



DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

March 31, 2017

Mike Bjorvik  
Millsite Management Company dba  
Millsite Landscape Services  
15 Colorado Avenue, Suite 1  
Bend, OR 97702

William L. Smith, Registered Agent and President  
Millsite Management Company dba  
Millsite Landscape Services  
15 Colorado Avenue, Suite 1  
Bend, OR 97702

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No. 860501-GB0184-17 / Docket No. NC 360

**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 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 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  
Salem OR 97308-1088**

Mike Bjorvik  
William L. Smith, Registered Agent & President  
March 31, 2017  
Page 2

**You do not need to make payment 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  
Sr. Assistant Attorney General  
Business Activities Section

JMR:pjr /#8051648  
Enclosures



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

- (2) Once underground facilities have been marked, the excavator shall:
  - (c) Employ hand tools or other such non-invasive methods to determine the exact location of the underground facility when excavation is to be made within the reasonable accuracy zone.

6.

On or about September 21, 2016, Defendant violated OAR 952-001-0090(2)(c), in that Defendant failed to expose marked facilities by hand while performing an excavation at or near 551 SW Industrial Way, Bend, Oregon.

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.

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


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1 allegations of the Complaint are deemed admitted, and a penalty will be imposed in the  
2 amount of \$1,000 for each violation alleged, for a total of \$1,000.

3 DATED this 31 day of March 2017.

4 Respectfully submitted,

5 ELLEN F. ROSENBLUM  
6 Attorney General

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9 Johanna M. Riemenschneider, #990083  
10 Sr. Assistant Attorney General  
11 Of Attorneys for the Public Utility Commission  
12 of Oregon  
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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 becomes due and payable on or before the 30<sup>th</sup> day following the Commission's  
8 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 **360" docket number** in the caption of this Stipulation.
- 12 D. Payment of the balance of the penalties (\$800) will be permanently suspended and no  
13 further penalties will be 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 the OUNC Speakers Bureau online at  
18 **www.digsafelyoregon.com** or by calling **(503) 232-1987** to arrange for and attend a  
19 training session on Oregon excavation laws within 45 days following the entry of the  
20 Commission's order. All employees of Defendant that perform excavation work must  
21 attend a training session.
- 22 F. Defendant must also contact Bill Walker at Cascade Natural Gas (CNG) by email  
23 **William.Walker@cngc.com** or by calling **(541) 706-6290** to arrange for and attend an  
24 operator safety presentation provided by CNG within 45 days following the entry of  
25 the Commission's order. All employees of Defendant that perform excavation work  
26 must attend a safety presentation from CNG.

- 1 G. Defendant must take a blank copy of the Training Verification form attached to this  
2 Stipulation as Attachment 1 to all required trainings under Paragraphs 4.E and 4.F  
3 above. Each individual attending training must sign the form to verify attendance. A  
4 representative of the organization providing the training (Instructor) must sign the  
5 Training Verification form that the training is complete with respect to the individuals  
6 listed on the Training Verification form for the form to be complete. Defendant shall  
7 return all completed Training Verification forms to Complainant at the address on the  
8 form within 10 days of date of the last training session and in no event no later than  
9 55 days following the date of the Commission's entry of an order in this docket.
- 10 H. In the event that Complainant contends that Defendant has not complied with all of  
11 the terms of this Stipulation and all OUNC rules for that one-year period,  
12 Complainant may reopen this proceeding and petition for imposition of all or a  
13 portion of the suspended penalties. In such case, Defendant is entitled to a notice and  
14 hearing on the basis upon which Complainant contends that compliance has not  
15 occurred.
- 16 I. Complainant's failure to enforce any provision of this Stipulation, or decision to  
17 waive any violation or nonperformance of this Stipulation in one instance, will not  
18 constitute a waiver by the Complainant of that provision, any other provision, or any  
19 other violation or nonperformance in another instance.

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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 31 day of March 2017.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

\_\_\_\_\_  
Representative for Defendant (signature)

\_\_\_\_\_  
(Print name)



**Oregon Public Utility Commission  
Training Verification**

**Docket NC 360**

**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**