

*South Dakota*

Know what's below.  
Call before you dig.



August 5, 2020

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

Mr. Shawn Bogart  
Donarski Lawn Care  
3227 W Fairgrounds Loop  
Spearfish, South Dakota 57783

**Re: OC20-030 Montana Dakota Utilities vs. Donarski Lawn Care.**

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on July 30, 2020 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket **OC20-030**. 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 August 25, 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 OC20-030**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-030 AND  
REQUEST A HEARING.**

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

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

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-030 AND  
REQUEST A HEARING.**

\_\_\_\_\_  
**Signature – Donarski Lawn Care**

\_\_\_\_\_  
**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 CO., RAPID CITY, SD  
AGAINST DONARSKI LAWN CARE,  
SPEARFISH, SD, FOR AN INCIDENT  
OCCURRING ON JUNE 2, 2020 AT 1400  
NORTH AVE, SPEARFISH, SD.

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

OC20-030

On June 8, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein "MDU"), against Shawn Bogart d/b/a Donarski Lawn Care and Landscaping, (herein "Respondent") for an incident occurring on June 2, 2020, at 1400 North Ave, Spearfish, SD. The Complaint alleges a violation of SDCL 49-7A-5 and 49-7A-8 when Respondent was repairing an irrigation system for a customer when Respondent bored through a 3" gas main. MDU alleges Respondent did not have a valid locate ticket at the time of the incident and that locate marks show in pictures are from the damage ticket. MDU alleges that 911 and 811 were both notified as gas was blowing.

A copy of the Complaint was sent to Respondent on June 9, 2020. The deadline to respond was June 29, 2020. Respondent had not answered the Complaint as of July 30, 2020.

On July 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 of SDCL 49-7A-5 occurred. The Panel does not find probable cause to believe that a violation of SDCL 49-7A-8 occurred, as it is not possible to be aware of a tolerance zone to avoid it without a valid locate ticket or marks, and dismissed the violation.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 with \$0 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 Board Order,
2. The penalty payment of **\$1,000** must be made to **P.O. Box 187, Rapid City, SD 57709**, within 30 days of the 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 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 Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$0**) 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.