

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY ASKLAND DITCHING, RAPID CITY, SD AGAINST MONTANA DAKOTA UTILITIES, RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON SEPTEMBER 4, 2020 AT 5007 LANGENBERG, RAPID CITY, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC20-068</p>
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On September 24, 2020, the South Dakota One Call Board received a Complaint filed by Askland Ditching (herein “Claimant”), against Montana-Dakota Utilities Co. (herein “Respondent”), for an incident occurring on September 11, 2020, at 5007 Langenberg, Rapid City, SD. The Complaint alleges a violation SDCL 49-7A-8 when Respondent was in a hurry and told Claimant to use excavator on the marks.

A copy of the Complaint was sent to Respondent on October 28, 2020. The deadline to respond was October 21, 2020. Respondent has answered the Complaint as of October 8, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges locate ticket was submitted and responded to. Respondent alleges they responded to the unlocatable call that was submitted and aided in helping the Claimant dig to ensure the safety of the workers and residents.

On October 29, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel does not find probable cause that a violation of SDCL 49-7A-8 occurred. Therefore, the Panel recommends the Complaint be dismissed.

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.