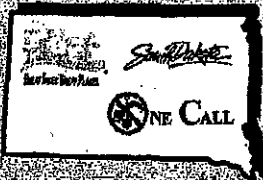
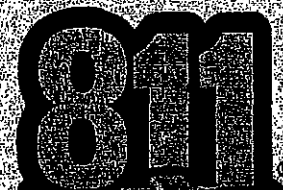


Safe digging is no accident. Always call 811 before digging.



**Know what's below.
Call before you dig.**



TO: Robert Kohl Construction
FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
DATE: NOVEMBER 30, 2010
RE: NOTICE OF COMPLAINT; DEADLINE FOR ANSWER;

In the Matter of the Complaint OC10-009 filed by Ottertail Power Company against Robert Kohl Construction, regarding a failure to provide notification of proposed excavation as required by SDCL 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 Robert Kohl Construction. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you are required to answer this complaint in writing, no later than the close of business on December 20, 2010. You must file your original answer with the South Dakota One Call Notification Board. You may file a paper copy by mailing your answer to the address listed below. Alternatively, you may file your answer electronically at <http://www.state.sd.us/puc/EfilingOptions.aspx>. In addition to filing your original answer with the One Call Notification Board, you must serve a copy on the complainant.

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 SDCL 49-7A-5 referenced in the complaint:

Excavating without a ticket or notification to One Call Center at 509 Old Agency St., Sisseton, South Dakota on September 29, 2010.

EXHIBIT A , PAGE 7 .

Pursuant to SDCL 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 SDCL 49-7A-18 or SDCL 49-19. If any financial penalties are assessed in response to Complaint OC10-009 the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

1. The amount of damage
2. The degree of threat to the public safety, and
3. The public inconvenience caused;
4. The respondent's plans and procedures to insure future compliance with statute and rules;
5. Any history of previous violations;
6. 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 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.

A copy of the Operations Manual for Facility Operators and Excavators, the South Dakota One Call Statute and associated Administrative Rules are available on our web site www.sdonecall.com.

Procedural questions may be directed to Larry Janes, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to exedir@sdonecall.com. You may not contact members of the South Dakota One Call Notification Board to discuss this complaint. Members may be involved in the Enforcement Panel review and/or a Chapter 1-26 hearing to resolve the complaint. Members have been advised by legal counsel to not discuss any pending complaint.

Enclosure: Copy of complaint

cc: Scott Fritz (via email)

ONE CALL COMPLAINT FORM
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, Sd 57501-5070

COMPLAINT

Allegation of Probable Violation(s) of South Dakota One Call Laws

Received On November 29, 2010 2:00 pm

I. ACTION REQUESTED BY:

COMPLAINT FILED BY: Company
PERSON FILING COMPLAINT: Scott Fritz
COMPANY: Otter Tail Power Company
ADDRESS: 215 South Cascade Street Fergus Falls, Mn. 56537
PHONE NUMBER: (218) 739-8521
EMAIL: sfritz@otpc.com
DATE: November 29, 2010

II. ACTION REQUESTED AGAINST:

NAME OF EXCAVATOR/FACILITY OPERATOR: Robert Kohl Construction
PHONE NUMBER: (605) 932-3710
ADDRESS: 12947 BIA Highway 700, Peever, Sd. 57257-7619
WAS A LOCATED REQUESTED FROM SD ONE CALL? No
LOCATE TICKET#:
START DATE ON TICKET:
DID EXCAVATOR WAIT UNTIL THE START DATE/TIME ON THE TICKET BEFORE COMMENCING EXCAVATION? No
WERE BURIED FACILITIES EXPOSED BY HAND OR NON-INVASIVE EQUIPMENT PRIOR TO EXCAVATION? No

III. FACILITY INVOLVED (IF ANY)

TYPE OF FACILITY INVOLVED: Public Health Housing Building
OPERATOR OF FACILITY:
OPERATOR ADDRESS: 509 Old Agency St. Sisseton, Sd
PHONE NUMBER:
DEPTH OF COVER:
PRESSURE:
VOLTAGE:
NUMBER OF CABLE REPAIRS:

IV. MARKING

WERE FACILITIES MARKED? N/A

WAS THE MARKING COMPLETE PRIOR TO THE START TIME ON THE TICKET? N/A

DID EXCAVATOR PRE-MARK WITH WHITE PAINT? N/A

WAS THE FACILITY ACCURATELY MARKED (WITHIN 18 INCHES)? N/A

DID EXCAVATOR USE REASONABLE CARE TO MAINTAIN LOCATE MARKS FOR LIFE OF PROJECT? N/A

HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY? No

IS THERE AGREEMENT? No

IF NO, PLEASE EXPLAIN:

V. DAMAGE (IF ANY)

FATALITIES: 0

INJURIES:

LENGTH OF HOSPITALIZATION: 0

ESTIMATED PROPERTY DAMAGE: \$512.04

NUMBER OF CUSTOMERS AFFECTED: 3

DAMAGED IN: Private

PHOTOS OF THE DAMAGED FACILITY: No

ADDITIONAL INFORMATION: Kohls Construction crew dug into Otter Tail Power companies secondary electrical service without calling in a locate. Damage resulted in 2 employees making repairs for 2 hours each. Total cost of \$512.04

VI. PROBABLE VIOLATION

SPECIFIC STATUE(S) OR RULE(S) THAT WAS VIOLATED: Digging without a locate

ADDRESS/LOCATION OF PROBABLE VIOLATION: 509 Old Agency St Sisseton, Sd.

DATE/TIME OF PROBABLE VIOLATION: September 29, 2010 2:15 pm

HAVE YOU DISCUSSED THE PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST? False

IF YES, NAME THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION:

DESCRIPTION OF PROBABLE VIOLATION: Digging without a locate. (This form is being re-submitted as there were typo's ont he first submission)