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| <b>Complaint filed on behalf of or by:</b>      | RW Contracting   |
| <b>Contact Person:</b>                          | Ryan White   |
| <b>Phone</b>                                    | (605) 695-7694   |
| <b>Name or Company Name</b>                     | RW Contracting   |
| <b>Street Address or PO Box</b>                 | 1922 23rd St S<br>Brookings, South Dakota 57006<br>United States           |
| <b>Email</b>                                    | <a href="mailto:rwcontractingsd@gmail.com">rwcontractingsd@gmail.com</a>   |
| <b>Date</b>                                     | Jul 29, 2020   |
| <b>Name of excavator / facility operator:</b>   | City of White  |
| <b>Phone</b>                                    | (605) 695-7694   |
| <b>Name or Company Name</b>                     | Dan DeYoung  |
| <b>Street Address or PO Box</b>                 | 228 W Main St<br>White, South Dakota 57276<br>United States                |
| <b>Email</b>                                    | <a href="mailto:whitesd@heartlandpower.org">whitesd@heartlandpower.org</a> |
| <b>Is this party aware of your allegations?</b> | Yes  |

**Provide detail including whom you spoke with:**

I spoke with Dan when he showed up after work already started by RW Contracting. I then spoke with someone in with the city after the line was hit to have someone come out.

**ALL SPECIFIC STATUTES AND ADMINISTRATIVE RULES MUST BE STATED:**

49-7A-9. Failure to provide timely location markings--Inadequate markings--Liability.

If location markings requested by an excavator are not provided within the time specified by § 49-7A-8 or any rule promulgated pursuant to § 49-7A-8, or if the location markings provided fail to identify the location of the underground facilities in accordance with statute and rule, any excavator damaging or injuring underground facilities is not liable for such damage or injury except on proof of negligence.

49-7A-19. Penalties for intentional violations.

In addition to all other penalties provided by law, any person who intentionally violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 may be assessed a penalty of up to five thousand dollars for the first violation and up to ten thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.

49-7A-20. Each violation as separate offense.

Each violation of any statute or rule of the Statewide One-Call Notification Board constitutes a separate offense.  
In the case of a continuing violation, each day that the violation continues constitutes a separate violation.

**Other information to support your position:**

49-7A-9: Dan was 5 days late on locating the the dig area

49-7A-19: Dan pulled up after seeing we were working on site. He came to the yard with all of his locating tools and equipment. Saw where we were digging at and reassured us there were no utilities in our dig area. Then Dan decided to not to locate the power running to the house and left the property.

49-7A-20: Dan was 5 days late on locating the property and when he did show up failed to locate any lines in the dig area stated on the ticket.

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| <b>Street Address / location of alleged violation:</b>  | 104 E 4th St |
| <b>City</b>   | White        |
| <b>State</b>  | SD           |
| <b>Date of alleged violation:</b>   | Jul 29, 2020 |
| <b>Time of alleged violation:</b>   | 08:30 AM     |
| <b>Describe your allegation:</b><br>Work site was not located   |              |
| <b>Do you believe the alleged violation to be intentional?</b>  | Yes          |
| <b>Why or why not?</b><br>When Dan first showed up to the job site he tried to cover for not having it located yet by saying that he was given the wrong address. All the other utilities were located at the work site so I know the correct address was given to him. When he did show up his sole task was to find the power line and provide a safe work site for the crew. He was there before the power line was hit and could have simply located the property, but failed to. |              |
| <b>Was a locate requested from SD One Call?</b>   | Yes          |
| <b>Locate ticket #:</b>   | 2020465093   |
| <b>Start date on ticket:</b>  | Jul 24, 2020 |
| <b>Start time on ticket:</b>  | 08:00 AM     |
| <b>Did the excavator wait until the start date / time on the ticket before commencing excavation?</b>   | Yes          |
| <b>Did the excavator maintain a minimum horizontal clearance of 18 inches</b>   | Yes          |

**between a marked facility and mechanical equipment?**

**Explain**

There were communication lines in the property where we were hand digging holes, and not using the auger.

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| <b>Were buried facilities exposed by hand or non-invasive equipment prior to excavation?</b>   | No            |
| <b>Were facilities marked?</b>   | No            |
| <b>Was the marking complete prior to the start time on the ticket?</b>                         | No            |
| <b>Did the excavator pre-mark with white paint?</b>  | No            |
| <b>Was the facility marked accurately (within 18 inches)?</b>                                  | No            |
| <b>Did the excavator use reasonable care to maintain locate marks for the life of project?</b> | Yes           |
| <b>Type of facility involved:</b>  | Power         |
| <b>Operator address (Street or PO Box):</b>  | United States |
| <b>Depth of Cover (If unsure put N/A)</b>  | 28"           |
| <b>Pressure: (If none, write none)</b>   | None          |
| <b>Voltage: (If none, write none)</b>  | 240           |
| <b># of cable pairs: (If none, write none)</b>   | Two           |
| <b>Was the facility damaged?</b>   | Yes           |

**If yes, provide detail and an estimate of damage:**

Unsure of cost, after the power was hit, City of White was called and Dan showed up. Crew then left site to work

elsewhere. No pictures were taken as power line was still covered with loose dirt and 28" in hole. Brookings Municipal Utilities fixed the line and may have pictures.

**Were damages on public right of way or private property?**

Private

**Was anyone injured as a result of facility damage?**

Yes

**If yes, provide detail:**

Shock was felt in arms

**Length of hospitalization:**

0

**Were there fatalities?**

No

**Was operator service affected?**

Yes

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

The customer of the work site was out of power for an unknown period of time. If other property were affected is unknown.

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

No

**If No, why not?**

After feeling the shock and seeing the ark flash, I know it was a power line and called the city electric department.

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

Yes

**Was there an escape of any flammable, toxic, or corrosive gas or liquid?**

No

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

Not Available

**Attachment Information**

File names should not include symbols. Example:( \$, &, \*, % . ) etc.