

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

J.I. OBENIEL CONSTRUCTION LLC)	
)	
_____)	CASE NO.
)	2019-00447
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

J.I. Obeniel Construction, LLC, (J.I. Obeniel) has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).¹

Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Act, the Commission has authority to investigate and assess civil penalties for any violation of the Act that results in excavation damage to an underground facility used to transport natural gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.* Any person who violates any provision of the Act is subject to assessment of a civil penalty in the amount of \$250 for the first offense, no more than \$1,000 for the second offense within one year, and no more than \$3,000 for the third and any subsequent offense. Additionally, any person whose violation of the Act results in damage to an underground facility containing any flammable, toxic, corrosive,

¹ KRS 367.4901 through KRS 367.4917.

or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material is subject to an additional penalty of up to \$1,000.

Following receipt of a report of excavation damage to its underground gas pipeline from an operator, Commission Staff (Staff) conducted an investigation and prepared an Incident Report, a copy of which is attached to this Order as an Appendix. In its Incident Report, Staff cites J.I. Obeniel for violation of the following provision of the Act:

KRS 367.4911(3) – Each excavator shall provide each applicable protection notification center with adequate information regarding:

(c) The excavation or demolition site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street.

(d) The type and extent of excavation or demolition to be performed...

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that J.I. Obeniel violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident should be conducted.

IT IS THEREFORE ORDERED that:

1. J.I. Obeniel shall submit to the Commission, at 211 Sower Boulevard, Frankfort, Kentucky 40601, a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.

2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and

such representation includes the filing of papers with and appearances at hearings before the Commission.

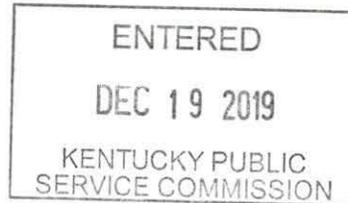
3. The Staff Incident Report 31479 in the Appendix to this Order is made a part of the record in this case.

4. **Please note that notice of a hearing to be held in this matter will be mailed to J.I. Obeniel once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.**

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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

Case No. 2019-00447

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00447 DATED **DEC 19 2019**

THIRTY-EIGHT PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout	Incident ID 31479
Incident Date 3/21/2019 12:05:00 PM	Report Submitted 4/18/2019 1:23:35 PM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8281 Incident Location 5503 Phoenix Hill Ct Louisville, KY 40207 Jefferson	Reported By Mike Jones Email Mike.Jones@lge-KU.com Locate Ticket Number 1903080959
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EXCAVATOR INFORMATION

Name of Excavator Giron, Rigo Phone 980-313-2054 Excavator Address J.I. Obeniel Construction LLC 9521 E Clarksboro Dr. Liberty, MO 64068	Organization ID LC001458684 Active Email Locate Ticket Number
--	--

Incident

The Operator reports that the Excavator bored into a gas main outside the scope of the locate request. More specifically the Excavator was boring under the street when a 2" main was damaged causing a leak. The above noted Locate Ticket requests locates in the front of the address on the street to the rear, not both sides of the street. There were no locates in the road indicating the main. It was not marked by the locator because it was outside of the scope of work requested on the ticket.

The Operator's Damage Report is included as Attachment 1.

Locate Ticket Summary

Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
1903080959	Yes	03/08/19	03/28/19	03/21/19	0	No

The Locate Ticket is included as Attachment 2.

Excavation Summary

Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized / Boring Machine	\$8,794.00	\$0.00

Investigation

On 08/20/19 the Excavator, J.I. Obeniel Construction's Forman/Supervisor Ringo Giron (980-313-2054), stated that the street design of the incident location is different than most streets and the locate request was correct. Mr. Giron stated that LG&E's locate company did not mark the entire street per the locate request. Mr. Giron stated that he would attempt to locate photographs and an incident report.

A review of Google Maps of Phoenix Hill Ct. from 5501 to 5509 indicates the street is straight with a slight veer at 5503 and 5505 and the street dead ends midway in front of 5503.

A copy of Google Map is Included as Attachment 3.

A review of the above noted Locate Ticket reveals that the locate was documented as:

Street: Phoenix Hill Ct., Cross 1: Phoenix Hill Dr., Location: Locate in front of 5509, 5507, 5505, 5503, and 5501, also locate between houses 5503 and 5505 all the way to the rear of the houses.

On 08/21/19 the Operator, LG&E's Mike Jones, provide via email a Facts-Based Investigation with photographs attached, five photographs and a map indicting the location of the main gas line. The Facts-Based Investigation indicates that the damage occurred outside the scope of the above noted Locate Ticket. The photographs attached with the Fact-Based Investigation reveals the damage occurred in the street closer to the even numbered side of the street under the roadway. The photographs, provide with the email, indicate where the locate marks ware placed and the map, which is in the body of the email, indicates the gas main is on the even number side of the street. **Note:** The locate ticket request is for the addresses on the odd numbered side of the street, to locate in front of 5501 thru 5509 and to locate between house 5503 and 5505 all the way to the rear of the houses. Said ticket does not include the street or the homes on the even side of the street.

