

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>IN THE MATTER OF THE COMPLAINT FILED BY NORTHWESTERN ENERGY, HURON, SD AGAINST MP NEXLEVEL, LLC, MAPLE LAKE, MN FOR AN INCIDENT OCCURRING ON JULY 28, 2021 AT 309 NORTH 2ND STREET IN GROTON, SD.</p>	<p>ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC21-011</p>
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On July 29, 2021, the South Dakota One Call Notification Board received a Complaint filed by NorthWestern Energy (herein "Claimant"), against MP NexLevel, LLC (herein "Respondent"), for an incident occurring on July 28, 2021, at 309 North 2nd Street, Groton, South Dakota. The Complaint alleges violations of SDCL 49-7A-8 and 49-7A-10 when Respondent cut through a 1/2" plastic gas service despite good locate markings.

A copy of the Complaint was sent to Respondent on August 2, 2021. The deadline to respond to the Complaint was August 23, 2021. Respondent has answered the Complaint as of November 2, 2021, after the deadline. Respondent does not dispute that violations of South Dakota One Call law occurred. Respondent alleges that gas did escape and that 911 was contacted.

On November 4, 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-8 occurred. SDCL 49-7A-10 is not a statute that the Panel will rule on. Therefore, the Panel recommends the violation of SDCL 49-7A-10 be dismissed.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 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 **\$250** must be made to the **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709** within.
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.