



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: AMERICAN UNDERGROUND

FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

RE: NOTICE OF COMPLAINTS; DEADLINE FOR ANSWER;

In the Matter of the Complaints OC04-011(A), OC04-012, OC04-013 & OC04-014 filed by Crooks Municipal Utilities against American Underground regarding a failure to provide notification of proposed excavation as required by SDCL 49-7A-5 and Complaint OC04-011(B) regarding a failure to hand expose a marked facility as required by SDCL 49-7A-8.

You are hereby notified that the enclosed complaints as referenced above have been filed with the South Dakota One Call Notification Board against American Underground. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you are required to answer these complaints in writing, no later than the close of business on October 8, 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. Pursuant to SDCL 49-7A-20 each violation constitutes a separate offence. We would encourage you to specifically address the alleged violations of SDCL 49-7A-5 and SDCL 49-7A-8 referenced in the complaints.

- OC04-011(A) - Failure to provide at least 48 hours notice prior to the commencement of excavation at 501 Kelsey Circle in Crooks, SD.
- OC04-011(B) - Failure to hand expose a marked facility
- OC04-012 - Failure to provide at least 48 hours notice prior to the commencement of excavation at 505 Kelsey Circle in Crooks, SD.
- OC04-013 - Failure to provide at least 48 hours notice prior to the commencement of excavation at 600 Kelsey Circle in Crooks, SD.
- OC04-014 - Failure to provide at least 48 hours notice prior to the commencement of excavation at 601 Kelsey Circle in Crooks, SD.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaints and associated response. Failure to respond to this notice will be considered as concurrence that the allegations included in the Complaints are accurate. If probable

cause is determined, the panel may recommend penalties under SDCL 49-7A-18 or SDCL 49-7A-19. If financial penalties are assessed in response to Complaints OC04-011, OC04-012, OC04-013 & OC04-014, 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 address any of these items in your response if you believe it would be of value to the committee when they consider these complaints.

Pursuant to SDCL 15-6-55, failure to answer these complaints 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 advice 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.

Enclosure

cc: Ginny Beck, Crooks Municipal Utilities, Complainant (cover letter only via email)

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:

American Underground
23813 474th Avenue
Dell Rapids, SD 57022

2. Article Number
(Transfer from service label)

7003 1010 0000 7864 9279

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Jennifer Hennrich Agent
 Addressee

B. Received by (Printed Name)

Jen Hennrich

C. Date of Delivery

9-18-09

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