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April 20, 2021

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CODY L. HONEYWELL

WARREN W. MAY 1920-2018
THOMAS C. ADAM 1935-2019
BRENT A. WILBUR 1949-2006

TELEPHONE
605 224-8803
FAX
605 224-6289
E-MAIL
cody@mayadam.net

Campbell County Sheriff's Office
Attn: Civil Process Department
600 W Boxelder Rd
Gillette WY 82718

RE: State of South Dakota (One-Call Board) v. KR Builders, LLC
MAGT File: 7525.12

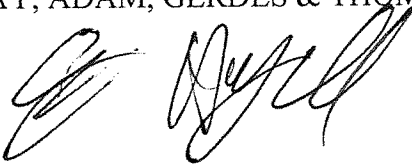
Dear Sheriff:

Enclosed please find a \$50.00 check for service of process, one copy each of the cover letter and Complaint, and two copies of the Summons. The cover letter, Complaint, and one copy of the Summons is to be served upon Shawn Karol for the business known as KR Builders at the following address: 610 Oregon Avenue, Gillette, WY 82718.

Please return the second copy of the Summons with your return of service. Thank you very much for your assistance in this matter.

Very truly yours,

MAY, ADAM, GERDES & THOMPSON LLP



CODY L. HONEYWELL
CLH | jrw

Enclosures

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VIA PERSONAL SERVICE

KR Builders, LLC
Attn: Shawn Karol
610 Oregon Ave
Gillette WY 82718

RE: South Dakota One Call Notification Board v. KR Builders, LLC
Our file: 7525.12

Dear Mr. Karol:

Enclosed please find a Summons and Complaint. If you agree to pay the \$1,000.00 fine, I will request the Court dismiss this Complaint without any interest, additional fees, or costs. Please contact me with any questions. Send the \$1,000.00, payable to South Dakota One Call Board, to my attention at 503 S. Pierre St, P.O. Box 160, Pierre, South Dakota 57501.

Sincerely,

MAY, ADAM, GERDES & THOMPSON LLP



CODY L. HONEYWELL
CLH | jrw

Enclosures

MAY, ADAM, GERDES & THOMPSON LLP
503 SOUTH PIERRE STREET • P.O. BOX 160
PIERRE, SOUTH DAKOTA 57501-0160

STATE OF SOUTH DAKOTA)
)ss
COUNTY OF LAWRENCE)

IN CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA, Plaintiff, vs. KR BUILDERS, LLC, Defendant.	40CIV21- COMPLAINT
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Plaintiff State of South Dakota, by and through its undersigned Counsel, for its Complaint states as follows:

1. Plaintiff, the State of South Dakota (“Plaintiff”) brings this action by and through the South Dakota One Call Board (“One-Call”), an agency of the State of South Dakota created by SDCL 49-7A-2.

2. Defendant KR Builders, LLC, (“Defendant”) is a Wyoming limited liability company with its principal place of business located at 1407 Manchester, Gillette, WY 82716. Justin Thomas Riss is its Registered Agent at the same address.

3. This action is brought pursuant to SDCL 49-7A-28 to recover civil penalty assessed against Defendant by the South Dakota One-Call Board.

4. One-Call was established by the legislature to provide a mechanism through which operators of underground utility facilities shall be notified of plans to excavate. After notification, the operators must mark the underground facilities. The mechanism was established to prevent injuries and property damage. SDCL 49-7A-2. One-Call promulgated rules and procedures pursuant to SDCL 49-7A-4 to regulate the notification process located at ARSD Article 20:25.

5. Specifically, excavators are required to notify One-Call prior to engaging in any excavation. SDCL 49-7A-5. Excavators shall maintain a minimum horizontal clearance of eighteen inches between a marked underground facility and the cutting edge of any mechanical equipment. SDCL 49-7A-8.

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

7. On June 1, 2020, pursuant to SDCL 49-7A-17, One-Call received a Complaint filed by Montana Dakota Utilities Co., against Defendant for engaging in excavation activity without a valid locate ticket and for hitting a 1.25" steel gas line.

