

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

NC 182

PUBLIC UTILITY COMMISSION OF	)	
OREGON,	)	
	)	
Complainant,	)	ORDER
	)	
v.	)	
	)	
JAMES W. DRAYTON, dba JAMES	)	
DRAYTON TRUCKING & EXCAVATING,	)	
	)	
Defendant.	)	

**DISPOSITION: ORDER NO. 06-462 RESCINDED;  
STIPULATION ADOPTED**

On July 5, 2006, the Public Utility Commission of Oregon (Commission) filed a complaint against Defendant. The complaint charged Defendant with one violation of law, OAR 952-001-0050, and requested a penalty of \$1,000. On July 7, 2006, a copy of the complaint was served. Defendant failed to file an answer or otherwise plead or appear within 20 days after service of the complaint. On August 16, 2006, the Commission entered a default order, Order No. 06-462, and assessed monetary penalties against Defendant.

On September 25, 2006, Defendant had a telephone conversation with Michael Thompson, Chief of Pipeline Safety, stating that he had signed and mailed the Stipulation back in July, and would sign another Stipulation. Based on that conversation, on September 27, 2006, Administrative Specialist Cheryl Walker mailed another original Stipulation to Defendant to sign and return to the Commission.

On October 5, 2006, the Defendant filed an executed Stipulation together with a Cashier's check in the amount of \$200. Defendant admits committing the violation alleged in the complaint.

In this instance, the original Stipulation was lost in the mail. However, the Stipulation has now been received. The Commission adopts the Stipulation entered into by the parties to this proceeding, which is attached as Appendix A. Under the circumstances, Order No. 06-462 should be rescinded pursuant to ORS 756.568. We further order defendant to complete the unsatisfied terms of the stipulation by attending a training session on Oregon excavation laws with the Oregon Utility Notification Center Speakers Bureau, within 45 days of the entry of a final order.

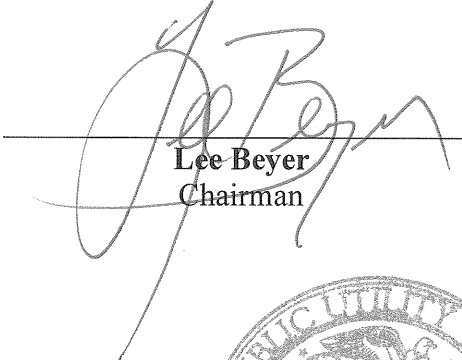
**ORDER**

IT IS ORDERED that:


1. The stipulation, attached as Appendix A, is adopted.
2. Civil monetary penalties shall be assessed against James W. Drayton, dba James Drayton Trucking & Excavating in the amount of \$1,000 for one violation of law. The Commission acknowledges receipt of the amount of \$200 from Defendant on October 5, 2006.
3. Defendant must complete the unsatisfied terms of the stipulation by attending a training session on Oregon excavation laws with the Oregon Utility Notification Center Speakers Bureau, within 45 days of the entry of this order.
4. Payment of the unpaid balance of the penalties (\$800) shall be suspended, unless:
  - (a) A showing is made that Defendant has violated, within one year of the date of this order, any rules administered by the Oregon Utility Notification Center; or
  - (b) Defendant fails to timely complete a training session with the Oregon Utility Notification Center Speakers Bureau. Defendant shall contact the OUNC Speakers Bureau to arrange for, and attend a training session on Oregon excavation laws within 45 days of the entry of this order.

5. If Defendant has not timely completed a training session on Oregon excavation laws within 45 days following the entry of this order, the unpaid balance of the amount assessed in paragraph 2 shall be due immediately following the expiration of the time period.
6. Order No. 06-462 is rescinded.

Made, entered, and effective OCT 19 2006.

  
\_\_\_\_\_  
**Lee Beyer**  
Chairman

  
\_\_\_\_\_  
**John Savage**  
Commissioner

  
\_\_\_\_\_  
**Ray Baum**  
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

NC 182

PUBLIC UTILITY COMMISSION OF  
OREGON,

Complainant,

v.

JAMES W. DRAYTON, dba JAMES  
DRAYTON TRUCKING & EXCAVATING,

Defendant.

STIPULATION FOR ENTRY OF FINAL ORDER

The Public Utility Commission of Oregon, appearing by and through Paul A. Graham, Assistant Attorney General, and James Drayton Trucking & Excavating, the defendant herein, hereby stipulate as follows:

1.

A Complaint in this case is pending before the Commission charging the defendant with one violation of law, OAR 952-001-0050.

2.

Both parties to this proceeding are willing to forego further processing of that Complaint and further are willing to resolve this matter on the basis of this stipulation.

3.

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

4.

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

DOCKETED

- 1 A. \$200 shall become due and payable on or before the 30th day following the  
2 Commission's entry of a final order in this case.
- 3 B. Payment shall be by cashier's check or money order made out to the Public Utility  
4 Commission of Oregon, and the memo line of the cashier's check or money order shall  
5 state the "NC" docket number in the caption of this stipulation. Payment of the balance  
6 of the penalties (\$800) shall be permanently suspended and no further penalties shall be  
7 imposed for the violation alleged in the Complaint unless defendant fails to comply with  
8 all of the rules adopted by the Oregon Utility Notification Center (OUNC) under ORS  
9 757.552 for a one year period following date of the Commission's entry of a final order.
- 10 C. Defendant shall contact the OUNC Speakers Bureau at (503) 232-1987 to arrange for and  
11 attend a training session on Oregon excavation laws within 45 days following the entry of  
12 a final order.
- 13 D. In the event that complainant contends that the defendant has not complied with all  
14 OUNC rules for that one year period, complainant may reopen this proceeding and  
15 petition for imposition of all or a portion of the suspended penalties. In such case  
16 defendant shall be entitled to a hearing and to be notified of the basis upon which  
17 complainant contends that compliance has not occurred.

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5.

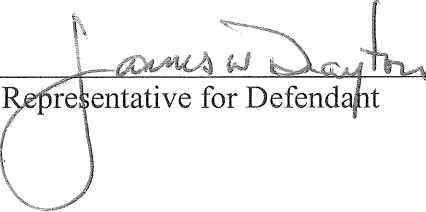
This stipulation is conditioned upon final approval of its terms by the Commission. If the stipulation is not accepted in its entirety, it shall be deemed withdrawn.

DATED this 25<sup>th</sup> day of September, 2006.



Paul A. Graham, OSB #77190  
Assistant Attorney General  
Of Attorneys for PUC Staff

DATED this 27 day of Sept, 2006.



Representative for Defendant

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