

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY ELLIOTT CONSTRUCTION
AGAINST LAKE MADISON SANITARY
DISTRICT FOR AN INCIDENT
OCCURRING ON June 4th, 2021 AT 310
6582 PENINSULA POINT IN LAKE
MADISON.

**ENFORCEMENT PANEL
RECOMMENDATION TO THE SOUTH
DAKOTA ONE CALL BOARD**

OC22-013

On September 7, 2022, the South Dakota One Call Notification Board received a Complaint filed by Elliott Construction (herein “Claimant”) against Lake Madison Sanitary District (herein “Respondent”) for an incident occurring on June 4, 2021, at 310 6582 Peninsula Point in Lake Madison, South Dakota. The Complaint alleges a violation of SDCL 49-7A-8 when Respondent failed to properly advise the excavator of the location of underground facilities in the proposed excavation area by marking the location of the facilities within eighteen inches horizontally from the exterior sides of the underground facilities.

A copy of the Complaint was sent to Respondent on September 22, 2022. The deadline to respond was October 13, 2022. Respondent answered the Complaint on October 13, 2022. Respondent does dispute that a violation of South Dakota One Call law occurred. Respondent alleges complaints alleging violations of any statute, except § 49-7A-12, or alleging a violation of any rule of the statewide one call notification board shall be brought no later than 90 days after the discovery of the alleged violation. This complaint was brought more than one year after the alleged violation.

On December 19, 2022, the Enforcement Panel (herein “Panel”) convened pursuant to the authority present in SDCL 49-7A. The Panel does not find probable cause that a violation of SDCL 49-7A-8 occurred. Therefore, the Panel recommends the Complaint be dismissed.

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.