8. The Defendant failed to answer the Complaint before the deadline, after notice was given pursuant to 49-7A-23 and 24. Defendant did respond to the Complaint on June 24, 2020.

9. Pursuant to SDCL 49-7A-22, a five-member panel was appointed by the Chairman of One-Call. Based on the information available to it, the panel found probable cause existed to believe violations of SDCL 49-7A-5 and SDCL 49-7A-8 occurred.

10. A copy of the One-Call Panel's recommendation was sent to the parties on August 4, 2020, pursuant to SDCL 49-7A-27. Defendant, however, failed to respond to the recommendations. Defendant's failure to respond, and failure to request a hearing, constitutes acceptance of the Panel's recommendation per SDCL 49-7A-27.

11. The Panel assessed civil penalties against Defendant in the total amount of One Thousand Dollars (\$1,000.00) with Seven Hundred and Fifty Dollars (\$750.00) suspended if Defendant met the conditions contained in the One-Call decision. The complete One-Call decision is attached hereto as Exhibit A.

12. One-Call served its final decision on Defendant via mail. Time for Defendant to appeal the decision of One-Call has expired according to SDCL 1-26-31.

13. Defendant failed to meet conditions in the Order, and Defendant now owes One Thousand Dollars (\$1,000.00) in civil penalties.

14. 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 on Defendant via mail. The demand letter is attached hereto as Exhibit B. More than thirty (30) days have elapsed since the demand was sent, and Defendant has failed to pay the prescribed civil penalties.

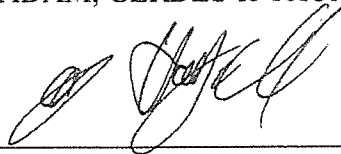
WHEREFORE, Plaintiff demands judgment against Defendant as follows:

1. For monetary judgment in the amount of Two Thousand Dollars (\$1,000.00) plus Plaintiff's costs, disbursements, and statutory interest to the extent allowed by law.
2. For such other and further relief as the Court may deem just and proper.

Dated this 17 day of March, 2021.

MAY, ADAM, GERDES & THOMPSON LLP

BY:



BRETT KOENECKE
CODY L. HONEYWELL
Attorneys for State of South Dakota
503 South Pierre Street
PO Box 160
Pierre, SD 57501-0160
(605) 224-8803
brett@mayadam.net

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

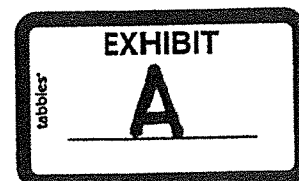
IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES CO., RAPID CITY, SD AGAINST KR BUILDERS, GILLETTE, WY, FOR AN INCIDENT OCCURRING ON MAY 12, 2020 AT 811 PINE ST, WHITEWOOD, SD.	ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD OC20-027
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On May 29, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein "MDU"), against KR Builders, LLC, a Wyoming limited liability company, whose principal office is located at 1407 Manchester, Gillette, WY 82716, (herein "Respondent") for an incident occurring on May 12, 2020, at 811 Pine St, Whitewood, SD. The Complaint alleges a violation of SDCL 9-7A-5 and 49-7A-8 when Respondent was digging without a valid locate ticket and hit a 1.25" steel gas line. MDU alleges that no gas was blowing and 811 was notified.

A copy of the Complaint was sent to Respondent on June 3, 2020. The deadline to respond was June 23, 2020. Respondent answered the complaint on June 24, 2020 and does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges that a new locate should have been called in as the 28 days had passed. Respondent also alleges that they exposed the line and did no damage to it and allege that the line was less than 4" below the surface.

On July 2, 2020, the Enforcement Panel (herein "Panel") convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause to believe that unintentional violations of SDCL 49-7A-5 and 49-7A-8 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1000 with \$750 suspended upon the conditions listed below. The conditions for the suspended penalty are as follows:



1. Respondent must not be found guilty of a One Call violation within 12 months of the Board Order,
2. The penalty payment of \$250 must be made to P.O. Box 187, Rapid City, SD 57709, within 30 days of the Board Order,
3. Respondent must attend a Damage Prevention meeting in 2021,
4. Respondent must conduct an in-house safety meeting to discuss South Dakota One Call laws. Detail of the discussion material, date, and length of the meeting along with printed and signed names of attendees will be submitted to the Executive Director of South Dakota One Call within 30 days of the Board Order.
5. Respondent will arrange a face-to-face meeting with MDU to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within 30 days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (\$750) becomes immediately due and payable to P.O. Box 187, Rapid City, SD 57709.

