



WASHINGTON STATE DIG LAW COMPLAINT NO: 24-067

RE: PSE LOCATE VIOLATION *RCW 19.122.030*

TICKET NO.: 24214124

PSE NO.: 12011620

ADDRESS: 6520 228TH STREET, KENT, WA 98032

LOCATE CALL DATE: 5/24/24

WORK TO BEGIN: 5/30/24

ON-SITE START DATE: 5/30/24

DATE OF PSE LOCATE: 6/10/24

NARRATIVE:

- Locates were called in on May 24th, 2024 by Quality Fence Builders, Inc. (QFB). PSE/ELM (3rd party locator hired by PSE) had 48 hours to complete the ticket.
- QFB Field Foreman sees other completed facility marks on 5/30/24 and begins work.

DISCOVERY OF FENCE LINE ISSUE:

- 6/10/24-ELM calls the office to state it looks like fence is built do I need to still mark it? QFB office states it is required by Law to complete all tickets within 48hrs. Please complete immediately as to verify our area is safe. Melissa Applebee (QFB) calls Gene Reed (811 board member), informed I need to call Eryka Hunter if we have a complaint as she's PSE Damage Prevention manager.
- 6/11/24 – QFB returns to site and discovers PSE/ELM completed the locate and the fence line is in the PSE danger zone. Melissa Applebee gets notified and calls Eryka with Damage Prevention.
- 6/11/24 – QFB Field team take video of PSE/ELM marks in the fence line (exhibit 1A , 1B, 1C & 1D for video clip links)

EMERGENCY ACTIONS TAKEN:

- 6/11/24- QFB speaks with Eryka, Eryka provides other emergency contacts for onsite. Tony Lupo & Danny (Unknown last name) She sends out a team to view the hazard at hand.
- 6/12/24 – Eryka calls letting us know that the fence is not conductive at this time based on information from her team.
- 6/13/24 – QFB Speaks with Tony Lupo. Topics of discussion were QFB field team safety and the lack of responsibilities from ELM to complete the ticket or to contact appropriately. Tony assured us that this ticket will be reviewed within PSE.



REQUEST FOR PSE INFORMATION/RESOLUTION TO EXISTING DANGERS:

- 6/12/24 – PSE Sends out Danny to verify fence is safe to continue to work
- 6/17/24 – PSE Project manager Annette Wilson with the PSE Regional Engineering Department reaches out to Melissa Applebee at QFB to inform us that we must stop the job until further notice and to verify we had pulled off the site. (We had not been informed of any changes to the site prior to 6/17/24. Only that it was not electric.) QFB team is almost 100% done with this location of install, but we removed our crew for safety issues. During this phone call Melissa Applebee requested Annette Wilson to put in writing her requirements for the ongoing job. Ms. Wilson declined. The PSE Requirements were that PSE needed to do Potholing to verify damage was not done, Ms. Wilson insisted that we were responsible for placement of the fence and “should have known better” Ms. Applebee stated the law was broken when PSE failed to locate within the 48hours and or reach someone regarding the extension of tickets. Ms. Wilson stated someone would be charged for PSE’s investigation services. I requested a meeting with Ms. Wilson and her team. She needed further time as people were out of office. I requested to meet onsite prior to potholing as to not damage our fence. She said that she would schedule something. To date we have not had a meeting with PSE Onsite crew.
- 6/17/24 – Matt McCurdy QFB Vice President spoke with Annette Wilson.
- 6/17/24 – Ms. Wilson replies via email see (exhibit 2)
- 6/18/24 – Ms. Wilson emails QFB Vice President Matt McCurdy (see exhibit 3A &3B)
- 6/18/24 – Mr. McCurdy and Ms. Wilson speak again regarding violation RCW: 19.122.030 (see Exhibit 3C)
- 6/18/24 – Kirk MacGowan with Sierra Construction, QFB’S Prime Contractor, reaches out to Annette Wilson, Matt Eldridge & Matt McCurdy for a resolution to the fence on the PSE Easement with property owners.
- 6/20/24 – Diane Yoo with Sierra Construction emails QFB Team and PSE contacts requesting on-site or off-site meeting. (See exhibit 3D)
- 6/22/24 – Matt McCurdy with QFB files complaint form WUCC against PSE (see exhibit 4A & 4B)
- 6/25/24 – QFB President Jill McCurdy emails Lynda Holloway with email chain and video of existing fence. (see exhibit 5A & 5B)
- 7/8/24 – No resolution has been completed to date.

