

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 405

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant

vs.

CITY OF PORTLAND,

Defendant

PETITION TO INTERVENE

Oregon Association of Clean Water Agencies (ACWA) petitions to intervene in this proceeding. In support of this petition, the following is provided:

1. The contact information (name, address, email address) of the petitioner is:

Name: Susie Smith
Company: Oregon Association of Clean Water Agencies
Street Address: 81 E. 14th Ave.
City, State, Zip: Eugene, OR 97401
Email Address: smith@oracwa.org
Telephone: 541-485-0165

Please include this contact on the service list.

2a. The petitioner will will not be represented by counsel in this proceeding. The contact information for petitioner's counsel to be included on the service list is:

Name: N/A
Company:
Street Address:
City, State, Zip:
Email Address:
Telephone:

2b. Additional contacts to be included on the service list (a petitioner is limited to three contacts on the service list):

Name: Jerry Linder, ACWA Legal Committee Co-Chair
Company: Clean Water Services
Street Address: 2550 SW Hillsboro Hwy
City, State, Zip: Hillsboro, OR 97123
Email Address: linderg@CleanWaterServices.org
Telephone: 503-681-3645

Name: Laura Maffei, ACWA Legal Committee Co-Chair
Company: Cable Huston
Street Address: 1455 SW Broadway Ave, Ste 1500
City, State, Zip: Portland, OR 97204
Email Address: lmaffei@cablehuston.com
Telephone: 503-224-3092

3. If the petitioner is an organization, the number of members in and the purposes of the organization:

The Oregon Association of Clean Water Agencies (ACWA) is a not-for-profit organization of Oregon's municipal, county, and special district wastewater treatment and stormwater management agencies, and their consultants. We have over 135 local government and consultant members. ACWA is dedicated to protecting Oregon's water environment through development of effective environmental policies and programs, education and outreach, and collaborative water resources management. Our members provide public wastewater and stormwater management services to over 3,000,000 Oregonians, serving over 70% of Oregon's homes and businesses. ACWA provides high-value, science-based, practical services to its membership, including: education, peer support, regulatory advocacy, and partnerships.

List of Members attached

4. The nature and extent of the Petitioner's interest in the proceeding is:

Nearly all of ACWA's local government members that have pipes placed in easements or public rights-of-way (ROW) have an interest in this issue. It is not unusual for private pipes, whether owned by a homeowner or other utility provider, to share the ROW with publicly owned sewer or storm pipes. Our members concur that marking their own pipes in the ROW consistent with OUNC requirements is very important. However, if public agencies are required to also mark private infrastructure, this would place a tremendous additional burden and liability on public agencies that should be borne by the private owner.

5. The issues the Petitioner intends to raise at the proceeding are:

ACWA will contend that the OUNC has misconstrued the rules requiring the "operator" to mark "its locatable underground utilities within the area of proposed excavation." OAR 952-001-0070(1)(a). This language plainly requires that

wastewater and stormwater operators mark facilities that they own in the ROW. However, the OUNC goes further and argues that all infrastructure, including privately owned infrastructure, in the ROW must be marked by the public agency. The OUNC effectively ignores the possessive pronoun "its" which clearly indicates responsibility for one's own infrastructure, not that of others. The OUNC also confuses a public agency's managing of the ROW on behalf of the public and its role as an operator of its own infrastructure.

6. The special knowledge or expertise of the Petitioner that would assist the Commission in resolving the issues in the proceeding is:

The knowledge and expertise that ACWA brings to this issue comes from the collective knowledge, experience, roles and responsibilities that our over 650 professional local government ACWA member volunteers bring to the issues and challenges our public agencies face every day in planning, building, and operating public wastewater and stormwater infrastructure in communities all across the state. Our member volunteers are knowledgeable about ROW and utilities management and responsibilities. They work with the public and private property owners routinely in carrying out their duties, and they manage the public system to comply with an array of environmental regulations and building codes that support responsible extension of utilities to manage growth and protect the environment.

7. Based on the information provided above in accordance with the Commission's rules of procedure, I request that ACWA be allowed to participate in this proceeding as an intervenor. I or the organization that I represent will not unreasonably broaden the issues, burden the record, or unreasonably delay the proceeding. OAR 860-001-0300.



Petitioner or Petitioner's Representative

4/24/2023

Date Signed

Oregon Association of Clean Water Agencies -- 2023 Members

City of Bandon	City of Wilsonville	City of Medford
City of Cannon Beach	City of Woodburn	City of Eugene
Clark Regional Wastewater District	City of Newport	City of Gresham
City of Coburg	City of Albany	City of Portland - BES
City of Gervais	City of Bend	City of Salem
Harbor Sanitary District	City of Corvallis	Clean Water Services
City of Heppner	City of Klamath Falls	Port of Portland
City of Irrigon	City of McMinnville	Eric Strecker
City of Molalla	City of Pendleton	Good Company
City of Madras	Roseburg Urban Sanitary Authority	League of Oregon Cities
City of Mt. Angel	City of Vancouver	E and S Consulting
City of Nehalem Bay	City of Gresham	Parametrix
Netarts Oceanside Sanitary District	City of Medford	Ameresco
Odell Sanitary District	Water Environment Services	Barney & Worth
Pacific City Joint Water Sanitary District	City of Salem	Cable Huston, et al
Rogue Valley Sewer Services	MWMC	ESA
City of Sandy	Clean Water Services	GSI Water Solutions
City of Veneta	City of Portland - BES	Hazen and Sawyer
City of Yachats	City of Fairview	Herrera Environmental
City of Ashland	City of Millersburg	Keller Associates, Inc
City of Canby	City of Molalla	Leeway Engineering
City of Cottage Grove	City of Turner	M.A. Mortenson
City of Dallas	City of Wood Village	Mead & Hunt, Inc
City of Hood River	City of Ashland	Otak, Inc.
City of Myrtle Creek	City of Canby	Ring Bender, LLP
City of North Bend	City of Central Point	Special Districts Association of Oregon
City of Prineville	City of Gladstone	Stantec
City of Seaside	City of Happy Valley	Stoel Rives
City of Stayton	City of Hermiston	Tetra Tech
City of Sweet Home	City of Milwaukie	Thorp Purdy
City of The Dalles	City of Troutdale	Water Systems Consulting
City of Winston/Green Sanitary District	City of Wilsonville	West Yost Associates
South Suburban Sanitary District	Water Environment Services	Wolf Water Resources
City of Astoria	Lane County	Wetland Solutions Inc
City of Coos Bay	Marion County	Black & Veatch
City of Florence	Multnomah County	Brown & Caldwell
City of Grants Pass	RVSS	Carollo Engineers
City of Hermiston	Oak Lodge Water Services	GeoSyntec Consultants
City of LaGrande	City of Keizer	Murray Smith
City of Lebanon	City of Oregon City	HDR
City of Lincoln City	City of West Linn	Kennedy Jenks
City of Monmouth	City of Redmond	Jacobs
City of Newberg	City of Lake Oswego	
Oak Lodge Water Services	City of Corvallis	
City of Redmond	City of Springfield	
City of St. Helens	City of Albany	
City of Troutdale	City of Bend	