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Environmental Law Division

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December 10, 2018

Steven Streb
Agent
E & F PAVING COMPANY, LLC
714 31st Ave. SW
Cedar Rapids, Iowa 52404

RE: One Call Violations – Linn County

Dear Mr. Streb:

It has come to our attention that on or about July 12, 2017, E & F Paving Company, LLC (“E&F Paving”) conducted excavations in Linn County, near 243 N. 3rd Avenue, Alburnett, Iowa, to grade a road in preparation of road work, without providing 48-hours notice of the planned excavation to the owners and operators of underground facilities. Underground facilities, including a 1/2-inch diameter natural gas pipeline under 30 pounds per square inch of pressure (psi), were not located and marked prior to the excavations. During the July 12, 2017 excavation, you hit and damaged the 1/2-inch diameter pipeline, resulting in remediation costs to the pipeline company.

Although you asserted in your responses to the Iowa Utilities Board that fine grading (plus or minus two inches of already worked material) does not constitute “excavating or digging,” our Office interprets the definition of “excavation” in chapter 480 to include “fine grading.” “Excavation” is defined very broadly, 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). Fine grading necessarily involves at least some displacement of earth and/or rock directly in or on the ground.

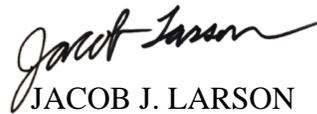
Failure to provide 48-hours notice of the excavation constitutes violation of Iowa Code sections 480.1A, 480.4(1)(a), and 480.4(1)(b)(1)-(8). Iowa Code section 480.6(1)(a) authorizes the Attorney General to seek civil penalties up to a maximum of Ten Thousand Dollars (\$10,000) per day of each such violation 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 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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