

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
FILED BY MONTANA-DAKOTA UTILITIES)	RECOMMENDATION TO
CO., RAPID CITY, SOUTH DAKOTA,)	THE SD ONE CALL BOARD
AGAINST WARAX EXCAVATING INC.,)	
RAPID CITY, SOUTH DAKOTA, FOR AN)	OC14-008
INCIDENT OCCURRING ON APRIL 11,)	
2014, AT 616 WATTS LN., RAPID CITY, S.D.)	

On April 15, 2014, the South Dakota Public Utilities Commission received a complaint from Montana-Dakota Utilities Co., Rapid City, South Dakota against Warax Excavating, Inc. (Warax) of Rapid City, South Dakota. The complaint alleges that on or about April 11, 2014, Warax dug using an expired locate ticket.

A copy of the complaint was sent to Warax on April 17, 2014. Warax did not respond to the complaint.

On May 20, 2014, pursuant to SDCL 49-7A-22 a panel of three 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 Warax preformed excavation without a valid locate ticket, resulting in damage to a gas line operated by Montana-Dakota Utilities Co. The Panel did find the violation to be intentional.

The Panel found it proper to assess a \$1,500.00 penalty for this offense. The Panel found it proper to suspend \$750.00 of the penalty under the following conditions:

- (i) Warax shall make payment of the **\$750.00 unsuspended portion** of the penalty within 30 days of issuance of the final SD One Call Board Order.
- (ii) Warax shall attend an excavating seminar in the spring of 2015.
- (iii) Warax 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) Warax 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 \$1,500.00 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 May 21, 2014

**REQUEST FOR A HEARING
COMPLAINT OC14-008**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC14-008 AND
REQUEST A HEARING.**

Signature – Warax Excavating, Inc.

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC14-008 AND
REQUEST A HEARING.**

Signature – Montana-Dakota Utilities Co.

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.**