

Foundation Defect Discussion

- 1 Soil Test**
Soil Test in IRC, Soil test in Foundation Plans, Soil Test requested and Paid For by Amber Cottman. **Soil Test was not performed as requested by Amber Cottman**
- 2 Expansive Soils**
IRC and IBC requirements Expansive soils, Engineered Fill. **Code Requirements were not followed for the presumed Expansive Soils.**
- 3 Elevation of Foundation**
No elevation survey conducted to determine foundation elevation.
- 4 Crawl Space Floor**
Wrong Elevation, Improper Grading, No Base Course, Lead to flooding of the crawlspace

ICC Digital Codes - 2021 International Residential Code (IRC)

R401.4 Soil tests. INSIGHTS

Where quantifiable data created by accepted soil science methodologies indicate *expansive soils*, *compressible soils*, shifting soils or other questionable soil characteristics are likely to be present, the *building official* shall determine whether to require a soil test to determine the soil's characteristics at a particular location. This test shall be done by an *approved agency* using an *approved method*. Where the *seismic design category* in accordance with Section R301.2.2.1 is C or greater and where soil testing is performed, the geotechnical report shall include the determination of the site class and the short-period spectral response acceleration, S_{DS} , in accordance with Section 1613 of the *International Building Code*. The *seismic design category* shall be assigned in accordance with Table R301.2.2.1.1.

> INSIGHTS (3)

Amber Cottman knew of the high-water table and soil conditions on the property. She asked that a soil test be conducted prior to breaking ground. She was told all testing was complete and a permit had been signed. Everything was in order for the contractors to begin construction on the foundation. 6 months after completion of construction and home placement, the house became riddled with mold and later found out that the Soil Test was never conducted.

ICC Digital Codes - 2021 International Residential Code (IRC)

R403.1.8 Foundations on expansive soils.

Foundation and floor slabs for *buildings* located on *expansive soils* shall be designed in accordance with Section 1808.6 of the *International Building Code*.

Exception: Slab-on-ground and other foundation systems that have performed adequately in soil conditions similar to those encountered at the *building* site are permitted subject to the approval of the *building official*.

R403.1.8.1 Expansive soils classifications. CDP



Soils meeting all of the following provisions shall be considered to be expansive, except that tests to show compliance with Items 1, 2 and 3 shall not be required if the test prescribed in Item 4 is conducted:

1. Plasticity Index (PI) of 15 or greater, determined in accordance with ASTM D4318.
2. More than 10 percent of the soil particles pass a No. 200 sieve (75 μm), determined in accordance with ASTM D422.
3. More than 10 percent of the soil particles are less than 5 micrometers in size, determined in accordance with ASTM D422.
4. Expansion Index greater than 20, determined in accordance with ASTM D4829.

If a Soil Test had been conducted and expansive soils found, additional code requirements would have protected the foundation from being poorly constructed.

ICC Digital Codes - 2021 International Residential Code (IRC)

1808.6 Design for expansive soils.



Foundations for buildings and structures founded on expansive soils shall be designed in accordance with Section 1808.6.1 or 1808.6.2.

Exceptions: Foundation design need not comply with Section 1808.6.1 or 1808.6.2 where one of the following conditions is satisfied:

1. The soil is removed in accordance with Section 1808.6.3 .
2. The *building official* approves stabilization of the soil in accordance with Section 1808.6.4 .

1808.6.1 Foundations.

Foundations placed on or within the active zone of expansive soils shall be designed to resist differential volume changes and to prevent structural damage to the supported structure. Deflection and racking of the supported structure shall be limited to that which will not interfere with the usability and serviceability of the structure.

Foundations placed below where volume change occurs or below expansive soil shall comply with the following provisions:

1. Foundations extending into or penetrating expansive soils shall be designed to prevent uplift of the supported structure.
2. Foundations penetrating expansive soils shall be designed to resist forces exerted on the foundation due to soil volume changes or shall be isolated from the expansive soil.



If a Soil Test had been conducted and expansive soils found, additional code requirements would have protected foundation from being poorly constructed.

ICC Digital Codes - 2021 International Residential Code (IRC)

1808.6.3 Removal of expansive soil.



Where expansive soil is removed in lieu of designing foundations in accordance with Section 1808.6.1 or 1808.6.2, the soil shall be removed to a depth sufficient to ensure a constant moisture content in the remaining soil. Fill material shall not contain expansive soils and shall comply with Section 1804.5 or 1804.6.

Exception: Expansive soil need not be removed to the depth of constant moisture, provided that the confining pressure in the expansive soil created by the fill and supported structure exceeds the swell pressure.

1804.6: Compacted fill material.

Where *shallow foundations* will bear on compacted fill material, the compacted fill shall comply with the provisions of an *approved* geotechnical report, as set forth in Section 1803.

Exception: Compacted fill material 12 inches (305 mm) in depth or less need not comply with an *approved* report, provided that the in-place dry density is not less than 90 percent of the maximum dry density at optimum moisture content determined in accordance with ASTM D1557. The compaction shall be verified by *special inspection* in accordance with Section 1705.6.

1803.3 Basis of investigation.

Soil classification shall be based on observation and any necessary tests of the materials disclosed by borings, test pits or other subsurface exploration made in appropriate locations. Additional studies shall be made as necessary to evaluate slope stability, soil strength, position and adequacy of load-bearing soils, the effect of moisture variation on soil-bearing capacity, compressibility, liquefaction and expansiveness.

If a Soil Test had been conducted and expansive soils found, additional code requirements would have protected the foundation from being poorly constructed.

ICC Digital Codes - 2021 International Residential Code (IRC)

R408.6 Finished grade.

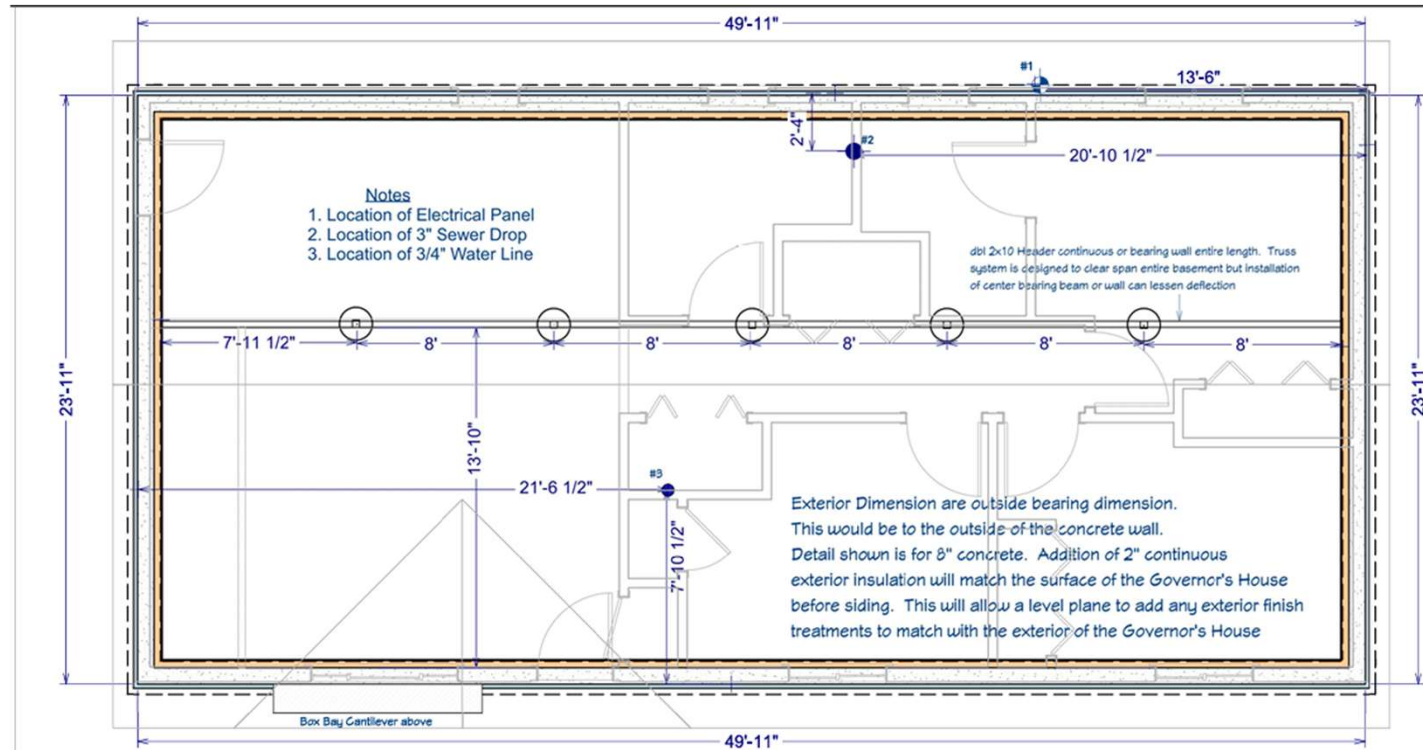
The finished *grade* of under-floor surface shall be permitted to be located at the bottom of the footings; however, where there is evidence that the groundwater table can rise to within 6 inches (152 mm) of the finished floor at the building perimeter or where there is evidence that the surface water does not readily drain from the building site, the *grade* in the under-floor space shall be as high as the outside finished *grade*, unless an *approved* drainage system is provided.

With the high water table in Rapid Valley, precaution should have been taken with the crawlspace floor. The lowest point of the crawlspace floor is below the point that the water table reaches. A soil test and the well would have determined that the crawlspace would flood due to rising water table. An elevation survey measured it to be lower than the water drainage ditch at the front of the home.

SDH Foundation Plans – (P30)

South Dakota Housing states to verify soil conditions prior to beginning work.

The verification of soil conditions requirement was **NOT** followed by Contractors.



General Notes:

These plans are meant to be a guide for basement construction only. Because local codes and conditions vary widely across the state, owner should consult with local code officials and verify soil conditions prior to beginning work. Wall dimensions, blocking locations, reinforcement type and footing details could change substantially from location to location.

Option #2 Crawl Space

Note: Insulated and sealed crawlspaces should NOT have added ventilation but should be treated as a conditioned area. Supply air = to 1CFM per 50CF of volume should be routed from the existing main floor duct system into crawlspace with an equal quantity of return air provided with existing return system

2



Governor's House Program
3-Bedroom Foundation
Door Left (reverse)

DESIGN BY:
MH and
Springfield
1/27/2023

Neighborworks Contract Screenshot – (P7)

NHS of the Black Hills	
Three bedroom Governors Home no garage on crawlspace	
Amber Cottman (revised 07/19/22)	
Lot Cost	\$0.00
Soils test	\$3,500.00
Exc, Backfill and Compaction, Rough grade,septic , 2' over excavation and engineered fill figured	\$29,500.00
Foundation, Footing, and Concrete Floor	\$14,750.00
Sidewalks, driveway or outside flatwork allowance	\$500.00
Total Material Package	\$7,750.00

Amber Cottman was charged \$3,500 for a Soils Test to determine foundation type, placement and elevation.

