

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT  
FILED BY MONTANA DAKOTA  
UTILITIES, RAPID CITY, SD AGAINST  
STUEN CONSTRUCTION, DEADWOOD,  
SD, FOR AN INCIDENT OCCURRING ON  
SEPTEMBER 10, 2020 AT 14 McMASTER  
STREET, LEAD, SD.

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

OC20-065

On September 18, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein “Claimant”), against Stuen Construction, LLC (herein “Respondent”), for an incident occurring on September 10, 2020, at 14 McMaster Street, Lead, SD. The Complaint alleges a violation SDCL 49-7A-8 when Respondent was using an excavator to dig and hit the gas service line to the home. Claimant alleges the line was clearly marked and the locates were accurate and that Respondent should have potholed the gas line prior to digging in the area of the service line. Claimant alleges 811 was notified of the damage and gas was not blowing.

A copy of the Complaint was sent to Respondent on September 22, 2020. The deadline to respond was October 15, 2020. Respondent has not answered the Complaint as of October 29, 2020.

On October 29, 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.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$2,000 with \$500 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 **\$1,500** 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 (**\$500**) 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.