

# AGENDA

## South Dakota One Call Notification Board Enforcement Panel Conference Call

Thursday, December 19, 2024 at 10AM CT (9:00AM MT).

This meeting will be hosted via ZOOM. Please email Mandy Benson at [mandy@sd811.com](mailto: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:

**OC24-023** In the matter of the complaint filed by Watertown Municipal Utilities, Watertown, SD against Gerhold Brothers, Castlewood, SD for an incident occurring September 5, 2024 at 3015 Air Haven Drive in Watertown.

Deadline to Respond was December 13, 2024. Response was received on December 11, 2024.

There is no history with Gerhold.

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

**OC24-025** In the matter of the complaint filed by Dave's Construction, Sioux Falls, SD against Century Link/Lumen, Sioux Falls, SD for an incident occurring June 6, 2024 at 4100 E 49th St in Sioux Falls.

Deadline to Respond is December 13, 2024. No response has been received as of December 12, 2024.

There is no history with CenturyLink to be considered.

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

**OC24-026** In the matter of the complaint filed by Watertown Municipal Utilities, Watertown, SD against J & J Earthworks, Milbank, SD for an incident occurring September 10, 2024 at 2330 Challenger Way in Watertown.

Deadline to Respond is December 13, 2024. No response has been received as of December 12, 2024.

There is no previous history with J & J Earthworks.

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

**OC24-027** In the matter of the complaint filed by RW Contracting, Brookings, SD against Brookings Municipal Utilities, Brookings, SD for an incident occurring July 16, 2024 at 1910 Oriole Trl in Brookings.

Deadline to Respond is December 13, 2024. No response has been received as of December 12, 2024.

There is no previous history with Brookings Municipal Utilities.

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

**OC24-028** In the matter of the complaint filed by Watertown Municipal Utilities, Watertown, SD against Dakota Directional, Redfield, SD for an incident occurring October 8, 2024 at 54th St. & 4th Ave. SW in Watertown.

Deadline to Respond was December 13, 2024. Response was received on December 4, 2024.

There is no previous history with Dakota Directional.

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

**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.