Survey – P75

This survey was not an elevation survey. This survey should NOT be used to establish any fence, structure or other improvements.

No elevation survey was conducted to determine elevations for the foundation.

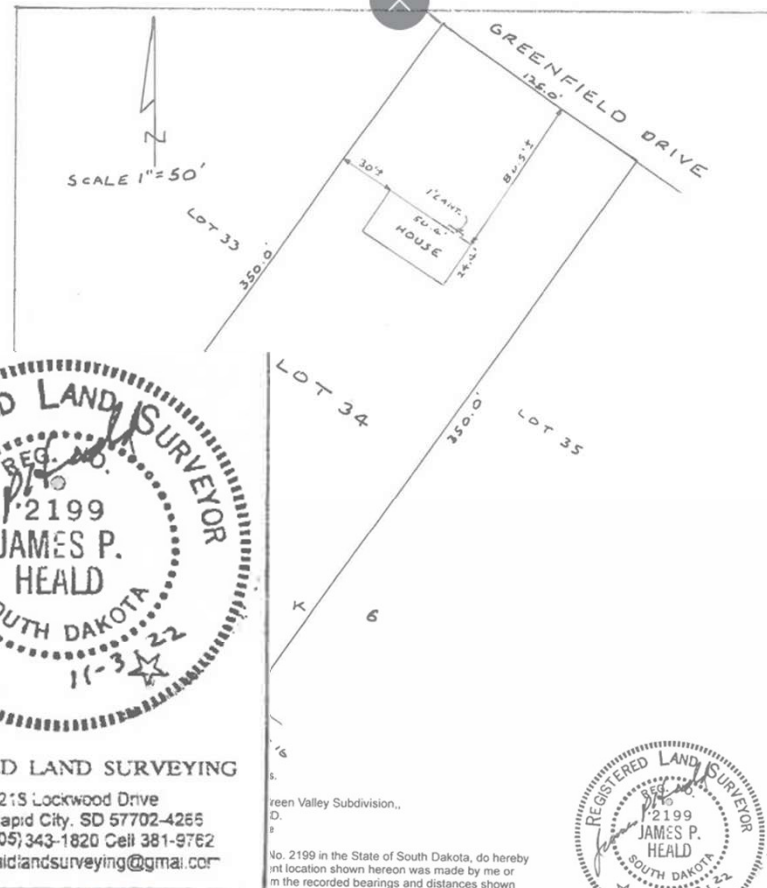
NOTE: (from plat)
Utility easements: 8 on each side of all lot lines.

LEGAL DESCRIPTION: Lot 34 of Block 6 of Green Valley Subdivision,,
Pennington County, SD.

PROPERTY ADDRESS: 6633 Greenfield Drive
SURVEYOR'S STATEMENT

I, James P. Heald, Registered Land Surveyor No. 2199 in the State of South Dakota, do hereby state that on October 28, 2022, the improvement location shown hereon was made by me or under my direct supervision and was made from the recorded bearings and distances shown on the original plat or description. This improvement location was prepared to satisfy the needs of a lender or insurer, only. This document does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose. No property corners have been set and the information shown hereon **should not be used to establish any fence, structure or other improvements.** James P. Heald, doing business as Heald Land Surveying, is not extending a warranty to the present or future owners or occupants. Any easements or restrictions of miscellaneous record or private agreements that are not known to me are not shown hereon.

SPECIAL NOTE: None.



HEALD LAND SURVEYING
2215 Lockwood Drive
Rapid City, SD 57702-4265
(605) 343-1820 Cell 381-9762
Email: healdlandsurveying@gmail.com



No. 2199 in the State of South Dakota, do hereby state that the improvement location shown hereon was made by me or under my direct supervision and was made from the recorded bearings and distances shown on the original plat or description. This improvement location was prepared to satisfy the needs of a lender or insurer, only. This document does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose. No property corners have been set and the information shown hereon should not be used to establish any fence, structure or other improvements. James P. Heald, doing business as Heald Land Surveying, is not extending a warranty to the present or future owners or occupants. Any easements or restrictions of miscellaneous record or private agreements that are not known to me are not shown hereon.

P75

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Engineering Recommendations

X **Albertson Engineering Inc**
An in-depth report giving by Alberson Engineering

X **DTE**
An in-depth report given by DTE. Adam from DTE is also assigned as Expert Witness.

Add a subtitle

Write a description to add depth and clarity

Summary: Current house Foundation is not suitable for a home. It would be more cost efficient to build a new foundation and move home to new foundation.

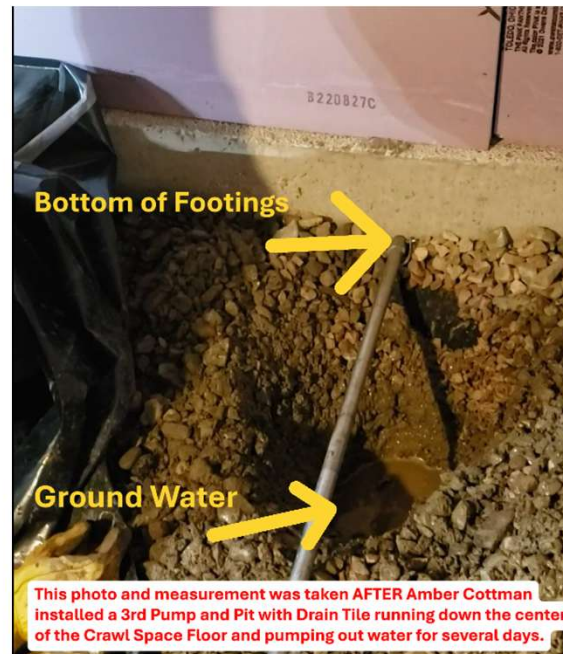
ICC Digital Codes - 2021 International Residential Code (IRC)

R408.6 Finished grade.



The finished *grade* of under-floor surface shall be permitted to be located at the bottom of the footings; however, where there is evidence that the groundwater table can rise to within 6 inches (152 mm) of the finished floor at the building perimeter or where there is evidence that the surface water does not readily drain from the building site, the *grade* in the under-floor space shall be as high as the outside finished *grade*, unless an *approved* drainage system is provided.

The sump pit should have been installed at the lowest point in the crawl space to be effective and was not.



Screen Shot of ERE's Estimate provided my Neighborworks (P8)

ERE was contracted to Import 1" of clean rock for the foundation floor. Place and grade 6" of base course on interior floor of foundation.

The crawl space floor was never installed properly by ERE.

Backfill exterior foundation with previously stock piled material.

Process backfill material and place in compacted lifts to within 6" of final grade to allow for topsoil.

Import 1" clean rock for foundation floor.

Page 1 of 5

P8

Place and grade 6" of base course on interior floor of foundation.

Engineered fill

\$5,045.22

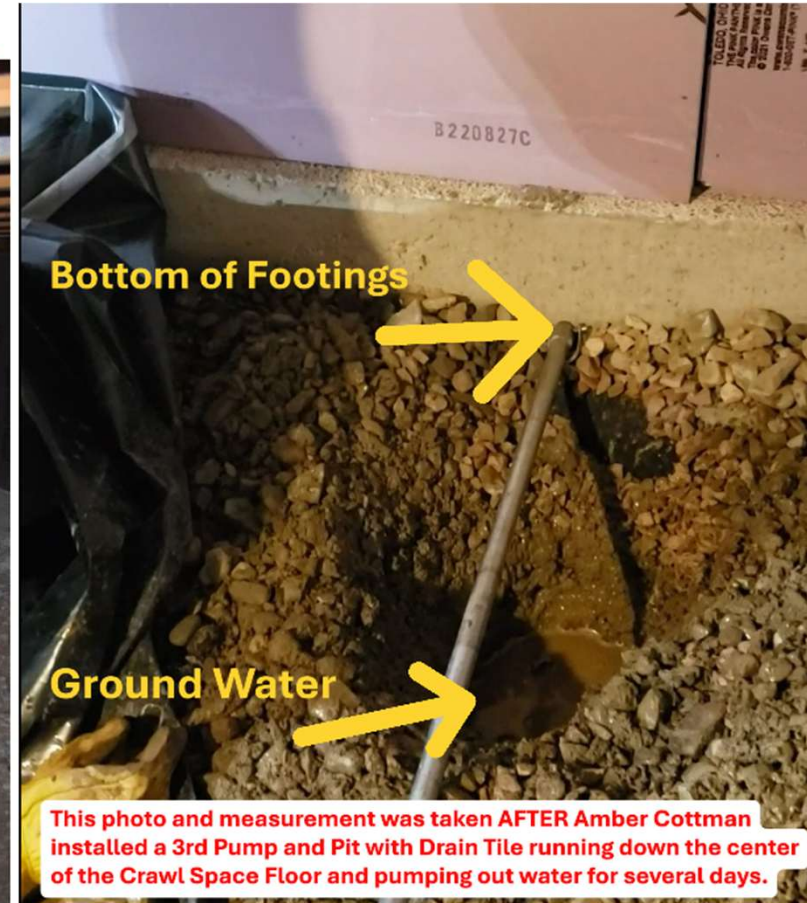
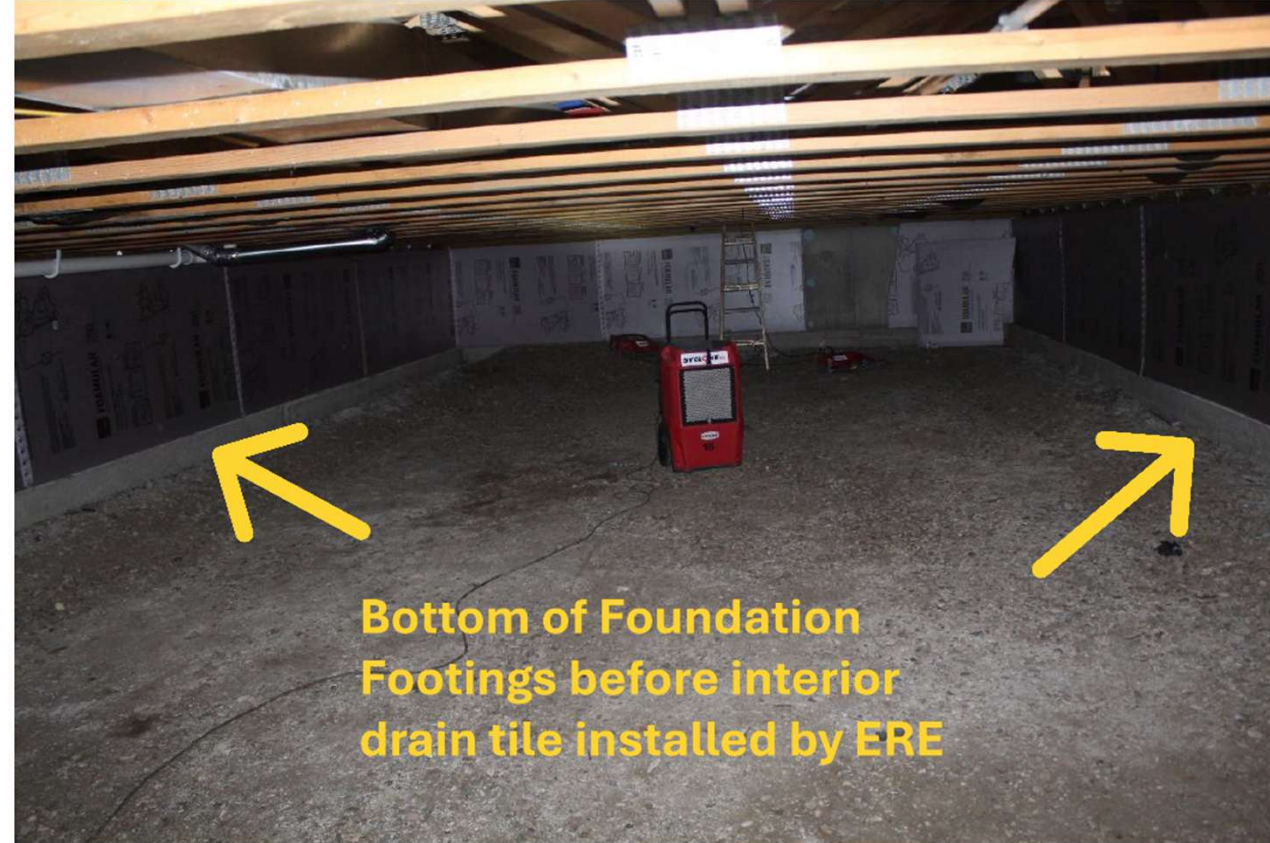
Excavate an additional 2ft'x 2ft' beneath all footings and export material.

