

Gary Hanson, Chair  
Chris Nelson, Vice Chair  
Kristie Fiegen, Commissioner

## **SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

500 East Capitol Avenue  
Pierre, South Dakota 57501-5070  
[www.puc.sd.gov](http://www.puc.sd.gov)

Capitol Office  
(605) 773-3201  
1-866-757-6031 fax

Warehouse  
(605) 773-5280  
(605) 773-3225 fax

Consumer Hotline  
1-800-332-1782

August 25, 2011

Scott Olson Digging Inc.  
PO Box 1402  
Huron, SD 57350

Lori Olson  
1906 Maple Dr  
Huron, SD 57350

Re: The State of South Dakota vs. Scott Olson Digging, Inc.  
Civ. 11-269

Dear Ms. Olson:

Enclosed you will find copy of all documents recently filed with the Beadle County Clerk of Courts. This is intended as service upon you by mail. Contact me with any questions.

Sincerely,

Kara Semmler  
Attorney for Plaintiff, SD Public Utilities Commission

Enc.

STATE OF SOUTH DAKOTA  
COUNTY OF BEADLE

IN CIRCUIT COURT  
THIRD JUDICIAL DISTRICT

---

THE STATE OF SOUTH DAKOTA,

Plaintiff,

vs.

SCOTT OLSON DIGGING, INC.,

Defendant.

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CIV 11-269

CERTIFICATE OF SERVICE

Kara C. Semmler, Attorney for Plaintiff, South Dakota Public Utilities Commission, hereby certifies that on the 26th day of August, 2011, she mailed by United States certified mail, postage prepaid and return receipt requested, a true and correct copy of the Application for Default Judgment, Affidavit in Support of Application for Default Judgment, Notice of Hearing on Application for Default Judgment and proposed Default Judgment and Order granting motion in the above captioned action to the following at their last known addresses, to wit:

Scott Olson Digging Inc.  
PO Box 1402  
Huron, SD 57350

And

Lori Olson  
1906 Maple Dr  
Huron, SD 57350

Dated at Pierre, South Dakota, this 26<sup>th</sup> day of August, 2011.



Kara C. Semmler  
Special Assistant Attorney General  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501  
ph. (605) 773-3201  
fax (605) 773-3809  
Attorney for Plaintiff, South Dakota Public  
Utilities Commission



Gary Hanson, Chair  
Chris Nelson, Vice Chair  
Kristie Fiegen, Commissioner

## SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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1-800-332-1782

August 25, 2011

Beadle County Clerk of Courts  
Anita Hasek  
PO Box 1358  
Huron, SD 57350

Re: The State of South Dakota vs. Scott Olson Digging, Inc.  
Civ. 11-269

Enclosed for filing please find Plaintiff's Application for Default Judgment along with an Affidavit in support of said Application. Additionally, please find the Notice and Certificate of Service sent to Defendant. A hearing on this matter is scheduled for September 19, 2011 at 1:30 p.m. with Judge Erickson. Please contact me with any questions. Thank you.

Sincerely,

Kara Semmler

Enc.



promulgated by One-Call and may, pursuant to SDCL 49-7A-18 and 49-7A-19, assess civil penalties against persons found to have violated these laws.

6. On September 13, 2010, pursuant to SDCL 49-7A-17, One-Call received three separate complaints filed by NorthWestern Energy. The Complaints are based on Defendant's failure to properly have utility facilities marked prior to excavation and failure to notify the facility operator after damaging utility facilities in violation of SDCL 49-7A.

7. After notice of each Complaint was given pursuant to 49-7A-23 and 24, Defendant Answered on October 27, 2010. A five member panel, appointed by the Chairman of One Call pursuant to SDCL 49-7A-22, determined probable cause existed to believe violations of SDCL 49-7A occurred.

8. A copy of the One-Call panel's recommendations was sent to the parties pursuant to SDCL 49-7A-27. Defendant, however, failed to respond to the recommendations. Its failure to respond, and failure to request a hearing, constitutes acceptance of the panel's recommendations per SDCL 49-7A-27

9. The panel's recommendations include a combined civil penalty against Defendant that now totals Eleven Thousand Dollars (\$11,000).

10. Individual Orders for OC10-006, 007 and 008 were served on Defendant via first class mail. The Defendant neither appealed the One-Call decision nor paid the civil penalty, and accordingly, owes Eleven Thousand Dollars (\$11,000) in civil penalties.

