

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

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IN THE MATTER OF THE COMPLAINT ) ORDER ADOPTING ENFORCEMENT  
BY NUSTAR PIPELINE OPERATING ) PANEL RECOMMENDATION AND  
PARTNERSHIP LP DBA NUSTAR ) CLOSING DOCKET  
ENERGY, AGAINST OAKLANE )  
COLONY )

OC11-004

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On August 1, 2011, the South Dakota Public Utilities Commission received a complaint from NuStar Pipeline Operating Partnership LP d/b/a NuStar Energy (herein "NuStar") against the Oaklane Colony, Martin Wipf and Mark Wipf. The complaint alleges the named parties did not wait the statutorily required time prior to excavation. Specifically, NuStar arrived on site on May 5, 2011 to locate facilities pursuant to a locate ticket with an excavation start date of May 6, 2011. At that time, on May 5, 2011 the excavation already occurred.

Martin Wipf replied to the complaint on August 23, 2011. He explains that he was not aware of nor personally involved with the excavation. He does allege, however, that Jake Wipf, on behalf of the Oaklane Colony, was excavating in the area. Martin Wipf further states, he made the 811 call after Jake Wipf discovered pipeline notices in the excavation area. He did not deny the fact a One Call violation occurred.

On August 30, 2011, pursuant to SDCL 49-7A-22 a panel of five One Call Board members (herein "Panel") convened. The Panel found probable cause exists to believe the Oaklane Colony violated SDCL 49-7A-5.

The Panel found it proper to assess Five Hundred Dollar (\$500) penalty against the Oaklane Colony. The Panel found it proper, however, to suspend the entire Five Hundred Dollars (\$500) of the penalty if: (i) The Oaklane Colony is not found guilty of an additional violation of SDCL 49-7A or ARSD Article 20:25 within the twelve months following the date of this Order and (ii) if a Colony representative attends a One Call excavator educational meeting in the spring of 2012. In making its recommendation the Panel considered all factors in SDCL 49-7A-26.

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

At its scheduled meeting of October 13, 2011, the South Dakota One Call Board, pursuant to SDCL 49-7A-27, reviewed the Panel's procedure and approved its findings.

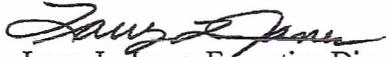
THE ONE CALL BOARD OF SOUTH DAKOTA HEREBY ORDERS, the terms and conditions as recommended by the Panel as final resolution of this complaint. The Panel's findings are attached hereto and shall be considered and fully incorporated herein; and it is

FURTHER ORDERED this docket 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

  
Larry L. Janes, Executive Director

Date 10-14-2011

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Ft. Pierre, South Dakota,  
this 13<sup>th</sup> day of October, 2011

  
Kurt Pfeifle  
Chairman