

South Dakota One Call Notification Board



Larry Englerth
Executive Director

1012 North Sycamore Ave.
Sioux Falls, SD 57110

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June 2, 2004

City of Brandon
Wayne Fletcher, Director of Public Works
P.O. Box 95
Brandon, SD 57005

Jeremy Scadden Construction
120 Olson Street
Valley Springs, SD 57068

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on June 2, 2004, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC04-004(A,B,C, & D) filed by City of Brandon against Jeremy Scadden Construction.

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

Complaint OC04-004(A)

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

The Enforcement Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing without providing advance notification 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 Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004(A).

Complaint OC04-004(B)

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

The Enforcement Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing without providing advance notification to the South Dakota One Call System.

The committee recommends a penalty of five-hundred dollars (\$500.00) with five-hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004(B).

Complaint OC04-004(C)

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

The Enforcement Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing without providing advance notification to the South Dakota One Call System.

The committee recommends a penalty of five-hundred dollars (\$500.00) with five-hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004(C).

Complaint OC04-004(D)

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

The Enforcement Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing without providing advance notification to the South Dakota One Call System.

The committee recommends a penalty of five-hundred dollars (\$500.00) with five-hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004(D).

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

Under SDCL 49-7A-27 either party may accept the recommendation of the Enforcement Committee or reject the recommendation of the Enforcement Committee by requesting a formal hearing on either or both of the violations alleged in this complaint. Your decision should be reflected on the third page of the attachment. **Please return the signed form prior to the close of business on June 18, 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 either or both of the alleged violations, 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 the rejected complaint(s). 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 or SDCL 49-7A-19..

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

ENFORCEMENT COMMITTEE ACTION
OC04-004 (A)
City of Brandon vs. Jeremy Scadden Construction

FINDINGS:

OC04-004 (A)

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

Allegation is made by City of Brandon that Jeremy Scadden Construction commenced excavation at 113 Country Club Avenue, Brandon, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

The response received from Jeremy Scadden Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by City of Brandon and the response from Jeremy Scadden Construction, the committee determined the following:

Jeremy Scadden Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC04-004 (A)

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

The Committee found that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing excavation at 113 Country Club Avenue, Brandon, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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 Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004 (A).

COMMENTS:

The committee would recommend that Jeremy Scadden Construction thoroughly review the Operations Manual for Facility Operators and Excavators that was enclosed with the complaint documents. This will clarify that notification of the South Dakota One Call System is required for almost all excavation activity with the exception of the exclusion stated under the definition of Excavation in SDCL 49-7A-1.

ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC04-004 (A)

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(A).

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(A), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC04-004(A).

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(A). THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(A). 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.

TO ACCEPT OR 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 JUNE 18, 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.

OC04-004 (A)

VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(A) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.


Signature
Jeremy Scadden Construction

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(A) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC04-004(A).

Signature
Jeremy Scadden Construction

ENFORCEMENT COMMITTEE ACTION
OC04-004 (B)
City of Brandon vs. Jeremy Scadden Construction

FINDINGS:

OC04-004 (B)

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

Allegation is made by City of Brandon that Jeremy Scadden Construction commenced excavation at 2200 Byrum Circle, Brandon, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

The response received from Jeremy Scadden Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by City of Brandon and the response from Jeremy Scadden Construction, the committee determined the following:

Jeremy Scadden Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC04-004 (B)

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

The Committee found that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing excavation at 2200 Byrum Circle, Brandon, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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

The committee recommends a penalty of five hundred dollars (\$500.00) with five hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004 (B).

COMMENTS:

The committee would recommend that Jeremy Scadden Construction thoroughly review the Operations Manual for Facility Operators and Excavators that was enclosed with the complaint documents. This will clarify that notification of the South Dakota One Call System is required for almost all excavation activity with the exception of the exclusion stated under the definition of Excavation in SDCL 49-7A-1.

ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC04-004 (B)

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(B).

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(B), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC04-004(B).

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(B). THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(B). 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.

TO ACCEPT OR 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 JUNE 18, 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.

OC04-004 (B)

VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(B) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.


Signature
Jeremy Scadden Construction

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(B) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC04-004(B).

Signature
Jeremy Scadden Construction

ENFORCEMENT COMMITTEE ACTION
OC04-004 (C)
City of Brandon vs. Jeremy Scadden Construction

FINDINGS:

OC04-004 (C)

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

Allegation is made by City of Brandon that Jeremy Scadden Construction commenced excavation at 200 Seth Street, Brandon, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

The response received from Jeremy Scadden Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by City of Brandon and the response from Jeremy Scadden Construction, the committee determined the following:

Jeremy Scadden Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC04-004 (C)

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

The Committee found that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing excavation at 200 Seth Street, Brandon, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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

The committee recommends a penalty of five hundred dollars (\$500.00) with five hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004 ©.