11. One-Call made a written demand to Defendant for payment of the civil penalties as required by SDCL 49-7A-33. The demand was served by first class mail on Defendant April 6, 2011. A copy of the written demand is attached hereto as Exhibit B.


12. At the request of One-Call, the Commission brought an action in this court against Defendant to recover such penalty in accordance with SDCL 49-7A-28.

13. Defendant has neither paid anything to the Commission nor One-Call in satisfaction of the Eleven Thousand Dollars (\$11,000) in civil fines levied by One-Call nor given any indication to the Commission or One-Call that he intends to pay the fines.

WHEREFORE, Plaintiff requests that the Court enter judgment by default against Defendant as follows:

1. For a monetary judgment in the amount of \$11,000 against Defendant.

Dated this 25<sup>th</sup> day of August, 2011

  
Kara C. Semmler  
Special Assistant Attorney General  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501  
Ph (605) 773-3201  
Fax 866-757-6031  
Attorney for Plaintiff,  
South Dakota Public Utilities Commission

**Sheriff's Return and Day Book Entry**  
**State of South Dakota, County of Beadle, SS. NO: 59825**

I, Doug Solem, Sheriff of Beadle County, SD, hereby certify and return that the annexed papers listed below came into my hands for service on 06/21/2011 and that on 06/21/2011, I duly served the same upon the within named: **Scott Olson Digging** by delivering to and leaving with said

**Lori Olson** personally, true and correct copies of said civil process at **Scott Olson Digging** in said county of Beadle, State of South Dakota, and I hereby certify that I know the person so served.

Sheriff's Fees	Entry
1. SUMMONS	<b>SD Public Utilities Comm</b> Plaintiff
2. COMPLAINT	- vs -
3.	<b>Scott Olson Digging</b> Defendant
4.	Garnishee
5.	
6.	
	Received From: Kara Semmler, Attorney 500 East Capitol Ave Pierre, SD 57501-5070
Miles Driven 0	Rcvd: 06/21/2011 Srvd: 06/21/2011 Retd: 06/21/2011
Mileage 0.00	In What Court:
Service Charge 5.00	By Whom Served: Shane Ball
Total Fees 5.00	Served Upon: Lori Olson

Dated at Huron, South Dakota

Doug Solem  
Beadle County Sheriff

Please: Remit to :  
Beadle County Sheriff  
P.O. Box 42  
Huron, SD 57350

By: \_\_\_\_\_

  
Deputy Sheriff

**RECEIVED**

**JUN 28 2011**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**ORIGINAL**

Exhibit A

**Sheriff's Return and Day Book Entry  
State of South Dakota, County of Beadle, SS. NO: 59824**

I, **Doug Solem** Sheriff of Beadle County, SD, hereby certify and return that the annexed papers listed below came into my hands for service on **06/21/2011** and that on **06/21/2011**, I duly served the same upon the within named:

**Scott Olson Digging** by delivering to and leaving with said

**Scott Olson**

personally, true and correct copies of said civil process at **Scott Olson Digging** in said county of Beadle, State of South Dakota, and I hereby certify that I know the person so served.

Sheriff's Fees	Entry
1. SUMMONS	<b>SD Public Utilities Comm.</b> Plaintiff
2. COMPLAINT	- vs -
3.	<b>Scott Olson Digging, Inc</b> Defendant
4.	Garnishee
5.	
6.	
	Received From: Kara Semmler, Attorney 500 East Capitol Ave Pierre, SD 7501-5070
	Rcvd: 06/21/2011 Srvd: 06/21/2011 Retd: 06/21/2011
	In What Court:
	By Whom Served: Shane Ball
	Served Upon: Scott Olson

Miles Driven 4  
Mileage 1.72  
Service Charge 25.00  
Total Fees 26.72

Dated at Huron, South Dakota

**Doug Solem**  
Beadle County Sheriff

Please: Remit to :  
Beadle County Sheriff  
P.O. Box 42  
Huron, SD 57350

By: \_\_\_\_\_

  
Deputy Sheriff

ORIGINAL

**RECEIVED**  
**JUN 28 2011**  
**SOUTH DAKOTA PUBLIC**  
**UTILITIES COMMISSION**





Steve Kolbeck, Chair  
Gary Hanson, Vice Chair  
Chris Nelson, Commissioner

## SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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1-800-332-1782

April 6, 2011

Scott Olson Digging, Inc.  
Attn: Lori Olson, Registered Agent  
PO Box 1402  
Huron, SD 57350

Re: OC10-006, 007 and 008

Dear Ms. Olson;

On September 13, 2010 NorthWestern Energy filed three complaints against your company. Scott Olson answered the complaints in writing on October 11, 2010. The Enforcement Panel of the South Dakota One Call Notification Board met regarding all three complaints and found probable cause to believe Scott Olson Digging violated South Dakota codified law. The Panel assessed penalties in the following amounts:

- i) In case number OC10-006 a \$1,000 penalty.
- ii) In case number OC10-007 a \$5,000 penalty.
- iii) In case number OC10-008 a \$5,000 penalty.

