

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

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| <p>IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES CO., RAPID CITY, SD AGAINST DREAM CONSTRUCTION, RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON JANUARY 28, 2020 AT NORTH CREEK DR. AND VALLEY DR., RAPID CITY, SD.</p> | <p>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC20-016</p> |
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On February 7, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co., (herein “MDU”), against Dream Construction, (herein “Respondent”) for an incident occurring on January 28, 2020, at North Creek Dr. and Valley Dr., Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-5 and 49-7A-8 when Respondent was digging under a ticket of another contractor. MDU alleges the damage is outside of the area the locate ticket described.

A copy of the Complaint was sent to Respondent on February 10, 2020. Respondent answered the Complaint on February 18, 2020 and admits the allegation that it violated SD One Call law. Respondent alleges the locate ticket was done by them. The name on the locate ticket was in the process of being changed to “Dream Construction”.

On March 26, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel finds probable cause to believe that unintentional violations of SDCL 49-7A-5 and 49-7A-8 occurred.

Based upon the evidence presented in the filings, the Panel recommends the following penalties: a penalty of \$1,000 with \$1,000 suspended for the violation of 49-7A-5 and a penalty of \$1,000 with \$250 suspended for the violation of 49-7A-8. Therefore, the total penalty recommended for the unintentional violations of SDCL 49-7A-5 and 49-7A-8 is \$2,000 with \$1,250 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 **\$750** 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 within 30 days of the final Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$1,250**) becomes immediately due and payable to **P.O. Box 187, Rapid City, SD 57709**.

On April 1, 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:
