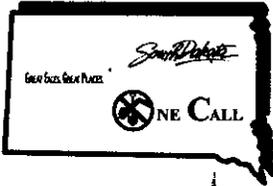


Safe digging is no accident. Always call 811 before digging.



**Know what's below.
Call before you dig.**



Larry Englerth
Executive Director

1012 North Sycamore Ave.
Sioux Falls, SD 57110

Tel/Fax (605) 339-0529
Email: exedir@sdonecall.com

TO: VANDERPOL DRAGLINE INC.
FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
DATE: SEPTEMBER 11, 2008
RE: NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;

In the Matter of the Complaint OC08-006 filed by Northwestern Energy against the Vanderpol Dragline Inc., regarding a failure to provide notification of proposed excavation as required by SDCL 49-7A-5.

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against the Vanderpol Dragline Inc. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you are required to answer this complaint in writing, no later than the close of business On October 3, 2008, by filing the original and two copies of the answer at the address listed below and by serving a copy on the complainant or you may file your response electronically at <http://www.state.sd.us/puc/EFilingOptions.aspx>.

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

Your answer should be as thorough and detailed as possible and should include any documentation that supports your position e.g. witness statements, pictures, etc. We would encourage you to specifically address the alleged violation of SDCL 49-7A-5 referenced in this complaints

OC08-006

Failure to provide advance notification to the South Dakota One Call Notification Center prior to commencing excavation on August 25th at the intersection of SD Hwy 25 and Cherry Street in Scotland, SD.

Northwestern Energy has requested that penalties be assessed under SDCL 49-7A-19 on this complaint. The complaint alleges that no corrective action was taken to be in compliance with South Dakota Statutes after the incident on August 18th and August 20th, therefore, additional penalties should be assessed for intentional disregard for the statute.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaint and associated response. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 or SDCL 49-7A-19. If any financial penalties are assessed in response to Complaint OC08-006, the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

1. The amount of damage
2. The degree of threat to the public safety, and
3. The public inconvenience caused;
4. The respondent's plans and procedures to insure future compliance with statute and rules;
5. Any history of previous violations;
6. Other matters as justice requires.

You may address any of these items in your response if you believe it would be of value to the Enforcement Panel when they consider these complaints.

Pursuant to SDCL 15-6-55, failure to answer these Complaints 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.

A copy of the Operations Manual for Facility Operators and Excavators, the South Dakota One Call Statute and associated Administrative Rules are available on our web site www.sdonecall.com.

Procedural questions may be directed to Larry Englerth, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to 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 Enforcement Panel review and/or a 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.

Enclosure: Copy of complaint

cc: Dan Wolf, Northwestern Energy (via email)

ONE CALL COMPLAINT FORM
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, Sd 57501-5070

COMPLAINT

Allegation of Probable Violation(s) of South Dakota One Call Laws

Received On September 10, 2008 4:57 pm

I. ACTION REQUESTED BY:

COMPLAINT FILED BY: Company
PERSON FILING COMPLAINT: Dan Wolf
COMPANY: NorthWestern Energy
ADDRESS: 313 Cedar St. Yankton, SD 57078
PHONE NUMBER: (605) 868-4608
EMAIL: dan.wolf@northwestern.com
DATE: September 10, 2008

II. ACTION REQUESTED AGAINST:

NAME OF EXCAVATOR/FACILITY OPERATOR: Vanderpol Dragline Inc.
PHONE NUMBER: (605) 996-2036
ADDRESS: 1001 Hot Rod Rd. Mitchell, SD 57301
WAS A LOCATED REQUESTED FROM SD ONE CALL? No
LOCATE TICKET#:
START DATE ON TICKET:
DID EXCAVATOR WAIT UNTIL THE START DATE/TIME ON THE TICKET BEFORE COMMENCING EXCAVATION? No
WERE BURIED FACILITIES EXPOSED BY HAND OR NON-INVASIVE EQUIPMENT PRIOR TO EXCAVATION? No

III. FACILITY INVOLVED (IF ANY)

TYPE OF FACILITY INVOLVED: Electric Service in Conduit
OPERATOR OF FACILITY: NorthWestern Energy
OPERATOR ADDRESS: 600 Market St. W., Huron, SD 57350
PHONE NUMBER: (180) 024-5697
DEPTH OF COVER: 12"
PRESSURE: N/A
VOLTAGE: 120/240V
NUMBER OF CABLE REPAIRS: 0

IV. MARKING

WERE FACILITIES MARKED? No

WAS THE MARKING COMPLETE PRIOR TO THE START TIME ON THE TICKET? N/A

DID EXCAVATOR PRE-MARK WITH WHITE PAINT? No

WAS THE FACILITY ACCURATELY MARKED (WITHIN 18 INCHES)? N/A

DID EXCAVATOR USE REASONABLE CARE TO MAINTAIN LOCATE MARKS FOR LIFE OF PROJECT? No

HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY? No

IS THERE AGREEMENT? No

IF NO, PLEASE EXPLAIN:

V. DAMAGE (IF ANY)

FATALITIES: 0

INJURIES: 0

LENGTH OF HOSPITALIZATION: None

ESTIMATED PROPERTY DAMAGE: \$50.00

NUMBER OF CUSTOMERS AFFECTED: 0

DAMAGED IN: Public

PHOTOS OF THE DAMAGED FACILITY: No

ADDITIONAL INFORMATION: Underground service in conduit was installed for one home to coincide with work being done on Hwy 25 in Scotland. Conduit only was damaged, the conductor in the conduit was not damaged, and was not energized at the time of damage.

VI. PROBABLE VIOLATION

SPECIFIC STATUTE(S) OR RULE(S) THAT WAS VIOLATED: SDCL 49-7A-5: Notification of proposed excavation and SDCL 49-7A-19: Penalties for intentional violations.

ADDRESS/LOCATION OF PROBABLE VIOLATION: Intersection of Hwy 25 and Cherry St. in Scotland.

DATE/TIME OF PROBABLE VIOLATION: August 25, 2008 10:00 am

HAVE YOU DISCUSSED THE PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST? False

IF YES, NAME THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION:

DESCRIPTION OF PROBABLE VIOLATION: On August 25, 2008 Vanderpol Dragline Inc. was performing excavation associated with Highway construction, and did not give prior notification to SD One Call of the excavation. NorthWestern requests that this violation be treated under SDCL 49-7A-5. After previous damages to NorthWestern Energy facilities in Scotland, NorthWestern also requests this incident be treated under SDCL 49-7A-19.