

wsdlsafetycommittee@gmail.com

From: sendmail@washington-ucc.org
Sent: Friday, August 17, 2018 11:26 AM
To: wsdlsafetycommittee@gmail.com
Subject: Complaint Form

Complaint Form Request

Requester Information

Name: scot hattenburg
Company: M & L Construction Inc.
Company Phone: (509)991-4129
Company Email: scot@mandlconstruction.net
Company Address: 4103 e dalke ave, spokane, 99217
Ticket Requested: yes
Ticket Number: 18295245
Ticket Date: 07/11/18

Violation Information

Violation RCW Code: 19.122.030
Violation Section: failure to locate
Violation Description: Primary line was not located where it was hit, we had other locates in the area and thought that everything had been located..... and then avista sent us a bill for the damage.
Violation Address: s loon lake rd
Violation Date: 08/07/18

Alleged Violator

Violator Name: Avista Utilities
Violator Phone Number: (509)434-6791
Violator Email: linda.burger@avistacorp.com
Violator Address: Po 3727, spokane, 99217
Violator Employess On Site: brian shaw

Other Information

Washington One Call

Ticket No: 18295245
 2 FULL BUSINESS DAYS
Original Call Date: 07/11/18 08:23 am
Work to Begin Date: 07/14/18 12:00 am
Expiration Date: 08/25/18 08:30 am

CALLER INFORMATION

Company Name: M AND L CONSTRUCTION INC.
Contact Name: SCOT HATTENBURG
Phone: 509-991-4129
Alt. Contact: RAY- CELL
Phone: 509-939-8942

Fax Phone: 509-482-1764
Caller Address: 4103 E DALKE AVE SPOKANE, WA 99217
Email Address: SCOT@MANDLCONSTRUCTION.NET

DIG SITE INFORMATION

Type of Work: INSTALL FIBER OPTIC CABLE
Work Being Done For: SPECTRUM FIBER

DIG SITE LOCATION

State: WA
County: STEVENS
Place: LOON LAKE
Address: 42994
Street: S LOON LAKE RD
Intersecting Street: ROBERT RD
Location of Work: BEGINNING ON SOUTH SIDE OF S LOON LAKE AT POLE LOCATED AT ABOVE ADDRESS EAST THEN AT SILVER BEACH RD TURN RIGHT ON DIRT TRAIL UP HILL THEN UP AND OVER THE HILL TO POLE AT SOUTH SIDE OF THE SILVER BEACH RD... LARGE PROJECT CALL FOR PHASING

Remarks: AREA MARKED IN WHITE
Map Coord NW Lat: 48.0434669
Lon: -117.6415783
SE Lat: 48.0401959
Lon: -117.6292616

MEMBERS NOTIFIED

District	Company Name	Marking Concerns	Customer Service	Repair	Status
AVDP101	AVISTA	888-728-9343	800-227-9187	800-227-9187	Marked, Complete

18-074**M & L Construction, Inc. vs Avista**

District	Company Name	Marking Concerns	Customer Service	Repair	Status
AVDP201	AVISTA	888-728-9343	800-227-9187	800-227-9187	Marked, Complete
CHTWA02	CHARTER COMMUNICATIONS	800-778-9140	855-248-7822	855-248-7822	Does not report
INLND02	INLAND POWER & LIGHT	800-778-9140	509-747-7151	877-668-8243	Does not report
LOON01	LOON LAKE SEWER DISTRICT #4	509-233-8132	509-233-8132	509-233-8132	Does not report
QLNWA27	CTLQL-CENTURYLINK	800-778-9140	800-283-4237	800-573-1311	Does not report
STEVE01	PUD #1 OF STEVENS COUNTY	509-233-2534	509-233-2534	509-233-2534	Does not report
TCI31	CHARTER COMMUNICATIONS	800-778-9140	866-731-5420	866-731-5420	Does not report

loon lake electrical hit -Avista utilities 7-25-18 18-074

Violations of the dig law

1. Failure to locate: RCW 19.122.030 3 (a)
2. Fraudulently billing an excavator for Facility: RCW 19.122.030 (8)
3. Not compensating excavator: RCW 19.122.030 (7)

