



Know what's below. Call before you dig.



TO: MPNEXLEVEL

FROM: SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

DATE: AUGUST 2, 2012

RE: NOTICE OF COMPLAINT; DEADLINE FOR ANSWER

In the Matter of the Complaint OC12-013 filed by TM Rural Water District against MPNEXLEVEL.

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota One Call Notification Board against MPNEXLEVEL. Pursuant to SDCL 49-7A-23 & SDCL 49-7A-24, you are required to answer this complaint in writing, no later than the close of business on August 22, 2012 by filing the original copy of the answer at the address listed below **and** by serving a copy on the complainant, **or** you may file your response electronically at <http://www.state.sd.us/puc/EfilingOptions.aspx>.

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

Your answer should be as thorough and detailed as possible and should include any documentation that supports your position e.g. witness statements, pictures, etc. We would encourage you to specifically address the alleged violation referenced in the complaint.

Pursuant to SDCL 49-7A-22 a panel of Board members will make a determination of probable cause based on the complaint and associated response. If probable cause is determined, the panel may recommend penalties under SDCL 49-7A-18 or SDCL 49-19. If any financial penalties are assessed in response to Complaint OC12-013

the amount will be based on the factors noted in SDCL 49-7A-26 which are as follows:

1. The amount of damage
2. The degree of threat to the public safety, and
3. The public inconvenience caused;
4. The respondent's plans and procedures to insure future compliance with statute and rules;
5. Any history of previous violations;
6. Other matters as justice requires.

You may address any of these items in your response if you believe it would be of value to the Enforcement Panel when they consider this complaint.

Pursuant to SDCL 15-6-55, failure to answer this Complaint could result in a default judgment being issued against you. Appropriate liens and other legal collection actions could result. You are strongly urged to reply to this Notice in the time frame described above and to obtain the advice of counsel should you have any legal questions.

A copy of the Operations Manual for Facility Operators and Excavators, the South Dakota One Call Statute and associated Administrative Rules are available on our web site www.sdonecall.com.

Procedural questions may be directed to Larry Janes, Executive Director to the South Dakota One Call Notification Board, at 605-339-0529 or by email to exedir@sdonecall.com. I would request that you do not contact any members of the South Dakota One Call Notification Board to discuss this complaint. Since they may be involved in the Enforcement Panel review and/or a Chapter 1-26 hearing to resolve of the complaint, they have been advised by legal counsel to not discuss any pending complaint before the Board.

Enclosures: Copy of complaint
Operations Manual for Facility Operators and Excavators

cc: TM Rural Water District (via email)

ONE CALL COMPLAINT FORM
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, Sd 57501-5070

COMPLAINT

Allegation of Probable Violation(s) of South Dakota One Call Laws

Received On August 2, 2012 10:14 am

I. ACTION REQUESTED BY:

COMPLAINT FILED BY: Company

PERSON FILING COMPLAINT: Jay Jorgensen

COMPANY: TM Rural Water District

ADDRESS: PO Box 444, Parker, SD 57053

PHONE NUMBER: (605) 297-3334

EMAIL: Jay.Jorgensen@tmruralwater.com

DATE: August 1, 2012

II. ACTION REQUESTED AGAINST:

NAME OF EXCAVATOR/FACILITY OPERATOR: MPNEXLEVEL

PHONE NUMBER: (320) 963-2400

ADDRESS: 500 County Road 37 East, Maple Lake, MN 55358

WAS A LOCATED REQUESTED FROM SD ONE CALL? Yes

LOCATE TICKET#: 121990208

START DATE ON TICKET: July 19, 2012

DID EXCAVATOR WAIT UNTIL THE START DATE/TIME ON THE TICKET BEFORE COMMENCING EXCAVATION? Yes

WERE BURIED FACILITIES EXPOSED BY HAND OR NON-INVASIVE EQUIPMENT PRIOR TO EXCAVATION? No

III. FACILITY INVOLVED (IF ANY)

TYPE OF FACILITY INVOLVED: 5 inch Rural Water Main

OPERATOR OF FACILITY: Wade Kunkel

OPERATOR ADDRESS: PO Box 445, Parker, SD 57053

PHONE NUMBER: (605) 297-3334

DEPTH OF COVER: 4' 10"

PRESSURE: 100 PSI +

VOLTAGE: NA

NUMBER OF CABLE REPAIRS: NA

IV. MARKING

WERE FACILITIES MARKED? Yes

WAS THE MARKING COMPLETE PRIOR TO THE START TIME ON THE TICKET? Yes

DID EXCAVATOR PRE-MARK WITH WHITE PAINT? No

WAS THE FACILITY ACCURATELY MARKED (WITHIN 18 INCHES)? Yes

DID EXCAVATOR USE REASONABLE CARE TO MAINTAIN LOCATE MARKS FOR LIFE OF PROJECT? Yes

HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY? Yes

IS THERE AGREEMENT? Yes

IF NO, PLEASE EXPLAIN:

V. DAMAGE (IF ANY)

FATALITIES:

INJURIES:

LENGTH OF HOSPITALIZATION:

ESTIMATED PROPERTY DAMAGE: \$100.00

NUMBER OF CUSTOMERS AFFECTED: 44

DAMAGED IN: Public

PHOTOS OF THE DAMAGED FACILITY: No

ADDITIONAL INFORMATION: Contractor was digging from East to West on south ditch of 254th East of Highway 81 on July 24th. We received call at approximately 11:30 am from Jarred (representative of owner, Trio Tel.) Jared informed TM that the contractor was following the existing phone line to place fiber to a duct that was run underneath of Highway 81. Wade Kunkel (TM Operator) spoke to backhoe operator for MPNEXLEVEL and he informed him that they had not probed or hand dug for the 5" line in question. Locate flags were directly on top of line, he told TM's Operator on site that his supervisor had told them not to probe for lines after an employee of theirs had punctured a line of Hanson Rural Water System. MPNEXLEVEL operator admitted they were negligent in the entire matter. TM hired contractor Gary Nowstrup to expose the line for us, and installed an approximately 5' of 5" class 200 pipe and one 5" gasket joint repair and placed a cement block under each splice. We then returned water pressure and flushed for approximately two hours before returning the rest of the system to full line pressure. TM operators discussed TM's concerns about making sure MPNEXLEVEL expose TM facilities per South Dakota's One Call Operations manual for facility operators and excavators with the MPNEXLEVEL representative Jerry Skjerven. This is the first of three complaints against this contractor by TM Rural Water District. The three complaints happened in a span of time covering July 24th through August 1st. On A

VI. PROBABLE VIOLATION

SPECIFIC STATUTE(S) OR RULE(S) THAT WAS VIOLATED: Section V11 of the South Dakota One Call Operations Manual for Facility Operators and Excavators. 18" hand excavation rule was ignored and no attempt was made for spotting or probing for Rural Water Main line.

ADDRESS/LOCATION OF PROBABLE VIOLATION: SE Corner of 254th Street and Hwy 81

DATE/TIME OF PROBABLE VIOLATION: July 24, 2012 11:30 am

HAVE YOU DISCUSSED THE PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST? True

IF YES, NAME THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION: Jerry Skjerven

DESCRIPTION OF PROBABLE VIOLATION: Excavators did not follow the 18 inch minimum clearance rule in as much as excavator did not do any hand digging in order to expose rural water mainline. No probing or spotting was completed in order to avoid TM facilities. Locates were spot on. At the time of this incident no pictures were taken.