



Fifth Report to the Governor and the General Assembly Of Maryland

MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION AUTHORITY

7223 Parkway Drive, Suite 100
Hanover, MD 21076
410-782-2012
Email- info@mddpa.org
www.mddpa.org

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**Maryland Underground Facilities
Damage Prevention Authority**

7223 Parkway Drive, Suite 210
Hanover, MD 21076
(410) 782-2102

Kevin Woolbright
Chair

Marcia Collins
Vice Chair

Thomas L. Hastings
Treasurer

Arthur I. Bell III
Veronica L. Davila-Steele
Jeffrey S. Garner
Vincent Healy
Matthew Ruddo
George E. Taylor

James Barron
Executive Director
jim.barron@mddpa.org

Susan A. M. Stroud
Assistant to the executive Director
Susan.stroud@mddpa.org

Bruce C. Bereano
Staff
info@mddpa.org
www.mddpa.org

January 2016

To the Honorable Lawrence J. Hogan, Jr.
Governor of Maryland

The Honorable Thomas V. "Mike Miller & Michael E. Busch
Presiding Officers of the Maryland General Assembly

Members of the General Assembly of Maryland

Gentleman & Ladies:

Pursuant to the Public Utilities Article of the Annotated Code of Maryland, Section 12-114 Annual Reports, I hereby, as the 2015 Chair of the Maryland Underground Facilities Damage Prevention Authority, submit this Fifth Report to you. This document serves as an outline of the Authority's activities and accomplishments for 2015 Calendar Year.

Sincerely,

Kevin Woolbright,
Chairman, MUFDPA



EXECUTIVE SUMMARY

- The Maryland Underground Facilities Damage Prevention Authority (“The Authority”) was created by the Maryland General Assembly in 2010 to enforce the Miss Utility Law (Annotated Code of MD, Public Utilities, Title 12). This legislation was required by actions taken by the Federal Government which ordered all States and U.S. Territories to create a One-Call Compliance Program.
- The Authority seeks to protect underground facilities of owners in the State of Maryland from destruction, damage or dislocation to prevent death or injury to individuals; property damage to private and public property; and the loss of services provided to the general public.
- The Authority has met eleven (11) times during the 2015 Calendar year. The Authority Board has adjudicated fifty-three (53) probable violations during this period and has assessed and collected \$69,000 in fines with accompanying safety training.
- The Authority has received another \$100,000 State Based Program Federal Grant from Pipeline & Hazardous Materials Safety Administration (PHMSA) in 2015. This is the third such award in the Authority’s six (6) year history.
- The Authority has given twelve (12) lectures across the country and Trained over 1,650 industry workers on the Miss Utility law in Maryland during the 2015 calendar year.
- The Authority has increased its staff and moved into larger accessible office space and continues to see a steady increase in probable violations across the State of Maryland.
- The Authority intends to continuing growing its enforcement and training programs. The emphasis will focus on more enforcement as proscribed by changes to the Federal Rules governing the State based Compliance programs. These changes will require a permanent funding source for the Authority’s day-to-day operations, since the Federal grant monies, currently being utilized to support the Authority’s activities, will undergo guideline changes in the 2016 round of applications. This change will require the passage of a funding measure by the Maryland Legislature during the 2016 Session. The Authority does not and has never sought grants or aid from the State of Maryland.

MISSION STATEMENT

The Authority seeks to protect underground facilities of owners in the State of Maryland from destruction, damage or dislocation to prevent:

- death or injury to individuals;
- property damage to private and public property; and
- the loss of services provided to the general public.

To accomplish this, the Authority seeks to promote, enhance, and assist the State of Maryland in enforcing the Maryland underground utility damage prevention law and furthering programs through efforts that include consistent enforcement, effective public education, and the constant knowledge that public safety through reduced damages is our prime concern.



MARYLAND UNDERGROUND FACILITIES DAMAGE PREVENTION AUTHORITY MEMBERS AND STAFF

<u>MEMBER</u>	<u>REPRESENTING</u>	<u>ORGANIZATION</u>
Kevin Woolbright, Chair*	Underground Facility Owners	WSSC
Marcia Collins, Vice Chair*	Maryland Association of Counties	Baltimore City DPW
Thomas L. Hastings, Treasurer**	Underground Utility Locators	One Call Concepts Locating Services Inc
Arthur Bell	Associated Utility Contractors of Maryland	Burgemeister-Bell Inc.
Veronica Davila-Steele**	General Public	Take Two Hair & Skin Salon and Double Take Hair Studio
Jeffrey S. Garner	Maryland Municipal League	City of LaPlata Public Works Department
Vince Healy	Underground Facility Owners	Verizon
Matt Ruddo	One Call Centers	One Call Concepts, Inc.
George E. Taylor	Public Works Contractors Association	Taylor Utilities, Inc.

STAFF

James A. Barron Executive Director	Barron Consulting Services, LLC
Susan Ann Mary Stroud Assistant to the Executive Director	Contractual
Bruce C. Bereano Staff Assistant	Office of Bruce C. Bereano

* Appointment ended September 30, 2015 but remains seated until a replacement is appointed by the Governor.

** Can serve one more term.





SUMMARY OF AUTHORITY ACTIVITIES

Calendar Year 2015

Since January 1, 2015, the Authority, which is appointed by the Governor, has conducted the following activities and actions:

The Authority has held 11 publically announced meetings at the Miss Utility One Call Center, Conference Room, Suite 104 Hanover, Maryland 21076. All meeting dates were announced and posted in the General Assembly Notice of Meetings document and on the Authority website, in compliance with the Open Meetings Act.

At the January 7, 2015 meeting, the Authority elected the following new officers: Kevin Woolbright as Chair, Marcia Collins as Vice-Chair and Thomas L. Hastings as Treasurer.

GRANTS

In the Fall of 2014 the Authority again submitted a request for the U. S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration's (PHMSA) 2015 State Damage Prevention Grant in the amount of \$100,000.00. The request was submitted to secure funds to continue the now successful and growing operational expenses of the Authority in receiving and researching Notices of Probable Violations.

The Authority was awarded the \$100,000 2015 State Damage Prevention Grant from the Pipeline and Hazardous Materials Safety Administration (PHMSA) and is due to receive the first 50%, \$50,000 distribution of the award in January of 2016. The second 50%, \$50,000 distribution of the award is expected in May of 2016. The 2015 Grant Year runs from September 30, 2015 to September 29, 2016.

As a result of the latest PHMSA grant, the Authority has been able to move into larger quarters, which provides storefront access for contractors and the public seeking information or assistance from the Authority. Due to the increased volume of NPV's and changes to Federal Rules, the Authority expects the need to increase its office size and staff over the next year.

STAFFING

Regarding staffing, James A. Barron, who has been overseeing the Authority as Executive Director via contract with Barron Consulting Services, LLC, has continued on as the Authority's Executive Director. In the 3rd Quarter of 2015, Mr. Barron became a full-time employee of the Authority. It should be noted that Barron was the Chairman of the Stakeholder Group that drafted the revised Title 12 Legislation adopted by the MD General Assembly in the 2010 Legislative session. A retired owner of an underground utility company (Ronkin Construction, Inc.), Mr. Barron brings almost 40 years of direct industry experience to the position. Barron was also a founding member of the Authority when it was initially authorized in 2011.

In 2015, Ms. Susan Ann Mary Stroud was hired as a part-time contractual staff person. A retired lobbyist and former legislative assistant to former Senator Michael J. Wagner (D-32), Ms. Stroud has many years of experience in the legislative arena and through her representation of the home building and highway contracting industries. In the 3rd quarter of 2015, Ms. Stroud became a permanent part-time employee of the Authority and was named Assistant to the Executive Director.

BOARD MEMBER CHANGES

Included in this report is the list of current Authority Board Members. There were a number of changes to the Board during the 2015 term. Tom Hoff, one of the original work group members and former Chairman of the Authority became term limited and left the Board, He was replaced by Matt Ruddo as the One-Call Center, representative. Matt is the Customer Relations Manager for OCCINC. Tom Hastings, the locator representative on the Board and current Treasurer has been re-nominated for a second term and is awaiting confirmation.

Jeffrey Garner was appointed by Governor Hogan to represent the municipal stakeholder via the Maryland Municipal League (MML). Vincent Healy, who works for Verizon, was appointed to replace Tom Baldwin of BGE. This seat is one of the two (2) underground facility owner positions required by statute. In addition, George “Bucky” Taylor was appointed to replace Walter Gainer, who is term limited, as the representative of the Public Works Contractors Association (PWCA).

Mr. Gainer, like Mr. Hoff and Tom Baldwin was one of the original workgroup members who formulated the One-Call compliance program for Maryland. In 2016 the Authority will see some additional changes to the Board, once the gubernatorial appointments are made. They include a replacement for Marcia Collins, with the City of Baltimore DPW. Ms. Collins is stepping down due to scheduling issues and will be replaced by a Maryland Association of Counties (MACo) member, which is also required by statute.

The second Underground Facilities Owner seat was due to become vacant in September of this year, but is still populated by Authority Chairman Kevin Woolbright of the WSSC. Mr. Woolbright will continue to serve as an owner representative until such time as the Governor appoints a replacement for him. And finally, the public member of the Board Ms. Veronica Davila-Steele, a Prince Georges County business woman, was re-nominated by the remaining Board members and is awaiting confirmation.

FEDERAL RULE CHANGES

The Authority has received the announcement of the Final Rule (49 FR 43835-43869) (See Appendix E) which will greatly impact those States whose enforcement guidelines do not meet the Federal Pipes Act requirements. Over the next year PHMSA will be examining all one-call laws around the country and assess their efficacy. Those States deemed lacking face the real possibility of a stringent fining structure under the Federal excavation standards. As such, PHMSA would have the ability to levy Federal Civil Penalties from \$200,000 per occurrence for each day the violation continues, with the maximum penalty being \$2,000,000. Those States, who do not come under compliance within five (5) years, will face a 4% reduction to the PHMSA State Based grant funding.

FEDERAL COMPLIANCE

Fortunately the Maryland program is in line with 8 of the 9 Elements, and should stand in good stead, providing its funding structure allows for greater tracking and enforcement. In the 2016 PHMSA application round, the Authority will need to move away from using grant funds for staff and office support to a more robust approach to education, tracking and enforcement. This will require the development of software modules to enhance tracking, provide on-line training and other forms of outreach as proscribed in the 9th Element of the 2011 PHMSA Pipes Act. As a result the Authority plans to introduce legislation in the 2016 session of the Maryland General Assembly (See Appendix F) to acquire permanent private sector funding for its day-to-day operations; which, if passed would allow the Authority to concentrate its Federal Grants to the expansion of the program.

REVIEW AND STANDARDIZATION

As a result of comments from the Maryland Judiciary regarding the Authority's hearing processes, the Authority staff has developed a Board Manual; which contains all the pertinent documents each Board member would need in order to function and comply with its proscribed procedures. Each Board member was given a copy of the manual which contains not only miscellaneous information such as meeting schedules, contact lists and information regarding the MUFDPDPA website www.mddpa.org; it also includes the Title XII statute, APA guidelines and copies of the Authority's By-laws, Mission Statement and Code of Conduct.

Board members were also provided with additional information regarding “Robert’s Rules” and an extensive section on the ethics requirements for each member and guidelines for compliance with reporting provisions. The manuals are updated on a monthly basis by staff, in order to keep the Boards volunteer members informed and organized.

EDUCATION & OUTREACH

The Authority’s education and outreach activities have continued to grow and evolve in 2015. Its PowerPoint presentation tool is continually being revised and enhanced to suit its audience and is posted on the Authority’s website. The Authority website can also be accessed through the “Miss Utility”, One Call Concept and USPCDs websites; which is the portals for on-line excavation ticket requests. In addition, our members and allied partners are encouraged to share links that could be placed on the Authority’s website to other relevant organizations, training opportunities and conferences.

The Authority has been able to purchase materials and create literature for distribution at the various conferences, conventions and trade shows and training sessions it attends. It should also be noted that an effort has been made on all fronts to produce instructional materials in Spanish to better serve the many Latino underground construction companies and workers operating in Maryland today.

District of Columbia REWRITE

The Executive Director of the Authority has worked with DC Rewrite group to assist with the revamping of the one-call compliance process in the District of Columbia. Meetings have held twice a month for the last twelve (12) months. This process was designed to work on a consensus basis with all stakeholders included at the table. The Director, Jim Barron was able to provide experiential and practical information to the group based on his involvement with the formation of the Common Ground Alliance (CGA), his work as Chairman of the workgroup that developed the Maryland statute and his experiences operating as the Authority’s chief officer. The current Authority Chairman, Kevin Woolbright, also participates. It is anticipated that within the next few months a final draft of the new D.C. statute will be ready for review by members of the Washington, D.C. City Council, which is that jurisdictions governing body.

