

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY NORTHERN NATURAL GAS COMPANY AGAINST JOHN WELLNITZ, FOR AN INCIDENT OCCURRING ON JULY 12, 2012 IN YALE, SOUTH DAKOTA) ORDER ADOPTING) ENFORCEMENT PANEL) RECOMMENDATION, TO) PURSUE COLLECTION ACTION) IF NECESSARY AND TO CLOSE) DOCKET)) OC12-011
---	---

On July 17, 2012 the South Dakota Public Utilities Commission received a complaint from Northern Natural Gas Company (herein "Northern") against John Wellnitz of Yale, SD. The complaint alleges John Wellnitz (herein "Wellnitz") performed excavation without proper locates.

A copy of the complaint was sent to Wellnitz on July 23, 2012. Wellnitz responded to the Complaint on August 1, 2012. In his response Wellnitz acknowledged he excavated in violation of the law. He claimed he was unaware of the law and stated the steps he has since taken to prevent a violation in the future.

On August 29, 2012, 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 sufficient evidence was presented to determine probable cause exists to believe a violation of SDCL 49-7A-5 occurred. Specifically, the Panel found Wellnitz performed excavation without a valid ticket. Based on Wellnitz response, however, the Panel did not find the violation intentional. The Panel found the violation to be unintentional.

The Panel found it proper to recommend a One Thousand Dollar (\$1,000) penalty due to the degree of danger when excavating around natural gas facilities. The Panel found it proper, however, to conditionally suspend Five Hundred Dollars (\$500) of the penalty because there have not been any prior complaints against Wellnitz and he took steps to prevent future violations.

The suspension conditions are as follows:

- (i) Wellnitz shall make payment of the **Five Hundred Dollar (\$500) unsuspended portion** of the penalty within thirty days of issuance of this Order.
- (ii) Wellnitz must not be found guilty of a One Call violation in the next 12 months.
- (iii) Wellnitz shall attend a spring 2013 SD One Call excavator meeting.

If any of the conditions are not met, the entire One Thousand Dollar Penalty (\$1,000) will be immediately due and owing.

At its scheduled meeting of October 3, 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, if the penalty is not paid, the Board shall pursue any rights it has under the law regarding collection; 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 10-4-2012

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Ft. Pierre , South Dakota,

this 3rd day of Oct., 2012


Kurt Pfeifle
Chairman