

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES, RAPID CITY, SD AGAINST ENGBARTH DRILLING, INC., RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON SEPTEMBER 17, 2020 AT FAIRVIEW AND GLENDALE, LEAD, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC20-069</p>
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On September 25, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein “Claimant”), against Engbarth Directional Drilling, Inc. (herein “Respondent”), for an incident occurring on September 17, 2020, at Fairview and Glendale, Lead, SD. The Complaint alleges a violation SDCL 49-7A-8 when Respondent was drilling in communications when the bore head hit a four-inch (4”) gas main. Claimant alleges Respondent pot holed and located three of the four facilities in the area where the damage has occurred. Claimant alleges Respondent covered up the locate marks for the four-inch (4”) main that was hit and did not realize it. Claimant alleges gas was blowing and both 811 and 911 were notified.

A copy of the Complaint was sent to Respondent on September 29, 2020. The deadline to respond was October 22, 2020. Respondent has answered the Complaint as of October 2, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges that three gas mains were located. Respondent alleges they hydro-excavated down and found three gas lines in the area of the markings and believed those were the three they were looking for. Respondent did not have the information or belief that there was an abandoned line as there was no marking to notify of an abandoned line.

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 as there was no way of knowing the fourth line existed. 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.