

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Location: Watertown Municipal Utilities
901 4th Avenue, SW

Watertown, South Dakota 57201

Thursday, September 12, 2019 at 2PM CT (1PM 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:

OC19-022 – In the Matter of the Complaint filed by Midco (MDU) Rapid City, South Dakota against Askland Ditching (Askland) Rapid City, South Dakota for an incident occurring on July 17, 2019 at 1702 Hwy 44, Rapid City, South Dakota.

Deadline to Respond was August 19, 2019. Askland responded on August 16, 2019.
No previous complaint history with Askland.

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

OC19-026 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Dowden Creative Construction (Dowden) Sturgis, South Dakota for an incident occurring on July 24, 2019 at 1765 Russell Street, Spearfish, South Dakota.

Deadline to Respond was August 19, 2019. Response was received on August 10, 2019.
No previous complaint history with Dowden.

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

OC19-027 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against UpperCrust Landscape Co. (UpperCrust) Rapid City, South Dakota for an incident occurring on July 26, 2019 at 826 Haakon Street, Rapid City, South Dakota.

Deadline to Respond was August 26, 2019. Response was received on August 22, 2019.
No previous complaint history with UpperCrust.

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

OC19-028 – In the Matter of the Complaint filed by MidAmerican Energy Company, (MidAmerican) Urbandale, Iowa against Winter Brothers Underground (Winter Brothers) Sioux Falls, South Dakota for an incident occurring on June 20, 2019 at 420 West 5th Avenue in Lennox, South Dakota.

Deadline to Respond was September 9, 2019. No response received as of September 6, 2019.
No previous complaint history with Winter Brothers.

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

OC19-029 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Innovative Concrete, Inc. (Innovative) Savage, Minnesota for an incident occurring on August 5, 2019 at 8415 E Minnesota Street, Rapid City, South Dakota.

Deadline to Respond is September 9, 2019. Response was received on August 22, 2019.
No previous complaint history with Innovative.

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

OC19-030 – In the Matter of the Complaint filed by MidAmerican Energy Company, (MidAmerican) Urbandale, Iowa against Winter Brothers Underground (Winter Brothers) Sioux Falls, South Dakota for an incident occurring on June 26, 2019 at West 5th and Elm Street, Lennox, South Dakota.

Deadline to Respond was September 9, 2019. No response received as of September 6, 2019.
No previous complaint history with Winter Brothers.

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

OC19-031 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Timber Ridge Construction (Timber Ridge) Rapid City, South Dakota for an incident occurring on August 9, 2019 at 1244 Kodiak, Box Elder, South Dakota.

Deadline to Respond was September 9, 2019. Response was received on August 28, 2019.
No previous complaint history with Timber Ridge.

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

OC19-032 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against R and L Construction (R & L) Hill City, South Dakota for an incident occurring on July 30, 2019 at 4421 W Glen Place, Rapid City, South Dakota.

Deadline to Respond was September 9, 2019. Response was received on September 5, 2019.
No previous complaint history with R & L.

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

OC19-033 – In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Full Restoration Construction (Full Restoration) Spearfish, South Dakota for an incident occurring on August 6, 2019 at 2 Dudley Street, Deadwood, South Dakota.

Deadline to Respond was September 9, 2019. No response received as of September 6, 2019. No previous complaint history with Full Restoration.

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