



**TO:            Underground Construction**

**FROM:        SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

**DATE:        November 15, 2023**

**RE:           NOTICE OF COMPLAINT; DEADLINE FOR ANSWER**

**In the Matter of the Complaint OC23-008 Filed by Montana Dakota Utilities vs. Underground Construction.**

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against Underground Construction. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, **you are required** to answer this complaint in writing, no later than the close of business on December 7, 2023. by filing the original copy of the answer electronically at <http://sdonecall.com/OneCallReplyForm.aspx>. This site can also be found by going to [www.sdonecall.com](http://www.sdonecall.com), clicking on Complaints, and then the Online Reply form. **OR** You may also file your response at the address listed below **and** by serving a copy on the complainant.

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

Your answer should be as thorough and detailed as possible and should include any documentation that supports your position e.g. witness statements, pictures, etc. We would encourage you to specifically address the alleged violation referenced in the complaint.

The One Call Board will make a determination of probable cause based on the complaint and associated response. If probable cause is determined, penalties may be recommended under SDCL 49-7A-18 or SDCL 49-19.

If any financial penalties are assessed in response to the complaint, the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

1. The amount of damage, degree of threat to the public safety, and inconvenience caused;
2. The respondent's plans and procedures to insure future compliance with statute and rules;
3. Any history of previous violations;
4. Other matters as justice requires.

You may address any of these items in your response, if you believe it would be of value to the Board when this complaint is considered.

Pursuant to SDCL 15-6-55, failure to answer this complaint could result in a default judgment being issued against you. Appropriate liens and other legal collection actions could result. **You are strongly urged to reply to this Notice** in the time frame described above **and** to obtain the advice of counsel should you have any legal questions.

A copy of the Operations Manual for Facility Operators and Excavators, the South Dakota One Call Statute and associated Administrative Rules are available on our web site [www.sdonecall.com](http://www.sdonecall.com).

Procedural questions may be directed to Codi Gregg, Executive Director, South Dakota One Call Notification Board, at 605-863-0951 or by email to [exedir@sdonecall.com](mailto:exedir@sdonecall.com). I would request that you do not contact any members of the South Dakota One Call Notification Board to discuss this complaint, since they may be involved in the Enforcement Panel review and/or a Chapter 1-26 hearing to resolve the complaint. They have been advised by legal counsel not to discuss any pending complaint before the Board.

Enclosures: Copy of complaint  
Operations Manual for Facility Operators and Excavators

cc: Mr. Toby Bordewyk  
Montana Dakota Utilities