

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

DUE TO CORONAVIRUS OUTBREAK – THIS MEETING CAN NOT BE ATTENDED IN PERSON. WE ENCOURAGE ALL PARTIES INVOLVED TO JOIN VIA CONFERENCE CALL. CONTACT CODI GREGG AT DEPUTYDIRECTOR@SD811.COM FOR ACCESS TO CALL.

Thursday, April 30, 2020 at 2PM CT (1PM MT)

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 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 final 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 insure 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 will meet to consider the following South Dakota One Call Complaints:

OC20-001- In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Concrete Professionals, (Concrete) Rapid City, South Dakota for an incident occurring on December 24, 2019 at 2691 Meadows Drive, Sturgis, South Dakota.

Deadline to Respond was February 4, 2020. Response was received January 24, 2020. There is previous history with Concrete, OC14-026. All conditions were met.

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

OC20-019 - This complaint was dismissed by the Executive Director, Board Chairman and Deputy Director due to incorrect mailing address for Underground.

OC20-020 In the Matter of the Complaint Filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Lind Exco, Rapid City, South Dakota for an incident occurring on March 3, 2020 at Anderson Road and Mondo, Rapid City, South Dakota.

Deadline to Respond was April 13, 2020. Response was received on April 20, 2020.

There is previous history with Lind Exco,

OC14-007 Lind met the requirements and paid the assessed penalty. Docket was closed.

OC18-005 Lind met the requirements and paid the assessed penalty. Docket was closed.

OC18-020 Complaint was dismissed and the docket was closed.

OC19-053 Lind met the requirements and paid the assessed penalty. Docket was closed.

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

OC20-021 In the Matter of the Complaint Filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Lind Exco, Rapid City, South Dakota for an incident occurring on March 3, 2020 at Anderson Road and Mondo, Rapid City, South Dakota.

Deadline to Respond was April 20, 2020. Response was received on April 8, 2020.

There is previous history with Lind Exco,

OC14-007 Lind met the requirements and paid the assessed penalty. Docket was closed.

OC18-005 Lind met the requirements and paid the assessed penalty. Docket was closed.

OC18-020 Complaint was dismissed and the docket was closed.

OC19-053 Lind met the requirements and paid the assessed penalty. Docket was closed.

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

OC20-022 In the Matter of the Complaint Filed by City of Mitchell, Mitchell, South Dakota against Rose Electric, Mitchell, South Dakota for an incident occurring on March 31, 2020 at 2300 Quiett Lane, Mitchell, South Dakota.

Deadline to Respond was April 22, 2020. Response was received on April 8, 2020.
There is no previous history with Rose Electric.

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

Please note: This is a legal proceeding and only written information provided by the Complainants and the written response from the Defendants will be considered per SDCL 49-7A-25. No comments from the parties involved in the complaints will be taken during this call.

Note: Please call (605) 863-0951 at least one hour prior to the call for call-in instructions. We have limited ports available on the conference bridge, so if you do plan to call in, we ask that you conference in on one line.