The LG&E Map is Include as Attachment 4.

The LG&E Facts-Based Investigation with photos is include as Attachment 5.

The LG&E Five Photographs are include as Attachment 6.

Mr. Jones provided an addition photograph that display marks where the damage occurred closer to the even side of the street under the pavement in front of the driveway of 5504.

The Photo in front of 5504 is included as Attachment 7.

On 08/21/19 Mr. Giron provided a J.I. Obeniel Incident Report with photographs attached and additional photographs. The report indicated the damage occurred to a gas line which was not marked. The photographs attached to the report indicate the damage occurred on the even side of the street under the roadway in front of driveway of 5504. The additional photographs indicate the same information as the photographs attached to the Incident Report.

J.I. Obeniel Incident Report with photos are include as Attachment 8.

J.I. Obeniel Additional Photos are include as Attachments 9-11.

Violation

KRS 367.4911(3) - Each excavator shall provide each applicable protection notification center with adequate information regarding:

- **KRS 367.4911(c)** The excavation or demolition site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street.
- **KRS 367.4911(d)** The type and extent of excavation or demolition to be performed.

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 4/18/2019 Incident ID: 31479

[Set back to Edit](#) [Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31479\)](#)

Reported By:

Name: Mike Jones
Phone: (502) 364-8281
Email: Mike.Jones@lge-KU.com

Gas Line Incident Occured:

Date: 3/21/2019
Time: 12:05 PM

Details:

Reported Date: 4/18/2019 1:23 PM

Incident Location Address:

Location:
Address: 5503 Phoenix Hill Ct
City: Louisville
State: KY
County: Jefferson
Zip: 40207
Confirm Code: Y
Number of Customers out: 8
Locate Request Ticket No.: 1903080959
Excavator: Contractor

Excavator Address:

First Name: Rigo
Last Name: Giron
Organization ID:
Company: J I Obeniel
Phone: 980-313-2054
Email:
Address: 9521 E Clarksboro Dr
City: Liberty
State: MO
Zip: 64068

Confirm Code: Y

Excavation Damage: Wrong information provided to One
Call Center

Description of Incident ?Excavator bored into gas main outside the scope of the locate request

Summary Information

4/18/2019

Full details such as the cause	Excavator was punching under the street when the tool hit a 2" steel main causing leak. The locate request called for locates in the front of the address on the street to the rear, not both sides of the street. There were no locates in the road indicating the main. It was not marked by the locator because it was outside of the scope of work requested on the ticket. Contractor worked outside of the scope of work.
Extent of the damage	2" steel main
Cost of the damage	\$8,794.00
Steps taken to prevent re-occurrence	Conversation with the excavator about working outside the scope of the locate request; letter from LG&E to be sent.
Amount billed to excavator	\$0.00

NORMAL NOTICE REMARK

Ticket : 1903080959 Date: 03/08/2019 Time: 13:52 Oper: JOSE.INOCENTE.KY Chan:000
Old Tkt: 1902201461 Date: 02/20/2019 Time: 22:02 Oper: JOSE.INOCENTE.KY Rev: 00A

State: KY Cnty: JEFFERSON City: LOUISVILLE
Subdivision:

Address :

Street : PHOENIX HILL CT

Cross 1 : PHOENIX HILL DR

Location: LOCATE IN FRONT OF 5509,5507,5505,5503,5501, ALSO LOCATE BETWEEN
HOUSES 5503 AND 5505 ALL THE WAY TO THE REAR OF THE HOUSES

:

Boundary: n 38.289849 s 38.287945 w -85.651377 e -85.648761

Work type : INSTALLING FIBER

Done for : ATT

Start date: 03/12/2019 Time: 14:00 Hours notice: 96/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO Emergency: N

Duration : N/A Depth: 5 FEET

Company : JI OBENIEL CONSTRUCTION LLC Type: CONT

Co addr : 7003 NW CORONADO ST

City : KANSAS CITY State: MO Zip: 64152

Caller : JOSE INOCENTE Phone: (443)990-4061

Contact : RIGO Phone:

