

**IN THE CIRCUIT COURT OF LAFAYETTE COUNTY,
STATE OF MISSOURI**

STATE OF MISSOURI <i>ex rel.</i>)	
Attorney General Andrew Bailey,)	
)	
Plaintiff,)	
)	
v.)	Case No. _____
)	
Liberty Utilities (Midstates)	
Natural Gas) Corp.,)	
)	
Defendant.)	
)	
Please Serve:)	
)	
C T Corporation System)	
Registered Agent)	
5661 Telegraph Rd. Ste 4B)	
Saint Louis, MO 63129)	

PETITION FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

On April 9th of this year, Defendant's gas pipeline caused an explosion in a residential community, killing a five-year old boy and seriously injuring his sister and father. This preventable tragedy was set in motion when Defendant falsely reported to an excavator that it had marked all of its underground gas pipelines in compliance with Missouri's Underground Facility Safety and Damage Prevention Act, § 319.015 et. seq. RSMo. Relying on Defendant's assurance that it did not have a pipe in the area, the excavator drilled into the ground and punctured Defendant's pipe, allowing natural gas

to leak into the community. Defendant's actions put a residential community at risk, caused an explosion that shook the community of Lexington, Missouri, and grievously harmed an innocent family. Andrew Bailey, the Attorney General, brings this action to penalize Defendant for its reckless actions and to insure that Defendant takes every reasonable precaution to prevent such horrendous tragedies in the future.

PARTIES

1. Plaintiff, Andrew Bailey is the duly elected, qualified and acting Attorney General of the state of Missouri and brings this action in his official capacity pursuant to § 27.060 and § 319.045 RSMo.

2. Defendant is a Missouri Corporation with its principal place of business at 602 S Joplin Ave, Joplin, MO 64801.

3. Defendant's registered agent is C T Corporation System, who can be served at 5661 Telegraph Rd. Ste 4B, Saint Louis, MO 63129.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to Article V, § 14 of the Missouri Constitution and § 478.070, RSMo.

5. This Court has personal jurisdiction over Liberty Utilities because Liberty Utilities owns and operates an underground facility and engaged in tortious conduct in the state of Missouri.

6. This Court has authority over this action pursuant to § 319.045.1 RSMo, which allows the Attorney General to seek injunctive relief, civil penalties, and other relief in circuit court against persons who violate § 319.030, RSMo.

7. Venue is proper in this Court pursuant to § 508.010.4, RSMo, because Plaintiff was first injured by Defendant's conduct in Lafayette County, Missouri.

GENERAL ALLEGATIONS

8. The Missouri Underground Facility Safety and Damage Prevention Act, §§ 319.010 – 319.050, RSMo (“the Act”), establishes a single point of contact (“notification center”) for excavators to use before commencing an excavation to get the location of all underground facilities marked.

9. The Missouri One Call System, Inc. or Missouri 811 (hereafter, “notification center”), is a non-profit corporation created to operate as the Act's notification center.

10. Owners and operators of underground facilities, except certain railroads, are required to participate in the system and notification center. § 319.022, RSMo.

11. “Underground facility” is defined as “any item of personal property which shall be buried or placed below ground for use in connection with the storage or conveyance of water, storm drainage, sewage, telecommunications

service, cable television service, electricity, oil, gas, hazardous liquids or other substances. § 319.015(15), RSMo.

12. “Excavation” is defined as “any operation in which earth, rock, or other material in or on the ground is moved, removed or otherwise displaced by means of tools, equipment or explosives and includes ... digging[.]”

§ 319.015(4), RSMo.

13. A person shall not commence any excavation without first giving notice of his or her intent to excavate to the notification center and obtaining information concerning the possible location of any underground facilities which may be affected by said excavation. § 319.026.1, RSMo.

14. Any person proposing to conduct excavation must call the notification center at least two working days, but no more than ten working days, in advance of beginning excavation. § 319.026.1, RSMo.

15. Upon receiving a call from an excavator, the notification center contacts all participating underground facility owners and operators that are potentially affected by the excavation. § 319.026.1, RSMo.

16. After receiving notice from the notification center, participating underground facility owners and operators must mark the approximate location of its underground facilities within two working days. § 319.030, RSMo.

