



Pipeline Safety Division Investigation Report

Investigation regarding: Maxwell Construction

UPPAC Database Record ID: 492

Investigator: Howard Friend

Telephone: 317-232-2717

Report Date: 12/21/2011

Damage Date: 06/17/2011

Damage Address: 6060 Blair Rd

City: Aurora

County: Dearborn

The Parties

Excavator: Maxwell Construction

Contact: John Maxwell, Owner

Address: 440 Nowlin Avenue, Lawrenceburg, In 47025

Telephone: (812) 537-2200

Facility Owner: Aurora Utilities

Contact: Randolph Turner

Address: 110 Main Street, Aurora, IN 47001

Pipeline Facility

Facility Type: Natural Gas

Facility Function: Distribution

Investigation regarding: Maxwell Construction

UPPAC Database Record ID: 492

Damage Impact

Product release: Yes

Ignition: No

Service Interruption: True

Number of Customers Affected: 8

Injuries: 0

Fatalities: 0

Repair Cost (if known): \$190

Excavator Activities/Cause of damage information:

Excavator request locates: Yes Indiana 811 ticket Number: 1105252969

Type of Equipment: Backhoe/Trackhoe

Type of work performed: Unknown/Other

Synopsis: A 2” plastic natural gas main was damaged during work to excavate for a foundation for a sign for the First Baptist Church.

Findings: Reported by Indiana 811; excavator response received 10/26/2011. Excavator was working on a locate request that was 23 days old.

Conclusion: There was a failure to provide notice of excavation, as the locate request had expired.

Violation: IC 8-1-26-16(g): Failure to provide notice of excavation.

Maxwell Construction currently has no other reports of damages in the record.

NO

LOCATE

TICKET

PROVIDED

Information Request

Pipeline Safety Division Indiana Utility Regulatory Commission

Case No. 492

The Pipeline Safety Division of the Indiana Utility Regulatory Commission requests any and all information you can provide regarding the following criteria:

The Parties:

Excavator Information:

Business Name: Maxwell Construction

Responsible Party Personal Name: Frank Eckstein

Title (if any):

Address: 440 Nowlin Ave.

City, State; Zip: Lawrenceburg IN 47025

Preferred Telephone: 812-537-2200

Email Address:

Facility information:

Business Name: Aurora Gas Utility

Responsible Party Personal Name: Randolph Turner

Title (if any): Superintendent

Address: 110 Main St. PO Box 120

City, State, Zip: Aurora IN 47001

Preferred Telephone: 812-926-2745

Cell Phone Number: 812-221-0823

Email Address: waterman310@hotmail.com

Locator Service Information:

Business Name: Aurora Gas Utility

Responsible Party Personal Name: same as above

Title (if any):

Address:

City. State Zip:

Preferred Telephone:

Cell Phone Number:

Email Address:

Other (Witness, Police, Fire, Other) Information:

Personal Contact: None

Business/Organization Name:

Title (if any)

Address:

City, State, Zip:

Preferred Telephone:

Cell Phone Number:

Email Address:

Utility Line Impact:

Location of Damage:

Address: 6060 Blair Rd.

City, State Zip: Aurora IN 47001

Nearest Intersection: Blair Rd. & US 50

Product Type (circle one):

Natural Gas X

Liquid Pipeline

Unknown/Other

Facility Type (circle one):

Distribution X

Gathering

Service/Drop

Transmission

Unknown/Other

Size (Diameter/etc.): 2" PE

Pressure (PSIG/Inches): 35 PSIG

Interruption in Service: XYes/No **Number of Customers Affected:** 8

Evacuation: Yes / NoX **If yes, How Many Evacuated?** 0

Repair Cost (if known): \$ 190

Cause of Damage Information:

Type of Equipment (circle one):

Auger
Backhoe/Trackhoe X
Boring /Drilling
Directional Drilling
Explosives
Farm Equipment
Grader/Scraper
Hand Tools
Milling Equipment
Probing Device
Trencher
Vacuum Equipment
Unknown/Other

Type of Work Performed (circle one):

