

Safe digging is no accident. Always call 811 before digging.



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



**TO: EXCAVATING SPECIALISTS**

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

**DATE: JUNE 30, 2012**

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

**In the Matter of the Complaint OC12-010 filed by Montana-Dakota Utilities Co. against Excavating Specialists.**

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against Excavating Specialists. 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 July 20, 2012 by filing the original copy of the answer at the address listed below **and** by serving a copy on the complainant, **or** you may file your response electronically at <http://www.state.sd.us/puc/EFilingOptions.aspx>.

South Dakota One Call Notification Board  
c/o Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

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.

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. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 or SDCL 49-19. If any financial penalties are assessed in response to Complaint OC12-010

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 address any of these items in your response if you believe it would be of value to the Enforcement Panel 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 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 Larry Janes, 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). 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 of the complaint, they have been advised by legal counsel to not discuss any pending complaint before the Board.

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

cc: Montana-Dakota Utilities Co. (via email)

**ONE CALL COMPLAINT FORM**  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, Sd 57501-5070

**COMPLAINT**

**Allegation of Probable Violation(s) of South Dakota One Call Laws**

Received On June 26, 2012 12:15 pm

**I. ACTION REQUESTED BY:**

**COMPLAINT FILED BY:** Company  
**PERSON FILING COMPLAINT:** Ron E. Blum  
**COMPANY:** Montana-Dakota Utilities Co.  
**ADDRESS:** PO Box 1060, Rapid City, SD 57709-1060  
**PHONE NUMBER:** (605) 355-4021  
**EMAIL:** ron.blum@mdu.com  
**DATE:** June 26, 2012

**ii. ACTION REQUESTED AGAINST:**

**NAME OF EXCAVATOR/FACILITY OPERATOR:** Excavating Specialists  
**PHONE NUMBER:** (605) 737-3129  
**ADDRESS:** PO Box 2372, Rapid City, SD 57709-2372  
**WAS A LOCATED REQUESTED FROM SD ONE CALL? Yes**  
**LOCATE TICKET#:** 121320302  
**START DATE ON TICKET:** May 15, 2012  
**DID EXCAVATOR WAIT UNTIL THE START DATE/TIME ON THE TICKET BEFORE COMMENCING EXCAVATION? Yes**  
**WERE BURIED FACILITIES EXPOSED BY HAND OR NON-INVASIVE EQUIPMENT PRIOR TO EXCAVATION? No**

**III. FACILITY INVOLVED (IF ANY)**

**TYPE OF FACILITY INVOLVED:** 4 inch plastic gas main  
**OPERATOR OF FACILITY:** Montana-Dakota Utilities Co.  
**OPERATOR ADDRESS:** PO Box 1060, Rapid City, SD 57709-1060  
**PHONE NUMBER:** (605) 355-4021  
**DEPTH OF COVER:** unknown  
**PRESSURE:** 30 psig  
**VOLTAGE:**  
**NUMBER OF CABLE REPAIRS:**

**IV. MARKING**

WERE FACILITIES MARKED? N/A

WAS THE MARKING COMPLETE PRIOR TO THE START TIME ON THE TICKET? N/A

DID EXCAVATOR PRE-MARK WITH WHITE PAINT? N/A

WAS THE FACILITY ACCURATELY MARKED (WITHIN 18 INCHES)? N/A

DID EXCAVATOR USE REASONABLE CARE TO MAINTAIN LOCATE MARKS FOR LIFE OF PROJECT? N/A

HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY? Yes

IS THERE AGREEMENT? Yes

IF NO, PLEASE EXPLAIN:

**V. DAMAGE (IF ANY)**

FATALITIES:

INJURIES:

LENGTH OF HOSPITALIZATION:

ESTIMATED PROPERTY DAMAGE: \$650.00

NUMBER OF CUSTOMERS AFFECTED: 0

DAMAGED IN: Public

PHOTOS OF THE DAMAGED FACILITY: No

ADDITIONAL INFORMATION: Excavator locate ticket did not cover the spot where the damage occurred.

**VI. PROBABLE VIOLATION**

SPECIFIC STATUTE(S) OR RULE(S) THAT WAS VIOLATED: SDL 49-7A-5. Notification of proposed excavation.

