

Memorandum

To: Commissioners Christmann, Fedorchak and Kroshus

From: Victor Schock Public Utility Analyst *VS*

Date: April 17, 2019

Re: ND One-Call Complaint
Case No. PU-18-383

On November 7, 2018, a ND One-Call Complaint was received from Perry Kapaun with Barnes Rural Water District (BRWD) alleging that MP Nexlevel, LLC. (MP) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to conduct its excavation in a careful and prudent manner.

Staff investigation found that in two separate incidents on July 11, 2018 and July 17, 2018 MP struck 2" and 4" underground water mains owned by BRWD. The water mains that were struck were installed prior to August 1, 2013, which per NDCC 4-23-04(6)(b-c) does not require that an operator be able to locate them within 24" horizontally like other underground facilities.

Furthur investigation with the operator, their locate technician and the excavator determined that there was no communication specific to the One-Call ticket and/or marks for the 2" and 4" water mains to the excavator prior to these incidents that the marks may not be within 24" of the underground facility. Because of this, the excavator would not have a requirement to hand dig or exercise extra caution beyond 24" from the marked facilities.

Based on its investigation staff does not intend to file a formal complaint, recommends that no further action be taken and the case be closed.