

6315 E Rutter

Overview: LIVE Avista Gas stub was not located per RCW 19.122. it was located 14 days after the legally required due date.

Washington One Call

Ticket number 23296307 **Type/header** 2 FULL BUSINESS DAYS IX
Original call date 07/26/23 09:27 am
Work to begin date 07/31/23 05:00 am
Expiration date 09/09/23 09:30 am

Excavator information

Company name M&L CONSTRUCTION INC **Type of excavator** CONTRACTOR
Contact name AUSTIN HATTENBURG **Phone** 509-991-4129
Alt. contact STEPHANIE **Phone** 509-850-5489
Address 4111 DALKE AVE **Fax phone**
SPOKANE, WA 99217-6520
Email address stephanie@mlconstruction.com

Excavation information

Type of work INSTALL FIBER CONDUIT
Work being done for LUMEN
Directional drilling Yes
Type(s) of excavation equipment Backhoe / Trackhoe, Boring, Directional Drilling, Vacuum Equipment

Location information

State WA **County** SPOKANE
Place SPOKANE **Address** 6313
Street E RUTTER AVE
Intersecting street N DOLLAR RD
Location of work MARKING INSTRUCTIONS: MARK 25 FEET EITHER SIDE OF THE ROUTE MARKED IN WHITE PAINT. MARK FOLLOWING THE ROUTE ENE FOR 1497 FEET.
DRIVING DIRECTIONS: FROM THE INTERSECTION OF E RUTTER AVE AND N DOLLAR RD, HEAD EAST ON E RUTTER AVE FOR 324 FT, HEAD NNW FOR 18 FEET TO THE BEGINNING OF THE ROUTE.
Remarks AREA MARKED IN WHITE PAINT, FROM ADDRESS HEAD EAST TO GOING JUST EAST OF BRADLEY, FOLLOW PAINT. EMAIL STEPHANIE@MLNORTHWEST.COM OR CALL CARDEL 509-818-6455

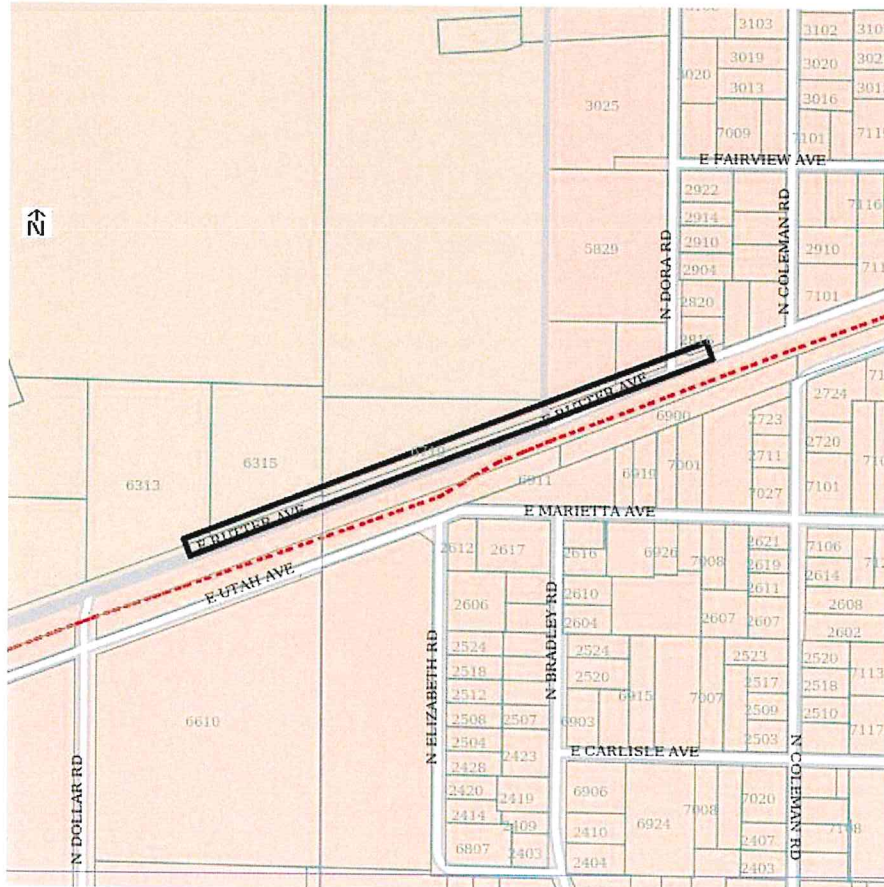
NW Lat 47.6826982 **Lon** -117.3161828 **SE Lat** 47.6810549 **Lon** -117.3102344

Members notified

District	Company name	Marking concerns	Customer service	Repair	Status
AVSP101	AVISTA	888-728-9343	800-227-9187	800-227-9187	Marked, Complete
AVSP201	AVISTA	888-728-9343	800-227-9187	800-227-9187	Marked, Complete
CCWAI01	COMCAST CABLE	800-778-9140	800-934-6489	855-537-6296	Not yet responded
FBRLNK01	ZAYO BANDWIDTH	800-961-6500	443-403-2023	801-364-1063	Marked, Complete

