not bury the cable. Midco came out and buried a new cable under that new road Zacharias was building on 9-6-2019. I would think that Midco would have notified either Beth Saylor or Zacharias that this was going to be done on 9-6, (originally it was scheduled for 9-5 but got delayed to 9-6) so both the hits on 9-3 and 9-4 could have been avoided by more communication and or patients on the part of Zacharias construction. Zacharias still has the responsibility to protect the internet lines, this is also a state law. They failed to do so on several occasions.

Back on 9-13-2019 I talked with Julie D from Midco. She did clarify outages on 8-23 and 9-4-2019. She could not find the outage report on

9-3-2019. She also stated all the outages were called in by customers not contractors. Zacharias failed three times to call the hit into Midco. I am thinking on 9-3 perhaps either Midco's service tech was in town that day and Zacharias contacted them directly or perhaps they disconnected and reconnected the line themselves that day.

I am also enclosing an email from Richard Ferguson who I had asked to check for calls into him for hits to lines on these dates. In it he states that no incidents on these dates were reported to SD811 and USIC was not informed thus they could not do a damage investigation. Zacharias failed to call SD811 and USIC three times.

I am enclosing an email correspondence showing that Bitco insurance is acknowledging the hitting of the lines on these dates.

In closing;

Zacharias Construction have 12 violations;

1. Three violations of failure to notify Midco of cut/damage to their internet line.
2. Three violations of failure to protect Midco internet lines.
3. Three violations of failure to report hits to SD811
4. Three violations of failure to call USIC so they could do a damage investigation.

Roger French