Import approximately 62 tons of engineered fill material.

Place material in over excavated trench in compacted lifts to bottom of footing elevation.

Pictures of Crawlspace Floor

The sump pit should have been installed at the lowest point in the crawl space to be effective and was not.



Video of Flooding

Flooding of crawlspace occurred due to contractor negligence.



More Contractor Code Compliance Defects

- 5 Interior Sump Pump and Drain Tile**
Wrong Location and Elevation. Wrong Type of Basin.
- 6 Foundation Insulation**
Insulation was not installed throughout foundation.
- 7 Insulation**
Insulation was not installed throughout cavities of home.
- 8 Mechanical Ventilation**
Vents were not cut into supply and return ducts
- 9 Vapor Barrier**
Insulation was not installed throughout foundation.

Sump Pit Drain Basin/Drain Tile – Pictures from BHPHI Inspection Report (P160)

The sump pit was not fully installed into the ground to collect groundwater.



No holes were drilled into the bottom of the sump pit to let ground water into the pit.



A close-up of a device
Description automatically generated

The Sump pit was not fully installed into ground to collect ground water; No Holes drilled into the bottom of the sump pit to let ground water into basin. This is the wrong type of basin for this application.

Picture from Inspection Services LLC, Dusty Johnson (P122)

(5) Sump pump for exterior drain tile. Add another pit and pump or drop pit and add holes and or drain tile for interior moisture



This is a recommendation from Dusty Johnson

This recommendation was never acknowledged by Mike Walker and was never in Mike Walkers plan to remedy

1.7 Item 10(Picture)

ICC Digital Codes - 2021 International Residential Code (IRC)

R405.2.3 Drainage system.



In other than Group I soils, a sump shall be provided to drain the porous layer and footings. The sump shall be not less than 24 inches (610 mm) in diameter or 20 inches square (0.0129 m²), shall extend not less than 24 inches (610 mm) below the bottom of the *basement* floor and shall be capable of positive gravity or mechanical drainage to remove any accumulated water. The drainage system shall discharge into an *approved* sewer system or to daylight.

Sump does not extend not less than 24 inches below the bottom of the basement floor. It is not capable of positive gravity. The drain tile increases in elevation as it gets closer to the drain basin.

**Adam Palsma from SDH
and Brad Banks from BPHI
also recommended to
lower basin and/or add
Sump pump and pit to
alleviate ground water.**

**Trevor Bryan acknowledges
the recommendations.**

Mike Walker ignores them

**Adam Palsma,
Trevor Bryan
and Amber
Cottman
10/25/23**

ICC Digital Codes – IRC Code

N1102.2.10 (R402.2.10)Crawl space walls.

Crawl space walls shall be insulated in accordance with Table N1102.1.3.

Exception: Crawl space walls associated with a crawl space that is vented to the outdoors and the floor overhead is insulated in accordance with Table N1102.1.3 and Section N1102.2.7.

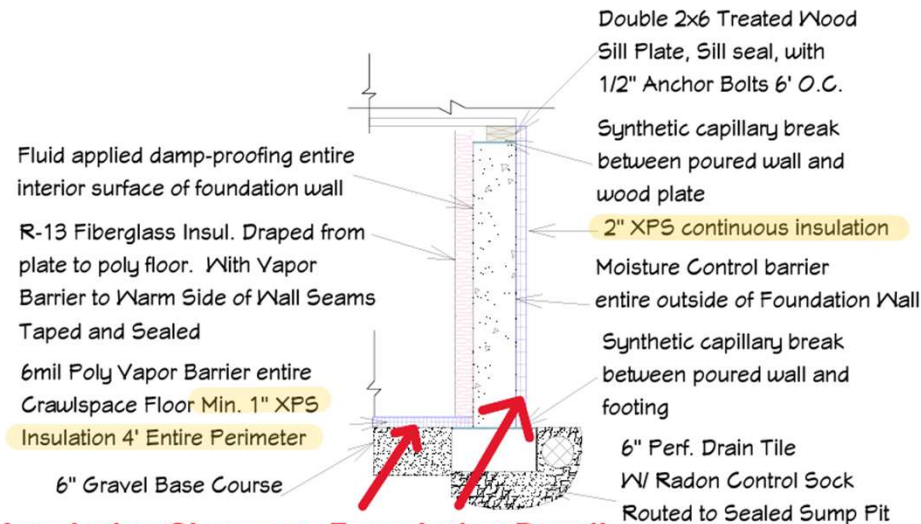
N1102.2.10.1 (R402.2.10.1)Crawl space wall insulation installation.

Where crawl space wall insulation is installed, it shall be permanently fastened to the wall and shall extend downward from the floor to the finished grade elevation and then vertically or horizontally for not less than an additional 24 inches (610 mm). Exposed earth in unvented crawl space foundations shall be covered with a continuous Class I vapor retarder in accordance with this code. Joints of the vapor retarder shall overlap by 6 inches (153 mm) and be sealed or taped. The edges of the vapor retarder shall extend not less than 6 inches (153 mm) up the stem walls and shall be attached to the stem walls.

Insulation of the crawl space wall did not meet IRC requirements. No class I vapor retarder installed on exposed earth of concrete floor.

SDH Foundation Plans-Insulation

Note: Insulated and sealed crawlspaces should NOT have added ventilation but should be treated as a conditioned area. Supply air = to 1CFM per 50CFT of volume should be routed from the existing main floor duct system into crawlspace with an equal quantity of return air provided with existing return system



Insulation Shown on Foundation Detail

Option #2 Crawlspace

General Notes:

These plans are meant to be a guide for basement construction only. Because local codes and conditions vary widely across the state, owner should consult with local code officials and verify soil conditions prior to beginning work. Wall dimensions, blocking locations, reinforcement type and footing details could change substantially from location to location.

Insulation in the SDH Foundation Plan shows a detail that meets IRC Requirements. It reaches the floor and extends an additional 4 feet (only 2 feet needed to meet IRC)

4



SOUTH DAKOTA HOUSING

Governor's House Program
3-Bedroom Foundation
Door Left (reverse)

DESIGN BY:
MH and
Springfield
1/27/2023

Pictures from Professional Inspection Reports

Insulation only reaches the top of the footings. IRC states that it shall extend downwards to the floor of the finished grade and then extend vertically or horizontally and addition 24 inches.

Mike Walker never intended to meet code requirements foundation insulation.