MD/DC DAMAGE PREVENTION COMMITTEE (PWC)

The Executive Director continues to attend and participate in meetings of the MD/DCPWC. This group meets monthly to discuss safety issues and damage trends in Maryland. As volunteers and experts in their fields, these individuals are an integral part of the Authority's training program. Training sessions are held quarterly at the One-Call Center in Hanover, Maryland. On average at least fifty (50) industry workers attend these sessions. Integral in the training module is the understanding of the Title XII statute more commonly known as the "Miss Utility" law. Besides its quarterly training sessions, the MD/DCPWC goes off-site on multiple occasions throughout the year and throughout the State to provide damage prevention training and information about "the law". A list of its training activities is located in Appendix G of this document.

AUTHORITY PRESENTATIONS

As the head of the Authority, the Executive Director is often called on to give presentations around the State and out of state regarding the activities of the MUFDPA. Below is a listing of the 2015 activities:

01/14/2015 – California Legislative Re-Write Workgroup chaired by Senator Hill of the California State Assembly, Video Conference

01/27/2015 – Maryland/DC Damage Prevention Committee in Hanover, Maryland

02/05/2015 – Gray & Sons, Inc.; Paving, Grading and Utility Contractor in Timonium, Maryland

04/14/2015 – Howard County Maryland, Department of Public Works, Maintenance Division in Columbia, Maryland

06/01/2015 – Associated Utility Contractors of Maryland Monthly Meeting in Baltimore, Maryland

09/15/2015 – Public Works Contractors Association of Maryland Monthly Meeting in Laurel, Maryland

09/17/2015 – Underground Service Protection Center of Delmarva Monthly Meeting in Dover, Delaware

09/24/2015 – One Call Concepts Users' Group & Technology Committee Meeting in San Francisco, California

10/08/2015 – Associated Builders & Contractors Association of Greater Baltimore Safety Day in Timonium, Maryland

10/29/2015 – Greater Chesapeake Damage Prevention Training Conference in Ocean City, Maryland

11/04/2015 – Common Ground Alliance Stakeholder Advocacy Committee Meeting in San Antonio, Texas

11/11/2015 – Harford County Contractors Association Monthly Meeting in Bel Air, Maryland



2015 NPV REVIEW

On the enforcement side, the Authority received fifty-nine (59) Notices of Probable Violation (NPV's) in 2015.

- Of those **Fifty-nine** (59), three (3) were closed in 2015.
 - **Two** (2) with fines totaling \$4,000.00 and Damage Prevention Training completed, and
 - **One** (1) where the complainant withdrew the complaint and will file again later.
- In 2015 **Fifty-three** (53) carried over from 2013 & 2014 and were acted upon as noted below:
 - **Three** (3) was closed in 2015 because the Authority determined there was no violation of the statute,
 - **Twenty-five** (25) were closed in 2015 with fines totaling \$46,000 and Damage Prevention Training completed,
 - **Five** (5) remain open into 2015 with fines paid totaling \$13,000 and Damage Prevention Training yet to be completed, and
 - **Seven** (7) remain open into 2015 due to appeals.
 - **Six** (6) of those Appeals had oral arguments before the Maryland Court of Special Appeals on October 13, 2015. An unreported decision in favor of the Probable Violator was issued by the Maryland Court of Special Appeals on October 22, 2015. The Probable Violator filed a subsequent motion to have the “unreported” decision changed to “published”. The Court denied the motion on November 30, 2015. The Authority met in Executive Session on December 2, 2015 and voted unanimously to not appeal the decision of the Maryland Court of Special Appeals.

- Another Appeal, which challenges the constitutionality of the Authority, is scheduled for oral arguments in front of the Maryland Court of Appeals on Friday, January 8, 2016.

*When Notices of Probable Violation are filed on the Authority Website, the person filing the complaint can identify one or multiple probable violations of the Annotated Code of Maryland, Public Utilities, Title 12 – Public Utilities statute. Of the **one hundred fifty-seven** (157) Notices of Probable Violation filed with the Authority to date, **three hundred twenty-seven** (327) specific probable violations of Title 12 have been alleged. Those probable violations breakdown into the following categories identified in the statute and in the numbers associated with each probable violation filed. (See Appendix C)*

- **Section §12-121 – Abuse of Emergency Notification -**
 - Twenty-two (22) probable violations filed.
- **Section §12-123 – Failure to Join One-Call System**
 - Sixty Seven (67) violations.
 - Sixty-five (65) municipalities
 - Five (5) have executed contracts, but not operational.
 - Twenty (20) awaiting exemption letters.
 - Eleven (11) sent contracts, but not responding.
 - Twenty-five (25) refuse to acknowledge.
 - Five (5) have joined.
 - One (1) Cable company has joined
 - One (1) County has joined
 - Two (2) Counties continue to violate marking requirements.
- **Section §12-124 – Notice to One-Call System**
 - One hundred eleven (111) probable violations filed.
 - Ninety-seven (97) no call, 1st offense.
 - Five (5) no call, 2nd offense.
 - Two (2) no call, 3rd offense.
 - One (1) no call, 4th offense.
 - Two (2) tickets not yet cleared.
 - Four (4) tickets expired.

- **Section §12-126 – Marking Requirements.**
 - Nineteen (19) probable violations filed.
 - Eleven (11) late marks.
 - Five (5) no marks.
 - Three (3) miss-marks.

- **Section §12-127 – Excavation after Notice that Facilities are either Marked or are No Conflict.**
 - One hundred eight (108) probable violations filed.
 - Three (3) maintenance of marks.
 - Ten (10) Duties of Excavators.
 - Seven (7) due care.
 - Seven (7) no test pit dug.
 - Seven (7) use of mechanized equipment w/in 18”
 - Two (2) notification of damage.
 - Seventy-two (72) clear evidence.



FUTURE AUTHORITY ACTIONS

The Authority will continue to meet publically in 2016 and will continue with its education and outreach efforts. However, because of an anticipated increase in NPV submissions and the potential hearing requests, the Authority initiated an all-day meeting format for eleven of its twelve meetings in 2016. A copy of the 2016 projected meeting schedule is included in Appendix D of this report.

In the Sixth year of its existence, the Authority will be focusing on the following:

- Developing a permanent revenue stream to ensure the continued work of the Authority. As stated earlier in this report, the Authority must look for other ways to utilize its Federal grants in the future.
- With a dedicated funding source the Authority will have the opportunity to hire expert investigators with the ability of working in the field in order to provide hands and eyes on review of probable violations. This will add a more comprehensive approach to the review process.
- Design and create a display booth specific to the Authority to be used at trade shows, conferences, conventions and meetings. The Authority plans to be a bigger presence at both the MML and MACo conferences in 2016. This is a further expansion of the Authority's branding campaign, in order to bring greater awareness to the Miss Utility law and the consequences when the law is ignored or abused.
- Modernizing the Authority's approach to training and education that is more accessible to those working on job sites, by developing on-line modules and

Webinars. The Authority will also explore ways to develop and adopt a continuing education module in order to keep our contracting community up-to-date on the latest safety innovations and changes to the Title XII statute.

- Develop a fining matrix utilizing the empirical data collected in the first five years in its existence to construct a more objective method of evaluating fines and develop a matrix of violations tracking their current status and ultimate outcome.
- Explore the potential of creating a pre-hearing “Negotiated Settlement” approach in order to streamline the Notice of Probable Violations (NPV’s) process. With this, the Authority hopes to create a more efficient method that allows probable violators to work with the Authority to obtain a fair and equitable outcome to their case; that does not infringe on a probable violator’s due process. But would allow a probable violator to review and accept a settlement offer in lieu of going through the formal hearing process.
- Continue to advocate, educate and evaluate and enforce underground utility safety to the contracting community and the general public in the State of Maryland, and work with other states who are interested in modeling their enforcement activities after Maryland’s groundbreaking initiative.
- The Authority anticipates the formation of a new legislative re-write committee in early 2016. The group will be comprised of all stakeholders involved in underground facility ownership, safety and construction; as well as other interested parties who have a vested interest in Title XII. Having now been in operation for six (6) years, the Authority has catalogued deficiencies, potential enhancements, efficiencies and clarifications that would greatly improve the Maryland One-Call compliance program or “Miss Utility” law. As mentioned previously in this document the onus lies squarely on the Authority to continually improve the State’s program in order to stay in step with the Federal Authority’s (PHMSA) requirements. To fall behind in upgrades to law, could substantially threaten Maryland’s ability to self-police and protect its underground facilities. The loss of regulatory control to the Federal Government could potentially cost Maryland businesses, municipalities, counties and utility owners millions of dollars in fine actions should this occur.



CONCLUSION

The Authority respectfully and sincerely believes that a great deal has been accomplished by the members of the Authority in complying with the requirements of the law. The Authority has a fully functioning, accessible office and additional staff to handle the influx of NPV's and inquires by both the contracting industry and the general public. As a one of a kind entity, the Authority has and will continue to demonstrate the value of an independent quasi-judicial model of enforcement. Maryland leads the nation with this concept. The Authority will continue its focus on public awareness and compliance with damage prevention and safe excavation.

Each of the Authority members appointed by the Governor continues to serve in a very dedicated, professional and committed fashion to accomplish the goals of damage prevention and public education. And, value their roles with the Authority as both advocates and protectors of the Maryland public's safety and security.

The Authority hopes that the Governor and the Maryland General Assembly will continue recognize and utilize it as a resource of professional knowledge and practical expertise with regard to any pending policy or legislative matter within the scope of the Authority's role.



APPENDIX A

Origin and Background of the Authority



ORIGIN AND BACKGROUND OF AUTHORITY

In the fall of 2006, two meetings were scheduled by the Maryland Public Service Commission on October 25, 2006 and November 29, 2006. All stakeholders involved with or affected by the State's Underground Facilities Law were invited to discuss the status of the application and enforcement of the law, and, in particular, its compliance with the Federal Pipeline Safety Act (Pipes Act) legislation then pending before the United States Congress.

Several hundred people attended these two meetings, all stakeholders of Maryland's Underground Facilities law such as contractors, utility companies, locators, one call miss utility system, county and local government officials and developers.

As a result of these discussions, it was decided that a Stakeholders Steering Committee would be formed as a work group, tasked with the following goals:

- Review the current State underground facilities "Miss Utility Law" to make substantive and non substantive revisions in light of current practices and experience since the last enactment of the law in May 1990.
- Bring Maryland's law in harmony and compliance with the 9 damage prevention program elements and provisions of the then pending Federal Pipeline Safety Act legislation which subsequently has become federal law.
- Review and incorporate, where appropriate, the best practice recommendations of the Common Ground Alliance (CGA) (see attached).

The Members of the Stakeholders Group were:

James Barron, Chairman – Ronkin Construction – Contractor
Representative

Scott Brown – Washington Gas Light – Gas Representative

John Clementson- Maryland Public Service Commission– Regulator
Representative

Wayne Gilmer – Utiliquest – Locator Representative

Tom Hastings – One Call Concepts Locating Service – Locator
Representative

Vince Healy (replaces Nelson Sneed) – Verizon – Telephone
Representative

Brian Holmes – Maryland Transportation, Builders and Materials
Association – Contractor Representative
(resigned August 2009)

Gary Kaufman (replaced John Eichhorn) – Comcast/CATV
Representative

Matt Ruddo – One Call Concepts, Inc. – Call Center Representative

Nelson Smith – MD State Highway Administration – Representative

Tom Baldwin (replaced Pete Parr) – Baltimore Gas & Electric -
Representative

Kevin Woolbright – Washington Suburban Sanitary Commission –
Water/Sewer Representative

Artie Bell III – Burgemeister Bell, Inc. – Contractor Representative

Zenon Sushko- Maryland Public Service Commission – Regulator -
Representative

Bruce C. Bereano – Associated Utility Contractors of Maryland -
Representative

Mark Hamrick – Verizon – Telephone Representative

The Stakeholders Group began its regular meetings on June 20, 2007 and conducted more than 65 working meetings – each approximately three to four hours in duration, in order to discuss and propose revisions to the current statute.

The key goals of the steering group have been:

- Establish practices that meet the 2006 PIPES Act 9 key elements of an effective damage prevention program.
- Craft a sensible law that meets the needs of the excavating community while protecting all facilities.
- Include a stronger enforcement program in order to prevent unsafe practices utilizing the Damage Prevention Committee (DPC); which was created privately by the Stakeholders some twenty (20) years ago. All interested parties are welcome to attend the monthly meetings to discuss safe practices and resolve issues. The DPC's expectations are that proposed changes to the law will strengthen their present damage prevention goals.
- Devise a user friendly Locate "Ticket" system which would include: a required response time by facility (underground utilities) owners; expand the life of a ticket with a clear explanation of when a ticket will expire, while meeting the needs of the excavating community; which would allow facility owners a reasonable amount of time to mark (locate) their facilities.

