



Larry Englerth  
Executive Director

1012 North Sycamore Ave.  
Sioux Falls, SD 57110

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

February 16, 2007

Albin Stromseth  
Stromseth Construction  
16708 451<sup>st</sup> Ave  
Watertown, SD 57201

Steve Lehner, Asst General Manager  
Watertown Municipal Utilities  
901 4<sup>th</sup> Avenue Southwest  
Watertown, SD 57201-4107

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on February 13, 2007, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC07-001 filed by Watertown Municipal Utilities against Stromseth Construction

By a unanimous vote of the Enforcement Committee, the recommended resolution to the alleged violation included in this complaint was determined to be as follows:

**Complaint OC07-001**

Alleged Violation of SDCL 49-7A-5 Notification of Proposed Excavation

The Committee found there was probable cause that Stromseth Construction had violated SDCL 49-7A-5 by commencing excavation at 8 2<sup>nd</sup> Street SW (Veeders Collision Center) in Watertown, SD without providing advance notification to the South Dakota One Call System as required by statute.

The committee recommends a penalty of five hundred dollars (\$500.00) with three hundred dollars (\$300.00) suspended on the following conditions:

1. Stromseth Construction fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC07-001 by both parties.

2. Stromseth Construction fully complies with the resolution of Complaint OC07-001 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC07-001.

The findings and recommendation of the Enforcement Committee are summarized on the attached form.

Under SDCL 49-7A-27 either party may accept the recommendation of the Enforcement Committee or reject the recommendation of the Enforcement Committee by requesting a formal hearing on the violation alleged in this complaint. Your decision should be reflected on the second page of the attachment with the header "Acceptance or Rejection by Parties. **Please return the signed and dated form prior to the close of business on March 9, 2007, to:**

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

If both parties accept this resolution, the South Dakota One Call Notification Board is required to accept the resolution and close this complaint. If either party rejects the Enforcement Committee resolution of the alleged violation, the South Dakota One Call Notification Board will conduct a hearing as a contested case under Chapter 1-26 to resolve the allegation alleged in the rejected complaint. Following this hearing, the Board shall either render a decision dismissing the complaint for insufficient evidence or shall impose a penalty pursuant to SDCL 49-7A-18 or SDCL 49-7A-19..

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.**

If you have any procedural questions relative to this complaint, please contact me at 605-339-0529 or by email at [exedir@sdonecall.com](mailto: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 Chapter 1-26 hearing to resolve of the complaint, they have been advised by legal counsel to not discuss any pending complaint before the Board.

Sincerely,

Larry L. Englerth  
Executive Director

# **ENFORCEMENT COMMITTEE ACTION OC07-001**

## **Watertown Municipal Utilities vs. Stromseth Construction**

### **FINDINGS:**

#### **OC07-001**

#### **Alleged Violation of SDCL 49-7A-5 Notification of Proposed Excavation**

Allegation is made by Watertown Municipal Utilities that Stromseth Construction commenced excavation at 8 2<sup>nd</sup> Street SW (Veeders Collision Center) in Watertown, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

Stromseth Construction did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System but did state that marks were present from another excavators request..

In reviewing the complaint filed by Watertown Municipal Utilities and the response from Stromseth Construction, the committee determined the following:

Stromseth Construction had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that Stromseth Construction had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

### **RECOMMENDATION**

#### **OC07-001**

#### **VIOLATION OF SOUTH DAKOTA SDCL 49-7A-5:**

The Committee found there was probable cause that Stromseth Construction had violated SDCL 49-7A-5 by commencing excavation at 8 2<sup>nd</sup> Street SW (Veeders Collision Center) in Watertown, SD without providing advance notification to the South Dakota One Call System as required by statute.

#### **PROPOSED PENALTY FOR THIS VIOLATION AUTHORIZED UNDER SDCL 49-7A-18:**

The committee recommends a penalty of five hundred dollars (\$500) with three hundred dollars (\$300) suspended on the following conditions:

3. Stromseth Construction fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC07-001 by both parties.
4. Stromseth Construction fully complies with the resolution of Complaint OC07-001 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC07-001.