

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Location: Watertown Municipal Utilities
901 4th Avenue, SW

Watertown, South Dakota 57201

Thursday, June 27, 2019 at 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:

OC19-009 – In the Matter of the Complaint filed by Watertown Municipal Utilities (Watertown) Watertown, South Dakota against Lakeside Construction and Services (Lakeside) Finley, North Dakota for an incident occurring on May 1, 2019 at Highway 212 750ft west of 3rd Street, Watertown, South Dakota.

Deadline to Respond was May 30, 2019. Response was received on May 30, 2019.
No previous complaint history with Lakeside Construction.

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

OC19-010 – In the Matter of the Complaint filed by Watertown Municipal Utilities (Watertown) Watertown, South Dakota against Schuelke Construction (Schuelke) Willow Lake, South Dakota for an incident occurring on May 13, 2019 at 523 1st Avenue NE, Watertown, South Dakota.

Deadline to Respond was June 19, 2019. Response was received on June 13, 2019.
No previous complaint history with Schuelke.

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

OC19-011 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU), Mobridge, South Dakota against Olson Plumbing (Olson) Pierre, South Dakota for an incident occurring on May 17, 2019 at 310 S Van Buren, Pierre, South Dakota.

Deadline to Respond was June 19, 2019. Olson did not file a response.
No previous complaint history with Olson.

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

OC19-012 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU), Rapid City, South Dakota against A & E Plumbing (A & E) Black Hawk, South Dakota for an incident occurring on June 3, 2019 at 2606 Elderberry Blvd, Rapid City, South Dakota.

Deadline to Respond is June 26, 2019. A & E has not filed a response as of June 18, 2019.
No previous complaint history with A & E.

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

OC19-013 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU), Mobridge, South Dakota against East Pierre Landscape (East Pierre) Pierre, South Dakota for an incident occurring on May 31, 2019 at 104 North Johnson Avenue, Pierre, South Dakota.

Deadline to Respond was June 26, 2019. East Pierre responded on June 17, 2019.
No previous complaint history with East Pierre.

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