

BEFORE THE ONE CALL NOTIFICATION BOARD OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION OF) DECLARATORY RULING
UNDERGROUND UTILITY LOCATING FOR A)
DECLARATORY RULING ON THE LEGAL)
START TIME OF A ONE CALL TICKET)

On August 16, 2000, the South Dakota One Call Notification Board (Board) received a Petition for Declaratory Ruling from Underground Utility Locating (UUL) requesting that the Board clarify a legal start time for one call tickets when the work to begin date on the ticket is later than the forty-eight hour period identified in South Dakota statute.

The Request for Declaratory Ruling was noticed for the August 31, 2000, meeting of the South Dakota One Call Notification Board. A discussion was held with Board members present and Jimmy Krsnak, general manager for UUL, regarding the background circumstances for the request and the various parts of South Dakota statute that might be applicable. In absence of legal counsel, the matter was deferred to a Board meeting to be held at a later date.

The Request for Declaratory Ruling was again noticed for the November 20, 2000, meeting of the South Dakota One Call Notification Board. At this meeting, the Board voted unanimously that the soonest date that excavation can begin is the actual start date given by the excavator under SDCL 49-7A-6 and not merely the minimum 48 hour notification requirement mandated by SDCL 49-7A-5.

FINDINGS OF FACT

1. As required by Administrative Rule 20:25:03:07, the One Call Center accepts locate requests from the excavator. This notice is also required by SDCL 49-7A-5.
2. South Dakota statute 49-7A-5 Notification of Proposed Excavation requires the excavator "give notice. . .to the one call center at least forty-eight hours prior to the commencement of excavation. . .but not more than 10 business days prior to any excavation."
3. South Dakota statute 49-7A-6 Notification Requirements requires that "the notice shall contain the name, address, and telephone number of the excavator (and) the date and time when excavation is scheduled to begin. . . ."

CONCLUSION OF LAW

1. The Board has jurisdiction over this matter pursuant to SDCL 49-7A-4.

2. The Board concludes that SDCL 49-7A-5 mandates that forty-eight hours is the minimum amount of notice that can be given the one-call notification center and 10 days is the maximum amount of notice that can be given the one-call notification center prior to excavation.

3. The Board concludes that pursuant to SDCL 49-7A-6 the excavator is required to provide the actual date and time when the excavation is scheduled to begin within the 48 hour and 10 day time frame established in SDCL 49-7A-5.

It is therefore

ORDERED, that the soonest date that excavation can begin is the actual start date that the excavator gives the one-call notification center and not merely the 48 hour minimum time frame mandated by 49-7A-5.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 12th day of December, 2000. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated this 12th day of December, 2000.

Date: 12/4/00

BY ORDER OF THE BOARD

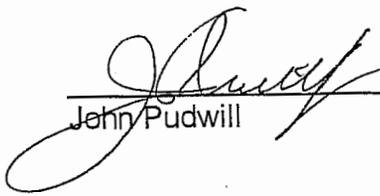


Curt T. Pohl, Chairman

Date: 11/28/00

Harold Anderson
Harold Anderson

Date: 11/22/00

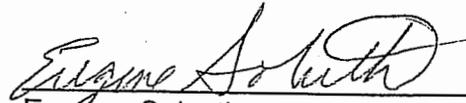


John Pudwill

Date: 11/21/00

Todd R Chambers
Todd Chambers

Date: 1/24/2000


Eugene Solseth

Date: Dec 6, 2003



Kevin Kouba

Date: 11-22-00



Paul Lowe

Date: 11-22-00


Jim E. Lewis

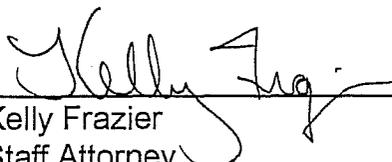
Date: November 25, 2000


Pat Gilligan

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Declaratory Ruling was served on the following by mailing the same to him by United States Post Office First Class Mail, postage thereon prepaid, at the address shown below on this the 12th day of December, 2000.

Mr. Jim Krsnak
Underground Utility Locating
222 North Marion Road
Sioux Falls, SD 57107



Kelly Frazier
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501