

**BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

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IN THE MATTER OF THE COMPLAINT ) FILED BY KIMBALL SCHOOL DISTRICT, ) KIMBALL, SOUTH DAKOTA, AGAINST ) KONECHNE DIGGING., KIMBALL, ) SOUTH DAKOTA, FOR AN INCIDENT ) OCCURRING ON AUGUST 14, 2013, AT ) 300 S. EAST. ST., KIMBALL, S.D. )	ENFORCEMENT PANEL RECOMMENDATION TO THE SD ONE CALL BOARD  OC13-031
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On December 17, 2013, the South Dakota Public Utilities Commission received a complaint from Kimball School District, Kimball, South Dakota against Konechne Digging of Kimball, South Dakota. The complaint alleges that on or about August 14, 2013, Konechne Digging dug without a locate ticket.

A copy of the complaint was sent to Konechne Digging on November 20, 2013. Konechne Digging responded to the Complaint on December 30, 2013. In its response, Konechne Digging stated the construction manager said everything was already located. Konechne Digging admitted digging without calling for locates.

On January 31, 2014, 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 Konechne Digging performed excavation without a valid locate ticket. The Panel did find the violation to be intentional.

The Panel found it proper to assess a \$750 penalty for this first time offense. Based, however, on Konechne Digging's safe excavation history, the Panel found it proper to suspend \$500 of the penalty under the following conditions:

- (i) Konechne Digging shall make payment of the **\$250 unsuspended portion** of the penalty within 30 days of issuance of the final SD One Call Board Order.
- (ii) Konechne Digging shall attend an excavating seminar in the spring of 2014.
- (iii) Konechne Digging 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 that 30 day period.
- (iv) Konechne Digging must not be found to have committed another violation of a One Call rule or regulation within the 12 months of the SD One Call Board Order.

If any of the conditions are not met, the entire \$750 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 1-31-2014

**REQUEST FOR A HEARING  
COMPLAINT OC13-031**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC13-031 AND  
REQUEST A HEARING.**

\_\_\_\_\_  
**Signature – Konechne Digging**

\_\_\_\_\_  
**Date**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC13-031 AND  
REQUEST A HEARING.**

\_\_\_\_\_  
**Signature – Kimball School District**

\_\_\_\_\_  
**Date**

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER  
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD  
C/O SOUTH DAKOTA PUBLIC UTILITIES COMMISSION  
500 E. CAPITOL AVE.  
PIERRE, SD 57501-5070**

**Failure to request a hearing will result in acceptance of the Enforcement Panel's  
Recommendation by the South Dakota One Call Board. The Board will then  
Order the Recommendation as the final disposition of this Complaint.**