

*South Dakota*

Know what's below.  
Call before you dig.



April 1, 2020

Mr. Marcus Christensen  
Montana Dakota Utilities  
PO Box 1060  
Rapid City, South Dakota 57709

Mr. Benjamin Neill  
Dream Construction  
520 Kansas City Street  
Rapid City, South Dakota 57701

**Re: OC20-016 Montana Dakota Utilities vs. Dream Construction.**

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on March 26, 2020 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket OC20-016. The Enforcement Panel's findings are enclosed. You may request a hearing according to SDCL-49-7A-27, if you disagree with the Enforcement Panel findings. If you do request a hearing you must be represented by legal counsel at the time you present your case to the One Call Board.

**Failure to respond to this notice or request a hearing is considered acceptance of the Enforcement Panel Recommendation. In that case, the Recommendation will be Ordered by the South Dakota One Call Notification Board and your right to hearing is waived.**

**If you choose to request a hearing you must return the signed and dated form prior to the close of business on April 21, 2020.**

South Dakota One Call Notification Board  
PO Box 187  
Rapid City, South Dakota 57709

Be aware, any future violations of any One Call statute or rule may be subject to additional penalties up to \$10,000 for each subsequent violation that occurs within twelve months of the initial violation. If you have procedural questions relative to this complaint, please contact me at 605-863-0951 or by email at [deputydirector@sd811.com](mailto:deputydirector@sd811.com). Do Not Contact any members of the South Dakota One Call Notification Board to discuss this complaint since members may be involved in a hearing if one is requested.

*Cody M Gregg*

Cody M. Gregg  
Deputy Director  
South Dakota One Call

**REQUEST FOR A HEARING  
COMPLAINT OC20-016**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-016 AND  
REQUEST A HEARING.**

\_\_\_\_\_  
Signature – Montana Dakota Utilities

\_\_\_\_\_  
Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-016 AND  
REQUEST A HEARING.**

\_\_\_\_\_  
Signature – Dream Construction

\_\_\_\_\_  
Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER  
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD  
PO BOX 187  
RAPID CITY, SOUTH DAKOTA 57709**

**Failure to request a hearing will result in acceptance of the Enforcement Panel's  
Recommendation by the South Dakota One Call Board. The Board will then  
Order the Recommendation as the final disposition of this Complaint.**

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES CO., RAPID CITY, SD AGAINST DREAM CONSTRUCTION, RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON JANUARY 28, 2020 AT NORTH CREEK DR. AND VALLEY DR., RAPID CITY, SD.</p>	<p><b>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b></p> <p>OC20-016</p>
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On February 7, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co., (herein “MDU”), against Dream Construction, (herein “Respondent”) for an incident occurring on January 28, 2020, at North Creek Dr. and Valley Dr., Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-5 and 49-7A-8 when Respondent was digging under a ticket of another contractor. MDU alleges the damage is outside of the area the locate ticket described.

A copy of the Complaint was sent to Respondent on February 10, 2020. Respondent answered the Complaint on February 18, 2020 and admits the allegation that it violated SD One Call law. Respondent alleges the locate ticket was done by them. The name on the locate ticket was in the process of being changed to “Dream Construction”.

On March 26, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel finds probable cause to believe that unintentional violations of SDCL 49-7A-5 and 49-7A-8 occurred.

Based upon the evidence presented in the filings, the Panel recommends the following penalties: a penalty of \$1,000 with \$1,000 suspended for the violation of 49-7A-5 and a penalty of \$1,000 with \$250 suspended for the violation of 49-7A-8. Therefore, the total penalty recommended for the unintentional violations of SDCL 49-7A-5 and 49-7A-8 is \$2,000 with \$1,250 suspended upon the conditions listed below. The conditions for the suspended penalty are as follows:

1. Respondent must not be found guilty of a One Call violation within 12 months of the final Board Order,

2. The penalty payment of **\$750** must be made to **P.O. Box 187, Rapid City, SD 57709**, within 30 days of the final Board Order,
3. Respondent must attend a Damage Prevention meeting in 2021,
4. Respondent must conduct an in-house safety meeting to discuss South Dakota One Call laws. Detail of the discussion material, date and length of the meeting along with printed and signed names of attendees will be submitted to the Executive Director of South Dakota One Call within 30 days of the final Board Order.
5. Respondent will arrange a face-to-face meeting with MDU to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within 30 days of the final Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$1,250**) becomes immediately due and payable to **P.O. Box 187, Rapid City, SD 57709**.

The Panel recommends the South Dakota One Call Board accept its findings and recommendations herein. If either party to this Complaint disagrees or objects to the recommendations or findings herein, a hearing may be requested. To request a hearing, a party must reply within twenty days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

The South Dakota One Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.