



## South Dakota One Call Notification Board

Larry Englerth  
Executive Director

1012 North Sycamore Ave.  
Sioux Falls, SD 57110

Tel/Fax (605) 339-0529  
Email: [exedir@sdonecall.com](mailto:exedir@sdonecall.com)

**TO: JERRY OGAN**

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

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

**In the Matter of the Complaint OC03-012 filed by Montana-Dakota Utilities Co. against Jerry Ogan regarding a failure to provide notification of proposed excavation as required by SDCL 49-7A-5 and a failure to provide notification of damage to an underground facility as required by SDCL 49-7A-12.**

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against Jerry Ogan. 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 **November 25, 2003**, by filing the original and two copies of the answer at the address listed below and by serving a copy on the complainant.

South Dakota One Call Notification Board  
1012 N. Sycamore Avenue  
Sioux Falls, SD 57110-5747

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 two alleged violations stated in the complaint 1) Failure to provide notification of the proposed excavation and 2) Failure to provide notification to Montana-Dakota Utilities or the South Dakota One Call Center of the damage to the gas line.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaint and associated response. Failure to respond to this notice will be considered as concurrence that the allegations included in the complaint are accurate. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 & 19. If any financial penalties are assessed in response to Complaint OC03-012, the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

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

You may want to address any of these items in your response if you believe it would be of value to the committee when they consider this complaint.

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 advise of counsel should you have any legal questions.

A copy of the Operations Manual for Facility Operators and Excavators is enclosed. The South Dakota One Call Statute is reprinted in this manual starting on page 25 with the penalty section starting at the bottom of page 29. We would encourage you to review this material prior to completing your response.

Procedural questions may be directed to Larry Englerth, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to [exedir@sdonecall.com](mailto:exedir@sdonecall.com).

Enclosure

cc: Jim Mann, Montana-Dakota Utilities Co., Complainant (cover letter only via email)

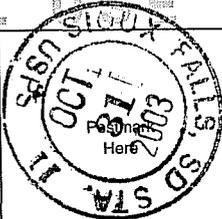
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<b>Total Postage &amp; Fees</b>	<b>\$ 5.34</b>



*Sent To*

Jerry Ogan  
 1808 Flag Mountain Drive  
 Pierre, SD 57501

PS Form 3800, June 2002 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jerry Ogan  
 1808 Flag Mountain Drive  
 Pierre, SD 57501

2. Article Number  
 (Transfer from service label)

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*X Jerry Ogan*

B. Received by (Printed Name) C. Date of Delivery  
*Jerry Ogan* 11-10-03

D. Is delivery address different from item 1?  Yes  No  
 if YES, enter delivery address below:

3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

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