Your company had thirty days to object to the Panel's findings. Your failure to do so results in acceptance of said penalties. Your company now owes \$11,000 in civil penalties. Larry Janes, the One Call executive director sent the enclosed letter on March 24, 2011 giving you additional time to address your violations. You have, to date, failed to make any attempt to pay the penalties or make other arrangements.

You are hereby demanded, pursuant to SDCL 49-7A-33 to pay said penalty within thirty days of receipt of this letter. If you do not pay the penalty, the Public Utilities Commission may bring an action in the name of the State of South Dakota against your company in circuit court. See SDCL 49-7A-28. Please contact me with any questions.

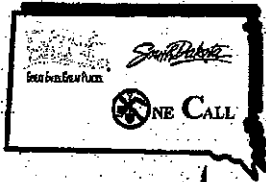
Sincerely,

Kara Semmler

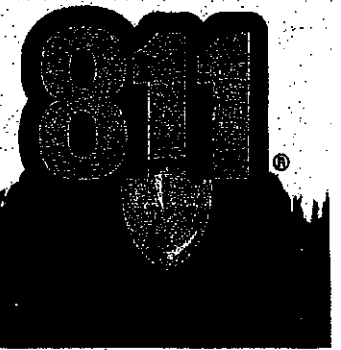
*Special Assistant Attorney General for the SD Public Utilities Commission*

Exhibit B

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



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



March 24, 2011

Scott Olson Digging, Inc.  
PO Box 1402  
Huron, SD 57350

Mr. Olson:

This is a reminder notice of the six thousand dollars (\$6,000) which was due to South Dakota One Call on March 16, 2011. This is in regards to the South Dakota One Call Board Orders Adopting Enforcement Panel Recommendations on Complaints OC10-006, OC10-007, and OC10-008, which were mailed to you on February 18, 2011 and delivered by Priority Mail on February 22, 2011.

OC10-006 - Damaging service pipe and failure to notify Northwestern Energy of that damage at Lincoln Avenue NW (nearest intersection Third Street SW) in Huron, SD on July 27, 2010. This Order requires a penalty payment of one thousand dollars (\$1,000).

OC10-007 - Damaging a 90 degree elbow and pipe where the service entered a customer's property at Lincoln Avenue NW (nearest intersection Third Street SW) in Huron, SD on July 27, 2010. This Order requires a penalty payment of two thousand five hundred dollars (\$2,500). An additional amount of two thousand five hundred dollars (\$2,500) was suspended, if payment was received by March 16, 2010.

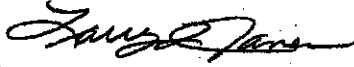
OC10-008 - Completing work prior to the start date on a locate ticket at Lawnridge Avenue SE, from Third Street SE to Seventh Street SE in Huron, SD on August 27, 2010. This Order requires a penalty payment of two thousand five hundred dollars (\$2,500). An additional amount of two thousand five hundred dollars (\$2,500) was suspended, if payment was received by March 16, 2010.

Because payment was not received by March 16, 2011 and because no effort has been made by Scott Olson Digging, Inc. to contact South Dakota One Call to arrange to make payments, the suspended amounts totaling the additional five thousand dollars (\$5,000) are now also due. If you contact South Dakota One Call in writing by Friday, April 1, 2011 to make arrangements for either a one-time payment of six thousand dollars (\$6,000) or some other reasonable monthly payment amount agreed to by South Dakota One Call, we may agree not to impose the additional suspended amounts of five thousand dollars (\$5,000). If no response is received from Scott Olson Digging, Inc. by the close of business on April 1, 2011, then the total amount of eleven thousand dollars (\$11,000) will be imposed and the collection process will begin. Please contact us to make payment arrangements no later than April 1, 2011 at:

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

I sincerely hope that you understand that our goal is compliance with South Dakota One Call laws for the safety of you, your workers, and the general public. We have no interest in receiving complaints and issuing penalties.