18-074

M & L Construction, Inc. vs Avista



Where the line was hit



Failure to put paint on the ground

Damaged electrical line

No paint on the ground



NO PAINT IN THE
DIG AREA

Within the white paint dig area



18-074

M & L Construction, Inc. vs Avista



August 28 2018

M&L Construction
4103 E Dalke Ave
Spokane WA 99217

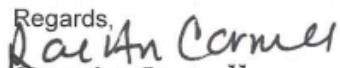
Re: Claim Number: R8905335 – Damages to underground facilities
Incident Location: 42994 S Loon Lake Rd//Loon Lake WA
Date of Incident: July 25, 2018
Invoice 11056-108315: \$2,770.39

this investigation cant even get the dates right

On July 2 2018 Avista Utilities responded to a DIG-IN incident at the above referenced location. As a result of this Dig-In, Avista has conducted an investigation and has determined that M&L Construction ("M&L") is responsible for these damages and costs. In accordance to the language contained in M&L Locate Ticket, 18295245: **"BEGINNING ON SOUTH SIDE OF S LOON LAKE AT POLE LOCATED AT: ABOVE ADDRESS EAST THEN AT SILVER BEACH RD TURN RIGHT ON DIRT TRAIL UP HILL: THEN UP AND OVER THE HILL TO POLE AT SOUTH SIDE OF THE SILVER BEACH RD"**, the damages/dig-in occurred on the west side of the pole – outside the requested area of the locate ticket. Enclosed is Avista's invoice 11056-108315: \$2,770.39.

As a regulated utility, it is the Company's policy that, in an instance where a customer, contractor, or other party cause's damage to Avista's electric infrastructure, that the party causing the damage is required to pay the entire costs associated with removal and replacement of the damaged facilities. In the end it is appropriate that the costs associated with damage to Avista facilities be paid by those causing the damage, and not by our ratepayers.

Thank you for your prompt response and cooperation in resolving this matter.

Regards,

Rae An Cornell
Avista Utilities Claims Specialist
509.495.4552, option 3 (this is a recorded line)
509.777.5226 (facsimile)
RaeAn.Claims@Avista.com

Avista does not have the attention to detail as is needed for effective safety implention. This exhibit shows that they did not even get the dates correct, before they sent this out. This speaks volumes to their commitment to Damage prevention.

What is Avista's OQ policy for locating?
Or PPG?

- Did the Elm locator follow Avista policy?
- What is Avista's written policy?
 - Is that policy made available to either in print form or readily accessible online to their personnel and contractors?
 - Have they been trained on the policy?
 - Is this a certified training?
 - What is the training schedule?
 - Was this locator trained?
 - Were the people who performed the "investigation" trained?
 - Is it documented?
 - Is Avista's Claims department trained and qualified to reach their decision?... le Rae An Cornell trained
 - If not why is she capable with no documentation to "weigh in" on this safety issue, and to not respond to a legitimate safety request?
- Is this policy made available to other stakeholders who are effected by this?


I never received a response to this email

Sent Items - scot@mandlconstruction.net - Outlook

Tell me what you want to do

Reply Reply All Forward

Thu 8/30/2018 10:24 AM

 Scot Hattenburg
Claim #r8905335

To: 'Raean.claims@avista corp.com'; 'darrel.caims@avista corp.com'; linda.burger@avista corp.com
Cc: Ray Hattenburg; John Cornelius (Jonc@nuca.wa.org); 'sheri@nuca.com'; kboykin@ieucc811.org

To all concerned:

- **WE need to know Immediately if it is Avista Utilities Operator Qualification policy to only mark the dig ticket with limited description and not the obvious white paint marking the boundary area of the dig area.**
- **Avista claims that the dig ticket is invalid irregardless of the white paint.**
- **Please immediately Provide Avista OQ (Operator Qualification) procedure in regards to White paint and locating and the boundary and please send To NUCA of Eastern Wa N Idaho for dissemination.**

On July 2 2018 Avista Utilities responded to a DIG-IN incident at the above referenced location. As a result of this Dig-In, Avista has conducted an investigation and has determined that M&L Construction ("M&L") is responsible for these damages and costs. In accordance to the language contained in M&L Locate Ticket, 18295245: "BEGINNING ON SOUTH SIDE OF S LOON LAKE AT POLE LOCATED AT: ABOVE ADDRESS EAST THEN AT SILVER BEACH RD TURN RIGHT ON DIRT TRAIL UP HILL: THEN UP AND OVER THE HILL TO POLE AT SOUTH SIDE OF THE SILVER BEACH RD", the damages/dig-in occurred on the west side of the pole -- outside the requested area of the locate ticket. Enclosed is Avista's invoice 11056-

The Washington state excavation industry needs to know this before somebody is injured because the law states clearly that the excavator marks the boundary in white paint. And if the dig ticket needs to note something extra and the white paint is an invalid boundary marker we need to get that information out to excavators.

RCW 19.122.030 states: (1)(a) Unless exempted under RCW 19.122.031, before commencing any excavation, an excavator must mark the BOUNDARY of the excavation area with white paint applied on the ground of the worksite.

