

December 8, 2008

Bryan VanderPol, Manager
VanderPol Dragline, Inc.
1001 Hot Rod Rd.
Mitchell, SD 57301

Dan Wolf
Northwestern Energy
313 Cedar St.
Yankton, SD 57078

The Enforcement Committee recommendation to resolve Complaint OC08-004, OC08-005 & OC08-006 have been accepted by both parties involved in the complaint. The order closing this Complaint is attached.

This order will close all action on this complaint with the exception that the suspended portion of the penalty would be applicable should a further violation occur prior to December 4, 2009 or payment of the penalty is not received prior to January 08, 2009. Payment should be mailed to the following address:

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

Sincerely,

Larry L. Englerth
Executive Director

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE) ORDER
COMPLAINT AGAINST VANDERPOL) OC08-006
DRAGLINE, INC.)

On September 10, 2008, the South Dakota Public Utilities Commission received a complaint from Northwestern Energy against the VanderPol Dragline, Inc. The VanderPol Dragline, Inc. did not dispute the allegation in the complaint that they had excavated without providing advance notice to the South Dakota One Call System.

On November 10, 2008, the Enforcement Committee of the South Dakota One Call Notification Board met and determined that probable cause exists in Docket OC08-006 in regards to the allegation that the VanderPol Dragline, Inc. has violated SDCL 49-7A-5. The Enforcement Committee recommended a one-thousand dollar (\$1,000) penalty.

All interested parties agreed with the recommendations of the Enforcement Committee. By December 5, 2008, all interested parties had signed the Enforcement Committee Action Agreement.

ORDERED, that the terms and conditions of the Enforcement Committee Action Agreement and the signed Acceptance of the recommended resolution by Northwestern Energy shall be incorporated into this Order by reference and attached hereto, the same as if it was fully recited herein and shall as such be fully binding upon the parties to it; and it is

FURTHER ORDERED that the docket in this matter shall be closed.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, 49-7A-26.

Dated this 8th day of December 2008.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

Larry Englerth, Executive Director

Date December 8, 2008

BY ORDER OF THE SD ONE-CALL BOARD:

ED ANDERSON, Chairman

Under the Authority and on Behalf of the
Chairman

LARRY ENGLERTH, Executive Director

ENFORCEMENT COMMITTEE ACTION

OC08-006

Northwestern Energy vs. VanderPol Dragline Inc.

FINDINGS:

OC08-006

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

Allegation is made by Northwestern Energy that VanderPol Dragline Inc. commenced excavation Intersection of Hwy 25 and Cherry Street in Scotland, South Dakota, without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

VanderPol Dragline Inc. did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System. VanderPol Dragline Inc. did provide ticket #080980243 which expired on May 1, 2008.

In reviewing the complaint filed by Northwestern Energy and the response from VanderPol Dragline Inc., the committee determined the following:

VanderPol Dragline Inc. had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found there is probable cause to find the VanderPol Dragline Inc. violated SDCL 49-7A-5 by commencing excavation Intersection of Hwy 25 and Cherry Street in Scotland South Dakota without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

RECOMMENDATION

OC08-006

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

The Committee found there was probable cause that VanderPol Dragline Inc. had violated SDCL 49-7A-5 by commencing excavation Intersection of Hwy 25 and Cherry Street in Scotland, South Dakota, without providing advance notification to the South Dakota One Call System as required by SDCL 49-7A-5.

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

The committee recommends a penalty of one thousand dollars (\$1,000.00).