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December 13<sup>th</sup>, 2018

State of North Dakota  
Public Service Commission  
Public Utilities Division  
Victor Schock, Public Utilities  
Darrell Nitschke, Executive Secretary

Re: Case No. PU-18-383

Dear Mr. Schock and Mr. Nitschke,

This letter is in response to the ND One-Call Complaint Case No. PU-18-383 received on December 7th, 2018 concerning excavation activity that occurred on 9/11/18 and 9/17/18, 2018 located at approximately LaMoure and Ransom counties in ND. Alleged Violation: Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities. Other: Did not try to find line (pothole).

Evidence Stated By Perry Kapaun: The first hit they hit a big rock with plow and went to the side and dug an 8-foot hole to bury solid rock and hit our line. Under ND One Call Rural Water pre2013 to locate to best of our ability, plus they were deeper than there ticket said. The second hit BRWD line came from easement into RW for 1000 feet. When contractor came to this 1000 feet they did not pot hole the water line. When I inspected with Brian Steiner (KLJ Engineer) the next day 3 of the 4 BRWD flags and paint were on target.

MP Nexlevel, LLC's strict company policy states that "All utilities within the work path shall be potholed using hand digging or soft digging (vacuum excavation) methods. No excavation by mechanical means shall occur within the tolerance zone of the located utility (18" or 24" on either side of the locate mark depending on state statute). Excavators/operators are required to maintain the tolerance zone between the cutting edge or point of any power operated excavating or earthmoving equipment.

If you cross a utility, you must do so through a pothole. If there is no pothole in your path, you shall dig a new pothole to cross the utility. An observer shall be present to watch the pass through of the bore head, reamer, etc. both going out and coming back to ensure proper clearance is maintained."

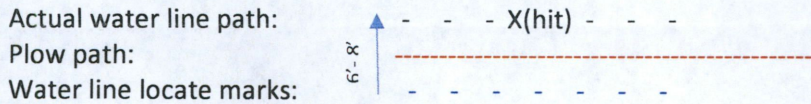
3 **PU-18-383** Filed: 12/17/2018 Pages: 3  
Response to North Dakota One-Call Complaint

MP Nexlevel, LLC

Tracy Lipinski, Safety Director

During the investigation it was determined MP Nexlevel held valid and current locate tickets for both incidences that occurred on 9/11/18 and 9/17/18 (ticket numbers respectively: 18112667 and 18123583).

9/11/18 Investigation: MP crew was plowing paralleling the Barnes Rural water line maintaining a minimum 5 foot of clearance from the marked water line and the 5-foot depth as stated on the locate ticket. Unexpectedly, we hit a large rock in our plow path. In our best efforts to relocate this rock outside our plow path, we used a back hoe to dig an adjoining pit to push the rock into thus clearing our plow path. To ensure the integrity of the water line and tolerance zone, MP dug on the opposite of the water line and plow path. It was during this excavation that we excavated to a depth of 8 feet and struck the water line 6-8 feet off its locate mark. Below is a diagram of the incident.



9/17/18 Investigation: MP crew was plowing paralleling the Barnes Rural water line maintaining approximately 10-foot clearance from the marked water line when the damage occurred. It was discovered after the hit that MP had plowed on top of the mislocated line for 710 feet, but damage occurred in only one section. See attached drawing and statement by KLJ Engineer.

Statement: Following ND One-Call, MP's plow line was determined based upon maintaining the minimum horizontal clearance of two feet between an unexposed facility and the cutting edge of MP's mechanical equipment.

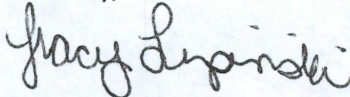
Additionally, on other parts of the job it was noted by the Project Supervisor when MP's plow path was crossing the water line locate, the excavator dug down to our excavation depth and 24" side to side to ensure no utility was in conflict of the path.

As our employee's safety and the safety of the public, is one of MP Nexlevel's highest ethical responsibilities, additional safety training will be conducted regarding safe excavation and damage prevention methods. To ensure all policies and procedures are being followed, more frequent unannounced safety audits will be performed by the Safety Department to offer extra support.

