

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, January 30, 2020 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- 042 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Zandstra Construction (Zandstra) Rapid City, South Dakota for an incident occurring on August 23, 2019 at 1001 East Mall Drive, Rapid City, South Dakota.

This complaint was continued from the September 26, 2019 Panel Meeting. The complaint included an incorrect mailing address, Zandstra Construction was not made aware of the complaint until Codi Gregg contacted their office about the response. It was discovered then the address was to a different Zandstra Construction. MDU was contacted about the correct address. Zandstra did file a response.

Deadline to Respond was September 16, 2019. Response was received on September 24. There is no previous complaint history with this Zandstra Construction.

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

OC19-066 In the Matter of the Complaint Filed by Montana Dakota Utilities (MDU) Rapid City, SD against Century Sitework (Century) Rapid City, SD, for an incident occurring on October 24, 2019 at 2000 Deadwood Avenue, Rapid City, SD.

Deadline to Respond was December 13, 2019. There was no response received as of January 15, 2020.

There is previous history with Century.

OC19-021 The complaint was dismissed and the docket closed. Order issued 11/19/19.

OC19-034 Century was found to have violated 49-7A-5 and 49-7A-8. A penalty was assessed in the amount of \$1,000 with \$250 suspended, if Century met the five standard requirements.

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?

OC19-070 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.

This Complaint was continued from December 19 Agenda due to an incorrect mailing address. Complaint was mailed to the dissolved business owner.

Deadline to Respond was December 27, 2019. No response was received as of January 15, 2020. There is no previous history with Fink.

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

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. No response was received as of January 15, 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?

OC19-076 In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Wirkus Transport (Wirkus) Black Hawk, South Dakota for an incident occurring on December 3, 2019 at 8109 South Bluxberg Drive, Sturgis, South Dakota.

Deadline to Respond was January 13, 2020. No response was received as of January 15, 2020. There is no previous history with Wirkus.

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