Root Cause:

- PSE/ELM Failed to follow the RCW 19.122.030.



EXHIBITS LISTED BELOW

Exhibit 1A & 1B- Pictures from video clip on-site 6/11/24 from QFB Field Foreman.



Project Swift -exhibit 1A





Project Swift -exhibit 1B





EXHIBITS LISTED CONT':

CLICK EACH EXHIBIT TO VIEW VIDEO LINKS -

Exhibit 1C

Exhibit 1D

Exhibit 2: RCW 19.122.030

RCW 19.122.030 Excavator and facility operator duties before excavation. (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, then provide notice of the scheduled commencement of excavation to all facility operators through a one-number locator service.

(b) If boundary marking required by (a) of this subsection is infeasible, an excavator must communicate directly with affected facility operators to ensure that the boundary of the excavation area is accurately identified.

(2) An excavator must provide the notice required by subsection (1) of this section to a one-number locator service not less than two business days and not more than ten business days before the scheduled date for commencement of excavation, unless otherwise agreed by the excavator and facility operators. If an excavator intends to work at multiple sites or at a large project, the excavator must take reasonable steps to confer with facility operators to enable them to locate underground facilities reasonably in advance of the start of excavation for each phase of the work.

(3) Upon receipt of the notice provided for in subsection (1) of this section, a facility operator must, with respect to:

(a) The facility operator's locatable underground facilities, provide the excavator with reasonably accurate information by marking their location;

(b) The facility operator's unlocatable or identified but unlocatable underground facilities, provide the excavator with available information as to their location; and

(c) Service laterals, designate their presence or location, if the service laterals:

(i) Connect end users to the facility operator's main utility line; and

(ii) Are within a public right-of-way or utility easement and the boundary of the excavation area identified under subsection (1) of this section.

(4) (a) A facility operator must provide information to an excavator pursuant to subsection (3) of this section no later than two business days after the receipt of the notice provided for in subsection (1) of this section or before excavation commences, at the option of the facility operator, unless otherwise agreed by the parties.

(b) A facility operator complying with subsection (3)(b) and (c) of this section may do so in a manner that includes any of the following methods:

(i) Placing within a proposed excavation area a triangular mark at the main utility line pointing at the building, structure, or property in question, indicating the presence of an unlocatable or identified but unlocatable underground facility, including a service lateral;

(ii) Arranging to meet an excavator at a worksite to provide available information about the location of service laterals; or

(iii) Providing copies of the best reasonably available records by electronic message, mail, facsimile, or other delivery method.



(c) A facility operator's good faith attempt to comply with subsection (3)(b) and (c) of this section:



(i) Constitutes full compliance with the requirements of this section, and no person may be found liable for damages or injuries




EXHIBIT 3A: Email from PSE to QFB

N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT

 Wilson, Annette <annette.wilson@pse.com>
To  Melissa Applebee

 Reply  Reply All  Forward 

Mon 6/17/2024 4:42 PM

 You forwarded this message on 6/17/2024 6:06 PM.

Melissa,

I received your voice message. I am in the process of working on your job. I am still gather information and will contact you when I know more and what will be required of your company. I will contact you when I have a timeframe, as of right now I am waiting on others to get back to me.

