

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY ROGER FRENCH, BROOKINGS, SD AGAINST PRUNTY CONSTRUCTION, BROOKINGS, SD, FOR AN INCIDENT OCCURRING IN AUGUST, 2019 AT 4TH AVENUE AND SOUTH ROBERTS STREET, HUMBOLDT, SD.	<b>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b>  OC20-041
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On July 6, 2020, the South Dakota One Call Board received a Complaint filed by Roger French (herein "Claimant"), against Prunty Construction Company, 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 do the required hand digging, used mechanical equipment within the 18 inches of the marking, failed to notify Midco of the hit line, failed to notify Midco or SD811 of the hit line, failed to protect the internet line, failed to call USIC for a damage investigation, and failed to call for a relocate.

A copy of the Complaint was sent to Respondent on July 7, 2020. The deadline to respond was July 28, 2020. Respondent answered the Complaint on July 27, 2020 and does not dispute that a violation of South Dakota One Call law occurred.

On August 13, 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:

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