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IOWA DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
Environmental Law Division

October 9, 2019

Kelly Smidt  
City Clerk  
Rockwell City  
335 Main Street  
Rockwell City, IA 50579

RE: One Call Complaint-Jacey Rector

Dear Kelly:

On or about June 12, 2018, Mariann Joslin submitted a complaint to the Iowa Attorney General's Office ("Office"), alleging Jacey Rector had conducted excavations in June 2018, at 553 Lake Street, Rockwell City, Iowa, (hereafter referred to as "excavation"), in violation of Iowa's One Call law because Ms. Joslin did not observe any marking of utilities. During the excavations, Rector damaged the water line that serviced the home at 553 Lake Street, but Rector owned that service line—it was not an underground facility owned or operated by Rockwell City.

The Iowa Utilities Board ("IUB") conducted an investigation of the complaint and provided a summary of the investigation to the Office (see attached complaint file). Our Office has reviewed the complaint file and One Call Ticket referenced in the summary (also enclosed), and we are unable to confirm that Rector committed an excavation June 2018, in violation of Iowa's One Call law.

Rector placed a locate request prior to conducting the excavation on June 5, 2018 (Ticket No. 181561689). Rockwell City owns an underground water main that was located approximately 10-20 feet from the planned excavation area. The status history of the Ticket demonstrates that, with the exception of Rockwell City, underground facilities in the area had been located and marked and/or cleared by the relevant underground facility owners and operators. The status history for the ticket indicates that the City did not mark its underground facilities—indicated by the "Not yet responded" notation—which is outside the 48-hour requirement in which underground facility owners and operators must mark their lines.

Failure to mark the horizontal location of an operator's underground facility in response to a locate request for a planned excavation within 48-hours of the notice constitutes violation of Iowa Code section 480.4(3)(a)(1). 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.

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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Encl.

Cc:  
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