

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT  
FILED BY NORTHWESTERN ENERGY  
AGAINST WAGNER BUILDING SUPPLY  
FOR AN INCIDENT OCCURRING ON  
JULY 19<sup>TH</sup>, 2022 AT 602 WHITE SWAN  
ROAD IN LAKE ANDES

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

OC22-011

On August 2, 2022, the South Dakota One Call Notification Board received a Complaint filed by NorthWestern Energy (herein “Claimant”) against Wagner Building Supply (herein “Respondent”) for an incident occurring on July 19, 2022, at 602 White Swan Road in Lake Andes, South Dakota. The Complaint alleges a violation of SDCL 49-7A-5 when Respondent failed to notify the one-call notification center of their proposed excavation.

A copy of the Complaint was sent to Respondent on August 10, 2022. The deadline to respond was August 31, 2022. Respondent has not answered the Complaint as of December 19, 2022.

On December 19, 2022, 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 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$500.00 with \$250.00 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 **\$250.00** must be made to the ***South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709*** within thirty (30) days of the Board Order being issued.
3. Respondent must attend a Damage Prevention meeting in 2024.

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.

If any of the above conditions are not met, the suspended penalty (~~\$250.00~~) 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.