



Larry Englerth
Executive Director

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September 28, 2007

Mark Seifkes dba S.P.O.T.
305 Hwy 14 E
DeSmet, SD 57231

John McNamara
One Call Systems, Inc.
115 Evergreen Heights Dr.
Pittsburgh, PA 15229

Under the authority granted by § 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on September 27, 2007, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC07-006 filed by One Call Systems, Inc., against Mark Seifkes dba S.P.O.T.

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 OC07-006

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

The Committee found that since membership in the South Dakota One Call Systems had not been transferred to Mark Seifkes dba S.P.O.T., there was not probable cause that Mark Seifkes dba S.P.O.T. had violated § 49-7A-5 by failing to accept notification of excavation from One Call Systems, Inc. Therefore, One Call Systems, Inc. can remove the membership of D & D Trailer Court and cease the transmission of notifications to Mark Seifkes dba S.P.O.T.

The Committee found that Since Mark Seifkes dba S.P.O.T. is the operator of an underground sewer facility that is not located on the private property of Mark Seifkes dba S.P.O.T. there was probable

cause that Mark Seifkes dba S.P.O.T. had violated § 49-7A-5 by not becoming a member of the South Dakota One Call Notification System.

The committee recommends a penalty of one-thousand dollars (\$1,000.00) with one-thousand dollars (\$1,000.00) suspended on the following conditions:

1. Within sixty-days of the issuance of an order in Complaint OC07-006, Mark Seifkes dba S.P.O.T. fully complies with § 49-7A -5 by completing membership in the South Dakota One Call System and that he fully complies with § 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC07-006 by both parties or
2. Within sixty-days of the issuance of an order in Complaint OC07-006, Mark Seifkes dba S.P.O.T. arranges with a third party, such as the City of DeSmet, to assume responsibility for the receipt of excavation notifications and marking of the sewer line operated by him.

The findings and recommendation of the Enforcement Committee are summarized on the attached form.

Under § 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. Under the same statute, failure to respond to this notice is considered acceptance of the Enforcement Committee recommendation and your right to a hearing is waived. Your decision should be reflected on the third 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 October 22, 2007, to:**

South Dakota One Call Notification Board
c/o Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

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 § 49-7A-18 or § 49-7A-19.

Pursuant to § 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