



Larry Englerth
Executive Director

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July 28, 2006

Levi Tschetter
Poinsett Colony
RR 1, Box 146
Estelline, SD 57234

RECEIVED

JUL 31 2006

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Mike Garry
Northern Natural Gas
47493 272nd St.
Harrisburg, SD 57032

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on July 28, 2006, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC06-005 filed by Northern Natural Gas against Poinsett Colony

By a unanimous vote of the Enforcement Committee, the recommended resolution to the alleged violation included in this complaint was determined to be as follows:

Complaint OC06-005

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

The Committee found there was probable cause that Poinsett Colony had violated SDCL 49-7A-5 by commencing excavation in Hamlin County at Section 25, Township 114, Range 51W (approximately ½ mile south of the intersection of 465th Avenue and 188th Street), without providing advance notification to the South Dakota One Call System as required by statute.

The committee recommends a penalty of five hundred dollars (\$500.00) with three hundred dollars (\$300.00) suspended on the following conditions:

1. Poinsett Colony fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC06-005 by both parties.
2. Poinsett Colony fully complies with the resolution of Complaint OC06-005 by making payment of the two

hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC06-005.

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 with the header "Acceptance or Rejection by Parties. **Please return the signed and dated form prior to the close of business on August 18, 2006 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 the alleged violation, 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.**

If you have any procedural questions relative to this complaint, please contact me at 605-339-0529 or by email at exedir@sdonecall.com. I would request that you do not contact any members of the South Dakota One Call Notification Board to discuss this complaint. Since they may be involved in the Chapter 1-26 hearing to resolve of the complaint, they have been advised by legal counsel to not discuss any pending complaint before the Board.

Sincerely,

Larry L. Englerth
Executive Director

ENFORCEMENT COMMITTEE ACTION

OC06-005

Northern Natural Gas vs. Poinsett Colony

FINDINGS:

OC06-005

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

Allegation is made by Northern Natural Gas that Poinsett Colony commenced excavation in Hamlin County at Section 25, Township 114, Range 51W (approximately ½ mile south of the intersection of 465th Avenue and 188th Street), without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

Poinsett Colony 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 Northern Natural Gas and the response from Poinsett Colony, the committee determined the following:

Poinsett Colony 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 Poinsett Colony had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION

OC06-005

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

The Committee found there was probable cause that Poinsett Colony had violated SDCL 49-7A-5 by commencing excavation in Hamlin County at Section 25, Township 114, Range 51W (approximately ½ mile south of the intersection of 465th Avenue and 188th Street), 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) with three hundred dollars (\$300) suspended on the following conditions:

3. Poinsett Colony fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC06-005 by both parties.
4. Poinsett Colony fully complies with the resolution of Complaint OC06-005 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC06-005.