

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

IMPORTANT: This form is provided only as assistance in preparing responses to South Dakota One Call Complaints. Although it is not required, we encourage you to use this form. Please be as thorough as possible to assist the Enforcement Panel in making its determination.

**COMPLAINT DOCKET NUMBER:**

OC20-093

**Reply filed on behalf of (company name):**

Montana Dakota Utilities

**Contact Person:**

Marcus Christensen

**Phone**

(605) 355-4035

**Name or Company Name:**

Montana Dakota Utilities

**Street Address or PO Box**

PO Box 1060  
Rapid City, South Dakota 57709  
United States

**Email**

[marcus.christensen@mdu.com](mailto:marcus.christensen@mdu.com)

**Date**

Jan 13, 2021

**Were you previously aware of these allegations?**

Yes

**Provide detail including whom you spoke with:**

RC with RCS construction.

**Do you believe the statutes listed (if any) by the complainant were violated?**

No

**Why or why not?**

MDU's locating contractor, ELM, located the pipeline in question by utilizing electronic locating equipment, mapping, and onsite inspection in a manner that was believed to be accurate and in fulfillment of 49-7A-8 Location of Underground Facilities - Marking. See attached documents for further detail.

**Do you dispute the alleged violation of SD One Call statute or rule occurred?**

Yes

**If yes, what specifically do you dispute?**

MDU's locating contractor, ELM, located the pipeline in question by utilizing electronic locating equipment, mapping, and onsite inspection in a manner that was believed to be accurate and in fulfillment of 49-7A-8 Location of Underground Facilities - Marking. See attached documents for further detail.

**Do you dispute the complainant's statements regarding the intentional or unintentional nature of the alleged violation?** Yes

**If yes, please explain:**

MDU's locating contractor, ELM, located the pipeline in question by utilizing electronic locating equipment, mapping, and onsite inspection in a manner that was believed to be accurate and in fulfillment of 49-7A-8 Location of Underground Facilities - Marking. See attached documents for further detail.

**Was a locate requested from SD One Call?** Yes

**Locate ticket #** 2034650769

**Start date on ticket:** Dec 15, 2020

**Start time on ticket:** 10:00 AM

**Did excavation begin before the start date / time on the ticket?** No

**Was a minimum horizontal clearance of 18 inches maintained between a marked facility and mechanical equipment?** Yes

**Were buried facilities exposed by hand or non-invasive equipment prior to excavation?** Yes

**Were facilities marked?** Yes

**Was the marking complete prior to the start time on the ticket?** Yes

**Was the excavation site pre-marked with white paint?** Yes

**Was the facility marked accurately (within 18 inches)?** No

**Was there reasonable care to maintain locate marks for the life of project?** Yes

**Did the complainant correctly describe the type of facility involved?** Yes

**Provide detail:**

MDU's locating contractor, ELM, unknowingly mismarked the pipeline based on what is now believed to have been bleed off onto underground powerlines. Mapping and site conditions lead the locator to believe this was accurate.

**Did the complainant correctly describe the damages that resulted from the alleged violation?** No

**Provide detail:**

No damage occurred.

**Was the one-call notification center immediately notified of the damage, dislocation, or disturbance?** No

**If No, why not?**

No damage, dislocation, or disturbance occurred. Excavator contacted MDU when believed the pipeline was located inaccurately in accordance with 49-7A-13.

**Was the operator of the facility immediately notified of the damage, dislocation, or disturbance?** No

**If No, why not?**

No damage, dislocation, or disturbance occurred. Excavator contacted MDU when believed the pipeline was located inaccurately in accordance with 49-7A-13.

**Was there an escape of any flammable, toxic, or corrosive gas or liquid?** No

**Did the complainant correctly describe the damages that resulted from the alleged violation?** No

**If no, provide detail:**

No damage, dislocation, or disturbance occurred. Excavator contacted MDU when believed the pipeline was located inaccurately in accordance with 49-7A-13.

**Were damages on public right of way or private property?**

Private

**Did complainant correctly describe how operator service was affected?**

Yes

**Provide detail:**

No damage, dislocation, or disturbance occurred. No services were affected.

**Was anyone injured as a result of facility damage?**

No

**Were there fatalities?**

No

**Other information regarding injuries or damages:**

No damages or injuries occurred.

**Describe your plans and procedures to ensure compliance with SD One Call statutes and rules:**

MDU takes its responsibility to locate its facilities very seriously, we have reviewed this situation and are using it as part of our continual improvement process of learning from situations such as this and adjusting our processes as necessary.

**Has a complaint been filed against you in the past for SD One Call violations?**

Yes

**Please provide any additional information to support your position:**

Upon notification of what was believed to be an incorrectly marked facility, MDU's personnel and contractor responded immediately and were able to correct the situation without incident, ultimately the one-call system and laws worked as intended to prevent damage and an unsafe situation.

MDU would like to recognize RCS Constructions attention to SD 811 laws in this matter, and while MDU accepts responsibility for the gas line being improperly marked, we do not feel this willfully violates §49-7A-8- Location of Underground Facilities – Marking and ask that you dismiss this complaint.

**Attachment Information**

File names should not include symbols. Example:( \$, &, \*, % ) etc.