

## BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

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IN THE MATTER OF THE COMPLAINT	)	ORDER TO BRING ACTION PURSUANT
BY OTTERTAIL POWER COMPANY AGAINST	)	TO SDCL 49-7A-28
ROBERT KOHL CONSTRUCTION	)	
	)	OC10-009

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On November 29, 2010, the South Dakota Public Utilities Commission received a complaint from Otter Tail Power Company against Robert Kohl Construction. The complaint alleges excavation occurred at 509 Old Agency St., Sisseton, South Dakota, without providing advance notice through the South Dakota One Call System. Robert Kohl Construction did not dispute the allegations.

On January 10, 2011, pursuant to SDCL 49-7A-22 a panel was appointed to make a recommendation to the South Dakota One Call Board regarding whether probable cause exists to believe the violation occurred as described in the Complaint (herein the Panel). The Panel met and determined probable cause exists to find a violation of SDCL 49-7A-5 occurred.

In addition, and also pursuant to SDCL 49-7A-22 the Panel recommended a one-thousand dollars (\$1,000) penalty, with five hundred dollars (\$500) suspended. In making its recommendation the Panel considered all factors in SDCL 49-7A-26.

The recommended suspension was based on the following: (i) Robert Kohl Construction fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following the date of the final Board Order and (ii) Robert Kohl Construction fully comply with the resolution of this complaint by making payment of five hundred dollars (\$500) within thirty days of the issuance of the final Board Order. If either condition is violated, the suspended portion of the penalty becomes immediately due and payable.

Neither party requested a hearing in this matter and pursuant to SDCL 49-7A-27 the Panel's recommendation was considered accepted by both.

At its scheduled meeting of February 16, 2011, the South Dakota One Call Board, pursuant to SDCL 49-7A-27, reviewed the Panel's procedure, approved its findings and issued an Order regarding the same.

Robert Kohl Construction failed to make payment, is out of compliance with the Board Order and the full One Thousand Dollar (\$1,000) penalty is now due. On April 6, 2011 a demand letter was sent to Robert Kohl Construction pursuant to SDCL 49-7A-33.

The One Call Board of South Dakota met on May 18, 2011 to consider this matter and hereby unanimously requests the Public Utilities Commission bring an action in the name of the State of South Dakota for recovery of the penalty pursuant to SDCL 49-7A-28.

**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.



Larry L. Janes, Executive Director

Date 5-19-2011

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Pierre, South Dakota,  
this 18<sup>th</sup> day of May, 2011



Bleau LaFave  
Chairman