**Wisconsin allows drillers to flout state law — sometimes with deadly results**

*By Parker Schorr, The Cap Times*

Jim and Calvin Jensen surveyed an intersection for a job installing fiber optic cable in Sun Prairie during the summer of 2018. They did not like what they saw. The dense suburb east of Madison featured older building stock, and paint markings atop the pavement suggested a web of pipelines lurked beneath their feet, Calvin would later tell detectives.

The Jensens, a father-son duo at Jet Underground drilling company, decided they needed a new, more careful plan to drill. But that would add time and dollars to the project.

Calvin, a 15-year veteran of the industry, relayed those conclusions to Bear Communications, the Kansas-based company that hired Jet for the Sun Prairie job. On the morning of July 10, 2018, a Bear employee sent him a text: A competing driller had been hired. The work would be done faster.

In a Kwik Trip parking lot that morning, a Bear field supervisor handed the original drilling plans to Valentin Cociuba, owner of Michigan-based VC Tech. The goal: Complete the job within four days.

Cociuba and his wife, Christen, a fellow VC Tech employee, told Bear they would need to locate utilities beneath the intersection, a requirement of state law that would have added at least three days to the project.

“Don’t worry about locates,” a Bear employee responded in an email, believing that task was already complete. “They’re good to go.”

The underground utilities had not been located, investigators would later determine. The “ticket,” which would have documented that task, expired weeks earlier. Valentin Cociuba would later acknowledge to the Wisconsin Public Service Commission, which regulates public utilities in energy, gas, telecommunications and water, that he knowingly violated state law by digging without a proper ticket.

The decision would prove deadly.

Just after 6 p.m. on July 10, a VC Tech directional driller struck an unmarked natural gas lateral, releasing vapors that police described as blurry “like heat waves coming off of asphalt on a hot day.” The gas spewed out of storm sewers in front of a senior living facility, and it flowed into The Barr House, a popular tavern owned by Capt. Cory Barr, a Sun Prairie volunteer firefighter of 15 years, and his wife, Abby.

Less than an hour later, the gas ignited near the tavern, leveling the downtown intersection, critically injuring firefighter Ryan Welch and killing Barr, who had also responded to the gas leak although he was off duty. The Pipeline and Hazardous Materials Safety Administration (PHMSA) pegged the economic damage at nearly $21 million.

At Barr’s funeral attended by 2,500 first responders, Sun Prairie Volunteer Fire Department Chief Christopher Garrison said Barr would have rushed to the scene even if he had known the explosion would kill him, because he was able to help save the lives of as many as 100 people who were in the area.

Nearly two years later, VC Tech has yet to pay the $25,000 fine levied by the PSC for violations that resulted in the 2018 explosion, nor has it attended a required $100 educational course on Wisconsin’s “one-call” law that requires learning what’s underground before digging, PSC spokesman Matt Sweeney said in mid-March.

And VC Tech’s operators appear to be back in Wisconsin, installing fiber internet under a new company name, Teracom Inc., interviews and documents indicate — but a lawyer representing the company disputes that.

State regulators say they are troubled by that news, but say they have no authority to stop the new company from working in Wisconsin.

The episode highlights what safety experts describe as a toothless regulatory system that allows drillers and excavators to routinely flout laws and best practices — sometimes with dangerous results — to cheaply complete underground work that brings internet, phone, water and natural gas to residences and businesses.

“It’s like the Wild West,” said Robb Kahl, a former Democratic state legislator and former mayor of Monona. He is now executive director of the Madison-based Construction Business Group, an independent watchdog that investigates labor violations in Wisconsin’s construction industry.

Nearly 4,000 utility lines were struck in Wisconsin in 2018 — including 31 struck on the day of the Sun Prairie explosion, according to data collected by the Common Ground Alliance, a national nonprofit group that advocates for safe excavation practices. The true number of strikes is likely higher, because that tally is based on data the industry voluntarily reports to the organization.

A quarter of those 2018 strikes damaged natural gas equipment, affecting rural and urban communities alike. And incidents last year included a busted natural gas main that temporarily shut down an Ashland medical center and clinic, and a Verona incident that forced residents to evacuate a senior living facility.

Excavators triggered five “significant” Wisconsin pipeline incidents over the past decade, according to PHMSA data. The Sun Prairie explosion was the first death an excavator strike caused in Wisconsin since 2006, when a contractor struck a propane gas line that erupted in several explosions across a resort in Door County, killing a vacationing couple from Michigan. PHSMA data lists four hospitalizations from that incident, and media reports from the time cite 12 total injuries.