The final product of the Stakeholders Group was presented to the Maryland General Assembly during the 2010 Legislative Session as Senate Bill 911 sponsored by Finance Committee Vice-Chairman John C. Astle, and House Bill 1290 sponsored

by Economic Matters Committee Chair, Dereck E. Davis. Senate Bill 911 was enacted by the Legislature and the Maryland Underground Facilities Damage Prevention Authority (MUFDPA) was created. Maryland's underground facility damage prevention law, more commonly known as the Miss Utility Law, was also updated via this legislation.

Unlike similar state statutes, Maryland's underground facilities law; which was originally enacted over 20 years ago, utilized the private sector, not government regulators to implement and apply its statute. This approach has worked very well over the years, with all of the various Stakeholders communicating and working together with mutual respect and commitment to the goal of public safety through training and education and compliance with the Miss Utility law.



MARCH 8-10, 2016

About Us

CGA is a member-driven association of 1,700 individuals, organizations and sponsors in every facet of the underground utility industry. Established in 2000, CGA is committed to saving lives and preventing damage to underground infrastructure by promoting effective damage prevention practices. CGA has established itself as the leading organization in an effort to reduce damages to underground facilities in North America through shared responsibility among all stakeholders.

In promoting a spirit of shared responsibility, the CGA welcomes all stakeholders who would like to be a part of the identification and promotion of best practices that lead to a reduction in damage. Any best practice or program endorsed by the CGA comes with consensus support from experts representing the following stakeholder groups: Excavators, Locators, Road Builders, Electric, Telecommunications, Oil, Gas Distribution, Gas Transmission, Railroad, One Call, Public Works, Equipment Manufacturing, State Regulators, Insurance, Emergency Services and Engineering/Design.

Background

Officially formed in 2000, the CGA represents a continuation of the damage prevention efforts embodied by the Common Ground Study. Sponsored by the U.S. Department of Transportation and completed in 1999, this Study represents the collaborative work of 160 industry professionals who identified best practices relating to damage prevention.

The CGA provides today's optimal forum where stakeholders can share information and perspectives and work together on all aspects of damage prevention issues. This allows the achievement of results that would otherwise be impossible. The CGA is working with industry stakeholders and regulators to produce stronger, more effective results through partnership, collaboration, and the pursuit of common goals in damage prevention.

CGA Mission (Purpose of the CGA)

Provide clear and tangible value to our stakeholders by helping to reduce damages to North America's underground infrastructure. The CGA works cooperatively, fostering a sense of shared responsibility to enhance safety and protect underground facilities by:

- Identifying and disseminating the stakeholder best practices;
- Developing and conducting public awareness and education programs;
- Sharing and disseminating damage prevention tools and technology; and
- Serving as the premier resource for damage and one call center data collection, analysis and dissemination.

See more at: <http://commongroundalliance.com/about-us#sthash.3dSH3V7g.dpuf>



APPENDIX B

Authority Code of Conduct

By-laws



Maryland Underground Facilities Damage Prevention Authority

Code of Conduct

I. Application of Policy

This policy adopted pursuant to the requirements of the Public Utility Companies Article §12-110(b). It is applicable to Authority members and is intended to supplement, but not replace, federal and state laws governing conflicts of interest applicable to nonprofit corporations. Persons covered under this policy, as well as their spouse or dependent children, are hereinafter referred to as “interested parties.”

II. Conflict of Interest

A conflict of interest may exist when the interests or concerns of an interested party may be seen as competing with the interests or concerns of the Maryland Underground Facilities Damage Prevention Authority (“The “Authority”). There are a variety of situations that raise conflict of interest concerns including, but not limited to, the following:

A. **Financial Interests** – A conflict may exist where an interested party directly or indirectly benefits or profits as a result of a decision, policy or transaction made by the Authority. Examples include situations where:

- The Authority contracts to purchase or lease goods, services, or properties from an interested party.
- The Authority offers employment to an interested party, other than a person who is already employed by the Authority.

- An interested party is provided with a gift, gratuity, or favor of a substantial nature from a person or entity that does business or seeks to do business with the Authority.
- An interested party is gratuitously provided use of the facilities, property, or services of the Authority.
- The Authority adopts a policy that financially benefits an interested party.

A financial interest is not necessarily a conflict of interest. A financial conflict of interest exists only when the Authority decides a person with a financial interest has a conflict of interest.

B. Other Interests – A conflict also may exist where an interested party obtains a non-financial benefit or advantage that he/she would not have obtained absent his/her relationship with the Authority. Examples include where:

An interested party seeks to obtain preferential treatment by the Authority or recognition for himself/herself or another interested party.

- An interested party seeks to make use of confidential information obtained from the Authority for his/her own benefit (not necessarily financial) or for the benefit of another interested party.
- An interested party seeks to take advantage of an opportunity or enables another interested person or other organization to take advantage of an opportunity that he/she has reason to believe would be of interest to the Authority.
- The Authority adopts a policy that provides a significant nonfinancial benefit to an interested party.

A conflict of interest exists only when the Authority members decide there is a conflict.

III. Disclosure of Potential Conflicts of Interest

An interested party is under a continuing obligation to disclose any potential conflict of interest as soon as it is known or reasonably should be known.

An interested party shall complete the State Ethics Commission financial disclosure form annually by the 30th of April for the preceding calendar year to comply with State Law.

The Secretary of the Authority of Directors shall file copies of all disclosure statements with the official corporate records of the Authority and the State of Maryland.

IV. Procedures for Review of Potential Conflicts

Whenever there is reason to believe that a potential conflict of interest exists between the Authority and an Authority member, the Authority shall determine the appropriate response. This shall include, but not necessarily be limited to, invoking the procedures described below with respect to a specific proposed action, policy or transaction. The Chair of the Authority has a responsibility to bring a potential conflict of interest to the attention of the Authority promptly for action at the next regular meeting of the Authority or during a special meeting called specifically to review the potential conflict of interest.

Where the potential conflict involves an employee of the Authority the Chair shall be responsible for reviewing the matter and may take appropriate action as necessary to protect the interests of the Authority. The Chair shall report to the full Authority membership the results of any review and the action taken. The Chair shall determine whether any further Authority review or action is required.

V. Procedures for Addressing Conflicts of Interest

Where a potential conflict exists between the interests of the Authority and an interested party with respect to a specific proposed action, policy or transaction, the members shall consider the matter during a meeting of the Authority. The Authority shall refrain from acting until such time as the proposed action, policy or transaction has been approved by the disinterested members of the Authority . The following procedures shall apply:

An interested party who has a potential conflict of interest with respect to a proposed action, policy or transaction of the corporation shall not participate in any way in, or be present during, the deliberations and decision-making vote of the Authority with respect to such action, policy or transaction. However, the interested party shall have an opportunity to provide factual information about the proposed conflict and/or action, policy or transaction. Also, the Authority may request that the interested party be available to answer questions.

- The disinterested members of the Authority may approve the proposed action, policy or transaction upon finding that it is in the best interests of the Authority. The Authority shall consider whether the terms of the proposed action, transaction or policy are fair and reasonable to the Authority and whether it would be possible, with reasonable effort, to find a more advantageous arrangement with a party or entity that is not an interested party.
- Approval by the disinterested members of the Authority shall be by vote of a majority of members in attendance at a meeting at which a quorum is present. An interested party shall not be counted for purposes of determining whether a quorum is present, nor for purposes of determining what constitutes a majority vote of Authority members in attendance.
- The minutes of the meeting shall reflect that the conflict disclosure was made to the Authority, the vote taken and, where applicable, the abstention from voting and

participation by the interested party. Whenever possible, the minutes should frame the decision of the Authority in such a way that it provides guidance for consideration of future conflict of interest situations.

VI. Violations of Conflict of Interest Policy

If the Authority has reason to believe that an interested party has failed to disclose a potential conflict of interest, it shall inform the person of the basis for such belief and allow the person an opportunity to explain the alleged failure to disclose.

If the Authority decides that the interested party has in fact failed to disclose a possible conflict of interest, the Authority shall take such disciplinary and corrective action as the Authority shall determine.



Authority Bylaws

Article §12-110 (a)

ARTICLE I – NAME

This Authority shall be known as the “**Maryland Underground Facilities Damage Prevention Authority**” (the “Authority”).

ARTICLE II – PURPOSE

The purpose of the Authority is to perform certain duties. Such duties may include, but are not limited to, the review of reports of probable violations of the **Maryland Underground Facilities Damage Prevention** (“Law”), making recommendations and determinations relative to such reports, making recommendations and implementing programs with regard to **Public Education and Awareness Programs** that further public safety by the reduction of damage to underground facilities, to monitor, analyze, influence, propose, support or oppose programs or regulations that directly affect damage to underground facilities serving the citizens of the State of Maryland and to make recommendations to the Governor and the General Assembly on activities of the Authority and the State damage prevention law.

ARTICLE III – COMMITTEE MEMBERSHIP

The Maryland Underground Damage Prevention Authority shall consist of nine (9) voting members representing the following entities:

- **Two** underground facility owners that are Maryland members of the Maryland/DC Subscribers Committee;
- **One** from the Associated Utility Contractors of Maryland;
- **One** from the Public Works Contractors Association of Maryland;
- **One** from the One-Call Centers operating in the State;
- **One** that represents the underground utility locator community selected by the Maryland members of the Maryland/DC Damage Prevention Committee;

- **One** from the Maryland Association of Counties with experience in the field of underground utilities;
- **One** from the Maryland Municipal League with experience in the field of underground utilities;
- **One** person from the general public selected by the appointed and qualified members of the Authority.

The members are appointed by the Governor of the State of Maryland in accordance with Maryland law. The Authority shall be empowered to establish one or more subcommittees to assist in performing its tasks.

Qualification to Serve

Membership on the Authority shall be through appointment by the Governor as provided under the Maryland Underground Facilities Damage Prevention Law.

Term of Appointment

An appointed member shall serve a term of two years and if in good standing may, on recommendation, be re-appointed for an additional two year term. Request for appointment shall be made in the month of July to be effective with the first regular meeting of the Authority subsequent to October 1, of any given year.

Officers

The members shall elect from their ranks a **Chairperson**, a **Vice Chairperson**, a **Treasurer**, and a **Secretary**. These officers shall be elected at the Authority's first regular meeting of the year and serve for a term of one year. Each officer shall be elected by a majority vote of the members of the Authority. The Chairperson position will be voted upon first. Following the election of the Chairperson, the Vice Chairperson position will be voted upon next. Following the election of the Vice Chairperson, the Treasurer position, shall be voted upon and then Secretary.

When no candidate receives a majority of the votes, the candidate who receives the most votes shall be elected to the position. When there is a tie in the most votes received by two or more candidates for a position, the members shall take another vote, and only those candidates who were tied for the most votes shall be included in that ballot. This shall continue until one person has received the most votes or a tie continues to exist. If a tie continues to exist, the previous term's Chairperson shall choose the person, from the candidates who are still tied with the most votes, to hold that position for the next one-year term.

The Chairperson shall preside at all meetings except that in his/her absence the Vice Chairperson shall preside. The Secretary shall be responsible to keep a record of the actions of the Authority. Minutes of the meeting shall be taken and approved by the majority vote of the subsequent meeting. No other officers and Directors shall be appointed, except that the Chairperson or Vice Chairperson may from time to time appoint members to head subcommittees.

ARTICLE VII – REMOVAL

Any member may resign.

On the recommendation of the Authority, a member may be removed by the Governor for incompetence or misconduct.

ARTICLE VIII – VACANCIES

Any vacancy of either an officer of the Authority or a member of the Authority shall be filled as soon as practical.

When a vacancy occurs as to an officer of the Authority, the Authority, by secret ballot, unless decided otherwise, shall elect the officer to the Authority to fill the vacancy for that term by majority of vote of the members of the Authority.

When a vacancy occurs as to a member of the Authority, the procedure to the extent possible shall be as follows:

1. The member leaving the Authority prior to the expiration of his/her term shall promptly and directly notify the chair of the Authority.

2. Except as to the public member of the Authority, the Authority shall promptly and directly notify the entity from which the vacating member was representing of the vacancy, and request such entity to promptly notify the Governor of the vacancy and submit to the Governor a name or names to fill and serve the balance of the term of the vacating number.

3. If a vacancy occurs in the position of public member representative of the Authority, the Chair of the Authority, as promptly as practical at a meeting of the Authority or otherwise, shall submit to the Governor for appointment a list voted upon and approved by a majority of the other appointed and qualified Authority members.

4. Unless and until the Governor appoints and fills a vacancy of any member of the Authority, that member, unless he/she resigns from the Authority, shall continue to serve and be a member of the Authority until the successor is appointed and qualifies.

ARTICLE IX – COMPENSATION

Members shall serve without compensation and without reimbursement for expenses. Nothing contained in this section shall be construed to prevent any sponsoring organization from compensating their representative on the Authority for salary, expenses, or other compensation considered as a condition of their employment.

