



ONE-CALL ENFORCEMENT UPDATE

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Assistant Attorney General

Nebraska Attorney General's Office

AG enforcement through the years

- Attorney General's Office Enforcement of One-Call since 2004
- In 2004, 6 files investigated by our office
- In 2008, 18 new files investigated by our office
- In 2011, 44 new files investigated by our office
- In 2012, 24 new files investigated by our office
- In 2013, 2 new files to date (plus 4 pending)

AG Enforcement through the years

- CIVIL PENALTIES ASSESSED
 - 2005, \$3500.00 CIVIL PENALTIES ASSESSED
 - 2008 \$500.00
 - 2009 \$7,500.00
 - 2010 \$7,500.00
 - 2011 \$4,000.00
 - 2012 \$20,000.00
 - 2013 \$16,500.00 TO DATE

AG Enforcement through the years

- One attorney assigned to One-Call Enforcement
- Will investigate the complaint, work closely with complainant and witnesses and State Fire Marshal's office when it is involved
- Negotiate or litigate

Background of Investigations

- Anatomy of investigation:
 - Contact with complaining party and witnesses (for additional facts)
 - Send initial letter to the person against whom complaint has been filed
 - Contact with Digger's Hotline to corroborate complaint

Background of Investigations

- Develop any additional facts, including other person's side of the story;
- Develop plan for action
- After investigation, our office will determine whether a violation occurred, and if so, whether:
 - Warning
 - Civil Penalty action (Penalties go to school fund 76-2325)

Background of Investigations

- Factors in determining civil penalty (76-2325)
 - Nature, circumstances and gravity of the violation
 - Degree of culpability
 - Absence or existence of prior violations
 - Whether violation a willful act
 - Any good faith attempt to achieve compliance
 - Other factors as justice may require

Case study-Madison County

- 2012 civil penalty assessment in Madison County
- Excavation in March 2012 without locate; excavator, using a backhoe, severed a 2-inch gas transmission line. State Fire Marshal was called, loss of gas service to the entire town of Lindsay, NE, affecting 82 plus customers
- Contractor had no prior warning letters from our office

Case Study

- Underground facilities damaged in excess of \$12,000.00, which affected KM, Black Hills Energy, and Source Gas
- Gas service could not be restored for over six hours
- Settlement: Max penalty \$10,000.00 Consent Decree for \$7500.00 civil penalty, \$2500.00 of which could be subject to waiver if contractor does not violate One-Call Act within a two year period.

CONTACT US

Complaint forms on Digger's Hotline website or
www.ago.gov

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