



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



Larry Englerth
Executive Director

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Sioux Falls, SD 57110

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

TO: GEPPERT CONSTRUCTION
FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
DATE: SEPTEMBER 26, 2008
RE: NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;

In the Matter of the Complaint OC08-007 filed by City of Crooks against Geppert Construction, 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 Geppert Construction. 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 20, 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 the complaint:

Failure to provide advance notification to the South Dakota One Call Notification Center prior to commencing excavation on September 25th at 305 East 4th Street in Crooks, SD.

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 49-19. If any financial penalties are assessed in response to Complaint OC08-007 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 this complaint.

Pursuant to SDCL 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.

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: City of Crooks (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 26, 2008 2:34 pm

I. ACTION REQUESTED BY:

COMPLAINT FILED BY: Company

PERSON FILING COMPLAINT: Ginny Beck

COMPANY: Crooks Municipal Utilities

ADDRESS: PO Box 785 Crooks, SD 57020

PHONE NUMBER: (605) 543-5238

EMAIL: ginnybeck@juno.com

DATE: September 26, 2008

ii. ACTION REQUESTED AGAINST:

NAME OF EXCAVATOR/FACILITY OPERATOR: Geppert Construction

PHONE NUMBER: (605) 543-5840

ADDRESS: 25681 467th Avenue Crooks, SD 57020

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: natural gas main and service line

OPERATOR OF FACILITY: Crooks Municipal Utilities

OPERATOR ADDRESS: P O Box 785

PHONE NUMBER: (605) 543-5238

DEPTH OF COVER: 36 inches approx

PRESSURE: 58 lbs

VOLTAGE:

NUMBER OF CABLE REPAIRS:

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?** N/A**HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY?** No**IS THERE AGREEMENT?** No**IF NO, PLEASE EXPLAIN:****V. DAMAGE (IF ANY)****FATALITIES:****INJURIES:****LENGTH OF HOSPITALIZATION:****ESTIMATED PROPERTY DAMAGE:****NUMBER OF CUSTOMERS AFFECTED:****DAMAGED IN:****PHOTOS OF THE DAMAGED FACILITY:** No**ADDITIONAL INFORMATION:****VI. PROBABLE VIOLATION****SPECIFIC STATUE(S) OR RULE(S) THAT WAS VIOLATED:** 49-7a-⁸⁵~~8~~**ADDRESS/LOCATION OF PROBABLE VIOLATION:** 305 East 4th Street**DATE/TIME OF PROBABLE VIOLATION:** September 25, 2008 3:00 pm**HAVE YOU DISCUSSED THE PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST?** True**IF YES, NAME THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION:** Mike Geppert

DESCRIPTION OF PROBABLE VIOLATION: Mike Geppert, of Geppert Construction is constructing a new garage and driveway at 305 East 4th Street. The house sits on the corner of 4th Street and Park Avenue. The new driveway is being directed to Park Avenue. I noticed yesterday (9/25/08) that a new culvert was partially being installed in the right of way on Park Avenue to accommodate the new driveway. I called Mike at 3:47pm and mentioned to him that the customer's service line runs along there as well as a gas main runs in that vicinity of where he was digging. I also told him that I received no locate ticket. He told me they were only going down a few inches so it didn't matter. Later that day I did receive ticket number 082690467 from Jerry Leisinger for garage footing installation at that address. When marking for that ticket this morning (9/26/08) I noticed that the digging for the culvert was at least 12 inches and that it indeed was very close to the gas main. Mike was also reminded by the city building inspector upon receiving the building permit for this property to "call for locates". Mayor, Kelly Finke, has instructed me to file a complaint against Geppert Construction.