

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY RCS CONSTRUCTION, RAPID CITY, SD AGAINST MONTANA DAKOTA UTILITIES, RAPID CITY, SD, FOR AN INCIDENT OCCURRING ON DECEMBER 16, 2020 AT 1636 E ST PATRICK STREET, RAPID CITY, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC20-093</p>
---	---

On December 22, 2020, the South Dakota One Call Board received a Complaint filed by R.C.S. Construction, Inc. (herein “Claimant”), against Montana-Dakota Utilities Co. (herein “Respondent”), for an incident occurring on December 16, 2020, at 1636 E St Patrick Street, Rapid City, SD. The Complaint alleges a violation SDCL 49-7A-8 when Respondent failed to mark the location of the underground facilities within eighteen (18) inches horizontally of a two-inch (2”) gas line.

A copy of the Complaint was sent to Respondent on December 22, 2020. The deadline to respond was January 14, 2021. Respondent had answered the Complaint as of January 13, 2021 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges the locating contractor located the pipeline in question by utilizing electronic locating equipment, mapping, and on-site inspection in a manner that was believed to be accurate and in fulfillment of 49-7A-8.

On January 29, 2021, 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 \$5,000 with \$3,000 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 **\$2,000** 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 or 2022.
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 (**\$3,000**) 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.

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.