



**NEBRASKA STATE FIRE MARSHAL**  
**Fire Incident Report**

**CASE INFORMATION**

Deputy: Arnie Bates	Assigned By: Jack Malicky	Case No: IR 130402	Case Status: Closed
Address: 253 N 5 <sup>th</sup> Street		City: David City	State: NE Zip: 68
County: Butler	Occupancy Type: Other	Date of Incident: 11/01/13	Time of Incident: 8:
Date of Request: 11/01/13	Time of Request: 10:37	Date of Arrival: 11/01/13	Time of Arrival: 11:45
Case Subject: 3 <sup>rd</sup> party damage to pipeline.		Total Loss: \$	Requesting Agency: SFM
Requesting Person: Clark Conklin	Responding Fire Dept: David City VFD	Official Spoken With: Mark Sloop	

**FIRE DETAILS**

Cause: Mechanical Equipment		Area of Origin: Other-Area of Origin	
Heat Source: Other		Item First Ignited: NA Lightning:	
Weather Conditions:	Wind Speed:	Wind Direction:	Temperature: Humidity:
Incendiary Container:		Ignition Device:	Fuel:

**STRUCTURE INFORMATION**

Structure Type: Underground Structure	Building Status: Other	Construction Type:	
Extent of Damage: Moderate Disrepair		Smoke Detector:	Heat Detector:
Gas Detector:	Flame Detector:	Automatic Sprinkler Alarm:	
Automatic Sprinkler:	Number of Floors:	Dimensions:	Structure Name:
Suspected Meth Lab: <input type="checkbox"/> Yes <input type="checkbox"/> No	Utilities: <input type="checkbox"/> Electrical <input type="checkbox"/> Water <input type="checkbox"/> Gas		

**VEHICLE INFORMATION**

Type of Vehicle:	VIN:	Plate:	State Issued:	Make:
Model:	Year:	Area of Origin:	Vehicle Status:	

**INSURANCE INFORMATION**

Company:		Address:		City:
State:	Zip:	Policy No:	Claim No:	Owner <input type="checkbox"/> Occupant <input type="checkbox"/>
Date Issued:	Date Expired:	Property Amount: \$	Contents Amount: \$	
Property Loss: \$	Contents Loss: \$			
Company:		Address:		City:
State:	Zip:	Policy No:	Claim No:	Owner <input type="checkbox"/> Occupant <input type="checkbox"/>
Date Issued:	Date Expired:	Property Amount: \$	Contents Amount: \$	
Property Loss: \$	Contents Loss: \$			

**PEOPLE IN THE CASE**

Name: Dave Merrill, BHE	Relation to Case: Operations Tech	Juvenile: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Address (if applicable) : 929 E 23 <sup>rd</sup> Street		City: Columbus	State: NE Zip: 68601
Name: Walker Foundations Inc	Relation to Case: Excavator	Juvenile: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Address (if applicable) : 2770 54 <sup>th</sup> Ave		City: Columbus	State: NE Zip: 68601
Name:	Relation to Case:	Juvenile: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Address (if applicable) :		City:	State: Zip:
Name:	Relation to Case:	Juvenile: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Address (if applicable) :		City:	State: Zip:

<b>Deputy: Arnold Bates 8738</b>	<b>Signature:</b> <i>Arnie Bates</i>	<b>Date: 11/01/13</b>
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NEBRASKA STATE FIRE MARSHAL  
246 S. 14<sup>th</sup> Street  
Lincoln, NE 68508

**INVESTIGATIVE SUPPLEMENTAL REPORT**

**Case #:** IR 130402      **Date of Report:** 11/01/13      **Date of Incident:** 11/01/13

**BODY OF REPORT:**

11/01/13 At approximately 08:40 a contractor with excavation equipment (backhoe) came into contact with a ¾" natural gas pipeline. The force of contact resulted in a mechanical fitting failure, releasing natural gas. The Gas pipeline operator responded, surveyed area and found natural gas in an adjacent building. David City Volunteer Fire Department and Police Department were notified. Occupants were evacuated in the block as a precautionary measure. Gas Operator excavated the gas pipeline and stopped flow of natural gas at approximately 1113 hours.

