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1994 Iowa Op. Atty. Gen. 98, 1994 WL 328330 (Iowa A.G.)

Office of the Attorney General
State of Iowa
Opinion No. 94-5-4(L)***1** May 6, 1994

REAL PROPERTY; UNDERGROUND FACILITIES: Excavation in the area of underground facilities. [Iowa Code § 480.4 \(1993\)](#). The phrase "if known" in [section 480.4\(1\)\(b\)](#) applies to the range, township, section, and quarter section. The statewide notification center is not responsible for obtaining that information if the excavator fails to provide it. If, after receiving notice from the notification center, the facility operator requires additional information to locate and mark the underground facility, the operator should contact the excavator. (Olson to Siegrist, State Representative, 5-6-94)

The Honorable Brent Siegrist
State Representative
714 Grace Street
Council Bluffs, IA 51503

Dear Representative Siegrist:

We have received your request for an opinion concerning the underground facilities information law, Iowa Code chapter 480. Specifically, you ask for an interpretation of [section 480.4\(1\)](#) which mandates that an excavator must contact the statewide notification center at least 48 hours prior to the commencement of an excavation and provide the following information:

- a. The name of the person providing the notice.
- b. The precise location of the proposed area of excavation, including the range, township, section, and quarter section, if known.
- c. The name and address of the excavator.
- d. The excavator's telephone number.
- e. The type and extent of the proposed excavation.
- f. Whether the discharge of explosives is anticipated.
- g. The date and time when excavation is scheduled to begin.

(Emphasis added.)

Your question is whether the phrase "if known" in [section 480.4\(1\)\(b\)](#) applies only to the quarter section, or to the range, township, and section as well. Application of several well-established canons of statutory construction lead us to conclude that it refers to all four preceding terms.

Under the "doctrine of the last preceding antecedent" qualifying words and phrases refer only to the immediate preceding antecedent, unless a contrary legislative intent appears. [State ex rel. DOT v. General Electric Credit Corp. of Delaware, 448 N.W.2d 335, 345 \(Iowa 1989\)](#); Op. Atty Gen. 93-7-6. When a qualifying phrase is intended to apply to all antecedents rather than only to the immediately preceding one, it is often separated from the antecedents by a comma. [State v. Kluesner, 389 N.W.2d 370, 371 \(Iowa 1986\)](#); [State v. Lohr, 266 N.W.2d 1 \(Iowa 1978\)](#). Application of this doctrine suggests a legislative intent that "range, township, section, and quarter section" are all modified by "if known."

The ultimate goal of statutory construction is, of course, to determine and effectuate the intent of the legislature. [Beier Glass Co. v. Brundige, 329 N.W.2d 280, 283 \(Iowa 1983\)](#). The object to be accomplished by the statute should be examined, and the statute should be given a reasonable construction which will best effect the legislature's purpose. *Id.*

***2** The purpose of chapter 480 is to provide a statewide notification center to serve both excavators and those who own or operate underground facilities such as utilities. [Iowa Code §§ 480.1\(8\), \(10\)](#). 1992 Iowa Acts, ch. 1103 completely revised chapter 480 and eliminated related provisions in other Code sections. For example, prior to the establishment of the notification center, excavators were required to call separate utility operators to notify them of the proposed excavation. See e.g. [Iowa Code \(1991\) sections 479.47](#) and [479A.26](#) (gas pipelines), and 478.36 (electric lines). Underground facility operators were required to file various information with county recorders, or in some instances city clerks. That information

included the locations of the facilities within the county, townships and cities, as well as the operator's name, address, and a telephone number. [Iowa Code § 480.2\(1\) \(1991\)](#). In lieu of depositing that information with a county or city, operators could designate a **one-call** system to receive notices of intent to excavate. [Iowa Code § 480.2\(2\) \(1991\)](#). The **one-call** option allowed facility operators to deposit only the name, address, and telephone numbers of the **one-call** system with the county recorder or city clerk. Id. A single statewide center should simplify the notification procedure and assist underground facility operators in swiftly locating the sites of proposed excavations.

You have posed a second question regarding the obligation of the notification center and the underground facility operator if the excavator fails or is unable to provide the "required information" to the notification center. Presumably, the information you are referring to is the range, township, section and quarter section where the proposed excavation is to occur.

The responsibility of the notification center is to receive notice from excavators, transmit that information to each underground facility operator in the area of the proposed excavation, and provide the names of all operators in that area to the excavator. [Iowa Code § 480.4\(2\)](#). Once the center has transmitted the information to the operator and excavator, in our opinion it has fulfilled its obligation.

[Section 480.4\(3\)\(a\)\(1\)](#) prescribes the respective responsibilities of operators and excavators. The underground facility operator who receives notice from the notification center must mark the horizontal location of the operator's underground facility. The excavator must use due care in excavating the marked area to avoid damaging the facility. If, in the opinion of the operator, the precise location of the underground facility must be determined, the excavator is required to hand dig test holes to locate the facility, unless the operator specifies an alternate method. If the operator determines that it has no underground facility located within the proposed area of excavation, [section 480.4\(3\)\(b\)](#) requires the operator to notify the excavator prior to the indicated date the excavation is to commence.

***3** Accurate location and marking is crucial to minimize potential damage to both the underground facility and the excavation equipment. It also helps ensure public safety during the excavation process. The statute contemplates communication between the excavator and the facility operator. If additional information is necessary to determine the exact location of the proposed excavation, the operator should contact the excavator and discuss the matter.

In conclusion, the phrase "if known" in [section 480.4\(1\)\(b\)](#) applies to the range, township, section, and quarter section. The notification center is not responsible for obtaining that information if the excavator does not provide it. If, after receiving notice from the notification center, the facility operator requires additional information to locate and mark the underground facility, the operator should contact the excavator.

Sincerely,

Carolyn J. Olson
Assistant Attorney General

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