

**BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

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IN THE MATTER OF THE COMPLAINT	)	ORDER ADOPTING ENFORCEMENT
BY NORTHWESTERN ENERGY AGAINST	)	PANEL RECOMMENDATIONS AND
REXWINKLE CONCRETE	)	CLOSING DOCKET
	)	OC10-005

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On September 10, 2010, the South Dakota Public Utilities Commission received a Complaint from NorthWestern Energy against Rexwinkle Concrete. The Complaint alleges excavation occurred at 608 North Minnesota Street, Mitchell, South Dakota, without providing advance notice through the South Dakota One Call System as is required by law. Rexwinkle Concrete did not dispute the allegation.

On October 28, 2010, pursuant to SDCL 49-7A-22 a panel was appointed to make a recommendation to the South Dakota One Call Board regarding whether probable cause exists to believe the violation occurred as described in the Complaint (herein the Panel). The Panel met and determined probable cause exists to find a violation of SDCL 49-7A-5 occurred.

In addition, and also pursuant to SDCL 49-7A-22 the Panel recommended a one-thousand dollars (\$1,000) penalty, with five hundred dollars (\$500) suspended. In making its recommendation the Panel considered all factors in SDCL 49-7A-26.

The recommended suspension is based on the following: (i) Rexwinkle Concrete fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following the date of this Order and (ii) Rexwinkle Concrete fully comply with the resolution of this complaint by making payment of five hundred dollars (\$500) within thirty days of the issuance of this Order. If either condition is violated, the suspended portion of the penalty becomes immediately due and payable.

Neither party requested a hearing in this matter and pursuant to SDCL 49-7A-27 the Panel's recommendation is considered accepted by both.

At its scheduled meeting of February 16, 2011, the South Dakota One Call Board pursuant to SDCL 49-7A-27, reviewed the Panel's procedure and approved it findings.

THE ONE CALL BOARD OF SOUTH DAKOTA HEREBY ORDERS, the terms and conditions as recommended by the Panel as final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered and fully incorporated herein; and it is

FURTHER ORDERED this docket shall be closed.

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

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile by first class mail, or by other electronic means.



Larry L. Janes, Executive Director

Date 2-18-2011

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Pierre, South Dakota,  
this 16<sup>th</sup> day of February, 2011



Bleu LaFave  
Chairman