ARTICLE X – MEETINGS

Regular meetings shall be held at least every 3 months, or monthly, or as needed, at a time and place selected by majority vote of members. Unless suspended by the Chairperson, the regular meetings

will be held on the first Wednesday of each month unless that day is a State or Federal holiday. In such cases, the meeting shall be the next regular workday or a day agreed upon by the majority. If a scheduled meeting is cancelled due to weather or other reasons, the meeting may be rescheduled or combined with the next regularly scheduled meeting. Meetings shall be open, however, those attending that are not members or have not been called, shall be allowed to speak only at the discretion of the Chairperson. All meetings shall follow Robert's Rules of Order. Any regular meeting may be conducted telephonically (conference call) at the discretion of the Authority.

ARTICLE XI – SPECIAL MEETINGS

The Chairperson may call special meetings. Such notice shall be as far in advance as practical, but not less than three days. Such meetings may be held at a time and place established by the notice. Special meetings may be by conference call or by other appropriate telecommunications means approved for the occasion. A quorum of 5 members is required for a special meeting.

ARTICLE XII – ATTENDANCE

A roll call shall be taken by the Secretary at the beginning of each meeting and a record of those members in attendance shall be kept as part of the records of the actions of the Authority. To remain in good standing a member must attend 75 percent of all meetings conducted in a calendar year.

ARTICLE XIII – AMENDMENTS

These bylaws may be amended by a two-thirds (2/3) majority vote of the members present at any regular meeting, if such amendment is first read and approved by a two-thirds (2/3) vote of the members present at the prior regular meeting of the Authority.

ARTICLE XIV – QUORUM

At any meeting of the Authority, five (5) members present, in person or telephonically, shall constitute a quorum for the transaction of business. Actions by a quorum shall be deemed to represent the actions of the entire Authority.

ARTICLE XV – ACTIONS AND POWERS

Enforcement action relative to the reports of probable violations shall be undertaken by roll call to vote of those present. A simple majority vote of those voting shall be deemed to be the position of the Authority. Members who cannot attend meetings shall not be allowed to send an alternate representative. When an enforcement action that directly involves the employer of an Authority member, that member shall have the right to speak on the issue before the Authority and the Authority shall consider the views of the member; however, the member will abstain from voting. Such abstention shall be reported in the roll call vote. Each member shall vote in person. No person shall vote by proxy or allow his/her vote to be cast by another.

The Authority may vote on and adopt policies to be used as guidelines during its review and recommendation process relative to reports of probable violations. Such policies may serve as guidelines, but do not represent a general order, rule or regulation of the State of Maryland.



APPENDIX C

Authority Notice of Probable Violation Process

Status of NPV's

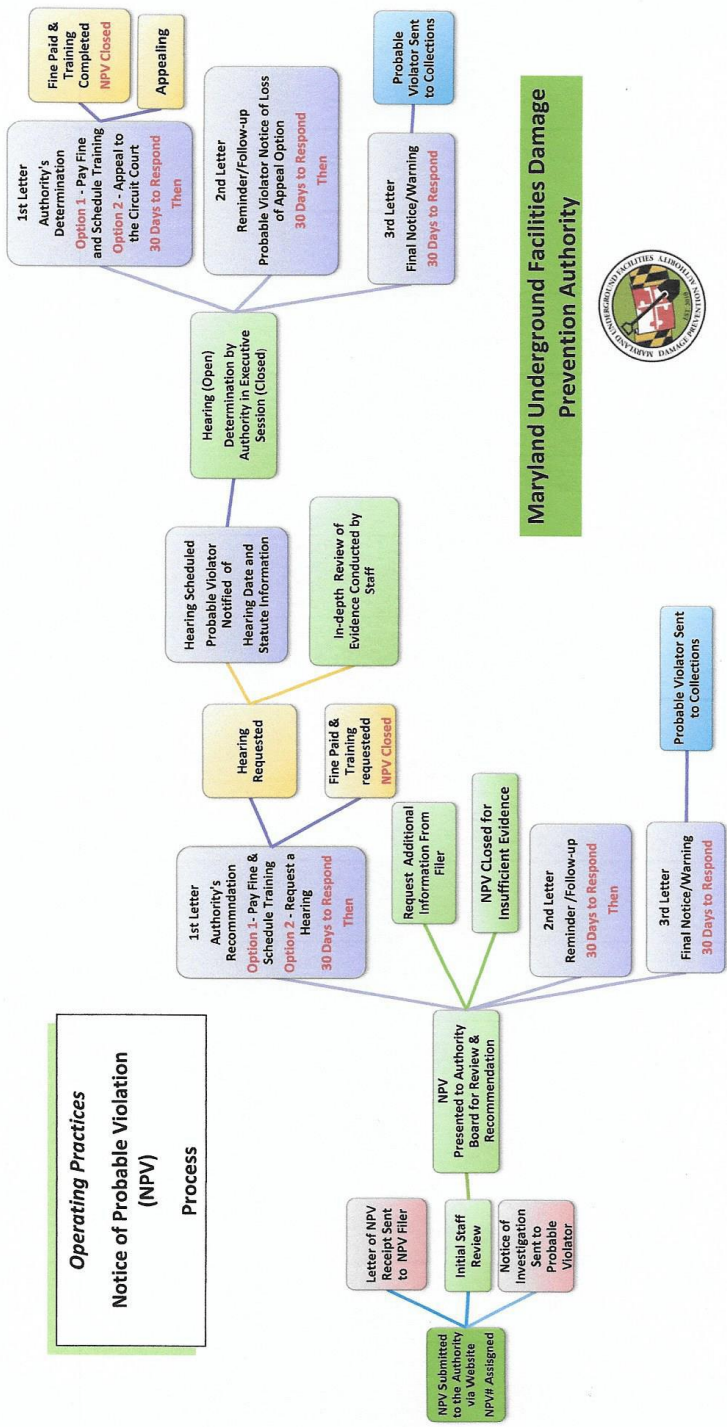


**Operating Practices
of the
Maryland Underground Facilities Damage Prevention Authority
("The Authority")**

NPV Recommendation Procedure

1. Upon completion of a thorough and comprehensive investigation of the Notice of Probable Violation (NPV) submitted by a complainant on the Authority Website, the Executive Director will present the entire review of the NPV along with all supporting documentation to the Authority at the next regularly scheduled meeting of the Authority.
2. After the Authority completes their review of the NPV at a regularly scheduled meeting, the Authority will either (1) assign a recommendation of civil penalty and/or training for the probable violator, (2) request additional investigative procedures to acquire more information and documentation for a further review of the NPV before making a recommendation or (3) dismiss the NPV for (a) a lack of a documented violation, (b) a lack of a documented probable violator, (c) a lack of sufficient evidence and documentation to proceed with any further investigation or (d) any reason the Authority may deem reasonable for not proceeding with any further investigation or review of the NPV.
3. If the Authority makes a recommendation of civil penalty and/or training, the Executive Director will forward a letter by regular mail to the probable violator alerting them of the (1) the establishment of the Authority and its legislative intent and authority, (2) the details of the NPV as outlined in the initial submission by the complainant, (3) the research of the Authority, (4) possible effects of subtitle §12-135, (5) the action taken by the Authority, (4) the probable violator's rights, remedies and options, and (5) the existence of Maryland's Administrative Procedure Act (APA) and how it impacts the hearing process.
4. If the probable violator does not respond to the Authority's recommendation letter within the prescribed 20 day period, the Executive Director will send a second recommendation letter by certified mail as outlined in 3 above.
5. If the probable violator still does not respond to the Authority's recommendation letter, the Executive Director will bring the issue back to the Authority at their next regularly scheduled meeting at which time the Authority will assign a hearing date for the NPV and direct the Executive Director to notify all parties to the NPV of the hearing date and, at the discretion of the Authority issue a subpoena to the probable violator and to any other party the Authority deems necessary to summons.

Operating Practices **Notice of Probable Violation (NPV)** **Process**



Maryland Underground Facilities Damage Prevention Authority





**Operating Practices
of the
Maryland Underground Facilities Damage Prevention Authority
("The Authority")**

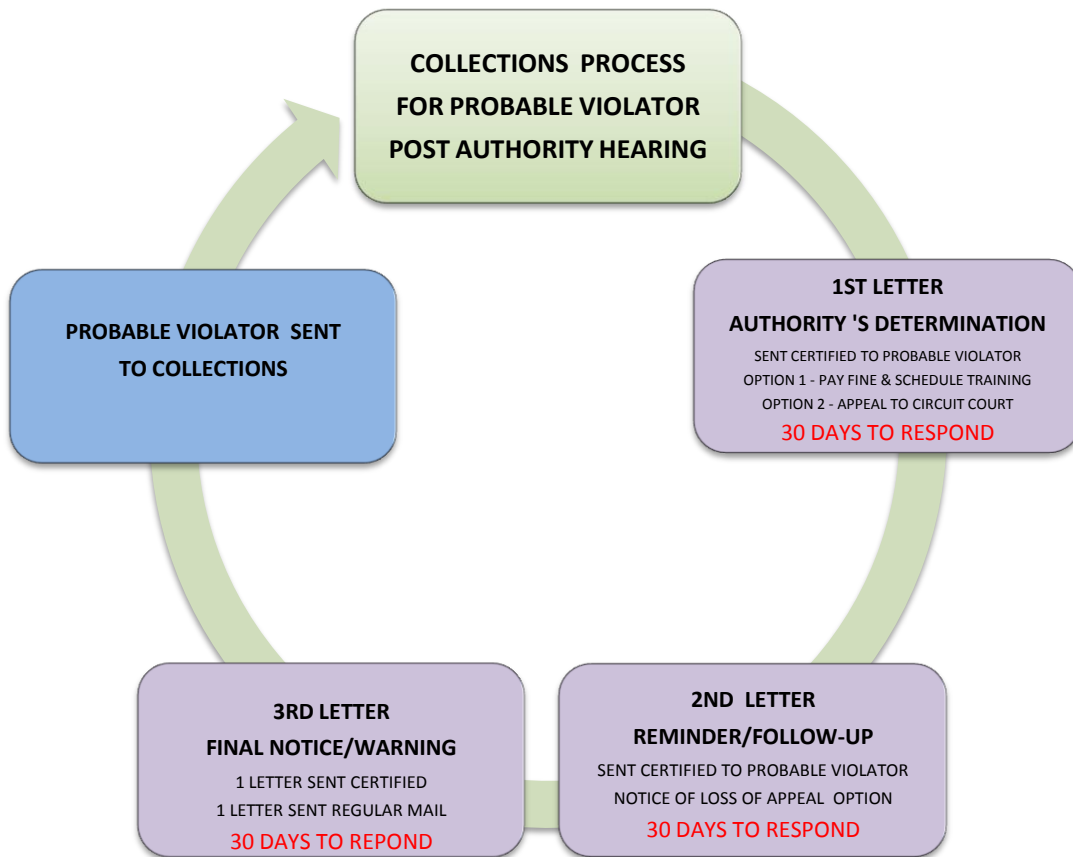
Collection Procedure

1. Within 30 days after the expiration of the 30 day time for an aggrieved person to appeal the decision of the Authority for judicial review to the Circuit Court (see Section 12-113 (e), Public Utility Article) the Authority staff shall send notice to the person who has been determined by the Authority to be in violation and assessed a civil penalty advising such person that if payment is not made to the Authority that the Authority shall turn the collection matter over either to a collection agency or an attorney at law for purposes to directly collect such assessed civil penalty.
2. If within 30 days after sending such collection notice letter to such person assessed with a civil penalty by the Authority that person does not satisfactorily respond and make payment in full or make with the Authority satisfaction arrangements for payment, the Authority staff then and in such event shall promptly turn the collection matter over either to a collection agency or an attorney at law for collection.



