

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT) ENFORCEMENT PANEL
FILED BY NORTHERN NATURAL GAS) RECOMMENDATION TO
COMPANY AGAINST JOHN WELLNITZ,) THE SD ONE CALL BOARD,
FOR AN INCIDENT)
OCCURRING ON JULY 12, 2012 IN)
YALE, SOUTH DAKOTA) 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 assess 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) unsuspending portion** of the penalty within thirty days of issuance of the final SD One Call Board 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 excavator meeting put on by the SD One Call Executive Director.

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

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, by facsimile by first class mail, or by other electronic means.


Larry L. Janes, Executive Director

Date 8-31-2012