

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

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
10, 2020 AT 700 THROUGH 816
COPPERFIELD DRIVE, RAPID CITY, SD.

**ORDER ADOPTING ENFORCEMENT
PANEL RECOMMENDATION TO THE
SOUTH DAKOTA ONE CALL BOARD**

OC20-088

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 10, 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 **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 **P.O. Box 187, Rapid City, SD 57709**.

On January 4, 2021, the Panel's recommendation was sent to the parties in this action. The parties did request an evidentiary hearing on January 25, 2021. That request was withdrawn. The Board reviewed the Panel's recommendations at its May 11, 2021 meeting pursuant to SDCL 49-7A-27. The Panel's recommendation was approved by the Board. It is now, therefore:

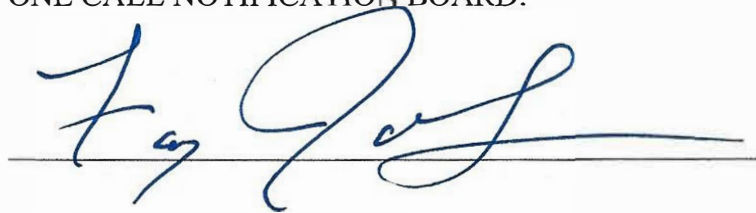
ORDERED, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein.

ORDERED, that if the penalty is not paid, that the Board shall pursue any rights it has under the law regarding collections.

The South Dakota One Call Notification Board has jurisdiction over this matter pursuant to SDCL 1-26 and 49-7A and ARSD Article 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

Dated this 12th day of July, 2021.

BY ORDER OF THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD:

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be "F. J. [unclear]".