

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
FILED BY CITY OF VOLGA, VOLGA,)	RECOMMENDATION TO
SOUTH DAKOTA, AGAINST MEYER)	THE SD ONE CALL BOARD
DRAINAGE AND EXCAVATING, VOLGA,)	
SOUTH DAKOTA, FOR AN INCIDENT)	
OCCURRING ON MAY 16, 2013, IN)	OC13-007
VOLGA, SOUTH DAKOTA)	

On May 17, 2013, the South Dakota Public Utilities Commission received a complaint from the City of Volga against Meyer Drainage and Excavating, Volga, South Dakota. The complaint alleges that on or about May 16, 2013, Meyer Drainage and Excavating performed excavation directly above located facilities using a backhoe, resulting in damage to a high voltage cable.

A copy of the complaint was sent to Meyer Drainage and Excavating on May 17, 2013. Meyer Drainage and Excavating did not respond to the complaint.

On July 2, 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 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 Meyer Drainage and Excavating excavated directly above located facilities using a backhoe, rather than hand tools or noninvasive methods, in violation of SDCL 49-7A-8. The Panel did not find the violation to be intentional.

The Panel found it proper to assess a Five Hundred Dollars (\$500) penalty for this first time offense. Based, however, on Meyer Drainage and Excavating's safe excavation history, the Panel found it proper to conditionally suspend Two Hundred Fifty Dollars (\$250) of the penalty under the following conditions:

- (i) Meyer Drainage and Excavating shall make payment of the **Two Hundred Fifty Dollar (\$500) unsuspended portion** of the penalty within thirty days of issuance of the final SD One Call Board Order.
- (ii) Meyer Drainage and Excavating shall attend an excavating seminar in the spring of 2014.
- (iii) Meyer Drainage and Excavating 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 within 30 days of the final One Call Order.

- (iv) Meyer Drainage and Excavating shall not be found in violation of any One Call statute or rule within twelve months of the issuance of the final Order.

If any of the conditions are not met, the entire Five Hundred Dollar Penalty (\$500) 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 a party 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 July 2, 2013