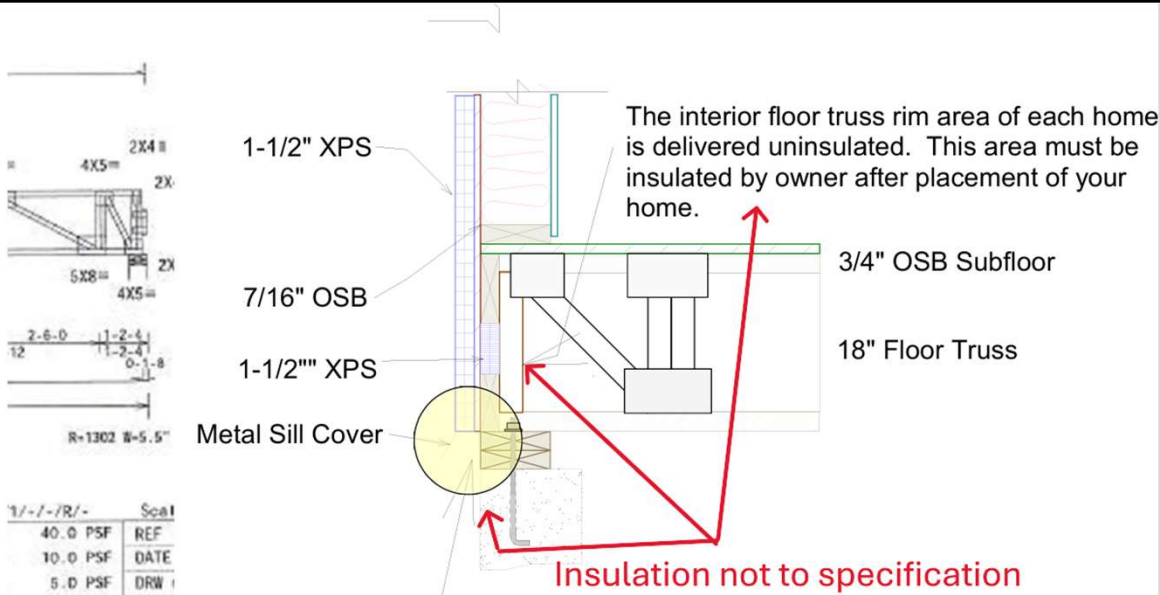


Insulation only goes to the top of the Footing



No insulation on footing. Does not extend 24 Inches

SDH Foundation Plans -



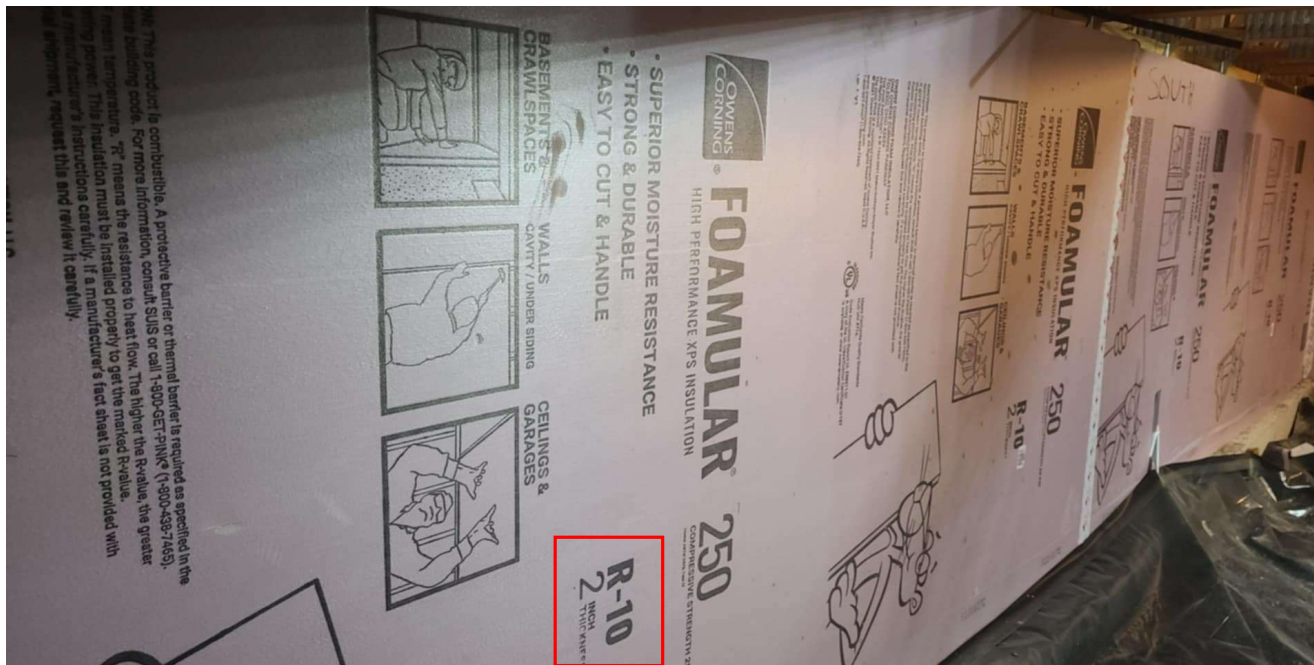
Please be aware that the exterior wall bearing lines up with the exterior of the foundation. The siding surface overhangs the concrete of the foundation wall typically by 2". Be aware that 2" continuous insulation must be applied to concrete for surface to be on a level plane with home.

Insulation in the SDH Foundation Plan shows a detail for Insulation to be installed by Homeowner. Homeowner was charged for insulation, and insulation was never installed to Spec.

SDH directly expressed 50% of heat loss occurs into ground and gives code requirements that must be met.

Insulating under your slab and around your foundation is critical to your home performing as designed. As much as 50% of your total heat loss is through your foundation into the ground. The 2015 International Energy Conservation Code requires a minimum of R-15 of continuous insulation or an R-19 cavity insulation for foundation walls and an R-10 under the slab. Placement of this insulation is critical to the performance of your home.

SDH Foundation Plans -

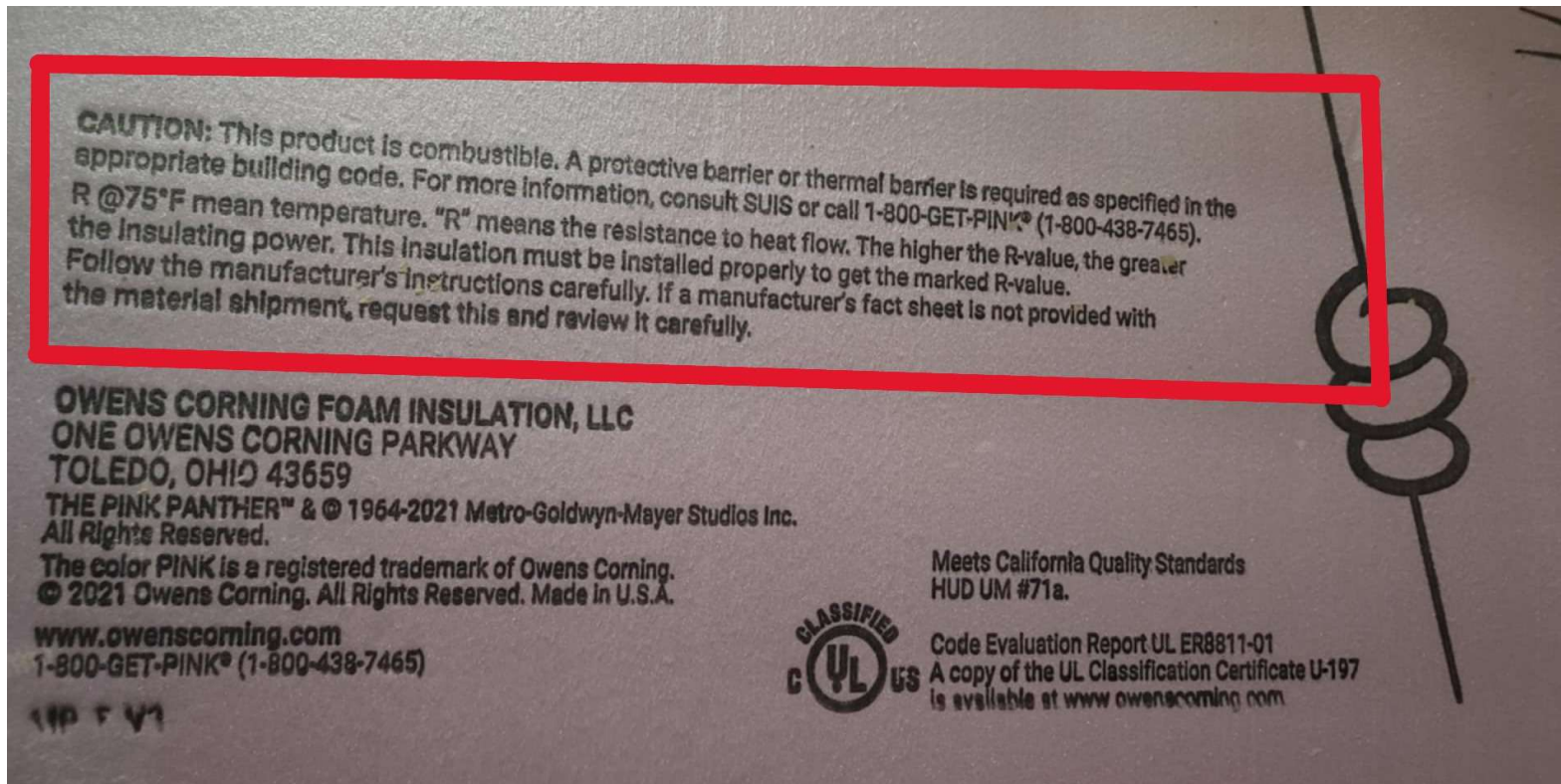


Insulating under your slab and around your foundation is critical to your home performing as designed. As much as 50% of your total heat loss is through your foundation into the ground. The 2015 International Energy Conservation Code requires a minimum of **R-15** of continuous insulation or an R-19 cavity insulation for foundation walls and an R-10 under the slab. Placement of this insulation is critical to the performance of your home.

SDH States that R-15 is The IRC requirement for continuous insulation on Concrete Walls

NWDHR installed R-10 on the inside wall only.

Caution from Manufacture-



Caution: This product is combustible. A protective barrier or thermal barrier is required as specified in the appropriate building code.

Insulation – Screenshots from IRC and Pics From Plaintiff.

TABLE N1102.1.3 (R402.1.3)

INSULATION MINIMUM R-VALUES AND FENESTRATION REQUIREMENTS BY COMPONENT^a

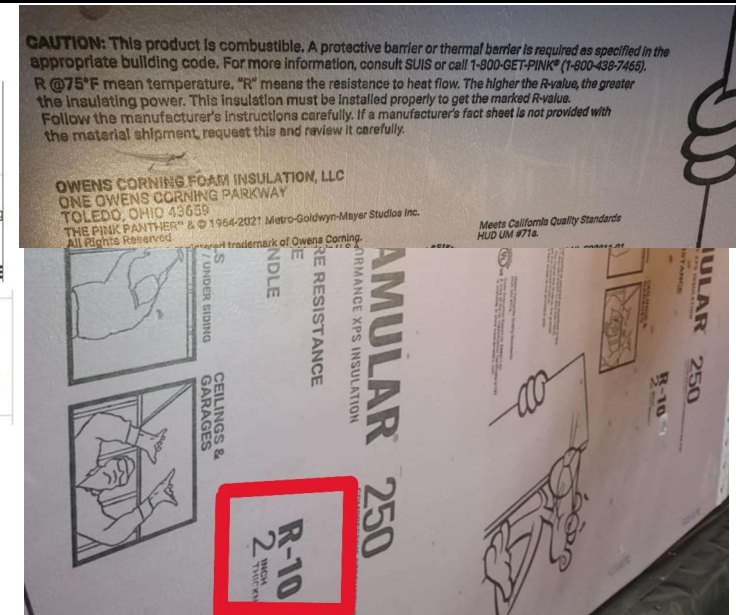
CLIMATE ZONE	FENESTRATION U-FACTOR ^{b, i}	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC ^{b, e}	CEILING R-VALUE	WOOD FRAME WALL R-VALUE ^g	MASS WALL R-VALUE ^h	FLOOR R-VALUE	BASEMENT ^{c, g} WALL R-VALUE	SLAB ^d R-VALUE & DEPTH	CRAWL SPACE ^{c, g} WALL R-VALUE
6	0.30	0.55	NR	60	30 or 20&5ci ^h or 13&10ci ^h or 0&20ci ^h	15/20	30	15ci or 19 or 13&5ci	10ci, 4 ft	15ci or 19 or 13&5ci

Table N1102.1.3 is from IRC 2021

Pennington county is Climate Zone 6A. Crawl Space Wall for climate zone 6 shall have a minimum of R-15 continuous insulation.

SDH Plans Show R-13 in interior with and addition 2 inches of XPS on the exterior, which may be suitable depending on climate zone.

Installed is R-10 and does not meet IRC



These are pictures of the Insulation glued to the stem wall of the foundation.

Manufactures Caution: This product in combustible. A protective barrier or thermal barrier is required as specified in the appropriate building code.

