

THOMAS J. MILLER  
ATTORNEY GENERAL



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

1305 E. WALNUT ST.  
DES MOINES, IA 50319  
Main: 515-281-5164 • Direct: 515-281-5341  
Email: [jacob.larson@ag.iowa.gov](mailto:jacob.larson@ag.iowa.gov)  
[www.iowaattorneygeneral.gov](http://www.iowaattorneygeneral.gov)

October 10, 2019

Jason Olmstead  
Partner  
Olmstead Construction  
651 58<sup>th</sup> Ave Ct. SW  
Cedar Rapids, Iowa 52404

RE: One Call Violations – Linn County

Dear Mr. Olmstead:

It has come to our attention that on or about May 2, 2019, Olmstead Construction (“Olmstead”) conducted excavations at 221 S Main Street, Alburnett, Iowa, using a skid loader to remove concrete and sod to prepare area for new concrete, without providing 48-hours notice of the planned excavation to the owners and operators of underground facilities. As a result, underground facilities, including a 1/2-inch diameter natural gas pipeline under 30 pounds per square inch of pressure (psi), were not located and marked prior to the excavations. During the May 2, 2019 excavation, you hit and damaged the 1/2-inch diameter pipeline, resulting in remediation costs to the pipeline company.

Olmstead indicated in a response to the Iowa Utilities Board (“IUB”) that it did not think a locate request was needed because it was only removing existing paving and sod for replacement. “Excavation” is defined very broadly, with limited exceptions, and includes “an operation in which a structure or earth, rock, or other material in or on the ground is moved, removed, or compressed, or otherwise displaced by means of any tools, equipment...” Iowa Code section 480.1(4). Removing existing concrete or sod necessarily involves at least some displacement of earth and/or rock directly in or on the ground beneath the concrete and/or sod, and therefore qualifies as an “excavation.”

Failure to provide 48-hours notice of the excavation constitutes violation of Iowa Code sections 480.1A, 480.4(1)(a), and 480.4(1)(b)(1)-(8). Iowa Code section 480.6(1)(a) authorizes the Attorney General to seek civil penalties up to a maximum of Ten Thousand Dollars (\$10,000) per day of each such violation involving natural gas pipelines. Iowa Code section 480.6(1)(b) authorizes the Attorney General to seek civil penalties up to a maximum of One Thousand Dollars (\$1,000) per day of each such violation to all other underground facilities. Injunctive relief is also authorized pursuant to Iowa Code section 480.7.

Notice of a planned excavation must be given by either filing a ticket online at [www.iowaonecall.com](http://www.iowaonecall.com) or calling the One Call Notification Center at 1-800-292-8989 or 811 at least 48 hours prior to the excavation.

The purpose of this letter is to advise that the Iowa One Call statute must be strictly complied with. Failure to comply may result in judicial enforcement proceedings initiated by our office pursuant to Iowa Code sections 480.6 and 480.7.

Thank you for your attention to this matter.

Sincerely,



JACOB J. LARSON  
Assistant Attorney General  
Office of Iowa Attorney General  
Environmental Law Division  
Phone: (515) 281-5341  
E-mail: [jacob.larson@ag.iowa.gov](mailto:jacob.larson@ag.iowa.gov)