

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.	<b>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b>  OC20-039
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On July 1, 2020, the South Dakota One Call Board received a Complaint filed by Jesse Tippman / Groundbreaking Construction, LLC, (herein "Claimant"), 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 Claimant 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. Claimant 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 Claimant and Respondent met the legal requirements, and no probable cause was established in the Complaint.

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 10<sup>th</sup> day of December 2020.

BY ORDER OF THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD:

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*Ray Jandreau*

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