

## South Dakota One Call Notification Board



Larry Englerth  
Executive Director

1012 North Sycamore Ave.  
Sioux Falls, SD 57110

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**TO: FIRST RATE EXCAVATE**

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

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

**In the Matter of the Complaint OC03-009 filed by Sioux Valley Energy against First Rate Excavate regarding failure to provide forty-eight hour notification prior to the commencement of excavation as required by SDCL 49-7A-5. This Complaint requests that penalties be assessed as an intentional disregard for the statute 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 First Rate Excavate. 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 August 20, 2003, by filing the original and two copies of the answer at the address listed below and by serving a copy on the complainant. 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.

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

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 OC03-009, 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](mailto:exedir@sdonecall.com).

Enclosure

cc: Ray DeJong, Sioux Valley Energy, Complainant

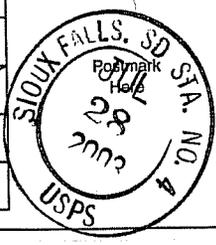
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Sent To **First Rate Excavate**  
 Street, Apt. No., or PO Box No. **1500 East 39<sup>th</sup> St. North**  
 City, State, ZIP+4 **Sioux Falls, SD 57104**

PS Form 3800, June 2002 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

First Rate Excavate  
 1500 East 39<sup>th</sup> St. North  
 Sioux Falls, SD 57104

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature *[Signature]*  Agent  Addressee

B. Received by (Printed Name) \_\_\_\_\_ C. Date of Delivery **7-3-02**

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below: \_\_\_\_\_

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) **7002 2410 0006 0451 6697**