**Operating Practices
Of the
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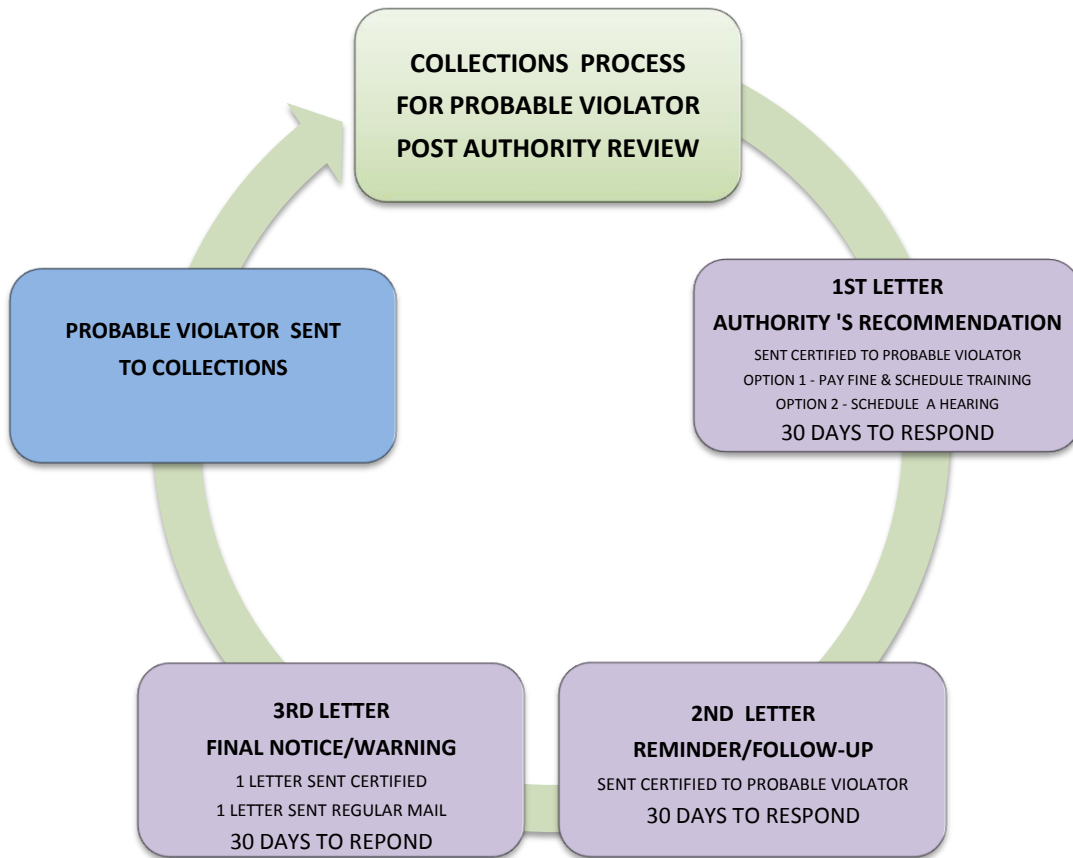
POST HEARING COLLECTIONS PROCESS





**Operating Practices
Of the
Maryland Underground Facilities Damage Prevention Authority
("The Authority")**

POST REVIEW COLLECTIONS PROCESS





APPENDIX D

Authority Policies

Guidance Documents

2016 Authority Meeting Schedule



**Accounting Policies and Operating Practices
of the
Maryland Underground Facilities Damage Prevention Authority
("The Authority")**

Accounting Department Organization

The CFO of One Call Concepts, Inc. ("OCCINC") oversees all accounting functions of The Authority. Under his supervision and direction the Office Associate handles the day-to-day payment processing and has custody of and will maintain the checkbook. The CFO of One Call Concepts, Inc. and the Executive Director of The Authority are available to provide back-up assistance in case of an emergency.

Payment Processing

This procedure involves inspecting documentary evidence in support of the request for payment. The Office Associate must determine the following:

- Approval authority is required from the CFO of OCCINC for any requests for payment over \$1,000. The Office Associate can provide approval authority for requests under the \$1,000 threshold.
- Written evidence of receipt of goods or services must be provided. This can range from a "receipt" or a "purchase order copy" with initials of an individual invoice/remittance slip and /or package slip for the item/services rendered.
- Amounts, items order, quantities and descriptions on invoices received from suppliers shall be compared to evidence of receipt and checked for mathematical accuracy.

Cash Disbursements

Checks can be processed upon an approved request for payment or at regular intervals determined by the CFO of OCCINC.

- The Authority Executive Director, Chairman and Treasurer are authorized to sign checks on behalf of The Authority.
- Checks under \$2,500 require one signature.

- Checks between \$2,500 and \$5,000 require one signature plus a well-documented approval (electronic or signature) from one of the remaining approved signers.
- Checks over \$5,000 require two signatures.
- Checks can be authorized and processed direct through on-line bill paying by the CFO of OCCINC with the following authorization procedures.
 - The CFO of OCCINC must approve requests under \$2,500 by signature (or initialing) of the CFO of OCCINC prior to processing through the bank.
 - Requests over \$2,500 must be approved by the CFO of OCCINC and one of the other signatories noted above by signature (or initialing) of the CFO of OCCINC and one of the other signers noted above prior to processing through the bank.
 - As part of the on-line bill paying process, the CFO of OCCINC will print a receipt of the transaction.
- Any requests for disbursements shall be accompanied with the underlying support information and presented to the signer(s).
- The CFO of OCCINC following required approval and signature(s) as per the thresholds noted above will mail all disbursements.
- All disbursement records supporting the check shall be filed in the Authority's annual records housed with the CFO of OCCINC at 7223 Parkway Drive, Hanover, Maryland 21076.
- All disbursements will be recorded by someone other than the CFO of OCCINC and the account signatories.
- Bank statements will be sent to someone other than the CFO of OCCINC and the account signatories.
- Bank reconciliations will be made monthly by someone other than the CFO of OCCINC and the account signatories.



**Operating Practices
of the
Maryland Underground Damage Prevention Authority
("The Authority")**

APA Procedures

It has been concluded by legal counsel that Maryland's Administrative Procedures Act (APA) would apply to all hearings requested by a person alleged to have violated the Underground Facilities Damage Prevention Act, Title 12 of the Public Utilities Article of the Annotated Code of Maryland .

The APA gives the Authority the option of delegating the authority to conduct hearings to the Office of Administrative Hearings (OAH) in which case an Administrative Law Judge with the OAH would conduct the hearing. As the Authority can delegate the authority to hold hearings on a case-by-case basis, should it become not cost effective for the OAH to hold the hearings, the Authority could take back the authority to hold the hearings. Whether the hearings are held by the Authority or the OAH, they must be public.

If the Authority decides to conduct the hearings itself, these are the requirements it must follow:

1. The Authority must give reasonable written notice of the hearing to all parties stating:
 - a. the date, time, place and nature of the hearing,
 - b. the right to call witnesses and submit documents,
 - c. the right to request subpoenas for witnesses and evidence specifying the costs associated with the request,
 - d. that a copy of the hearing procedure is available upon request specifying the costs associated with the request,
 - e. that failure to appear for a scheduled hearings may result in an adverse action against the party, and
 - f. that the parties may agree on the evidence and waive their right to appear at the hearing.
2. The Authority may not prohibit any party from being advised or represented at the party's expense by an attorney.
3. All testimony must be given under oath administered by the Authority Chair or any member of the Authority.
4. The proceedings of the hearing must be recorded.
5. The Authority may compel witnesses to attend by subpoena.

6. All parties may present oral and documentary evidence and cross-examine witnesses.
7. The presiding officer may admit “probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs.”
8. The presiding officer may not communicate ex parte, directly or indirectly, regarding the merits of any issue in the case while it is pending with any party to the case or the party’s representative.
9. Hearsay evidence (information gathered by one person from another person concerning some event, condition, or thing of which the person had no direct experience) is admissible.
10. Hearings may be conducted by telephone, video conferencing or other electronic means.
11. Findings of fact must be based exclusively on evidence in the record.
12. If any party requests a transcript and pays the costs required, the proceedings of the hearing shall be transcribed.
13. The record of the hearings must include all motions, evidence, staff memoranda, objections, and findings of fact.
14. The Authority must issue a written decision, which contains separate statements of a) the findings of fact, b) conclusions of law and c) an order. The decision must include a statement that any person aggrieved by a decision has the right to appeal the decision within 30 days of receiving the decision.
15. The decision must be issued within 90 days of the date of the hearing.
16. A copy of the decision must be delivered or mailed to each party or the party’s attorney of record.

During the actual hearing, Authority members should observe the following protocols:

1. The recorder is turned on prior to each case being called and turned off immediately after testimony in the case is closed.
2. The Authority Chair calls the case specifically referencing the NPV Number, the name of the complainant and the name of the probable violator.
3. The oath is administered to whoever is presenting the case for the Authority, as well as all other individuals who will be presenting testimony during the hearing in the case..
4. When the Authority presents the case, a brief summary of what the case is about should be presented verbally and in writing for the record.
5. The individual presenting the case on behalf of the Authority should verbally identify and present each piece of documentary evidence that is part of the Authority’s case. Each such document should be entered into evidence and an exhibit number identifying the exhibit should be attached to the document. Exhibit numbers should be attached in ascending order. After the

exhibit number is attached, a copy of each document should be given to the party alleged to have violated the statute.

The individual presenting the defense of the party alleged to have violated the statute should verbally identify and present each piece of documentary evidence that is part of that party's case. Each such document should be entered into evidence and an exhibit number identifying the exhibit should be attached to the document. After the exhibit number is attached, a copy of each document should be given to the Authority's secretary.

6. When ever any one is presenting or if any member of the Authority asks a question, the person speaking should identify themselves for recording purposes into the record.
7. Parties presenting for the Authority and/or the party alleged to have violated the statute may cross-examine parties during the hearing.
8. The Authority has the right to subpoena witnesses to the hearing.
9. The members of the Authority should assume the position of Judge in the hearing and only ask questions specific to the NPV refraining from comments or personal experience in similar cases in their area of expertise.
10. Authority members should only ask questions specific to the NPV and the evidence provided.
11. Authority members should be attuned to react to terms like "here" or "there" as witnesses point to pictures or exhibits. "Here" or "there" do not appear on the record, so a reviewer cannot tell to what the witness intended to refer. The Chair or staff admitting evidence into the record should be prepared to state, "the witness said 'here' and pointed to, for example, the lower right quadrant of Exhibit___ where a ditch appears (or other similar detailed description of what is being identified on the exhibit)." The witness could also be asked to place an X or other mark on the exhibit so the record is clear.
12. When a multi-page exhibit is being used, the Chair should be prepared to either have all pages marked or to have the individual page on which there is testimony marked as "A" or otherwise specify the page to which there is testimony if the testimony is directed at a specific page. If it is a group of e-mails, reference to date and time would be sufficient to identify the reference.
13. It is the Authority that bears the responsibility to create a clear record for the court to affirm on appeal, so attention should be given regarding how the testimony would be understood by a non-participant based on the paper record.
14. Care should be taken to listen for "uh huh" or to watch for shakes of the head. The Chair needs to make sure the witnesses are asked to clearly state yes or no so the record is clear.
15. Authority members should remain in the hearing room throughout each hearing. No cell phones or other electronic devices should be used during hearings.



2016 Meeting Schedule

January 6, 2016	Election of Officers
February 3, 2016	
March 2, 2016	
April 6, 2016	
May 4, 2016	
June 1, 2016	Note: MML Conference/Ocean City/ 26 th through 30th
July 6, 2016	
August 3, 2016	Note: MaCo Conference/Ocean City/ 17 th through 20th
September 7, 2016	
October 5, 2016	Note: GCDPTC/Ocean City/19 th through 21st
November 2, 2016	
December 7, 2016	



APPENDIX E

PHMSA

Pipeline Damage Prevention Program Final Rule

(49-43835-43869)



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

DEC 22 2015

OVERNIGHT EXPRESS MAIL

Mr. Jim Barron
Executive Director
Maryland Underground Facilities Damage
Prevention Authority
7223 Parkway, Suite 100
Hanover, MD 21076

Dear Mr. Barron:

On July 23, 2015, the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) published its Pipeline Damage Prevention Program Final Rule (49 FR 43835-43869) that may likely impact your State. The rule includes new criteria and procedures to determine the adequacy of State damage prevention enforcement programs, administrative procedures for States to contest a notice of inadequacy, the Federal requirements PHMSA will enforce against excavators for violations in States with inadequate damage prevention laws and programs, and the adjudication process for administrative enforcement proceedings against excavators where Federal authority is exercised. These new rules become effective on January 1, 2016. Please refer to the included guidance brief for background on this new regulation.

Excavation damage continues to be a leading cause of hazardous liquid and natural gas pipeline incidents resulting in death, serious injury, and environmental damage. Damaging a pipeline during an excavation poses a serious safety risk to excavators, the general public living and working in proximity to the excavation site, and the environment. Nationwide statistics show that effective enforcement of a State's one-call law reduces excavation damage and pipeline incidents, and results in increased safety.

In early 2016, PHMSA will initiate State evaluations to determine if State damage prevention one-call laws allow for adequate enforcement. PHMSA will evaluate your State's damage prevention enforcement program and will issue a formal determination in your State, as to whether or not the one-call law enforcement is inadequate in your State. An inadequate determination means that PHMSA may use Federal excavation standards to take enforcement action against an excavator who damages a hazardous liquid or natural gas pipeline in your State. Federal civil penalty levels are \$200,000 for each violation for each day the violation continues with a maximum civil penalty of \$2,000,000 for any related series of violations. Additionally, States that fail to establish an adequate one-call law enforcement program, within five years from

the date of the final PHMSA determination notice, may be subject to a 4 percent reduction in PHMSA State Base Grant funding.

PHMSA strongly believes that effective damage prevention programs, including enforcement, are best addressed at the State level. We stand ready to assist you in whatever way best to help support a strong damage prevention program in your State. If we can be of any further assistance, please contact our Damage Prevention Team by email at excavation.enforcement@dot.gov or by phone at (804) 556-4678.

