

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY MAGELLAN MIDSTREAM PARTNERS, TULSA, OK AGAINST DONARSKI LAWNCARE AND LANDSCAPE, SPEARFISH, SD, FOR AN INCIDENT OCCURRING ON NOVEMBER 3, 2020 AT 816 COPPERFIELD DRIVE, RAPID CITY, SD.</p>	<p><b>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b></p> <p>OC20-088</p>
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On November 20, 2020, the South Dakota One Call Board received a Complaint filed by Magellan Midstream Partners, Limited Partnership, (herein “Claimant”), against Joe Donarski d/b/a Donarski Lawncare and Landscape (herein “Respondent”), for an incident occurring on November 3, 2020, at 816 Copperfield Drive, Rapid City, SD. The Complaint alleges violations of administrative rules 20:25:03:04(6) and 20:25:03:10.02 when Respondent installed a fiber cable 15 feet away from the pipeline. Claimant alleges several attempts were made to request that a representative of Claimant be on site during excavation, and Respondent did not respond to those communication attempts. Therefore, Claimant alleges Respondent is in violation of Claimant’s procedures by not having a representative on site during excavation.

A copy of the Complaint was sent to Respondent on November 23, 2020. The deadline to respond was December 15, 2020. Respondent had not answered the Complaint as of December 17, 2020.

On December 17, 2020, the Enforcement Panel (herein “Panel”) convened pursuant to the authority present in SDCL 49-7A. The Panel does find probable cause that an intentional violation of 20:25:03:10.02 occurred. The Panel does not find probable cause that a violation of 20:25:03:04(6) occurred as the administrative rule states a phone number is to be provided, but does not state it has to be answered.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$3,000 with \$1,000 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 **\$2,000** must be made to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**
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 thirty (30) days of the Board Order being issued.
5. Respondent will arrange a face-to-face meeting with Claimant to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within thirty (30) days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$1,000**) becomes immediately due and payable to **South Dakota One Call Notification Board, 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 (20) 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.