But Wisconsin is doing little to push companies to operate more safely.

An investigation by the Cap Times and Wisconsin Watch found:

* Wisconsin, unlike some neighboring states, does not require utility strikes to be reported or investigated. Private natural gas companies collect information on strikes to their facilities, but they declined to share it with a reporter or did not respond.
* Companies violate state excavation laws hundreds of times every year, yet face few consequences, Common Ground Alliance data suggest. The Public Service Commission gained new authority to investigate complaints against excavators in 2018, and has since issued three fines totaling $31,000.
* Federal regulations require training and certification to operate some heavy machinery, but no such requirements exist for directional drilling, a particularly complex and risky task, experts say.

“While state law doesn’t provide the Commission the authority to prevent VC Tech from operating in the state, the fact that they may be continuing to operate here is of grave concern to the Commission,” Sweeney wrote in an email response to questions from the Cap Times and Wisconsin Watch.

The Sun Prairie Police Department determined in 2018 that no crime was committed in the explosion. It blamed miscommunication between contractors. But industry experts called such an episode inevitable in Wisconsin’s largely unregulated excavation industry, in which residents last year alone struck natural gas pipelines 1,539 times, according to annual reports gas line operators are required to submit to PHMSA, a federal agency.

“There is no regulation for directional drilling,” said Kenneth Burks, a longtime Wisconsin directional driller and safety advocate.

John Coleman, an attorney representing VC Tech in pending lawsuits filed by various parties including Barr’s widow, disputed that Valentin Cociuba has returned to drill in Wisconsin, saying that Cociuba “has nothing to do” with Teracom Inc. Cociuba has been unable to pay the fine because Bear Communications — which declined to comment for this story — had yet to pay him $30,000 for the Sun Prairie job, Coleman said in a March 16 interview.

Materials collected by Construction Business Group’s labor investigators tell a different story.

Trucks at a Pewaukee project site in March were registered to Cociuba, VC Tech and Teracom. The foreman at that site said he worked for Valentin under the name Teracom, citing VC Tech’s “bad publicity” in Wisconsin, according to CBG’s materials, which were reviewed by the Cap Times and Wisconsin Watch.

Additional laborers in Pewaukee confirmed that they worked for Cociuba, saying they were subcontracted by Ken Becker and Sons LLC, a Lannon, Wisconsin, company that drills and installs fiber cable, CBG’s materials indicate.

Teracom was established in 2019 under the names of Cociuba’s wife and father-in-law, a Michigan business incorporation document shows.

Neither VC Tech nor Teracom is registered to do business in Wisconsin. That makes it tougher for customers or employees to sue either company, and it deprives the state of revenue from registration fees, said Jess Noelck, a Wisconsin Department of Financial Institutions spokeswoman.

Representatives for Ken Becker and Sons did not respond to repeated requests for comment.

But at least one other company seemed ready to work with VC Tech immediately after the explosion rocked Sun Prairie.

“Things like this happen, but that doesn’t mean you stop,” a Bear Communications employee texted Valentin Cociuba less than 30 minutes after the explosion, according to Sun Prairie Police Department records. “I want you on my team!”

Nine days later, a VC Tech crew struck another natural gas line while installing fiber, this time in Indiana — the company’s second strike in the state in four months, according to Indiana Utility Regulatory Commission records. Cociuba informed a Sun Prairie detective of an additional Indiana gas line strike that February.

**“You’re blind as you dig”**

Directional drilling is a largely hidden, but complex, industry.

“This is like chess,” Burks, the directional driller and safety advocate, instructed a class of four operating engineers in March.

He was mapping out a hypothetical dig on a whiteboard during one of many sessions that Wisconsin Operating Engineers Local 139 offers members at its 400-acre training center in Coloma, a Waushara County community.

Burks stressed the need to think several steps ahead — like any good chess player would. A dig doesn’t always go as planned, he explained, but planning “puts you in the right direction before you run out of options.”

Hidden obstacles abound underground. Hitting a void or rock can alter the direction of the drill bit, Burks explained.

And then there are pipelines. More than 75,000 miles of natural gas pipelines run beneath Wisconsin, including dense networks under cities that leave little room for new installations — and little room for error.

Operators of other heavy machinery, such as cranes, must pass written and practical examinations to comply with federal rules.

Horizontal directional drilling requires no such training or certification, Burks said.

Austin Giles, a student in Burks’ class and a certified crane operator, thinks running a drill is more difficult than operating a crane.

