

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES CO., RAPID CITY, SD AGAINST CONCRETE PROFESSIONALS, RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON DECEMBER 24, 2019 AT 2691 MEADOWS DRIVE, STURGIS, SD.</p>	<p><b>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b></p> <p>OC20-001</p>
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On January 7, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein “MDU”), against Concrete Professionals, (herein “Respondent”) for an incident occurring on December 24, 2019, at 2691 Meadows Drive, Sturgis, SD. The Complaint alleges a violation of SDCL 49-7A-8 and 49-7A-5 when Respondent was digging with an auger attachment and struck a gas line. Respondent did not have a valid locate ticket. MDU alleges 811 was notified, but 911 was not because no gas was blowing due to an excess flow valve.

A copy of the Complaint was sent to Respondent on January 13, 2020. The deadline to respond was February 4, 2020. Respondent answered the Complaint on January 24, 2020 and did not dispute that a violation of South Dakota One Call law occurred. Respondent states that it was a mistake made on his behalf.

On April 30, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel does not find probable cause to believe that a violation of SDCL 49-7A-8 occurred. Therefore, the Panel recommends the Complaint allegation of SDCL 49-7A-8 be dismissed. The Panel does find probable cause to believe that an unintentional violation for SDCL 49-7A-5 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 with \$800 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 final Board Order,

2. The penalty payment of **\$200** must be made to **P.O. Box 187, Rapid City, SD 57709** within 30 days of the final Board Order,
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 30 days of the final Board Order.
5. Respondent will arrange a face-to-face meeting with MDU to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place withing 30 days of the final Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$800**) becomes immediately due and payable to **P.O. Box 187, Rapid City, SD 57709**.


On May 8, 2020, the Panel's recommendation was sent to the parties to this action. The parties did not request an evidentiary hearing. The Board reviewed the Panel's recommendations at its August 27, 2020 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.

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 23<sup>th</sup> day of September 2020.

BY ORDER OF THE SOUTH DAKOTA ONE CALL  
NOTIFICATION BOARD:

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