

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)
FILED BY MONTANA-DAKOTA)
UTILITIES COMPANY, RAPID CITY,)
SOUTH DAKOTA, AGAINST ZANSTRA)
CONSTRUCTION, RAPID CITY,)
SOUTH DAKOTA, FOR AN INCIDENT)
OCCURRING ON NOVEMBER 21, 2012,)
AT THE INTERSECTION OF E.)
MINNESOTA AND FIELDSTONE DR., IN)
RAPID CITY, SOUTH DAKOTA)

OC12-017

ORDER ADOPTING
ENFORCEMENT PANEL
RECOMMENDATION TO
THE SD ONE CALL BOARD
AND TO PURSUE
COLLECTION ACTION IF
NECESSARY

On December 12, 2012, the South Dakota Public Utilities Commission (“Commission”) received a complaint from Montana-Dakota Utilities Company (“MDU”) against Zanstra Construction (“Zanstra”) of Rapid City, South Dakota. The complaint alleges that on or about November 21, 2012, Zandstra Construction performed excavation without valid locates. Zanstra Construction responded to the Complaint on December 20, 2012. In its response Zanstra Construction admits the incident occurred. On January 15, 2013, pursuant to SDCL 49-7A-22 a panel of five One Call Board members ("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 to believe a violation of SDCL 49-7A-8 occurred. Specifically, the Panel found Zanstra Construction dug without valid locates. The Panel found the violation to be intentional.

The Panel found it proper to assess a One Thousand Dollar (\$1,000) penalty with Five Hundred Dollars (\$500) suspended of the penalty on certain conditions.

A total of Five Hundred Dollars (\$500) is due within thirty days of issuance of this Order.

The suspension conditions are as follows:

- 1) Zanstra shall make payment of the Five Hundred Dollar (\$500) portion of the penalty which was not suspended within thirty days of issuance of this Order.
- 2) Zanstra must not be found to have committed a violation of SDCL 49-7A or ARSD 20:25 within the next twelve months.
- 3) Zanstra shall attend a spring 2013 South Dakota 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 on February 20, 2013, the South Dakota One Call Board, pursuant to 49-7A-27, reviewed the Panel’s procedure and approved its findings.

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 on February 20, 2013, the South Dakota One Call Board, pursuant to 49-7A-27, reviewed the Panel's procedure and approved its findings.

It is therefore:

ORDERED, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein; it is further

ORDERED, that if the penalty is not paid, the Board shall pursue any rights it has under the law regarding collection; it is further

ORDERED, that this docket shall be closed upon receipt of payment.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

CERTIFICATE OF SERVICE

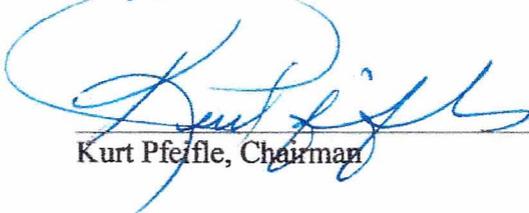
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile by first class mail, or by other electronic means.


Larry L. Janes, Executive Director

Date 2-20-2013

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Miller, South Dakota
This 20th day of February, 2013


Kurt Pfeifle, Chairman