

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
www.iowaattorneygeneral.gov

August 1, 2018

Chris Rodman
CITY OF WALL LAKE
108 Boyer Street
Wall Lake, Iowa 51466

RE: One Call Violations – Sac County

Dear Chris:

It has come to our attention that on or about April 5, 2018, the City of Wall Lake (“City”) conducted excavations in Wall Lake, near the intersection of 1st W Street and Melrose Street, to replace a sign, allegedly in violation of the “Iowa One Call” statute, Iowa Code chapter 480. It was reported to our office that the City’s excavation practices resulted in damage to a 2-inch natural gas pipeline under 35 pounds per square inch of pressure.

Although the City had placed locate requests for a number of other planned excavations to replace signs, the City failed to place a locate request for the excavation that damaged the gas pipeline. In addition, although the location of the gas pipeline had been located and marked in response to the other locate requests, the City failed to exercise due care in excavating in the marked area to avoid damaging underground facilities or failed to hand dig test holes to determine the exact location of marked underground facilities during this excavation. Iowa One Call’s “Excavators Manual” provides that:

Excavators should observe this tolerance zone and take precautionary measures to avoid encountering underground facilities when excavating near or within this area. When excavations take place within the tolerance zone, excavators should hand-dig test holes to determine the location of the underground facilities. No equipment or machinery, other than accepted procedures, such as vacuum excavation, should be used for exposing underground facilities within the tolerance zone. (Available at <http://www.iowaonecall.com/contractors/>, p. 29.)

As I am sure you are well aware, striking and damaging a natural gas pipeline can have tragic results. The City is fortunate the aforementioned incident did not result in injury, or worse, to any City employees, pipeline employees, or first responders.

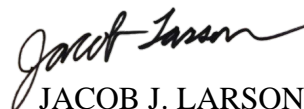
Failure to provide 48-hours notice of the excavation constitutes violation of Iowa Code sections 480.1A, 480.4(1)(a), and 480.4(1)(b)(1)-(8). Failure to exercise due care in excavating in a marked area to avoid damaging underground facilities constitutes a violation of Iowa Code sections 480.1A and 480.4(3)(a)(1). The Iowa One Call statute also provides that where the operator of an underground facility believes the planned excavation requires that the precise location of the underground facility be determined, the excavator shall hand dig test holes to determine the location of the facilities unless the operator specifies an alternate method. See Iowa Code section 480.4(3)(a)(1). Iowa Code section 480.6(1)(a) authorizes the Attorney General to seek civil penalties up to a maximum of Ten Thousand Dollars (\$10,000) per day of each such violation involving natural gas pipelines. Iowa Code section 480.6(1)(b) authorizes the Attorney General to seek civil penalties up to a maximum of One Thousand Dollars (\$1,000) per day of each such violation to all other underground facilities. Injunctive relief is also authorized pursuant to Iowa Code section 480.7.

Notice of a planned excavation must be given by either filing a ticket online at 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