

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 INDUSTRIAL BUILDERS, INC., WEST FARGO, ND, FOR AN INCIDENT OCCURRING ON JUNE 9, 2020 AT SHERIDAN LAKE RD, RAPID CITY, SD.</p>	<p>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC20-034</p>
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On June 8, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein "Claimant"), against Industrial Builders, Inc., a North Dakota corporation, (herein "Respondent") for an incident occurring on June 9, 2020, at Sheridan Lake Rd, Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-5 and 49-7A-8 when Respondent was milling the road surface and hit a gas line crossing beneath the road surface. Claimant alleges Respondent did not have a locate ticket in its name. Claimant also alleges the gas line was clearly and accurately marked under another contractor's locate ticket.

A copy of the Complaint was sent to Respondent on June 24, 2020. The deadline to respond was July 18, 2020. Respondent answered the Complaint on July 9, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges a locate was not required for the activity undertaken and at the depth it was working as the work was not below 18" deep.

On July 31, 2020, the Enforcement Panel (herein "Panel") convened pursuant to the authority present in SDCL 49-7A. The Panel does not find probable cause to believe that a violation of 49-7A-5 and 49-7A-8 occurred, and the Complaint should be dismissed. The Panel found that Respondent made a valid argument in the Response.

On August 12, 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 November 17, 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 10th day of December 2020.

BY ORDER OF THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD:

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