

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY MAGELLAN MIDSTREAM
PARTNERS, LP, TULSA, OK AGAINST
BLACK RIVER CONTRACTING, RAPID
CITY, SD FOR AN INCIDENT
OCCURRING ON JUNE 6, 2023 NEAR
ANDERSON ROAD AND LAMB ROAD IN
RAPID CITY, SD.

**ENFORCEMENT PANEL
RECOMMENDATION TO THE SOUTH
DAKOTA ONE CALL BOARD**

OC23-006

On June 6, 2023, the South Dakota One Call Notification Board received a Complaint filed by Magellan Midstream Partners, LP (herein "Claimant") against Black River Contracting (herein "Respondent") for an incident occurring on June 6, 2024, at or near Anderson Road and Lamb Road in Rapid City, South Dakota. The Complaint alleges a violation of SDCL 49-7A-5 when Respondent did not request a locate and completed excavation near a high-pressured underground refined products pipeline without 811 ticket or notification to Magellan.

A copy of the Complaint was sent to Respondent on November 15, 2023. The deadline to respond to the Complaint was December 7, 2023. Respondent answered the Complaint on December 8, 2023. Respondent does not dispute that a violation of South Dakota One Call law occurred but does dispute the unintentional allegation. Respondent alleges they were stripping topsoil and now know that excavating/grading to any depth requires a notification to 811. Respondent states, "The complaint filed against us seems to imply it was an intentional violation where in reality it was an oversight."

On December 14, 2023, 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-5 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,500.00 with \$1,000.00 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 **\$500.00** 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 2024.
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.
5. Respondent will arrange a face-to-face meeting with Claimant to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within thirty (30) days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$1,000.00**) 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.