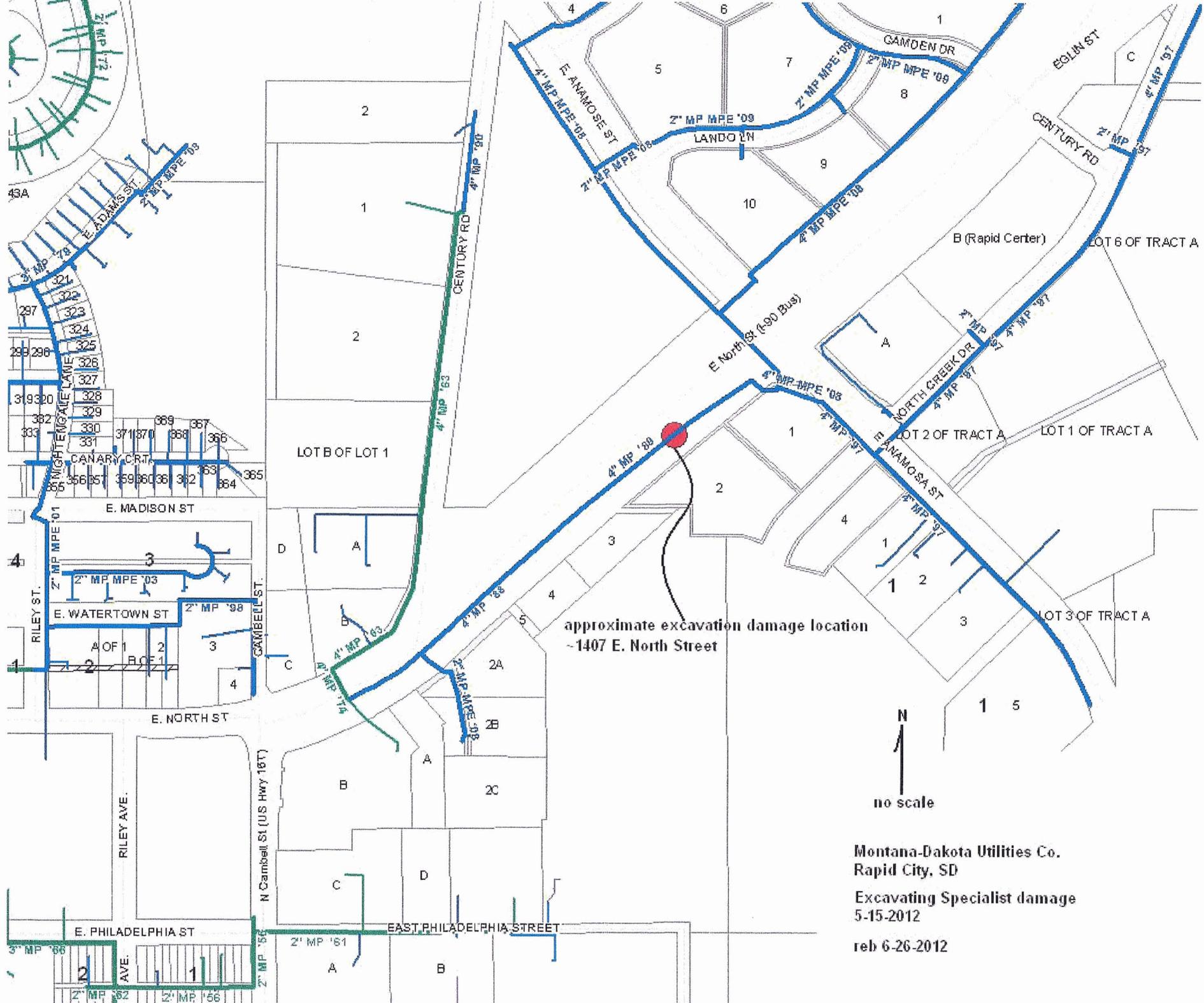
ADDRESS/LOCATION OF PROBABLE VIOLATION: vacant lot @ ~ 1407 E. North Street, Rapid City, SD 57701

DATE/TIME OF PROBABLE VIOLATION: May 15, 2012 5:00 pm

HAVE YOU DISCUSSED THE PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST? True

IF YES, NAME THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION: Robert Richardson

DESCRIPTION OF PROBABLE VIOLATION: No valid locate at the point of damage. The excavation area was not specified on the locate request.



approximate excavation damage location  
 ~1407 E. North Street



Montana-Dakota Utilities Co.  
 Rapid City, SD  
 Excavating Specialist damage  
 5-15-2012  
 reb 6-26-2012

