

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES, RAPID CITY, SD AGAINST RAPID CONSTRUCTION, RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON July 20, 2020 AT 5500 ELM STREET, Black Hawk, SD.</p>	<p style="text-align:center"><b>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b></p> <p style="text-align:center">OC20-048</p>
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On July 29, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein “Claimant”), against Rapid Construction, LLC (herein “Respondent”), for an incident occurring on July 20, 2020, at 5500 Elm Street, Black Hawk, SD. The Complaint alleges violations of SDCL 49-7A-8 and 49-7A-12 when Respondent was working on doing some water line improvements and hit the gas service line that crossed the water line ditch. Claimant alleges that Respondent had a valid locate ticket and the line was accurately located. Gas was blowing until the contractor entered the gas to kink and tape the line to stop the flow of gas.

A copy of the Complaint was sent to Respondent on July 29, 2020. The deadline to respond was August 19, 2020. Respondent has answered the Complaint as of August 6, 2020 and does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges they broke a gas service line to a residence that was not buried to the proper depth.

On August 13, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause that an intentional violation of SDCL 49-7A-8 occurred. The Panel recommends the violation of SDCL 49-7A-12 be dismissed and states this action is not condoned and needs to be addressed by Respondent before someone gets hurt or killed.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,500 with \$750 suspended upon the conditions listed below. The conditions for the suspended penalty are as follows:

1. Respondent must not be found guilty of a One-Call violation within 12 months of the Board Order,

2. The penalty payment of **\$750** must be made to **P.O. Box 187, Rapid City, SD 57709**.
3. Respondent must attend a Damage Prevention meeting in 2021.
4. Respondent must conduct an in-house safety meeting to discuss South Dakota One Call laws. Detail of the discussion material, date, and length of the meeting along with printed and signed names of attendees will be submitted to the Executive Director of South Dakota One Call within thirty (30) days of the Board Order being issued.
5. Respondent will arrange a face-to-face meeting with Claimant to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within thirty (30) days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$750**) becomes immediately due and payable to **P.O. Box 187, Rapid City, SD 57709**.

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 (20) 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.