

<p>WHO THIS IS FOR: Every excavator, crew supervisor, project manager, and contractor who operates near underground utilities. A strong claim defense starts BEFORE the first bucket goes in the ground — not after something goes wrong.</p>	<p>LEGAL BASIS:</p> <ul style="list-style-type: none"> • CGA Best Practices 21.0 • State Underground Facility Laws • CO Statute 9-1.5-103 & 104 • OSHA 29 CFR 1926.651
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SECTION 1 | WHY CLAIM DEFENSE MATTERS

When a utility is struck during excavation, the first question every facility owner, insurance company, and attorney will ask is: *"Did the contractor follow the law and industry best practices?"* Your ability to answer YES — and prove it with documentation — is the difference between a dismissed claim and a six-figure liability.

AVERAGE COST OF A UTILITY STRIKE	POTENTIAL PENALTIES FOR NON-COMPLIANCE
Telecom / Fiber Cut: \$10,000 – \$100,000+	State Violation Fine: Up to \$1,000+ per violation
Gas Line Strike: \$50,000 – \$500,000+	CO Violation Fine: Up to \$10,000 per violation
Electric Line Strike: \$25,000 – \$250,000+	OSHA Citation: Up to \$15,625 per violation
Water Main Break: \$10,000 – \$75,000+	Civil Liability: Unlimited — depends on damages
Project Downtime (avg 4 hrs): \$5,000 – \$50,000	Loss of License / Contract: Permanent reputational damage

CAUSING AN OUTAGE

A utility strike that causes a service outage dramatically increases your liability exposure. Beyond the cost of physical repair, you may be held responsible for every hour of downtime experienced by the utility provider and its customers. The following outlines what an outage can cost and who bears responsibility.

UTILITY TYPE	OUTAGE IMPACT	POTENTIAL LIABILITY TO EXCAVATOR
Electric / Power	Loss of power to homes, businesses, hospitals, and traffic signals. Duration: hours to days.	Cost of repair + lost utility revenue + customer damage claims. Can reach \$1M+
Natural Gas	Loss of heat, cooking, and industrial processes. Emergency response required. Duration: hours to weeks.	Full emergency response costs, repair, customer relocation expenses, and regulatory fines.
Telecom / Fiber	Loss of internet, phone, 911 services, financial transactions, and data centers. Duration: hours to days.	Repair costs + business interruption claims from affected customers. \$10K–\$500K+



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Water Main	Loss of potable water and fire suppression capability. Boil orders may be issued. Duration: hours.	Repair + emergency water supply costs + regulatory violations if fire suppression is impacted.
Traffic Signal	Loss of signal control creating traffic hazards and potential accidents. Duration: hours.	Traffic management costs + liability for any accidents caused during the outage period.
Sewer / Wastewater	Sewage backup or overflow, environmental contamination risk. Duration: hours to days.	Cleanup costs + environmental fines + health department involvement. Highly regulated.

■ Outage Liability — Key Legal Points

- State law: Excavators are liable for ALL damages caused by a strike — including outage costs — if proper process was not followed
- CO Statute 9-1.5-103: Excavators who exercise reasonable care and follow all locate procedures have reduced liability even if a strike occurs
- Utility companies can and do pursue excavators for lost revenue, emergency response costs, and customer compensation
- A single fiber cut affecting a data center or hospital can generate claims exceeding \$1,000,000 in downtime losses alone
- Your general liability insurance may NOT cover all outage-related claims — review your policy limits before every major project
- The best outage protection is the same as the best claim defense: full compliance, full documentation, every time

■ The Bottom Line

- A utility strike does NOT automatically mean you are liable — but failing to follow the proper process DOES
- Contractors who document everything and follow CGA Best Practices have strong legal protection
- Contractors who skip steps, fail to check Positive Response, or ignore visible utility indicators have almost no defense
- Your documentation IS your defense. If it isn't written down, photographed, or recorded — it didn't happen

SECTION 2 | THE 3 PHASES OF CLAIM DEFENSE

PHASE 1	PHASE 2	PHASE 3
BEFORE YOU DIG	WHILE YOU DIG	IF SOMETHING GOES WRONG
<ul style="list-style-type: none"> • Submit 811 ticket on time • Verify all Positive Response codes • Confirm no open codes remain • Pre-mark with white paint • Walk the site before digging • Identify all above ground clues • Photo-document all marks • Identify private utilities • Brief the entire crew 	<ul style="list-style-type: none"> • Maintain locate marks daily • Re-mark if marks fade or are destroyed • Pothole before crossing utilities • Use a spotter near all marks • Update ticket if work extends past expiration • Keep ticket on site at all times • Document any field changes • Stop if something unexpected is found 	<ul style="list-style-type: none"> • Stop work immediately • Call 911 if hazardous release • Notify 811 and facility owner • Do NOT backfill • Photograph damage immediately • Document sequence of events • Do not admit fault • Contact your attorney and insurer

SECTION 3 | YOUR CLAIM DEFENSE DOCUMENTATION CHECKLIST

For educational purposes only. Not legal advice. Full disclaimer: www.utilitystrikeprevention.com



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Every item below is a piece of evidence in your favor. The more boxes you can check, the stronger your defense. Keep ALL of these on-site and in your records for a minimum of 3 years.

