



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)

**TO: MARK SIEFKES dba S.P.O.T.**  
**FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**  
**DATE: AUGUST 28, 2007,**  
**RE: NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;**

**In the Matter of the Complaint OC07-006 filed by One Call Systems, Inc. against Mark Siefkes dba S.P.O.T., regarding a failure to provide notification of proposed excavation as required by §§ 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 Mark Siefkes dba S.P.O.T. Pursuant to §§ 49-7A-23 & §§ 49-7A-24. You are required to answer this complaint in writing, no later than the close of business on September 19, 2007, by filing the original and two copies of the answer at the address listed below and by serving a copy on the complainant or you may file your response electronically at <http://www.state.sd.us/puc/EFilingOptions.aspx>.

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 of §§ 49-7A-2 referenced in the complaint:

Failure to register and become a member of the South Dakota One Call System or

Failure to accept notification information on notification #053390103 as required by the following South Dakota Statute and Administrative Rules:

**49-7A-1. Definition of terms. Terms used in this chapter mean:**

(7) "Operator," any person who operates an underground facility

**49-7A-2. Establishment of One-Call Notification Board.** ... All operators are subject to this chapter and the rules promulgated thereto. Any operator who fails to become a member of the one-call notification center ... is subject to applicable penalties under §§ 49-7A-18 and 49-7A-19 and is subject to civil liability for any damages caused by noncompliance with this chapter.

**20:25:03:01. Operator participation.** Each operator required by §§ 49-7A-2 to join the one-call system:

(1) ...

(2) Shall respond to notification of excavation, including emergency notices, as required by §§49-7A and article 20:25;

(3) Shall establish a means of receiving notification of excavation from the one-call notification center; and

Pursuant to §§ 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 §§ 49-7A-18 or §§ 49-7A-19. If any financial penalties are assessed in response to Complaint OC07-006, the amount will be based on the factors noted in §§ 49-7A-26 which are as follows:

The amount of damage

1. The degree of threat to the public safety, and
2. The public inconvenience caused;
3. The respondent's plans and procedures to insure future compliance with statute and rules;
4. Any history of previous violations;
5. 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 §§ 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 and Administrative Rules are reprinted in this insert with the penalty section starting at the bottom of page 27. 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 [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 Enforcement Panel review and/or a 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.

Enclosure: Operations Manual, copy of complaint

cc: John McNamara, One Call Systems, Inc. (via email)