

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Tuesday, August 16, 2022 at 8AM CT (7AM MT)

In Person:

AmericInn, 312 Island Drive, Fort Pierre, SD 57532

This meeting can also be attended over ZOOM. Please email Codi Gregg at exedir@sdonecall.com for access.

A brief description of the Enforcement Panel process: This is a legal proceeding and no comments will be taken by any of the parties involved in the Complaints during this call. A probable cause determination will be made based only on the written documentation received from the parties in the complaints. All parties will be given the opportunity to request a hearing before the full South Dakota One Call Notification Board, if there is disagreement with the recommendation of the Panel. If a hearing is requested, each party must be represented by legal counsel at the hearing. If a hearing is not requested, the Enforcement Panel recommendation will be presented to the South Dakota One Call Board of Directors for acceptance at the next Board Meeting. A Board Order will be mailed to each party after that Board Meeting. Please note, no payment is due until the final order is issued.

Factors to be considered in determining the amount of the penalty, if assessed shall be:

1. The amount of damage, degree of threat to public safety and the inconvenience caused.
2. The respondent's plan and procedures to insure future compliance with statutes and rules.
3. Any history of previous violations.
4. Other matters as justice requires.

49-7A-18. Penalties. Except as provided in § 49-7A-19 and in addition to all other penalties provided by law, any person who violates or who procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to one thousand dollars for the first violation and up to five thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

49-7A-19. Penalties for intentional violations. In addition to all other penalties provided by law, any person who intentionally violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to five thousand dollars for the first violation and up to ten thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

49-7A-20. Each violation as separate offense. **Each violation of any statute or rule of the Statewide One-Call Notification Board constitutes a separate offense. In the case of a continuing violation, each day that the violation continues constitutes a separate violation.**

The Enforcement Panel of the South Dakota One Call Notification Board is meeting to consider the following South Dakota One Call Complaints:

OC22-003 In the matter of the complaint filed by **NorthWestern Energy**, Mitchell, SD against **H & W Contracting, LLC.**, Sioux Falls, SD for an incident occurring April 22, 2022 at 407th Ave and North Harmon Drive in Mitchell.

Deadline to Respond was May 27, 2022. Response was received on June 2, 2022.

There is no previous history with H & W Contracting, LLC.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that H & W Contracting, LLC. violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC22-004A In the Matter of the Complaint filed by **Dan Kaiser**, Sioux Falls, South Dakota against **CenturyLink / Lumen Technologies**, Sioux Falls, South Dakota for an incident occurring on April 29, 2022 at 1200 South Kevin Circle in Sioux Falls, South Dakota.

Deadline to Respond was June 14, 2022.

The Complaint was requested to be withdrawn on July 7, 2022 by Dan Kaiser.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board accept the request to withdraw the Complaint or does the Panel find that there is probable cause that CenturyLink violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC22-004B In the Matter of the Complaint filed by **Dan Kaiser**, Sioux Falls, South Dakota against **Midco**, Sioux Falls, South Dakota for an incident occurring on April 29, 2022 at 1200 South Kevin Circle in Sioux Falls, South Dakota.

Deadline to Respond was June 14, 2022. Response was received on June 10, 2022.

The Complaint was requested to be withdrawn on July 7, 2022 by Dan Kaiser.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board accept the request to withdraw the Complaint or does the Panel find that there is probable cause that Midco violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC22-005 In the Matter of the complaint filed by **NorthWestern Energy**, Brookings, SD against **Halme, Inc.**, Lake Norden, SD for an incident occurring May 4, 2022 at 23425 456th Avenue in Madison.

Deadline to Respond was June 3, 2022. Response was received on June 9, 2022.

There is no previous history with Halme Inc.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Halme, Inc. violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC22-006 In the Matter of the complaint filed by **City of Crooks**, Crooks, SD against **Brooks Construction**, Custer, SD for an incident occurring June 1, 2022 at 25797 475th in Renner.

Deadline to Respond was June 30, 2022. Response was received on June 24, 2022.

There is no previous history with Brooks Construction.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Brooks Construction violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC22-007 In the Matter of the complaint filed by **Magellan Midstream Partners, LP**, Tulsa, OK against **Mr. Toy Litzel**, Edgemont, SD for an incident occurring June 8, 2022 at Litzel Farmland in Edgemont.

Deadline to Respond was July 8, 2022. Response was received on July 7, 2022.

There is no previous history with Mr. Toy Litzel.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Mr. Litzel violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC22-008 In the Matter of the complaint filed by **City of Crooks**, Crooks, SD against **Ground Water Landscape and Irrigation**, Sioux Falls, SD for an incident occurring June 20, 2022 at Superior Avenue and Executive Avenues in Crooks,

Deadline to Respond was July 26, 2022. Response was received on July 9, 2022.

There is no previous history with Ground Water Landscape and Irrigation.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Ground Water violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC22-009 In the Matter of the complaint filed by **City of Crooks**, Crooks, SD against **Ramstad Construction**, Colton, SD for an incident occurring June 29, 2022 at 708 South West Avenue in Crooks.

Deadline to Respond was July 26, 2022. No response has been received as of August 10, 2022.

There is no previous history with Ramstad Construction.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Ramstad Construction violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

Please note: This was a legal proceeding and only written information provided by the Complainants and the written response from the Defendants was considered per SDCL 49-7A-25. No comments from the parties involved in the complaints will be taken during this call.