Mobile : (980)313-2054

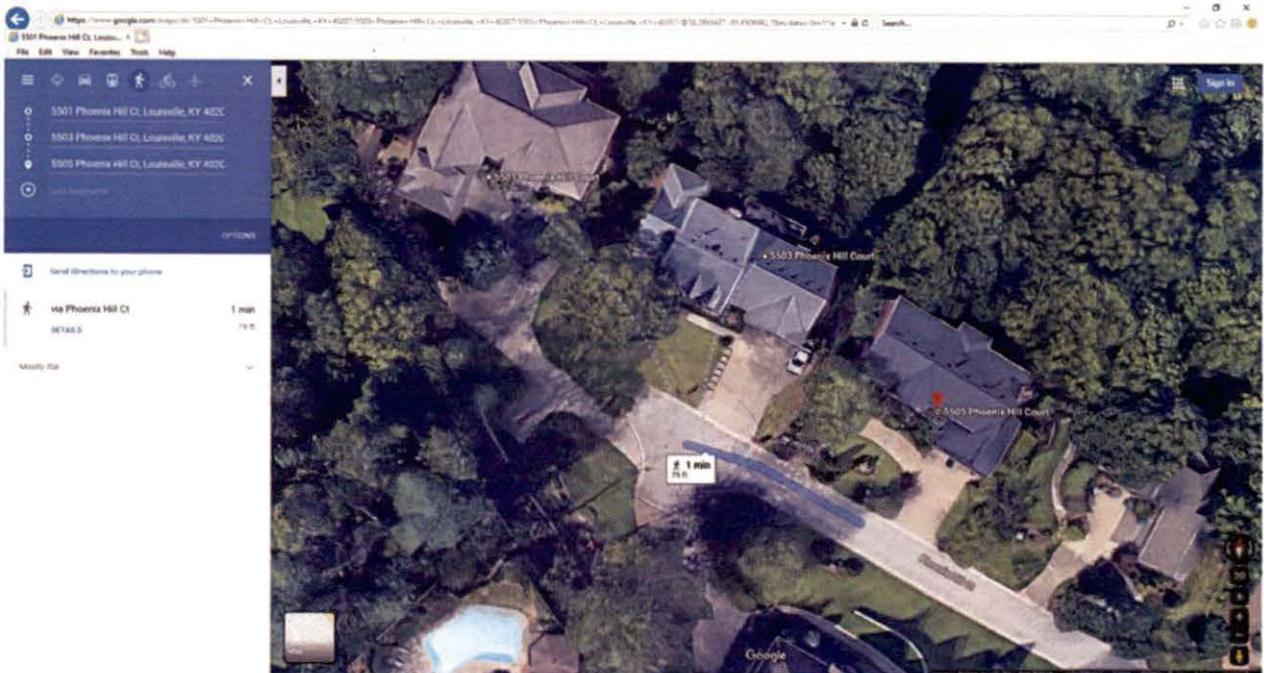
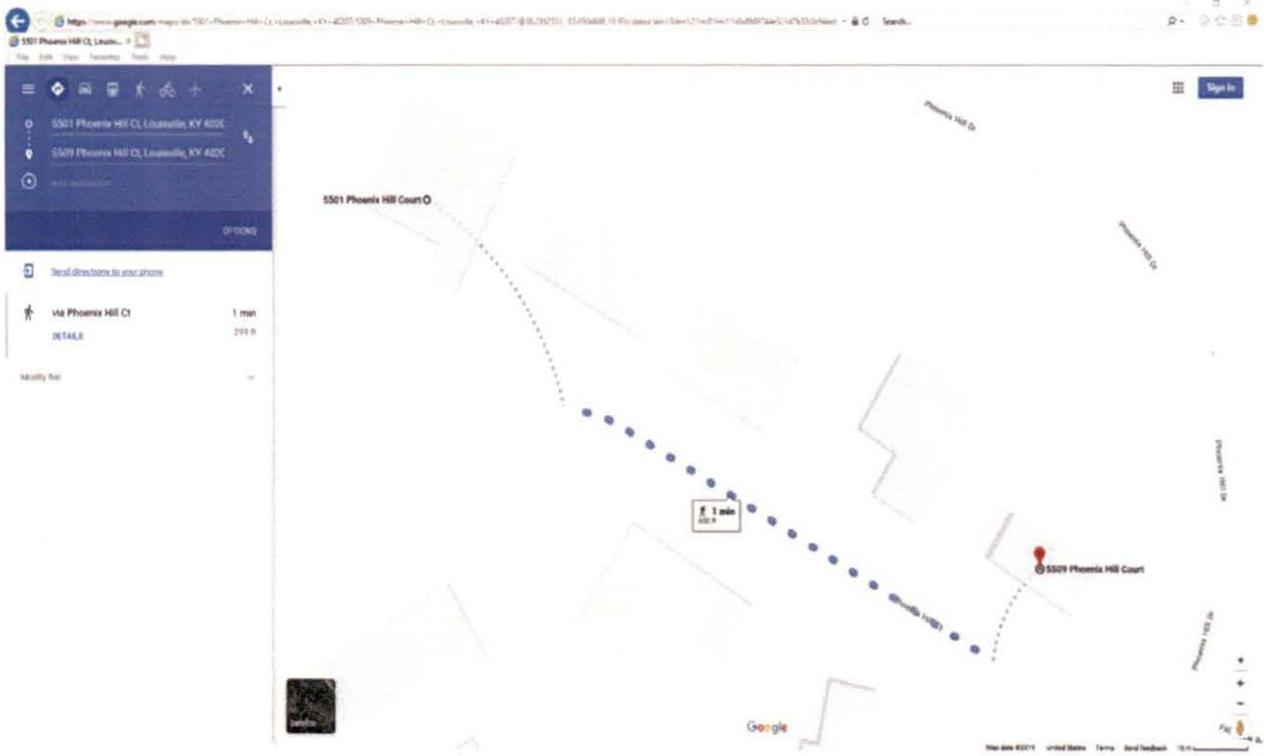
Email : TICKETS.JIOBENIELCONSTRUCTION@GMAIL.COM

