

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>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, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC23-008</p>
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On September 6, 2023, the South Dakota One Call Notification Board received a Complaint filed by Montana Dakota Utilities (herein “Claimant”) against Underground Construction (herein “Respondent”) for an incident occurring on August 23, 2023, near 1213 1/2 Quincy Street and 1214 Quincy Street in Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-8 when Respondent used equipment within the 18” safe dig zone and damaged a 3/4” plastic service line and released gas. Claimant alleges 811 was notified, but 911 was not. Claimant also alleges that a sealing cap was broken off the two inch main T.

A copy of the Complaint was sent to Respondent on November 15, 2023. The deadline to respond was December 5, 2023. Respondent answered the Complaint on December 5, 2023. Respondent does not dispute that a violation of South Dakota One Call law occurred. Respondent acknowledges they had a very poor track record in 2023 with too many inexcusable damages.

On May 21, 2024, the Enforcement Panel (herein “Panel”) convened pursuant to the authority present in SDCL 49-7A. The Panel does find probable cause that an intentional violation of SDCL 49-7A-8 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$750.00 with \$250.00 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 2025.
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 (**\$250.00**) 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.