COMMENTS:

The committee would recommend that Jeremy Scadden Construction thoroughly review the Operations Manual for Facility Operators and Excavators that was enclosed with the complaint documents. This will clarify that notification of the South Dakota One Call System is required for almost all excavation activity with the exception of the exclusion stated under the definition of Excavation in SDCL 49-7A-1.

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC04-004 (C)**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(C).

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(C), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC04-004(C).

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(C). THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(C). 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.

TO ACCEPT OR 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 JUNE 18, 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.

OC04-004 (C)

VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(C) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.


Signature
Jeremy Scadden Construction

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(C) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC04-004(C).

Signature
Jeremy Scadden Construction

ENFORCEMENT COMMITTEE ACTION
OC04-004 (D)
City of Brandon vs. Jeremy Scadden Construction

FINDINGS:

OC04-004 (D)

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

Allegation is made by City of Brandon that Jeremy Scadden Construction commenced excavation at 1705 Mulberry Street, Brandon, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

The response received from Jeremy Scadden Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by City of Brandon and the response from Jeremy Scadden Construction, the committee determined the following:

Jeremy Scadden Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC04-004 (D)

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

The Committee found that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing excavation at 1705 Mulberry Street, Brandon, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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

The committee recommends a penalty of five hundred dollars (\$500.00) with five hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004 (D).

COMMENTS:

The committee would recommend that Jeremy Scadden Construction thoroughly review the Operations Manual for Facility Operators and Excavators that was enclosed with the complaint documents. This will clarify that notification of the South Dakota One Call System is required for almost all excavation activity with the exception of the exclusion stated under the definition of Excavation in SDCL 49-7A-1.

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC04-004 (D)**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(D).

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(D), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC04-004(D).

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(D). THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(D). 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.

TO ACCEPT OR 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 JUNE 18, 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.

OC04-004 (D)

VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(D) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.


Signature
Jeremy Scadden Construction

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(D) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC04-004(D).

Signature
Jeremy Scadden Construction

ENFORCEMENT COMMITTEE ACTION
OC04-004 (A)
City of Brandon vs. Jeremy Scadden Construction

FINDINGS:

OC04-004 (A)

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

Allegation is made by City of Brandon that Jeremy Scadden Construction commenced excavation at 113 Country Club Avenue, Brandon, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

The response received from Jeremy Scadden Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by City of Brandon and the response from Jeremy Scadden Construction, the committee determined the following:

Jeremy Scadden Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC04-004 (A)

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

The Committee found that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing excavation at 113 Country Club Avenue, Brandon, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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 Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004 (A).

COMMENTS:

The committee would recommend that Jeremy Scadden Construction thoroughly review the Operations Manual for Facility Operators and Excavators that was enclosed with the complaint documents. This will clarify that notification of the South Dakota One Call System is required for almost all excavation activity with the exception of the exclusion stated under the definition of Excavation in SDCL 49-7A-1.

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC04-004 (A)**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(A).

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(A), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC04-004(A).

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(A). THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(A). 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.

TO ACCEPT OR 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 JUNE 18, 2004.

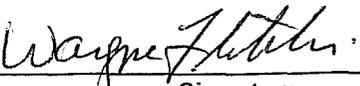
SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
1012 N. SYCAMORE AVENUE
SIOUX FALLS, SD 57110-5747

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.

OC04-004 (A)

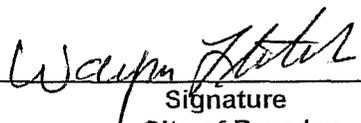
VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(A) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.



Signature
City of Brandon

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(A) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC04-004(A).



Signature
City of Brandon

ENFORCEMENT COMMITTEE ACTION
OC04-004 (B)
City of Brandon vs. Jeremy Scadden Construction

FINDINGS:

OC04-004 (B)

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

Allegation is made by City of Brandon that Jeremy Scadden Construction commenced excavation at 2200 Byrum Circle, Brandon, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

The response received from Jeremy Scadden Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by City of Brandon and the response from Jeremy Scadden Construction, the committee determined the following:

Jeremy Scadden Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC04-004 (B)

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

The Committee found that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing excavation at 2200 Byrum Circle, Brandon, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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

The committee recommends a penalty of five hundred dollars (\$500.00) with five hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004 (B).

