

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY WATERTOWN MUNICIPAL UTILITIES, WATERTOWN, SD AGAINST GERHOLD BROTHERS, CASTLEWOOD, SD FOR AN INCIDENT OCCURRING ON SEPTEMBER 5, 2024 AT 3015 AIR HAVEN DRIVE IN WATERTOWN, SD.	ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD OC24-023
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On September 18, 2024, the South Dakota One Call Notification Board received a Complaint filed by Watertown Municipal Utilities (herein “Claimant”) against Gerhold Brothers (herein “Respondent”) for an incident occurring on September 5, 2024, at 3015 Air Haven Drive in Watertown, SD. The Complaint alleges violations of SDCL 49-7A-5 and SDCL 49-7A-12 when Respondent did not make a locate request, cut a 1/2” natural gas service line, and proceeded to request an emergency locate ticket after the incident.

A copy of the Complaint was sent to Respondent on November 22, 2024. The deadline to respond was December 13, 2024. Respondent answered the Complaint on December 11, 2024. 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 were not planning to dig in the area, but the discovery of a bad line that started at the septic tank changed that intention.

On December 19, 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-5 occurred and an intentional violation of SDCL 49-7A-12 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000.00 with \$500.00 suspended for the violation of SDCL 49-7A-5 and a penalty of \$2,000.00 with \$1,000.00 suspended for the violation of SDCL 49-7A-12 for a total penalty of **\$3,000.00** with **\$1,500.00** 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 **\$1,500.00** 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 (**\$1,500.00**) 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.