**CONCLUSION:**

Gas pipeline on private property at excavation site was not located or marked (flag or paint). Gas Operator will be cited for failure to protect underground utility.

<b>Deputy Name:</b>	Arnold Bates 8738	<b>Signature:</b>	<i>Amie Bates</i>				
<b>Agency Address:</b>	246 South 14 <sup>th</sup> Street	<b>City:</b>	Lincoln	<b>State:</b>	NE	<b>Zip:</b>	68508

**END OF REPORT**

# STATE OF NEBRASKA



## Notice of Violation

Dave Heineman  
Governor

Jim Heine  
Fire Marshal

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

November 5, 2013

Scott Zaruba  
Black Hills Energy  
110 South 7th Street  
P. O. Box 1249  
Norfolk, NE 68702

RE: David City pipeline damage – 20131105-N

The State Fire Marshal Office, Fuels Division, Pipeline Safety Section has conducted an investigation of excavation damage to a pipeline in David City NE on November 1, 2013. As a result of this investigation it appears that Black Hills Energy has violated Title 155 Nebraska Administrative Code Chapter 1.001 adopting by reference Pipeline Safety Regulations Title 49, Code of Federal Regulations, Part 191, 192, 199, & 40.

Therefore, the purpose of this letter is to request a response from Black Hills Energy for the probable violation. I am requesting that Black Hills Energy respond within 30 days of receipt of this letter. **Please reference 20131105-N in the response.** The response may accept the findings and state a plan of action to address the probable violation or, the response may disagree with the findings. If Black Hills Energy chooses to disagree with the findings, please justify your position in the response.

On November 1, 2013 an excavator caused damage to a natural gas pipeline at 253 North 5<sup>th</sup> Street, David City, NE. This pipeline was not located or marked. It appears that Black Hills Energy failed to protect this pipeline and violated operation and maintenance procedures of damage prevention plan by not locating and marking gas pipeline facilities.

§192.605 Procedural manual for operations, maintenance, and emergencies

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least one each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

MAIN OFFICE  
 DISTRICT A  
246 South 14<sup>th</sup> Street  
Lincoln, NE 68508-1804  
(402) 471-2027

DISTRICT B  
438 West Market  
Albion, NE 68620-1241  
(402) 395-2164

FUELS DIVISION  
 FLST  Pipeline  
246 South 14<sup>th</sup> Street  
Lincoln, NE 68508-1804  
(402) 471-9465

TRAINING DIVISION  
2410 North Wheeler Avenue  
Suite 112  
Grand Island, NE 68801-2376  
(308) 385-6892

Black Hills Energy Operation and Maintenance Procedures Section 7 subsection 7.8.2 RESPONSE

- When an excavation notice is received from the one-call notification center, the horizontal location of the facilities shall be located and marked within 48 hours, excluding Saturdays, Sundays, and legal holidays.
- The location of the underground facilities shall be marked with flags, paint, or any other clearly identifiable yellow markings within 18 inches horizontally from the exterior sides of the facilities.

At present, we consider the findings to be a probable violation of Title 155 Nebraska Administrative Code Chapter 1.001 adopting by reference pipeline safety regulations Title 49, Code of Federal Regulations, Part 192.

Whenever the State Fire Marshal has reason to believe any person is violating any provision of subsection (1) 81-545 or any regulation under the Nebraska Natural Gas Pipeline Safety Act of 1969, the State Fire Marshal shall give notice to such person and permit such person reasonable opportunity to achieve compliance. If compliance has not been achieved in a reasonable time, the State Fire Marshal may request the Attorney General to bring an action under section 81-547 in the district court for the county in which the defendant's principle place of business is located, and the district court may impose a civil penalty of not to exceed ten thousand dollars for each violation for each day that such violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars for any related series of violations.

