

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY NORTHWESTERN ENERGY,
HURON, SD AGAINST MP NEXLEVEL,
LLC, MAPLE LAKE, MN FOR AN
INCIDENT OCCURRING ON MAY 20,
2021 AT 20 NORTH 5TH STREET,
GROTON, SD.

**ORDER ADOPTING ENFORCEMENT
PANEL RECOMMENDATION TO THE
SOUTH DAKOTA ONE CALL BOARD**

OC21-005

On June 4, 2021, the South Dakota One Call Notification Board received a Complaint filed by NorthWestern Corporation d/b/a NorthWestern Energy (herein "Claimant"), against MP NexLevel, LLC, (herein "Respondent"), for an incident occurring on May 20, 2021, at 20 North 5th Street, Groton, SD. The Complaint alleges violations of SDCL 49-7A-5 and SDCL 49-7A-12 when Respondent did not have a valid locate ticket at the time or for the location of the excavation. Claimant alleges that Respondent did not call in a damage locate.

A copy of the Complaint was sent to Respondent on June 7, 2021. The deadline to respond to the Complaint was June 28, 2021. Respondent has not answered the Complaint as of July 22, 2021.

On July 22, 2021, the Enforcement Panel (herein "Panel") convened pursuant to the authority present in SDCL 49-7A. The Panel does find probably cause that an unintentional violation of SDCL 49-7A-5 and an unintentional violation of SDCL 49-7A-12 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 with \$750 suspended for the violation of SDCL 49-7A-5 and a penalty of \$1,000 with \$500 suspended for the violation of SDCL 49-7A-12 for a total penalty of \$2,000 with \$1,250 suspended upon the conditions listed below. The conditions for the suspended penalty are as follows:

1. Respondent must not be found guilty of a One Call violation within twelve (12) months of the Board Order being issued.
2. The penalty payment of **\$750** must be made to the **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709** within thirty days.
3. Respondent must attend a Damage Prevention meeting in 2022.

4. Respondent must conduct an in-house safety meeting to discuss South Dakota One Call laws. Detail of the discussion material, date, and length of the meeting along with printed and signed names of attendees will be submitted to the Executive Director of South Dakota One Call within thirty (30) days of the Board Order being issued.
5. Respondent will arrange a face-to-face meeting with Claimant to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within thirty (30) days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$1,250**) becomes immediately due and payable to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**

On October 12, 2021, the Panel's recommendation was sent to the parties to this action. The parties did not request an evidentiary hearing. The Board reviewed the Panel's recommendations at its November 17, 2021 meeting pursuant to SDCL 49-7A-27. The Panel's recommendation was approved by the Board. It is now, therefore:

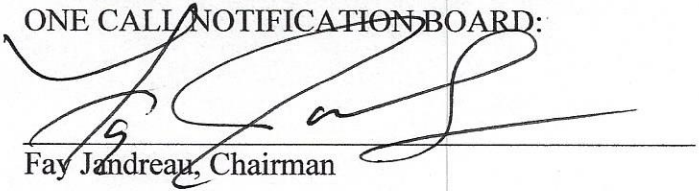
ORDERED, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein.

ORDERED, that if the penalty is not paid, that the Board shall pursue any rights it has under the law regarding collections.

The South Dakota One Call Notification Board has jurisdiction over this matter pursuant to SDCL 1-26 and 49-7A and ARSD Article 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

Dated this 17th day of November, 2021.

BY ORDER OF THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD:


Fay Jandreau, Chairman