



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

February 24, 2017

Ron Kidder – Representative
Ron Kidder LLC
dba Botanical Developments
2300 NW Estes Street
Bend, OR 97703-1143

Ron Kidder – Registered Agent
Ron Kidder LLC
PO Box 6326
Bend, OR 97708

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860501-GB0746-16/ Docket No. NC 357

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

On December 16, 2016, a representative from your company met with Public Utility Commission of Oregon's Enforcement Committee to discuss an alleged violation of Oregon Utility Notification Center Rules. 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 Enforcement 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 Enforcement 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 Enforcement 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**

Botanical Developments, LLC
Ron Kidder – Registered Agent
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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, or a default order may be issued.

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

Enclosures
JMR:mvg/#7937719

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 NC 357

4 PUBLIC UTILITY COMMISSION OF
5 OREGON,

6 Complainant,

7 v.

8 RON KIDDER LLC,

9 Defendant.

COMPLAINT

10
11 1.

12 This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter
13 “Commission”) to determine whether civil monetary penalties should be assessed as provided in
14 ORS 757.993. The Commission maintains its offices at:

15 201 High Street SE Ste. 100, P.O. Box 1088, Salem, Oregon 97308-1088

16 2.

17 At all times herein relevant, Defendant was doing business in this state.

18 3.

19 Under ORS 757.993, the Commission has discretion to seek penalties for violations of
20 rules adopted by the Oregon Utility Notification Center (OUNC).

21 4.

22 Under ORS 757.552, OUNC has adopted rules that prescribe requirements for
23 notification to OUNC of excavation activity and marking of underground facilities for the
24 purpose of preventing damage to such facilities. “Excavation” and other relevant definitions are
25 contained in OAR 952-001-0010.

26 ///

1
2 5.
3 OUNC adopted OAR 952-001-0090 which was in effect at all times herein relevant. The
4 rule provides in relevant part:

5 (1) An excavator shall not commence an excavation which requires notice under
6 these rules until the excavator has received a response from each operator of
7 underground facilities in the area of the proposed excavation, or until at least two
8 (2) business days (48 hours) have elapsed from the time the excavator notified the
9 Oregon Utility Notification Center.

10 6.
11 On or about September 28, 2016, Defendant violated OAR 952-001-0090(1) by
12 commencing an excavation at 1500 NE Hemlock, Redmond, Oregon without waiting the
13 required 48 hours to receive a response from the operators of the underground facilities.

14 7.
15 ORS 757.993 provides, in relevant part, that:
16 “* * * every person who violates or who procures, aids or abets in the violation of
17 any rule of the Oregon Utility Notification Center shall incur a penalty of not
18 more than \$1,000 for the first violation and not more than \$5,000 for each
19 subsequent violation.”

20 8.
21 Defendant has not violated OUNC rules in the past.

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25 ///
26 ///

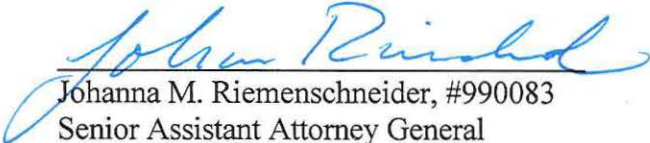
9.

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 by default order upon the file in this matter in the amount of \$1,000 for each violation alleged, for a total of \$1,000.

DATED this 24th day of February 2017.

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 **BEFORE THE PUBLIC UTILITY COMMISSION**

2 **OF OREGON**

3 NC 357

4 PUBLIC UTILITY COMMISSION OF
OREGON,

5 Complainant,

6 v.

7 RON KIDDER LLC,

8 Defendant.

9
10 | STIPULATION FOR ENTRY OF FINAL
11 | ORDER

10 The Public Utility Commission of Oregon, appearing by and through Johanna M.
11 Riemenschneider, Assistant Attorney General, and Ron Kidder LLC, the Defendant herein,
12 hereby stipulate as follows:

13 1.

14 A Complaint in this case is pending before the Commission charging the Defendant with
15 violations of OAR 952-001-0090(1), and proposing total civil penalties of \$1,000.

16 2.

17 Both parties to this proceeding are willing to forego further processing of that Complaint
18 and further are willing to resolve this matter without further hearing or appeal on the basis of this
19 Stipulation.

20 3.

21 The Defendant admits that the violation was committed as alleged in the Complaint and
22 is willing for the Commission to enter an order finding that the violation was committed as
23 alleged in the Complaint.

24 ///

25 ///

26 ///

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. \$200.00 becomes due and payable on or before the 30th day following the
8 Commission's entry of its order in this case.
- 9 C. Payment must be by **cashier's check** or **money order** made out to the **Public Utility**
10 **Commission of Oregon**, and the **memo line of the money order must state the "NC**
11 **357" docket number** in the caption of this Stipulation.
- 12 D. Payment of the balance of the penalty (\$800) will be suspended and it will be waived
13 with no further penalties imposed for the violation alleged in the Complaint unless
14 Defendant fails to comply with all of the terms of this Stipulation and all of the rules
15 adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a
16 one-year period following the date of the Commission's entry of an order.
- 17 E. Defendant must contact Bill Walker at Cascade Natural Gas (CNG) by email at
18 **William.Walker@cngc.com** or by calling (541) 706-6290 and arrange for and ensure
19 that all of defendant's employees that engage in excavation activity as a part of their
20 job duties attend an operator safety presentation provided by CNG within 45 days
21 following the entry of a final order.
- 22 F. Defendant must take a blank copy of the Training Verification form attached to this
23 Stipulation as Attachment 1 to all required trainings scheduled under paragraphs 4.E.
24 above. Defendant must ensure that all of its employees attending a required training
25 sign a Training Verification form to verify attendance. A representative of the
26 organization providing the training (Instructor) must sign the Training Verification

1 form to verify that each person listed on the form completed the training. Defendant
2 must return all completed Training Verification forms to Complainant at the address
3 on the Form within 10 days of the date of the last training session and in no event
4 later than 55 days following the date of the Commission's entry of an order in this
5 docket.

6 G. In the event that Complainant contends that Defendant has not complied with all of
7 the terms of this Stipulation and all OUNC rules for the one-year period, Complainant
8 may reopen this proceeding and petition for imposition of all or a portion of the
9 suspended penalty. In such case, Defendant is entitled to notice and a hearing on the
10 basis upon which Complainant contends that compliance has not occurred.

11 H. Complainant's failure to enforce any provision of this Stipulation, or decision to
12 waive any violation or nonperformance of this Stipulation in one instance, will not
13 constitute a waiver by the Complainant of that provision, any other provision, or any
14 other violation or nonperformance in another instance.

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5.

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

DATED this 24th day of February 2017.



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

DATED this _____ day of February 2017.

Defendant / Representative (signature)

(Print Name)



**Oregon Public Utility Commission
Training Verification**

Docket NC 357

Instructions:

- Defendant:
 - Schedule training(s) outlined in Stipulation
 - Complete the Training Verification form on the day of the training
 - All attendees must print and sign their name on the Training Verification form
 - Have instructor date and sign the Training Verification form upon completion of training
 - Defendant **must** mail completed Training Verification form to the address below (*retain a copy for your records*)

- Instructor:
 - Date and sign the Training Verification form upon completion of training

Type of Training: (*To be filled out by the instructor*)

- OUNC – Oregon Excavation Laws
 Operator Safety Presentation
 Other:

Instructor Print Name: _____

Instructor Signature: _____ Date: _____

Name (Printed)	Name (Signed)

Mail Completed form to:

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