Agriculture
Cable TV
Curb/Sidewalk
Bldg. Construction
Bldg. Demolition
Drainage
Driveway
Electric
Engineering/Surveying
Fencing
Grading
Irrigation
Landscaping
Liquid Pipeline
Milling
Natural Gas
Pole
Public Transit Authority
Railroad Maintenance
Road Work
Sewer (Sanitary/Storm)
Site Development
Steam
Storm Drain/Culvert
Street Light
Telecommunications
Traffic Signal
Traffic Sign
Water
Waterway Improvement
Unknown/Other New Sign for Baptist Church

Release of Product: X Yes / No
Ignition and/or Fire: Yes / NoX
Excavator Notify 811: X Yes / No

Locate Information:

Excavator Request Locate: X Yes / No
Indiana 811 Locate Ticket Number: __110525969_____

Locate Marks Visible: X Yes / No
Locate Marks Correct: Yes / No See Comment Section Below
Excavator "White Lined": X Yes / No
Maps Used to Mark Facilities: XYes / No
Was Locate Provided within Two (2) Working Days: X Yes / No
Operator Employees On-site during Excavation: Yes / NoX

Incident Impact Information:

Number of Outpatient Treated: __N/A_____

Number of Inpatient Treated: __N/A_____

Number of Fatalities: _____None_____

Fire Department Response: Yes / NoX
Police Department Response: Yes / NoX
Ambulance Response: Yes / NoX

Additional Information/Comments: Regarding the locate, after this happened, my people told me the marks were off by several feet, and now they say the marks were with-in one foot. At that time I'am positive that they said the locate wire was not working, and since then I have instructed my people to be there when the digging is done, if there is any trouble with the locate. It was good that my people were close by when this happened, and Maxwell people are not careless in their jobs.
No photos were made of the area.

Information Request

Pipeline Safety Division Indiana Utility Regulatory Commission

Case No. _____

The Pipeline Safety Division of the Indiana Utility Regulatory Commission requests any and all information you can provide regarding the following criteria:

The Parties:

Excavator Information:

Business Name: John L Maxwell, Inc. dba Maxwell Construction Co.

Responsible Party Personal Name: Frank Eckstein

Title (if any): Equipment Operator

Address: 440 Nowlin Avenue

City, State Zip: Greendale, IN 47025

Preferred Telephone: (812) 537-2200

Cell Phone Number: (513) 404-4124

Email Address:

Facility Information:

Business Name: First Baptist Church of Aurora

Responsible Party Personal Name:

Title (if any):

Address: 6060 Blair Road

City, State, Zip: Aurora, IN 47001

Preferred Telephone: (812) 926-1900

Cell Phone Number:

Email Address:

Locator Service Information:

Business Name: Holey Moley

Responsible Party Personal Name:

Title (if any): ticket # 110525 2969

Address: damaged ticket # 1106170900

City, State Zip:

Preferred Telephone: 1-800-382-5544

Cell Phone Number:

Email Address:

Other (Witness, Police, Fire, Other) Information:

Personal Contact: Nick Lohrum

Business/Organization Name: Maxwell Construction Co.

Title (if any) Laborer

Address: 440 Nowlin Avenue

City, State, Zip: Greendale, IN 47025

Preferred Telephone: (812) 537-2200

Cell Phone Number: —

Email Address: —

Utility Line Impact:

Location of Damage:

Address: 6060 Blair Road

City, State Zip: Aurora, IN 47001

Nearest Intersection: US 50 and Blair Road

Product Type (circle one):

Natural Gas

Liquid Pipeline

Unknown/Other

Facility Type (circle one):

Distribution

Gathering CHAURC #

Service/Drop

Transmission

Unknown/Other

Size (Diameter/etc.): unknown

Pressure (PSIG/Inches): unknown

Interruption in Service: Yes No Number of Customers Affected: unknown

Evacuation: Yes No If yes, How Many Evacuated? —

Repair Cost (if known): \$ unknown

Cause of Damage Information:

Type of Equipment (circle one):

- Auger
- Backhoe/Trackhoe
- Boring /Drilling
- Directional Drilling
- Explosives
- Farm Equipment
- Grader/Scraper
- Hand Tools
- Milling Equipment
- Probing Device
- Trencher
- Vacuum Equipment
- Unknown/Other

Type of Work Performed (circle one):

