



South Dakota One Call Notification Board

Larry Englerth
Executive Director

1012 North Sycamore Ave.
Sioux Falls, SD 57110

Tel/Fax (605) 339-0529
Email: exedir@sdonecall.com

TO: ACTION ELECTRIC
FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
RE: NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;

In the Matter of the Complaint OC05-001 filed by Kaneb Pipe Line. against Action Electric, regarding a failure to provide notification of proposed excavation as required by SDCL 49-7A-5.

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against Action Electric. 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 February 25, 2005, by filing the original and two copies of the answer at the address listed below and by serving a copy on the complainant.

South Dakota One Call Notification Board
1012 N. Sycamore Avenue
Sioux Falls, SD 57110-5747

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 of SDCL 49-7A-5 referenced in the complaint:

Failure to provide forty-eight hours notice prior to the start of excavation on ticket number 050240005 by commencing excavation prior to January 26, 2005 at 9:00AM CDT

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. Failure to respond to this notice will be considered as concurrence that the allegations included in the complaint are accurate. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 or SDCL 49-7A-19. If any financial penalties are assessed in response to Complaint OC05-001, the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

1. The amount of damage
2. The degree of threat to the public safety, and
3. The public inconvenience caused;

4. The respondent's plans and procedures to insure future compliance with statute and rules;
5. Any history of previous violations;
6. 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 is enclosed. The South Dakota One Call Statute is reprinted in this manual starting on page 25 with the penalty section starting at the bottom of page 29. We would encourage you to review this material prior to completing your response.

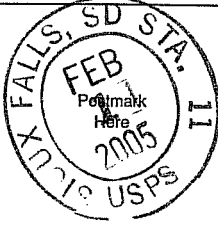
Procedural questions may be directed to Larry Englerth, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to ezedir@sdonecall.com.

Enclosure: Operations Manual, copy of complaint, copy of letter, copy of ticket

cc: Ron Kleinsasser, Kaneb Pipe Line., Complainant (cover letter only via email)

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U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 129
Certified Fee	230
Return Receipt Fee (Endorsement Required)	1.25
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.34



Sent To	
Street, Apt. No.; or PO Box No.	Action Electric; 5200 W. 9 th Street
City, State, ZIP+4	Sioux Falls, SD 57107

PS Form 3800, June 2002 Seal Reverse for Institutions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>John Kaerner</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery <i>John Kaerner</i> 2/11/05</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 10px; text-align: center; margin: 10px 0;"> <p>Action Electric 5200 W. 9th Street Sioux Falls, SD 57107</p> </div>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number <i>(Transfer from service label)</i></p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7003 1010 0000 7865 0282</p>	
<p>PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540</p>	