

IN THE IOWA DISTRICT COURT FOR BUCHANAN COUNTY

STATE OF IOWA, ex rel., THOMAS J.)
MILLER, ATTORNEY GENERAL OF)
IOWA (99AG23112),)

Plaintiff,)

vs.)

DAVID W. RECKER EXCAVATING,)
L.L.C.,)

Defendant.)

LAW NO. _____

**CONSENT ORDER,
JUDGMENT AND DECREE**

NOW on this ____ day of _____, 2010, the Court is presented with the plaintiff's petition seeking civil penalties and injunctive relief pursuant to Iowa Code sections 480.6 and 480.7. The Court having read the petition and being otherwise advised by the parties FINDS:

1. The Court has jurisdiction of the parties and the subject matter of this action and the parties consent to entry of this Consent Order, Judgment and Decree.
2. Defendant David W. Recker Excavating, L.L.C., having received a copy of the Petition at Law, admits, for purposes of settlement and for this action only, the violations alleged in paragraph twenty-eight (28) of the Petition at Law.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Defendant David W. Recker Excavating, L.L.C., is assessed a civil penalty of Five Thousand and no/100 Dollars (\$5,000.00) for the violations admitted herein. The defendant shall pay the civil penalty as follows: \$3,000.00 payable within ten (10) days of the entry of this Consent Order, Judgment and Decree, and the remaining \$2,000.00 payable on or before April 1,

2011. The defendant shall also pay interest pursuant to Iowa Code section 535.3(1) on any unpaid balance. Payments of the civil penalty and interest shall be made payable to the State of Iowa and submitted to plaintiff's attorney, David R. Sheridan, at the address noted below.

2. Defendant David W. Recker Excavating, L.L.C., is permanently enjoined from commencing any excavation in the State of Iowa, except during an emergency pursuant to Iowa Code section 480.4(6), without first contacting the statewide notification center (1-800-292-8989 or 811) at least 48 hours prior to the planned excavation, excluding weekends and legal holidays, as required by Iowa Code sections 480.1A and 480.4(1)(a), and providing the information required by Iowa Code sections 480.4(1)(b)(1)-(8) and 480.4(1)(c)(1)-(8); and the defendant is further enjoined from commencing any excavation except under the schedule and pursuant to the terms of each such notification.

3. The Court retains jurisdiction of this matter to insure compliance with the terms of this Order.

4. The costs of this action are taxed to the defendant in the amount of \$_____ (Clerk to enter).

JUDGE, First Judicial District of Iowa

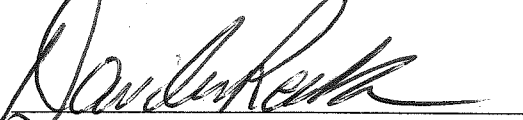
Approved as to form:

THOMAS J. MILLER
Attorney General of Iowa



DAVID R. SHERIDAN, AT0007176
Assistant Attorney General

DAVID W. RECKER EXCAVATING,
L.L.C., Defendant



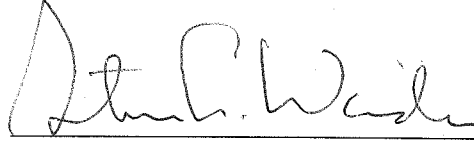
DAVID W. RECKER
1455 Buchanan Delaware Avenue

Environmental Law Division
Lucas Building, Ground Floor

321 E. 12th St., Room 018
Des Moines, IA 50319
Phone: (515) 281-5351
Fax: (515) 242-6072
E-mail: dsherid@ag.state.ia.us
ATTORNEYS FOR PLAINTIFF

Lamont, IA 50650-9504
Phone: (563) 924-2153

SWISHER & COHRT, P.L.C.



STEVEN A. WEIDNER, AT0008293
528 W. Fourth Street
P.O. Box 1200
Waterloo, IA 50704
Phone: (319) 232-6555
Fax: (319) 232-4835
E-mail: weidner@s-c-law.com
ATTORNEYS FOR DEFENDANT