Dig law violations

1. 19.122.030 (3) (a)..., provide the excavator with reasonably accurate information by marking their location; Was within the white paint.
2. 19.122.030 (7) **An excavator** has the right to receive reasonable compensation from a facility operator for costs incurred by the excavator if the facility operator does not locate its underground facilities in accordance with the requirements specified in this section.
3. 19.122.030 (8) **A facility operator** has the right to receive reasonable compensation from an excavator for costs incurred by the facility operator if the excavator does not comply with the requirements specified in this section. Falsely!

Dig law violation checklist

1. Failed to locate
2. Billed the contractor illegally for their failure to locate
3. Disallowed the contractor reimbursement

Break between M&L and Avista

WA Complaint 18-074
M&L vs Avista Corp – South Loon Lake Rd
Avista Supporting Documentation
October 31, 2018

The complaint refers to an alleged violation date of 8/7/18 and damage to Avista's primary line. Avista has no record of any damage that occurred on that date in regard to locate ticket #18295245 nor any other locate ticket by M&L. Avista also cannot determine what "bill for damage" that M&L references in their complaint. Avista does not have an employee named Brian Shaw. Avista contacted Jon Cornelius for clarifying information in the complaint or a resubmittal of the complaint with correct information. A clarification came back that the alleged violation date was actually on 7/25/18.

SUMMARY INFORMATION:

On July 13, 2018 Avista's contract locator located the electric primary beginning at the pole at 42994 S. Loon Lake Rd as described in locate ticket #18295245, **Attachment A**, and proceeded to locate the primary to the southeast. This locate was done in accordance with the notice of the scheduled commencement of excavation M&L gave to all owners of underground facilities as required by RCW 19.122.030.1. That notice specifically stated: "Beginning on south side of S Loon Lake Rd. at pole located at above address east...." Avista properly and correctly located its underground service facilities beginning at the pole located at 42994 S. Loon Lake Rd., and proceeding east.

M&L failed to give notice to the owner's of underground facilities of any excavation west of the pole located at 42994 S. Loon Lake Rd., as required by RCW 19.122.030.1. RCW 19.122.020.13 provides: "'Notice' or 'notify' means contact in person or by telephone or other electronic methods that results in the receipt of a valid excavation confirmation code." The term "notice" used in RCW 19.13.030.1 does not include white marks placed on the ground, especially when those white marks expand beyond the "notice" provided pursuant to 19.13.030.1.

Avista's contract locator did not see white marks west of the pole at 42994 S. Loon Lake Rd. See **Attachment B**, picture of beginning of locate marks at pole as described in the locate ticket (also note, there are actually 2 poles located in front of this property).

On July 25, 2018 M&L Construction damaged Avista's electric primary west of the pole located at 42994 S. Loon Lake Road, **Attachment C**.

Attachment A: M&L Locate Ticket for 42994 S. Loon Lake Rd

Washington One Call

Ticket No: 18295245 2 FULL BUSINESS DAYS
 Original Call Date: 07/11/18 08:23 am
 Work to Begin Date: 07/14/18 12:00 am
 Expiration Date: 08/25/18 08:30 am

TICKET ACTIONS

CALLER INFORMATION

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 Contact Name: SCOT HATTENBURG Phone: 509-991-4129
 Alt. Contact: RAY- CELL Phone: 509-939-8942
Fax Phone: 509-482-1764
 Caller Address: 4103 E DALKE AVE SPOKANE,WA 99217
 Email Address: SCOT@MANDLCONSTRUCTION.NET

