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October 14, 2019

Patty Budke  
President  
CEDAR FALLS CONSTRUCTION  
COMPANY, INC.  
3533 W Airline HWY  
Waterloo, Iowa 50703

RE: One Call Violations – Des Moines County

Dear Patty:

It has come to our attention that on or about August 21, 2018, Cedar Falls Construction Company, Inc. (“Cedar Falls Construction”), conducted excavations with a concrete saw at 609 West Mount Pleasant Street, West Burlington, Iowa, to remove concrete, without providing 48-hours notice of the planned excavation to the owners and operators of underground facilities. As a result, underground facilities, including a 1/2-inch diameter natural gas pipeline under 55 pounds per square inch of pressure (psi), were not located and marked prior to the excavations. During the August 21, 2018 excavation, Cedar Falls Construction hit and damaged the 1/2-inch diameter pipeline, resulting in remediation costs to the pipeline company. 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.

Cedar Falls Construction’s response to the Iowa Utilities Board referenced that the gas line was shallow, which is why it was damaged—implying that the excavation was not the cause. Irrespective of whether the gas line was “too shallow,” Cedar Falls Construction failed to place a locate request for the concrete sawing that occurred. 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. 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).

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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