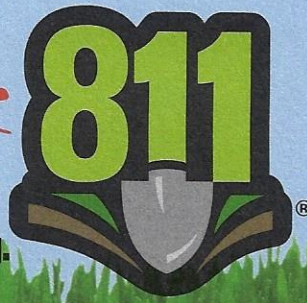


South Dakota



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

August 12, 2020

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

Mr. Jay Carney
Industrial Builders, Inc.
PO Box 406
Fargo, North Dakota 58107-0406

Re: OC20-034 Montana Dakota Utilities vs. Industrial Builders, Inc.

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on July 31, 2020 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket OC20-034. 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 September 2, 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. 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 OC20-034**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-034 AND
REQUEST A HEARING.**

Signature – Montana Dakota Utilities

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-034 AND
REQUEST A HEARING.**

Signature – Industrial Builders, Inc.

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 INDUSTRIAL BUILDERS, INC,
WEST FARGO, ND, FOR AN INCIDENT
OCCURRING ON JUNE 9, 2020 AT
SHERIDAN LAKE RD, RAPID CITY, SD.

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

OC20-034

On June 8, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein "MDU"), against Industrial Builders, Inc., a North Dakota corporation, (herein "Respondent") for an incident occurring on June 9, 2020, at Sheridan Lake Rd, Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-5 and 49-7A-8 when Respondent was milling the road surface and hit a gas line crossing beneath the road surface. MDU alleges Respondent did not have a locate ticket in its name. MDU also alleges the gas line was clearly and accurately marked under another contractor's locate ticket.

A copy of the Complaint was sent to Respondent on June 24, 2020. The deadline to respond was July 18, 2020. Respondent answered the Complaint on July 9, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges a locate was not required for the activity undertaken and at the depth it was working as the work was not below 18" deep.

On July 31, 2020, the Enforcement Panel (herein "Panel") convened pursuant to the authority present in SDCL 49-7A. The Panel does not find probable cause to believe that a violation of 49-7A-5 and 49-7A-8 occurred, and the Complaint should be dismissed. The Panel found that Respondent made a valid argument in the Response.

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.