<input type="checkbox"/>	811 Ticket Number & Printout Proof you notified the one-call center before digging. Keep the ticket printout on-site. Submit online via your state's 811 portal or call 811 directly.
<input type="checkbox"/>	Positive Response Screenshot or Printout Shows every utility responded with a CLOSED code before you broke ground. Timestamp is critical — it proves you checked BEFORE starting, not after the fact.
<input type="checkbox"/>	Date & Time-Stamped Photographs of ALL Locate Marks Photograph every utility mark from multiple angles before any equipment moves. Include fixed landmarks in the frame (curbs, signs, fire hydrants) to establish position.
<input type="checkbox"/>	Photographs of the Entire Dig Site Before Work Begins Do NOT take just one photo — take as many photos as possible from every angle before a single piece of equipment moves. Wide-angle shots showing the full excavation area, all locate marks, and surrounding structures are essential. Also photograph any PRE-EXISTING damage to property — cracked sidewalks, damaged retaining walls, broken fences, deteriorated pavement, and any other condition that existed BEFORE you arrived. This protects you from being blamed for damage you did not cause. Date and time stamps are required on every photo.
<input type="checkbox"/>	Pre-Excavation Checklist (Completed & Signed) Your completed Before You Dig Checklist is direct evidence of due diligence. A signed checklist shows the supervisor verified conditions and briefed the crew.
<input type="checkbox"/>	Crew Briefing Record Document who was briefed, what was covered, and when. CGA 5-12: A pre-dig crew briefing is a best practice and key evidence of proper process.
<input type="checkbox"/>	Pothole / Test Hole Log Every time you pothole or hand-dig to expose a utility, document it completely: exact location, depth found, facility type and size, date/time, and method used (hand dig or vacuum excavation). Photograph the exposed utility from multiple angles with a measuring tape or depth reference visible. CRITICAL: Do not stop at the first utility you expose — always dig below and around the exposed facility to confirm there are no additional utilities stacked underneath or alongside it. Stacked utilities are one of the most common causes of secondary strikes. Document and photograph what is found both above AND below every exposed utility before any machine equipment enters the area.
<input type="checkbox"/>	Daily Site Inspection Notes A brief daily note confirming locate marks are still visible, no new indications of utilities, and work proceeded safely. Date, sign, and keep every entry.
<input type="checkbox"/>	Private Utility Locate Records If private utilities exist on-site, keep the private locator's report, company name, license number, and date of locate. Visit your state's 811 website for a list of private locators.
<input type="checkbox"/>	Ticket Update / Remark Records If you submitted an update ticket or requested a remark, keep that confirmation. It proves you maintained due diligence beyond the original locate window.

	<p>Damage Report (if applicable) If a strike occurs, file the damage report immediately through your state's 811 system. CO: Colorado811.org. The report timestamp establishes your immediate notification compliance.</p>
	<p>Emergency Notification Log If 911 was called, document the time, responder names, and actions taken. Keep all 911 call records and any communications with the facility owner/operator.</p>

SECTION 4 | CLAIM DEFENSE STRENGTH — SCENARIO ANALYSIS

Use the table below to understand how your level of compliance directly impacts your legal exposure in the event of a utility strike or damage claim.

SCENARIO	CLAIM DEFENSE STRENGTH	WHY
Called 811, waited full notice period, all utilities marked, potholed, documented marks, crew briefed	STRONG	Full compliance with CGA 21.0, state law, and OSHA. Shifts liability to facility owner if utility was mismarked.
Called 811, all utilities marked, but no photos taken and no crew briefing documented	MODERATE	Followed process but cannot prove it. Verbal claims without documentation are difficult to defend.
Called 811 but did not check Positive Response before digging	MODERATE	Partial compliance. Failure to verify Positive Response is a documented violation under state law.
Called 811, waited period, but utility had open code and excavator proceeded anyway	WEAK	Proceeding with an unresolved Open Code is a direct violation. Almost indefensible.
Utility marked but excavator dug within tolerance zone with machine without potholing	WEAK	Tolerance zone violation. CGA 5-20 and state law require hand dig or pothole before machine use.
Did not call 811 before digging	NONE	Zero defense. Full liability assumed by the excavator under all applicable state laws.
Called 811 but private utility not located — strike occurred on private line	MODERATE	811 is not liable for private lines. Excavator must independently locate private utilities.
Utility was mismarked by the locator — excavator followed marks and documented them	STRONG	With photo documentation of marks, liability shifts substantially to the facility owner/operator.
Marks faded, excavator continued without requesting a remark	WEAK	Failure to maintain marks is an excavator violation under CGA 5-17 and applicable state law.



