

ENFORCEMENT COMMITTEE ACTION

OC07-008

PrairieWave Communications vs. City of Hurley

FINDINGS: OC07-008

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

Allegation is made by PrairieWave Communications that City of Hurley commenced excavation at south edge of the city limits in Hurley, South Dakota, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

City of Hurley 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 PrairieWave Communications and the response from City of Hurley, the committee determined the following:

City of Hurley had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found there is probable cause to find the City of Hurley violated SDCL 49-7A-5 by commencing excavation at the south edge of the city limits in Hurley, South Dakota, without providing advance notification to the South Dakota One Call System as required by statute.

RECOMMENDATION OC07-008

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

The Committee found there was probable cause that City of Hurley had violated SDCL 49-7A-5 by commencing excavation at south edge of the city limits in Hurley, South Dakota 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 (\$500.00) with three hundred dollars (\$300.00) suspended on the following conditions:

- City of Hurley fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC07-008 by both parties.
- City of Hurley fully complies with the resolution of Complaint OC07-008 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC07-008.
- City of Hurley 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.

COMMENTS: