



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

2017 July 31, 2017: 54

**OVERNIGHT EXPRESS MAIL**

Mr. Chris Parker  
Director  
Division of Public Utilities  
Utah Department of Commerce  
Heber Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84111

Dear Mr. Parker:

Thank you for your letter dated February 2, 2017, in response to an adequacy evaluation conducted by the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to 49 United States Code Section 60114 and 49 Code of Federal Regulations (CFR) Part 198, Subpart D—State Damage Prevention Enforcement Programs. Your letter serves as Utah's official letter contesting, as allowed under 49 CFR 198.59, PHMSA's determination that the enforcement of Utah's excavation damage prevention law is inadequate.

PHMSA reviewed the information provided in your letter and the 2016 PHMSA Utah evaluation checklist used during the audit, which included the State's review and comments. We also considered the takeaways from a conference call on March 30, 2017, between PHMSA staff and Mr. Al Zadeh of the Utah Department of Commerce. PHMSA appreciates the additional background Utah provided regarding its damage prevention and enforcement programs. Despite this additional information, however, PHMSA's decision remains unchanged.

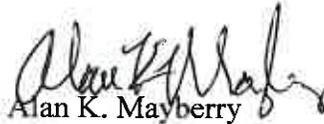
PHMSA's determination is based on the Utah Attorney General, identified as the State enforcement authority in the One-Call Law (Utah Code Section 54-8a-1 et seq.), who did not initiate any enforcement actions in calendar year 2015, the period of time covered by the evaluation on April 28, 2016. In addition, the Utah State Attorney General has not initiated any enforcement actions since the 2016 evaluation. 49 CFR Section 60114 and 49 CFR Part 198 clearly state that the State—meaning a State agency or office—must demonstrate that it has initiated enforcement action. While PHMSA understands the Utah One-Call Law allows pipeline operators and excavators to initiate civil penalty enforcement actions in conjunction with the State Attorney General, these actions are not considered by PHMSA to be State-initiated enforcement actions. PHMSA includes civil penalties, warning letters, mandatory training, and similar efforts as acceptable types of State enforcement actions.

PHMSA applauds the actions taken over the years by the State of Utah and its damage prevention stakeholders to build the State damage prevention and enforcement programs. The

data excavation damage reporting requirements and pipeline excavation damage investigations are particularly beneficial additions, as they are critical components of any strong damage prevention program. PHMSA offers our assistance to work with your State on improving enforcement of the State excavation damage prevention law. We look forward to seeing the results of your most recent efforts, which—when combined with all the other hard work that has already taken place in Utah—will surely result in improved excavation damage prevention.

PHMSA will contact your office within the next few weeks to schedule the 2017 evaluation. To ensure we give the State enough time to complete the program improvements currently underway, Mr. Steven Fischer will work with you on scheduling the evaluation. If you have any questions or need additional information, please contact our Damage Prevention Team by email at: [excavation.enforcement@dot.gov](mailto:excavation.enforcement@dot.gov).

Sincerely,



Alan K. Mayberry

Associate Administrator for Pipeline Safety

cc: The Honorable Gary R. Herbert, Office of the Governor, State of Utah  
Mr. Thad LeVar, Chair, Public Service Commission of Utah  
Mr. Al Zadeh, Lead, Pipeline Safety Section, Utah Division of Public Utilities, Utah  
Department of Commerce  
Mr. Paul Huntsman, President, Blue Stakes of Utah