

AGENDA

**South Dakota One Call Notification Board
Enforcement Panel Conference Call
Location: Venture Communications Co-Op
218 Commercial Ave SE
Highmore, South Dakota 57345
Thursday, December 19, 2019 2:00PM CT (1:00PM 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:

OC19-068 In the Matter of the Complaint Filed by Watertown Municipal Utilities Co, (WMU) Watertown, SD against Underground Solutions, Inc. (Underground) Sioux Falls, SD, for an incident occurring on October 29, 2019 at 517 3rd Street NE, Watertown, SD.

Deadline to Respond was December 9, 2019. Response was received on December 8, 2019.

There is previous history with Underground. The complaint was dismissed and the docket closed.

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

OC19-069 In the Matter of the Complaint Filed by Watertown Municipal Utilities Co, (WMU) Watertown, SD against Underground Solutions, Inc. (Underground) Sioux Falls, SD, for an incident occurring on October 29, 2019 at 115 1st Avenue, Watertown, SD.

Deadline to Respond was December 9, 2019. Response was received on December 8, 2019.

There is previous history with Underground. The complaint was dismissed and the docket closed.

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

OC19-070 In the matter of the Complaint filed by Watertown Municipal Utilities (WMU) Watertown, South Dakota against Fink Plumbing (Fink), Redfield, South Dakota for an incident occurring on October 22, 2019 at 208 4th Avenue NE, Watertown, South Dakota will be reviewed on the next agenda, due to corrected mailing address.

OC19-071 In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Kuipers Construction (Kuipers) Rapid City, South Dakota for an incident occurring on November 7, 2019 at 141 Cobalt, Rapid City, South Dakota.

Deadline to Respond was December 9, 2019. Response was received on December 3, 2019. There is no previous history with Kuipers.

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

OC19-072 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Dipiazza Fencing LLC (Dipiazza) Sturgis, South Dakota for an incident occurring on November 12, 2019 at 908 Sheppard Street, Sturgis, South Dakota.

Deadline to Respond was December 9, 2019. Response was received on December 9, 2019. There is previous complaint history with Dipiazza, no Board Order has been issued.

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

OC19-073 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Stuen Construction (Stuen) Deadwood, South Dakota for an incident occurring on November 5, 2019 at 11029 Antelope Trail, Lead, South Dakota.

Deadline to Respond was December 9, 2019. Response was received on December 8, 2019. There is no previous complaint history with Stuen.

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

OC19-074 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Tru-Form Construction (Tru-Form) Rapid City, South Dakota for an incident occurring on November 18, 2019 at Haines Ave and Disk Drive, Rapid City, South Dakota.

Deadline to Respond was December 13, 2019. Response was received on December 12, 2019. There is no previous complaint history with Tru-Form.

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