



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

TO: PRAIRIE HILLS CONSTRUCTION

FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

RE: NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;

In the Matter of the Complaint OC04-002 filed by GoldenWest Telecommunications Cooperative, Inc. against Prairie Hills Construction regarding a failure to provide notification of proposed excavation as required by SDCL 49-7A-5 and a failure to provide notification of damage to an underground facility as required by SDCL 49-7A-12.

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against Prairie Hills Construction. 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 **May 7, 2004**, 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. We would encourage you to specifically address the two alleged violations stated in the complaint:

1. Failure to provide notification of the proposed excavation and
2. Failure to provide notification to GoldenWest Telecommunications or the South Dakota One Call Center of the damage to the 50 pair communications cable.

Furthermore, the complaint alleges two specific actions that should probable cause be determined, may impact on the amount of the penalty assessed. We would encourage you to specifically address these two factors in your response.

1. You were advised, prior to the start of the excavation activity, that communications terminals were in the proximity of your excavation which would indicate the presence of underground facilities.
2. After initial damage to the communications cable occurred, Prairie Hills Construction continued the excavation project resulting in additional cable being damaged.

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 or SDCL 49-7A-19. If any financial penalties are assessed in response to Complaint OC04-002, the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

1. The amount of damage
2. The degree of threat to the public safety, and
3. The public inconvenience caused;
4. The respondent's plans and procedures to insure future compliance with statute and rules;
5. Any history of previous violations;
6. Other matters as justice requires.

You may want to address any of these items in your response if you believe it would be of value to the committee when they consider this complaint.

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 ezedir@sdonecall.com.

Enclosure

cc: Kevin Peters, GoldenWest Telecommunications Cooperative, Inc., Complainant (cover letter only via email)

7002 2410 0006 0451 8318

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
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Total Postage & Fees	\$ 5.34



Sent To **Brian Schweigert**
 Street, Apt. No., or PO Box No. **Prairie Hills Construction**
 City, State, ZIP+4 **28172 347th Avenue**
Winner, SD

PS Form 3800, Jun

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:

Brian Schweigert
Prairie Hills Construction
28172 347th Avenue
~~Winner, SD~~
Burke SD, 57523

2. Article Number
 (Transfer from service label) **7002 2410 0006 0451 8318**

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *Julie Schweigert* Agent Addressee

B. Received by (Printed Name) **Julie Schweigert** C. Date of Delivery **4-23-04**

D. Is delivery address different from item 1? Yes
 if YES, enter delivery address below: No
28172 347TH AVENUE
BURKE SD 57523

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

4. Restricted Delivery? (Extra Fee) Yes