

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY MIDCONTINENT COMMUNICATIONS, SIOUX FALLS, SD AGAINST LOREN BELD / L & L SONS EXCAVATING, INC., WATERTOWN, SD FOR AN INCIDENT OCCURRING ON JULY 21, 2023 AT 1394 SOUTH LAKE DRIVE IN WATERTOWN, SD.	<b>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b>  OC23-011
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On October 24, 2023, the South Dakota One Call Notification Board received a Complaint filed by Midcontinent Communications (herein "Claimant") against Loren Beld / L & L Sons Excavating, Inc. (herein "Respondent") for an incident occurring on July 21, 2023, at 1394 South Lake Drive, Watertown, South Dakota. The Complaint alleges violations of SDCL 49-7A-8, SDCL 49-7A-12, and ARSD 20:25:03:05.02 when Respondent allegedly caused \$16,022.51 damage by excavator when cutting through a duct and cable and just filled in the trench and left for the night instead of notifying 811 or Midco. Claimant alleges the violations to be unintentional in nature.

A copy of the Complaint was sent to Respondent on November 14, 2023. The deadline to respond was December 6, 2023. Respondent answered the Complaint on November 20, 2023. Respondent does dispute that violations of South Dakota One Call law occurred. Respondent alleges they did not receive notice from Midco that the line was broken, and the excavator was unaware of the broken line, and a neighbor reported service outage.

On December 14, 2023, the Enforcement Panel (herein "Panel") convened pursuant to the authority present in SDCL 49-7A. The Panel does not find probable cause that violations of SDCL 49-7A-8, SDCL 49-7A-12, or ARSD 20:25:03:05.02 occurred. Therefore, the Panel recommends the Complaint be dismissed.

The Panel recommends the South Dakota One Call Notification 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 January 10, 2024, 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 April 23, 2024 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 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

Dated this 23rd day of April, 2024.

BY ORDER OF THE SOUTH DAKOTA ONE  
CALL NOTIFICATION BOARD:



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Mark Meier, Chairman