BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY THE CITY OF AURORA, AURORA, SOUTH DAKOTA AGAINST EAGLE WEST, MAPLE GROVE, MINNESOTA	))))	ENFORCEMENT PANEL RECOMMENDATION TO THE SD ONE CALL BOARD OC11-013

On November 14, 2011 the South Dakota Public Utilities Commission received a complaint from the City of Aurora (herein "Aurora") against Eagle West. A copy of the complaint was sent to Eagle West on November 14, 2011. Eagle West did not Answer the Complaint. Eagle West was further notified of the Enforcement Panel meeting in a correspondence dated December 6, 2011.

On December 16, 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 based on Eagle West's failure to reply to any of Aurora's allegations. Specifically, the Panel found Eagle West admitted that it failed to wait the requisite 48 hours prior to commencement of excavation due to its failure to reply to the Complaint. The Panel did not have enough evidence, however, to find the violation intentional.

The Panel found it proper to access a Five Hundred Dollar ($500) penalty. The Panel found it proper, however, to conditionally suspend Two Hundred Fifty Dollars ($250) of the penalty. If Eagle West either (i) fails to make payment of the Two Hundred Fifty Dollar ($250) unsuspended portion of the penalty within thirty days of issuance of this Order or (ii) if Eagle West is found guilty of a One Call violation in the next 12 months, the remaining ($250) is immediately due and owing.

The Two Hundred Fifty Dollar ($250) unsuspended portion of the penalty is due within thirty days of issuance of this Order.

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 it 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 Ft. Pierre, South Dakota,

this 25th day of January, 2012

Kurt Pfeifle
Chairman