If you have any questions regarding the substance or propriety of this notice, please contact our office at, Nebraska State Fire Marshal, Pipeline Safety, 246 South 14<sup>th</sup> Street, Lincoln, NE 68508-1804 or telephone 402-471-9465.



Arnie Bates, Deputy  
Pipeline Safety Section  
Nebraska State Fire Marshal



Clark Conklin,  
Chief, Fuels Division  
Nebraska State Fire Marshal

cc: Nathan Stewart, P. O. Box 83008, Lincoln, NE 68501-3008  
Allan Wical, 110 South 7th Street, P. O. Box 1249, Norfolk, NE 68702



Received on:

DEC 6 2013

NE State Fire Marshal

Arnie Bates  
Deputy Fire Marshal  
Nebraska State Fire Marshal  
Pipeline Safety Division  
246 South 14th Street  
Lincoln, NE 68508-1804

December 5, 2013

RE: David City Pipeline damage – 20131105-N

Dear Mr. Bates,

Enclosed you will find a response to your letter sent to our office on November 5, 2013 regarding a one of our pipelines that was damaged in David City on November 1, 2013.

If you have questions regarding this response, please feel free to contact me at (402) 437-1734 or email at [nathan.stewart@blackhillscorp.com](mailto:nathan.stewart@blackhillscorp.com).

Sincerely,

Nathan Stewart  
State Compliance Specialist

## **Sections cited:**

### **§192.605 Procedural manual for operations, maintenance, and emergencies**

(a) Each operator shall include the following in its operating and maintenance plan: General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

### **Concern:**

On November 1, 2013 an excavator caused damage to a natural gas pipeline at 253 North 5<sup>th</sup> Street, David City, Ne. This pipeline was not located or marked. It appears that Black Hills Energy failed to protect this pipeline and violated operation and maintenance procedures of damage prevention plan by not locating and marking gas pipeline facilities

### **Response:**

A locate request was submitted by Superior Glass on October 28, 2013 for work to be performed at 253 5<sup>th</sup> Street and 285 5<sup>th</sup> Street in David City, Ne. On November 1, 2013 a Black Hills service line was struck at 253 N 5<sup>th</sup> Street by Walker Foundations. Walker Foundations did not notify the Nebraska 811 center of their intention to excavate on the property prior to beginning excavation. However, Black Hills had responded to the locate request submitted by Superior Glass and had located its facilities on October 30, 2013. The service line at 253 N 5<sup>th</sup> was not located at that time. The technician performing the locate had concluded that there was no gas service on the property. He based this conclusion on several factors:

- There was no service line card available in Black Hills records system
- The house had no visible signs of gas service. The house had gas service disconnected in 2006 and the inside meter set had been removed from the property
- The service line did not have a means of locating it electronically

While this type of situation is rare, Black Hills is working to ensure similar situations do not occur in the future by developing a plan to identify and protect service lines which have inadequate records or cannot be located electronically. It is anticipated that this plan will be complete and ready for review by your office by March 1, 2014.

# STATE OF NEBRASKA

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## Approval of Work Plan

**Dave Heineman**  
Governor

**STATE FIRE MARSHAL**  
**Jim Heine**  
Fire Marshal

Scott Zaruba  
110 South 7th Street  
P O Box 1249  
NORFOLK NE 68702

December 13, 2013

RE: 20131105-N Damaged pipeline in David City

On November 11, 2013 a Notice of violation was sent to your location concerning an investigation of excavation damage to a pipeline in David City NE. The letter indicated probable violation of the Title 155 Nebraska Administrative Code Chapter 1.001 adopting by reference Pipeline Safety Regulations (Title 49, CFR, Parts 191, 192, 193, 199, & 40).

