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December 19, 2018

Casey Fenton
President
FENTON CONSTRUCTION, INC.
23155 C80
Sioux City, Iowa 51108

RE: One Call Violations – Woodbury County

Dear Mr. Fenton:

It has come to our attention that on or about December 5, 2016, Fenton Construction, Inc. (“Fenton Construction”) conducted excavations in Woodbury County using a bulldozer to repair ruts in a field prior to frost setting in for the winter, 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. Your equipment was near a hazardous liquid pipeline. 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, pipeline employees, or first responders.

Fenton Construction indicated in a letter to the Iowa Utilities Board (“IUB”) that because “there was no cutting or intrusive work being performed in the field, Fenton Construction’s operator at the time, saw no reason for a locate.” “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). Using a bulldozer to move any earth or dirt, even where there is no “cutting” or “intrusive work” constitutes an excavation, and notice must be provided in compliance with Iowa’s One Call law (chapter 480).

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)(c)(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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