

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES, RAPID CITY, SD AGAINST RAPID CONSTRUCTION, LLC, RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON SEPTEMBER 10, 2020 AT W ELM AND JUNIPER STREET, BLACK HAWK, SD.</p>	<p><b>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b></p> <p>OC20-063</p>
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On September 10, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein "Claimant"), against Rapid Construction, LLC (herein "Respondent"), for an incident occurring on September 10, 2020, at W Elm and Juniper Street, Black Hawk, SD. The Complaint alleges a violation SDCL 49-7A-8 when Respondent was installing a water main and hit the gas line. Claimant alleges Respondent had a valid locate ticketed but did not use caution when digging with the excavator and may not have potholed prior to excavating. Claimant also alleges Respondent entered the gas to stop it from blowing.

A copy of the Complaint was sent to Respondent on September 14, 2020. The deadline to respond was October 5, 2020. Respondent has not answered the Complaint as of October 8, 2020.

On October 8, 2020, the Enforcement Panel (herein "Panel") convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause that an intentional violation of SDCL 49-7A-8 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$2,500 with \$1,000 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 12 months of the Board Order,
2. The penalty payment of **\$1,500** must be made to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**
3. Respondent must attend a Damage Prevention meeting in 2021.

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 (**\$1,000**) 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 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.

On November 25, 2020, the Panel's recommendation was sent to the parties to this action. The parties did request an evidentiary hearing on December 2, 2020, and requested to cancel the hearing on December 7, 2020. The Board reviewed the Panel's recommendations at its February 19, 2021 meeting pursuant to SDCL 49-7A-27. The Panel's recommendation was approved by the Board. It is now, therefore:

**ORDERED**, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein.

**ORDERED**, that if the penalty is not paid, that the Board shall pursue any rights it has under the law regarding collections.

The South Dakota One Call Notification Board has jurisdiction over this matter pursuant to SDCL 1-26 and 49-7A and ARSD Article 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

Dated this 24<sup>th</sup> day of February, 2021.

BY ORDER OF THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD:

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*Fay Sandreau*

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