ORCHRD01	ORCHARD AVE IRR DIST #6	509-926-4563	509-926-4563	509-926-4563	Does not rep
QLNWA32	CTLQL-CENTURYLINK	800-778-9140	800-244-1111	800-573-1311	Not yet resp
SPAIR01	SPOKANE INTL AIRPORT	509-835-8010	509-455-6491	509-846-4377	Does not rep
SPKVLY01	CITY OF SPOKANE VALLEY	509-720-5025	509-921-1000	509-720-5025	Does not rep
SPOKAN02	CITY OF SPOKANE WATER DEPT	509-625-7800	509-625-7800	509-625-7800	Does not rep
SPUT01	SPOKANE CO ENVIRONMENTAL SERVI	509-459-9330	509-710-9024	509-710-9024	Does not rep

Map



M&L Construction was performing directional bore work in front of the "lifelight" headquarters at Felts Field. We decided to spend the effort to stay as far away from the gas line as possible due to the lack of trust in Avista's locate capabilities and the critical businesses located here.



no live stub locate



We were potholing the phone line and found a gas line.



"marker ball live stub"
Not located



This was an abandoned line we found. but the live gas stub was not located "mapping error and not finding the marker ball to locate the live line

Avista/elm locater marking the stub 14 days late in violation of RCW 19.122 operating under the authority of WAC 480-03-007 as "Avista"



Locator marking live stub, 14 days after legally required date. live stub was only found because we found the abandoned line. not because Avista performed a legal locate that was accurate and timely. marker ball indicates end of live gas. EOM "end of main painted correctly after 14 days of legal dig

Mark of live gas line completed 14 days late

Marker ball locate which was not performed on time



This is a simple near miss investigation as required by OSHA/WISHA. But Avista continues to interfere with M&L construction's near miss investigations in violation of WAC 296-900-12015. Avista continues to use defamation and bully tactics while placing my employees in danger. Here is a sample of what they are saying.

This is from an email communicated to Scot from Avista on 8/17/2023 and as it applies to WAC 480 03 007.

"This is simple. You know it and your client knows it. Their project may be continuing, but they no longer need Avista on-site to help with a potential safety concern that came up 1 week or 2 weeks ago. If they have a safety concern today on something they are working on right now, then they should call Avista directly so they can show up just as they always have. Same if they need a locate. If they want to complain about work Avista did a week ago that is already completed and backfilled, then they need to go through Legal Counsel. This is really not complicated. "

Please note the fine previously issued to Avista for Cedar and Enoch and their unwillingness to communicate safety and just blame all of their failures on M&L.

How do I communicate safety with these bully tactics?

The UTC told Avista to come up with a plan to communicate and they still refuse. Apparently safety issues are "complaining" to Avista.

STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
621 Woodland Square Loop SE, P.O. Box 47250 • Lacey, Washington 98503
P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

June 13, 2022

Service Date: June 13, 2022

Amanda Maxwell, Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: *Washington Utilities and Transportation Commission v. Avista Corporation*
Commission Staff's Response to Application for Mitigation of Penalties
Docket D-220230

Dear Ms. Maxwell:

On May 26, 2022, the Washington Utilities and Transportation Commission (Commission) issued a penalty against Avista Corporation (Avista or Company) of \$5,000 for a violation of RCW 19.122.030(3)(a) as follows:

- \$5,000 penalty for the violation of RCW 19.122.030(3)(a) that occurred on December 29, 2021.

This violation notice is from an incident that was reviewed by the Washington State Dig Law Safety Committee (Committee) on March 30, 2022. The incident occurred because Avista failed to provide an excavator with reasonably accurate information by marking its facilities. The Committee reviewed the case and determined Avista violated RCW 19.122.030(3)(a) and recommended a \$5,000 penalty be assessed. The Commission reviewed the case, agreed with the recommendation, and issued a \$5,000 Penalty Assessment against Avista on May 26, 2022.

In its letter to the Commission requesting mitigation, Avista explained that it recognizes it was found responsible for the violation occurring but it believes that M & L (Complainant) is partially responsible. Avista explains that M & L is frequently difficult to communicate with, confusing in their locate requests, and inconsistent in their large tickets and phasing projects. These things have created significant barriers to completing tickets on time and with accuracy. Avista further explains there is a well-documented history of tension and confusion between Avista and M & L.

In the mitigation request, Avista did not introduce any new information or supporting evidence different from what was presented previously to the Committee. During the review and in its letter, Avista did not provide any information on how it plans to improve its interactions with M & L. Staff believes it would be beneficial for Avista to focus its efforts on mediation and cooperation with M & L instead of continuing to project the occurrence of this case or other violations onto the complainant for being difficult to interact with. It is the underlying responsibility of the Facility Operator to ensure locates are applied timely and "accurately".