Remarks : REMARKS

:

Submitted date: 03/08/2019 Time: 13:52

Members: 0002 0004 0006 0007 0139



Tout, Eric V (PSC)

From: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Sent: Wednesday, August 21, 2019 10:28 AM
To: Tout, Eric V (PSC)
Subject: RE: 31479, 5503 Phoenix Hill Ct, Louisville, J.I. Obeniel Construction
Attachments: 5503 Phoenix Hill Ct..pdf; DigTix Ticket 1903080959 2019-03-12 11_11_14.451.jpg; DigTix Ticket 1903080959 2019-03-12 11_16_32.879.jpg; DigTix Ticket 1903080959 2019-03-12 11_13_46.103.jpg; DigTix Ticket 1903080959 2019-03-12 11_09_07.099.jpg; DigTix Ticket 1903080959 2019-03-12 11_07_44.930.jpg

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Our damage investigation and photos are attached in the pdf.

A view from our GIS:

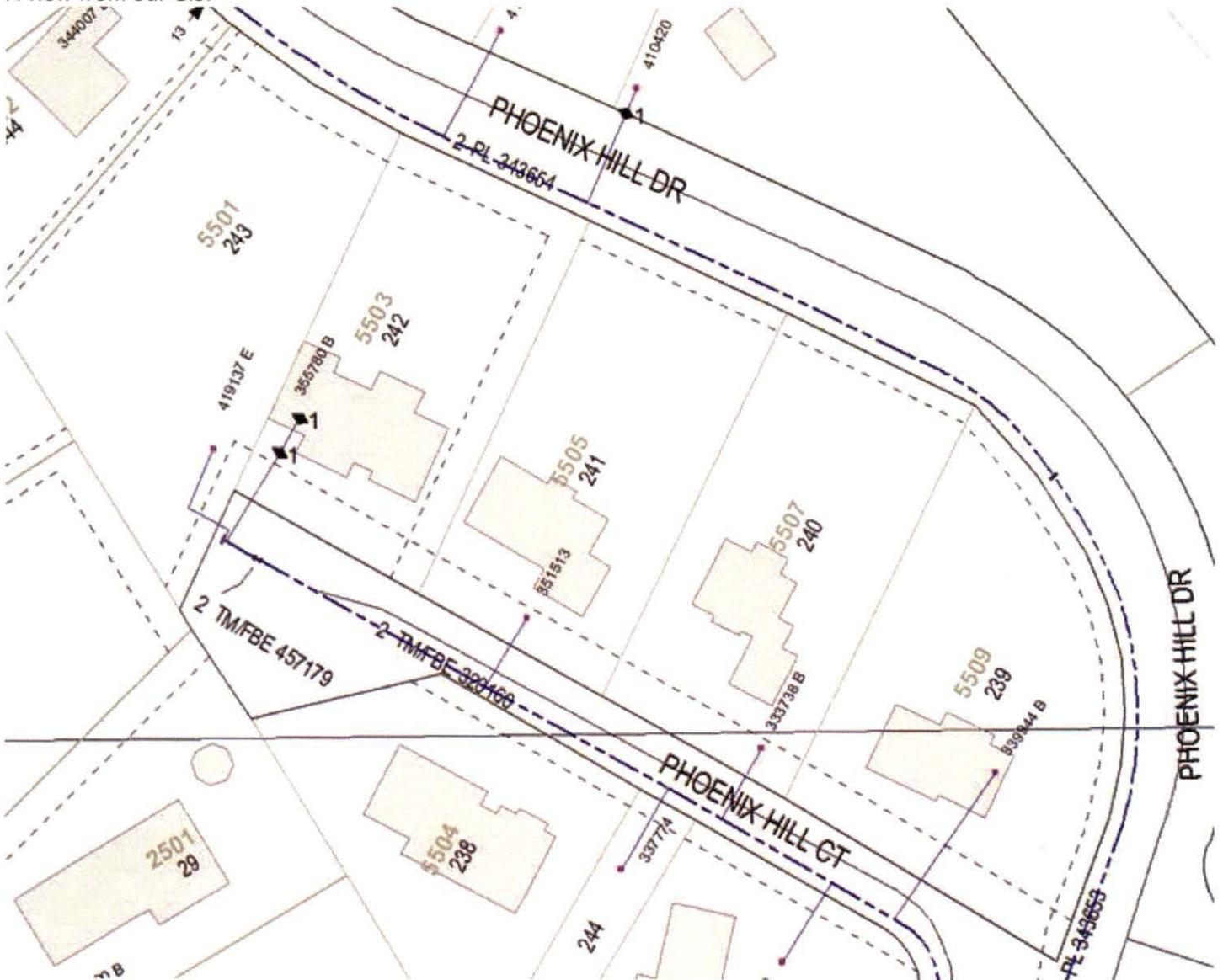


Photo 11_07_44.930 = service to 5501
Photo 11_09_07.099 = service to 5503
Photo 11_11_14.451 = service to 5505
Photo 11_13_46.103 = service to 5507
Photo 11_16_32.879 = service to 5509

There are no photos of main locates because the damaged main is outside the scope of the request.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Wednesday, August 21, 2019 9:38 AM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: 31479, 5503 Phoenix Hill Ct, Louisville, J.I. Obeniel Construction

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Morning Mike,

Please send all photos, incident reports and drawings/maps that would indicate where the main is located from 5503 to 5509 Phoenix Hill Ct.

