

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Tuesday, May 21, 2024 at 2PM CT (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:

OC23-008 In the matter of the complaint filed by Montana Dakota Utilities, Rapid City, SD against Underground Construction, Rapid City, SD for an incident occurring on August 23, 2023 near 1213 1/2 Quincy Street and 1214 Quincy Street in Rapid City.

Deadline to Respond was December 7, 2023. Response was received December 6, 2023. This docket was delayed as we addressed a conflict of interest. Both parties have signed waivers acknowledged the conflict.

There is previous history with Underground Construction, prior to 2023.

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

OC23-012 In the matter of the complaint filed by Montana Dakota Utilities, Mobridge, SD against Blackburn Foundation Repair, Pierre, SD for an incident occurring October 4, 2023 at 110 E Scranton Street in Selby.

Deadline to Respond was December 12, 2023. Response was received December 7, 2023. This docket was delayed as we addressed a conflict of interest. Both parties have signed waivers acknowledged the conflict.

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 Repair violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

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

Deadline to respond was December 12, 2023. Response was received December 13, 2023.

The complaint was heard December 14, 2023, with the Panel requesting additional information from the complainant. No additional information was received.

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

OC23-017 In the matter of the complaint filed by American Engineering Testing, Inc, Rapid City, SD against West River Electric Association, Inc., Rapid City, SD for an incident occurring September 6, 2023 at Lot 3 at the intersection of Isaac Street and E Anamosa Street in Rapid City.

Deadline to respond was April 10, 2024. Response was received on April 9, 2024.

There is no previous history of West River Electric.

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

OC24-001 In the matter of the complaint filed by NorthWestern Energy, Mitchell, SD against Pro Contracting, Mitchell, SD for an incident occurring on December 15, 2023 at 1504 W 20th Street in Mitchell.

Deadline to respond was April 22, 2024. Response was received on April 22, 2024.

There is no previous history for Pro Contracting.

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

OC24-002 In the matter of the complaint filed by NorthWestern Energy, Mitchell, SD against Pro Contracting, Mitchell, SD for an incident occurring on December 20, 2023 at 1504 W 20th Street in Mitchell.

Deadline to respond was April 22, 2024. Response was received on April 22, 2024.

There is no previous history for Pro Contracting.

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

OC24-003 In the matter of the complaint filed by LL & Sons Inc, Watertown, SD against Midcontinent Communications, Sioux Falls, SD for an incident occurring on November 16, 2023 at Marina Bay Drive in Watertown.

Deadline to respond was April 22, 2024. Response was received on April 3, 2024.

There is no previous history with Midcontinent.

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

OC24-004 in the matter of the complaint filed by LL & Sons, Inc., Watertown, SD against Midcontinent Communications, Sioux Falls, SD for an incident occurring on October 19, 2023 at 1096 S Lake Drive in Watertown.

Deadline to respond was April 22, 2024. Response was received on April 3, 2024.

There is no previous history with Midcontinent.

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

OC24-005 In the matter of the complaint filed by LL & Sons, Inc., Watertown, SD against Midcontinent Communications, Sioux Falls, SD for an incident occurring November 6, 2023 at 1096 S Lake Drive in Watertown.

Deadline to respond was April 22, 2024. Response was received on April 3, 2024.

There is no previous history with Midcontinent.

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

OC24-006 In the matter of the complaint filed by DG Utilities, Spearfish, SD against Oak Mountain Country Estates Owners Association, Sturgis, SD for an incident occurring January 3, 2024 at 20760 Ranch Road in Sturgis.

Deadline to respond is May 24, 2022. Response has not been received to date. DG Utilities has requested to withdraw the complaint.

There is no previous history with Oak Mountain Country Estates.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board that there is probable cause that Oak Mountain Country Estates Owners Association violated any statute or rule under the jurisdiction of the Board, and is 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, Buffalo Gap, SD for an incident occurring April 18, 2024 at Jim Street in Rapid City.

Deadline to respond is May 24, 2024. Response was received May 15, 2024.

There is no previous history with Quality Real Estate.

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