

Case 22-038
M&L Construction vs Avista
Avista Response and Documentation

The locator marked a locate signal for the gas service that ended up being a ghost signal. There are no dig laws pertaining to inaccurate false marks (i.e., marking a line where one does not exist). The correct location of the gas line referenced by M&L Construction (“M&L” or “Scot”) was located accurately and before the legal start time of the ticket, which was time stamped at 2:17pm on July 7, 2022. (See Exhibits 1 and 2). The locate was requested on July 5, 2022, making the due date and time 7:00am on July 8, 2022. (See Exhibit 3).

As noted in M&L’s documentation, Avista’s (“Avista”, “we”, “our”, or “us”) serviceman responded to confirm an issue with the locate marks. Avista’s subcontractor, ELM (“ELM”), was notified and also responded quickly to confirm the locating issue to identify the correct location of the gas line. It is Avista’s intention to provide accurate and on-time locates, as well as to quickly respond to issues once notified to reduce excavator delay and provide necessary training.

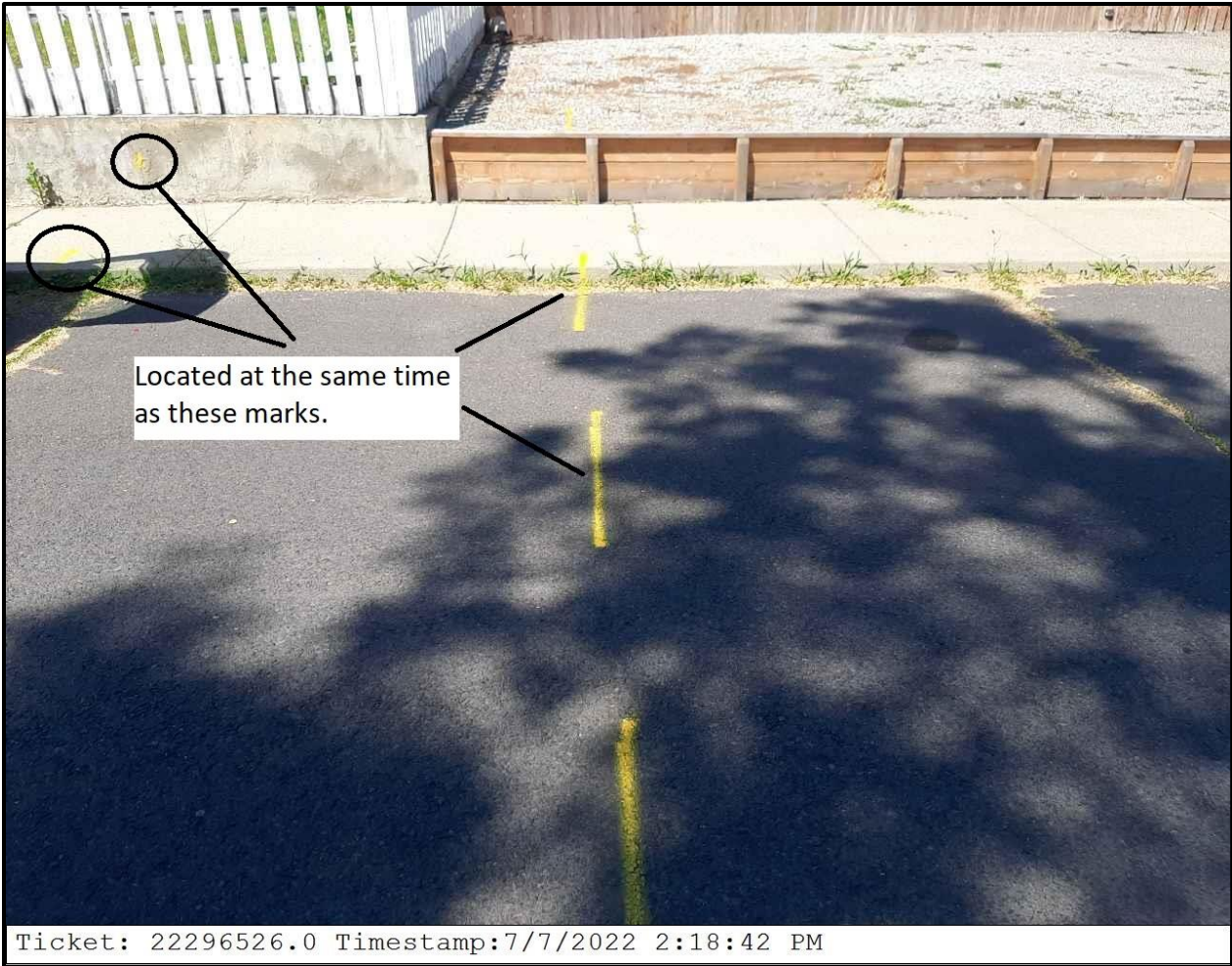
Please note M&L started their excavation on July 21, 2022, sixteen (16) days after notification to the one-call center, in violation of RCW 19.122.030 (2), which requires the start of excavation to be within ten (10) days of notification to one-call. (See Exhibit 4). In an effort to be more transparent in the oversight of our locating contractor, we are committed to communicating with excavators when known issues arise. In this instance, Tyler Proszek (“Me” or “I”) called Scot to explain the locating issue and what follow-up actions were being taken to address the issue. I then followed that call up with an email. Scot was unaware of the issue at the time of the phone call. M&L asked Avista for transparency and communication and then chose to use this information against us in a safety committee complaint. Our proactive communication shows that we are serious and committed to continually improving our locating efforts and damage prevention program.