“You’re blind as you dig,” said Tate Robinson, another student. “There’s so much that can go so wrong so quick.”

Burks has spent two decades in the construction industry, including 14 years as an operating engineer. Directional drillers should have “zero tolerance” for gas, fiber optic and power line strikes, he said. Even nicking a fiber optic line could knock out important functions of a hospital, for example.

He said a careful driller will strike underground obstacles only if someone else errs — if a utility poorly marks a line, for instance.

But he could write a book about drillers who cut corners, he said. In an average week, he guesses, workers at 80% of dig sites violate a safety standard.

Not all of that happens on purpose, Burks said. Some companies simply do not know standards or best practices. But others flout rules to save money.

Safety experts say that a practice called “potholing” can help prevent mishaps. This is when a crew digs a hole, allowing an inspector to peer underground in search of a gas line or any other obstruction. The federal Occupational Safety and Health Administration promotes potholing as essential to avoid striking utility lines, but the technique goes unused too often, experts say.

Excavation issues caused 1,401 of Wisconsin’s 4,000 utility strikes in 2018, CGA data shows. A lack of potholing accounted for nearly 60% of these excavation strikes.

“Time is money, isn’t it?” Burks said.

Nationally, progress in preventing utility strikes has “plateaued,” according to a 2018 Common Ground Alliance report. Excavators struck buried facilities a record 330,445 times in 2018, the report said.

Drilling or digging too close to a utility line resulted in 347 Wisconsin utility strikes in 2018. Three out of four of these incidents were caused by power-operated machinery such as backhoes and trenchers — a violation of a Wisconsin state law requiring hand tools be used within 18 inches of a buried utility.

But locators were equally at fault for utility strikes, state data show. Wisconsin law requires utilities be located and marked before digging, and mistakes such as incorrect and incomplete markings resulted in 1,400 incidents.

Another 741 incidents resulted from excavators failing to call in a locate ticket, another violation of state law.

A CGA survey of excavators found that operators frequently cite erroneous reasons not to call before they dig.

**Strikes are harmless, until they’re not**

Most natural gas strikes turn out to be harmless. But on rare occasions, they trigger catastrophes.

The federal Pipeline and Hazardous Materials Safety Administration reported 307 “significant” pipeline incidents nationwide in 2019, resulting in 35 injuries, 13 deaths and $289 million in damages. Excavators caused 44 of those incidents, which seriously injured eight, killed three and cost $50 million in damages.

In Durham, North Carolina, a three-person crew installing fiber internet fractured a natural gas service line underneath a sidewalk. For an hour, the natural gas flowed underground and followed the electrical and plumbing lines leading into a coffee shop. State investigators later estimated more than 100 people passed near the leak before it exploded inside the store, killing two people and injuring 25 others.

In Murrieta, California, a private solar contractor punctured a hole measuring less than an inch in circumference in a gas pipeline. The gas ignited, killing a natural gas utility employee who sought to halt the leak and injuring 15 others.

In Grantsburg, a rural village in north-central Wisconsin, a contractor struck a natural gas line in October, setting ablaze a nearby home.

An investigation by the gas line operator in Durham concluded that the line was properly marked, but drillers failed to verify its location. In Murrieta and Grantsburg, the contractors dug without asking for the pipelines to be located, gas line operators found.

Since Wisconsin lawmakers in 2018 created a new PSC program to investigate excavation complaints, telecommunications contractors have been subject to five of 11 complaints that triggered investigations.

Among them: Michigan-based Milenium Inc., which Bear Communications hired to install fiber optics in Stoughton. Milenium ultimately subcontracted the job to another driller, a man from Dayton, Ohio. No one conducted a potholing inspection, gas line operator Alliant Energy alleged, and the driller scraped a natural gas line with the drill bit, violating the state’s law requiring hand tools be used within 18 inches of a buried utility. (Bear Communications has faced several lawsuits in Kansas for similar violations.)

The commission found that Milenium did not pothole and used a drill within the 18 inch tolerance zone — and ordered the company to pay $5,500 in fines. Seven other incidents involving contractors are still pending at the commission.

The PSC has fined three excavation companies a total of $38,500 since 2018. Kahl, of Construction Business Group, doubts those penalties will deter more lawbreaking.

If a company receives a $5,000 fine but saves more than that by cutting corners, companies will simply build fines into their budgets, he said.

“It’s like getting caught robbing the bank and asked to give it back and they can go on their way, no penalty,” he said. “Why wouldn’t you just keep robbing banks?”

