

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Thursday, June 27, 2024 at 10AM CT (9AM MT).

This meeting will be hosted via ZOOM. Please email Mandy Benson at mandy@sd811.com for access.

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 involved 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 ensure 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 is meeting to consider the following South Dakota One Call Complaints:

OC24-007 In the matter of the complaint filed by NuStar Energy L.P., San Antonio, TX against Hoogendoorn Construction, Canton, SD for an incident occurring March 5, 2024 at the intersection of 284th Street and 478th Street in Canton.

Deadline to Respond was May 24, 2024. Response was received on May 24, 2024.

There is no previous history with Hoogendoorn.

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

OC24-008 In the matter of the complaint filed by NorthWestern Energy, Mitchell, SD against Pro Contracting, Mitchell, SD for an incident occurring March 20, 2024 at 816 W 16th Street in Mitchell.

Deadline to Respond was May 24, 2024. Response was received May 17, 2024.

There is no previous history with Pro Contracting.

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

OC24-009 In the matter of the complaint filed by Magellan Midstream Partners, LP, Tulsa, OK against Chad Zandstra Construction, Rapid City, SD for an incident occurring April 3, 2024 at Jim Street in Rapid City.

Deadline to Respond was May 24, 2024. Response was received on May 24, 2024.

There is no previous history.

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?

OC24-010 In the matter of the complaint filed by Magellan Midstream Partners, LP, Tulsa, OK against Combined Pool and Spa Inc, Sioux Falls, SD for an incident occurring April 3, 2024 at Jim Street in Rapid City.

Deadline to Respond was May 24, 2024. Response was received May 24, 2024.

There is no previous history with Combined Poo and Spa, Inc.

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

OC24-012 In the matter of the complaint filed by Jeffrey DeMeglio, East Harland, CT against Flock Safety, Atlanta, GA for an incident occurring April 9, 2024 at 1004 Washington Ave South in Madison.

Deadline to respond was May 24, 2024. Flock requested an extension to respond and was granted until June 10, 2024. Response was received June 10, 2024.

There is no previous history with Flock Safety.

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

OC24-013 In the matter of the complaint filed by Martin Construction, Dickinson, ND against USIC, Harrisburg, SD for an incident occurring April 25, 2024 at US 12 in Morrystown.

Deadline to respond was May 24, 2024. No response has been received as of June 20, 2024.

There is no previous history with USIC.

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

OC24-015 In the matter of the complaint filed by Magellan Midstream Partners, LP, Tulsa, OK against Barker Concrete and Construction, Edgemont, SD for an incident occurring May 14, 2024 at HWY 8 and Coffee Flats in Edgemont.

Deadline to respond was July 3, 2024. Response was received on June 18, 2024.

Magellan Midstream / OneOk requested to withdraw the complaint on June 19, 2024

There is no previous history.

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

Motion to adjourn.

Please note: This was a legal proceeding and only written information provided by the Complainants and the written response from the Defendants was considered per SDCL 49-7A-25. No comments from the parties involved in the complaints will be taken during this call.