

STATE OF SOUTH DAKOTA

SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

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NORTHWESTERN ENERGY,	*	OC No. 09-001
	*	
Complainant,	*	
-vs-	*	
	*	MOTION TO STAY PROCEEDINGS
ARDEN LEMKE, dba LEMKE	*	
DIGGING AND GEO THERMO	*	
DRILLING,	*	
Respondent.	*	

\* \* \* \* \*

RELIEF SOUGHT

Respondent hereby asks this Board to stay these proceedings pending the outcome of the civil action filed in the Circuit Court, First Judicial Circuit, Davison County, South Dakota, at Civ. 08-642.

GROUNDS FOR MOTION

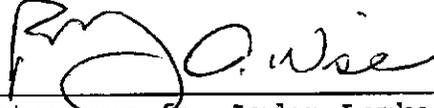
The grounds for this Motion are that:

1. In the Complaint in this action Northwestern Energy alleges Respondent was known to have dug in the area and is "thought" to have struck, damaged and re-buried the failed pipe.
2. In the civil action brought by several property owners in Mitchell, South Dakota, against Respondent, they make the same allegations asserted by Northwestern Energy in its Complaint.
3. Respondent has filed an Answer denying such allegations.

4. Because the Circuit Court has already obtained jurisdiction over the subject matter of this Complaint, this administrative action should be stayed pending a resolution of the first filed action.

Dated this 6<sup>th</sup> day of February, 2009.

RICHARDSON, WYLY, WISE, SAUCK  
& HIEB, LLP

By 

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**CERTIFICATE OF SERVICE**

The undersigned, one of the attorneys for Arden Lemke, dba Lemke Digging and Geo Thermo Drilling, hereby certifies that on the 6th day of February, 2009, a true and correct copy of **MOTION TO STAY PROCEEDINGS** was filed at:

South Dakota One Call Notification Board  
<http://www.state.sd.us/puc/EfilingOptions.aspx>

served by e-mail on:

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