BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT AGAINST LOEWENBERG TECHNOLOGIES	)))	ORDER OC09-005

On July 22, 2009, the South Dakota Public Utilities Commission received a complaint from Nustar Pipeline Operating Partnership, LP against Loewenberg Technologies. Loewenberg Technologies did not dispute the allegation in the complaint that they had excavated without providing advance notice to the South Dakota One Call System.

On September 01, 2009, the Enforcement Committee of the South Dakota One Call Notification Board met and determined that probable cause exists in Docket OC09-005 in regards to the allegation that Loewenberg Technologies had violated SDCL 49-7A-5. The Enforcement Committee recommended a one-thousand dollars ($1,000) penalty with seven-hundred fifty dollars ($750) suspended on the grounds that Loewenberg Technologies 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 Loewenberg Technologies fully comply with the resolution of this complaint by making payment of two-hundred fifty dollars ($250) within thirty days of the issuance of this order.

Neither party requested a hearing by rejecting the panel recommendation within the timeframe specified.

ORDERED, that the terms and conditions of the Enforcement Committee Action Agreement 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 at Rapid City, South Dakota, this 5th day of November 2009.

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 L. Janes, Executive Director

Date November 5, 2009

BY ORDER OF THE SD ONE-CALL BOARD:

Bleau LaFave, Chairman

Under the Authority and on Behalf of the Chairman

LARRY L. JANES, Executive Director

ENFORCEMENT COMMITTEE ACTION
OC09-005

Nustar Pipeline Operating Partnership, LP
vs.
Loewenberg Technologies

FINDINGS:
OC09-005

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

Allegation is made by Nustar Pipeline Operating Partnership, LP that Loewenberg Technologies commenced excavation at Yankton Trail Park in Sioux Falls, South Dakota, without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

Loewenberg Technologies 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 Nustar Pipeline Operating Partnership, LP and the response from Loewenberg Technologies, the committee determined the following:

> Loewenberg Technologies 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 that Loewenberg Technologies violated SDCL 49-7A-5 by commencing excavation at Yankton Trail Park, Sioux Falls, South Dakota without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

RECOMMENDATION
OC09-005

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

The Committee found there was probable cause that Loewenberg Technologies had violated SDCL 49-7A-5 by commencing excavation at Yankton Trail Park, Sioux Falls, 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 one thousand dollars ($1,00.00) with seven hundred fifty dollars ($750.00) suspended on the following conditions:

- Loewenberg Technologies fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC09-005 by both parties.
- Loewenberg Technologies fully complies with the resolution of Complaint OC09-005 by making payment of the two hundred fifty dollars ($250) within thirty (30) days of the issuance of the Order to close Complaint OC09-006.
- Loewenberg Technologies 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.