- Agriculture
- Cable TV
- Curb/Sidewalk
- Bldg. Construction
- Bldg. Demolition
- Drainage
- Driveway
- Electric
- Engineering/Surveying
- Fencing
- Grading
- Irrigation
- Landscaping
- Liquid Pipeline
- Milling
- Natural Gas
- Pole
- Public Transit Authority
- Railroad Maintenance
- Road Work
- Sewer (Sanitary/Storm)
- Site Development
- Steam
- Storm Drain/Culvert
- Street Light
- Telecommunications
- Traffic Signal
- Traffic Sign
- Water
- Waterway Improvement
- Unknown/Other *Sign Foundation*

Release of Product: Yes / No
Ignition and/or Fire: Yes / No
Excavator Notify 811: Yes / No

Locate Information:

Excavator Request Locate: Yes / No
Indiana 811 Locate Ticket Number: 1105252969 / damaged ticket #
1106170900
Locate Marks Visible: Yes / No
Locate Marks Correct: Yes / No
Excavator "White Lined": Yes / No (wooden stakes marked the area)
Maps Used to Mark Facilities: Yes / No
Was Locate Provided within Two (2) Working Days: Yes / No
Operator Employees On-site during Excavation: Yes / No

Incident Impact Information:

Number of Outpatient Treated: NA
Number of Inpatient Treated: NA
Number of Fatalities: 0
Fire Department Response: Yes / No
Police Department Response: Yes / No
Ambulance Response: Yes / No

Additional Information/Comments: _____



**SUMMARY OF PROCEDURES
AND
RESPONDENT'S RIGHTS**

**INDIANA DAMAGE TO UNDERGROUND FACILITIES ACT
I.C. 8-1-26**

Note: The following is offered for informational purposes and does not constitute legal advice. Anyone involved in this process is entitled to individual legal representation and should retain their own counsel in order preserve their rights.

- Any person or entity may report a violation of the Indiana Damage to Underground Facilities Act ("Act") to the Indiana Utility Regulatory Commission Pipeline Safety Division ("Pipeline Division"), but most reports of violations are communicated regularly to the Pipeline Division from the Indiana Plant Underground Protection Service, commonly referred to as the 811 Association Office; 170 IAC 5-5-2 (a);
- Violations are to be reported to the Pipeline Division within thirty 30 days of their occurrence; 170 IAC 5-5-2 (b);
- The Pipeline Division shall commence an investigation of each report by contacting all known persons or entities involved by sending a written request for information within 60 days; 170 IAC 5-5-3 (a);

*You have been contacted and have this current opportunity to present written evidence (documents, photographs, maps, drawings, narrative statements or whatever written materials you want to submit) for the Pipeline Division's investigation of the incident in which you were allegedly involved. If you know of additional interested persons, entities or witnesses that you think should be contacted, you must **immediately** provide their name, address, telephone number and email address **in writing** to: Pipeline Safety Division, Indiana Utility Regulatory Commission, 101 West Washington Street, # 1500E, Indianapolis, IN 46204. Be sure to include your Investigation Number on your correspondence. You may also provide your information electronically to: PipelineDamageCase@urc.in.gov*

