

South Dakota One Call Notification Board Meeting

MINUTES

(Draft / Unapproved, Circulated October 30, 2024)

Thursday, October 17, 2024 at 8:00AM CT (7:00AM MT)

This meeting was hosted over Zoom, and could be attended in person at AmericInn, 312 Island Drive, Ft Pierre, South Dakota.

Board Members Present:

Chairman, Mark Meier, Representing Municipalities;

Vice Chairman, Ryan Barr, Representing Community Antenna Television Systems

Jim Scull, Representing Excavation Contractors;

Brad Wenande, Representing Investor-Owned Natural Gas Utilities;

Scott Wiese, Representing Investor-Owned Electric Utilities;

Kay Braaten; Representing Interstate Carriers of Gas or Petroleum;

Lloyd Rave, Representing Rural Water Systems;

Loren Beld, Representing Excavation Contractors;

Jim Wedin, Representing Telecommunication Companies Offering Local Exchange Service to More Than 50,000 Customers;

Steve Barnett, Representing Rural Electric Cooperatives;

Jake VanDewater, Representing Telecommunication Companies Offering Local Exchange Service to Less Than 50, 000 Customers;

Cody Honeywell, Legal Counsel;

Callie Iversen, Accounting;

Codi Gregg, Executive Director;

Mandy Benson, Executive Assistant;

Unable to Attend:

Brett Koenecke, Legal Counsel;

Guests:

Kyle VanLandingham, Texas 811;

Jill Nelson, Texas 811;

Deb Mortenson, AGC;

John Morris, Morris Inc.;

1. Codi Call to Order and Roll Call

a. The meeting was brought to order at 8am CT and roll call established a quorum.

Lloyd Rave motioned to amend the agenda by replacing previous agenda item no. 3,

Reviewing and Approving Financials with previous agenda item no.12
Excavator/Utility/Locator Concerns. Loren Beld seconded the motion. **Motion carried unanimously.**

2. Approval of Board Meeting Minutes for August 8, 2024 and August 16, 2024.
Jake VanDewater motioned the approval of both minutes. Scott Wiese seconded the motion. **Motion carried unanimously.**
3. Excavator / Utility / Locator Concerns

Ryan Barr discussed a recent incident at one of his job sites. There were no flags at the site, and the markings on the ground were very hard to observe. The locator was called multiple times. Codi Gregg met Ryan at the site to observe as well. The Operator was notified, and the locator came back out. Their markings were off by four feet. Gas and electric were in the same trench. The locator put down two flags and left in their vehicle. The Operator sent out a different locator and they marked accurately.

Jim Scull continued the conversation that there are unfortunately bad apples in the program. With the shortage of employees, companies are hiring anyone they can. Companies need to be aware of what is going on in the field.

Board Members discussed that this is a tricky spot to be in and is happening everywhere. It takes time and knowledge to be a successful locator while being thrown in multiple directions.

Legal counsel provided that the Excavator and Operator are responsible for filing a complaint.

John Morris provided information about the challenges his company of 54 years has been facing. An example provided was a utility that was damaged due to an error in the markings. Months later he received an invoice from a false insurance claim for the damage. John proceeded to read the mission statement of South Dakota 811 and how he feels someone's lack of training is an excuse and he has lost confidence in the 811 system. John provided examples of utilities being mismarked and the amount of time he has lost on his job sites due to a lack of responsibility. He feels the owners of utilities are not taking responsibility and hiding behind locators stating the excavators need to call the locators.

Legal counsel responded that there are limitations to the One Call Board being a complaint-driven response board. The Board cannot investigate and the only way for jurisdiction is through the complaint process. The Board needs as much information included as possible on the complaint form and encourages stakeholders to file complaints.



4. The Board reviewed and approved financials for June, July, August and September, 2024. Codi Gregg provided and reviewed financial reports. Loren Beld motioned to approve all sets of financials. Jim Wedin seconded the motion. **Motion carried unanimously.**
5. South Dakota 811 Performance Reports
 - a. Quarterly Report from Texas811
 - a. Texas811 presented the Performance Reports for Q3. Incoming ticket volume was up for July, but down in August and September. The top volume counties were Minnehaha, Lincoln, Pennington, and Brookings. Positive Response was totals were 185,820 in Q3. Damages for Water and Wastewater were up with damages for Gas and Telecom being down year over year. Speed of answer was also within contractual requirements for Q3.
 - b. 2024 Forecast Review – Codi Gregg
 - Codi Gregg presented the forecast for 2024. Outgoing ticket volume through the end of September is at 76.66%. Incoming ticket volume through the end of September is at 72.55%.

Executive Director Discussion Items:

6. Rules Changes Continued Discussion
 - a. The Rule Changes are on the agenda for the Legislative Rules Committee on October 22, 2024. Codi Gregg, Mandy Benson, and Cody Honeywell will be present.
7. South Dakota One Call's Enforcement Panel has met on the following Complaints and Recommendations have been issued. Today, does the One Call Board accept the Recommendations of the Enforcement Panel? The Board shall pursue collections activity if the conditions as stated are not met.