COMMENTS:

The committee would recommend that Jeremy Scadden Construction thoroughly review the Operations Manual for Facility Operators and Excavators that was enclosed with the complaint documents. This will clarify that notification of the South Dakota One Call System is required for almost all excavation activity with the exception of the exclusion stated under the definition of Excavation in SDCL 49-7A-1.

ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC04-004 (B)

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(B).

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(B), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC04-004(B).

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(B). THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(B). 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.

TO ACCEPT OR 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 JUNE 18, 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.

OC04-004 (B)

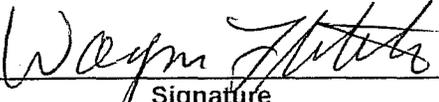
VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(B) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.



Signature
City of Brandon

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(B) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC04-004(B).



Signature
City of Brandon

ENFORCEMENT COMMITTEE ACTION
OC04-004 (C)
City of Brandon vs. Jeremy Scadden Construction

FINDINGS:

OC04-004 (C)

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

Allegation is made by City of Brandon that Jeremy Scadden Construction commenced excavation at 200 Seth Street, Brandon, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

The response received from Jeremy Scadden Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by City of Brandon and the response from Jeremy Scadden Construction, the committee determined the following:

Jeremy Scadden Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC04-004 (C)

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

The Committee found that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing excavation at 200 Seth Street, Brandon, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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

The committee recommends a penalty of five hundred dollars (\$500.00) with five hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004 ©.

COMMENTS:

The committee would recommend that Jeremy Scadden Construction thoroughly review the Operations Manual for Facility Operators and Excavators that was enclosed with the complaint documents. This will clarify that notification of the South Dakota One Call System is required for almost all excavation activity with the exception of the exclusion stated under the definition of Excavation in SDCL 49-7A-1.

ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC04-004 (C)

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(C).

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(C), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC04-004(C).

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(C). THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(C). 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.

TO ACCEPT OR 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 JUNE 18, 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.

OC04-004 (C)

VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(C) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.



Signature
City of Brandon

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(C) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC04-004(C).



Signature
City of Brandon

ENFORCEMENT COMMITTEE ACTION
OC04-004 (D)
City of Brandon vs. Jeremy Scadden Construction

FINDINGS:

OC04-004 (D)

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

Allegation is made by City of Brandon that Jeremy Scadden Construction commenced excavation at 1705 Mulberry Street, Brandon, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

The response received from Jeremy Scadden Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by City of Brandon and the response from Jeremy Scadden Construction, the committee determined the following:

Jeremy Scadden Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Jeremy Scadden Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC04-004 (D)

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

The Committee found that Jeremy Scadden Construction had violated SDCL 49-7A-5 by commencing excavation at 1705 Mulberry Street, Brandon, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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

The committee recommends a penalty of five hundred dollars (\$500.00) with five hundred dollars (\$500.00) suspended on the basis that Jeremy Scadden Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC04-004 (D).

COMMENTS:

The committee would recommend that Jeremy Scadden Construction thoroughly review the Operations Manual for Facility Operators and Excavators that was enclosed with the complaint documents. This will clarify that notification of the South Dakota One Call System is required for almost all excavation activity with the exception of the exclusion stated under the definition of Excavation in SDCL 49-7A-1.

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC04-004 (D)**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(D).

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(D), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC04-004(D).

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(D), THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC04-004(D). 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.

TO ACCEPT OR 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 JUNE 18, 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.

OC04-004 (D)

VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(D) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.



Signature
City of Brandon

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC04-004(D) VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC04-004(D).



Signature
City of Brandon

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. 	A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee <i>Jerusa Schadden</i>
1. Article Addressed to:	B. Received by (Printed Name) C. Date of Delivery <i>Jerusa Schadden</i> <i>June 17, 2004</i>
Jeremy Scadden Construction 120 Olson Street Valley Springs, SD 57068	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
2. Article Number (Transfer from service label)	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. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
PS Form 3811, August 2001	Domestic Return Receipt 102595-02-M-1540

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. 	A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>Judith A. Nordford</i>
1. Article Addressed to:	B. Received by (Printed Name) C. Date of Delivery <i>Judith A. Nordford</i> <i>6-4-04</i>
City of Brandon Wayne Fletcher, P.O. Box 95 Brandon, SD 57005	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
2. Article Number (Transfer from service label)	3. Service Type <input 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. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
PS Form 3811, August 2001	Domestic Return Receipt 102595-02-M-1540