

**BEFORE THE ONE-CALL NOTIFICATION BOARD
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED)	FINDINGS OF FACT AND
BY MINNEHAHA COMMUNITY WATER)	CONCLUSIONS OF LAW
CORPORATION, DELL RAPIDS, SOUTH)	AND ORDER
DAKOTA, AGAINST R & G CONSTRUCTION,)	
MARSHALL, MINNESOTA)	

This matter came on for hearing before the One-Call Notification Board of the State of South Dakota (Board) at a duly noticed hearing on January 21, 2000, at the Jefferson Room, Ramkota Inn, 2400 North Louise Avenue, Sioux Falls, South Dakota. Board members present were Todd Chambers, Chairman, Jim Lewis, Pat Gilligan, Curt Pohl, Harold Anderson, Tom Krueger, Doug Bierschbach and Eugene Solseth. Minnehaha Community Water Corporation (Minnehaha) was represented by Jerome B. Lammers of Madison, South Dakota. R & G Construction (R&G) was represented by Ronald G. Schmidt of Pierre, South Dakota. Camron Hoseck acted as the Board's counsel.

The Board, having heard and considered the testimony and evidence adduced upon said hearing and being fully advised in the premises, makes its Findings of Fact and Conclusions of Law, as follows: (page references are to the hearing transcript or exhibits)

FINDINGS OF FACT

1. Minnehaha is a rural water corporation with approximately four thousand customers in Minnehaha, Lincoln, McCook and Moody Counties of South Dakota. (Tr 7).
2. R&G is a highway heavy construction, private development and utility contractor from Marshall, Minnesota. (Tr 35, 36).
3. R&G had a contract to re-grade a project in Minnehaha County, South Dakota, commonly known as the six mile road project (project). (Tr 38).
4. Minnehaha had water distribution lines in and through the project. (Tr 8).
5. On the morning of July 29, 1999, three leaks occurred in the Minnehaha distribution system which was within the work limits of the project. (Tr 13, 18; Ex 1).
6. R&G caused the leaks described in Finding No. 4, above. (Tr 15, 16).
7. Minnehaha's employees were already en route to the project when they received notice through their plant operator that there was a leak from Minnehaha's system on the project. (Tr 13).

8. By the time R&G through its grading foreman, Doug Weber, discovered the leaks and damage to Minnehaha's distribution system located within the project, Minnehaha's construction foreman, Dan Buseth, was already on the job taking care of the leaks (Tr 97) thereby making Minnehaha immediately aware of the damage to Minnehaha's distribution system.

9. R&G did not conceal or attempt to conceal the damage that it did to Minnehaha's distribution system. (Tr 21, 98).

10. R&G did not knowingly violate SDCL 49-7A-12.

That from the foregoing Findings of Fact, the Board makes and enters its

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter pursuant to SDCL 49-7A-12.

2. Minnehaha had notice of the damage to its distribution system on its own accord prior to R&G's knowing it had done such damage.

3. R&G did not conceal or attempt to conceal the damage which it did to Minnehaha's distribution system within the project.

4. R&G did not knowingly violate SDCL 49-7A-12.

5. No civil penalty shall be assessed against R&G.

WHEREFORE, the Board ORDERS that Minnehaha's petition that the Board assess civil penalties against R&G shall be denied.

Dated this 14th day of February, 2000.

Date: 2/14/00


Todd Chambers
Chairman

Date: Feb. 2, 2000

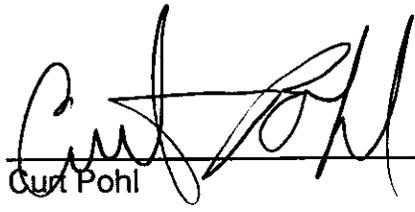

Pat Gilligan

Date: 2-4-2000



Jim Lewis

Date: 2-11-00


Curt Pohl

Date: 2-10-00


Eugene Solseth

Date: 2/1/00

Tom Krueger
Tom Krueger

Date: 2/3/00

Harold Anderson
Harold Anderson

Date: 2/15/00

D M Bierschbach
Doug Bierschbach