

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

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IN THE MATTER OF THE COMPLAINT	)	ENFORCEMENT PANEL
BY WATERTOWN MUNICIPAL	)	RECOMMENDATION TO
UTILITIES AGAINST	)	THE SD ONE CALL BOARD
HOBART CONSTRUCTION	)	

OC11-009

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On September 12, 2011, the South Dakota Public Utilities Commission received a complaint from Watertown Municipal Utilities (herein "Watertown") against Hobart Construction (herein "Hobart"). Hobart replied on October 2, 2011. On October 28, 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 believe a violation of SDCL 49-7A-5 occurred. Specifically, Hobart failed to call One Call prior to excavation. Further, when notified of the violation, he continued with his excavation. As a result the Panel found the violation intentional and looked to SDCL 49-7A-19 for the proper penalty amount.

The Panel found it proper to assess a One Thousand Dollar (\$1,000) penalty. The Panel found it proper, however, to conditionally suspend Seven Hundred Fifty Dollars (\$750) of the penalty.

The suspended Seven Hundred Fifty Dollar (\$750) penalty become immediately due and payable if: (i) Hobart is found guilty of an additional violation of SDCL 49-7A or ARSD Article 20:25 within the twelve months following the date of the final South Dakota One Call Board Order or (ii) if Hobart fails to make the \$250 payment within 30 days of this Order or (iii) if it fails to attend a One Call excavator educational meeting in the spring of 2012.

**On November 22, 2011 Hobart paid the Two Hundred Fifty Dollars (\$250) unsuspended portion of the penalty.**

At its scheduled meeting of January 25, 2012, 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 dismissed and 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 1-26-2012

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at 77. Pierre, South Dakota,

this 25<sup>th</sup> day of January, 2012



Kurt Pfeifle  
Chairman