

## 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 ZOOM WEB CONFERENCE CALL. CONTACT CODI GREGG AT [DEPUTYDIRECTOR@SD811.COM](mailto:DEPUTYDIRECTOR@SD811.COM) FOR ACCESS TO CALL.**

**Friday, August 28, 2020 at 9AM CT (8AM 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 Board 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:

**OC20-040-** In the Matter of the Complaint filed by Roger French (French) Brookings, South Dakota against Zacharias Construction (Zacharias) Hartford, South Dakota for an incident occurring in August, 2019 at 4<sup>th</sup> Avenue and South Roberts Street in Humboldt, South Dakota.

Deadline to Respond was August 14, 2020. Response was received on August 12, 2020. There is no previous history with Zacharias.

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

**OC20-045 -** In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against JMD Excavating, (JMD) Black Hawk, South Dakota for an incident occurring on July 15, 2020 at 1301 Woodlawn, Rapid City, South Dakota.

Deadline to Respond was August 18, 2020. No response was received as of August 21, 2020. There is no previous history with JMD.

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

**OC20-047** In the Matter of the Complaint Filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Mossrock Landscaping (Mossrock) Custer, South Dakota for an incident occurring on July 22, 2020 at 1625 Lando Lane, Rapid City, South Dakota.

Deadline to Respond was August 19, 2020. No response was received as of August 21, 2020. There is no previous history with Mossrock.

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

**OC20-049** In the Matter of the Complaint filed by RW Contracting (RW) Brookings, South Dakota against City of White (White) White, South Dakota for an incident occurring on July 29 2020 at 104 E 4<sup>th</sup> Street, White, South Dakota.

Deadline to Respond was August 24, 2020. No response has been received as of August 21, 2020. There is no previous history with City of White.

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