

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

IN THE MATTER OF THE COMPLAINT FILED BY )  
COREY AND BRITT SAMSON, SIOUX FALLS, )  
SOUTH DAKOTA, AGAINST FIRST RATE )  
EXCAVATE, SIOUX FALLS, SOUTH DAKOTA )  
FOR AN INCIDENT OCCURRING ON )  
SEPTEMBER 10, 2015, AT 904 E. 70TH ST., )  
SIOUX FALLS, SD )

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

**OC15-009**

On October 2, 2015, the South Dakota Public Utilities Commission received a complaint from Corey and Britt Samson (Samson), Sioux Falls, South Dakota, Against First Rate Excavate (First Rate), Sioux Falls, South Dakota. The complaint alleges that on or about September 10, 2015, Respondent engaged in excavation on their property and exposed the gas line where no locates had been done. Respondent filed an answer to the complaint on October 27, 2015.

On November 24, 2015, 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 sufficient evidence was presented to determine probable cause exists to believe a violation of SDCL 49-7A-5 occurred. The Panel did not find the violation to be intentional.

The Panel found it proper to assess a penalty of \$750.00 with \$500.00 suspended on certain conditions as listed below.

The recommended suspension conditions are as follows:

- i. Respondent shall make payment of the \$250.00 unsuspended portion of the penalty within thirty days of issuance of the final SD One Call Board Order.
- ii. Payment shall be remitted to: South Dakota Public Utilities Commission, 500 E. Capitol Ave., Pierre, SD 57501.
- iii. Respondent shall attend a damage prevention seminar in the spring of 2016.
- iv. Respondent shall conduct an in-house safety meeting with its subcontractor to review the One Call laws. The meeting shall be held within 30 days of the final One Call Order, unless such meeting has occurred prior to the issuance of the Order, but subsequent to the violation. 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.
- v. Respondent 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 \$750.00 Penalty will be immediately due and owing.

At its regularly scheduled meeting on February 10, 2016, 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

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**

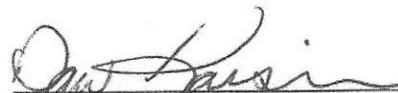
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile by first class mail, or by other electronic means.

  
Larry L. Janes, Executive Director

Date 3-4-2016

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Round Falls, South Dakota  
This 18<sup>th</sup> day of February, 2016

  
\_\_\_\_\_  
Dan Kaiser, Chairman