

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 253

PUBLIC UTILITY COMMISSION OF)
OREGON,)
)
Complainant,)
)
v.)
)
JOHN DARBY LANDSCAPE, INC. (an)
Oregon corporation),)
)
Defendant.)

ORDER

DISPOSITION: STIPULATION ADOPTED

On October 1, 2008, the Public Utility Commission of Oregon filed a complaint against Defendant. The complaint charged Defendant with a violation of law, OAR 952-001-0050, and requested a penalty of \$1,000. On October 1, 2008, a copy of the complaint was served.

On October 18, 2008, the parties to this proceeding entered into a stipulation, which is attached as Appendix A.

Under the terms of the stipulation, Defendant admits committing the alleged violation(s) and agrees that the Commission may enter an order assessing civil monetary penalties. Defendant also agrees to complete, within 45 days following the entry of a final order, a training session with the Oregon Utility Notification Center Speakers Bureau on Oregon excavation laws.

The parties further agree that a portion of the penalties should be suspended, unless Defendant fails to comply with any provision of the stipulation or violates any rule adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a period of one year following the date of the Commission's final order in this proceeding.

The stipulation is adopted. From the foregoing, it is concluded that no hearing is required. Under the terms of the stipulation, the allegations of the complaint are true, and Defendant has violated Oregon Administrative Rule(s) as alleged. Pursuant to the provisions of ORS 757.993, penalties should be assessed against Defendant under the terms and conditions of the stipulation.

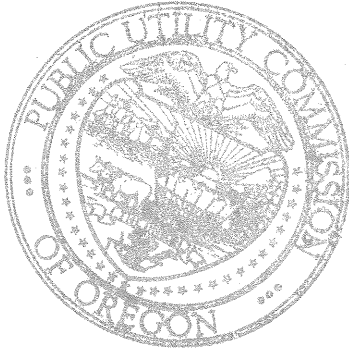
ORDER

IT IS ORDERED that:

1. The stipulation, attached as Appendix A, is adopted.
2. Civil monetary penalties shall be assessed against John Darby Landscape, Inc., (an Oregon corporation), in the amount of \$1,000 for one violation of law.
3. Defendant shall pay the sum of \$200, due and payable within 30 days from the date of service of this order. Payment shall be by company check made out to the **Public Utility Commission of Oregon**, and the memo line of the cashier's check or money order shall state the "NC" docket number in the caption of this order. (Mail payment to: Public Utility Commission of Oregon, PO Box 2153, Salem, OR 97308.)
4. Payment of the balance of the penalties (\$800) shall be suspended, unless:
 - (a) Defendant fails to comply with paragraph 3 above; or
 - (b) 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
 - (c) 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 paid the amount assessed in paragraph 3 above within 30 days from the date of service of this order, or has not timely completed a training session on Oregon excavation laws within 45 days of the entry of this order, the unpaid balance of the amount assessed in paragraph 2 shall be due immediately following the expiration of either time period.

Made, entered, and effective OCT 31 2008.



Lee Sparling

Lee Sparling
Director
Utility Program

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.

HARD COPY OF 10/21/08 FAX

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

RECEIVED

OCT 23 2008

Public Utility Commission of Oregon
Administrative Hearing Division

NC 253

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

STIPULATION FOR ENTRY OF FINAL ORDER

v.

JOHN DARBY LANDSCAPE, INC. (an
Oregon corporation),

Defendant.

The Public Utility Commission of Oregon, appearing by and through Paul A. Graham,
Assistant Attorney General, and John Darby Landscape, Inc., 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

DOCKETED

APPENDIX A3
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ORDER NO. 08-527

1 conditions:

2 A. Defendant shall sign and return this stipulation within 20 days of the date it was served
3 upon (mailed to) defendant.

4 B. \$200 shall become due and payable on or before the 30th day following the
5 Commission's entry of a final order in this case.

6 C. Payment shall be by company check made out to the Public Utility Commission of
7 Oregon, and the memo line of the cashier's check or money order shall state the "NC"
8 docket number in the caption of this stipulation.

9 D. Payment of the balance of the penalties (\$800) shall be permanently suspended and no
10 further penalties shall be imposed for the violation alleged in the Complaint unless
11 defendant fails to comply with all of the rules adopted by the Oregon Utility Notification
12 Center (OUNC) under ORS 757.552 for a one year period following date of the
13 Commission's entry of a final order.

14 E. Defendant shall contact the OUNC Speakers Bureau online at www.digsafelyoregon.com
15 or by calling (503) 232-1987 to arrange for and attend a training session on Oregon
16 excavation laws within 45 days following the entry of a final order.

17 F. In the event that complainant contends that the defendant has not complied with all
18 OUNC rules for that one year period, complainant may reopen this proceeding and
19 petition for imposition of all or a portion of the suspended penalties. In such case
20 defendant shall be entitled to a hearing and to be notified of the basis upon which
21 complainant contends that compliance has not occurred.

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23 ///

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25 ///

26 ///

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 1st day of October, 2008.

Paul A. Graham

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

DATED this 18th day of October, 2008.

~~_____~~
Representative for Defendant (signature)

John Darby
(Print name)