Sincerely,



Alan K. Mayberry
Deputy Associate Administrator
for Policy and Programs

cc: The Honorable Larry Hogan, Office of the Governor, State of Maryland
W. Kevin Hughes, Chairman, Maryland Public Service Commission
John Clementson, Assistant Chief Engineer, Maryland Public Service Commission
Matt Ruddo, Director, Customer Relations, One Call Concepts

United States Department of Transportation (USDOT)
Pipeline and Hazardous Materials Safety Administration (PHMSA)
Pipeline Safety: Pipeline Damage Prevention Programs
49 CFR 196 – Protection of Underground Pipelines from Excavation Activity
49 CFR 198 – Regulations for Grants to Aid State Pipeline Safety Programs
Effective January 1, 2016

Background

49 USC § 60114 provides the United States Department of Transportation with back stop authority to conduct administrative civil enforcement proceedings against excavators who damage hazardous liquid and natural gas pipelines in a State that has failed to adequately enforce its excavation damage prevention or one-call laws.

PHMSA published a Final Rule on July 23, 2015, that establishes:

1. Criteria and procedures for determining the adequacy of state pipeline excavation damage prevention law enforcement programs
2. An administrative process for making adequacy determinations
3. Federal requirements PHMSA will enforce in States with inadequate excavation damage prevention law enforcement programs
4. The adjudication process for administrative enforcement proceedings against excavators where Federal authority is exercised

Criteria to be used to Evaluate State Damage Prevention Programs

1. Does the State have enforcement authority including civil penalties?
2. Is there a designated enforcement body?
3. Is the State using its authority and making enforcement records available to the public?
4. Does the State have a reliable means of learning about damages?
5. Does the State have damage investigation practices that are adequate to determine the at-fault party when damage occurs?
6. At a minimum, does State law require:
 - a. Excavators must call 811 before digging
 - b. Excavators must “respect the marks”
 - c. If damage to a pipeline occurs:
 - i. Excavator must report damage to operator at earliest practical moment
 - ii. If release occurs, excavator must call 911
7. Are exemptions from the DP law limited? Written justification of exemptions is required.

Administrative Process for States to Contest Notices of Inadequacy

1. PHMSA issues a notice of inadequacy to the State in accordance with 49 CFR 190.5
2. State will have 30 days to submit written response
3. PHMSA issues final decision
4. State may petition PHMSA to reconsider at any time following a finding of inadequacy; PHMSA will respond not later than the date of the next annual review
5. States that fail to establish an adequate enforcement program within five years of effective date of final rule may be subject to 4 percent reduction in base grant funding

Federal Standard for Excavators

1. Call 811 before excavating
2. Wait for pipeline operators to establish and mark the location of underground pipelines before excavating
3. Excavate with proper regard for the marks, take all practicable steps to prevent excavation damage
4. Make additional use of one-call as necessary
5. Any contact with pipelines must be reported to operator at earliest practical moment
6. If there is a release, excavator must call 911

There are no exemptions in the new regulation for calling 811 prior to excavation. PHMSA understands many States have one-call law exemptions and will be considerate of those exemptions when undertaking Federal enforcement action.

For More Information

<http://phmsa.dot.gov/pipeline/safety-awareness-and-outreach/excavator-enforcement/>

Contact Our Damage Prevention Team

Our team of damage prevention professionals, Sam Hall, Annmarie Robertson, and Steve Fischer, are available to answer questions pertaining to this final rule, State one call laws, and damage prevention. They may be reached at excavation.enforcement@dot.gov.



APPENDIX F

Proposed Legislation for the 2016 Maryland General Assembly Legislative Session

House Bill _____

By:

AN ACT Concerning

Maryland Underground Facilities Damage Prevention Authority –
Funding of Operational Expenses

FOR the purpose of authorizing the Maryland Underground Facilities Damage Prevention Authority to determine and establish under a certain procedure a charge or assessment on certain excavation tickets to fund operational expenses of the Authority; and generally relating to the funding of operational expenses of the Authority

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 12-111
Annotated Code of Maryland
(2010 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Public Utilities

12-111

(a) In general – The Authority may obtain funding for its operational Expenses from:

- (1) a federal or State grant;
 - (2) filing fees and administrative fees for complaints heard by the Authority as authorized under § 12-112(b)(1) of this subtitle;
 - (3) any other source; AND
-

(4) EXCEPT FOR COUNTIES AND MUNICIPALITIES, REQUIRING AN ADDITIONAL CHARGE OR ASSESSMENT FOR TICKETS AS DETERMINED AND ESTABLISHED BY A MAJORITY VOTE OF THE AUTHORITY.

(b) Charges or assessments prohibited – Except as provided in subsection (a)(2) AND (A)(4) of this section, the Authority may not impose a charge or assessment against any person, directly or indirectly, to obtain funding for its operational expenses.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2015.



APPENDIX G

Authority Outreach and Education For 2015

MD/DC Damage Prevention Committee 2015 Training Report

CONTACT INFORMATION	TYPE OF EVENT WORK COUNTIES	TYPE OF WORK	ATTENDING	# OF ATTENDEES	EVENT DATES	EVENT ADDRESS
COMPANY INFORMATION HOWARD COUNTY DPW BILL CHENOWITH C=443-813-2573 wchenowith@howardcountymd.gov	EVENT: DPT WORKS IN, HWD	TYPE OF WORK TRENCHING	ATTENDING Managers Crews Safety Directors	32	EVENT DATE TUE 1/20	TRAINING ADDRESS DAYTON SHOP 4301 ROUTE 32 DAYTON, MD 21036 HOWARD CO
COMPANY INFORMATION JAMES G DAVIS CONST ANDREW SHAW O/C-301-674-9573 ashaw@davisconstruction.com HITT CONTRACTING ATTENDED	EVENT: DPT WORKS IN, MONT, PG FRED & HWD	TYPE OF WORK TRENCHING DRILLING	ATTENDING Managers Crews Contractors Safety Directors	15	EVENT DATE MON 1/26	TRAINING ADDRESS 12530 PARKLAWN DR MAIN OFFICE ROCKVILLE, MD 20852 MONT CO

COMPANY INFORMATION MONTGOMERY CO SCHOOLS TOM GAZENSKI OR STAN JONES thomas_e_gazenski@mcpsmd.org	EVENT: DPT WORKS IN, MONT	TYPE OF WORK TRENCHING DRILLING	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 32	EVENT DATE THUR 1/29	TRAINING ADDRESS Clarksburg Depot 13100 Shawnee Lane Clarksburg, MD 20871 MONT Co.
COMPANY INFORMATION MD Environmental Service David Hollens C=443-679-6436 dholl@menv.com Additional attending companies; SHA, SCHNABEL ENGINEERING ROBERT B BALTER CO	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK DRILLING	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 54	EVENT DATE FRI 2/6	TRAINING ADDRESS MES Annex 255 Najoles Rd Suites A-D Millersville, MD 21108 AA County GET A PASS @ DESK
COMPANY INFORMATION LGIT LARRY BOHLEN 443-561-1700 lbohlen@lgit.org	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK EXCAVATION	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 45	EVENT DATE WED 2/11	TRAINING ADDRESS Edward E. Watkins Public Safety Complex 8 Washington St Cambridge, MD 21613 2nd Floor
COMPANY INFORMATION LGIT LARRY BOHLEN 443-561-1700 lbohlen@lgit.org	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK EXCAVATION	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 28	EVENT DATE FRI 2/13	TRAINING ADDRESS STANDARD DR HANOVER, MD 21076 TRAINING ROOM AA COUNTY

QUARTERLY DAMAGE PREVENTION TRAINING Contact Dora Parks at 410-782-2026 or email, dora@missutility.net TO RESERVE YOUR SEAT(S)	BOOKED TRAINING SESSION				Attendees= 45 Companies=	EVENT DATE FRIDAY 2/20	TRAINING ADDRESS Miss Utility Call Center 7223 Parkway Drive Conference/Training Room Hanover, MD 21076 Anne Arundel County
	COMPANY INFORMATION CALVERT CAREER & TECHNOLOGY ACADEMY CAROLYN HOBBS O=410-535-7465 hobbssc@calvertnet.k12.md.us	EVENT: VOCATIONAL SCHOOL TRAINING	TYPE OF WORK VOCATIONAL SCHOOL	ATTENDING 11TH & 12TH GRADES	# OF ATTENDEES 65	EVENT DATE FRIDAY 3/27	TRAINING ADDRESS Calvert Career & Technology Academy 330 Dorsey Rd Prince Frederick, MD 20678 Calvert County-School
	COMPANY INFORMATION RIGGS DISTLER MATT MILLER C=443-506-0408 mmiller@riggsdistler.com	EVENT: DPT WORKS IN, HARF, BALT, CC MONT, HWD, AA PG, CALV, CHAR	TYPE OF WORK TRENCHING DRILLING EXCAVATING	ATTENDING Managers Crews Safety Directors	# OF ATTENDEES 50	EVENT DATE MON 4/6	TRAINING ADDRESS 4216 NORTH POINT ROAD BALTIMORE, MD 21222 BALTIMORE COUNTY
	COMPANY INFORMATION CW WRIGHT CONST LARRY YOUNG C=240-299-1693 AND GUEST--POTOMAC EDISON ROBERT KERNS larry_young@cwwright.com	EVENT: ADPT WORKS IN, PG, MONT CHAS, CLVT STMARY BALT	TYPE OF WORK UG ELECTRIC UTILITY MANHOLES CONDUIT TRENCHING D. BORING	ATTENDING Managers Employee/Crews Safety Directors	# OF ATTENDEES 20	EVENT DATE FRI 4/10	TRAINING ADDRESS CW Wright Office 9750 Doctor Perry Rd ljamsville, MD 21754 FREDERICK CO TRAIN IN OFFICE

COMPANY INFORMATION RIGGS DISTLER MATT MILLER C=443-506-0408 mmiller@riggsdistler.com	EVENT: ADPT WORKS IN, HARF, BALT, CC MONT, HWD, AA PG, CALV, CHAR	TYPE OF WORK TRENCHING DRILLING EXCAVATING	ATTENDING Managers Crews Safety Directors	# OF ATTENDEES 43	EVENT DATE MON 4/20	TRAINING ADDRESS 4216 NORTH POINT ROAD BALTIMORE, MD 21222 BALTIMORE COUNTY
COMPANY INFORMATION HIGHWAY & SAFETY SERV PATRICK RONAYNE C=301-252-4186 patrick@hiwayandsafety.com SPANISH TRANSLATOR	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK DRILLING TRENCHING	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 100	EVENT DATE MON 4/27	TRAINING ADDRESS HSS - GARAGE 18960 WOODFIELD RD GAITHERSBURG, MD 20379 MONT COUNTY
COMPANY INFORMATION GRAY & SON LENNY CORBIN C=410-365-4156 lcorbin@graynson.com	EVENT: ITIC TRAINING	TYPE OF WORK	ATTENDING ITIC USERS	# OF ATTENDEES 15	EVENT DATE WED 4/29	TRAINING ADDRESS GRAY & SON OFFICE 430 PADONIA ROAD TIMONIUM, MD 21093
COMPANY INFORMATION LGIT LARRY BOHLEN 443-561-1700 lbohlen@lgit.org RESCHEDULE FROM 2/17	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK EXCAVATION	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES XX	EVENT DATE THUR 5/7	TRAINING ADDRESS Washington County Free Library 100 South Potomac Street Hagerstown, MD 21740

COMPANY INFORMATION PG COUNTY OFFICE OF HIGHWAY MAINT GWENDOLYN CLERKLEY 301-499-8523 gtclerkley@co.pg.md.us	EVENT: DP PRESENTATION WORKS IN, PG	TYPE OF WORK EXCAVATION	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 150	EVENT DATE MON 5/11	TRAINING ADDRESS MAINT OPERATION CTR 8400 D-ARCH ROAD FORESTVILLE, MD
COMPANY INFORMATION CW WRIGHT CONST LARRY YOUNG C-240-299-1693 larry_young@cwwright.com	EVENT:ADPT WORKS IN, PG, MONT CHAS, CLVT STMARY BALT	TYPE OF WORK UG ELECTRIC UTILITY MANHOLES CONDUIT TRENCHING D. BORING	ATTENDING Managers Employee/Crews Safety Directors	# OF ATTENDEES 20	EVENT DATE THUR 5/14	TRAINING ADDRESS CW Wright Office 9750 Doctor Perry Rd Ijamsville, MD 21754 FREDERICK CO TRAIN IN OFFICE
COMPANY INFORMATION ABSOLUTE UNDERGROUND BILL NEAL C-443-336-7749 billn@absoluteunderground.com	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK ALL UG CONSTRUCTION	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 50	EVENT DATE TUE 5/19	TRAINING ADDRESS MISS U TRAINING RM 7223 PARKWAY DR #100 HANOVER, MD 21076
COMPANY INFORMATION CECIL CO SCHOOL TECHNOLOGY JENNIFER BIRD C-410-441-0536 jsbird@ccps.org	EVENT: VDPT VOCATIONAL SCHOOL	TYPE OF WORK SCHOOL EDUCATION	ATTENDING Students Teachers	# OF ATTENDEES 85	EVENT DATE WED 5/27	TRAINING ADDRESS 900 NORTH EAST RD NORTH EAST, MD 21901 CECIL COUNTY ** GO TO OFFICE FOR BADGE