On December 6, 2013 we received your response to the probable violation. The response indicated that Black Hills Energy did not locate the pipeline. This oversight led to excavation damage to pipeline and causing an emergency response to the location. The response also indicated that Black Hills Energy was developing a plan to identify and protect service lines which have inadequate records or cannot be located electronically. The response letter indicates that it is anticipated that the plan will be in place by March 1, 2014.

Considering the response, we believe it would be prudent to suspend action upon this violation until the "plan" and any additional action(s) by Black Hills Energy can be reviewed. Follow-up inspections will be scheduled with you in order to track the progress toward the resolution of issues stated in the response letter.

Until then, we will still consider the findings to be a probable violation of Title 155 Nebraska Administrative Code Chapter 1.001 adopting by reference pipeline safety regulations Title 49, Code of Federal Regulations, Part 192. Whenever the State Fire Marshal has reason to believe any person is violating any provision of subsection (1) 81-545 or any regulation under the Nebraska Natural Gas Pipeline Safety Act of 1969, The State Fire Marshal shall give notice to such person and permit such person reasonable opportunity to achieve compliance. If compliance has not been achieved in a reasonable time, the State Fire Marshal may request the Attorney general to bring an action under section 81-547 in the district court for the county in which the defendant's principle place of business is located, and the district court may impose a

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200 South Silber  
North Platte, NE 69101-4219  
(308) 535-8181

■ **FUELS DIVISION**  
☐ **FLST** ■ **Pipeline**  
246 South 14<sup>th</sup> Street  
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civil penalty of not to exceed ten thousand dollars for each violation for each day that such violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars for any related series of violations.

If you have any questions regarding the substance or propriety of this letter, please contact our office at, Nebraska State Fire Marshal, Pipeline Safety, 246 South 14<sup>th</sup> Street, Lincoln, NE. 68508-1804 or telephone 402 471 9467.

*Arnie Bates*

Arnie Bates, Deputy  
Pipeline Safety Section  
Nebraska State Fire Marshal

\_\_\_\_\_  
Clark Conklin,  
Chief of Fuels Division  
Nebraska State Fire Marshal

Copy to: Allan Wical, 110 South 7th Street, P O Box 1249, Norfolk NE 68702  
Nathan Stewart, Nebraska Compliance Specialist, P O Box 83008, Lincoln NE 68501

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# STATE OF NEBRASKA



**Dave Heineman**  
Governor



**Jim Heine**  
Fire Marshal

## Close of Action

April 7, 2014

Scott Zaruba  
Black Hills Energy  
110 South 7th Street  
P. O. Box 1249  
Norfolk, NE 68702

RE: #20131105-N – Damaged pipeline in David City

On December 6, 2013 we received your response to the probable violation. The response indicated that Black Hills Energy did not locate the pipeline. This oversight led to excavation damage to pipeline and causing an emergency response to the location. The response also indicated that Black Hills Energy was developing a plan to identify and protect service lines which have inadequate records or cannot be located electronically.

In correspondence dated February 25, 2014 Black Hills Energy outlined revisions to be made to the Distribution Integrity Management Plan(s) for Black Hills Energy. In a meeting April 3, 2014 Black Hills Energy indicated that there would be additional action taken to enhance current damage prevention activities.

Considering the written response and additional information presented to us on April 3, 2014 we believe it would be prudent to close action upon this violation.

Thank you for your cooperation on this matter. If you have any questions regarding the substance or propriety of this letter, please contact our office at, Nebraska State Fire Marshal, Pipeline Safety, 246 South 14th Street, Lincoln, NE 68508-1804 or telephone 402-471-9465.

Handwritten signature of Armie Bates.

Armie Bates, Deputy  
Pipeline Safety Section  
Nebraska State Fire Marshal

Handwritten signature of Clark Conklin.

Clark Conklin,  
Chief of Fuels Division  
Nebraska State Fire Marshal

cc: Allan Wical, 110 South 7th Street, P. O. Box 1249, Norfolk, NE 68702  
Nathan Stewart, Nebraska Compliance Specialist, P. O. Box 83008, Lincoln, NE 68501

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