

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY HAIDER CONSTRUCTION,
INC., REDFIELD, SD AGAINST
FARMERS OIL CO. / ELEVATOR,
ORIENT, SD FOR AN INCIDENT
OCCURRING ON NOVEMBER 1, 2023 AT
THE INTERSECTION OF 355TH STREET
AND 172ND AVENUE IN ORIENT, SD.

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

OC23-015

On November 29, 2023, the South Dakota One Call Notification Board received a Complaint filed by Haider Construction, Inc. (herein "Claimant") against Farmers Oil Co. / Elevator (herein "Respondent") for an incident occurring on November 1, 2023, at the intersection of 355th Street and 172nd Avenue in Orient, South Dakota. The Complaint alleges a violation of SDCL 49-7A-15 when Respondent did not register private utilities that cross a public right-of-way.

A copy of the Complaint was sent to Respondent on December 13, 2023. The deadline to respond was January 7, 2024. Respondent answered the Complaint on January 2, 2024 through their counsel. Respondent does dispute that a violation of South Dakota One Call law occurred. Respondent alleges that the private lines were installed in 2008. Respondent also alleges that SDCL 49-7A-15 was not amended to include private lines until 2017 and that it does not say it operates retroactively.

On January 19, 2024, the Enforcement Panel (herein "Panel") convened pursuant to the authority present in SDCL 49-7A. The Panel does not find probable cause that a violation of SDCL 49-7A-15 occurred. Therefore, the Panel recommends the Complaint be dismissed.

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:



Mark Meier, Chairman