*Thanks,
Eric V. Tout, Investigator
Division of Inspections
Kentucky Public Services Commission
211 Sower Blvd.
Frankfort, KY 40601
Ph: 502-782-2622
Fax: 502-564-1582*

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Facts-Based Investigation

Internal Claim #: INC-20190321-002 Customer Claim #: _____

Site Investigator: Neal Miller Date Notified: 03/21/19 12:15:00

Notified By: (Name & #) Yes notification system 5022692298

Damage Location: 5503 Phoenix Hill ct Louisville KY 40207

Date of damage: 03/21/19 11:45:00

Original Ticket #: 1903080959 Locator: Utility Resource Group

Due Date: 03/12/19 14:00:00 Date Located: 03/12/19 11:36:15

Photos taken before damage? N

Photos taken of damage site? Y

Type and size of damaged utility: Distribution 2

Depth: 18" to < 36" (0.5 to < 1m)

Description and extent of damage: Contractor was punching the missile and the street when it hit a 2" st main causing leak. There were no locates in the road indicating the main. It was not marked by the locator because it was outside of the scope of work on the ticket. The bud request called for locates in the front of the address on the street and to the rear, not both sides of the street. Contractor worked outside of the scope of work.

Equipment used: _____

Damaging Company Name: JI OBENIEL CONSTRUCTION LLC

Company Address: 7003 NW CORONADO ST KANSAS CITY, MO 64152

Telephone #: (443)990-4061 Contact name: JOSE INOCENTE

Working for: ATT

Contractor assisting in the repair of damaged facility: _____

Personal Injury: N 3rd Party Property Damage: Y Evacuations: N Other: Y

Explain: 8 customers lost service

Was Locate requested?: Y Facilities located?: Y

Locate accurate (Within tolerance zone)?: N If No, Distance markings off?: _____

Were marks visible at time of damage: Y

Were damaged facilities within scope of ticket?: N



Facts-Based Investigation

Name of util. Mgr/Rpr Tech on site: _____ Tel. #: _____

Comments: _____

Witness: _____ Tel. #: _____

Comments: _____

Witness: _____ Tel. #: _____

Comments: _____

Investigator Findings: _____

Name the responsible party: Jl Obeniel

Give reasons why this party is responsible: contractor thought they would have marked the main

Date of Investigation: 03/21/19 Total Investigation Time (Hours): _____

Site Investigator's Name: Neal Miller Phone: _____

Site Investigator's Signature: Neal Miller Date: 03/21/2019

(OFFICE USE ONLY)

DOCUMENTS ENCLOSED

Other: _____ Other: _____

Damage Status: Excavation Issue Cause Code: Excavator dug outside area described on ticket

Damage Claims Manager: _____

Facts-Based Investigation





Facts-Based Investigation





2019-09-12 11:09:10
38.203270, -99.620730



2019-09-12 11:11:14
38.203183, -99.620426





2024-09-10 11:11:22
35.2481066, -85.4406695

Incident No. 36748
Status Closed
Company/Location STC:SC660 - SC660 - Louisville, KY - Light
Incident Type Subcontractor Incident (No Employee Involvement)
Date of Occurrence 21 Mar, 2019
Employee Name (Involved):
Supervisor Collins, Joel
Address/Location of Incident 5501 Phoenix Hill Ct

Near Miss? No

Time 12 HH17 MPPM

State KY **City** Louisville **GPS Latitude example:** 38.289272 **GPS Longitude example:** 85.650825
Latitude example: 39.563748 **Longitude example:** 79.284723

Description: Provide a complete summary of the incident. Subcontractor J.I. Obeneil was placing conduit for fiber optic cable using a missile. The missile hit an unmarked gas utility line. Valid locate ticket. Ticket # 1903080959. JOB # 85V40470N/AO161444. Utility was not marked. No one was hurt and no equipment was damaged.

List PPE in Use hard hat, vest

Reported By Kennedy, Riley **Date Reported** 21 Mar, 2019
Reported To Morris, Hubert

Option to send email notification to others:
 Recipients List

 **Associated Documents**

Click to View	Document Name	
	03 21 2019 5501 Phoenix Hill Ct Louisville KY Photos.zip	<input type="checkbox"/>
	03 21 2019 5501 Phoenix Hill Ct Louisville KY.pdf	<input type="checkbox"/>

1. Sub-Incidents Associated with this Incident Report:

View/Edit Type	Employee/Contact Name	Status	Select Deselect
38103 Property Damage Form	N/A	Closed	<input type="checkbox"/>

4. Incident Report Summary and Closing Details:

Target Close Date 28 Mar, 2019

EHS Coordinator's Comments: sub-Contractors damages / Turned over to our claims department

