

ENFORCEMENT COMMITTEE ACTION

OC07-005

Kaneb Pipeline Operating Partnership, L.P. vs. Landscape Garden Center

FINDINGS: OC07-005

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

Allegation is made by Kaneb Pipeline Operating Partnership, L.P. that Landscape Garden Center commenced excavation at T100N, R50W, Sec.15 SE in Lincoln County of South Dakota, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

Landscape Garden Center did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System but did state complete understanding of the seriousness of the potential situation and that a corrective action plan including employee education had been implemented.

In reviewing the complaint filed by Kaneb Pipeline Operating Partnership, L.P. and the response from Landscape Garden Center, the committee determined the following:

Landscape Garden Center 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 Landscape Garden Center had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

RECOMMENDATION OC07-005

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

The Committee found there was probable cause that Landscape Garden Center had violated SDCL 49-7A-5 by commencing excavation at T100N, R50W, Sec.15 SE in Lincoln County of South Dakota 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 one-thousand dollars (\$1,000) with eight-hundred dollars (\$800) suspended on the following conditions:

3. Landscape Garden Center fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC07-005 by both parties.
4. Landscape Garden Center fully complies with the resolution of Complaint OC07-005 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC07-005.

COMMENTS: