

**BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD**

IN THE MATTER OF THE COMPLAINT FILED)	NOTICE OF HEARING
BY MONTANA-DAKOTA UTILITIES CO., RAPID)	
CITY, SOUTH DAKOTA, AGAINST VINCE)	OC05-005
FINKHOUSE D/B/A EAGLE EXCAVATING,)	
RAPID CITY, SOUTH DAKOTA)	

On July 1, 2005, pursuant to SDCL 49-7A-17, the South Dakota One Call Board (Board) received a complaint filed by Montana-Dakota Utilities Co., Rapid City, South Dakota (MDU), against Vince Finkhouse d/b/a Eagle Excavating, Rapid City, South Dakota (Finkhouse). According to the complaint, Finkhouse damaged a natural gas line owned by MDU while excavating. The complaint alleged that Finkhouse: 1) failed to notify the one-call center before excavating in violation of SDCL 49-7A-5, 2) failed to hand-dig and expose the natural gas facility in violation of SDCL 49-7A-8 and 3) failed to notify MDU of the damage and instead attempted to repair and conceal the damage in violation of SDCL 49-7A-12.

Pursuant to SDCL 49-7A-23 and 49-7A-24, a copy of the complaint was forwarded to Finkhouse via certified mail sent on July 7, 2005, advising him that he must file an answer in writing by July 29, 2005. Return receipt indicates that Johnson signed for the notice on July 14, 2005. Finkhouse has not filed an answer to this complaint. Pursuant to SDCL 49-7A-22, a five member panel (Panel) was appointed by Kevin Kouba, Chairman of the Board, for the purpose of determining whether there was probable cause to believe there had been a violation of any statute or rule of the Board. The Panel met on August 19, 2005. Pursuant to SDCL 49-7A-25, based on the complaint filed by MDU, the Panel determined by unanimous vote that there had been violations of the statutes as alleged in the complaint.

Pursuant to SDCL 49-7A-27, a copy of the Panel's recommendations was sent to the parties. On September 7, 2005, the Board received an acceptance of the Panel's recommendations from MDU. The Board has not received an acceptance or rejection of the Panel's recommendations from Finkhouse.

The Board finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-7A, including 49-7A-2, 49-7A-4, 49-7A-5, 49-7A-8, 49-7A-10, 49-7A-12, 49-7A-17 through 49-7A-27, inclusive, and SDCL Chapter 1-26.

A hearing shall be held on November 8, 2005, at 1:30 p.m. in Room 413, State Capitol, 500 East Capitol, Pierre, SD. All persons testifying will be subject to cross-examination by the parties.

The issues at the hearing shall be: 1) whether Finkhouse violated SDCL 48-7A-5 by commencing excavation without providing advance notification to the one-call center; 2) whether Finkhouse violated SDCL 49-7A-8 by failing to properly expose a marked

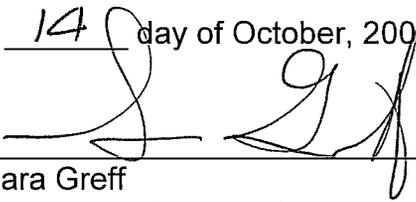
underground utility line; and, 3) whether Finkhouse failed to notify MDU of the damage and instead attempted to repair and conceal the damage in violation of SDCL 49-7A-12. Also at issue shall be whether penalties shall be imposed by the Board pursuant to SDCL 49-7A-18 and/or 49-7A-19, and, if so, what those penalties shall be.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Board will consider all evidence and testimony that was presented at the hearing. The Board will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Board shall determine whether Finkhouse violated any statute or rule of the Board, and, if so, whether any penalties shall be imposed.

The Board's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please call 1-800-781-7474 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 14 day of October, 2005.



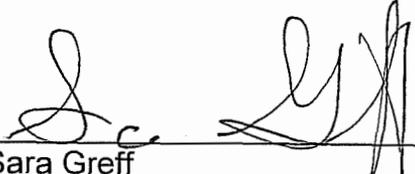
Sara Greff
Attorney for the One Call Board
500 East Capitol
Pierre, SD 57501
Telephone (605) 773-3201

CERTIFICATE OF SERVICE

I hereby certify that copies of Notice of Hearing were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the addresses shown below on this the 14 day of October, 2005.

Mr. Jim Mann
Montana-Dakota Utilities Co.
P.O. Box 1060.
Rapid City, SD 57709-1060

Mr. Vince Finkhouse
d/b/a Eagle Excavating
4201 South Interstate 90
Rapid City, SD 57703



Sara Greff
Attorney for the One Call Board