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<p>Emergency excavation — oral notice given to 811 and facility owner as soon as practicable</p>	<p>MODERATE</p>	<p>Emergency exemption applies but documentation of notification timing is essential.</p>
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SECTION 5 | IF A UTILITY STRIKE OCCURS — IMMEDIATE RESPONSE

<p>1</p>	<p>STOP ALL WORK IMMEDIATELY Do not continue digging, backfilling, or operating equipment. Secure the area. The moment you stop and document is the moment your defense begins.</p>
<p>2</p>	<p>ASSESS FOR HAZARDOUS RELEASE Gas: smell (rotten eggs), hissing, dead vegetation, bubbling water. Electric: sparking, humming, tingling sensation. If ANY release — evacuate everyone within 300 feet and call 911 immediately.</p>
<p>3</p>	<p>CALL 911 IF ANY DANGER EXISTS Required by state law and CO Statute 9-1.5-103 if damage causes flammable, toxic, corrosive release, or risk to life. Do not delay. Evacuate first, call second.</p>
<p>4</p>	<p>NOTIFY 811 AND THE FACILITY OWNER Call 811 immediately and notify the facility owner/operator. Submit a damage report through your state's 811 system. CO: Colorado811.org. Provide location, type, and nature of damage.</p>
<p>5</p>	<p>PHOTOGRAPH AND MEASURE EVERYTHING IMMEDIATELY Photo-document the damage from multiple angles before anything is moved or repaired. Include: the damaged utility, surrounding marks, equipment position, and site conditions. Date and time stamps are critical — use your phone camera, not a separate device. EQUALLY IMPORTANT — take precise field measurements the moment the damage is discovered. Using a tape measure or hit kit, document the exact distance from the point of damage to every nearby locate mark. Measure from the strike location to the painted mark or flag, and record those distances in writing with a sketch or diagram. This field measurement is your most powerful evidence if the utility was mismarked — it objectively establishes the distance between where the locator said the utility was and where the utility actually was. A discrepancy between the mark location and the actual utility position is not your liability — it is the locator's. But you must measure it, document it, and photograph it immediately before the scene is disturbed. Photograph the tape measure in place showing the distance.</p>
<p>6</p>	<p>DO NOT BACKFILL OR ALLOW REPAIRS TO BEGIN WITHOUT AUTHORIZATION State law and CGA 5-27: You must delay backfilling until the facility owner authorizes it. All repairs must be performed by the operator or their qualified personnel.</p>
<p>7</p>	<p>DOCUMENT THE SEQUENCE OF EVENTS IN WRITING Within the hour: write down exactly what happened, in order, with times. Who was operating equipment, what was being dug, what was felt/heard/seen, and who was notified. Sign and date the written account. This is your contemporaneous record.</p>
<p>8</p>	<p>DO NOT ADMIT FAULT OR LIABILITY Do not make statements about who is responsible to anyone other than your attorney. Be cooperative with responders and the facility owner, but do not accept blame until a full investigation determines root cause. Mismarked utilities are common.</p>

9	<p>NOTIFY YOUR INSURANCE CARRIER AND ATTORNEY</p> <p>Contact your liability insurance carrier and legal counsel as soon as possible. Provide them with all documentation: ticket, Positive Response, photos, and written account. Early notification protects your coverage and preserves your rights.</p>
10	<p>PRESERVE ALL EVIDENCE</p> <p>Do not delete photos, alter the site, or destroy records. State 811 centers retain records for 3 years or more. You should do the same. All documentation may be subpoenaed in litigation.</p>

SECTION 6 | WHAT 811 CAN PROVIDE IN A DISPUTE OR LITIGATION

RECORD TYPE	YOUR STATE 811	COLORADO 811	HOW IT HELPS YOUR DEFENSE
Voice recordings of locate calls	✓ Available	✓ Available	Proves you called, what you said, and when
Copies of locate notices / tickets	✓ Retained 3 yrs+	✓ Retained per statute	Confirms ticket was valid and active
Positive Response history	✓ Available	✓ Available	Shows operator responses and timestamps
Ticket transmission records	✓ Available	✓ Available	Confirms operators were notified
Damage reports filed	✓ Available	✓ Available	Documents your immediate notification compliance
No Show / Remark request history	✓ Available	✓ Available	Proves you took extra steps when marks were missing

