

MENNING BACKHOE

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JUN 11 2013

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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Mitchell SD 57301

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Larry L Janes, Executive Director

South Dakota One Call

500 E Capitol Ave

Pierre SD 57501

June 8, 2013

RE: South Dakota One Call # OC13-001 NWPS/Menning Backhoe, LLC

Sir:

Enclosed is:

- ✓ • Payment of unsuspended portion of penalty in the sum of \$ 250.00
- ✓ • Documentation of in-house safety meeting for our employees to review One Call laws.

Suzanne Menning

Menning Backhoe, LLC

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	
FILED BY NORTHWESTERN ENERGY,)	OC13-001
MITCHELL, SOUTH DAKOTA,)	
AGAINST MENNING BACKHOE,)	ORDER ADOPTING
CORSICA, SOUTH DAKOTA, FOR AN)	ENFORCEMENT PANEL
INCIDENT OCCURRING ON MARCH)	RECOMMENDATION AND
28, 2013, IN CORSICA, SOUTH DAKOTA)	TO PURSUE COLLECTION
)	ACTION IF NECESSARY
)	

On March 28, 2013, the South Dakota Public Utilities Commission ("Commission") received a complaint from NorthWestern Energy, Mitchell, South Dakota against Menning Backhoe of Corsica, South Dakota. The complaint alleges that on or about March 28, 2013, Menning Backhoe performed excavation without valid locates. In its response Menning Backhoe admits the incident occurred.

On April 30, 2013, 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 a violation of SDCL 49-7A-5 occurred. Specifically, the Panel found Menning Backhoe dug without valid locates, as the locate tickets were expired. The Panel did not find the violation to be intentional.

The Panel recommended a Five Hundred Dollars (\$500) with Two Hundred Fifty Dollars (\$250) of the penalty suspended.

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

A total of Two Hundred Fifty Dollars (\$250) is due within thirty days of the issuance of this Order.

The suspension conditions are as follows.

- ✓ 1) Menning Backhoe shall make payment of the **Two Hundred Fifty Dollar (\$250) unsuspended portion** of the penalty within thirty days of issuance of the final SD One Call Board Order.
- 2) Menning Backhoe shall attend an excavating seminar in the spring of 2014.
- ✓ 3) Menning Backhoe shall conduct an in-house safety meeting for its employees to review the One Call laws. The meeting shall be held within 30 days of the final One Call Order. Documentation shall include the printed and signed names of meeting participants, details of the material discussed, and the date and length of

the meeting. Documentation shall be submitted to the Executive Director of South Dakota One Call.

- 4) Menning Backhoe must not be found to have committed a violation of SDCL 49-7A or ARSD 20:25 within the next twelve months.

If any of the conditions are not met, the entire Five Hundred Dollar Penalty (\$500) will be immediately due and owing.

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

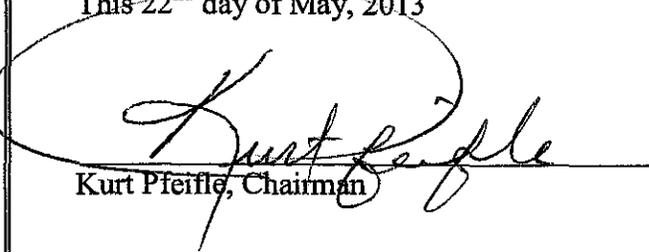
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile by first class mail, or by other electronic means.


Larry L. Janes, Executive Director

Date 5-24-2013

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Ft. Pierre, South Dakota
This 22nd day of May, 2013


Kurt Pfeifle, Chairman

MENNING BACKHOE

25462 Cornerstone Ave

Mitchell SD 57301

Phone 605.996.4044

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Email menbak2@gmail.com

MENNING BACKHOE, LLC SAFETY PROGRAM MEETING - ONE CALL LAWS

Meeting Date and Place - June 3, 2013 , Mitchell SD

Meeting Time - 7:00 am - 8:00 am

Supervisors: Kevin Menning, Nick Menning

Topic: OPERATIONS MANUAL FOR FACILITY OPERATORS AND EXCAVATORS booklet was observed and discussed.

Locate requests made in office.

48 hr notice needed before dig, excluding holidays & weekends.

Uniform Color Code

Verify locate at job site. If no markings, call office.

Facility Operator may have an 18" variance to actual location of facility.

If that is a problem, let the office know.

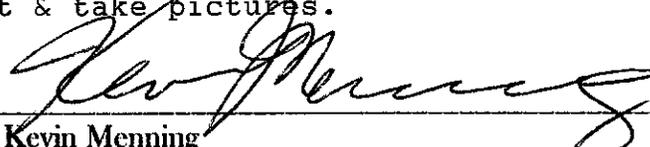
Excavate by hand when within 18" horizontal depth.

If damaged, "kinked" when dig or backfill, call office.

Open discussion of previous & future related situations.

Document & take pictures.

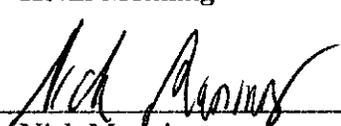
Signed


Kevin Menning

Date

6-3-13

Signed


Nick Menning

Date

6-3-13

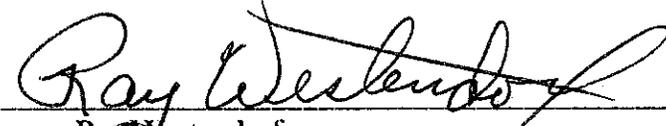
Signed


Curtis Dertin

Date

6-3-13

Signed


Ray Westendorf

Date

6-3-13

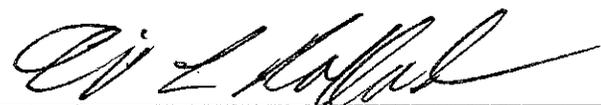
Signed


David Jones

Date

6-3-13

Signed


Eric Rolland

Date

6-3-13