

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



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



October 28, 2010

Jamie Rexwinkle
Rexwinkle Concrete
225 Industrial Ave.
Corsica, South Dakota 57328

Craig Fergen
Northwestern Energy
600 Market Street West
Huron, South Dakota 57350

Re: OC10-005 Northwestern Energy against Rexwinkle Concrete

Under the authority granted by SDCL-49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board met on October 28, 2010, to determine whether there is probable cause to believe a One Call violation occurred. The Enforcement Committee's findings are enclosed. You may request a hearing according to SDCL-49-7A-27, if you disagree with the Enforcement Committee findings. If you do request a hearing you must present your case to the One Call Board. **Failure to respond to this notice or request a hearing is considered acceptance of the Enforcement Committee recommendation and your right to hearing is waived.**

If you choose to request a hearing please return the signed and dated form prior to the close of business on November 29, 2010 to:

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

If you have procedural questions relative to this complaint, please contact me at 605-339-0529 or by email at exedir@sdonecall.com. Do Not Contact any members of the South Dakota One Call Notification Board to discuss this complaint since members may be involved in a hearing if one is requested.

Larry L. Janes
Executive Director
South Dakota One Call

ENFORCEMENT COMMITTEE RECOMMENDATION
OC10-005

Northwestern Energy filed a complaint with the Public Utilities Commission on September 10, 2010 against Rexwinkle Concrete alleging that a violation of 49-7A-5 occurred at 608 North Minnesota Street at approximately 3:30 pm on August 31, 2010. The type of facilities involved were natural gas distribution lines at 85 lbs pressure and most at 20 lbs pressure. Two homes were evacuated and Mitchell City public responders closed the street to vehicles and pedestrians. Estimated property damage was \$1,000.

Rexwinkle Concrete responded on September 30, 2010 and stated the line had been hit when setting up forms and that the depth at this site was shallow. The company doing the excavation work had not called in locates.

The Enforcement Committee of the South Dakota One Call Board met on August 24, 2010 and found there is probable cause that Rexwinkle Concrete violated 49-7A-5, by commencing excavation at 608 North Minnesota Street, Mitchell, South Dakota on August 31, 2010 without a valid locate request as required by statute.

The Enforcement Committee recommends a penalty of one thousand dollars (\$1,000) with five hundred dollars (\$500) suspended on the following conditions:

1. Rexwinkle Concrete fully complies with SDCL 49-7A and article 20:25 for twelve months following the date of the complaint filing.
2. Rexwinkle Concrete should be aware that any future violation of SDCL 49-7A and article 20:25 within twelve months from the date of the of the final order are subject to additional penalties up to a maximum of \$5,000 under SDCL 49-7A-18.
3. Rexwinkle Concrete must make payment within 30 days of issuance of the final order.

**REQUEST FOR A HEARING
COMPLAINT OC10-005**

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC10-005
AND REQUEST A HEARING.**

Signature – Rexwinkle Concrete

Date

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC10-005
AND REQUEST A HEARING.**

Signature –Northwestern Energy

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
C/O SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 E. CAPITOL AVE.
PIERRE, SD 57501-5070**

**Failure to request a hearing results is acceptance of the Enforcement
Committee's recommendation as to the final disposition of this Complaint.**