

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Thursday, August 22, 2024 at 2PM (1PM MT)

This meeting will be hosted via ZOOM. Please email Mandy Benson at mandy@sd811.com for access.

A brief description of the Enforcement Panel process: This is a legal proceeding, and no comments will be taken by any of the parties involved in the Complaints during this call. A probable cause determination will be made based only on the written documentation received from the parties involved in the complaints. All parties will be given the opportunity to request a hearing before the full South Dakota One Call Notification Board, if there is disagreement with the recommendation of the Panel. If a hearing is requested, each party must be represented by legal counsel at the hearing. If a hearing is not requested, the Enforcement Panel recommendation will be presented to the South Dakota One Call Board of Directors for acceptance at the next Board Meeting. A Board Order will be mailed to each party after that Board Meeting. Please note, no payment is due until the final order is issued.

Factors to be considered in determining the amount of the penalty, if assessed shall be:

1. The amount of damage, degree of threat to public safety and the inconvenience caused.
2. The respondent's plan and procedures to ensure future compliance with statutes and rules.
3. Any history of previous violations.
4. Other matters as justice requires.

49-7A-18. Penalties. Except as provided in § 49-7A-19 and in addition to all other penalties provided by law, any person who violates or who procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to one thousand dollars for the first violation and up to five thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

49-7A-19. Penalties for intentional violations. In addition to all other penalties provided by law, any person who intentionally violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to five thousand dollars for the first violation and up to ten thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

49-7A-20. Each violation as separate offense. **Each violation of any statute or rule of the Statewide One-Call Notification Board constitutes a separate offense. In the case of a continuing violation, each day that the violation continues constitutes a separate violation.**

The Enforcement Panel of the South Dakota One Call Notification Board is meeting to consider the following South Dakota One Call Complaints:

OC23-010 In the matter of the complaint filed by City of Hecla, Hecla, South Dakota against Tyler Thayer, Hecla, SD for an incident occurring October 4, 2023 at 702 Howard Street in Hecla.

Deadline to Respond was December 12, 2023. Response was received on December 13, 2023.

There is no previous history with Thayer.

The City of Hecla has withdrawn the complaint. Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Thayer violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC24-011 In the matter of the complaint filed by Magellan Midstream Partners, LP, Tulsa, OK against Quality Real Estate, Oral, SD for an incident occurring April 8, 2024 at East Anamosa and Concourse Drive in Rapid City.

Deadline to Respond was May 24, 2024. Response was received on May 15, 2024.

There is no previous history with Quality Real Estate.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Quality Real Estate violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC24-014 In the matter of the complaint filed by City of Crooks, Crooks, SD against Bubba's Digging, Sioux Falls, SD for an incident occurring May 9, 2024 at 303 E Main Street in Crooks.

Deadline to Respond was July 3, 2024. Response was received July 2, 2024.

There is no previous history with Bubba's Digging.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Bubba's Digging violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC24-016 In the matter of the complaint filed by Magellan Midstream Partners, LP, Tulsa, OK against Paradigm Construction, Black Hawk, SD for an incident occurring May 14, 2024 on Jim Street in Rapid City.

Deadline to respond was July 3, 2024. No response was received.

There is no previous history with Paradigm Construction.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Paradigm Construction violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC24-017 In the matter of the complaint filed by Magellan Midstream Partners, LP, Tulsa, OK against Paradigm Construction, Black Hawk, SD for an incident occurring May 20, 2024 at Creekside Apartments in Rapid City.

Deadline to respond was July 3, 2024. Response was received on July 9, 2024.

There is no previous history with Paradigm Construction.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Paradigm Construction violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC24-018 In the matter of the complaint filed by Montana Dakota Utilities, Mobridge, SD against Blackburn Foundation Repair, Pierre, SD for an incident occurring October 23, 2023 at 110 E Scranton Street in Selby.

Deadline to respond was July 3, 2024. Blackburn asked the response provided to OC23-012 be used as this docket is a refile of OC23-012. Does the Panel wish to accept this response?

There is no previous history with Blackburn Foundation Repair.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Blackburn Foundation violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty by assessed?

OC24-019 In the matter of the complaint filed by Dave's Construction, Sioux Falls, SD against USIC, Indianapolis, IN for an incident occurring June 6, 2024 at 4100 E 49th in Sioux Falls.

Deadline to respond was July 23, 2024. No response was received.

There is no previous history against USIC.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that USIC violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty by assessed?

Motion to adjourn.

Please note: This was a legal proceeding and only written information provided by the Complainants and the written response from the Defendants was considered per SDCL 49-7A-25. No comments from the parties involved in the complaints will be taken during this call.