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January 25, 2019

Randy Amick  
RANDY AMICK CONSTRUCTION  
97 W 3<sup>rd</sup> Street  
Bronson, Iowa 51007

RE: One Call Violations – Woodbury County

Dear Mr. Amick:

It has come to our attention that on or about October 4, 2018, Randy Amick Construction (“Amick Construction”) conducted excavations to remove and replace a driveway at 4424 Ravine Park Dr., Sioux City, Iowa 51106, without providing 48-hours notice of the planned excavation to the owners and operators of underground facilities. As a result, underground facilities on the property, potentially including fiber optic cable lines, telephone lines, electrical lines, and natural gas transmission lines, were not located and marked prior to the excavations.

Although you dispute you conducted the excavation, documents obtained from the City of Sioux City, Engineering Department (Sidewalk/Driveway Approach Permit Application-2018), indicate that Amick Construction was the company contracted for the work to remove and replace a driveway at 4424 Ravine Park Dr., Sioux City, Iowa 51106.

During the October 4, 2018 excavation, Amick Construction hit and damaged a half-inch coaxial cable, resulting in remediation costs to the owner of the cable line. As I am sure you are well aware, striking and damaging underground facilities can have tragic results. You are fortunate that this incident did not result in injury, or worse, to any of your employees, underground facility employees, or first responders.

The One Call complaint received by the Attorney General’s Office also indicated that when confronted with the failure to place a locate request for the excavation, Amick Construction responded that the company “did not need locates to replace a driveway.” Please be advised that the term “excavation” is defined very broadly in Iowa Code chapter 480, with limited exceptions, and includes “an operation in which a structure or earth, rock, or other material in or on the ground is moved, removed, or compressed, or otherwise displaced by means of any tools, equipment...” Iowa Code section 480.1(4) (emphasis added). Excavation would include using equipment to breakup and/or cut/saw concrete to remove it and the use of a skid

loader to move dirt to level the area for a new driveway. See *Quality Saw and Seal, Inc., v. Illinois Commerce Com'n*, 871 N.E.2d 260, 267 (Ill. Ct. App. 2007) (court held that concrete sawing constituted an "excavation" under Illinois' One Call statute, which is very similar to Iowa's law).

In addition, there is a discrepancy about whether Amick Construction notified the owner of the coaxial cable of the damage. Please be advised that failure to notify the owner or operator of damage to an underground facility as a result of an excavation constitutes a violation of Iowa Code § 480.5.

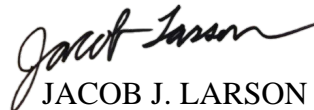
Failure to provide 48-hours notice of the excavation constitutes violation of Iowa Code sections 480.1A, 480.4(1)(a), and 480.4(1)(b)(1)-(8). Iowa Code section 480.6(1)(a) authorizes the Attorney General to seek civil penalties up to a maximum of Ten Thousand Dollars (\$10,000) per day of each such violation involving natural gas pipelines. Iowa Code section 480.6(1)(b) authorizes the Attorney General to seek civil penalties up to a maximum of One Thousand Dollars (\$1,000) per day of each such violation to all other underground facilities. Injunctive relief is also authorized pursuant to Iowa Code section 480.7.

Notice of a planned excavation must be given by either filing a ticket online at [www.iowaonecall.com](http://www.iowaonecall.com) or calling the One Call Notification Center at 1-800-292-8989 or 811 at least 48 hours prior to the excavation.

The purpose of this letter is to advise that the Iowa One Call statute must be strictly complied with. Failure to comply may result in judicial enforcement proceedings initiated by our office pursuant to Iowa Code sections 480.6 and 480.7.

Thank you for your attention to this matter.

Sincerely,



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