Root Cause Investigation Required GL-Subcon. Responsibility
Yes

Person Responsible Riggs, Michelle **Target Date** 29 Mar, 2019

3. Incident Report Investigation Details:

Fill out the details of the investigation below:

Employee Feedback

2. Corrective/Preventive Actions associated with this Incident Report:

Use the buttons below to add or remove a Corrective/Preventive Action relating to this Incident Report:

<u>View/Edit</u>	<u>Root Cause Correction Type</u>	<u>Action Required</u>	<u>Person Responsible</u>	<u>Target Date</u>	<u>Completion Date</u>	<u>Completion Notes</u>	<u>Select Deselect</u>
No Data Returned							

Investigation Completion

Please ensure sub-incidents have been closed before closing the incident. To close the incident enter comments below, and specify the Date Closed.

SUB JI OBENIEL STRUCK AND DAMAGED UNMARKED GAS LINE. SUB TO HANDLE ANY CLAIMS.

Investigated By Riggs, Michelle **Investigation Completed** 29 Mar, 2019

EHS Coordinator - Final Review and Closing

Please review this incident report and determine whether an incident investigation is required, then fill in the details below

Closed By Morris, Hubert **Date Closed** 29 Mar, 2018



Associated Notifications

Use the buttons to add or remove a Notifications relating to this Incident Report:

<u>View</u>	<u>Date Entered</u>	<u>Entered By</u>	<u>Notification Sent to</u>	<u>Comments</u>	<u>Date Sent</u>	<u>Select Deselect</u>
No Data Returned						

Message Center

<u>Creator</u>	<u>Title / Subject</u>	<u>Message Task</u>	<u>Replies Pending Recipient</u>	<u>Date Sent</u>
No Data Returned				





5.54 KF
TO PEP

See Dwg #75

R3 2509 PHOENIX
HILL DR

D.O.P

301' (R) - 845C

15' (R) - 822CC

164' (R) - 822C

184' (R) - 85C

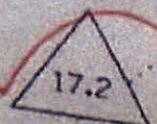
5503

B-ANMW-50

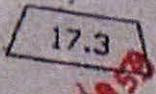
TO C.O.

