

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY NORTHWESTERN ENERGY, HURON, SD AGAINST FLATLAND CONCRETE, HURON, SD FOR AN INCIDENT OCCURRING NOVEMBER 1, 2024 AT 1113 LAMPE COURT IN HURON, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC24-029</p>
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On November 13, 2024, the South Dakota One Call Notification Board received a Complaint filed by Northwestern Energy (herein “Claimant”) against Flatland Concrete (herein “Respondent”) for an incident occurring on November 1, 2024, at 1113 Lampe Court in Huron, SD. The Complaint alleges a violation of SDCL 49-7A-5 when Respondent hit gas service while removing concrete with a skid steer and working off a landscaper’s locate ticket for a completely different area.

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 17, 2024. Respondent does dispute that a violation of South Dakota One Call law occurred and the allegation of the intentional nature. Respondent alleges the locates they dug around were called in two days prior to his arrival by the electricians working in the same area.

On December 17, 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.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$750.00 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 **\$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 (**\$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.