■ Important — Access Requirements

- Your state 811 center may charge fees for records retrieval and requires specific authorization procedures
- Records requests should be made in writing as early as possible in a dispute
- Most state 811 centers keep records for 3 years plus the current year — do not wait to request them
- State 811 centers and Colorado 811 can both provide expert testimony regarding proper locate procedures in litigation
- Your own records (photos, checklists, notes) are often more detailed and immediately accessible than 811 records

SECTION 7 | TOP 10 CLAIM DEFENSE MISTAKES CONTRACTORS MAKE

1	<p>Not photographing locate marks before digging</p> <p>Without photos, you cannot prove marks were present. A locator can deny marking and you have no evidence to the contrary.</p>
2	<p>Checking Positive Response AFTER starting work</p> <p>Positive Response must be verified BEFORE the first shovel goes in. Checking after a strike is too late to help you.</p>
3	<p>Not identifying private utilities</p> <p>811 does NOT locate private lines. Hitting an unlocated private utility is entirely the excavator's responsibility.</p>



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4	<p>Continuing to dig when marks are no longer visible Faded or destroyed marks require a remark request. Proceeding without visible marks is a direct violation of state law.</p>
5	<p>Not filing a No Show when a utility hasn't responded If a utility is on the ticket and hasn't responded — and you see visible indicators — you MUST call a No Show before proceeding.</p>
6	<p>Using mechanical equipment inside the tolerance zone without potholing This single mistake is responsible for the majority of utility strikes. Hand dig or vacuum excavate first, always.</p>
7	<p>Not keeping the 811 ticket on site CGA 5-13 requires the ticket to be accessible on site. If you cannot produce it during an inspection, it's a violation.</p>
8	<p>Admitting fault at the scene Many strikes are caused by mismarked utilities. Do not accept blame until root cause is determined. Statements are admissible.</p>
9	<p>Failing to update or remark an expired ticket Working on an expired ticket is the same as not calling 811 at all. Always update before your ticket expires — check your state's specific timeline.</p>
10	<p>Not documenting the crew briefing Verbal briefings with no written record do not exist in litigation. A signed daily briefing log takes 2 minutes and is invaluable.</p>

SECTION 8 | RECORD RETENTION REQUIREMENTS

DOCUMENT TYPE	MINIMUM RETENTION	AUTHORITY
811 Locate Tickets & Positive Response	3 years + current year	State 811 Law / CGA Best Practices
Voice recordings of locate calls	3 years + current year	State 811 Policy
Damage reports	3 years + current year	State Underground Facility Law
Pre-excavation checklists	3 years minimum (recommended)	CGA Best Practice 5-11
Site photographs (locate marks, damage)	3 years minimum (recommended)	CGA Best Practice 5-11
Crew briefing logs	3 years minimum (recommended)	CGA Best Practice 5-12
Pothole / test hole logs	3 years minimum (recommended)	CGA Best Practice 5-20
Private utility locate records	Duration of project + 3 years	CGA Best Practice 5-10
OSHA excavation safety records	3 years	OSHA 29 CFR 1926.651
Insurance claim documentation	7 years (recommended)	Industry Standard



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SECTION 9 | EMERGENCY & REPORTING QUICK REFERENCE

ACTION	GENERAL / ANY STATE	COLORADO
Call for a locate	811 (nationwide)	811 or 800-922-1987
Submit online ticket	Your state's 811 portal	Colorado811.org
Check Positive Response	Your state's 811 portal or call 811	Colorado811.org or email
Report utility damage	Your state's 811 damage report portal	Colorado811.org
No Show / Remark request	Call 811	Call 811 or online
Emergency locates (24/7)	811 — Emergency option	811 — Emergency option
Private locator list	Your state's 811 website	Colorado811.org resources
Help desk / questions	Call 811 — Help Desk option	303-232-1991
Report a violation	Your state 811 enforcement page	colorado.gov/SafetyCommission
Utility Strike Prevention	833-231-3222 (Toll Free)	info@utilitystrikeprevention.com

■ Remember — Claim Defense Is Built Before the Damage Occurs

- Call 811 every time — no exceptions, no matter how shallow the dig
- Document everything — photos, checklists, crew briefings, pothole logs
- Verify Positive Response before the first shovel goes in the ground
- Know your tolerance zones — hand dig only within 18"–24" of any marked utility (varies by state)
- When in doubt, stop and call Utility Strike Prevention: 833-231-3222