COMPANY INFORMATION DC WATER-BRYANT STREET SLOANE WIEBER/ROBERT WELLS C=202-427-2894 sloane.wieber@dcwater.com	EVENT: DPT WORKS IN, DC	TYPE OF WORK TRENCHING EXCAVATING	ATTENDING CREWS	# OF ATTENDEES 28	EVENT DATE TUE 6/16	TRAINING ADDRESS 301 BRYANT ST. NW WASHINGTON DC 20001 MUST HAVE NAMES, D.LICENSE VEHICLE TAG ESCORTED TO 3RD FL
CONTRACTOR TRAINING-MISSU Contact Dora Parks at 410-782-2026 or email, dora@missutility.net TO RESERVE YOUR SEAT(S)	HANOVER TRAINING EVENT THUR 6/25/15			Attendees= 48 Companies=	EVENT DATE THUR 6/25	TRAINING ADDRESS Miss Utility Call Center 7223 Parkway Drive Conference/Training Room Hanover, MD 21076 Anne Arundel County
COMPANY INFORMATION DC WATER-BRYANT STREET SLOANE WIEBER/ROBERT WELLS C=202-427-2894 sloane.wieber@dcwater.com	EVENT: DPT WORKS IN, DC	TYPE OF WORK TRENCHING EXCAVATING	ATTENDING CREWS	# OF ATTENDEES 20	EVENT DATE FRI 6/26	TRAINING ADDRESS 301 BRYANT ST. NW WASHINGTON DC 20001 MUST HAVE NAMES, D.LICENSE VEHICLE TAG ESCORTED TO 3RD FL
COMPANY INFORMATION HOWARD CO HIGHWAYS CALVIN BROOKS C=410-948-0315 cbrooks@howardcounty.gov EM TEAM REQ 7/2/15	EVENT: DPT WORKS IN, HOWARD CO.	TYPE OF WORK TRENCHING	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 30	EVENT DATE TUE 7/14	TRAINING ADDRESS HOWARD CO HIGHWAYS 14212 FREDERICK RD COOKSVILLE, MD 21723

CONTRACTOR TRAINING-WSMD Contact Dora Parks at 410-782-2026 or email, dora@missutility.net TO RESERVE YOUR SEATS	W/MD TRAINING EVENT WED 7/29/15			Attendees= Companies=	EVENT DATE WED 7/29	TRAINING ADDRESS 90 SEATS AVAILABLE GARRETT COLLEGE McHenry Campus 687 Mosser Road McHenry, MD 21541 Garrett County
COMPANY INFORMATION HWD CO HWYS-MAYFIELD SHOP ERIK LEHR C=443-277-5159 elehr@howardcountymd.gov	EVENT: DPT WORKS IN, HOWARD CO	TYPE OF WORK EXCAVATION	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 31	EVENT DATE MON 8/3	TRAINING ADDRESS MAYFIELD REPAIR SHOP 7751 Mayfield Avenue Elkridge, MD 21075 Howard County
COMPANY INFORMATION DECISIVE, INC. WILL GOOCH C=240-586-1605 drops@decisiveinc.net	EVENT: ADPT WORKS IN, MONT.PG FRED, HARF BALT, CECIL CALVT, AA	TYPE OF WORK TRENCHING DRILLING	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 10	EVENT DATE MONDAY 8/10	TRAINING ADDRESS CONFERENCE ROOM 9416 DR. PERRY RD JAMSVILLE, MD 21754 FRED COUNTY MOVED TO: 5305 JEFFERSON PK FREDERICK, MD
COMPANY INFORMATION CHILDS LANDSCAPING DAPHNE KARDIAN C=410-974-0528 dkardian@childslandscape.com Becky Mellinger O=410-974-0528	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK LANDSCAPING	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 60	EVENT DATE 8/28	TRAINING ADDRESS CAFÉ MEZZAROTE 760 RITCHIE HWY SEVERNA PARK, MD 21146 ANNE ARUNDEL CO

COMPANY INFORMATION CHERRY HILL CONSTRUCTION LYNN HILDITCH/DAVID JONES C=443-463-7820 lhilditch@chconstr.com	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK TRENCHING DRILLING GRADING	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 40	EVENT DATE 9/3	TRAINING ADDRESS 8211 WASHINGTON BLVD JESSUP, MD 20794 HOWARD Enter through rear parking lot doors
COMPANY INFORMATION TOWN OF PERRYVILLE AARON ASHFORD C=443-309-7650 aashford@perryvillemd.org	EVENT: DPT WORKS IN, CECIL CO.	TYPE OF WORK DID NOT STATE	ATTENDING Managers Crews	# OF ATTENDEES 10+	EVENT DATE 9/9	TRAINING ADDRESS PERRYVILLE DPW 29 WATER PLANT DR PERRYVILLE, MD 21903 CECIL CO
CONTRACTOR TRAINING-MISSU Contact Dora Parks at 410-782-2026 or email, dora@missutility.net TO RESERVE YOUR SEAT(S)	HANOVER TRAINING EVENT FRIDAY 9/11/15			Attendees 49	EVENT DATE 9/11	TRAINING ADDRESS Miss Utility Call Center 7223 Parkway Drive Conference/Training Room Hanover, MD 21076 Anne Arundel County
COMPANY INFORMATION CHERRY HILL CONSTRUCTION LYNN HILDITCH/DAVID JONES C=443-463-7820 lhilditch@chconstr.com	EVENT: DPT WORKS IN, ALL MD COUNTIES	TYPE OF WORK TRENCHING DRILLING GRADING	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 40	EVENT DATE 9/15	TRAINING ADDRESS 8211 WASHINGTON BLVD JESSUP, MD 20794 HOWARD Enter through rear parking lot doors

COMPANY INFORMATION PARADIGM	EVENT: DPT WORKS IN,	TYPE OF WORK xx	ATTENDING Managers Crews Contractors Safety Directors First Responders	# OF ATTENDEES ??	EVENT DATE 9/29	TRAINING ADDRESS CUMBERLAND
COMPANY INFORMATION PARADIGM	EVENT: DPT WORKS IN,	TYPE OF WORK xx	ATTENDING Managers Crews Contractors Safety Directors First Responders	# OF ATTENDEES ??	EVENT DATE 9/30	TRAINING ADDRESS MYERSVILLE
COMPANY INFORMATION PARADIGM	EVENT: DPT WORKS IN,	TYPE OF WORK xx	ATTENDING Managers Crews Contractors Safety Directors First Responders	# OF ATTENDEES ??	EVENT DATE 10/6	TRAINING ADDRESS WALDORF
COMPANY INFORMATION PARADIGM	EVENT: DPT WORKS IN,	TYPE OF WORK xx	ATTENDING Managers Crews Contractors Safety Directors First Responders	# OF ATTENDEES ??	EVENT DATE 10/7	TRAINING ADDRESS UPPER MARLBORO
COMPANY INFORMATION PARADIGM	EVENT: DPT WORKS IN,	TYPE OF WORK xx	ATTENDING Managers Crews Contractors Safety Directors First Responders	# OF ATTENDEES ??	EVENT DATE 10/8	TRAINING ADDRESS ELKTON

COMPANY INFORMATION WMACSA (ASSOC) WASHINGTON METRO CONSTRUCTION MARTIN WETZLER C=240-643-8333 martin.wetzler@gmail.com	EVENT: DPT WORKS IN, MONT, PG	TYPE OF WORK VARIOUS CONSTRUCTION	ATTENDING Managers Contractors Safety Directors	# OF ATTENDEES 15	EVENT DATE 10/14	TRAINING ADDRESS CLAIRION (ONSITE CHG) BALTIMORE AVE COLLEGE PARK, MD 20740
COMPANY INFORMATION DENISON LANDSCAPING KENNETH WATSON C=240-286-1541 kwatson@denisonlandscaping.com	EVENT: ADPT WORKS IN, DC & ALL MD COUNTIES	TYPE OF WORK TRENCHING PLANTING	ATTENDING Managers Safety Directors	# OF ATTENDEES 35	EVENT DATE THUR 11/12	TRAINING ADDRESS OXON HILL OFFICE 8507 OXON HILL RD SUITE 300 FORT WASHINGTON, MD 20617 PARKING BEHIND BLDG
CONTRACTOR TRAINING-MISSU Contact Dora Parks at 410-782-2026 or email, dora@missutility.net TO RESERVE YOUR SEAT(S)	HANOVER TRAINING EVENT FRIDAY 11/13/15			Attendees= 39 Companies= 9	EVENT DATE 11/13	TRAINING ADDRESS Miss Utility Call Center 7223 Parkway Drive Conference/Training Room Hanover, MD 21076 Anne Arundel County
CONTRACTOR TRAINING-DC Contact Dora Parks at 410-782-2026 or email, dora@missutility.net TO RESERVE YOUR SEAT(S)	DC PEPCO TRAINING EVENT TUESDAY 11/17/15			Attendees= Companies=	EVENT DATE 11/17	TRAINING ADDRESS PEPCO OFFICE 3400 BENNING RD NE WASHINGTON, DC 20019 ***ATTENDEE NAME WILL BE REGISTERED WITH THE GATE PARKING ATTENDANT

COMPANY INFORMATION MD NAT'L CAPITAL PARK & PLANNING COMMISSION BRIAN SOUDERS 240-876-2902 brian.souders@montgomeryparks.org	EVENT: DPT WORKS IN, MONT CO.	TYPE OF WORK EQUIPMENT OPERATORS	ATTENDING Managers Crews Contractors Safety Directors	# OF ATTENDEES 64	EVENT DATE 11/20	TRAINING ADDRESS OUTSIDE EVENT 7400 AIRPARK ROAD DERWOOD, MD 20855 PLS PAINT GROUND WITH COLOR CODES
COMPANY INFORMATION NSA KIMBERLY WILLIAMS C=301-919-4212 kmwill11@nsa.gov	EVENT: DPT WORKS IN, AA COUNTY	TYPE OF WORK TRENCHING DRILLING DIGGING	ATTENDING Managers Safety Directors Excavation Crews	# OF ATTENDEES 100	EVENT DATE 12/8	TRAINING ADDRESS NSA 9800 SAVAGE ROAD FORT MEADE, MD 20755 AA COUNTY TRAINERS MUST BE ESCORTED PRIOR CLEARANCE REQUIRED



APPENDIX H

Examples of Damage to Critical Underground Facilities in Maryland



Examples of Damage to Critical Underground facilities in Maryland

Legend

- **A1** – Typical gas line damage when Mechanical Grading Equipment scrapes the top of an underground gas line. No “Miss Utility Ticket” was called in by the Excavator in this damage. This damage led to a \$2,000.00 fine and training.
- **A2** – A communications cable was hit when a mechanical auger was used to excavate a hole for a large signpost. There was a “Miss Utility Ticket” called in by the excavator, but they excavated without properly test pitting the underground facility before using mechanized equipment for their excavation. This damage led to a \$4,000.00 fine and training.
- **A3 & A4** – The excavator had a valid active “Miss Utility Ticket” on this project. Picture A3 shows there were gas marks in the vicinity of the excavation and a gas meter was visible on the house near the excavation. The contractor assumed it was alright to excavate with a mechanical auger, since he was several feet away from the marks.

When the auger was pulled out of the excavation in picture A-4, the tracer wire and gas service was intertwined in the auger. A simple test pit would have shown the exact location of the gas service and would have avoided the damage to the underground facility. This damage led to a \$3,000.00 fine and training.

