



South Dakota One Call Notification Board

Larry Englerth
Executive Director

1012 North Sycamore Ave.
Sioux Falls, SD 57110

Tel/Fax (605) 339-0529
Email: exedir@sdonecall.com

September 28, 2003

Robert Roth
Runge Enterprises, Inc.
3500 Hovland Drive
Sioux Falls, SD 57107

Paul Lowe
Qwest Communications
1627 Creek Drive
Rapid City, SD 57703

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on September 24, 2003, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC03-011 filed by Runge Enterprises against Qwest Communications.

By a unanimous vote of the Enforcement Committee, the recommended resolution to the alleged violations included in this complaint was determined to be as follows:

Alleged Violation of SDCL 49-7A-8

The Enforcement Committee found that there was probable cause that Qwest Communications had violated SDCL 49-7A-8 by failing to properly mark the complete excavation site as required by ticket number 031400724.

The committee recommends a penalty of five hundred dollars (\$500.00) with three hundred dollars (\$300.00) suspended on the basis that Qwest Communications fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC03-011.

The findings and recommendation of the Enforcement Committee are summarized on the attached form.

Under SDCL 49-7A-27 either party may reject the recommendation of the Enforcement Committee by requesting a formal hearing on the violation alleged in this complaint. Your decision should be reflected in the shaded section of the attachment. **Please return the signed form by October 16, 2003 to:**

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

If both parties accept this resolution, the South Dakota One Call Notification Board is required to accept the resolution and close this complaint. If either party rejects the Enforcement Committee resolution of the alleged violation, the South Dakota One Call Notification Board will conduct a hearing as a contested case under Chapter 1-26 to resolve the allegation alleged in OC03-011. Following this hearing, the Board shall either render a decision dismissing the complaint for insufficient evidence or shall impose a penalty pursuant to SDCL 49-7A-18.

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.**

Sincerely,

Larry L. Englerth
Executive Director

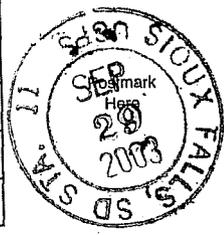
7002 2410 0006 0451 8257

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To
 Paul Lowe
 Qwest Communications
 1627 Creek Drive
 Rapid City, SD 57703

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:

Paul Lowe
 Qwest Communications
 1627 Creek Drive
 Rapid City, SD 57703

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name)
 Paul H Lowe

C. Date of Delivery
 10-2003

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

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 8257

4928 7540 9000 2410 0451 8264 7002

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 1.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To	Robert Roth
Street, Apt. No., or PO Box No.	Runge Enterprises, Inc. 3500 Hovland Drive
City, State, ZIP+4	Sioux Falls, SD 57107

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:

Robert Roth
Runge Enterprises, Inc.
3500 Hovland Drive
Sioux Falls, SD 57107

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature *May Runge* Agent Addressee

B. Received by (Printed Name) _____ C. Date of Delivery 9/30 KH

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

3. Service Type

Certified Mail Express Mail

Registered Return Receipt for Merchandise

Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7002 2410 0006 0451 8264

ENFORCEMENT COMMITTEE ACTION

OC03-011

Runge Enterprises vs. Qwest Communications

FOR ENFORCEMENT COMMITTEE USE ONLY

REMARKS:

Alleged Violation of SDCL 49-7A-8 Location of Underground Marking

Runge Enterprises alleged that Qwest Communications failed to properly mark the complete excavation site as required on ticket number 031400724. The failure to properly mark the location of the facility resulted in damage to multiple underground facilities.

Response from United Locating Service (company that does the locate service for Qwest Communications) on behalf of Qwest Communications acknowledged that the locator had misunderstood the marking instructions on ticket number 031400724 and did not dispute the facts as presented by Runge Enterprises. United Locating Service did allege that Runge Enterprises should have known that the locator had made an error and called the South Dakota One Call Center with a site verification request. No documentation to support this claim was included in the response.

Based on the information provided by Runge Enterprises and the fact that the response concurred that the excavation site was not properly marked, the Committee found that there was probable cause that Qwest Communications had violated SDCL 49-7A-8 by failing to properly mark the excavation site identified in Ticket number 031400724.

