

Pursuant to the provisions of SDCL [1-26-15](#), I, Patrick Anderson, of 920 11<sup>th</sup> street, am owner, and do hereby petition the South Dakota One-Call Notification Board for its declaratory ruling in regard to the following:

(1) The state statute or board rule or order in question is:

**[49-7A-10](#). Liability for damage to underground facility.**

Compliance with this chapter and the rules promulgated pursuant thereto does not excuse a person from acting in a careful and prudent manner nor does compliance with this chapter and the rules promulgated pursuant thereto affect any civil remedies otherwise provided by law for personal injury or for property damage except as specifically provided in this chapter. If information requested pursuant to statute or rule, is provided within the time specified and if the information provided sufficiently identifies the location of the underground facilities in accordance with § [49-7A-8](#) or any rule promulgated pursuant to § [49-7A-8](#), any excavator damaging or injuring the underground facilities is strictly liable for all damage proximately caused thereby.

And

**[49-7A-9](#). Failure to provide timely location markings--Inadequate markings--Liability.**

If location markings requested by an excavator are not provided within the time specified by § [49-7A-8](#) or any rule promulgated pursuant to § [49-7A-8](#), or if the location markings provided fail to identify the location of the underground facilities in accordance with statute and rule, any excavator damaging or injuring underground facilities is not liable for such damage or injury except on proof of negligence.

(2) The facts and circumstances which give rise to the issue to be answered by the board are:

In the event that a contractor, using SD one call, requested a utility locate prior to digging in the vicinity of a gas line, the gas line markings were provided as requested but failed to correctly locate the gas line and indicated that the dig area was free from any gas lines, but the contractor, relying on the utility locate marks still visible, failed to begin excavation within the valid period of the utility locate ticket and upon excavation hit and ruptured a gas line causing gas to leak into a house and subsequently explode destroying the house, would the utility locator or contractor be liable for the damages?

(3) The precise issue to be answered by the board's declaratory ruling is:

Who is liable in this scenario?

The utility locator for providing incorrect markings

Or the contractor for damaging a gas line while digging outside the time limits of the utility locate ticket

Dated at: Rapid City South Dakota, this Fourteenth Day of June, 2022.

Patrick Anderson

A handwritten signature in black ink, appearing to read "Patrick Anderson", written in a cursive style.

**From:** [Patrick Anderson](#)  
**To:** [Codi Gregg](#)  
**Subject:** Petition for Declaratory Ruling  
**Date:** Tuesday, June 14, 2022 10:18:43 AM  
**Attachments:** [Petition for Declaratory Ruling s.pdf](#)

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Good Morning,  
Please see attached petition for declaratory ruling.

Thank you  
Patrick Anderson

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