The Panel recommends the South Dakota One Call Board accept its findings and recommendations herein. If either party to this Complaint disagrees or objects to the recommendations or findings herein, a hearing may be requested. To request a hearing, a party must reply within twenty days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

On August 4, 2020, the Panel's recommendation was sent to the parties to this action. The parties did not request an evidentiary hearing. The Board reviewed the Panel's recommendations at its August 27, 2020 meeting pursuant to SDCL 49-7A-27. The Panel's recommendation was approved by the Board. It is now, therefore:

ORDERED, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein.

The South Dakota One Call Notification Board has jurisdiction over this matter pursuant to SDCL 1-26 and 49-7A and ARSD Article 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22 and 49-7A-26.

Dated this 23th day of September 2020.

BY ORDER OF THE SOUTH DAKOTA ONE CALL
NOTIFICATION BOARD:

DocuSigned by:
Fay Sandman
81ALC86ACTF9499..



December 23, 2020

Mr. Shawn Karol
KR Builders
310 Oregon Street
Gillette, Wyoming 82718

On September 23, 2020, the South Dakota One Call Notification Board issued an Order, Complaint Docket OC20-027 for payment of penalty in the amount of one thousand dollars (\$1,000) with seven hundred and fifty dollars (\$750) suspended for the violation of 49-7A-5 and 49-7A-8 if all requirements of the Order were met. KR Builders was to meet five requirements, listed on the attached Board Order. To date, none of the requirements have been met, therefore the full penalty payment is due.

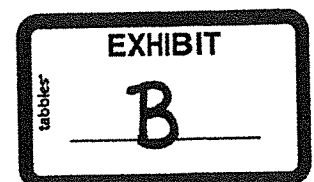
Be advised this is a thirty-day demand for payment letter per SDCL 49-7A-33. If payment of one thousand dollars (\$1,000) is not received by January 26, 2021 collection activity will be brought by South Dakota One Call Notification Board.

Remit payment:

South Dakota One Call Notification Board
PO Box 187
Rapid City, South Dakota 57709

Cody M. Gregg
Deputy Director
South Dakota One Call Notification Board

Enclosure: Copy of OC20-027 Board Order



STATE OF SOUTH DAKOTA

)

IN CIRCUIT COURT

)ss

COUNTY OF LAWRENCE

)

FOURTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,

Plaintiff,

vs.

KR BUILDERS, LLC,

Defendant.

40CIV21-000051

AMENDED SUMMONS

TO THE ABOVE-NAMED RESPONDENTS: KR BUILDERS, LLC, SHAWN KAROL, 610 OREGON AVENUE, GILLETTE, WYOMING, 82718

YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon Cody Honeywell, Petitioner’s attorney, whose address is 503 South Pierre Street, P.O. Box 160, Pierre, South Dakota 57501-0160, an answer to the Summons and Complaint which is herewith served upon you within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Dated this 20 day of April, 2021.

MAY, ADAM, GERDES & THOMPSON LLP



BY: _____

BRETT KOENECKE
CODY L. HONEYWELL
Attorneys for State of South Dakota
503 South Pierre Street
PO Box 160
Pierre, SD 57501-0160
(605) 224-8803
brett@mayadam.net
cody@mayadam.net

STATE OF SOUTH DAKOTA)
)ss
COUNTY OF LAWRENCE)

IN CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,
Plaintiff,

vs.

KR BUILDERS, LLC,
Defendant.

40CIV21-000051

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Dated this 20 day of April, 2021.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

BRETT KOENECKE
CODY L. HONEYWELL
Attorneys for State of South Dakota
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Pierre, SD 57501-0160
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