



Safe digging is no accident. Always call 811 before digging.

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



March 31, 2010

Harlan Zwak
Zwak Excavation, Inc., dba Hagen Excavating
5404 N, French Ave.
Sioux Falls, SD 57104

Mike Garry
Northern Natural Gas Company
PO Box 336
47493 272nd St.
Harrisburg, SD 57032

Re: OC10-001 Northern Natural Gas Company against Zwak Excavation

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on March 30, 2010, to determine whether there is probable cause to believe a One Call violation occurred. The Enforcement Committee's findings are enclosed. You may request a hearing according to SDCL-49-7A-27, if you disagree with the Enforcement Committee findings. If you do request a hearing, you must present your case to the One Call Board. **Failure to respond to this notice or request a hearing is considered acceptance of the Enforcement Committee recommendation and your right to a hearing is waived.**

Please return the signed and dated form prior to the close of business on April 22, 2010, to:

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

If you have procedural questions relative to this complaint, please contact me at 605-339-0529 or by email at exedir@sdonecall.com. Do not contact any members of the South Dakota One Call Notification Board to discuss this complaint since members may be involved in a hearing if one is requested.

Larry L. Janes
Executive Director
South Dakota One Call

**ENFORCEMENT COMMITTEE RECOMMENDATION
OC10-001**

Northern Natural Gas Company filed a complaint with the South Dakota Public Utilities Commission on February 11, 2010 against Zwak Excavation alleging that a violation of 49-7A-5 occurred at 4900 S. Kalen Place, Sioux Falls, South Dakota at approximately 12:30 pm on February 11, 2010. The type of facility involved was a 14" High Pressure Natural Gas Pipeline. Facilities were not marked. There was no damage to the facilities.

Zwak Excavation responded on March 8, 2010 that he was wrong in not getting a locate at that address. He was not aware of any damage as a result of this error. He stated that he was aware of the gas pipe due to the requirements of the builder as to where he could place the basement. He has never been notified of any other infractions with One Call. He also stated that he will be more conscientious of his responsibilities as an excavating business owner.

The Enforcement Committee of the South Dakota One Call Board met on March 30, 2010 and found there is probable cause that Zwak Excavation violated SDCL 49-7A-5 Notification of Proposed Excavation by commencing excavation at 4900 S. Kalen Place, Sioux Falls, South Dakota without a locate request as required by statute.

The Enforcement Committee recommends a penalty of one thousand dollars (\$1,000) with five hundred dollars (\$500) suspended on the following conditions:

1. Zwak Excavation fully complies with SDCL- 49-7A and article 20:25 for twelve months following receipt of this notification.
2. Zwak Excavation should be aware that any future violation of SDCL 49-7A within twelve months from the date of the final order are subject to additional penalties up to a maximum of \$5,000 under SDCL 49-7A-18.
3. Zwak Excavation must make payment within 30 days of issuance of the final order.

**I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC10-001 VIOLATION OF
SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.**

Signature – Zwak Excavation, Inc. dba Hagen Excavating

Date

**I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC10-001 VIOLATION OF
SDCL 49-7A-5 NOTIFICATION OF PROPOSED EXCAVATION.**

Signature – Northern Natural Gas Company

Date

**REQUEST FOR A HEARING
COMPLAINT OC10-001**

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC10-001 AND
REQUEST A HEARING.**

Signature – Zwak Excavation, Inc. dba Hagen Excavating

Date

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC10-001 AND
REQUEST A HEARING.**

Signature - Northern Natural Gas Company

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
c/o SD PUC
500 E. CAPITOL AVE
PIERRE, SD 57501-5070**

**Failure to request a hearing results in acceptance of the Enforcement Committee's
recommendation as to the final disposition of this Complaint.**