



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

January 21, 2016

Michael C. Downer – Registered Agent
Centerline AG Services Inc.
2080 Emery Lane NE
Salem, OR 97303

Mike Downer
Centerline AG Services Inc.
P.O. Box 12611
Salem, OR 97309

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No.: 860501-GB0757-15 / Docket No.: NC 345

**PLEASE READ ALL DOCUMENTS CAREFULLY –
DIRECT ALL CORRESPONDENCE TO THE PUBLIC UTILITY COMMISSION OF OREGON**

On November 30, 2015, a representative from your company met with the Oregon Utility Notification Center (OUNC) Enforcement Committee to discuss an alleged rule violation. At that meeting, an agreement was reached regarding penalties for the violation.

Enclosed are two sets of documents that contain a Complaint and a Stipulation. The Complaint serves as a formal notice to you of the violation you were charged with and requires that you Answer the allegation. Because you already reached an agreement with the OUNC Committee, you do not need to submit an Answer. Instead, you need only sign and return the enclosed Stipulation in order to answer the Complaint. If you had not reached an agreement with the OUNC Committee, filing an Answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing.

The Stipulation sets forth the terms and conditions of the agreement you reached with the OUNC Committee. To finalize the settlement, **you must sign the original Stipulation and mail it within 20 days of the date of this letter to:**

**Public Utility Commission of Oregon
Administrative Hearings Division
201 High St. SE, Ste. 100
PO Box 1088
Salem OR 97308-1088**

Centerline AG Services Inc.

January 21, 2016

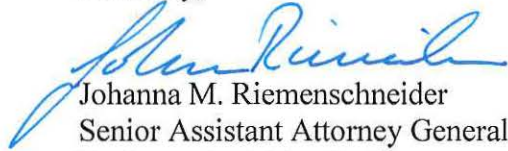
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You do not need to make payment, if any is due, until the Commission has approved the Stipulation. The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

If for some reason you no longer agree to the terms of the Stipulation, you **MUST FILE AN ANSWER TO THE COMPLAINT**, admitting or denying the allegation.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Kevin Hennessy at (503) 378-6115.

Sincerely,



Johanna M. Riemenschneider
Senior Assistant Attorney General
Business Activities Section

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Enclosures

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5.

OUNC adopted OAR 952-001-0050, which was in effect at all times herein relevant. The rule provides in relevant part:

(1) * * * [A]t least two (2) business days, but not more than ten (10) business days before commencing an excavation, the excavator shall notify the Oregon Utility Notification Center of the date and location of the proposed excavation, and the type of work to be performed.

* * * * *

(4) If an excavator intends to perform work at multiple sites or over a large area, the excavator must take reasonable steps to work with the facility operators, including preconstruction meetings, so that the operators may locate their facilities at a time reasonably in advance of the actual start of excavation for each phase of the work.

6.

On or about September 27, 2015, Defendant violated OAR 952-001-0050 in that Defendant failed to notify the Oregon Utility Notification Center of a proposed excavation before commencing an excavation near 13000 Denbrook Road, Aurora, Oregon. Defendant notified OUNC on September 2, 2015 of "farm work, subsoiling" work to be performed in the area, but did not notify OUNC of trenching work to be performed at the site until September 29, 2015, the day that damages to underground facilities were confirmed by the facility operator.

7.

ORS 757.993 provides, in relevant part, that:

"* * * every person who violates or who procures, aids or abets in the violation of any rule of the Oregon Utility Notification Center shall incur a penalty of not more than \$1,000 for the first violation and not more than \$5,000 for each subsequent violation."

8.

Defendant has not violated OUNC rules in the past.

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9.

WHEREFORE, the Commission directs Defendant to file a verified answer to this Complaint within twenty (20) days from the date this Complaint is mailed to Defendant. If no verified answer or other written appearance raising a question of fact or law is filed with the Commission at its office in Salem, Oregon, within the 20-day period, the allegations of the Complaint are deemed admitted, and a penalty will be imposed in the amount of \$1,000 for each violation alleged, for a total of \$1,000.

DATED this 21 day of January, 2016.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General


Johanna M. Riemenschneider, #990083
Senior Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

1 4.

2 The parties further agree that the Commission may enter an order assessing civil
3 monetary penalties against Defendant in the amount of \$1,000 under the following terms and
4 conditions:

- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was
6 served upon (mailed to) Defendant.
- 7 B. Payment of the penalties (\$1,000) will be suspended and no further penalties will be
8 imposed for the violation alleged in the Complaint unless Defendant fails to comply
9 with all of the terms of this Stipulation and all of the rules adopted by the Oregon
10 Utility Notification Center (OUNC) under ORS 757.552 for a one-year period
11 following the date of the Commission's entry of an order.
- 12 C. Defendant must contact the OUNC Speakers Bureau online at
13 www.digsafelyoregon.com or by calling **(503) 232-1987** to arrange for and attend a
14 training session on Oregon excavation laws within 45 days following the entry of the
15 Commission's order.
- 16 D. Defendant must contact Andrew Holbrook, operations manager at Kinder Morgan,
17 Inc., by email at Andrew_Holbrook@kindermorgan.com or by calling **503-220-1257**
18 and arrange and attend a training provided by that company on excavation safety
19 within 45 days following the entry of the Commission's Order.
- 20 E. In the event that Complainant contends that Defendant has not complied with all of
21 the terms of this Stipulation and all OUNC rules for that one-year period,
22 Complainant may reopen this proceeding and petition for imposition of all or a
23 portion of the suspended penalties. In such case, Defendant is entitled to a hearing
24 and to be notified of the basis upon which Complainant contends that compliance has
25 not occurred.


26 ///

1 F. Complainant's failure to enforce any provision of this Stipulation, or decision to
2 waive any violation or nonperformance of this Stipulation in one instance, will not
3 constitute a waiver by the Complainant of that provision, any other provision, or any
4 other violation or nonperformance in another instance.

5 5.

6 This Stipulation is conditioned upon final approval of its terms by the Commission. If
7 the Stipulation is not accepted in its entirety, it is deemed withdrawn.

8
9 DATED this 21 day of January, 2016.

10
11 
12 Johanna M. Riemenschneider, #990083
13 Senior Assistant Attorney General
14 Of Attorneys for the Public Utility Commission
of Oregon

15 DATED this ____ day of _____, 2016.

16
17 _____
Defendant / Representative (signature)

18
19 _____
20 (Print Name)