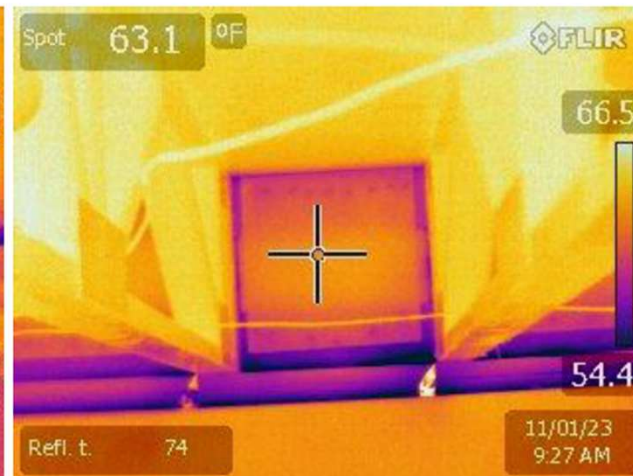
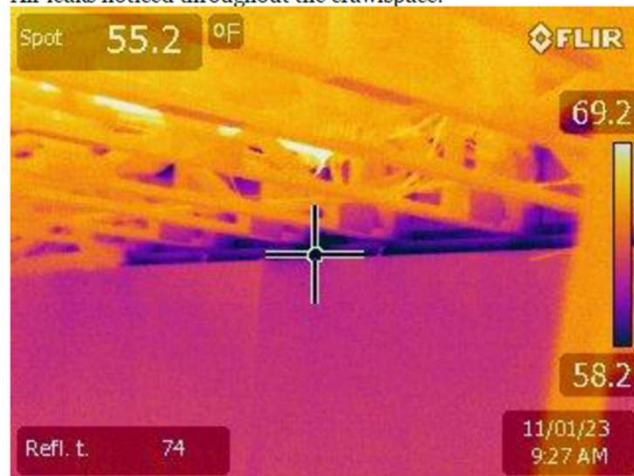
Pictures from Professional inspection

Poorly installed sill plates noticed.



Picture shows no insulation.

Air leaks noticed throughout the crawlspace.



Thermal Imaging from Home Inspection heat loss. The Dark Purple is areas with extreme temperature differences. These are areas that will lose heat or cooling due to lack of proper insulation.

ICC Digital Code – IRC

R408.3 Unvented crawl space. INSIGHTS



For unvented under-floor spaces, the following items shall be provided:

1. Exposed earth shall be covered with a continuous Class I vapor retarder. Joints of the vapor retarder shall overlap by 6 inches (152 mm) and shall be sealed or taped. The edges of the vapor retarder shall extend not less than 6 inches (152 mm) up the stem wall and shall be attached and sealed to the stem wall or insulation.
2. One of the following shall be provided for the under-floor space:
 - 2.1. Continuously operated mechanical exhaust ventilation at a rate equal to 1 cubic foot per minute (0.47 L/s) for each 50 square feet (4.7 m²) of crawl space floor area, including an air pathway to the common area (such as a duct or transfer grille), and perimeter walls insulated in accordance with Section N1102.2.10.1 of this code.
 - 2.2. Conditioned air supply sized to deliver at a rate equal to 1 cubic foot per minute (0.47 L/s) for each 50 square feet (4.7 m²) of under-floor area, including a return air pathway to the common area (such as a duct or transfer grille), and perimeter walls insulated in accordance with Section N1102.2.10.1 of this code.
 - 2.3. Plenum in existing structures complying with Section M1601.5, if under-floor space is used as a plenum.
 - 2.4. Dehumidification sized in accordance with manufacturer's specifications.



> INSIGHTS (2)

Crawl Space did have a class I vapor retarder installed. Due to the vents not being cut in, the crawl space did not have mechanical exhaust ventilation. The perimeter walls were not insulated per code requirements. Conditioned air was not delivered to crawl space.

Pictures from Professional Inspection Reports

No Vapor Barrier installed on the crawlspace floor



Pictures from professional inspection reports- Ventilation

Screenshot of Report from Black Hills Professional Inspections LLC

I recommend correcting the siding installation to prevent further water intrusion into the crawl space, and highly recommend installing ventilation in the crawl space as soon as possible to help relieve the moisture and condensation to prevent further mold issues. No ventilation was noticed in the crawl space. The plans called for heat vents to be installed to make the crawl space a conditioned area, no vents were noticed to be installed in the duct work at this time. High levels of moisture were noticed to be entering the crawlspace due to poorly installed siding, no venting, poor grading around the home and a lack of ventilation. I also noticed the exhaust from the heat recovery ventilator is not discharging condensation to the outside. All insulation panels should be removed help the concrete dry out, After the crawlspace has been dried out reinstall the insulation panels.

Screenshot of Report from Inspection Services LLC

2.8 FURNACE FILTER, INNER PLENUM WALLS OF RETURN AND SUPPLY AS SEEN FROM FILTER ACCESS VIEW ONLY

Potential Concerns

(1) *The inspection of the plenum through the filter access is limited. It is not possible to inspect the interior ducting without a scope. This inspection does not include inspecting the interiors of ductwork.*

(2) The crawlspace is not conditioned. If conditioned it should have registers to crawlspace. If not conditioned it is recommended to have venting. The gable end floor trusses should be insulated. Frost can build up on uninsulated exterior walls

Inspection reports showing that the crawlspace should have been conditioned with mechanical ventilation. Vents were not cut into the feed and return ducts to condition the crawlspace. Vents were later cut in.

ICC Digital Code – IRC

R703.2 Water-resistive barrier. ES INSIGHTS



Not fewer than one layer of *water-resistive barrier* shall be applied over studs or sheathing of all exterior walls with flashing as indicated in Section R703.4, in such a manner as to provide a continuous water-resistive barrier behind the exterior wall veneer. The water-resistive barrier material shall be continuous to the top of walls and terminated at penetrations and building appendages in a manner to meet the requirements of the exterior wall envelope as described in Section R703.1. Water-resistive barrier materials shall comply with one of the following:

1. No. 15 felt complying with ASTM D226, Type 1.
2. ASTM E2556, Type 1 or 2.
3. ASTM E331 in accordance with Section R703.1.1.
4. Other approved materials in accordance with the manufacturer's installation instructions.

No.15 asphalt felt and *water-resistive barriers* complying with ASTM E2556 shall be applied horizontally, with the upper layer lapped over the lower layer not less than 2 inches (51 mm), and where joints occur, shall be lapped not less than 6 inches (152 mm).

> INSIGHTS (4)



R703.4 Flashing. INSIGHTS



Approved corrosion-resistant flashing shall be applied *shingle-fashion* in a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Self-adhered membranes used as flashing shall comply with AAMA 711. Fluid-applied membranes used as flashing in exterior walls shall comply with AAMA 714. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashings shall be installed at the following locations:

1. Exterior window and door openings. Flashing at [exterior window and door openings](#) shall be installed in accordance with Section R703.4.1.
2. At the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings.
3. Under and at the ends of masonry, wood or metal copings and sills.
4. Continuously above all projecting wood *trim*.
5. Where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction.
6. At wall and roof intersections.
7. At built-in gutters.

> INSIGHTS (2)



R703.1.1 Water resistance.



The exterior wall envelope shall be designed and constructed in a manner that prevents the accumulation of water within the wall assembly by providing a water-resistant barrier behind the exterior cladding as required by Section R703.2 and a means of draining to the exterior water that penetrates the exterior cladding.

Exceptions:

1. A weather-resistant exterior wall envelope shall not be required over concrete or masonry walls designed in accordance with Chapter 6 and flashed in accordance with Section R703.4 or R703.8.
2. Compliance with the requirements for a means of drainage, and the requirements of Sections R703.2 and R703.4, shall not be required for an exterior wall envelope that has been demonstrated to resist wind-driven rain through testing of the exterior wall envelope, including joints, penetrations and intersections with dissimilar materials, in accordance with ASTM E331 under the following conditions:
 - 2.1. Exterior wall envelope test assemblies shall include at least one opening, one control joint, one wall/eave interface and one wall sill. All tested openings and penetrations shall be representative of the intended end-use configuration.
 - 2.2. Exterior wall envelope test assemblies shall be at least 4 feet by 8 feet (1219 mm by 2438 mm) in size.
 - 2.3. Exterior wall assemblies shall be tested at a minimum differential pressure of 6.24 pounds per square foot (299 Pa).
 - 2.4. Exterior wall envelope assemblies shall be subjected to the minimum test exposure for a minimum of 2 hours.

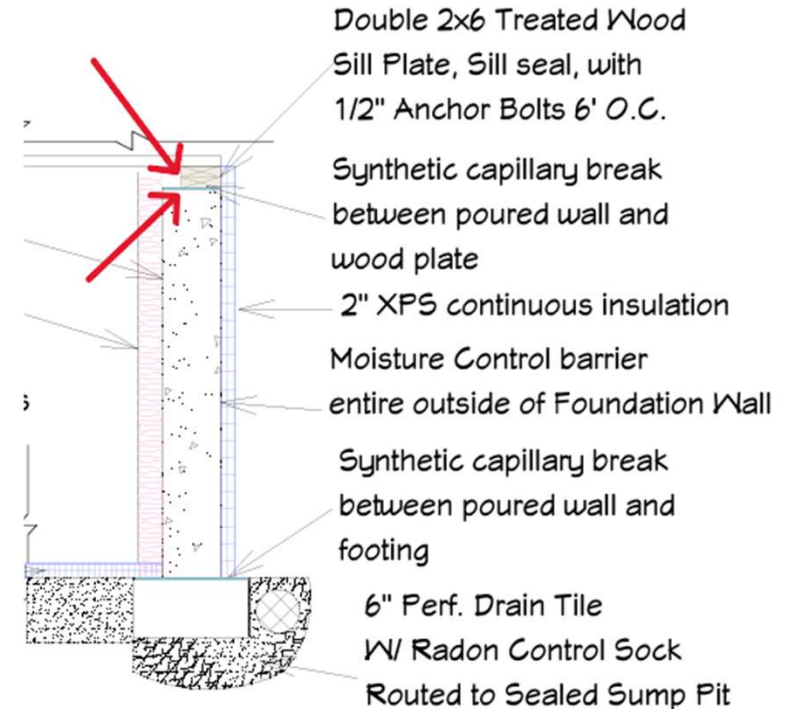
The exterior wall envelope design shall be considered to resist wind-driven rain where the results of testing indicate that water did not penetrate control joints in the exterior wall envelope, joints at the perimeter of openings penetration or intersections of terminations with dissimilar materials.



These 3 codes provide requirements for Water Resistance, Water Resistance Barrier and Flashing.

SDH Foundation Plans – (P30)

Sill Seal needed to be between concrete foundation AND between the Double 2x6 Sill Plates.



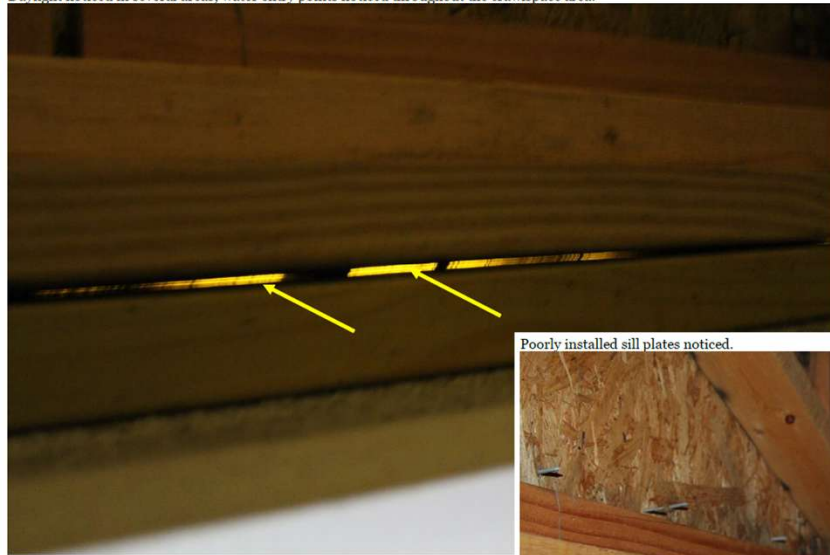
- c. **TWO sill plates with sill seal must be provided and installed.** One is treated lumber, and the other can be regular lumber. Install sill seal under the green treat and between the two sill plates to prevent air infiltration. The anchor bolts for the sill plate shall not extend above the top sill plate. After the home has been placed, attach the floor joist to the sill plates making sure that it is attached to the bottom plate with Hurricane clips. A sill plate flashing is furnished with the home but installed by the contractor/homeowner. Verify that proper fasteners are used if copper is the preservative in the treated lumber, as copper is very corrosive to the sill cover and standard fasteners. Install a barrier such as 'Winterguard' between the sill cover and treated plate. The top sill cover should be sealed with house wrap tape or caulk to prevent moisture intrusion.

