

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT  
FILED BY MONTANA DAKOTA  
UTILITIES, MOBRIDGE, SD AGAINST  
BLACKBURN FOUNDATION REPAIR,  
PIERRE, SD FOR AN INCIDENT  
OCCURRING OCTOBER 4, 2023 AT 110 E  
SCRANTON STREET IN SELBY, SD.

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

OC23-012

On October 20, 2023, the South Dakota One Call Notification Board received a Complaint filed by Montana Dakota Utilities (herein “Claimant”) against Blackburn Foundation Repair (herein “Respondent”) for an incident occurring on October 4, 2023, at 110 E Scranton Street in Selby, SD. The Complaint alleges a violation of SD One Call law when Respondent did not pothole to verify locate marks prior to excavation.

A copy of the Complaint was sent to Respondent on November 20, 2023. The deadline to respond was December 7, 2023. Respondent answered the Complaint on December 7, 2023. Respondent does not dispute that a violation of South Dakota One Call law occurred but does dispute the allegation of the intentional nature. Respondent alleges they have a new excavator operator and that because there was no mark, they thought they were in the clear.

On May 21, 2024, the Enforcement Panel (herein “Panel”) convened pursuant to the authority present in SDCL 49-7A. The Panel recommends the Complaint be dismissed for failure to specify a violation.

On July 1, 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.

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 8<sup>th</sup> day of August, 2024.

BY ORDER OF THE SOUTH DAKOTA ONE  
CALL NOTIFICATION BOARD:

  
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Mark Meier, Chairman