

Complaint filed on behalf of or by:

Montana Dakota Utilities

Contact Person:

Marcus Christensen

Phone

(605) 355-4035

Name or Company Name

Montana Dakota Utilities

Street Address or PO BoxPO Box 1060
Rapid City, South Dakota 57709
United States**Email**marcus.christensen@mdu.com**Date**

Aug 12, 2020

Name of excavator / facility operator:

Legacy Enterprises Inc

Phone

(605) 559-0307

Name or Company Name

Legacy Enterprises Inc

Street Address or PO Box3525 E Colorado Blvd Suite 3
Spearfish, South Dakota 57783
United States**Email**jesse@legacyenterprises.net**Is this party aware of your allegations?**

No

ALL SPECIFIC STATUTES AND ADMINISTRATIVE RULES MUST BE STATED:

49-7A-5. Notification of proposed excavation.

No excavator may begin any excavation without first notifying the one-call notification center of the proposed excavation. The excavator shall give notice by telephone or by other methods approved by the board pursuant to rules promulgated pursuant to chapter 1-26 to the one-call notification center at least forty-eight hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state. The board may promulgate rules to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original locate request and may lengthen the forty-eight-hour interval for nonexcavation requests.

49-7A-8. Location of underground facilities--Marking.

An operator shall, upon receipt of the notice, advise the excavator of the location of underground facilities in the proposed excavation area by marking the location of the facilities with stakes, flags, paint, or other clearly identifiable marking within eighteen inches horizontally from the exterior sides of the underground facilities. The board shall promulgate rules, pursuant to chapter 1-26, to establish the response time for operators to mark the underground facilities. The response time shall be no later than forty-eight hours after the receipt of the notice, excluding Saturdays, Sundays, and legal holidays of the state or the excavation start time provided by the excavator, whichever is later. The response time may be less than forty-eight hours for emergency or subsequent inquiries to the original locate request and may be longer than forty-eight hours for nonexcavation requests. Excavators shall maintain a minimum horizontal clearance of eighteen inches between a marked underground facility and the cutting edge of any mechanical equipment. If excavation is required within eighteen inches, horizontally, the excavator shall expose the facility with hand tools or noninvasive methods approved pursuant to rule and shall protect and support the facility prior to further excavation with mechanical equipment.

Other information to support your position:

Contractor was working on installing a sewer clean out where the damage occurred. The contractor had also recently installed the service line to the home. Contractor admitted they knew the gas line was there and it wasn't marked. They thought they would hit the tracer wiper before hitting the gas line. The contractor had a valid locate ticket to the time of damage. With the weather that took place around the time of damage with tornados knocking down trees and rain washing out mark a re-spot should have been called in to clear up an confusion before digging. With the gas line being so newly installed GIS maps hadn't been updated to show the gas line going to the property yet. When the locator showed up to locate the line there where no signs that a gas line had been installed to the property yet since the stub marker was still there and appeared unaltered. Contractor should have communicated that with locator while they where onsite or afterwards noticing that the line hadn't be located.

Street Address / location of alleged violation:	21268 Rubys Way
City	Lead
State	SD
Date of alleged violation:	Jul 30, 2020
Time of alleged violation:	04:30 PM
Describe your allegation:	Contractor was working on installing a sewer clean out where the damage occurred. The contractor had also recently installed the service line to the home. Contractor admitted they knew the gas line was there and it wasn't marked. They thought they would hit the tracer wiper before hitting the gas line. The contractor had a valid locate ticket to the time of damage. With the weather that took place around the time of damage with tornados knocking down trees and rain washing out mark a re-spot should have been called in to clear up an confusion before digging. With the gas line being so newly installed GIS maps hadn't been updated to show the gas line going to the property yet. When the locator showed up to locate the line there where no signs that a gas line had been installed to the property yet since the stub marker was still there and appeared unaltered. Contractor should have communicated that with locator while they where onsite or afterwards noticing that the line hadn't be located.
Do you believe the alleged violation to be intentional?	No
Was a locate requested from SD One Call?	Yes
Locate ticket #:	2020968553
Start date on ticket:	Jul 29, 2020
Start time on ticket:	11:15 AM
Did the excavator wait until the start date / time on the ticket before commencing excavation?	Yes
Did the excavator maintain a minimum horizontal	No

clearance of 18 inches between a marked facility and mechanical equipment?

Explain

No, they hit the gas line with the excavator.

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?

No

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:

0.75in gas Service Line

Operator of facility (if known):

Montana Dakota Utilities

Operator address (Street or PO Box):

PO Box 1060
Rapid City, South Dakota 57709
United States

Operator Phone

(605) 355-4035

Depth of Cover (If unsure put N/A)

~24"

Pressure: (If none, write none)

50psig

Voltage: (If none, write none)

None

of cable pairs: (If none, write none) None

Was the facility damaged? Yes

If yes, provide detail and an estimate of damage:

Gas service line, \$500-\$800

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

Was anyone injured as a result of facility damage? No

Were there fatalities? No

Was operator service affected? No

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

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.