

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY ROGER FRENCH, BROOKINGS, SD AGAINST ZACHARIAS CONSTRUCTION, HARTFORD, SD, FOR AN INCIDENT OCCURRING IN AUGUST, 2019 AT 4TH AVENUE AND SOUTH ROBERTS STREET, HUMBOLDT, SD.</p>	<p style="text-align:center">ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p style="text-align:center">OC20-040</p>
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On July 6, 2020, the South Dakota One Call Board received a Complaint filed by Roger French (herein “Claimant”), against Zacharias Construction, Inc. (herein “Respondent”), for an incident occurring in August, 2019, at 4th Avenue and South Roberts Street, Humboldt, SD. The Complaint alleges multiple violations of SDCL49-7A when Respondent failed to notify Midcontinent of damage to their internet line on three occasions, failed to protect Midcontinent internet lines on three occasions, failed to report hits to SD811 on three occasions, and failed to call USIC for a damage investigation on three occasions.

A copy of the Complaint was sent to Respondent on July 23, 2020. The deadline to respond was August 14, 2020. Respondent has answered the Complaint as of August 12, 2020 and does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges they have taken full responsibility for the incidents on August 23, 2019 and September 3, 2019. Respondent does allege that no damage occurred during the incident of September 4, 2019, and that they were just acting on the advice of a Midcontinent technician.

On August 28, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel discussed that they do not have authority to hear the complaint pursuant to 49-7A-21, as the Complaint was not brought within ninety (90) days of discovery. Therefore, the Panel recommends the Complaint be dismissed.

The Panel recommends the South Dakota One Call Board accept its findings and recommendations herein. If either party to this Complaint disagrees or objects to the recommendations or findings herein, a hearing may be requested. To request a hearing, a party

must reply within twenty (20) days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

The South Dakota One Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.