DIG SITE INFORMATION

Type of Work: INSTALL FIBER OPTIC CABLE
 Work Being Done For: SPECTRUM FIBER

DIG SITE LOCATION

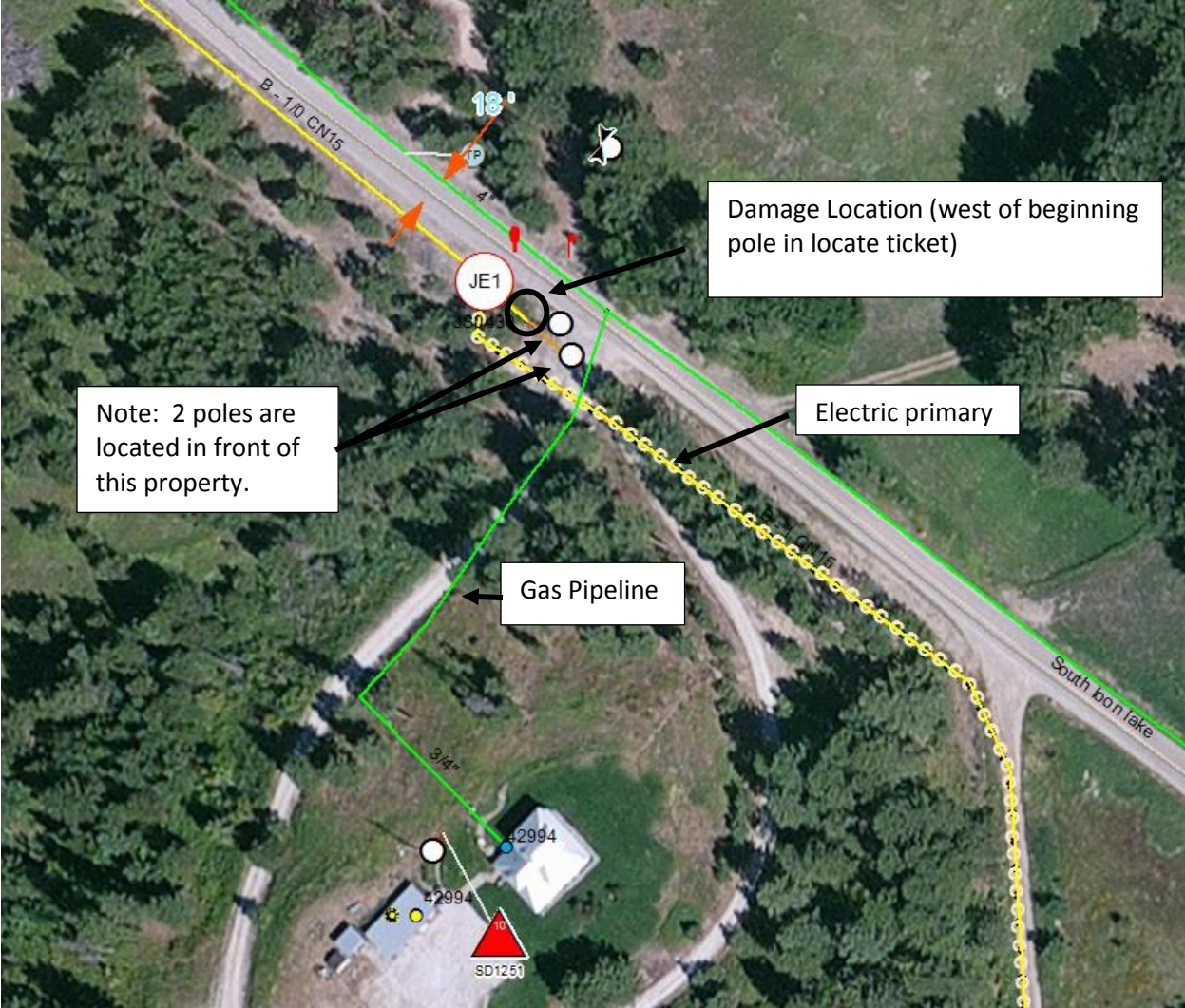
State: WA County: STEVENS
 Place: LOON LAKE Address: 42994
 Street: S LOON LAKE RD
 Intersecting Street: ROBERT RD
 Location of Work: BEGINNING ON SOUTH SIDE OF S LOON LAKE AT POLE LOCATED AT ABOVE ADDRESS EAST THEN AT SILVER BEACH RD TURN RIGHT ON DIRT TRAIL UP HILL THEN UP AND OVER THE HILL TO POLE AT SOUTH SIDE OF THE SILVER BEACH RD... LARGE PROJECT CALL FOR PHASING
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Attachment B: Vicinity map and location of damage at 42994 S. Loon Lake Rd, note that there are 2 poles in front of this property. Locator located both gas and electric



Attachment C: Picture of electric locate marks at pole located at 42994 S Loon Lake Road and marks going east.



Ticket: 18295245.0 Timestamp: 7/13/2018 9:25:59 AM

2149507.42117948

Attachment D: Pictures of damage location showing the pole and the date of the damage



loon lake electrical hit -Avista utilities 7-25-18 18-074

Violations of the dig law

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18-074

M & L Construction, Inc. vs Avista



Where the line was hit



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Damaged electrical line

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Within the white paint dig area



18-074

M & L Construction, Inc. vs Avista



August 28 2018

M&L Construction
4103 E Dalke Ave
Spokane WA 99217

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Date of Incident: July 25, 2018
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Avista Utilities Claims Specialist
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Claim #r8905335

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Cc: Ray Hattenburg; John Cornelius (Jonc@nuca.org); 'sheri@nuca.com'; kboykin@ieucc811.org

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