

*South Dakota*



**Know what's below.  
Call before you dig.**

May 8, 2020

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

Mrs. Mandi Schmierer  
Lind Exco  
1641 Deadwood Avenue  
Rapid City, South Dakota 57702

**Re: OC20-021 Montana Dakota Utilities vs. Lind Exco**

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on April 30, 2020 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket **OC20-021**. 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 May 29, 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 OC20-021**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-021 AND  
REQUEST A HEARING.**

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

\_\_\_\_\_  
**Date**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-021 AND  
REQUEST A HEARING.**

\_\_\_\_\_  
**Signature – Lind Exco**

\_\_\_\_\_  
**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

IN THE MATTER OF THE COMPLAINT  
FILED BY MONTANA DAKOTA  
UTILITIES, RAPID CITY, SD AGAINST  
LIND EXCO, RAPID CITY, SD, FOR AN  
INCIDENT OCCURRING ON MARCH 23,  
2020 AT ANDERSON ROAD AND  
MONDO STREET, RAPID CITY, SD.

**ENFORCEMENT PANEL  
RECOMMENDATION TO THE SOUTH  
DAKOTA ONE CALL BOARD**

OC20-021

On March 30, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co., (herein “MDU”), against Lind EXCO, (herein “Respondent”) for an incident occurring on March 23, 2020, at Anderson Road and Mondo Street, Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-8 when Respondent assumed they knew the location and depth of the gas line. MDU alleges the Respondent admitted fault on site. MDU also alleges the Respondent painted where they thought the lines were located and told the locator that they knew the location of the utilities because they dug the joint trench.

A copy of the Complaint was sent to Respondent on March 30, 2020. The deadline to respond was April 20, 2020. Respondent answered the Complaint as of April 8, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges the gas line in question on Abelia Street was not marked. Respondents also alleges they did not tell locator to not locate and that when they discovered locates had not been done, they requested verification to have marks as the site had not been marked properly the first time.

On April 30, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause to believe that an unintentional violation for SDCL 49-7A-8 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 with \$750 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 **\$250** 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 2020,
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 (**\$750**) 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.