

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES, BISMARCK, ND AGAINST DEEP FOUNDATION GROUP, SIOUX FALLS, SD FOR AN INCIDENT OCCURRING ON OCTOBER 31, 2024 AT 13438 363RD AVE IN IPSWICH, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC24-030</p>
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On November 19, 2024, the South Dakota One Call Notification Board received a Complaint filed by Montana Dakota Utilities (herein “Claimant”) against Deep Foundation Group (herein “Respondent”) for an incident occurring on October 31, 2024, at 13438 363rd Ave in Ipswich, SD. The Complaint alleges a violation of SDCL 49-7A-5 when Respondent stated Agtegra called in a locate ticket, was informed by Claimant that it is against 811 rules/statutes for anyone besides digging contractor to submit a locate ticket, and was told by Agtegra that they do not call locates in for other contractors.

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 10, 2024. Respondent does dispute that a violation of South Dakota One Call law occurred and the allegation of the intentional nature. Respondent alleges they were hired to complete aggregate piers by a general contractor and that location of utilities was the GC’s responsibility.

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. The Panel further states that Claimant was negligent in this matter and urges contractors to make sure they have their own locates and are not piggybacking off other contractors even if it is for the exact same location.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000.00 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 **\$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 (**\$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.