

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY THE CITY OF RAPID CITY, RAPID CITY, SD AGAINST KTM, RAPID CITY, SD FOR AN INCIDENT OCCURRING ON MARCH 14, 2023 AT DYESS AVENUE / COUNTRY ROAD IN RAPID CITY, SD.	<b>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b>  OC23-003
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On March 14, 2023, the South Dakota One Call Notification Board received a Complaint filed by City of Rapid City (herein "Claimant") against KTM (herein "Respondent") for an incident occurring on March 14, 2023, at Dyess Avenue / Country Road in Rapid City, South Dakota. The Complaint alleges a violation of South Dakota One Call law but does not specify which when Respondent requested a survey ticket to be done in two days for property corner excavation at an 8-foot depth. Claimant alleges that property pins are never 8-foot deep.

A copy of the Complaint was sent to Respondent on March 31, 2023, and a second notice was sent to Respondent on November 13, 2023. The final deadline to respond was December 6, 2023. Respondent answered the Complaint on December 8, 2023. Respondent does dispute that a violation of South Dakota One Call law occurred. Respondent alleges their locate requests specified "excavating for property corners and mapping for design" which is the work that was performed.

On January 19, 2024, the Enforcement Panel (herein "Panel") convened pursuant to the authority present in SDCL 49-7A. The Panel cannot determine probable cause with any other information than what is submitted as a Complaint and Response. The statute or rule alleged to have been violated needs to be specified in the Complaint, and the Board and/or Panel cannot make an assumption of the rule or statute violated based on the description of the allegation. Therefore, the Panel recommends the Complaint be dismissed with the Claimant understanding that the Complaint can be refiled.

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.

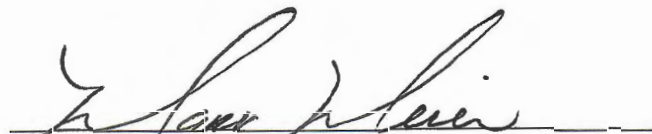
On February 6, 2024, the Panel's recommendation was sent to the parties to this action. The parties did not request an evidentiary hearing. The Board reviewed the Panel's recommendations at its April 23, 2024 meeting pursuant to SDCL 49-7A-27. The Panel's recommendation was approved by the Board. It is now, therefore:

**ORDERED**, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein.

The South Dakota One Call Notification Board has jurisdiction over this matter pursuant to SDCL 1-26 and 49-7A and ARSD 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

Dated this 23rd day of April, 2024.

BY ORDER OF THE SOUTH DAKOTA ONE  
CALL NOTIFICATION BOARD:

A handwritten signature in black ink, appearing to read "Mark Meier", is written over a horizontal line.

Mark Meier, Chairman