

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY HUNTS FAMILY CONSTRUCTION AGAINST BLUEPEAK FOR AN INCIDENT OCCURRING ON JUNE 18TH, 2022 AT 338 EVANS LANE, LOT 13 IN SPEARFISH</p>	<p style="text-align: center;">ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p style="text-align: center;">OC22-010</p>
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On August 1, 2022, the South Dakota One Call Notification Board received a Complaint filed by Hunts Family Construction (herein "Claimant") against BluePeak (herein "Respondent") for an incident occurring on June 18, 2022, at 338 Evans Lane, Lot 13, in Spearfish, South Dakota. The Complaint alleges a violation of SDCL 49-7A-8 when Respondent failed to properly advise the excavator of the location of underground facilities in the proposed excavation area by marking the location of the facilities within eighteen inches horizontally from the exterior sides of the underground facilities.

A copy of the Complaint was sent to Respondent on September 7, 2022. The deadline to respond was September 29, 2022. Respondent answered the Complaint on September 21, 2022. Respondent does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges the locates were completed on time and no statutes were willfully violated. The BluePeak facilities were properly located but the locate was off for a small portion.

On December 19, 2022, 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 \$500.00 with \$400.00 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 twelve (12) months of the Board Order being issued.

2. The penalty payment of **\$100.00** must be made to the ***South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709*** within thirty (30) days of the Board Order being issued.
3. Respondent must attend a Damage Prevention meeting in 2023.
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.

If any of the above conditions are not met, the suspended penalty (**\$400.00**) 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 Notification 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.