

IN CIRCUIT COURT
SECOND JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,	*	CIV. 14-331
Plaintiff,	*	
vs.	*	
	*	
STONE HILL CONSTRUCTION, INC.,	*	APPLICATION FOR DEFAULT
Defendant.	*	JUDGMENT

1. The Commission commenced this action on October 7, 2014. The Minnehaha County Sheriff personally served the Summons and Complaint on Defendant on October 10, 2014. The Sheriff's Return of Service is attached as Exhibit A.

3. This action was originally brought pursuant to SDCL 49-7A-28 to recover the civil penalty assessed against Defendant by the South Dakota One-Call Notification Board ("One-Call").

5. One-Call, pursuant to SDCL 49-7A-17, has the authority to receive complaints against persons who violate provisions of SDCL chapter 49-7A and

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

6. On November 4, 2013, pursuant to SDCL 49-7A-17, One-Call received complaint filed by MidAmerican Energy against Defendant.

7. A five member panel (the "Panel") was, therefore, appointed by the Chairman of One-Call pursuant to SDCL 49-7A-22 to determine whether probable cause existed to believe violations of SDCL 49-7A-5 and ARSD 20:25:03:05.03 occurred as alleged in the Complaint. The panel found probable cause to believe that the violations occurred.

8. A copy of the One-Call Panel's recommendations was sent to the parties. Defendant failed to respond to the recommendations or request a hearing.

9. Defendant's failure to request a hearing constitutes acceptance of the Panel's recommendation per SDCL 49-7A-27.

10. The Panel's recommendation included a suspended fine based on Defendant's compliance with certain conditions, including payment of the portion which was not suspended. The portion of the fines that was not suspended totaled \$500. The suspended portion was \$250. Defendant has not paid the fine. Failure to satisfy the aforementioned condition resulted in civil penalties against Defendant in the First Complaint of \$750. A complete copy of the recommendations of the Panel in OC12-012 is attached as Exhibit B.

11. One-Call adopted the recommendations of the Panel on December 18, 2013. The Order, incorporating the conditions, was sent to Defendant on March 3, 2014. Defendant neither appealed the One-Call decision nor met the conditions in the Order, and accordingly, owes \$750 in civil penalties.

12. One-Call made a written demand to Defendant for payment of the civil penalties as required by SDCL 49-7A-33. The demand letter was sent to Defendant on June 24, 2014.

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

14. Defendant has neither paid the entirety of the fine to the Commission nor One-Call in satisfaction of the \$750 civil fine levied by One-Call. Further, Defendant has not 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 \$750 against Defendant.

Dated this 16th day of January, 2015.



Kristen N. Edwards
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South Dakota Public Utilities Commission
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