Exhibit 1 – Time stamped photo of accurate marks on site prior to ticket due date and time.



Ticket: 22296526.0 Timestamp: 7/7/2022 2:17:12 PM

Exhibit 2 – Accurate marks on site at the same time as the inaccurate marks.



Located at the same time as these marks.


Ticket: 22296526.0 Timestamp: 7/7/2022 2:18:42 PM


Exhibit 3 – Excavation ticket.

Washington One Call	
Ticket No: 22296526 Original Call Date: 07/05/22 04:31 pm Work to Begin Date: 07/08/22 07:00 am Expiration Date: 08/19/22 04:30 pm	2 FULL BUSINESS DAYS
TICKET ACTIONS	
CALLER INFORMATION	
Company Name: M&L CONSTRUCTION INC Contact Name: STEPHANIE HATTENBURG Alt. Contact: Caller Address: 4111 DALKE AVE SPOKANE, WA 99217-6520 Email Address: stephanie@mlconstruction.com	Type of Excavator: CONTRACTOR Phone: 509-991-4129 Phone: Fax Phone:
DIG SITE INFORMATION	
Type of Work: BORE TO INSTALL FIBER CONDUIT Type(s) of Excavation Equipment: DIRECTIONAL DRILLING, VACUUM EQUIPMENT Work Being Done For: VERIZON	Directional Drilling: YES
DIG SITE LOCATION	
State: WA Place: SPOKANE Street: E 33RD AVE Intersecting Street: S FREYA ST Location of Work: MARK 50 FEET EITHER SIDE OF THE ROUTE MARKED IN WHITE PAINT. LOCATE ROW TO ROW Remarks: AREA MARKED IN WHITE PAINT Map Coord NW Lat: 47.6247119 SE Lat: 47.6243992	County: SPOKANE Address: 3607 Lon: -117.3636731 Lon: -117.3572557

Exhibit 4 – M&L work log explaining they mobilized to the site to start potholing and set up their directional drill on 07/21/22.

Daily Report - Ray & 31st, 33rd - SPK2201DMKB (22-U353)
 Date: 7/21/2022

 **Diary** Brandon Howell (113)

 8:13 AM, Clear, 71°F, 41.98% Humidity, 5.4 MPH Winds

Note	Transaction Tags
Mob to job have. Have Brandon start vaccing down to pot holes. Open cut rd to set up drill. Took awhile to get asphalt out of ground to start drilling. Called up ELM for a mis located gas line we potholed. The mark was 10' off locate Ray from ELM came out and located it right than had him double check other locates on rest of job. Had Brandon and Jacob start coring out more potholes toward Ray until we free up some top hats. Drilled out 280' until we can pot hole the rest of the shot. Clean up make safe for weekend.	