South Dakota 811

Know what's below.
Call before you dig.

August 22, 2016

Mr. Steve Beck
Beck Plumbing
915 6th Avenue SE
Watertown, South Dakota 57201

Mr. Todd Chambers
Watertown Municipal Utilities
901 Fourth Avenue SW
Watertown, South Dakota 57201

**Re: OC16-004** Watertown Municipal Utilities **against** Beck Plumbing

Enclosed is a revised Enforcement Panel Recommendation to correct a typo in the original letter dated August 5, 2016 regarding the unsuspended dollar amount in the Recommendation. Because of that error, the date to return a hearing request form has also been extended to September 12, 2016 (see below). I sincerely apologize for any inconvenience.

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on July 29, 2016 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket OC16-004. The Enforcement Panel's findings are enclosed. You may request a hearing according to SDCL-49-7A-27, if you disagree with the Enforcement Panel findings. If you do request a hearing you must be represented by legal counsel at the time you present your case to the One Call Board.

**Failure to respond to this notice or request a hearing is considered acceptance of the Enforcement Panel Recommendation. In that case, the Recommendation will be Ordered by the SD One Call Notification Board and your right to hearing is waived.**

**If you choose to request a hearing you must return the signed and dated form, which must be received prior to the close of business on September 12, 2016:**

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

Be aware, any future violations of any One Call statute or rule may be subject to additional penalties up to $5,000 for each subsequent violation that occurs within twelve months of the initial violation. If you have procedural questions relative to this complaint, please contact me at 605-339-0529 or by email at exedir@sdonecall.com . Do Not Contact any members of the South Dakota One Call Notification Board to discuss this complaint since members may be involved in a hearing if one is requested.

Larry L. Janes
Executive Director
South Dakota One Call/South Dakota 811
Tel #/Cell # (605) 339-0529
Fax # (605) 348-4543

exedir@sdonecall.com

"Let's all do our part to make our communities and state a safe place to work and live"
Always Call 811 Before You Dig
For information about South Dakota One Call, please visit http://onecall.sd.gov .

**REQUEST FOR A HEARING**
**COMPLAINT OC16-004**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC16-004 AND REQUEST A HEARING.**

_____ _____

**Signature – Beck Plumbing** **Date**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC16-004 AND REQUEST A HEARING.**

_____ _____

**Signature – Watertown Municipal Utilities** **Date**

**<u>YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER PARTIES INCLUDING:</u>**

**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.**

# BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

| | | |
|---|---|---|
| **IN THE MATTER OF THE COMPLAINT FILED BY WATERTOWN MUNICIPAL UTILITIES, WATERTOWN, SOUTH DAKOTA, AGAINST BECK PLUMBING OF WATERTOWN, SOUTH DAKOTA, FOR AN INCIDENT OCCURRING ON APRIL 14, 2016, AT 1604 13TH AVENUE SE, WATERTOWN, SOUTH DAKOTA** | ) | **ENFORCEMENT PANEL RECOMMENDATION TO THE SD ONE CALL BOARD**<br><br>**OC16-004** |

On April 21, 2016, the South Dakota Public Utilities Commission received a complaint from Watertown Municipal Utilities against Beck Plumbing (Respondent). The complaint alleges that on or about April 14, 2015, Respondent engaged in excavation without making a locate request.

A copy of the complaint was sent to Respondent on April 26, 2016. Respondent did respond to the Notice of Complaint by the May 16, 2016 deadline. On May 26, 2016, Watertown Municipal Utilities filed additional documentation. On May 27, 2016, a revised answer deadline was sent to the respondent. Respondent did file an answer to the additional documentation.

On July 29, 2016, 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. Specifically, the Panel found Respondent performed excavation without making a locate request. The Panel did not find the violation to be intentional.

The Panel found it proper to assess a $1,000.00 penalty for this offense. The Panel found it proper to suspend $500.00 of the penalty under the following conditions:

i. Respondent shall make payment of the $500.00 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 2017.
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 $1,000.00 Penalty 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 8-22-2016