

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Location: Watertown Municipal Utilities
901 4th Avenue, SW

Watertown, South Dakota 57201

Thursday, November 21, 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:

OC19-052 In the Matter of the Complaint Filed by Montana Dakota Utilities Co, (MDU) Rapid City, SD against Vifquain Concrete (Vifquain) Rapid City, SD, for incidents occurring on September 13, 2019 at 1767 City Springs Road, Rapid City, SD.

Deadline to Respond was October 14, 2019. There was no response as of November 14, 2019. There is no previous history with Vifquain.

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

OC19-053 - In the Matter of the Complaint Filed by Montana Dakota Utilities Co, (MDU) Rapid City, SD against Excavating Specialists (Excavating) Rapid City, SD, for incidents occurring on September 20, 2019 at 195 Pine Cone Avenue, Spearfish, SD.

Deadline to Respond was October 21, 2019. Response was received October 11, 2019. There is previous complaint history with Excavating.

OC12-010 – Excavating met the requirements and paid the assessed penalty. Docket was closed.

OC18-027 – Excavating met the requirements and paid the assessed penalty. Docket was closed. \$1,000 / \$750 suspended.

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

OC19-054 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Quinn Construction (Quinn) Rapid City, South Dakota for an incident occurring on September 23, 2019 at 449 American Way, Rapid City, South Dakota.

Deadline to Respond was October 21, 2019. Response was received on October 18, 2019. There is no previous history with Quinn.

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

OC19-055 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Lind Exco (Lind) Rapid City, South Dakota for an incident occurring on September 20, 2019 at 1235 Fulton Street, Rapid City, South Dakota.

Deadline to Respond was October 21, 2019. There was no response as of November 14, 2019. There is previous complaint history with Lind.

OC14-007 Lind met the requirements and paid the assessed penalty. Docket was closed.

OC18-005 Lind met the requirements and paid the assessed penalty. Docket was closed.

OC18-015 Lind met the requirements and paid the assessed penalty. Docket was closed.

OC18-020 Complaint was dismissed and the docket was closed.

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

OC19-056 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against High Plains Construction (High Plains) Spearfish, South Dakota for an incident occurring on September 25, 2019 at 2126 Talisker, Spearfish, South Dakota.

Deadline to Respond was October 21, 2019. Response was received on October 3, 2019. There is no previous complaint history with High Plains.

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

OC19-057- In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Loyal Plumbing (Loyal) Rapid City, South Dakota for an incident occurring on September 30, 2019 at 2020 Elmhurst, Rapid City, South Dakota.

Deadline to Respond was October 29, 2019. There was no response as of November 14, 2019. There is no previous history with Loyal.

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

OC19-058 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against D and L Lawn and Sprinkler (D and L) Rapid City, South Dakota for an incident occurring on September 27, 2019 at 1102 City Springs Road, Rapid City, South Dakota.

Deadline to Respond was November 12, 2019. There was no response as of November 14. There is no previous history with D and L.

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

OC19-059 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Mobridge, South Dakota against Enfield Underground (Enfield) Letcher, South Dakota for an incident occurring on October 1, 2019 at 3340 Regent Place, Pierre, South Dakota.

Deadline to Respond was November 12, 2019. Response was received November 13, 2019. There is no previous history with Enfield.

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

OC19-060 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Forest Products, Dist. (Forest) Rapid City, South Dakota for an incident occurring on October 2, 2019 at 5400 Old Folsom Drive, Rapid City, South Dakota.

Deadline to Respond was November 12, 2019. There was no response as of November 14. There is no previous history with Forest.

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