

South Dakota



Know what's below.
Call before you dig.

August 12, 2020

Mr. Jesse Tippmann
Groundbreaking Construction, LLC.
5009 Brownstone Court
Piedmont, South Dakota 57769

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

Re: OC20-039 Jesse Tippmann / Groundbreaking Construction, LLC. vs. Montana Dakota Utilities.

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on July 31, 2020 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket **OC20-039**. 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 September 2, 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 OC20-039**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-039 AND
REQUEST A HEARING.**

Signature – Groundbreaking Construction, LLC.

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-034 AND
REQUEST A HEARING.**

Signature – Montana Dakota Utilities

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 JESSE TIPPMANN /
GROUNDBREAKING CONSTRUCTION,
LLC., PIEDMONT, SD AGAINST
MONTANA DAKOTA UTILITIES, RAPID
CITY, SD, FOR AN INCIDENT
OCCURRING ON JULY 1, 2020 AT 4904
BRECKENRIDGE COURT, RAPID CITY,
SD.

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

OC20-039

On July 1, 2020, the South Dakota One Call Board received a Complaint filed by Jesse Tippman / Groundbreaking Construction, LLC, (herein "Groundbreaking"), against Montana Dakota Utilities, (herein "Respondent") for an incident occurring on July 1, 2020, at 4904 Breckenridge Court, Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-9 and 49-7A-13 when Groundbreaking began hand digging for the location's gas service and power at 8:30 a.m. as the locates were valid as of that time. Groundbreaking alleges the gas service was improperly marked as the existing gas line was found nowhere near the mark and was headed in the opposite direction of the locates.

A copy of the Complaint was sent to Respondent on July 6, 2020. The deadline to respond was July 27, 2020. Respondent answered the Complaint on July 29, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges they did what is required by statute to provide accurate locates in a timely manner and to assist if there is question or doubt of the accuracy of the locates.

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 violations of SDCL 49-7A-9 and 49-7A-13 occurred, and the Complaint should be dismissed. The Panel found that the locates were completed on time for Respondent, and a verification was submitted when the locates were called into question. The Panel also found that both Groundbreaking and Respondent met the legal requirements and no probable cause was established in the Complaint.

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.