

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Thursday, December 14, 2023 at 10AM CT (9AM MT)

This meeting will be hosted via ZOOM. Please email Mandy Benson at mandy@sd811.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 involved 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 ensure 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:

OC23-004 In the matter of the complaint filed by **Magellan Midstream Partners, LP**, Tulsa, OK against **Kenneth Osmotherly**, Oelrichs, SD for an incident occurring March 30, 2023 at 13871 Old Highway 79 in Oelrichs.

Deadline to Respond was December 6, 2023. Response was received November 27, 2023.

There is no previous history with Kenneth Osmotherly.

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

OC23-006 In the matter of the complaint filed by **Magellan Midstream Partners, LP**, Tulsa, OK against **Black River Contracting**, Rapid City, SD for an incident occurring June 6, 2023 near Anderson Road and Lamb Road in Rapid City.

Deadline to Respond was December 7, 2023.

There is no previous history with Black River Contracting.

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

OC23-008 In the matter of the complaint filed by **Montana Dakota Utilities**, Rapid City, SD against **Underground Construction**, Rapid City, SD for an incident occurring August 23, 2023 near 1213 ½ Quincy Street and 1214 Quincy Street in Rapid City.

Deadline to Respond was December 7, 2023. Response was received on December 5, 2023.

There is previous history with Underground Construction.

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

OC23-010 In the matter of the complaint filed by **City of Hecla**, Hecla, SD against **Tyler Thayer**, Hecla, SD for an incident occurring October 4, 2023 at 702 Howard Street in Hecla.

Deadline to Respond is December 12, 2023.

There is no previous history with Tyler Thayer.

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

OC23-011 In the matter of the complaint filed by **Midcontinent Communications**, Sioux Falls, SD against **Loren Beld / LL & Sons Excavating, Inc.**, Watertown, SD for an incident occurring July 21, 2023 at 1394 South Lake Drive in Watertown.

Deadline to Respond was December 6, 2023. Response was received November 20, 2023.

There is previous history with LL and Sons Excavating, Inc.

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

OC23-012 In the matter of the complaint filed by **Montana Dakota Utilities**, Mobridge, SD against **Blackburn Foundation Repair**, Pierre, SD for an incident occurring October 4, 2023 at 110 E Scranton Street in Selby.

Deadline to Respond was December 12, 2023. Response was received December 7, 2023.

There is no previous history with Blackburn Foundation Repair.

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

Motion to adjourn.

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.