RECOMMENDATION

FOR ENFORCEMENT COMMITTEE USE ONLY

VIOLATION OF SOUTH DAKOTA SDCL 49-7A-8:

The Committee found that Qwest Communications had violated SDCL 49-7A-8 by failing to properly mark the excavation site identified on ticket number 031400724.

PROPOSED PENALTY FOR THIS VIOLATION AUTHORIZED UNDER SDCL 49-7A-18:

The committee recommends a penalty of five hundred dollars (\$500.00) with three hundred dollars (\$300.00) suspended on the basis that Qwest Communications fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC03-011.

COMMENTS:

ACCEPTANCE OR REJECTION BY PARTIES INVOLVED IN COMPLAINT OC03-011

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-011.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION OF THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-011, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC03-011.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECTS THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-011, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-011. THIS HEARING SHALL BE CONDUCTED AS A CONTESTED CASE UNDER CHAPTER 1-26. FOLLOWING THE HEARING, THE BOARD SHALL EITHER RENDER A DECISION DISMISSING THE COMPLAINT FOR INSUFFICIENT EVIDENCE OR SHALL IMPOSE A PENALTY PURSUANT TO THE PROVISIONS OF SDCL 49-7A-18 OR SDCL 49-7A-19.

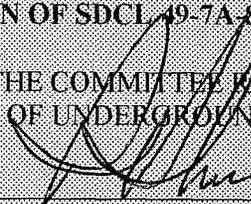
IF YOU DESIRE TO REJECT THE RESOLUTION OF THE ALLEGE VIOLATION, YOU SHOULD COMPLETE THE FOLLOWING AND RETURN TO THE ADDRESS BELOW PRIOR TO THE CLOSE OF BUSINESS ON OCTOBER 16, 2003

SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
1012 N. SYCAMORE AVENUE
SIOUX FALLS, SD 57110-5747

PURSUANT TO SDCL 15-6-55, FAILURE TO ANSWER THIS COMPLAINT RESOLUTION COULD RESULT IN A DEFAULT JUDGEMENT BEING ISSUED AGAINST YOU. APPROPRIATE LIENS AND OTHER LEGAL COLLECTION ACTIONS COULD RESULT.

VIOLATION OF SDCL 49-7A-8 LOCATION OF UNDERGROUND MARKING

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC03-011 VIOLATION OF SDCL 49-7A-8 LOCATION OF UNDERGROUND MARKING

 10-14-03

Signature

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC03-011 VIOLATION OF SDCL 49-7A-8 LOCATION OF UNDERGROUND MARKING AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC03-011.

Signature

ACCEPTANCE OR REJECTION BY PARTIES INVOLVED IN COMPLAINT OC03-011

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-011.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION OF THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-011, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC03-011.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECTS THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-011, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-011. THIS HEARING SHALL BE CONDUCTED AS A CONTESTED CASE UNDER CHAPTER 1-26. FOLLOWING THE HEARING, THE BOARD SHALL EITHER RENDER A DECISION DISMISSING THE COMPLAINT FOR INSUFFICIENT EVIDENCE OR SHALL IMPOSE A PENALTY PURSUANT TO THE PROVISIONS OF SDCL 49-7A-18 OR SDCL 49-7A-19.

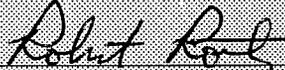
IF YOU DESIRE TO REJECT THE RESOLUTION OF THE ALLEGE VIOLATION, YOU SHOULD COMPLETE THE FOLLOWING AND RETURN TO THE ADDRESS BELOW PRIOR TO THE CLOSE OF BUSINESS ON OCTOBER 16, 2003

SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
1012 N SYCAMORE AVENUE
SIOUX FALLS, SD 57110-5747

PURSUANT TO SDCL 15-6-55, FAILURE TO ANSWER THIS COMPLAINT RESOLUTION COULD RESULT IN A DEFAULT JUDGEMENT BEING ISSUED AGAINST YOU. APPROPRIATE LIENS AND OTHER LEGAL COLLECTION ACTIONS COULD RESULT.

VIOLATION OF SDCL 49-7A-8 LOCATION OF UNDERGROUND MARKING

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC03-011 VIOLATION OF SDCL 49-7A-8 LOCATION OF UNDERGROUND MARKING.



Signature

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC03-011 VIOLATION OF SDCL 49-7A-8 LOCATION OF UNDERGROUND MARKING AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC03-011.

Signature