

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

March 11, 2005

Kevin

Keith Buehner

334-8141

Action Electric

5200 W. 9th Street

Sioux Falls, SD 57107

Ron Kleinsasser

Kaneb Pipe Line

3721 S. Grange Ave.

Sioux Falls, SD 57105

yes - accepted

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on March 11, 2005, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC05-001 filed by Kaneb Pipe Line against Action Electric.

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 OC05-001

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

The Enforcement Committee found that there was probable cause that Action Electric had violated SDCL 49-7A-5 by commencing excavation prior to the forty-eight hour advance notification required by the statute.

The committee recommends a penalty of five-hundred dollars (\$500.00) with five-hundred dollars (\$500.00) suspended on the basis that Action Electric fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC05-001 by both parties involved.

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 the violation alleged in this complaint. Your decision should be reflected on the second page of the attachment. **Please return the signed form prior to the close of business on March 25, 2005 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 alleged in the rejected complaint. 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 advice of counsel should you have any legal questions.**

Sincerely,

Larry L. Englerth
Executive Director

ENFORCEMENT COMMITTEE ACTION

OC05-001

Kaneb Pipe Line vs. Action Electric

FINDINGS:

OC05-001

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

Allegation is made by Kaneb Pipe Line that Action Electric commenced excavation on Ticket Number 050240005 on January 25, 2005, prior to the start date on the locate request of January 26, 2005.

The response received from Action Electric did not dispute the allegation that excavation activity had commenced prior to the start date on the ticket. Action Electric did provide information that identified Ticket Number 043430057 had been called in for the same site on December 8, 2004

In reviewing the complaint filed by Kaneb Pipe Line and the response from Action Electric, the committee determined the following:

1. Action Electric had commenced excavation activity prior to the start date on the locate request 050240005.
2. Action Electric had made a previous locate (043430057) which had the same information and marking instructions as 050240005
3. Kaneb Pipe Line had marked the original locate request (043430057) but had not located or cleared the subsequent locate request (050240005) prior to the start of excavation by Action Electric.

Based on the information noted above, the Committee found that there was probable cause that Action Electric had violated SDCL 49-7A-5 by commencing excavation prior to the start date on ticket number 050240005.

RECOMMENDATION

OC05-001

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

The Committee found that Action Electric had violated SDCL 49-7A-5 by commencing excavation on January 25, 2005 which was prior to the start date on the locate request of January 26, 2005 .

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 Action Electric fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC05-001 by both parties.

COMMENTS:

Based on the information provided it is the Committee's desire to insure that proper safety methods are followed and that the parties develop an effective working relationship in a joint effort to prevent damage to underground facilities and provide a safe working environment for excavation employees. Consideration was given to Action Electric for meeting with Kaneb Pipe Line and developing an understanding of their needs as they apply to future excavation activities.

ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC05-001

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC05-001.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC05-001, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC05-001.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC05-001. THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC05-001. 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 MARCH 25, 2005.

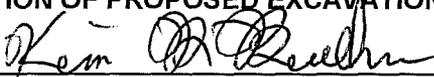
SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
1012 N. SYCAMORE AVENUE
SIOUX FALLS, SD 57110-5747

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.

OC05-001

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

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC05-001 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.



Signature – Action Electric



Date

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC05-001 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC05-001.

Signature – Action Electric

Date

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC05-001**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC05-001.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC05-001, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC05-001.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC05-001. THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC05-001. 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.

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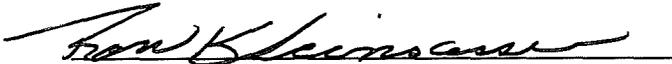
SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
1012 N. SYCAMORE AVENUE
SIOUX FALLS, SD 57110-5747

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.

OC05-001

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

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC05-001 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.


Signature – Kanab Pipe Line


Date

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC05-001 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC05-001.

Signature – Kanab Pipe Line

Date



ORDER

[Home](#)

Track & Confirm

Current Status

You entered 0304 1560 0000 3762 4702

Your item was delivered at 11:07 am on April 05, 2005 in SIOUX FALLS, SD 57105.

Notification Options

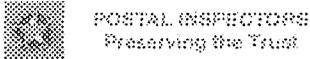
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DELIVERY CONFIRMATION NUMBER: 0304 1560 0000 3762 4702

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)
 Kon

(Please Print Clearly)

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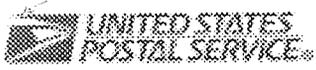
Priority Mail™ Service

First-Class Mail® parcel

Package Services parcel

PS Form 152, May 2002

(See Reverse)



Order

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Track & Confirm

Current Status

You entered 0304 1560 0000 3762 4696

Your item was delivered at 8:02 am on April 05, 2005 in SIOUX FALLS, SD 57107.

Notification Options

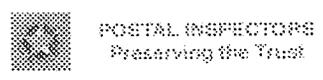
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Article Sent To: (to be completed by mailer)
Kevin
(Please Print Clearly)

DELIVERY CONFIRMATION NUMBER: 0304 1560 0000 3762 4696

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PS Form 152, May 2002 (See Reverse)

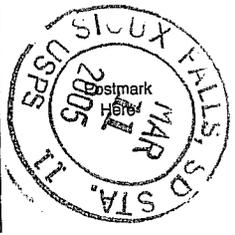
7003 1010 0000 7864 8074

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Certified Fee	230
Return Receipt Fee (Endorsement Required)	175
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 442



Sent To **Keith Buehner**
 Action Electric
 5200 W. 9th Street
 Sioux Falls, SD 57107

PS Form 3800, June 2002 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:

Keith Buehner
 Action Electric
 5200 W. 9th Street
 Sioux Falls, SD 57107

2. Article Description (Print)

PS Form 3800, June 2002

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Jo Anne Koerner Agent Addressee

B. Received by (Printed Name)
 C. Date of Delivery
 3-14-05

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

102595-02-M-1540

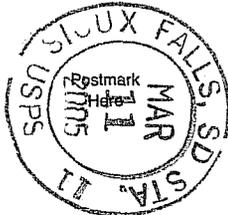
7003 1010 0000 7864 8096

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



Sent To: Ron Kleinsasser
 Street, Apt. No.; or PO Box No.: Kaneb Pipe Line
 City, State, ZIP+4: 3721 S. Grange Ave. Sioux Falls, SD 57105

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. 	A. Signature: <i>Debra Kubegask</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> Ron Kleinsasser Kaneb Pipe Line 3721 S. Grange Ave. Sioux Falls, SD 57105 </div>	B. Received by (Printed Name): C. Date of Delivery: 3-7-14
2. Article Description (Trade Item): PS Form 3800, June 2002	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No 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