

South Dakota

Know what's below.
Call before you dig.



August 4, 2020

Mr. Marcus Christensen
Montana Dakota Utilities
PO Box 1060
Rapid City, South Dakota 57709

Mr. Chad Zandstra
Zandstra Construction
1001 Enchanted Pines Dr
Rapid City, South Dakota 57701

Re: OC20-023 Montana Dakota Utilities vs. Chad Zandstra Construction, LLC.

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on July 2, 2020 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket **OC20-023**. The Enforcement Panel's findings are enclosed. You may request a hearing according to SDCL-49-7A-27, if you disagree with the Enforcement Panel findings. If you do request a hearing you must be represented by legal counsel at the time you present your case to the One Call Board.

Failure to respond to this notice or request a hearing is considered acceptance of the Enforcement Panel Recommendation. In that case, the Recommendation will be Ordered by the South Dakota One Call Notification Board and your right to hearing is waived.

If you choose to request a hearing you must return the signed and dated form prior to the close of business on August 24, 2020.

South Dakota One Call Notification Board
PO Box 187
Rapid City, South Dakota 57709

Be aware, any future violations of any One Call statute or rule may be subject to additional penalties up to \$10,000 for each subsequent violation that occurs within twelve months of the initial violation. If you have procedural questions relative to this complaint, please contact me at 605-863-0951 or by email at deputydirector@sd811.com. Do Not Contact any members of the South Dakota One Call Notification Board to discuss this complaint since members may be involved in a hearing if one is requested.

Cody M. Gregg

Cody M. Gregg
Deputy Director
South Dakota One Call

**REQUEST FOR A HEARING
COMPLAINT OC20-023**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-023 AND
REQUEST A HEARING.**

Signature – Montana Dakota Utilities

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-023 AND
REQUEST A HEARING.**

Signature - Chad

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
PO BOX 187
RAPID CITY, SOUTH DAKOTA 57709**

**Failure to request a hearing will result in acceptance of the Enforcement Panel's
Recommendation by the South Dakota One Call Board. The Board will then
Order the Recommendation as the final disposition of this Complaint.**

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY MONTANA DAKOTA
UTILITIES, RAPID CITY, SD AGAINST
CHAD ZANDSTRA CONSTRUCTION,
RAPID CITY, SD, FOR AN INCIDENT
OCCURRING ON MARCH 4, 2020 AT
4514 PAHLMeyer DR, RAPID CITY, SD.

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

OC20-023

On April 15, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein "MDU"), against Chad Zandstra Construction, LLC, (herein "Respondent") for an incident occurring on March 4, 2020, at 4514 Pahlmeyer Dr, Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-5 and 49-7A-8 when Respondent was digging a trench for the electricity for a new build home. MDU alleges the Respondent had to cross the gas service line for the home next door and hit the gas line with the bucket of the excavator. Gas line was protected with an Excess Flow Valve.

A copy of the Complaint was sent to Respondent on April 16, 2020. The deadline to respond was May 7, 2020. Respondent answered the complaint on May 9, 2020 and does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges the gas service for 4514 Pahlmeyer was not located or flagged on the lot but that the gas service for 4514 Pahlmeyer was well inside the 4428 Pahlmeyer lot line.

On July 2, 2020, the Enforcement Panel (herein "Panel") convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause to believe that intentional violations of SDCL 49-7A-5 and 49-7A-87 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$2,500 with \$250 suspended each for SDCL 49-7A-5 and 49-7A-8 for a total recommended penalty of \$5,000 with \$500 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 **\$4,500** must be made to **P.O. Box 187, Rapid City, SD 57709**, within 30 days of the 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 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 Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$500**) becomes immediately due and payable to **P.O. Box 187, Rapid City, SD 57709**.

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 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.