South Dakota One Call Notification Board

Larry Englerth
Executive Director

1012 North Sycamore Ave.
Sioux Falls, SD 57110

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TO: **GLEASON TREE COMPANY**

FROM: **SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

RE: **NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;**

In the Matter of the Complaint OC03-007 filed by Midcontinent Communications against Gleason Tree Company regarding failure to provide forty-eight hour notification prior to the commencement of excavation as required by SDCL 49-7A-5. The complaint alleges Gleason Tree Service failed to report damage to an underground facility as required by SDCL 49-7A-12. The complaint alleges that Gleason Tree Company was aware that they were violating SDCL 49-7A-5 and intentionally continued excavation activity and therefore should be subject to penalties under SDCL 49-7A-19.

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against Gleason Tree Company. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you are required to answer this complaint in writing, no later than the close of business on July 25, 2003, by filing the original and two copies of the answer at the address listed below and by serving a copy on the complainant.

South Dakota One Call Notification Board
1012 N. Sycamore Avenue
Sioux Falls, SD 57110-5747

Your answer should be as thorough and detailed as possible and should include any documentation that supports your position e.g. witness statements, pictures, etc.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaint and associated response. Failure to respond to this notice will be considered as concurrence that the allegations included in the complaint are accurate. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 & 19. If any financial penalties are assessed in response to Complaint OC03-004, the amount will be based on the factors noted in SDCL 49-7A-26.

Pursuant to SDCL 15-6-55, failure to answer this Complaint could result in a default judgment being issued against you. Appropriate liens and other legal collection actions could result. You are strongly urged to reply to this Notice in the time frame described above and to obtain the advise of counsel should you have any legal questions.

A copy of the Operations Manual for Facility Operators and Excavators is enclosed. The South Dakota One Call Statute is reprinted in this manual starting on page 25 with the penalty section starting at the bottom of page 29. We would encourage you to review this material prior to completing your response.

Procedural questions may be directed to Larry Englerth, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to exedir@sdonecall.com.

Enclosure

cc: Dan Bell, Midcontinent Communications, Complainant