D.O.P

See Dwg #73



845C WE=B
TERM QTY=2



845C WE=A
PCOIL QTY=2

5' TO ELEC. BOX
7' TO CTV PED

8645C
HH1.1
HANDHOLE 10X15

15.9 8645C WE=B
PLAC
ORD=1 REC=1

PLAT
PB. 36, PG. 52
50' R/W
UE VARIES

4C
HH1
HHOLE 17X30X30

2' TO PA
7' TO EOP

03-21-2009
12:17pm
LADDER TICKET # 1903080959

UNMARKED
GAS MAIN LINE
DAMAGED UNDER STREET
CONTRACTOR T. I. OBENHART
LADDER TICKET # 1903080959

ATT PROJECT
85V40476N/A016144
PRINT 74 of 84 @
ADDRESS 5501 PHOENIX HILL CT

2509

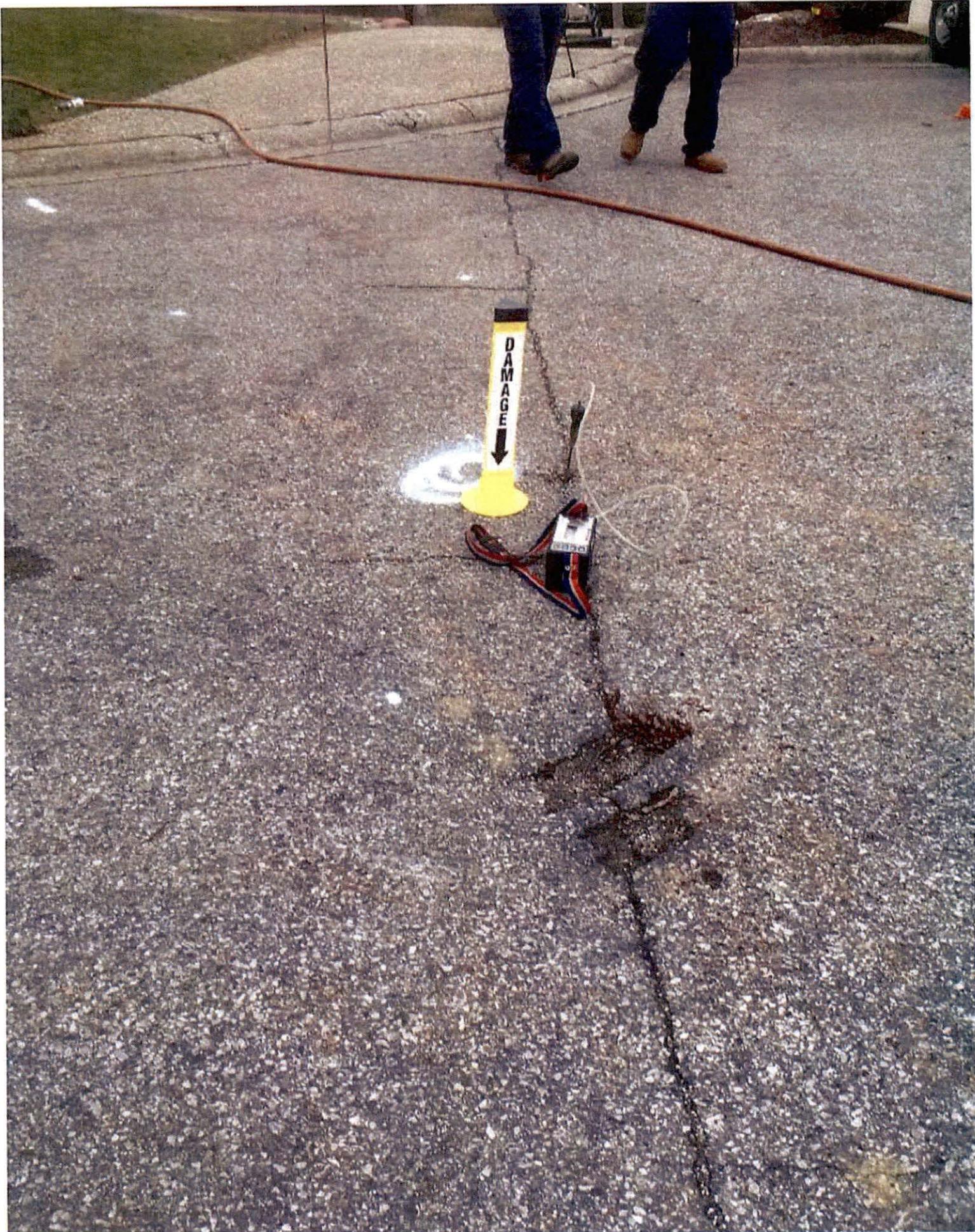
+24'
DOWN POLE

PB
#48188
ATTN
+22'
UP P

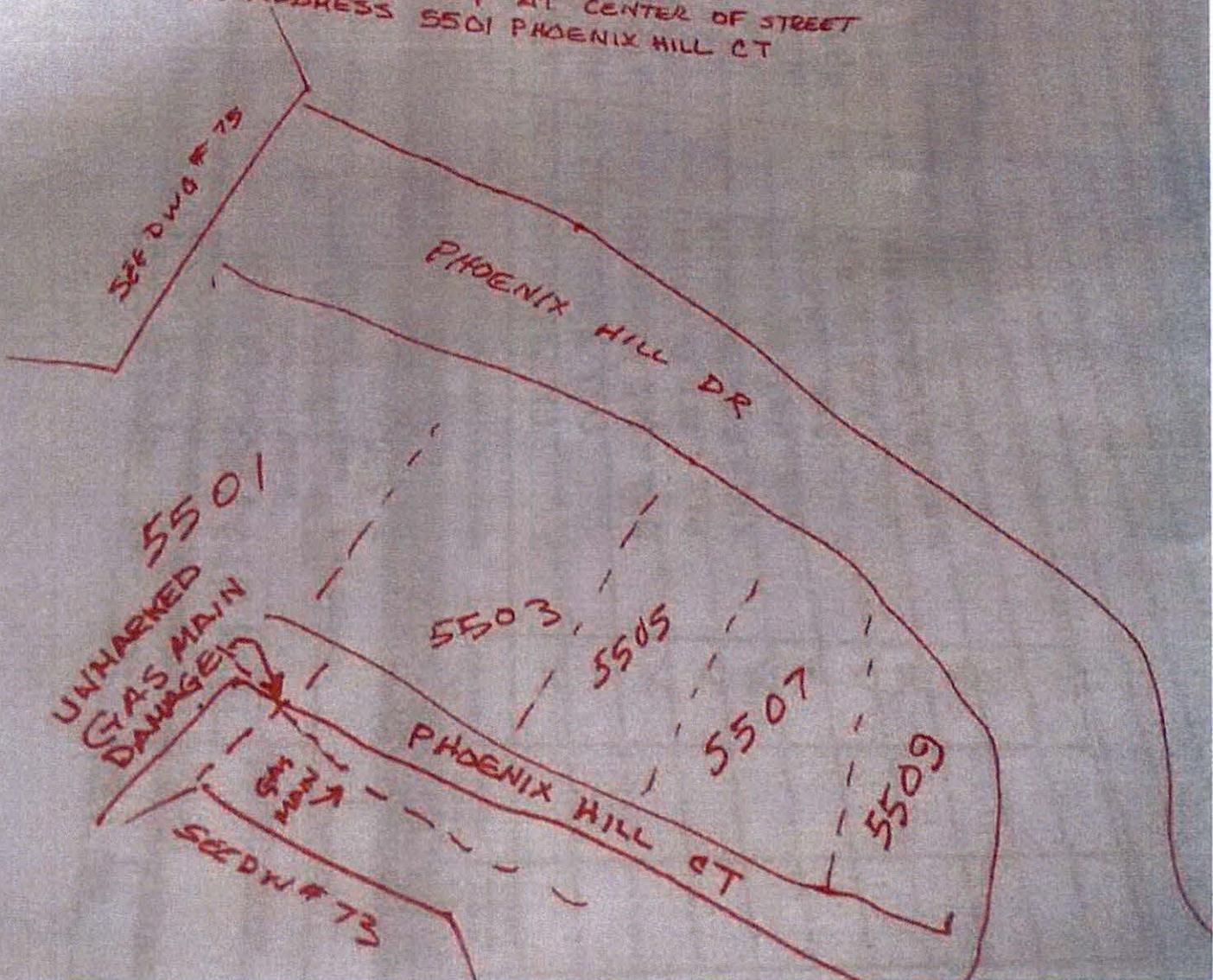
PH







03-21-219 (a) APPROXIMATELY 12:17 PM
J. LOBBEHL, CONSTRUCTION
LOCATE TICKET # 1903080959
DAMAGE TO UNMARKED GAS MAINLINE
ATT PROJ # 85V40470N/A016144
PRINT# of 84 AT CENTER OF STREET
AT ADDRESS 5501 PHOENIX HILL CT









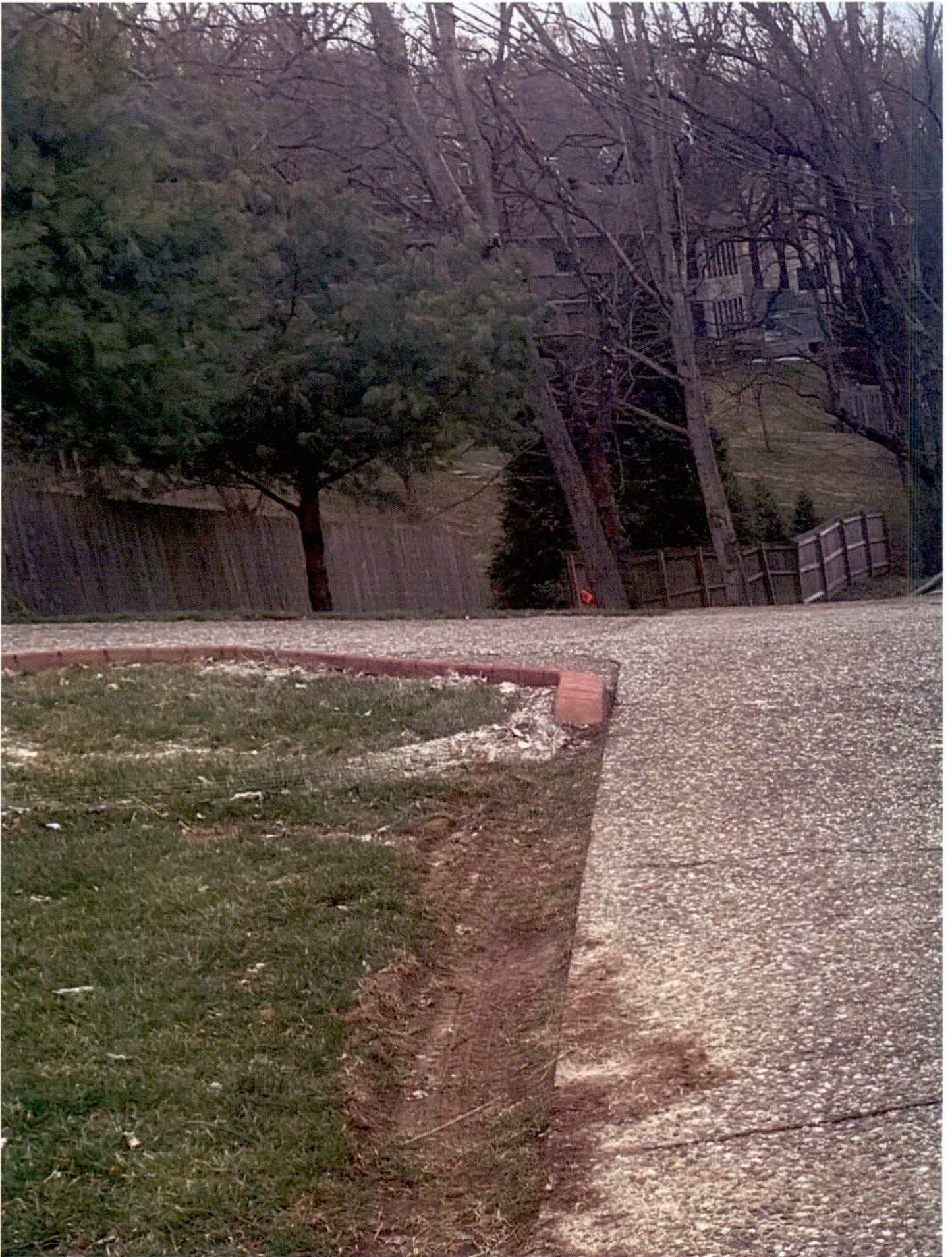






















Jose Inocente
9521 E. Clarksboro Road
Liberty, MISSOURI 64068