

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 401 EAST 5TH AVENUE,  
GROTON, SD.

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

OC21-006

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 401 East 5th Avenue, Groton, SD. The Complaint alleges violations of SDCL 49-7A-5 and SDCL 49-7A-12 when Respondent did not call in locates for the proper location.

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 probable 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 \$250 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 \$750 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 **\$1,250** 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 (**\$750**) becomes immediately due and payable to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**

The Panel recommends the South Dakota One Call Notification Board accept its findings and recommendations herein. If either party to this Complaint disagrees or objects to the recommendations or findings herein, a hearing may be requested. To request a hearing, a party must reply within twenty (20) days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

The South Dakota One Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.