

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY ASKLAND DITCHING, RAPID CITY, SD AGAINST MONTANA DAKOTA UTILITIES, RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON SEPTEMBER 4, 2020 AT 5007 LANGENBERG, RAPID CITY, SD.</p>	<p>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC20-068</p>
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On September 24, 2020, the South Dakota One Call Board received a Complaint filed by Askland Ditching (herein "Claimant"), against Montana-Dakota Utilities Co. (herein "Respondent"), for an incident occurring on September 11, 2020, at 5007 Langenberg, Rapid City, SD. The Complaint alleges a violation SDCL 49-7A-8 when Respondent was in a hurry and told Claimant to use excavator on the marks.

A copy of the Complaint was sent to Respondent on September 28, 2020. The deadline to respond was October 21, 2020. Respondent has answered the Complaint as of October 8, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges locate ticket was submitted and responded to. Respondent alleges they responded to the unlocatable call that was submitted and aided in helping the Claimant dig to ensure the safety of the workers and residents.

On October 29, 2020, the Enforcement Panel (herein "Panel") convened pursuant 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 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 not request an evidentiary hearing. 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.

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 24th day of February, 2021.

BY ORDER OF THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD:

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