



Dustin Johnson, Chair  
Steve Kolbeck, Vice Chair  
Gary Hanson, Commissioner

## SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue  
Pierre, South Dakota 57501-5070  
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(605) 773-5280  
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Consumer Hotline  
1-800-332-1782

September 8, 2010

Zwak Excavation  
Attn: Harlan Zwak  
5404 N. French Ave.  
Sioux Falls, SD 57110

Re: OC10-001

Dear Mr. Zwak:

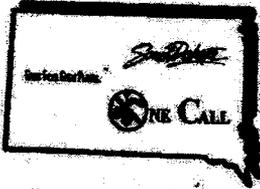
As you know, a South Dakota One Call Complaint was filed against Zwak Construction on February 11, 2010. You filed a reply on March 9, 2010. The One Call enforcement committee met on March 30, 2010 and sent its recommendations to you on March 31, 2010. You did not request a hearing. As a result the recommendations were incorporated into an Order. The Order was sent to you on June 28, 2010. The Order specifies that you must pay \$500 within 30 days of issuance of the Order to avoid a \$500 increase in the civil penalty. The Order is attached hereto.

You failed to pay the \$500 penalty. As a result you must now pay \$1,000 to the South Dakota One Call Board. If, pursuant to SDCL 49-7A-33, payment is not received within 30 days of this demand, the Public Utilities Commission may bring a civil action against you in the name of the State.

Please contact me with in the next 30 days if you cannot make the payment in full yet wish to resolve this issue.

Sincerely,

Kara Semmler  
PUC Staff Attorney



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

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

**811**

June 28, 2010

Zwak Construction, Inc. DBA Hagen Excavating  
5404 N French Ave.  
Sioux Falls, SD 57104

Mike Garry  
Northern Natural Gas Company  
P.O. Box 336, 47493 272<sup>nd</sup> St.  
Harrisburg, SD 57032

The Enforcement Committee recommendation to resolve Complaint OC10-001 has been accepted by both parties involved in the complaint. The order closing all action on this Complaint is attached, with the exception that future violation of SDCL 49-7A-5 or ARSD 20:25 within 12 months of the order are subject to additional penalties up to a maximum of \$5,000 under SDCL 49-7A-18 from the date of the final order.

Sincerely,

Larry L. Janes  
Executive Director  
SD One Call

**BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

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IN THE MATTER OF THE COMPLAINT AGAINST )           ORDER  
Zwak Construction, Inc. DBA Hagen Excavating )           OC10-001  
Construction, Inc. )

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On February 11, 2010, the South Dakota Public Utilities Commission received a complaint from Northern Natural Gas Company against Zwak Construction, Inc. DBA Hagen Excavating. Zwak Construction, Inc. DBA Hagen Excavating did not dispute the allegation in the complaint alleging excavation occurred at 4900 S. Kalen Place, Sioux Falls, South Dakota, without providing advance notice through the South Dakota One Call System.

On March 30, 2010, the Enforcement Committee of the South Dakota One Call Notification Board met and determined that probable cause exists in Docket OC10-001 in regards to the allegation that Zwak Construction, Inc. DBA Hagen Excavating had violated SDCL 49-7A-5. The Enforcement Committee recommended a one-thousand dollars (\$1,000) penalty, with five hundred dollars (\$500) suspended on the grounds that Zwak Construction, Inc. DBA Hagen Excavating 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 Zwak Construction, Inc. DBA Hagen Excavating fully comply with the resolution of this complaint by making payment of five hundred dollars (\$500) within thirty days of the issuance of this order.

Neither party replied to the recommendation, thus indicating agreement.

**ORDERED**, that the terms and conditions of the Enforcement Committee Action Agreement and the 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.

**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 June 28, 2010

**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**