South Dakota 811

Know what's below.
Call before you dig.

TO: **First Rate Excavate**

FROM: **SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

DATE: **October 9, 2015**

RE: **NOTICE OF COMPLAINT; DEADLINE FOR ANSWER**

In the Matter of the Complaint OC15-009 filed by Corey and Britt Samson, against First Rate Excavate.

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against First Rate Excavate. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you are required to answer this complaint in writing, no later than the close of business on October 29, 2015 by filing the original copy of the answer electronically at http://sdonecall.com/OneCallReplyForm.aspx. This site can also be found by going to www.sdonecall.com, clicking on Complaints, Forms, and then the Online Reply form. **OR** You may also file your response at the address listed below **and** by serving a copy on the complainant.

South Dakota One Call Notification Board
c/o Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

Your answer should be as thorough and detailed as possible and should include any documentation that supports your position e.g. witness statements, pictures, etc. We would encourage you to specifically address the alleged violation referenced in the complaint.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaint and associated response. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 or SDCL 49-19.

If any financial penalties are assessed in response to the complaint, the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

1. The amount of damage, degree of threat to the public safety, and inconvenience caused;
2. The respondent's plans and procedures to insure future compliance with statute and rules;
3. Any history of previous violations;
4. Other matters as justice requires.

You may address any of these items in your response, if you believe it would be of value to the Enforcement Panel when they consider this complaint.

Pursuant to SDCL 15-6-55, failure to answer this complaint could result in a default judgment being issued against you. Appropriate liens and other legal collection actions could result. **You are strongly urged to reply to this Notice** in the time frame described above **and** to obtain the advice of counsel should you have any legal questions.

A copy of the Operations Manual for Facility Operators and Excavators, the South Dakota One Call Statute and associated Administrative Rules are available on our web site www.sdonecall.com.

Procedural questions may be directed to Larry Janes, Executive Director, South Dakota One Call Notification Board, at 605-339-0529 or by email to exedir@sdonecall.com. I would request that you do not contact any members of the South Dakota One Call Notification Board to discuss this complaint, since they may be involved in the Enforcement Panel review and/or a Chapter 1-26 hearing to resolve the complaint. They have been advised by legal counsel not to discuss any pending complaint before the Board.

Enclosures: Copy of complaint
Operations Manual for Facility Operators and Excavators

cc: Corey and Britt Samson (via email)