

AGENDA

**South Dakota One Call Notification Board
Enforcement Panel Conference Call
Location: Venture Communications Co-Op
218 Commercial Ave SE
Highmore, South Dakota 57345
Friday, February 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 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:

OC19-075 In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Enviro Scapes, LLC. (Enviro) Rapid City, South Dakota for an incident occurring on November 27, 2019 at 5567 Wildwood Drive, Rapid City, South Dakota.

Deadline to Respond was December 27, 2019. Response was received January 29, 2020. There is no previous history with Enviro Scapes.

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

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. No response was received as of February 24, 2020. There is previous complaint history with Concrete from 2014. All conditions were met and the docket closed.

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?

OC20-002 In the Matter of the Complaint Filed by Excavating Specialists, Rapid City, SD against Montana Dakota Utilities (MDU) Rapid City, SD for an incident occurring on January 8, 2020 at 3525 E Colorado Blvd, Spearfish, SD.

Deadline to Respond was February 4, 2020. Response was received on February 4, 2020.

There is previous history with MDU.

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

OC20-003 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on June 6, 2018 at 3611 North Orion Drive, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-004 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on July 9, 2018 at 3912 E Brewster, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-005 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on July 13, 2019 at 5901 S Bounty Place, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-006 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on August 20, 2019 at 5704 South Bounty Place, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-007 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on August 29, 2019 at 5711 South Bounty Place, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-008 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on August 30, 2019 at 5816 South Bounty Place, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-009 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on August 30, 2019 at 5908 South Bunty Place, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-010 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on August 30, 2019 at 5906 South Bounty Place, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-011 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on October 19, 2019 at 1615 E 67th Street North, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-012 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on June 5, 2019 at 4301 E Kinsley Place, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-013 In the Matter of the Complaint filed by Midcontinent Communications (Midco) Sioux Falls, SD against Sod Busters and B Green (Sod) Tea, South Dakota for an incident occurring on August 30, 2019 at 5709 South Bounty Place, Sioux Falls, South Dakota.

Deadline to Respond was February 18, 2020. Response was received February 18, 2020. There is previous history with Sod. OC19-048 and OC19-049 were both dismissed and the dockets closed.

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

OC20-014 In the Matter of the Complaint filed by Magellan Midstream Partners, LP. Tulsa, Oklahoma (Magellan) against Doug O'Bryan Contracting, Inc. (O'Bryan) Martin, South Dakota for an incident occurring on January 9, 2020 at 24275 South Highway 79, Hermosa, South Dakota.

Deadline to Respond was February 20, 2020. Response was received February 4, 2020. There is previous history with O'Bryan. OC15005 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 Sod 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.