

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

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.

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

OC20-048

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**.

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.

ORDERED, that if the penalty is not paid, that the Board shall pursue any rights it has under the law regarding collections.

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 10th day of December 2020.

BY ORDER OF THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD:

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