Annette Wilson
Project Manager II, Customer & System Projects, SKC
PH: 253.395.6913 Email: Annette.Wilson@pse.com

[Handbooks and Installation Guidelines](#)



EXHIBIT 3B: Email from PSE to QFB

From: Matt Mccurdy
Sent: Monday, June 17, 2024 6:57 PM
To: annette.wilson@pse.com
Cc: Jill McCurdy <jill@quality-fence.com>; Kendra Kahne <kendra@quality-fence.com>; Swede McCurdy <swede@quality-fence.com>; drevans3@washington811.com; eryka.hunter@pse.com; Melissa Applebee <melissa@quality-fence.com>
Subject: RE: N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT

All, so we all start of on the same page dealing with this issue I would like to put it out there that nothing is "required" from Quality Fence Builders. Our requirements were met before the first hole for the fence was excavated and installed. The 811 law in WA is very clear and we did not miss a step, 11 business days is plenty more than enough time for PSE to simply locate utilities they have installed. I am not looking for a fight here but I want it to be very clear from the beginning that this is not a QFB issue, this is a PSE issue. We should all be thankful that nobody was seriously injured or killed due to negligence on the part of PSE.

Eryka, voicemails were left for both Matt and Tony today but I have not heard back.

Kendra, can you please inform Sierra Construction where we are at with this? They are going to want to know what will be "required" of them also. Based on previous conversations I am sure they share the QFB point of view. They have also made it clear that they need to share this info with the ownership group. Also, please get pictures of the fence as it is tomorrow morning first thing before any further work is done by PSE.

Thanks-Matt


Quality
FENCE BUILDERS, INC.
Matt McCurdy -Vice President
P.O. Box 854
Auburn, WA 98071
(206)786-6410 cell (preferred)
(253)939-8533 phone
(253)931-8604 fax
www.quality-fence.com
matt@quality-fence.com





EXHIBIT 3C: Email from PSE to QFB

RE: N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT

 Matt McCurdy
To annette.wilson@pse.com
Cc Jill McCurdy; Kendra Kahne; Swede McCurdy; drevans3@washington811.com; eryka.hunter@pse.com; Melissa Applebee

 Reply  Reply All  Forward 

Tue 6/18/2024 9:10 AM

Annette, per our conversation this morning I would like to inform all involved that Quality Fence will not be removing any fencing until it is deemed safe to do so by PSE. I was not aware that the lack of PSE to locate was still a danger and the safety of our employees is paramount.

Also, as discussed this morning, I would like to keep this correspondence in writing so that everybody is up to speed.

Kendra, please inform Sierra Construction to keep employees out of this area. I am sure they will enjoy this update to our current issue.


Thanks-Matt

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www.quality-fence.com
matt@quality-fence.com



EXHIBIT 3D: Email from Sierra to PSE & QFB

RE: N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT

 Kirk MacGowan <KirkM@Sierraind.com>
To Matt McCurdy; Kendra Kahne; annette.wilson@pse.com; matt.eldridge@pse.com; Diane Yoo
Cc Jill McCurdy; Swede McCurdy; drevans3@washington811.com; eryka.hunter@pse.com; Melissa Applebee

 Reply  Reply All  Forward 

Tue 6/18/2024 10:54 AM

Annette / Matt,

My name is Kirk MacGowan and I'm the Sr. Project Manager at Sierra Construction involved with Project Swift that includes the fence QFB has installed at the referenced location. Matt has relayed to me that they called in locates, waited the required time period, installed the fence based on the locates in the field without incident but has then been notified by PSE verbally that there is a problem with the installation.

Can you please specify what was done wrong with the installation? I'd like to assist in rectifying the issue, but if there is an issue with the location, I need to be able to explain that to the building owner and tenant and determine a new location as this fence is critical to the security of their operation.

Thanks,
Kirk

Kirk MacGowan | Senior Project Manager | LEED AP BD+C
SIERRA CONSTRUCTION COMPANY, INC.
p. 425-487-5200 | c. 206-579-1927 | www.sierraind.com





Exhibit 3E: Sierra requesting information from PSE

Re: N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT



Diane Yoo <dianey@sierraind.com>

To Kirk MacGowan; Matt Mccurdy; Kendra Kahne; annette.wilson@pse.com; matt.eldridge@pse.com
Cc Jill McCurdy; Swede McCurdy; drevans3@washington811.com; eryka.hunter@pse.com; Melissa Applebee

Reply Reply All Forward ...

Thu 6/20/2024 9:54 AM

If there are problems with how this message is displayed, click here to view it in a web browser.