Respectfully,



Larry L. Janes  
Executive Director  
South Dakota One Call

STATE OF SOUTH DAKOTA  
COUNTY OF BEADLE

IN CIRCUIT COURT  
THIRD JUDICIAL DISTRICT

---

THE STATE OF SOUTH DAKOTA,

Plaintiff,

vs.

SCOTT OLSON DIGGING, INC.,

Defendant.

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CIV 11-269

AFFIDAVIT IN SUPPORT  
OF APPLICATION FOR  
DEFAULT JUDGEMENT

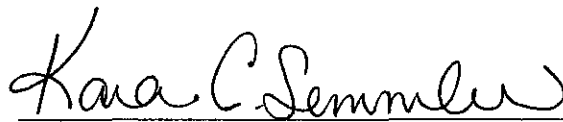
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Kara Semmler, Special Assistant Attorney General and attorney for the Plaintiff, the State of South Dakota, states the following pursuant to SDCL 15-6-55(a) in support of the Plaintiff's Application for Default Judgment:

1. Plaintiff, the state of South Dakota brings this action by and through the Public Utilities Commission ("Commission") an agency of the State of South Dakota.
2. The Commission commenced this action by personal service upon Defendant, Scott Olson Digging, Inc. June 21, 2011. The sheriff's return of service is attached as Exhibit A.
3. The Summons states: "you are required to answer the Complaint...within 30 days after service of this Summons and Complaint upon you, exclusive of the day of such service. You are further notified that if you fail to answer the Complaint within the time aforesaid, judgment by default may be entered against you as requested in the Complaint."
4. To the knowledge of affiant, defendant has not served or filed an Answer or any other pleading in this case upon the Court or Public Utilities Commission.

5. Defendant has not paid anything to the Public Utilities Commission or One Call in satisfaction of the Eleven Thousand Dollars (\$11,000) in civil fines levied by One Call nor given any indication to the Public Utilities Commission or One Call that he intends to do so.

Dated this 25<sup>th</sup> day of August, 2011



Kara C. Semmler  
Special Assistant Attorney General  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501  
Ph (605) 773-3201  
Fax 866-757-6031  
Attorney for Plaintiff,  
South Dakota Public Utilities Commission

**Sheriff's Return and Day Book Entry**  
**State of South Dakota, County of Beadle, SS. NO: 59824**

I, **Doug Solem** Sheriff of Beadle County, SD, hereby certify and return that the annexed papers listed below came into my hands for service on **06/21/2011** and that on **06/21/2011**, I duly served the same upon the within named:

**Scott Olson Digging** by delivering to and leaving with said

**Scott Olson**

personally, true and correct copies of said civil process at **Scott Olson Digging** in said county of Beadle, State of South Dakota, and I hereby certify that I know the person so served.

Sheriff's Fees	Entry
1. SUMMONS	<b>SD Public Utilities Comm.</b> Plaintiff
2. COMPLAINT	- vs -
3.	<b>Scott Olson Digging, Inc</b> Defendant
4.	Garnishee
5.	
6.	
	Received From: Kara Semmler, Attorney 500 East Capitol Ave Pierre, SD 7501-5070
	Rcvd: 06/21/2011 Srvd: 06/21/2011 Retd: 06/21/2011
	In What Court:
	By Whom Served: Shane Ball
	Served Upon: Scott Olson

Dated at Huron, South Dakota

**Doug Solem**  
Beadle County Sheriff

Please: Remit to :  
Beadle County Sheriff  
P.O. Box 42  
Huron, SD 57350

By: \_\_\_\_\_

  
Deputy Sheriff

ORIGINAL

**RECEIVED**  
**JUN 28 2011**  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Exhibit A

**Sheriff's Return and Day Book Entry  
State of South Dakota, County of Beadle, SS. NO: 59825**

I, Doug Solem, Sheriff of Beadle County, SD, hereby certify and return that the annexed papers listed below came into my hands for service on *06/21/2011* and that on *06/21/2011*, I duly served the same upon the within named: *Scott Olson Digging* by delivering to and leaving with said

*Lori Olson* personally, true and correct copies of said civil process at *Scott Olson Digging* in said county of Beadle, State of South Dakota, and I hereby certify that I know the person so served.

