

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

January 16, 2004

RECEIVED

FEB 10 2004

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Dick Woelber
Soo Sanitary
48414 Redrock Road,
Valley Springs, SD 57068

Ray DeJong, Operations Manager
Sioux Valley Energy
P.O. Box 216,
Colman, SD 57017

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on January 13, 2004, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC03-013 filed by Sioux Valley Energy against Soo Sanitary.

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-5

The Enforcement Committee found that there was probable cause that Soo Sanitary had violated SDCL 49-7A-5 by commencing excavation without providing the required notice to the South Dakota One Call System.

The committee recommends a penalty of five hundred dollars (\$500.00) with three hundred dollars (\$300.00) suspended on the basis that Soo Sanitary fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC03-013.

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 February 11, 2004 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 (s) alleged in OC03-013. 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 Direct

**ENFORCEMENT COMMITTEE ACTION
OC03-013**

**Sioux Valley Energy vs. Soo Sanitary
FOR ENFORCEMENT COMMITTEE USE ONLY**

REMARKS:

Alleged Violation of SDCL 49-7A-5 Notification of Proposed Excavation

Allegation is made by Sioux Valley Energy that Soo Sanitary commenced excavation at 1745 Dawley Court, Brandon, SD, without providing the required notification to the South Dakota One Call System.

The response received from Soo Sanitary did not dispute the facts alleged by Sioux Valley Energy in this complaint but did indicate that this was an isolated incident and that Soo Sanitary regularly notified the South Dakota One Call System prior to commencing excavation.

Based on the information provided by Sioux Valley Energy and the fact that the response did not dispute the facts presented, the Committee found that there was probable cause that Soo Sanitary had violated SDCL 49-7A-5 by commencing excavation without providing prior notification to the South Dakota One Call System.

RECOMMENDATION

FOR ENFORCEMENT COMMITTEE USE ONLY

VIOLATION OF SOUTH DAKOTA SDCL 49-7A-5:

The Committee found that Soo Sanitary had violated SDCL 49-7A-5 by commencing excavation without providing prior notification of excavation to the South Dakota One Call System..

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 Soo Sanitary fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC03-013.

COMMENTS:

ACCEPTANCE OR REJECTION BY PARTIES INVOLVED IN COMPLAINT OC03-013

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-013.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-013, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC03-013.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC03-013, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO VIOLATION(S) ALLEGED IN COMPLAINT NUMBER OC03-013. 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.

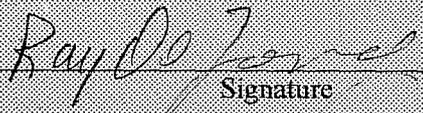
IF YOU DESIRE TO REJECT THE RESOLUTION OF ANY OF THE ALLEGE VIOLATIONS, YOU SHOULD COMPLETE THE FOLLOWING AND RETURN TO THE ADDRESS BELOW PRIOR TO THE CLOSE OF BUSINESS ON FEBRUARY 11, 2004.

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-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC03-013 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.



Signature

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC03-013 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC03-013.

Signature

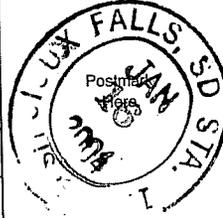
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Certified Fee	230
Return Receipt Fee (Endorsement Required)	175
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To
Ray DeJong, Operations Manager
Street, Apt. No.; or PO Box No. **Sioux Valley Energy**
P.O. Box 216,
City, State, ZIP+4 **Colman, SD 57017**

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:

Ray DeJong, Operations Manager
Sioux Valley Energy
P.O. Box 216,
Colman, SD 57017

2. Article Number
(Transfer from service)

7002 2410 0006 0451 8271

PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-Z-0985

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Agent
 Addressee

B. Received by (*Printed Name*)
Jody Lebahn

C. Date of Delivery
1-20-04

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

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Total Postage & Fees	\$ 4.42



Sent To

Dick Woelber
 Street, Apt. No., or PO Box No. **Soo Sanitary**
48414 Redrock Road,
 City, State, ZIP+4 **Valley Springs, SD 57068**

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> 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. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Dick Woelber</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Dick Woelber</i></p> <p>C. Date of Delivery <i>1/21/04</i></p> <p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes if YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Dick Woelber Soo Sanitary 48414 Redrock Road, Valley Springs, SD 57068</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number 7002 2410 0006 0451 8417 <i>(Transfer from service label)</i></p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

SOO SANITARY TRENCHING & BACKHOE SERVICE
DICK WOELBER
LIC. 475464163
PH (605)582-7140
48414 RED ROCK ROAD
VALLEY SPRINGS, SD 57068

Date Feb 5, 04 9104
78-859/914

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First Premier Bank
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Sioux Falls, SD 57104

Memo _____ Dick Woelber 

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