- The Pipeline Division shall forward its findings of violations to the Underground Plant Protection Advisory Committee (“Advisory Committee”), whose role is to make a recommendation to the Indiana Utility Regulatory Commission (“Commission”) for a civil penalty; 170 IAC 5-5-3 (b);
- The Advisory Committee was created by the Act and includes seven (7) members, representing a cross section of participants, appointed by the Governor from the following entities: two (2) representing commercial excavators; one (1) representing the 811 Association; one (1) representing investor owned gas utilities; one (1) representing operators of pipeline facilities or pipelines; one (1) representing municipal gas utilities; one (1) representing providers of facility locate marking service companies; I.C. 8-1-26-23 (b);
- The Advisory Committee will provide the person or entity accused of violating the Act, referred to as the “Respondent,” with a copy of the Pipeline Division’s findings in its Investigation Report; 170 IAC 5-5-3 (c);
You are entitled to receive a copy of the Pipeline Division’s Investigation Report that is provided to the Advisory Committee for a possible civil penalty recommendation.
- The Advisory Committee will provide the Respondent with notice and an opportunity to appear before the Advisory Committee prior to the Advisory Committee making a recommendation to the Commission for a civil penalty for violations; 170 IAC 5-5-3 (d) and I.C. 8-1-26-23 (h).
You are entitled to receive notice of the date, time, and location of when the Advisory Committee will consider your case. The Advisory Committee’s deliberations will be conducted in public. You are entitled to attend, but at this stage of the proceedings there is not yet an opportunity for a hearing. There will be no opportunities to present witnesses, to cross examine others’ witnesses or to present additional evidence.
- In lieu of appearing before the Advisory Committee, Respondents may send correspondence to the Advisory Committee regarding the Pipeline Division’s findings so long as it is received seven (7) days in advance; 170 IAC 5-5-3 (e).
If you would like to present responsive evidence in advance of the Advisory Committee’s consideration of your case in response to the Pipeline Division’s Investigation Report, you are entitled to send correspondence, including additional evidence (as generally described above) to the Advisory Committee so long as it is received seven (7) days in advance of your scheduled Advisory Committee deliberation. Your written correspondence must be mailed or filed with the Advisory Committee no later than seven (7) days in advance of your scheduled date. This deadline is necessary in order to allow the Advisory Committee administrative staff adequate time to photocopy the additional documents, organize and distribute to the Advisory Committee members the various case files in advance of the scheduled day when your case will be considered. If you fail to provide additional information in accordance with this deadline, it will not be included in your file to the Advisory Committee and will not be considered. The additional correspondence should be timely mailed in order to be received by the Advisory Committee seven (7) days in advance, or delivered, to:

Underground Plant Protection Advisory Committee, Indiana Utility Regulatory Commission, 101 West Washington Street, # 1500E, Indianapolis, IN 46204 or: PipelineDamageCase@urc.in.gov Be sure to include the Pipeline Division Case Number on your materials.

- The Commission will provide the Respondent with a copy of the Advisory Committee's recommendation, if any, for a civil penalty; 170 IAC 5-5-3 (f); civil penalties are defined in the Act; they are: "(1) Civil penalties consistent with this chapter. (2) Participation in education or training programs developed and implemented by the commission. (3) Warning letters. (4) Development of a plan to avoid future violations of this chapter."; I.C. 8-1-26-23 (h)
You are entitled to receive a copy of the Advisory Committee's advisory recommendation of a civil penalty to the Commission. Potential civil penalties are limited to: a warning letter, civil penalty up to \$10,000.00, a requirement of participation in an education and training program, a development plan to avoid future violations of the Act.
- The Respondent has 30 days to request in writing for a public hearing before the Commission to appeal the Advisory Committee's civil penalty recommendation; 170 IAC 5-5-3 (f) and (g);
If you disagree with the Advisory Committee's recommended civil penalty to the Commission, you have the right to a full-fledged hearing before the Commission. In order to preserve your right to a hearing, you must file a written request for such a hearing with the Commission Secretary, Indiana Utility Regulatory Commission, 101 West Washington Street, # 1500E, Indianapolis, IN 46204. Be sure to include your Case Number with your request. Such a request for a hearing must be filed within 30 days of the date of the Advisory Committee's recommendation. Appeal requests to the Commission will be dated upon their receipt by the Commission.
- If the Respondent requests a public hearing before the Commission to contest the Advisory Committee's recommendation for a civil penalty, the parties are required to comply with the formal rules of practice and procedure of the Commission; 170 IAC 5-5-3 (i);
There are formal procedures required by law to be followed regarding all proceedings pending before the Commission. For instance, corporations and some business entities are required to be represented by an attorney admitted to practice law in Indiana.
- The Commission's formal rules of practice and procedure are specified in "Rule 1.1 Practice and Procedure Before the Commission"; 170 IAC 1-1.1-1.
The formal procedures required to be followed in Commission proceedings are specified in the Indiana Administrative Code and may be found at 170 IAC 1-1.1-1. It may be advisable to seek the advice or representation by an attorney.
- If a monetary civil penalty is imposed by the Commission, Respondents must make payment within 90 days of being assessed to the Commission; 170 IAC 5-5-3 (j);

Monetary civil penalties must be paid to the Commission within 90 days or they will be referred to the Indiana Attorney General's Office for collection. Schedules for compliance with non-monetary civil penalties, such as education and training classes or the approval of a development plan to avoid additional violations, will be addressed in the Commission's final order. All monetary civil penalties are used by the Commission, pursuant to I.C. 8-1-26-24, only upon programming to prevent further pipeline accidents.