



Larry Englerth
Executive Director

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January 9, 2008

Sandy Knutson, Finance Officer
City of Hurley
701 Burns Place
Hurley, SD 57036

Jack Brinkley
PrairieWave Communications
5100 Broadband Lane
Sioux Falls, SD 57108

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on January 9, 2008, to determine whether there is probable cause to believe that a violation has occurred relative to Complaint OC07-008 filed by PrairieWave Communications against City of Hurley.

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 OC07-008

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

The Committee found there is probable cause to find the City of Hurley violated SDCL 49-7A-5 by commencing excavation at the south edge of the city limits in Hurley, South Dakota, 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 two hundred dollars (\$200.00) suspended on the following conditions:

1. City of Hurley fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC07-008 by both parties.
2. City of Hurley fully complies with the resolution of Complaint OC07-008 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC07-008.
3. City of Hurley should be aware that any future violation of SDCL 49-7A or ARSD 20:25 within twelve months from the date of the final order are be subject to additional penalties up to a maximum of \$5000 under SDCL 49-7A-18.

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. Under the same statute, failure to respond to this notice is considered acceptance of the Enforcement Committee recommendation and your right to a hearing is waived. 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 January 31, 2008, to:**

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

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. 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