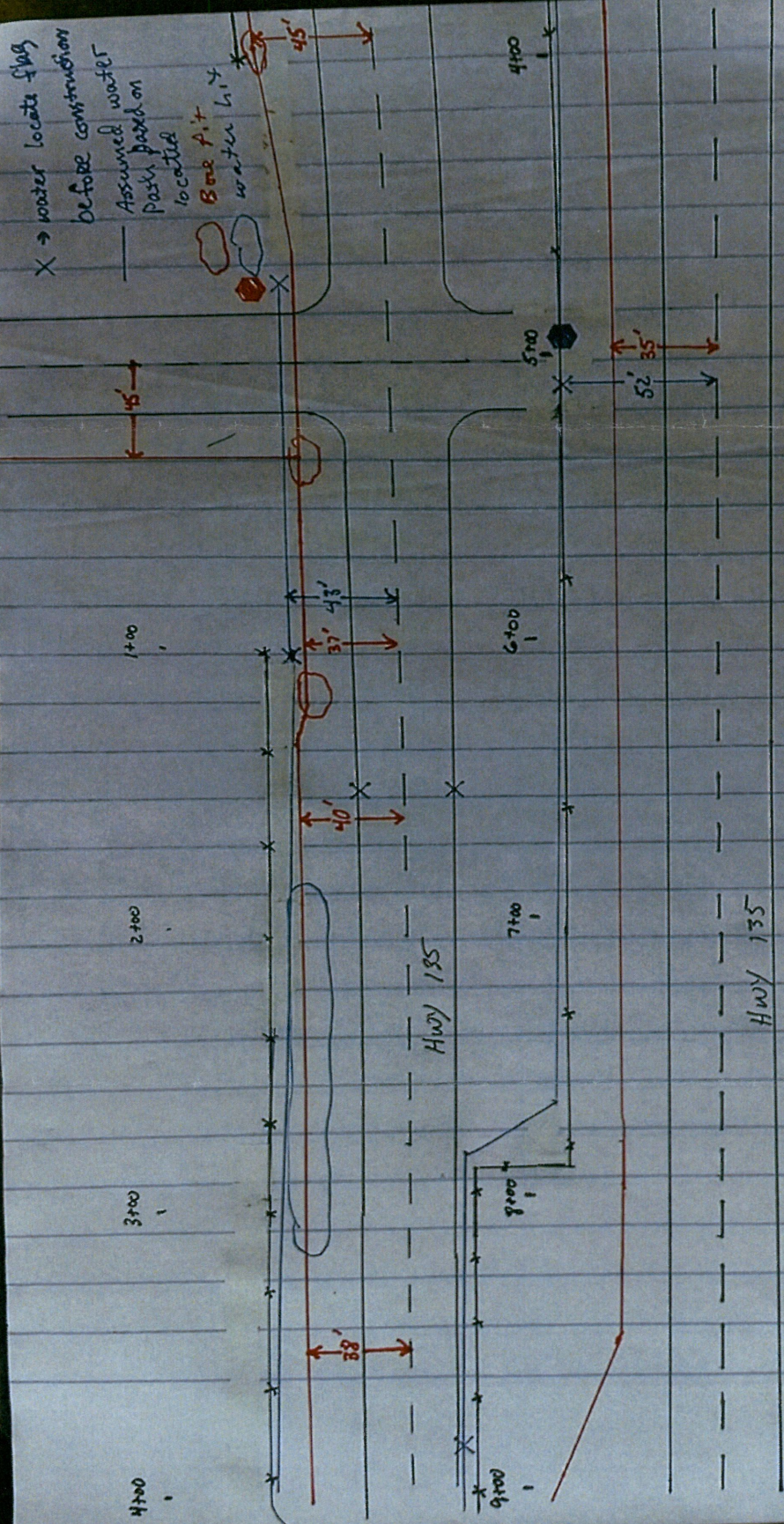
I greatly appreciate your time and consideration in this matter.

Should there be additional questions, I may be reached at (320) 963-2837.

Sincerely,



Tracy Lipinski  
Safety Director  
MP Nexlevel, LLC



The red line is the existing fiber location as placed on 9.17.18 by MP next level. There was NOT any water flags in the area where SE water was shown to be. Drawing a line between the only close flags, the water was shown to be around 10' away from where they were actually shown to be. Plowing started at Sta 1+21, veered slightly South, then was brought back towards the road. The water line was found to be only 3' 4" in the impact area. There is A reel end vault/ped to go at STA 9+50 on the fence line across from an approach.