

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT  
FILED BY ROGER FRENCH,  
BROOKINGS, SD AGAINST ZACHARIAS  
CONSTRUCTION, HARTFORD, SD, FOR  
AN INCIDENT OCCURRING IN AUGUST,  
2019 AT 4TH AVENUE AND SOUTH  
ROBERTS STREET, HUMBOLDT, SD.

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

OC20-040

On July 6, 2020, the South Dakota One Call Board received a Complaint filed by Roger French (herein "Claimant"), against Zacharias Construction, Inc. (herein "Respondent"), for an incident occurring in August, 2019, at 4th Avenue and South Roberts Street, Humboldt, SD. The Complaint alleges multiple violations of SDCL49-7A when Respondent failed to notify Midcontinent of damage to their internet line on three occasions, failed to protect Midcontinent internet lines on three occasions, failed to report hits to SD811 on three occasions, and failed to call USIC for a damage investigation on three occasions.

A copy of the Complaint was sent to Respondent on July 23, 2020. The deadline to respond was August 14, 2020. Respondent has answered the Complaint as of August 12, 2020 and does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges they have taken full responsibility for the incidents on August 23, 2019 and September 3, 2019. Respondent does allege that no damage occurred during the incident of September 4, 2019, and that they were just acting on the advice of a Midcontinent technician.

On August 28, 2020, the Enforcement Panel (herein "Panel") convened pursuant the authority present in SDCL 49-7A. The Panel discussed that they do not have authority to hear the complaint pursuant to 49-7A-21, as the Complaint was not brought within ninety (90) days of discovery. Therefore, the Panel recommends the Complaint be dismissed.

On October 7, 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:

DocuSigned by:

*Fay Sandreau*

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