

AGENDA

**South Dakota One Call Notification Board
Enforcement Panel Conference Call
Location: Watertown Municipal Utilities
901 4th Avenue, SW
Watertown, South Dakota 57201
Monday, August 12, 2019 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:

OC19-018 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Plum Creek Homes (Plum Creek) Rapid City, South Dakota for an incident occurring on June 27, 2019 at 3035 Olive Grove Court, Rapid City, South Dakota.

Deadline to Respond was July 29, 2019. No response received as of August 5, 2019.
No previous complaint history with Plum Creek.

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

OC19-019 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Rapid Foundation Repair (Rapid Foundation) Rapid City, South Dakota for an incident occurring on July 9, 2019 at 2521 Prairie Avenue, Rapid City, South Dakota.

Deadline to Respond was August 5, 2019. Response was received on August 5, 2019.
No previous complaint history with Rapid Foundation.

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

OC19-020 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against CCS (CCS) Black Hawk, South Dakota for an incident occurring on July 9, 2019 at 460 Main Street, Deadwood, South Dakota.

Deadline to Respond was August 5, 2019. Response was received on July 30, 2019.
No previous complaint history with CCS.

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

OC19-021 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Century Sitework (Century) Rapid City, South Dakota for an incident occurring on July 12, 2019 at 0 Creek Drive, Rapid City, South Dakota.

Deadline to Respond was August 6, 2019. No response received as of August 5, 2019.
No previous complaint history with Century.

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

OC19-022 Midco vs. Askland Ditching has been added to the September Agenda due to incorrect mailing address.

OC19-023 – In the Matter of the Complaint filed by City of Crooks (Crooks) Crooks, South Dakota against Leiseths (Leiseths) Crooks, South Dakota for an incident occurring on July 13, 2019 at 121 Winterberry Circle, Crooks, South Dakota.

Deadline to Respond is August 12, 2019. No response received as of August 5, 2019.
No previous complaint history with Leiseths.

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

OC19-024 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against GTI Group (GTI) Lead, South Dakota for an incident occurring on July 16, 2019 at Mill Street, Lead, South Dakota.

Deadline to Respond is August 12, 2019. No response received as of August 5, 2019.
Previous complaint history with GTI. OC18-028.

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

OC19-025 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Donarsk Lawn Care (Donarsk) Spearfish, South Dakota for an incident occurring on July 12, 2019 at 20014 Ridgefield, Spearfish, South Dakota.

Deadline to Respond is August 12, 2019. No response received as of August 5, 2019.
No previous complaint history with Donarsk.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Donarsk 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.