

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY WATERTOWN MUNICIPAL UTILITIES, WATERTOWN, SD AGAINST J & J EARTHWORKS, MILBANK, SD FOR AN INCIDENT OCCURRING SEPTEMBER 27, 2024 AT 2330 CHALLENGER WAY IN WATERTOWN, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC24-026</p>
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On October 10, 2024, the South Dakota One Call Notification Board received a Complaint filed by Watertown Municipal Utilities (herein “Claimant”) against J & J Earthworks (herein “Respondent”) for an incident occurring on September 27, 2024, at 2330 Challenger Way in Watertown, SD. The Complaint alleges violations of SDCL 49-7A-5 and SDCL 49-7A-12 when Respondent requested a locate for “south of Challenger Way” instead of north, where the work actually took place, and cut a 4” natural gas main. Claimant also alleges that Respondent did call 911 and Claimant directly but did not report damage to 811.

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 13, 2024. Respondent does dispute that a violation of South Dakota One Call law occurred but does not dispute the allegation of the unintentional nature. Respondent alleges the dates are incorrect on the complaint and that they take incidents like this very seriously and have safety protocols implemented for the entire company.

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 unintentional violation of SDCL 49-7A-5 occurred and an unintentional violation of SDCL 49-7A-12 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$500.00 with \$500.00 suspended for the violation of SDCL 49-7A-5 and a penalty of \$500.00 with \$250.00 suspended for the violation of SDCL 49-7A-12 for a total penalty of **\$1,000.00**

with **\$750.00** 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 **\$250.00** 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 (**\$1,000.00**) 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.