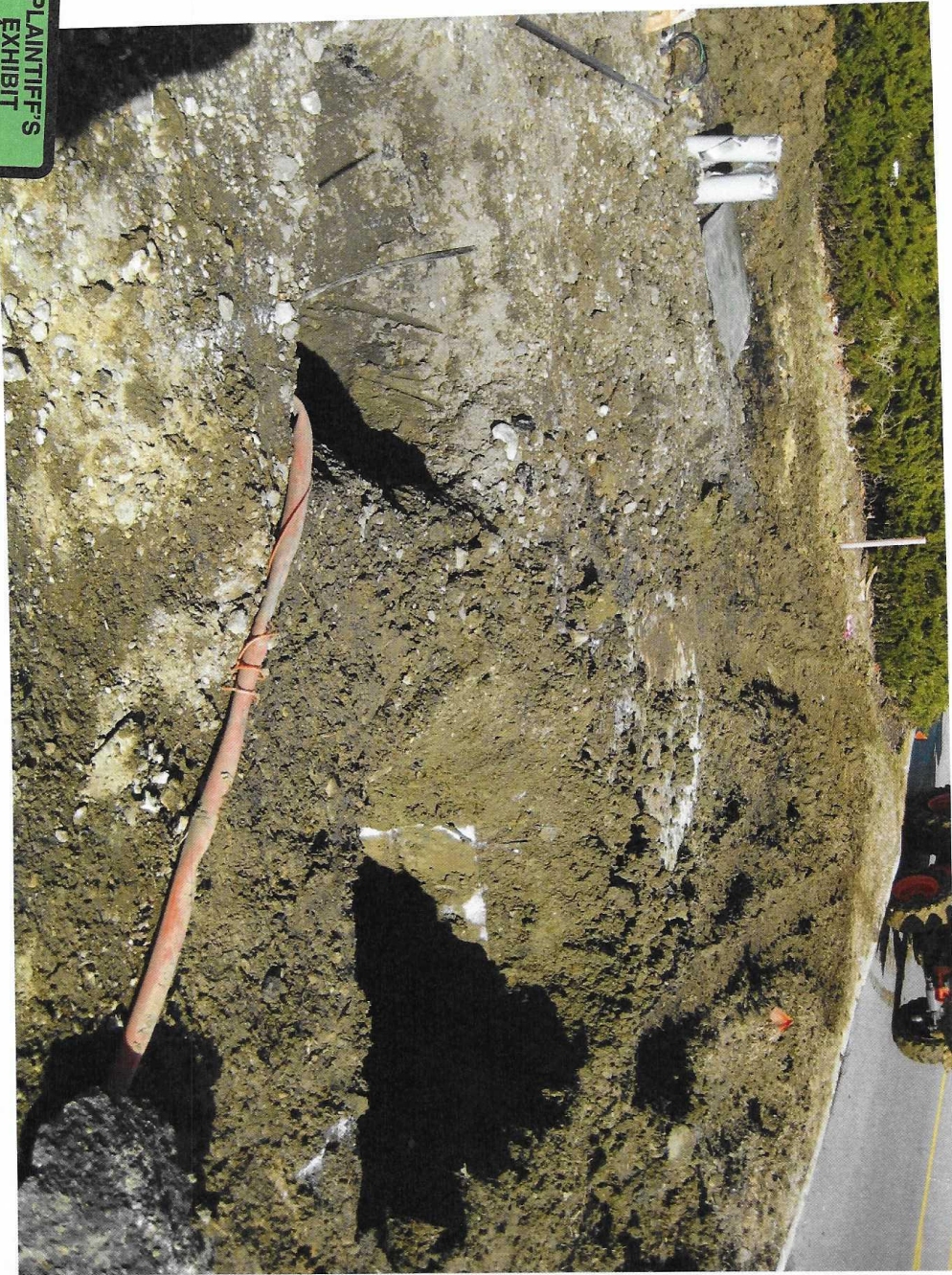
- **A5, A6 & A7** – This contractor began excavating for a septic system (picture A5) without a “Miss Utility Ticket”; and did so with clear evidence (Picture A6) that gas service existed to this home. This was evidenced by a visible gas meter on the side of the structure (picture A6) which was approximately twenty feet from their excavation. The result was a damaged gas service (picture A7). This damage led to a \$3,000.00 fine and training.

- **A8 & A9** – These two pictures show damage to a 2” gas line in a mass grading operation where the mechanical grading equipment completely severed the gas line. The blue clamp shown in the picture was used by the gas provider to temporarily stop the flow of gas, which could have led to a possible ignition. Once the gas valves were turned off, the gas provider was able to repair the damaged line. This damage was caused by the contractor’s failure to get a “Miss Utility Ticket” before beginning their excavation. This damage resulted in a \$2,000.00 fine and training.
- **A10** – This gas service was struck when a contractor was excavating to remove and replace underground water lines. The contractor had a “Miss Utility Ticket” on this project and marks for underground gas and electric were present, but the contractor failed to test pit those underground facilities before performing his excavation. This damage resulted in a \$4,000.00 fine and training.
- **A11, A12, A13 & A14** – These four pictures show a site where the contractor did not call “Miss Utility” before beginning his excavation. Once they mobilized the site there was clear evidence that underground facilities existed on the site in the form of fire hydrant depicting underground water lines. They began excavating without a “Miss Utility Ticket” and then found underground communications cable in plastic conduit in the same area of the underground storm and sanitary sewer lines they were installing.

Even then, no call was made to “Miss Utility”. Instead, they chose to begin moving those communications lines out of their way, which severely damaging the plastic conduit and eventually damaging the communications cable in the conduit. When the facility owner happened upon the site and found this damage, the contractor called in an “Emergency Ticket” to “Miss Utility”.

There were four violations of Title 12 in this instance. (1) No “Miss Utility Ticket”; (2) Clear Evidence of Underground Facilities, (3) lack of notification to the facility owner when they damaged the underground facility and (4) misuse of the “Emergency Notification” subtitle of Title 12. This damage resulted in \$6,000.00 in fines and training.





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EXHIBIT
A2

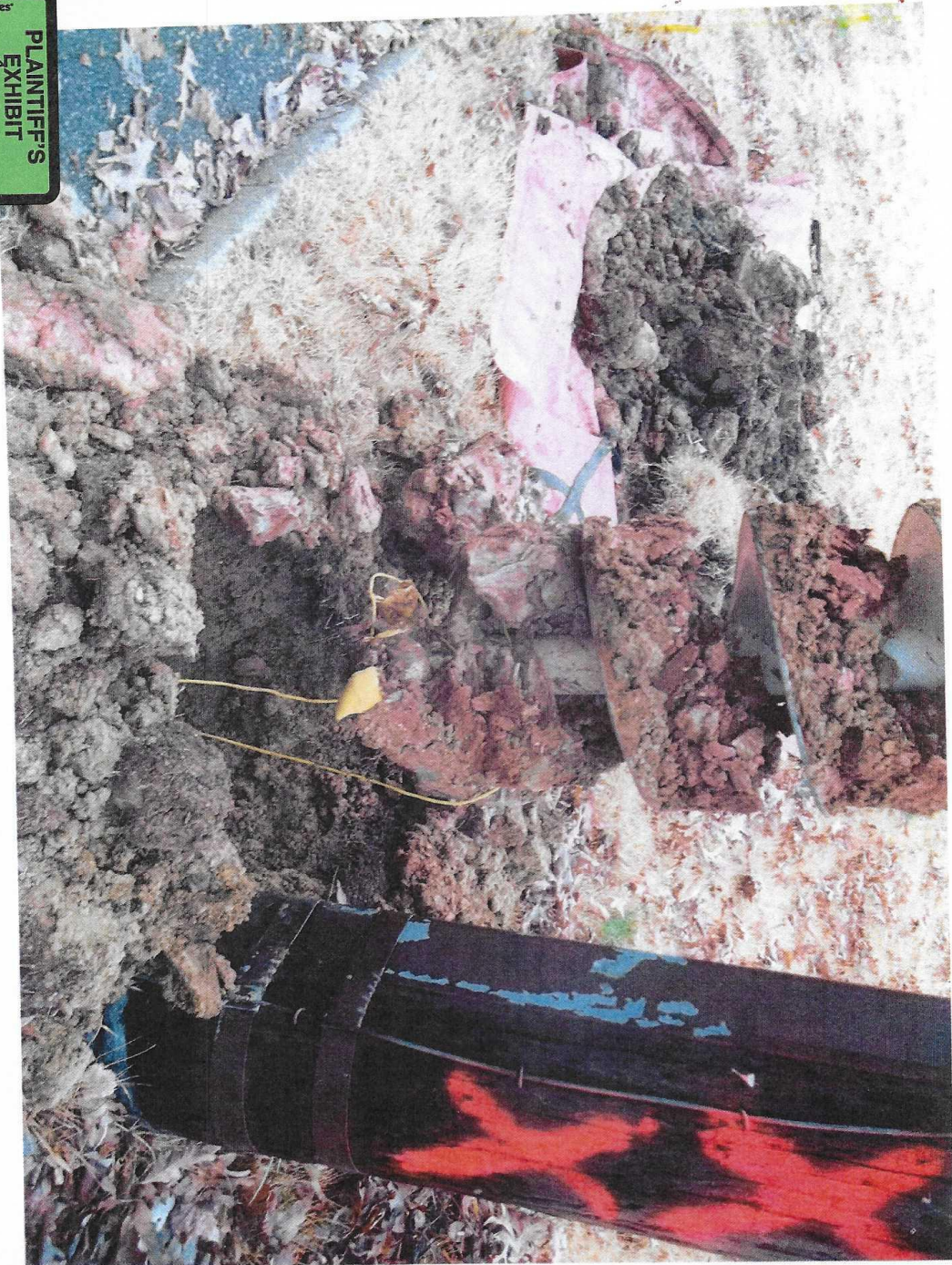
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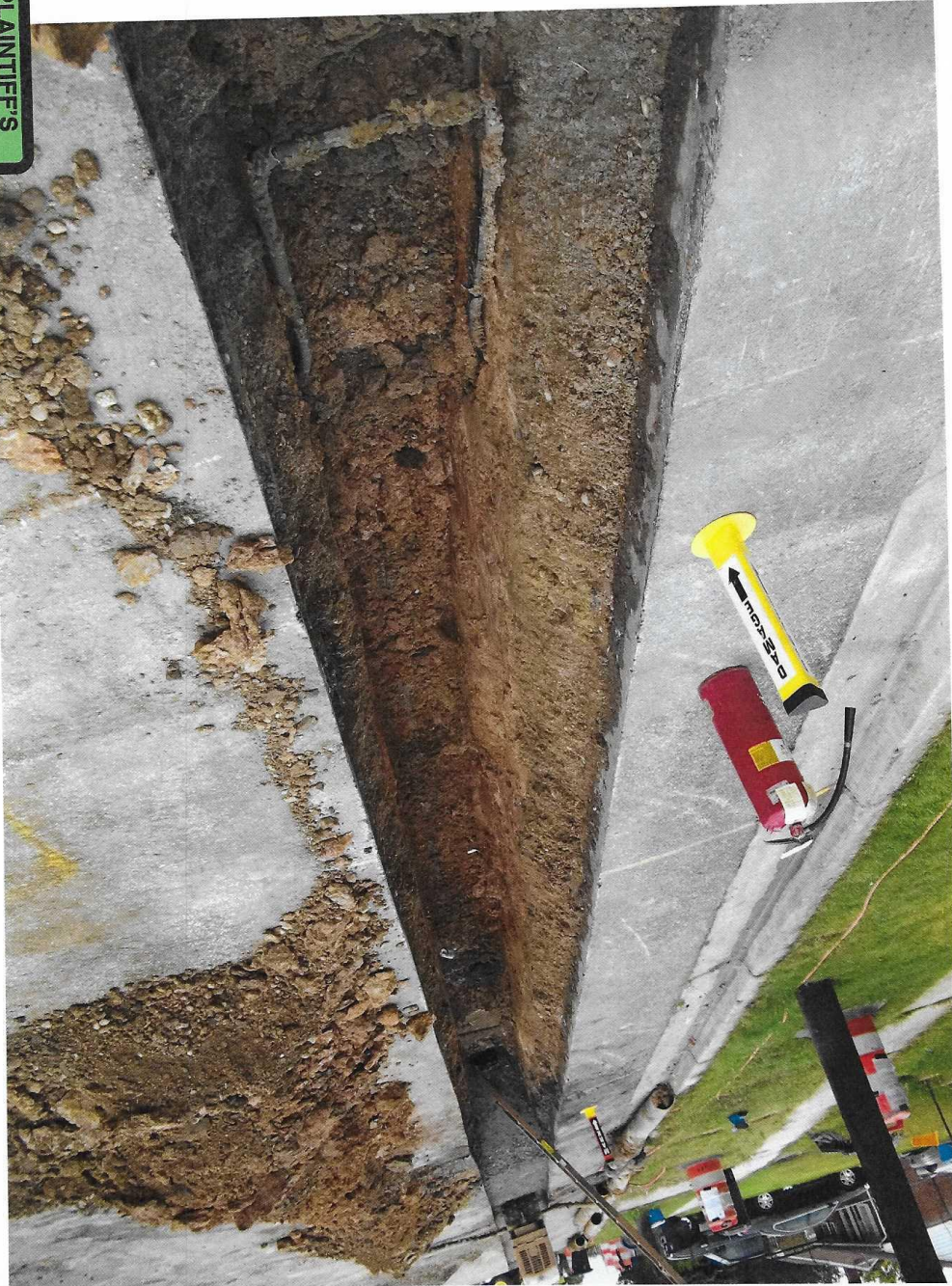




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