



**Know what's below.
Call before you dig.**



February 18, 2010

Yancy Grangaard
Grangaard Construction, Inc.
800 E. 60th St. SW
Watertown, SD 57201

Steve Lehner
Watertown Municipal Utilities
901 Fourth Ave. SW
Watertown, SD 57201

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on February 8, 2010, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC09-011 filed by Watertown Municipal Utilities against Grangaard Construction Inc..

By a unanimous vote of the Enforcement Committee, the recommended resolution to the alleged violation included in this complaint was determined to be as follows:

Complaint OC09-011

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

The Committee found there is probable cause Grangaard Construction Inc. violated SDCL 49-7A-5 by commencing excavation at Bridge over Willow Creek on 20th Ave SE., East of Big Sioux Bridge 3600 feet, Watertown, South Dakota, without providing advance notification to the South Dakota One Call System as required by statute.

The committee recommends a penalty of five thousand dollars (\$5,000.00) with three thousand dollars (\$3,000.00) suspended on the following conditions:

1. Grangaard Construction Inc. fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC09-011 by both parties.
2. Grangaard Construction Inc. fully complies with the resolution of Complaint OC09-011 by making payment of the five thousand dollars (\$5,000.00) with three thousand dollars (\$3,000.00) suspended within thirty (30) days of the issuance of the Order to close Complaint OC09-011.
3. Grangaard Construction Inc. 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.

The findings and recommendation of the Enforcement Committee are summarized on the attached form.

Under SDCL 49-7A-27 either party may accept the recommendation of the Enforcement Committee or reject the recommendation of the Enforcement Committee by requesting a formal hearing on the violation alleged in this complaint. **Under the same statute, failure to respond to this notice is considered acceptance of the Enforcement Committee recommendation and your right to a hearing is waived.** Your decision should be reflected on the second page of the attachment with the header "Acceptance or Rejection by Parties. **Please return the signed and dated form prior to the close of business on March 19, 2010, to:**

South Dakota One Call Notification Board
c/o Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

If both parties accept this resolution, the South Dakota One Call Notification Board is required to accept the resolution and close this complaint. If either party rejects the Enforcement Committee resolution of the alleged violation, the South Dakota One Call Notification Board will conduct a hearing as a contested case under Chapter 1-26 to resolve the allegation alleged in the rejected complaint. Following this hearing, the Board shall either render a decision dismissing the complaint for insufficient evidence or shall impose a penalty pursuant to SDCL 49-7A-18 or SDCL 49-7A-19.

Pursuant to SDCL 15-6-55, failure to answer this Complaint could result in a default judgment being issued against you. Appropriate liens and other legal collection actions could result. **You are strongly urged to reply to this Notice in the time frame described above and to obtain the advice of counsel should you have any legal questions.**

If you have any procedural questions relative to this complaint, please contact me at 605-339-0529 or by email at exedir@sdonecall.com. I would request that you do not contact any members of the South Dakota One Call Notification Board to discuss this complaint. Since they may be involved in the Chapter 1-26 hearing to resolve of the complaint, they have been advised by legal counsel to not discuss any pending complaint before the Board.

Sincerely,



Larry L. Janes
Executive Director

ENFORCEMENT COMMITTEE ACTION

OC09-011

Watertown Municipal Utilities vs. Grangaard Construction Inc.

FINDINGS:

OC09-011

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

Allegation is made by Watertown Municipal Utilities that Grangaard Construction Inc. commenced excavation at Bridge over Willow Creek on 20th Ave SE., East of Big Sioux Bridge 3600 feet, Watertown, South Dakota, without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

Grangaard Construction Inc. 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 Watertown Municipal Utilities and the response from Grangaard Construction Inc., the committee determined the following:

Grangaard Construction Inc. 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 Grangaard Construction Inc. violated SDCL 49-7A-5 by commencing excavation at Bridge over Willow Creek on 20th Ave SE., East of Big Sioux Bridge 3600 feet, Watertown, South Dakota without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

RECOMMENDATION

OC09-011

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

The Committee found there was probable cause that Grangaard Construction Inc. had violated SDCL 49-7A-5 by commencing excavation at Bridge over Willow Creek on 20th Ave SE., East of Big Sioux Bridge 3600 feet, Watertown, 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 thousand dollars (\$5,000.00) with three thousand dollars (\$3,000.00) suspended with the following conditions:

- Grangaard Construction Inc. fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC09-011 by both parties.
- Grangaard Construction Inc. fully complies with the resolution of Complaint OC09-011 by making payment of the five thousand dollars (\$5,000) with three thousand dollars (\$3,000.00) suspended, within thirty (30) days of the issuance of the Order to close Complaint OC09-011.
- Grangaard Construction Inc. 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.

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC09-011**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC09-011.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC09-011, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC09-011.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC09-011, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC09-011. THIS HEARING SHALL BE CONDUCTED AS A CONTESTED CASE UNDER CHAPTER 1-26. FOLLOWING THE HEARING, THE BOARD SHALL EITHER RENDER A DECISION DISMISSING THE COMPLAINT FOR INSUFFICIENT EVIDENCE OR SHALL IMPOSE A PENALTY PURSUANT TO THE PROVISIONS OF SDCL 49-7A-18 OR SDCL 49-7A-19.

TO ACCEPT OR REJECT THE RESOLUTION OF THE ALLEGE VIOLATION, YOU SHOULD COMPLETE THE FOLLOWING AND RETURN TO THE ADDRESS BELOW PRIOR TO THE CLOSE OF BUSINESS ON March 19, 2010.

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
C/O PUBLIC UTILITIES COMMISSION
500 EAST CAPITOL AVENUE
PIERRE, SD 57501**

PURSUANT TO SDCL 15-6-55, FAILURE TO ANSWER THIS COMPLAINT RESOLUTION COULD RESULT IN A DEFAULT JUDGMENT BEING ISSUED AGAINST YOU. APPROPRIATE LIENS AND OTHER LEGAL COLLECTION ACTIONS COULD RESULT.

OC09-011

VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC09-011 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.

Signature - Grangaard Construction Inc.

Date

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC09-011 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC09-011.

Signature - Grangaard Construction Inc.

Date

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC09-011**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD HAS PROPOSED A RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC09-011.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC09-011, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD IS REQUIRED BY SDCL 49-7A-27 TO ACCEPT THIS AS FINAL RESOLUTION OF COMPLAINT OC09-011.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECT THE COMMITTEE RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC09-011, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD WILL SET UP A HEARING TO RESOLVE THE REJECTED RESOLUTION TO THE VIOLATION ALLEGED IN COMPLAINT NUMBER OC09-011. THIS HEARING SHALL BE CONDUCTED AS A CONTESTED CASE UNDER CHAPTER 1-26. FOLLOWING THE HEARING, THE BOARD SHALL EITHER RENDER A DECISION DISMISSING THE COMPLAINT FOR INSUFFICIENT EVIDENCE OR SHALL IMPOSE A PENALTY PURSUANT TO THE PROVISIONS OF SDCL 49-7A-18 OR SDCL 49-7A-19.

TO ACCEPT OR REJECT THE RESOLUTION OF THE ALLEGE VIOLATION, YOU SHOULD COMPLETE THE FOLLOWING AND RETURN TO THE ADDRESS BELOW PRIOR TO THE CLOSE OF BUSINESS ON March 19, 2010.

SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
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OC09-011

VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC09-011 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.

Signature - Watertown Municipal Utilities

Date

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC09-011 VIOLATION OF SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC09-011.

Signature - Watertown Municipal Utilities

Date