

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT  
FILED BY RCS CONSTRUCTION, RAPID  
CITY, SD AGAINST MONTANA  
DAKOTA UTILITIES, RAPID CITY, SD,  
FOR AN INCIDENT OCCURRING ON  
NOVEMBER 3, 2020 AT CANYON  
STREET IN LEAD, DEADWOOD, SD.

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

OC20-089

On November 24, 2020, the South Dakota One Call Board received a Complaint filed by R.C.S. Construction, Inc. (herein “Claimant”), against Montana-Dakota Utilities Co. (herein “Respondent”), for an incident occurring on November 3, 2020, at Canyon Street in Lead, Deadwood, SD. The Complaint alleges a violation SDCL 49-7A-8 when Respondent failed to locate a 4” high-pressure gas main which was connected to a line that was located and was visible above grade less than 25 feet from the cleared staked future excavation alignment. Claimant alleges they identified the visible gas line and immediately contacted 811/MDU for a verification ticket.

A copy of the Complaint was sent to Respondent on November 24, 2020. The deadline to respond was December 16, 2020. Respondent had answered the Complaint as of December 15, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges Claimant did not fulfill appointment ticket requirements to describe locate area.

On December 17, 2020, the Enforcement Panel (herein “Panel”) convened pursuant to the authority present in SDCL 49-7A. The Panel does find probable cause that an unintentional violation of SDCL 49-7A-8 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$3,000 with \$1,500 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 **South Dakota One Call Notification Board, 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 (**\$1,500**) becomes immediately due and payable to **South Dakota One Call Notification Board, 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.