Sill Seal was never installed and resulted in cupping and deformation of the sill plate along with a major water intrusion point causing mold.

Pictures from Professional Inspection Reports

Pictures from BHPI LLC and a Picture with note from Albertson Engineering Inc.

Daylight noticed in several areas; water entry points noticed throughout the crawlspace area.



Double Sill Plate on West Wall

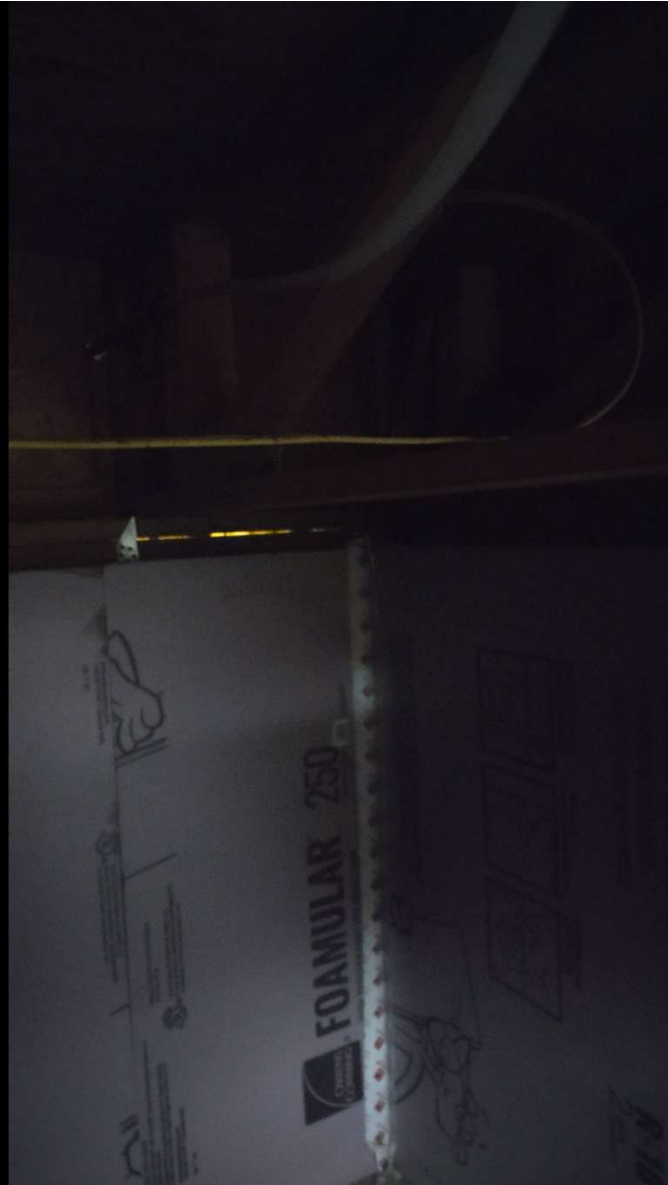


Attempts were made to close the gap in this corner with use of spray-foam insulation. Spray foam has no structural capacity and is not considered a structural repair of the gapping observed.

Poorly installed sill plates noticed.



Video Showing
Sunlight coming
through the 2 Sill
Plates into
crawlspace.



More Contractor Code Compliance Defects

- 10** **Exterior Vapor Barrier**
House Wrap was not properly finished by contractor
- 11** **Flashing**
No Flashing installed on the sill plates
- 12** **Exterior Water Penetration Points**
Water Penetration Points not sealed throughout exterior of home
- 13** **Exterior Grading**
Grading incomplete around perimeter of home

ICC Digital Code – IRC

R703.2 Water-resistive barrier. ES INSIGHTS



Not fewer than one layer of *water-resistive barrier* shall be applied over studs or sheathing of all exterior walls with flashing as indicated in Section R703.4, in such a manner as to provide a continuous water-resistive barrier behind the exterior wall veneer. The water-resistive barrier material shall be continuous to the top of walls and terminated at penetrations and building appendages in a manner to meet the requirements of the exterior wall envelope as described in Section R703.1. Water-resistive barrier materials shall comply with one of the following:

1. No. 15 felt complying with ASTM D226, Type 1.
2. ASTM E2556, Type 1 or 2.
3. ASTM E331 in accordance with Section R703.1.1.
4. Other approved materials in accordance with the manufacturer's installation instructions.

No.15 asphalt felt and *water-resistive barriers* complying with ASTM E2556 shall be applied horizontally, with the upper layer lapped over the lower layer not less than 2 inches (51 mm), and where joints occur, shall be lapped not less than 6 inches (152 mm).

> INSIGHTS (4)



R703.4 Flashing. INSIGHTS



Approved corrosion-resistant flashing shall be applied *shingle-fashion* in a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Self-adhered membranes used as flashing shall comply with AAMA 711. Fluid-applied membranes used as flashing in exterior walls shall comply with AAMA 714. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashings shall be installed at the following locations:

1. Exterior window and door openings. Flashing at [exterior window and door openings shall be installed in accordance with Section R703.4.1.](#)
2. At the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings.
3. Under and at the ends of masonry, wood or metal copings and sills.
4. Continuously above all projecting wood *trim*.
5. Where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction.
6. At wall and roof intersections.
7. At built-in gutters.

> INSIGHTS (2)



R703.1.1 Water resistance.



The exterior wall envelope shall be designed and constructed in a manner that prevents the accumulation of water within the wall assembly by providing a water-resistant barrier behind the exterior cladding as required by Section R703.2 and a means of draining to the exterior water that penetrates the exterior cladding.

Exceptions:

1. A weather-resistant exterior wall envelope shall not be required over concrete or masonry walls designed in accordance with Chapter 6 and flashed in accordance with Section R703.4 or R703.8.
2. Compliance with the requirements for a means of drainage, and the requirements of Sections R703.2 and R703.4, shall not be required for an exterior wall envelope that has been demonstrated to resist wind-driven rain through testing of the exterior wall envelope, including joints, penetrations and intersections with dissimilar materials, in accordance with ASTM E331 under the following conditions:
 - 2.1. Exterior wall envelope test assemblies shall include at least one opening, one control joint, one wall/eave interface and one wall sill. All tested openings and penetrations shall be representative of the intended end-use configuration.
 - 2.2. Exterior wall envelope test assemblies shall be at least 4 feet by 8 feet (1219 mm by 2438 mm) in size.
 - 2.3. Exterior wall assemblies shall be tested at a minimum differential pressure of 6.24 pounds per square foot (299 Pa).
 - 2.4. Exterior wall envelope assemblies shall be subjected to the minimum test exposure for a minimum of 2 hours.

The exterior wall envelope design shall be considered to resist wind-driven rain where the results of testing indicate that water did not penetrate control joints in the exterior wall envelope, joints at the perimeter of openings penetration or intersections of terminations with dissimilar materials.



These 3 codes provide requirements for Water Resistance, Water Resistance Barrier and Flashing.

Contractor did not meet these codes to protect home.

Pictures from Professional Inspection Report

The house wrap was rolled upward, any water getting behind the siding will leak along the whole top of the foundation wall and into the crawlspace and down the foundation wall. (Uncommon Practice)



Unprofessional installation of the house wrap noticed.

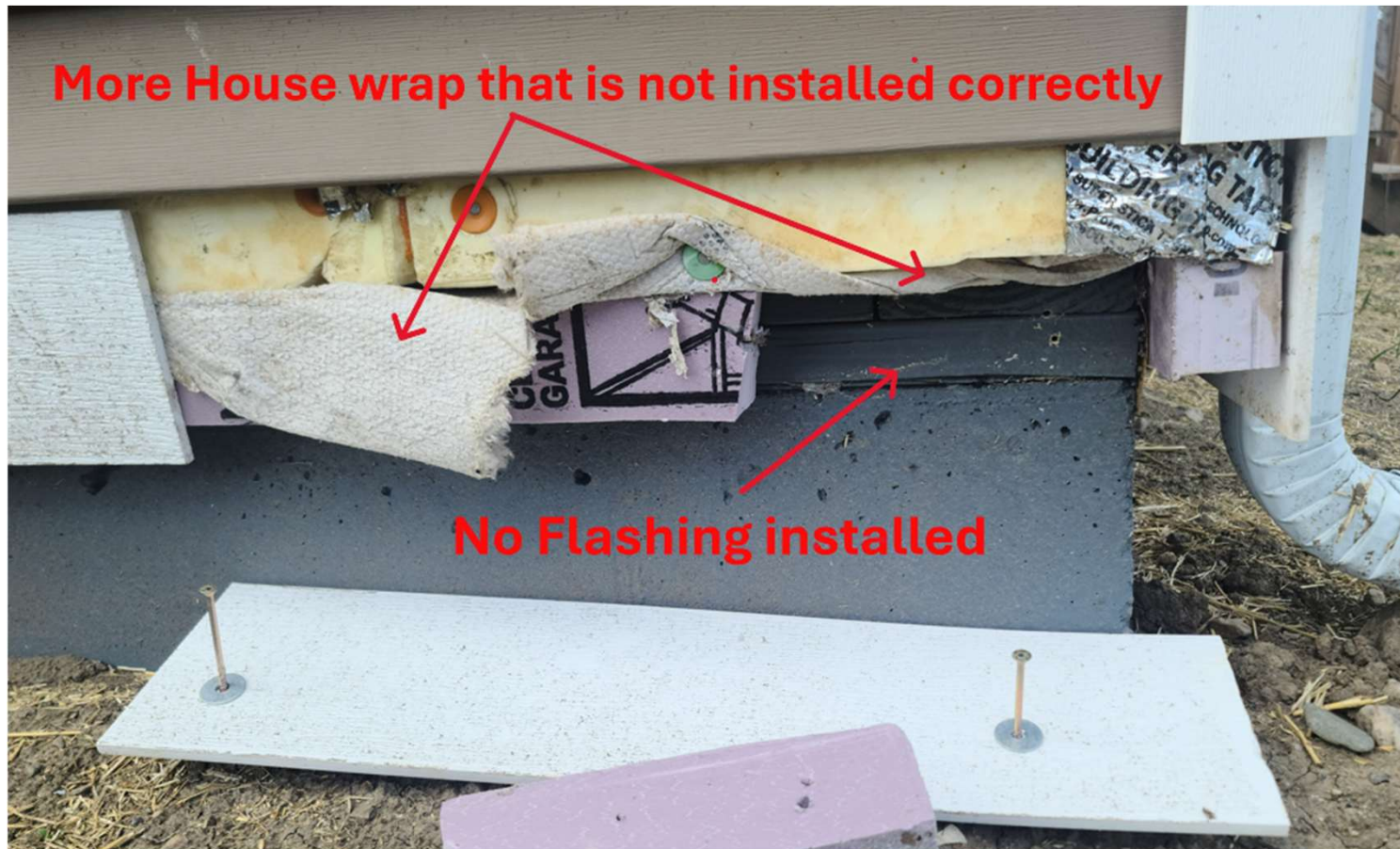


A close-up of a house
Description automatically generated

The house wrap was rolled upward, any water getting behind the siding will leak along the whole top of the foundation wall and into the crawlspace and down the foundation wall. (Uncommon Practice)

House Wrap from SDH is pinned up for transport. It was not correctly installed by contractor. House wrap rolled upward will trap water and direct it into the un-flashed sill plate and into crawlspace.

