

South Dakota One Call Notification Board



South Dakota
ONE CALL
1-800-781-7474

Executive Director
Larry L. Englerth

1012 North Sycamore Ave
Sioux Falls, SD 57104

Tel/Fax: (605) 339-0529

Email: exedir@sdonecall.com

August 19, 2006

RECEIVED

AUG 21 2006

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

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

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

The Enforcement Committee recommendation to resolve Complaint OC06-005 has been accepted by both parties involved in the complaint. The order closing this Complaint is attached.

This order will close all action on this complaint with the exception that the suspended portion of the penalty would be applicable should a further violation occur prior to June 30, 2007. Payment of the penalty was made on August 18, 2006.

Sincerely,

Larry L. Englerth
Executive Director

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC06-005**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC06-005.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC06-005, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC06-005.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC06-005. THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC06-005. 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 ALLEGED VIOLATION, YOU SHOULD COMPLETE THE FOLLOWING AND RETURN TO THE ADDRESS BELOW PRIOR TO THE CLOSE OF BUSINESS ON AUGUST 18, 2006.

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.

OC06-005

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

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC06-005 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.


Signature - Poinsett Colony 8-17-06
Date

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC06-005 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC06-005.

Signature - Poinsett Colony

Date

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC06-005**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC06-005.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC06-005, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC06-005.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC06-005. THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC06-005. 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 AUGUST 18, 2006.

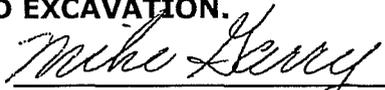
**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
1012 N. SYCAMORE AVENUE
SIOUX FALLS, SD 57110-5747**

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.

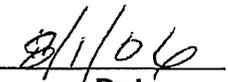
OC06-005

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

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC06-005 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.



Signature - Northern Natural Gas



Date

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC06-005 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC06-005.

Signature - Northern Natural Gas

Date

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

IN THE MATTER OF THE)	ORDER
COMPLAINT AGAINST POINSETT)	OC06-005
COLONY)	

On June 16, 2006, the South Dakota Public Utilities Commission received a complaint from Northern Natural Gas against Poinsett Colony. Poinsett Colony did not dispute the allegation in the complaint that they had excavated without providing advance notice to the South Dakota One Call System but did provide background information on how the violation occurred and their previous history of utilizing the South Dakota One Call System.

On July 28, 2006, the Enforcement Committee of the South Dakota One Call Notification Board met and determined that probable cause exists in Docket OC06-005 in regards to the allegation that Poinsett Colony has violated SDCL 49-7A-5. The Enforcement Committee recommended a five hundred dollar (\$500.00) penalty with three-hundred dollars (\$300.00) suspended on the grounds that Poinsett Colony fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following the date of Poinsett Colony signing the Enforcement Committee Action Agreement and that Poinsett Colony fully comply with the resolution of this complaint by making payment of two-hundred dollars (\$200) within thirty days of the issuance of this order.

All interested parties agreed with the recommendations of the Enforcement Committee. By August 17, 2006, all interested parties had signed the Enforcement Committee Action Agreement.

ORDERED, that the terms and conditions of the Enforcement Committee Action Agreement and the signed Acceptance of the recommended resolutions by both parties shall be incorporated into this Order by reference and attached hereto, the same as if it was fully recited herein and shall as such be fully binding upon the parties to it; and it is

FURTHER ORDERED that the docket in this matter shall be closed.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, 49-7A-26.

Dated at Sioux Falls, South Dakota, this 19th day of August, 2006.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

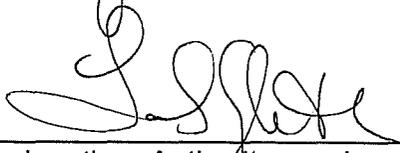

By: _____
Larry Englerth, Executive Director

Date: August 19, 2006

BY ORDER OF THE SD ONE-CALL BOARD:



JERRY SCHROEDER, Chairman



Under the Authority and on Behalf of the
Chairman

LARRY ENGLERTH, Executive Director