

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
BY WATERTOWN MUNICIPAL UTILITIES)	RECOMMENDATION TO THE
AGAINST BELAIR EXCAVATING)	SD ONE CALL BOARD
)	OC11-001

On April 13, 2010, the South Dakota Public Utilities Commission received a complaint from Watertown Municipal Utilities (herein "Watertown") against Belair Excavating (herein "Belair"). The complaint alleges Belair concealed damage of a gas tracer wire in violation of SDCL49-7A-12. The damage was discovered when Watertown responded to a separate locate request. Due to the damage, Watertown alleges, approximately 1700 feet of gas line were no longer locatable. Upon investigation, Watertown found portions of the damaged gas tracer wire wrapped around lath stakes and buried.

Belair's response to the complaint was received by the Public Utilities Commission on April 29, 2011. Belair did not dispute the allegations in the complaint. Rather, it confirmed the tracer wire was damaged in four locations along a 1700 foot stretch of pipeline owned by Watertown. It also admitted the damaged appears to be caused by Belair equipment and concealed by a Belair employee. Belair's reply details the course of action it took subsequent to its knowledge of the damage.

On May 6, 2011, pursuant to SDCL 49-7A-22 a panel of five One Call Board members (herein "Panel") convened. The Panel met to determine whether probable cause exists to believe the violation occurred as described in the Complaint.

The Panel found probable cause exists to find a violation of SDCL 49-7A-12 occurred.

The Panel found the violation to be intentional due to efforts made by a Belair employee to conceal the damage. As such the Panel finds penalties pursuant to SDCL 49-7A-19 to be proper.

The Panel found it proper to assess a Five Thousand Dollar (\$5,000) penalty against Belair due to the severe threat to public safety and inconvenience the damage caused.

The Panel found it proper to suspend Four Thousand Dollars (\$4,000) of the penalty due to the robust safety plans and procedures Belair submitted to insure future compliance and because this is the first SD One Call Complaint against Belair.

The Panel recommends, however, the remaining full Four Thousand Dollars (\$4,000) become immediately due and payable if: (i) Any complaint regarding a violation of SDCL 49-7A or ARSD Article 20:25 is filed with the South Dakota Public Utilities Commission or the South Dakota One Call Board against Belair within the twelve months following the date of the final South Dakota One Call Board Order or (ii) Belair fails to make payment of the remaining One Thousand Dollar (\$1,000) penalty within thirty days of service of the South Dakota One Call Board Order.

The Panel recommends the South Dakota One Call Board accept its findings and recommendations herein.

If either party to this Complaint disagrees or objects to the recommendations or findings herein, a hearing may be requested. To request a hearing you must reply within twenty days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.

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 5-6-2011

**REQUEST FOR A HEARING
COMPLAINT OC11-001**

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC11-001
AND REQUEST A HEARING.**

Signature – Belair Excavating

Date

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC11-001
AND REQUEST A HEARING.**

Signature –Watertown Municipal Utilities

Date

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

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
C/O SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 E. CAPITOL AVE.
PIERRE, SD 57501-5070**

**Failure to request a hearing, results in acceptance of the Enforcement
Committee’s recommendation. In that case, the One Call Board will Order the
recommendation as the final disposition of this Complaint.**