December 8, 2008

Mike Geppert
Geppert Construction
25681 467th Avenue
Crooks, SD 57020

Ginny Beck
City of Crooks
PO Box 785
Crooks, SD 57020

The Enforcement Committee recommendation to resolve Complaint OC08-007 has been accepted by both parties involved in the complaint. The order closing this Complaint is attached.

This order will close all action on this complaint with the exception that the suspended portion of the penalty would be applicable should a further violation occur prior to November 28, 2009. Payment was received on December 3. 2008.

Sincerely,

Larry L. Englerth
Executive Director

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE	)	ORDER
COMPLAINT AGAINST GEPPERT	)	OC08-007
CONSTRUCTION	)	

On September 26, 2008, the South Dakota Public Utilities Commission received a complaint from City of Crooks against the Geppert Construction. The Geppert Construction did not dispute the allegation in the complaint that they had excavated without providing advance notice to the South Dakota One Call System.

On November 10, 2008, the Enforcement Committee of the South Dakota One Call Notification Board met and determined that probable cause exists in Docket OC08-007 in regards to the allegation that the Geppert Construction has violated SDCL 49-7A-5. The Enforcement Committee recommended a five-hundred dollars ($500) penalty with three-hundred dollars ($300.00) suspended on the grounds that Geppert Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following the date of both parties signing the Enforcement Committee Action Agreement and that Geppert Construction fully comply with the resolution of this complaint by making payment of two-hundred dollars ($200) within thirty days of the issuance of this order.

All interested parties agreed with the recommendations of the Enforcement Committee. By November 29, 2008, all interested parties had signed the Enforcement Committee Action Agreement.

ORDERED, that the terms and conditions of the Enforcement Committee Action Agreement and the signed Acceptance of the recommended resolution by both parties shall be incorporated into this Order by reference and attached hereto, the same as if it was fully recited herein and shall as such be fully binding upon the parties to it; and it is

FURTHER ORDERED that the docket in this matter shall be closed.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, 49-7A-26.

Dated this 8th day of December 2008.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

Larry Englerth, Executive Director

Date December 8, 2008

BY ORDER OF THE SD ONE-CALL BOARD:

ED ANDERSON, Chairman

Under the Authority and on Behalf of the Chairman

LARRY ENGLERTH, Executive Director

ENFORCEMENT COMMITTEE ACTION
OC08-007
City of Crooks vs. Geppert Construction

FINDINGS:
OC08-007

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

Allegation is made by City of Crooks that Geppert Construction commenced excavation at 305 East 4th Street in Crooks, South Dakota, without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

Geppert Construction 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 City of Crooks and the response from Geppert Construction, the committee determined the following:

> Geppert Construction 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 Geppert Construction violated SDCL 49-7A-5 by commencing excavation at 305 East 4th Street in Crooks South Dakota without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

RECOMMENDATION
OC08-007

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

The Committee found there was probable cause that Geppert Construction had violated SDCL 49-7A-5 by commencing excavation at 305 East 4th Street in Crooks, South Dakota, without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

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:

- Geppert Construction fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC08-007 by both parties.
- Geppert Construction fully complies with the resolution of Complaint OC08-007 by making payment of the two hundred dollars ($200) within thirty (30) days of the issuance of the Order to close Complaint OC08-007.
- Geppert Construction 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.