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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 OC12-015 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 OC12-015

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 2:28 pm

I. ACTION REQUESTED BY:

COMPLAINT FILED BY: Company

PERSON FILING COMPLAINT: Jay Jorgensen

COMPANY: TM Rural Water District

ADDRESS: PO Box 445, Parker, SD 57053

PHONE NUMBER: (605) 297-3334

EMAIL: Jay.Jorgensen@tmruralwater.com

DATE: August 2, 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#: No Ticket

START DATE ON TICKET: July 31, 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: Rural Water

OPERATOR OF FACILITY: TM Rural Water District

OPERATOR ADDRESS: PO Box 445, Parker, SD 57053

PHONE NUMBER: (605) 297-3334

DEPTH OF COVER: N/A

PRESSURE: 80 PSI

VOLTAGE: N/A

NUMBER OF CABLE REPAIRS: N/A

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? No

IF NO, PLEASE EXPLAIN: MPNEXLEVEL does not believe they should have to pay for repair of valve riser and clean out they ran over with a push cat in the public ROW that was clearly marked and located. TM operators cannot find the original locate request from MPNEXLEVEL for this site and cannot remember receiving one. Locate flags on site were rusty and may have been from a previous locate some time ago. Will ask MPNEXLEVEL to show copy of ticket but otherwise facilities were properly located for this area.

V. DAMAGE (IF ANY)

FATALITIES:

INJURIES:

LENGTH OF HOSPITALIZATION:

ESTIMATED PROPERTY DAMAGE: \$100.00

NUMBER OF CUSTOMERS AFFECTED: 1

DAMAGED IN: Public

PHOTOS OF THE DAMAGED FACILITY: Yes

ADDITIONAL INFORMATION: TM Operator was called 2:15pm on August 1st, by Jerry Skjerven of MPNEXLEVEL informing TM that they had bumped a valve at the driveway of 25571 438th Ave. in rural Salem and that there was water coming out of it. TM maintenance personnel arrived on scene at approximately 2:45 pm. There were no representatives from MPNEXLEVEL when TM arrived on scene. TM operator called in emergency one call ticket. TM operators looked over scene and it was obvious MPNEXLEVEL's pull cat drove over the top of TM Rural Water District's valve riser and clean-out. In the process of waiting for backhoe to arrive TM operators spoke with Jerry Skjerven of MPNEXLEVEL. Jerry informed TM operators that he did not think MPNEXLEVEL should be responsible as blue flags mean water line not valve. TM operators asked Jerry why his pull cat operator had not dismounted and checked other side of driveway but Jerry gave no response. TM operators also noted that MPNEXLEVEL had damaged the culvert on driveway, and notified McCook County of the damage. When TM operators exposed valve and what was left of clean-out they found pipe broke directly behind service valve from downward pressure that had been exerted by MPNEXLEVEL's push cat. TM operators replaced service valve and cleanout, blocked and staked to ensure it would not come loose. TM operators left the site at 6:30pm

VI. PROBABLE VIOLATION

SPECIFIC STATUE(S) OR RULE(S) THAT WAS VIOLATED: Damage done to facilities in the public ROW that were properly located by TM Operators. MPNEXLEVEL does not believe they should have to pay for damaged facilities that were properly located in the public ROW

ADDRESS/LOCATION OF PROBABLE VIOLATION: 25571 438th Ave Rural Salem, SD

DATE/TIME OF PROBABLE VIOLATION: August 1, 2012 2:00 pm

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: See above

