

**BEFORE THE SOUTH DAKOTA ONE CALL BOARD OF DIRECTORS**

**IN THE MATTER OF THE ONE CALL )  
COMPLAINT FILED BY SOUTH DAKOTA )  
NETWORK LLC, AGAINST SHARPE )  
ENTERPRISES INC. )  
 )  
 )  
 )**

**ORDER FOR AND NOTICE  
OF HEARING**

**OC09-008**

On September 8, 2009, South Dakota Network LLC (SDN) filed a complaint against Sharpe Enterprises Inc. (Sharpe) alleging Sharpe initiated excavation activities prior to the legally proper time. On November 2, 2009, Sharpe filed a reply.

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board first met on November 12, 2009, to determine whether there is probable cause to believe Sharpe Enterprises, Inc. violated any One Call statute or rule. The Enforcement Committee did not find probable cause existed and recommended dismissal of the Complaint.

On November 25, 2009, SDN rejected the Committee findings and requested a hearing. On January, 11, 2010, SDN requested the Enforcement Committee reconsider the complaint yet preserved its right to ultimately request a hearing.

The Enforcement Committee met to reconsider the decision on January 21, 2010 per SDN's request. The Enforcement Committee did not believe it had sufficient evidence to determine probable cause and recommended the Complaint proceed to hearing.

A hearing will be held on this matter beginning at 1:00 P.M. on September 28, 2010, in Room 412 of the Capitol Building in Pierre, South Dakota. The parties are to file all exhibits and a witness list on or before close of business on September 17, 2010.

The issues to be determined by the One Call Board are 1) whether Sharpe is in violation of One Call rules or statutes; and 2) if so, are fines appropriate and in what amount.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All persons testifying will be subject to cross-examination by the parties. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the One Call Board will consider all evidence and testimony that was presented at the hearing. The One Call Board will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the One Call Board will resolve the issues regarding whether Sharpe is in violation of any One Call rules or statutes and, if so, determine an appropriate civil penalty. The One Call Board's Final Decision may be appealed by the parties as provided by law. It is therefore

**ORDERED**, the parties shall file exhibits as set forth above; and it is

**FURTHER ORDERED**, that a hearing shall be held at the time and place specified above.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the One Call Board at 605-339-0529 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 23<sup>rd</sup> day of August, 2010.

<p align="center"><b>CERTIFICATE OF SERVICE</b></p> <p>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, electronically.</p> <p>By: <u>Kara Semmler</u></p> <p>Date: <u>8/23/10</u></p> <p align="center">(OFFICIAL SEAL)</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

BY ORDER OF THE ONE CALL BOARD:

[Signature]  
Bleau LaFave, Chairman

[Signature]  
Larry Janes, Executive Director

CERTIFICATE OF SERVICE

I hereby certify that copies of Notice of Hearing were served on the following by electronic mail on this the 23<sup>rd</sup> day of August, 2010.

MR WILLIAM P HEASTON  
DIRECTOR, BUSINESS DEVELOPMENT  
[bill.heaston@sdncommunications.com](mailto:bill.heaston@sdncommunications.com)

MR BRETT KOENECKE  
MAY, ADAM, GERDES AND THOMPSON, LLP  
[koenecke@magt.com](mailto:koenecke@magt.com)