Pictures from Homeowner



A metal Sill Cover or Flashing was installed around the perimeter of the home.

Pictures from Homeowner

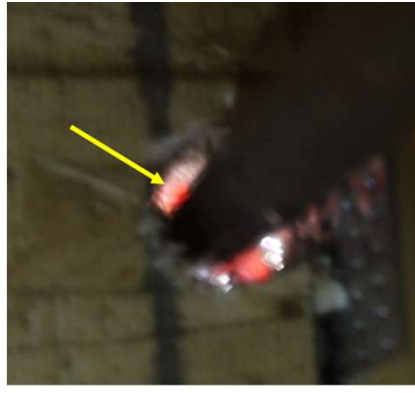
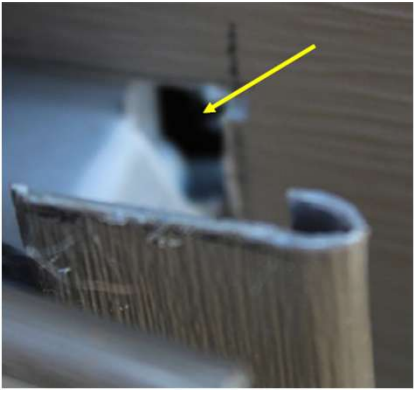


FORCEFIELD® PREMIUM TAPE

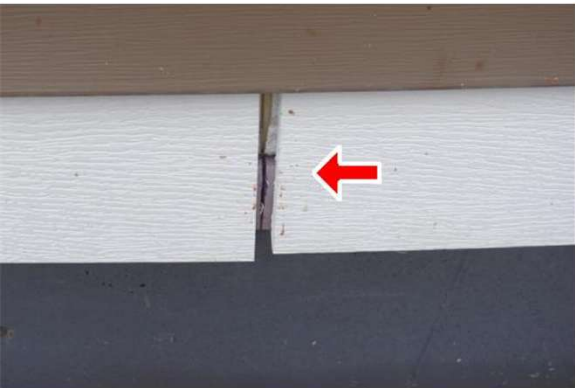
A high-performance, self-adhered flashing tape used to treat roof joints and seams. Made with an acrylic adhesive and proprietary film, this tape offers exceptional durability and tear resistance once installed.

- Seals sloped roof seams and joints against air and moisture infiltration
- Excellent conformability for bonding around curves and corners
- High-performance film offers tear and impact resistance
- Compatible with many sealants
- May be applied in temperatures as low as 20°F
- AAMA 711-13 compliant

A tape for roof joints and seams was applied to sill plate and concrete connection. The tape quickly released from the concrete created and intrusion point for air, water and insects throughout the entire perimeter of home.



Pictures from Professional Inspection Reports



- **Several intrusion points found in professional inspections. See Report for complete list. Intrusion points were not sealed by contractors after completing their scope of work.**

Pictures from Professional Inspection Report



Backfill and Grading around the perimeter of foundation sloped towards the house in several locations and was not sufficiently compacted. Hole was dug with bare hands to show how loose backfill is.

More Contractor Defects

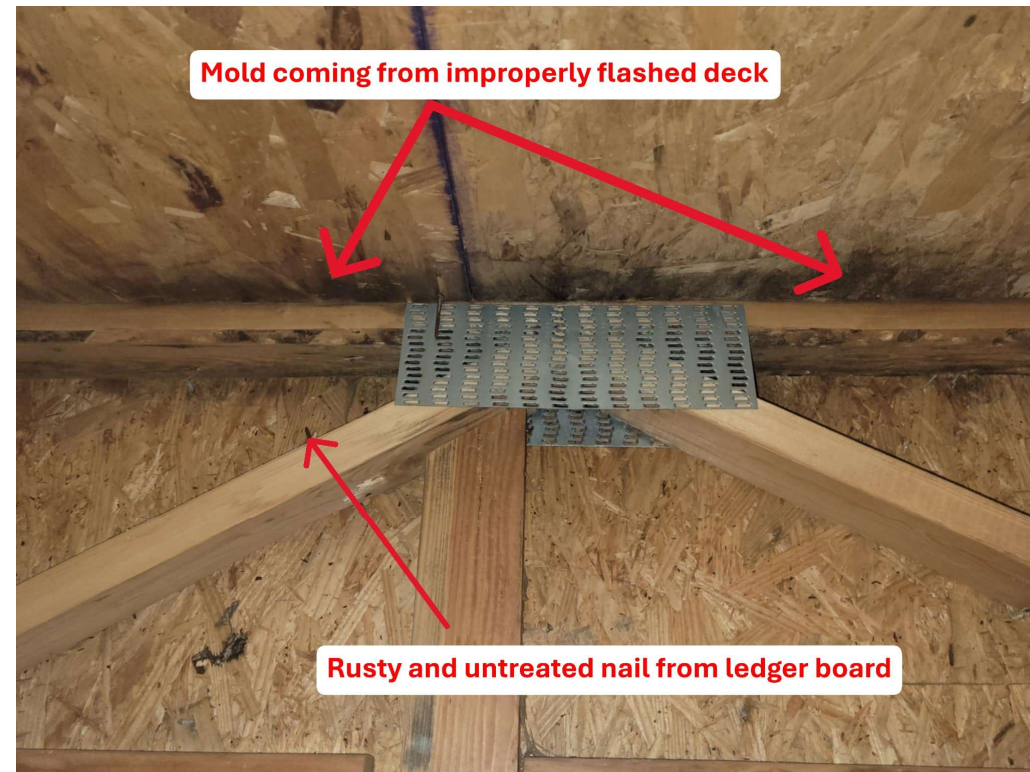
- 13** **Decks and Deck Flashing**
Decks were not built correctly by Contractor
- 14** **Exterior Foundation Moisture control**
Moisture control is questionable and needed further investigation
- 15** **Dryer Vent**
Dryer Vent held together with improper tape came loose and filled space with moisture.
- 16** **Mold, Radon and Flooding**
Results of poor craftsmanship and inability to follow building code and foundation Specifications.

Interior of crawlspace where decks are attached- Pics from Plaintiff

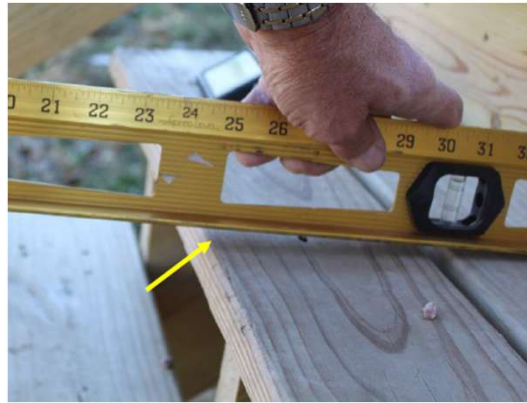


These are picture of where the ledger board of the deck is fastened to the house. You can see a significant amount of water stained and moldy wood. The deck was improperly fastened and without proper flashing.

This led to concerns from the Home Inspector and Amber about the damage to exterior sheathing, insulation and vapor barrier. It became a point of contention when Amber wanted the Decks pulled back and the bottom row of the siding removed to review full scope of the damage.



Pictures from Professional Inspection Reports



The support posts are resting in the dirt.



Deck was not properly built.

No counterflashing on Ledger board/Intrusion points.

Missing Fasteners.

Sloped away from house creating a major safety hazard.

Post resting in dirt

Post falling away from concrete supports

Pictures from Professional Inspection Reports-Pictures from Homeowner



Pictures show pitting of concrete and the inadequate moisture control barrier applied to foundation wall.



Note from Albertson Engineering Inc

1. Based on visual observation, it appears that waterproofing on the exterior face of foundation wall is in question. We would recommend waterproofing of the exterior face of foundation wall be investigated and verified. If found that the waterproofing is missing, then the waterproofing should be installed per the Foundation Details. Note this would require excavation around the entire perimeter of the house and replacement of backfill. Care should be taken during this operation to ensure that the exterior perimeter foundation drain tile is not damaged.

Exterior Water Moisture Control Barrier and concrete pitting around entire perimeter is compromised. Full depth of pitting and moisture control is unknown due to it mostly being under backfill.

Water can enter foundation wall through applied moisture barrier into pitting in concrete. Due to the lack of insulation and proximity to frost line, water will freeze, expand and contract. This will lead to a much faster degradation of foundation wall.

Dryer Vent- Pics from Plaintiff



Picture of the dryer vent installed by Street Heat and contracted by NDHR. The vent is sill not to code. Low spots in the vent will collect moisture. NEED TO RESEARCH THIS ONE MORE.

Screenshots from Mold Test

Mold Test from Dusty Johnson

MoldSCORE™: Spore Trap Report

Location: 9078 Main Floor

Fungi Identified	Indoor sample spores/m3				Raw count	Spores/m3	MoldSCORE‡			
	<100	1K	10K	>100K			100	200	300	Score
Generally able to grow indoors*										
Alternaria					7	470				252
Bipolaris/Drechslera group					ND	< 67				100
Chaetomium					ND	< 67				100
Cladosporium					1	270				100
Curvularia					ND	< 67				100
Epicoccum					1	67				107
Nigrospora					ND	< 67				100
Penicillium/Aspergillus types†					6	1,600				278
Stachybotrys					ND	< 67				100
Torula					ND	< 67				100
Seldom found growing indoors**										
Ascospores					ND	< 67				100
Basidiospores					ND	< 67				100
Rusts					2	130				151
Smuts, Periconia, Myxomycetes					1	67				113
Total						2,600				Final MoldSCORE 278

Location: 9081 Crawlspace

Fungi Identified	Indoor sample spores/m3				Raw count	Spores/m3	MoldSCORE‡			
	<100	1K	10K	>100K			100	200	300	Score
Generally able to grow indoors*										
Alternaria					1	67				127
Bipolaris/Drechslera group					ND	< 67				100
Chaetomium					1	67				199
Cladosporium					2	530				100
Curvularia					ND	< 67				100
Nigrospora					ND	< 67				100
Penicillium/Aspergillus types†					109	29,000				300
Stachybotrys					ND	< 67				100
Torula					ND	< 67				100
Seldom found growing indoors**										
Ascospores					ND	< 67				100
Basidiospores					1	270				129
Rusts					ND	< 67				100
Smuts, Periconia, Myxomycetes					1	67				113
Total						30,067				Final MoldSCORE 300

Note

Topic: Message for Monument Health.