Sheriff's Fees	Entry
1. SUMMONS	<i>SD Public Utilities Comm</i> Plaintiff
2. COMPLAINT	- vs -
3.	<i>Scott Olson Digging</i> Defendant
4.	Garnishee
5.	
6.	
	Received From: Kara Semmler, Attorney 500 East Capitol Ave Pierre, SD 57501-5070
Miles Driven 0	Rcvd: 06/21/2011 Srvd: 06/21/2011 Retd: 06/21/2011
Mileage 0.00	In What Court:
Service Charge 5.00	By Whom Served: Shane Ball
Total Fees 5.00	Served Upon: Lori Olson

Dated at Huron, South Dakota

Doug Solem  
Beadle County Sheriff

Please: Remit to :  
Beadle County Sheriff  
P.O. Box 42  
Huron, SD 57350

By: \_\_\_\_\_

  
Deputy Sheriff

**RECEIVED**

**JUN 28 2011**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**ORIGINAL**

STATE OF SOUTH DAKOTA  
COUNTY OF BEADLE

IN CIRCUIT COURT  
THIRD JUDICIAL DISTRICT

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THE STATE OF SOUTH DAKOTA,

Plaintiff,

vs.

SCOTT OLSON DIGGING, INC.,

Defendant.

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CIV 11-269

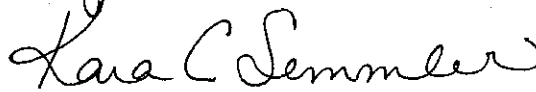
NOTICE OF HEARING ON  
APPLICATION FOR  
DEFAULT JUDGEMENT

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TO THE ABOVE-NAMED DEFENDANT SCOTT OLSON DIGGING, INC:

PLEASE TAKE NOTICE that on **September 19, 2011 at 1:30 pm** a hearing will be held in Beadle County Circuit Court, in front of the Honorable Erickson in Huron, South Dakota on behalf of the State of South Dakota's Application for Default Judgment. If you fail to appear at such place and time, judgment by default may be entered against you.

Dated this 25<sup>th</sup> day of August, 2011.



---

Kara C. Semmler  
Special Assistant Attorney General  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501  
Ph (605) 773-3201  
Fax 866-757-6031  
Attorney for Plaintiff,  
South Dakota Public Utilities Commission



STATE OF SOUTH DAKOTA  
COUNTY OF BEADLE

IN CIRCUIT COURT  
THIRD JUDICIAL DISTRICT

---

THE STATE OF SOUTH DAKOTA,	*	CIV 11-269
	*	
Plaintiff,	*	
	*	
vs.	*	
	*	DEFAULT JUDGMENT
SCOTT OLSON DIGGING, INC.,	*	
	*	
	*	
Defendant.	*	

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This action came on for hearing before the Court on September 19, 2011 at 1:30 pm, the Honorable Erickson, circuit Judge, presiding and the issues having been duly heard and the Court having found good and sufficient cause to enter judgment by default against Defendant,

It is Ordered and Adjudged

1. That the Plaintiff, South Dakota Public Utilities Commission on behalf of the State of South Dakota recover from the Defendant, Scott Olson Digging, Inc., the sum of Eleven Thousand Dollars (\$11,000) and that Defendant shall be liable for the payment of such sum.

Dated at Sioux Falls, South Dakota, this \_\_\_\_\_ day of August, 2011

BY THE COURT

\_\_\_\_\_  
Judge \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Clerk of Courts

STATE OF SOUTH DAKOTA  
COUNTY OF BEADLE

IN CIRCUIT COURT  
THIRD JUDICIAL DISTRICT

---

THE STATE OF SOUTH DAKOTA,

Plaintiff,

vs.

SCOTT OLSON DIGGING, INC.,

Defendant.

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CIV 11-269

CERTIFICATE OF SERVICE

---

Kara C. Semmler, Attorney for Plaintiff, South Dakota Public Utilities Commission, hereby certifies that on the 26th day of August, 2011, she mailed by United States certified mail, postage prepaid and return receipt requested, a true and correct copy of the Application for Default Judgment, Affidavit in Support of Application for Default Judgment, Notice of Hearing on Application for Default Judgment and proposed Default Judgment and Order granting motion in the above captioned action to the following at their last known addresses, to wit:

Scott Olson Digging Inc.  
PO Box 1402  
Huron, SD 57350

And

Lori Olson  
1906 Maple Dr  
Huron, SD 57350

Dated at Pierre, South Dakota, this 26<sup>th</sup> day of August, 2011.



Kara C. Semmler  
Special Assistant Attorney General  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501  
ph. (605) 773-3201  
fax (605) 773-3809  
Attorney for Plaintiff, South Dakota Public  
Utilities Commission