**Ratepayers bear costs**

No level of government in Wisconsin closely scrutinizes excavators and drillers, and granular data that might illuminate good and bad actors is elusive, the Cap Times and Wisconsin Watch found.

Unlike its neighbors, Wisconsin does not require that utility strikes be reported or investigated. Illinois, Indiana, Michigan, Minnesota and Ohio require either reporting, an investigation or both. Private natural gas companies collect granular information on strikes to their facilities for insurance purposes. The Cap Times and Wisconsin Watch asked five of the state’s biggest natural gas companies to share the data, but all declined.

There is plenty of blame to go around for utility strikes across Wisconsin, said a municipal employee in Dane County who previously worked in the telecommunications and contracting industries. Those include: careless locating and drilling companies, the engineers who draw up plans, and the municipalities that don’t scrutinize these plans.

“There’s nowhere near enough training for (drillers) for what they do as a contractor before they turn these guys loose,” said the employee, who asked to remain anonymous because his employer did not authorize him to speak to a journalist.

In his job reviewing and approving excavation permits, he regularly sees outright incorrect maps of the city and its buried utilities, underscoring the importance of calling to locate pipelines before digging. Locating companies frequently fail to mark utilities correctly, he said.

The training and quality of telecommunications installers is worsening as companies rush to install fiber with fewer workers, he added.

Amy Barrilleaux, spokeswoman for Madison Water Utility, said drillers that hit buried water infrastructure sometimes fail to follow safety precautions, like checking the actual depth of the utility, and “routinely” claim the city incorrectly marked its facilities, which the city disputes.

“And because they are generally out-of-state companies that work very quickly and then leave, it can be hard to get responses when a claim is filed,” she wrote in an email, adding that the city’s water users absorb those costs on their monthly bills.

Keith Haas, general manager of Racine Water and Wastewater Utilities, said “an ounce of prevention is worth a pound of cure” — that more closely scrutinizing drillers and excavators would ultimately cut down attorneys’ fees and other costs that ratepayers bear.

**Chicago cracks down**

Outside of Wisconsin, some governments take pipeline safety more seriously.

Indiana regulators took action at least 1,901 times against violators of the state’s safe excavation laws since 2019. The state levied at least 923 fines totaling more than $1.6 million and required violators to take safe excavation training at least 489 times during that stretch. Wisconsin has required companies take safe excavation training just 14 times for violating its laws since 2018.

Indiana has also penalized gas companies for failing to mark gas lines. It fined one company $736,000 after state investigators found it failed to mark a gas line that a contractor struck in 2017, blowing up a house.

Wisconsin issued zero fines against gas companies in the past 18 years, PHMSA data shows.

The agency called Wisconsin’s pipeline safety program “inadequate” in a 2018 audit, citing poor tracking of damage and the lack of enforcement. Failure to improve could cost the state federal dollars, the agency wrote.

Jai Kalayil, supervising engineer for the Chicago Department of Transportation, said strikes have decreased since the city started beefing up its excavation regulatory agency in 2015.

Chicago levied about $630,000 in fines against excavators, locators, and facility owners in 2018 — more than 20 times all penalties Wisconsin issued that year.

Chicago’s oversight is much stronger than other cities — and even entire states, said Kalayil, whose agency investigates every damage report and sends two or three investigators to each site. The rest of Illinois shares just three or four investigators, he said.

Chicago also employs 24 inspectors who visit construction sites to ensure contractors are following best practices, including potholing and the use of hand tools when appropriate.

But in Wisconsin, some cities do not even know who is digging, because these companies are rarely named on excavation permits, a Cap Times and Wisconsin Watch survey of municipalities found. In cities such as Madison, utilities typically apply for permits instead of contractors, and in some rural communities, no formalized permitting process exists.

Adam Schleicher, Sun Prairie’s director of public services and city engineer, acknowledged regulatory shortcomings across multiple layers of government. But he said the 2018 tragedy sparked change in Sun Prairie.

The city now requires a listing of all subcontractors on permits, and it scrutinizes excavation plans in greater detail.

Sun Prairie has patched up the gas strike’s devastation, repaving roads and demolishing or rebuilding wrecked buildings. At its fire station, the city plans to install a statue to remember the part of the community that cannot be replaced: Cory Barr, the first Sun Prairie firefighter to die in action since the department’s founding in 1891.

*This story comes from a partnership of Wisconsin Watch and the Cap Times. Parker Schorr is a Cap Times public affairs reporting fellow embedded in the newsroom of Wisconsin Watch (wisconsinwatch.org)*