Hi Annette,

My name is Diane Yoo and I'm the Project Manager with Sierra Construction and also the on-site contact for this project. Kirk has relayed to me that you are wanting to get in contact with the tenant to discuss access around your facilities. Feel free to reach out to me if you have any questions or need assistance with coordinating with the tenant. I'd happy to set up an on-site or off-site meeting with your team, so we can review the new fence layout around the boxes and ensure proper access around them.

I also wanted to point out that access to your transformer as well as into the electrical room will need to be coordinated with the tenant once the fence/gate installation is completed and electrical room key is swapped out in the near future.

Meanwhile, if you would like to contact the tenant or building owner directly, I've attached their contact info below.

Tenant Rep:

Frank Derrickson
Senior Project Manager
2218 Race Street, Philadelphia, PA 19103
C 267.397.6846
E sderrickson@watchdogpm.com
[CLICK HERE](#) to read the latest edition of our newsletter, *The Blueprint*.



Building Owner:

Jessica Burgess | AVP, Development
Bridge Industrial
O 425 749 4330 | C 360 929 4265
jburgess@bridgeindustrial.com



www.bridgeindustrial.com

Thank you,

Diane Yoo | Project Engineer
SIERRA CONSTRUCTION COMPANY, INC.
p. 425-487-5200 | c. 206-376-2325 | www.sierraind.com





Exhibit 4: Formal Complaint against PSE from QFB (pg. 1 of 2)

WUCC Complaint Form

Requester Information

Your Name:	Your Company:	
<input type="text" value="Matt McCurdy"/>	<input type="text" value="Quality Fence Builders Inc."/>	
Your Phone Number:	Your Email:	
<input type="text" value="206-786-6410"/>	<input type="text" value="Matt@quality-fence.com"/>	
Your Address:		
<input type="text" value="214 21st SE"/>		
Your City:	Your State:	Your Zip:
<input type="text" value="Auburn"/>	<input type="text" value="WA"/>	<input type="text" value="98002"/>
Was a locate requested from the call center? <input type="radio"/> Yes <input type="radio"/> No		
Ticket Number:	Ticket Date:	
<input type="text" value="12011620"/>	<input type="text" value="05/24/2024"/>	

Violation Information

Alleged Violation/Damage:

RCW 19.122.030 Must call for marking two (2) full business days prior to digging.

Other

Section of Law Violated:	Alleged Violation Date:	
<input type="text" value="Locates called in, utilities not located for 11"/>	<input type="text" value="06/03/2024"/>	
Address of alleged violation:		
<input type="text" value="6520 S 228th St"/>		
City of Alleged Violation:	State of Alleged Violation:	Zip of Alleged Violation:
<input type="text" value="Kent"/>	<input type="text" value="wa"/>	<input type="text" value="98032"/>



Exhibit 4: Formal Complaint against PSE from QFB (pg. 2 of 2)

Basic Description:

Quality Fence Builders called in utility locates on 5/24/24. Excavation for fence post installation started on 6/3/24. We were notified on 6/11/24, when PSE finally showed up to locate, that we had installed the entire fence line directly over a main power line. We were ordered to stop work by PSE at this time although all excavation was already completed. I have since been informed on more than one occasion verbally and in writing the this is not any fault of PSE and the Quality Fence Builders "should have known better". My employees were put in severe danger due to negligence on the part of PSE and still they are blaming Quality Fence, Sierra Construction, and the property owner. PSE did not follow the dig laws in WA state, takes zero responsibility for it, and have since informed Sierra Construction and Quality Fence that we will remove and relocate the fence or PSE crews will handle it and send us the bill.

Allleged Violator

Company Name:

Puget Sound Energy

Company Phone Number:

888-225-5773

Company Email:

annette.wilson@pse.com

Company Address:

Company City:

Bellevue

Company State:

wa

Company Zip:

98009

Names of Employees on Site:

Tony Lupo

Other

Additional Information:

PSE did not locate the site nor did they inform Quality Fence, Sierra Construction, or any involved that locates had not been completed. They showed up to the site 11 business days after the locate was called in to finally locate and shut the site down. All excavation had been completed by this point. Unfortunately, this is not an uncommon occurrence with PSE and I am requesting that something be done so that my employees are no longer put in danger by a company that has no regard for the dig laws in the state of WA. As stated above, PSE has told me more than once that Quality Fence "should have known better". I find this excuse unacceptable. The lives and safety of my employees are paramount and I am hoping that this complaint is at least a step towards holding PSE accountable to simply do the job that the law requires. We follow the law or suffer severe consequences, I do not understand why they (PSE) are not held to the same standard.

