

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY LEAP COMMUNICATIONS, LLC, HARRISBURG, SD AGAINST BX CIVIL & CONSTRUCTION, INC., DELL RAPIDS, SD FOR AN INCIDENT OCCURRING JULY 16, 2024 AT 43°24'03.5"N 97°10'36.2"W IN PARKER, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC24-024</p>
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On September 23, 2024, the South Dakota One Call Notification Board received a Complaint filed by Union County Electric Cooperative (herein “Claimant”) against Siteworks (herein “Respondent”) for an incident occurring on July 16, 2024, at 43°24'03.5"N 97°10'36.2"W in Parker, SD. The Complaint alleges violations of SDCL 49-7A-5 and SDCL 49-7A-12 when Respondent did not request locates for a bridge repair and severely damaged a 48-count fiber optic cable running under the river as well as a pipe. Claimant also alleges that Respondent did not make an effort to alert anyone of the damage and “played dumb” when asked about hitting the fiber cable.

A copy of the Complaint was sent to Respondent on September 3, 2024, and was mailed a second notice on November 13, 2024. The deadline to respond was November 22, 2024. Respondent has not answered the Complaint as of December 13, 2024.

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 \$1,500.00 with \$0.00 suspended for the violation of SDCL 49-7A-5 and a penalty of \$1,000.00 with \$500.00 suspended for the violation of SDCL 49-7A-12 for a total penalty of **\$2,500.00** with **\$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 **\$2,000.00** 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 (**\$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.