The Panel may issue a penalty, suspending part of the penalty if the respondent meets the following conditions:

1. Respondent must not be found guilty of a One Call violation within twelve months.
 2. Penalty payment must be received within 30 days of the Board Order.
 3. Respondent must attend a Damage Prevention Meeting.
 4. Respondent is to conduct an in house safety meeting to discuss dig laws.
 5. Respondent and Complainant are to meet to discuss the complaint, possible dig in scenarios and safe practices
- a. OC23-010 In the matter of the complaint filed by the City of Hecla against Tyler Thayer for an incident occurring on October 4, 2023 at 702 Howard Street in Hecla. The City of Hecla withdrew the complaint.

- i. Panel recommended following the withdrawal request from the City of Hecla.
- b. OC24-011 In the matter of the complaint filed by Magellan Midstream Partners LP, Tulsa, OK against Quality Real Estate, Oral, SD for an incident occurring April 8, 2024 at East Anamosa and Concourse Drive in Rapid City.
 - i. Panel recommended dismissing the complaint as no probable cause of a violation exists.
- c. OC24-014 In the matter of the complaint filed by the City of Crooks, Crooks, SD against Bubba's Digging, Sioux Falls, SD for an incident occurring May 9, 2024 at 303 E Main Street in Crooks.
 - i. Panel found an unintentional violation of 49-7A-5, and recommended a penalty in the amount of \$750 with \$500 suspended with Bubba's meeting the conditions as stated above.
- d. OC24-016 In the matter of the complaint filed by Magellan Midstream Partners LP, Tulsa, OK against Paradigm Construction, Black Hawk, SD for an incident occurring on May 14, 2024 on Jim Street in Rapid City.
 - i. Panel found an unintentional violation of 49-7A-5 and recommended a penalty in the amount of \$1,000 with \$250 suspended with Paradigm meeting the conditions as stated above.
- e. OC24-017 In the matter of the complaint filed by Magellan Midstream Partners LP, Tulsa, OK against Paradigm Construction, Black Hawk, SD for an incident occurring on May 20, 2024 at Creekside Apartments in Rapid City.
 - i. Panel found an unintentional violation of 49-7A-5 and recommended a penalty in the amount of \$1,000 with \$250 suspended with Paradigm meeting the conditions as stated above.
- f. OC24-018 In the matter of the complaint filed by Montana Dakota Utilities, Mobridge, SD against Blackburn Foundation Repair, Pierre, SD for an incident occurring on October 23, 2023 at 110 E Scranton Street in Selby.
 - i. Panel found no probable cause of a violation of 49-7A-8 and motioned to dismiss the complaint with no probable cause.
- g. OC24-019 In the matter of the complaint filed by Dave's Construction, Sioux Falls, SD against USIC, Indianapolis, IN for an incident occurring on June 6, 2024 at 4100 E 49th in Sioux Falls.
 - i. Panel found no probable cause of a violation of 49-7A-8 and motioned to dismiss the complaint with no probable cause.



Loren Beld motioned to approve all recommendations in one motion as printed. Lloyd Rave seconded the motion. No board members needed to abstain. **Motion carried unanimously.**

j. Accounting RFP Update / Committee Selection

- a. Board Meeting to make the recommendation – November 19, 2024
- b. Board Meeting to accept the recommendation – November 21, 2024
 - i. Scott Wiese motioned to move into Executive Session at 10:22am CT. Brad Wenande seconded the motion.
 - ii. Jake VanDewater motioned to exit Executive Session at 11:18am CT. Steve Barnett seconded the motion.

Motion carried unanimously.

RFP Committee members were selected and will include Mark Meier, Steve Barnett, and Scott Wiese.

k. Board Training Proposal

The Board opened the discussion by reviewing the presented pricing for Board Training. At this time, it would be a better opportunity to bring in other industry leaders to speak with the Board.

l. Upcoming Meetings and Events

- a. Board Training Tentative February 4, 2025 – The previously recommended Board Training will not proceed.
- b. Legislative Breakfast / Board Meeting tentative February 5, 2025 – will continue as in previous years.

m. SDCL 49-7A-2 Potential changes

In conversation, LRC believes the South Dakota One Call Board should be connected to a constitutional agency.

n. Mining Operations and Permitting

Currently, there is nothing in South Dakota One Call statutes of exemptions for mining permits. 811 is also not included in the mining permit process. According to administrative rule 20:25:03:05.01 On extensive and continuous excavation activity, written working agreements between the operator and the excavator may be established to extend the valid period of the original ticket.



12. There was no public comment from guests.

13. With no further discussion, Lloyd Rave motioned to adjourn. Loren Beld seconded the motion. **Motion carried unanimously.**

Notice of future One Call Board Meetings:

Board Meeting Dates:

- October 17, 2024 In person
- February 5, 2025

Notice of Safety Conferences:

- Global Excavator Safety Conference, February 24th – 26th, Phoenix, AZ
- Common Ground Alliance, April 7th – 10th, Orlando, FL.

Notice of future One Call Enforcement Panel Meetings:

October 24, 2024 at 10AM (9AM MT) ZOOM
November 14, 2024 at 10AM CT (9AM MT) ZOOM
December 17, 2024 at 10AM CT (9AM MT) ZOOM

Announcements:

Materials presented at this meeting are available on the South Dakota 811 website, www.sd811.com as well as the South Dakota Board and Commissions website at <http://boardsandcommissions.sd.gov>. These are also available by contacting Codi Gregg at codi@sd811.com or by calling (605) 863 – 0951.

