

ENFORCEMENT COMMITTEE ACTION

OC07-007

City of Crooks vs. Solid Fence Company

FINDINGS:

OC07-007

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

Allegation is made by City of Crooks that Solid Fence Company commenced excavation at 405 South Susan Avenue in Crooks, South Dakota, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5. Allegation is that excavation occurred prior to the start date and time on Locate Request 073090341.

Solid Fence Company did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System. The response did not indicate that Solid Fence Company understood the seriousness of the complaint and potential for damage to property and injury to employees or the general public.

In reviewing the complaint filed by City of Crooks and the response from Solid Fence Company, the committee determined the following:

Solid Fence Company had violated SDCL 49-7A-5 by commencing excavation at 405 South Susan Avenue in Crooks, South Dakota on locate number 073090341 prior to the start date of November 8, 2007.

Based on information provided, the Committee found there is probable cause to find Solid Fence Company violated SDCL 49-7A-5 by commencing excavation at 405 South Susan Avenue in Crooks, South Dakota on locate number 073090341 prior to the start date of November 7, 2007

RECOMMENDATION

OC07-007

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

The Committee found there was probable cause that Solid Fence Company had violated SDCL 49-7A-5 by commencing excavation at 405 South Susan Avenue in Crooks, South Dakota on locate number 073090341 prior to the start date of November 7, 2007.

PROPOSED PENALTY FOR THIS VIOLATION AUTHORIZED UNDER SDCL 49-7A-18:

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

- Solid Fence Company fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC07-007 by both parties.
- Solid Fence Company fully complies with the resolution of Complaint OC07-007 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC07-007.
- Solid Fence Company should be aware that any future violation of SDCL 49-7A or ARSD 20:25 within twelve months from the date of the final order are be subject to additional penalties up to a maximum of \$5000 under SDCL 49-7A-18.