

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY LL & SONS INC, WATERTOWN, SD AGAINST MIDCONTINENT COMMUNICATIONS, SIOUX FALLS, SD FOR AN INCIDENT OCCURRING ON NOVEMBER 6, 2023 AT 1096 S LAKE DRIVE IN WATERTOWN, SD.	ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD OC24-005
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On January 15, 2024, the South Dakota One Call Notification Board received a Complaint filed by LL & Sons, Inc., (herein “Claimant”) against Midcontinent Communications (herein “Respondent”) for an incident occurring on November 6, 2023, at 1096 S Lake Drive in Watertown, SD. The Complaint alleges a violation of SDCL 49-7A-8 when Respondent did not mark their utility correctly even when their line was clearly visible in Claimant’s excavated area. Claimant states that another contractor had called in for locates.

A copy of the Complaint was sent to Respondent on March 28, 2024. The deadline to respond was April 22, 2024. Respondent answered the Complaint on April 3, 2024. Respondent does dispute that violations of South Dakota One Call law occurred. Respondent alleges ARSD 20:25:03:05.04 states where “multiple underground facilities exist, the operator shall separately mark each underground facility.” Respondent further alleges that they could not mark over the top of the other facilities and must mark alongside such markings.

On May 21, 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-8 occurred. Therefore, the Panel recommends the Complaint be dismissed pursuant to 49-7A-13.

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.