17. The first working day begins at 12:00 a.m. after the receipt of the locate request by the notification center. § 319.030.1, RSMo.

18. A “working day” is every day except Saturday, Sunday, and legal holidays. § 319.015, RSMo.

19. Defendant owns and operates a gas line under the ground at 1717 Franklin Ave, Lexington, MO 64067, Lafayette County.

20. Defendant’s underground gas line is an ““underground facility” as that term is used in § 319.015(15), RSMo.

21. Defendant was, at all times relevant to this petition, an “[u]nderground facility owner” as the term is defined in § 319.015, RSMo.

22. On or about April 4, 2025, Alfra Construction called the notification center and notified the center of its intent to excavate a worksite that encompassed parts of 1717 Franklin Ave, Lexington, MO 64067 and nearby properties (hereinafter, “the work site”).

23. On or about April 7, 2025, Defendant dispatched a locator to mark its underground facilities at the work site.

24. Later that day, Defendant reported that it had marked all of its underground facilities at the work site.

25. Defendant did not identify or mark the location of an uncapped gas main at the work site.

26. On or about April 9, 2025, Alfra Construction used a drill to commence excavation at the work site.

27. At or about 4:00 p.m. on April 9, 2025, Alfra Construction inadvertently punctured Defendant's unmarked gas main with the drill.

28. Alfra Construction workers saw and smelled natural gas emanate from Defendant's punctured gas line.

29. Alfra Construction immediately notified Missouri 811 and 911 of the damaged gas line.

30. At or about 4:20 p.m., units from the Lexington Fire Department arrived at the work site.

31. At or about 4:39 p.m., Defendant's personnel arrived at the work site.

32. Defendant attempted to isolate the leak by "squeezing off" its gas main, but was unsuccessful.

33. Defendant directed a nearby business to evacuate.

34. Defendant did not direct the occupants of nearby residential homes to evacuate.

35. At or about 7:42 p.m., Defendant's gas line caused an explosion.

36. The explosion destroyed one residential home and damaged multiple others.

37. The explosion killed a 5 year old child residing in one of the damaged homes. The child's father and 10 year old sister were severely injured by the explosion.

38. At or about 8:10 p.m., Defendant isolated its gas line.

39. Section 319.045 RSMo authorizes injunctive relief and civil penalties of up to \$10,000 for each day a violation of the Missouri Underground Facility Safety and Damage Prevention Act persists.

COUNT I-VIOLATION OF § 319.030.1, RSMo

40. Plaintiff incorporates paragraphs 1-39 as if fully set forth herein.

41. Within two days of receiving notice of an excavator's intent to excavate, the owner of an underground facility "shall provide the approximate location of underground facilities by use of markings." § 319.030.1, RSMo.

42. Defendant did not mark the location its underground facility at the work site within two days of receiving notice of Alfra Construction's intent to excavate.

43. Therefore, Defendant violated § 319.030.1, RSMo.

WHEREFORE, the State asks this Court for a Judgment granting the following relief:

A. Requiring Defendant pursuant to § 319.045, RSMo to pay to the State a civil penalty in an amount up to \$10,000 per day, for each day or part

thereof that Defendant violated the Missouri Underground Facility Safety and Damage Prevention Law;

B. Issuing a preliminary and permanent injunction prohibiting Defendant from any further violation of the Missouri Underground Facility Safety and Damage Prevention Law, Chapter 319, RSMo;

C. Requiring Defendant to perform the following:

a. Within two weeks of entry of this Judgment, all managers and supervisors of Defendant shall review the online Excavator Education Program and complete the test at the end of the program. All managers and supervisors of Defendant shall achieve a passing score on the test and mail a printed copy of the score results to Plaintiff.

b. Within three months of entry of this Judgment, all managers and supervisors of Defendant shall attend in-person training sponsored by the Missouri 811 notification center, and provide proof of training to Plaintiff.

D. Appointing a special monitor to oversee and ensure Defendant's compliance with the Act who will provide periodic reports of compliance to the Court and to the Attorney General and immediate reports of any safety violations. The cost of this special monitor are to be assessed against Defendant;

E. Assessing costs of these proceedings against Defendant; and

F. Granting such other relief as may be just and proper.

Respectfully submitted,

ANDREW BAILEY
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