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TO: **Robert Kohl Construction**

FROM: **SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

DATE: **NOVEMBER 30, 2010**

RE: **NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;**

In the Matter of the Complaint OC10-009 filed by Ottertail Power Company against Robert Kohl Construction, regarding a failure to provide notification of proposed excavation as required by SDCL 49-7A-5.

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against Robert Kohl Construction. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you are required to answer this complaint in writing, no later than the close of business on December 20, 2010. You must file your original answer with the South Dakota One Call Notification Board. You may file a paper copy by mailing your answer to the address listed below. Alternatively, you may file your answer electronically at http://www.state.sd.us/puc/EFilingOptions.aspx. In addition to filing your original answer with the One Call Notification Board, you must serve a copy on the complainant.

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

Your answer should be as thorough and detailed as possible and should include any documentation that supports your position e.g. witness statements, pictures, etc. We would encourage you to specifically address the alleged violation of SDCL 49-7A-5 referenced in the complaint:

> Excavating without a ticket or notification to One Call Center at 509 Old Agency St., Sisseton, South Dakota on September 29, 2010.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaint and associated response. If probable cause

is determined, the panel may recommend penalties under SDCL 49-7A-18 or SDCL 49-19. If any financial penalties are assessed in response to Complaint OC10-009 the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

1. The amount of damage
2. The degree of threat to the public safety, and
3. The public inconvenience caused;
4. The respondent's plans and procedures to insure future compliance with statute and rules;
5. Any history of previous violations;
6. Other matters as justice requires.

You may address any of these items in your response if you believe it would be of value to the Enforcement Panel when they consider this complaint.

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.

A copy of the Operations Manual for Facility Operators and Excavators, the South Dakota One Call Statute and associated Administrative Rules are available on our web site www.sdonecall.com.

Procedural questions may be directed to Larry Janes, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to exedir@sdonecall.com. You may not contact members of the South Dakota One Call Notification Board to discuss this complaint. Members may be involved in the Enforcement Panel review and/or a Chapter 1-26 hearing to resolve the complaint. Members have been advised by legal counsel to not discuss any pending complaint.

Enclosure: Copy of complaint

cc: Scott Fritz (via email)