

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT  
FILED BY RW CONTRACTING,  
BROOKINGS, SD AGAINST CITY OF  
WHITE, WHITE, SD, FOR AN INCIDENT  
OCCURRING ON July 29, 2020 AT 104 E  
4TH STREET, WHITE, SD.

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

OC20-049

On July 29, 2020, the South Dakota One Call Board received a Complaint filed by RW Contracting (herein “Claimant”), against City of White (herein “Respondent”), for an incident occurring on July 29, 2020, at 104 E 4th Street, White, SD. The Complaint alleges violations of SDCL 49-7A-9, 49-7A-19, and 49-7A20 when Respondent failed to locate the power line.

A copy of the Complaint was sent to Respondent on August 4, 2020. The deadline to respond was August 24, 2020. Respondent has answered the Complaint as of August 26, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges the name and address did not match for the property and that the power line that was hit was for the neighboring house.

On August 28, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause that an unintentional violation of SDCL 49-7A-9 occurred. The Panel does not find probable cause that violations of 49-7A-19 and 49-7A-20 occurred. Therefore, the Panel recommends the Complaint in regard to 49-7A-19 and 49-7A-20 be dismissed.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$250 with \$250 suspended for the violation of SDCL 49-7A-9 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 **\$0** 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 (**\$250**) 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.