

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY MIDCONTINENT COMMUNICATIONS, SIOUX FALLS, SD AGAINST SOD BUSTERS INC. AND B GREEN, TEA, SD, FOR AN INCIDENT OCCURRING ON JUNE 5, 2019 AT 4301 W. KINSLEY PL., SIOUX FALLS, SD.</p>	<p>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC20-012</p>
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On January 24, 2020, the South Dakota One Call Board received a Complaint filed by Midcontinent Communications (herein “Midco”), against Sod Busters Inc. and B Green, (herein “Respondent”) for an incident occurring on June 5, 2019, at 4301 W. Kinsley Pl., Sioux Falls, SD. The Complaint alleges a violation of SDCL 49-7A-5 and 49-7A-12 when Respondent did not perform locates prior to doing underground sprinkler repair and cut the cable.

A copy of the Complaint was sent to Respondent on January 28, 2020. Respondent answered the Complaint on February 18, 2020 and denies a violation of South Dakota One Call law. Respondent alleges they do hand dig, but Midco’s lines are so close to the surface that they are being hit by the shovels. Respondent states they did not request a locate.

On February 28, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. Pursuant to SDCL 49-7A-21, the Panel dismisses this action because the Complaint was not brought within ninety (90) days of damage or within one (1) year of discovery.

On April 17, 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 May 18, 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 20th day of May 2020.

BY ORDER OF THE SOUTH DAKOTA ONE CALL
NOTIFICATION BOARD:

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