Worried about the mold and radon levels on the main floor of our new home. Please point me in a direction to determine health wise if it is safe to occupy.

1 attachment



7849-1.pdf



MyChart Messaging User

11/3/2023, 10:43 AM

Per Adam Haave, "

Based on this Radon test I would say it is not currently safe to occupy this home until a specialist contractor installs mitigation ventilation and retesting is done. We are in contact with Dr. Robbins office today trying to figure out what testing he may have ordered for your son. If some of this lab work or testing could be ordered for you we will go ahead and get that done. Sorry I was out for the last couple of days."

Enter TXT

Screen shots from Radon Test

Initial Radon Test Information

Dates of Test: 2023-10-26 @ 11:00 am to 2023-10-28 @ 1:00 pm

<u>Property Address</u>	<u>Test Number</u>	<u>Analysis Date</u>	<u>Result</u>
1st Floor 6633 Greenfield Dr Rapid City, SD 57703-9655	7402576	2023-11-01	9.3 ± 0.7 pCi/l

Interpreting your Test Result

The US EPA action level for indoor radon is 4.0 pCi/L. The EPA recommendation for test results in this range (8 to 100 pCi/L) is to conduct a short-term follow-up measurement within the next few weeks. A long-term measurement is NOT recommended because additional exposure at these levels could pose an increased health risk. If, however this is a follow-up (confirming) test, it is recommended that you take remedial action to reduce these radon levels.

- No tampering was observed during the radon test.

Initial Radon Test Information

Dates of Test: 2023-12-19 @ 9:00 am to 2023-12-21 @ 2:00 pm

<u>Property Address</u>	<u>Test Number</u>	<u>Analysis Date</u>	<u>Result</u>
1st Floor 6633 Greenfield Dr Rapid City, SD 57703-9655	7407545	2023-12-22	20.0 ± 1.6 pCi/l

Interpreting your Test Result

The US EPA action level for indoor radon is 4.0 pCi/L. The EPA recommendation for test results in this range (8 to 100 pCi/L) is to conduct a short-term follow-up measurement within the next few weeks. A long-term measurement is NOT recommended because additional exposure at these levels could pose an increased health risk. If, however this is a follow-up (confirming) test, it is recommended that you take remedial action to reduce these radon levels.

- No tampering was observed during the radon test.

Initial and follow up Radon test performed by Dusty Johnson

Radon levels increased over 100% from the 11/1/2023 test to the 12/22/2023 test.

November 6, 2023

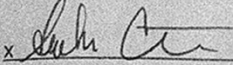
Work Authorization

Re: 6633 Green Field Dr. Rapid City SD

By signing this work authorization letter, I Amber Cottman, hereby known as the homeowner, authorize NeighborWorks and its sub-contractors to complete mold repairs including but not limited to the following:

- Install drain tile on interior perimeter of the foundation
- Seal entry points in the perimeter of the crawlspace such as around pipes
- Drying of the structure- *estimated 10-16 days of drying to get the structural lumber dried to a moisture content that is below the mold threshold*
- Run air scrubbers during the drying process to address mold spore loading of the air
- Remediation of the mold & Encapsulation of the crawlspace – *estimated 4-5 days once the drying is completed*
- Cutting in a vent to the HVAC system to provide conditioned air to the crawl space- *as recommended by South Dakota Housing*
- Professional inspection (passing mold remediation inspection) upon completion of the project, to ensure that the work has been completed to National Association of Homebuilders standards.
- Anticipated start date to be on or about Thursday November 9th. With anticipated completion roughly 30 days after start date.

In order to complete said repairs in a timely manner, I authorize said contractors to access my home for the performance of this contract. Knowing that I may be out of town during a portion of the repairs, I agree to the use of a lock box with key and that the contractors use the key to access the home. In addition, I understand that any action on my part (such as refusing to allow access to the home during regular business hours, not responding to contractor's communication in a timely manner, postponing contractors or any other similar delays in the performance of said contract) will be considered obstructing the performance of the work and may require work to stop. I understand and agree to the terms and conditions as listed in this work authorization.

x  Nov 8 2023

Amber Cottman

Date

***please provide proof of insurance for contractors*

THIS INSTITUTION IS AN EQUAL OPPORTUNITY PROVIDER, AND EMPLOYER



November 6, 2023

Amber Cottman
6633 Green Field Dr
Rapid City SD 57703

RE: Mold Remediation

Amber,

After careful consideration of the mold issue at 6633 Greenfield Dr, NeighborWorks has agreed to the following plan:

- Install drain tile on interior perimeter of the foundation
- Seal entry points in the perimeter of the crawlspace such as around pipes
- Drying of the structure- *estimated 10-16 days of drying to get the structural lumber dried to a moisture content that is below the mold threshold*
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- Cutting in a vent to the HVAC system to provide conditioned air to the crawl space- *as recommended by South Dakota Housing*
- Professional inspection (passing mold remediation inspection) upon completion of the project, to ensure that the work has been completed to National Association of Homebuilders standards.

NeighborWorks will provide you with contact information for each of the sub-contractors. The contractors would like to begin work this week. In order to proceed, NeighborWorks is requesting that you sign the attached authorization form and return it no later than the end of the work day on 11/07/2023. Any delay in authorizing this work may result in additional delays in beginning the project and may cause additional issues with the home.

Sincerely,

Mike Walker

Executive Director
795 Main St. Deadwood, SD 57732
(605) 578-1401

CC: Chuck King, NeighborWorks Board President

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Amber signed a Work Authorization form with a scope that Neighborworks DHR Deemed appropriate.

- Install Drain tile – Neighborworks did install drain tile but the drain tile goes to a sump basin that is too high resulting in water not flowing adequately to the pump.
- NWDHR may have been able to dry the structure if they completed stop all the water intrusion points.
- NWDHR ran heaters and air scrubbers for a long duration. The Mold Spore test after that failed
- NWDHR never performed any mold remediation because they never sealed water intrusion entry points



November 6, 2023

Amber Cottman
6633 Green Field Dr
Rapid City SD 57703

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Mike Walker

Executive Director
795 Main St. Deadwood, SD 57732
(605) 578-1401

CC: Chuck King, NeighborWorks Board President

THIS INSTITUTION IS AN EQUAL OPPORTUNITY PROVIDER, AND EMPLOYER



Items that would have never been brought up to IRC requirements or SDH specifications for Governors Homes

R405.2.3 Drainage system.



In other than Group I soils, a sump shall be provided to drain the porous layer and footings. The sump shall be not less than 24 inches (610 mm) in diameter or 20 inches square (0.0129 m²), shall extend not less than 24 inches (610 mm) below the bottom of the *basement* floor and shall be capable of positive gravity or mechanical drainage to remove any accumulated water. The drainage system shall discharge into an *approved* sewer system or to daylight.

- **IRC 405.2.3** - Drain Tile/Sump Pump and Pit – NWDHR hired ERE to install drain tile around the interior perimeter of the home. They did not lower the Sump Basin and the drain tile was installed to a sump pit to high in the ground. This lead to the drain tile having a Negative grade to the sump pit and pump and water can's adequately exit the crawlspace. The drainage would have never been brought up to IRC 405.2.3

Items that would have never been brought up to IRC requirements or SDH specifications for Governors Homes

R408.6 Finished grade.

The finished *grade* of under-floor surface shall be permitted to be located at the bottom of the footings; however, where there is evidence that the groundwater table can rise to within 6 inches (152 mm) of the finished floor at the building perimeter or where there is evidence that the surface water does not readily drain from the building site, the *grade* in the under-floor space shall be as high as the outside finished *grade*, unless an *approved* drainage system is provided.

- **IRC 404.6** - Crawlspace floor – NWDHR never offered in there plan a way to fix the crawlspace floor. It would have remained to be withing 6” of the water table. Would have never been brought up to IRC R404.6
- It’s also important to note that Amber never would have never had a 6” Layer of 1” base course installed in her crawl space floor as contracted by NWDHR and their subcontractor ERE.

Items that would have never been brought up to IRC requirements or SDH specifications for Governors Homes

N1102.2.10 (R402.2.10)Crawl space walls.

Crawl space walls shall be insulated in accordance with Table N1102.1.3.

Exception: Crawl space walls associated with a crawl space that is vented to the outdoors and the floor overhead is insulated in accordance with Table N1102.1.3 and Section N1102.2.7.

N1102.2.10.1 (R402.2.10.1)Crawl space wall insulation installation.

Where crawl space wall insulation is installed, it shall be permanently fastened to the wall and shall extend downward from the floor to the finished grade elevation and then vertically or horizontally for not less than an additional 24 inches (610 mm). Exposed earth in unvented crawl space foundations shall be covered with a continuous Class I vapor retarder in accordance with this code. Joints of the vapor retarder shall overlap by 6 inches (153 mm) and be sealed or taped. The edges of the vapor retarder shall extend not less than 6 inches (153 mm) up the stem walls and shall be attached to the stem walls.

- **N1102.2.10 and N1102.2.20.1 (R402.2.10.1)** – NWDHR was never going to replace the crawlspace insulation on the wall to meet IRC requirements. They were going to re-install it and cover it with plastic.
- NWDHR was never going to cover that insulation with an appropriate thermal barrier to protect against combustion.
- NWDHR was never going to install a min. of 24” of insulation on the crawl space floor
- Home would have never met IRC N1102.2.10 and N1102.2.20.1 (R402.2.10.1).

Additional Items not to be remedied

- NWDHR was never going to install a Radon Mitigation system. EPA recommends a Radon Mitigation system
- Elevated Radon was a direct result of NWDHR negligence
- Entire house was going to be forever primed for Mold Growth.
- Sill plates will never have a sill seal between them and will forever be warped and cupped due to not being sealed.
- A HVAC special stated that the dryer vent is still not up to IRC requirements.

Additional Items not to be remedied

- Due to the elevation of the Foundation, the home will forever be subject to the water intrusion from ground water. That will increase the chances of another mold bloom and forever keep radon levels high under the vapor barrier. A 6 mil sheet of plastic is the only thing preventing another bout with mold, radon and serious health concerns.
- **THE BIGGEST ISSUE WILL FOREVER BE THE MATERIAL AND IT'S INSTALLATION UNDER THE FOUNDATION FOOTING! GEOTECHNICAL ENGINEERING WARNS OF FUTURE DIFFERENTIAL SETTLEMENT AND POSSIBLE CATASTROPHIC FAILURE OF THE FOUNDATION!!!**

Note

Enter TXT