

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

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.

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

OC23-008

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.***

On June 28, 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 July 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; and it is therefore:

**ORDERED** that if the penalty is not paid, the Board shall pursue any rights it has under the law regarding collections.

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 8th day of August, 2024.

BY ORDER OF THE SOUTH DAKOTA ONE  
CALL NOTIFICATION BOARD:

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

Mark Meier, Chairman