

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE) ORDER
COMPLAINT AGAINST HAGEN) OC09-006
GRADING)

On August 19, 2009, the South Dakota Public Utilities Commission received a complaint from City of Crooks against Hagen Grading. Hagen Grading 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 OC09-006 in regards to the allegation that Hagen Grading has 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 Hagen Grading 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 Hagen Grading 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.

All interested parties agreed with the recommendations of the Enforcement Committee. By October 19, 2009, 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 at Rapid City, South Dakota, this 31st day of October 2009.

CERTIFICATE OF SERVICE

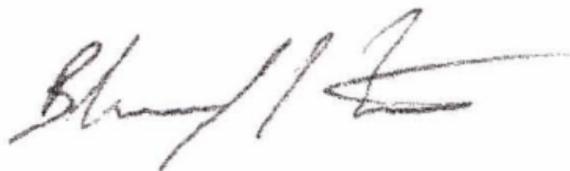
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.



Larry Janes, Executive Director

Date October 31, 2009

BY ORDER OF THE SD ONE-CALL BOARD:



Bleau LaFave, Chairman

Under the Authority and on Behalf of the
Chairman



LARRY JANES, Executive Director

ENFORCEMENT COMMITTEE ACTION

OC09-006

City of Crooks vs. Hagen Grading

FINDINGS: OC09-006

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

Allegation is made by City of Crooks that Hagen Grading commenced excavation at 500 Andrew Drive in Crooks, South Dakota, without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

Hagen Grading 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 Hagen Grading, the committee determined the following:

Hagen Grading 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 500 Andrew Drive in Crooks South Dakota without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

RECOMMENDATION OC09-006

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

The Committee found there was probable cause that Hagen Grading had violated SDCL 49-7A-5 by commencing excavation at 500 Andrew Drive 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 one thousand dollars (\$1,00.00) with seven hundred fifty dollars (\$750.00) suspended on the following conditions:

- Hagen Grading fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC09-006 by both parties.
- Hagen Grading fully complies with the resolution of Complaint OC09-006 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.
- Hagen 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.