By submitting this form I acknowledge that the statements that I alleged are true and accurate to the best of my knowledge.



Exhibit 5A: Email correspondence from PSE & QFB President & Vice President

From: Lynda Holloway <wslsafetycommittee@outlook.com>
Sent: Monday, June 24, 2024 12:24 PM
To: Matt Mccurdy <mmccurdy@quality-fence.com>
Subject: WA State Dig Law Safety Committee - Complaint Receipt 24-067

Hello Matt,

The Washington State Dig Law Safety Committee (Safety Committee) has received a complaint alleging PSE violated RCW 19.122.030.

For reference, I have attached the complaint as: 24-067 Complaint Form

A Safety Committee representative will contact you for further details. Also, if you have any questions regarding the process, please call me at 360-561-8158.

Regards,

Lynda

Lynda Holloway, Program Coordinator
WA State Dig Law Safety Committee
1673 S Market Blvd #121
Chehalis, WA 98532
360-561-8158
DigSafeWA.com

Exhibit 5B: Email correspondence from PSE & QFB President & Vice President

RE: WA State Dig Law Safety Committee - Complaint Receipt 24-067

Jill McCurdy
 To: Matt Mccurdy; Lynda Holloway
 Cc: Melissa Applebee; Kendra Kahne

Reply
 Reply All
 Forward
 ...
 Tue 6/25/2024 10:08 AM

RE: Project Swift Locate update Outlook item	Swift PSE Outlook item	RE: N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT Outlook item
RE: N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT Outlook item	Re: N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT Outlook item	Fwd: Project swift Outlook item
RE: Project Swift - Employee Gates	RE: N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT	N#12011620 SECURITY FENCE AT 6520 S 228TH ST KENT

Hi Lynda,
Here are the email correspondences, there are several chains that went to multiple variation of people so my apologies for the number. The attached MOV video is from our Field Foreman that took it the morning after PSE located it. There is also another rather large video I've been unsuccessfully able to compress/reduce and it is in an iCloud link below, please let me know if you are able to access it.

iCloud link to large video you'll need to download:
https://www.icloud.com/attachment/?u=https%3A%2F%2Fcvws.icloud-content.com%2F%2FAWP1KasoSKtqyOfQUZifAIGOrzT0AYyclQwc86vbj8pdbGoV23UPrF6E%2F%24%7Bf%7D%3Fo%3DAnrTcxb82-06UxWs9QBeklh0-zTixwFXms85M9DZLF8N%26v%3D1%26x%3D3%26a%3DCAogbTTG4bGtFRFii1Q8_RNdYdRzh3JP6W-IVj-E_ID6NmWsehC-14DrgilYvqf7vowylgEAKgkC6AMA_3LqEZ5SBI6vNPRaBA-sXoRqJ_gnZkQNmTKEXGEOppbT37VOrLcuY6rIwi7gGbYb-nog9Jtl61Kl3InX_7Bm0IH4y_3eJhw7_Xlo9900Ua_bupog-AJmq2iITpEvBCE8OF%26e%3D1721340187%26fl%3D%26r%3D28128DE7-F8B8-4606-9034-1B63C5664909-1%26k%3D%24%7Buk%7D%26ck%3Dcom.apple.largeattachment%26ckz%3D7B4901AE-A748-4C24-89F9-0F68EDB94BDF%26p%3D119%26s%3DqXrydqE5rv0UfeveY6Z1GEmMrYc&uk=2arN6TIRMggfybvslSjrww&f=20240618_095916.mp4&sz=421121959

Thank you!

Quality
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(253)939-8533 phone
(253)931-8604 fax
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jill@quality-fence.com

