

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 56

PUBLIC UTILITY COMMISSION OF)
OREGON,)
)
Complainant,)
)
v.)
)
LARRY A. SMIEJA, dba, WILDCAT)
EXCAVATION & ENTERPRISES,)
)
Defendant.)

ORDER

DISPOSITION: STIPULATION ADOPTED

On January 14, 2002, the Public Utility Commission of Oregon filed a complaint against Defendant. The complaint charged Defendant with one violation of law and requested a penalty of \$1,000. On January 18, 2002, a copy of the complaint was served.

On January 20, 2002, the parties to this proceeding entered into a stipulation, which is attached and incorporated by reference.

Defendant admits committing the violation alleged in the complaint. 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. Civil monetary penalties shall be assessed against Defendant in the amount of \$1,000; and
2. Defendant shall pay the sum of \$200, due and payable within 30 days from the date of service of this order; and
3. Payment of the balance of the penalties (\$800) shall be suspended for a period of one year following entry of this order; and
4. Within 45 days following entry of this Order, Defendant shall arrange for a training session on Oregon excavation laws by contacting the Oregon Utility Notification Center (OUNC) Speakers Bureau.
5. Complainant may reopen this proceeding and petition for imposition of all or a portion of the suspended penalties if Defendant has not complied with all OUNC rules for a period of one year following entry of this order.

Made, entered, and effective _____.

John Savage
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 to a court pursuant to ORS 756.580.

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NC 56

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

LARRY A. SMIEJA, dba, WILDCAT
EXCAVATION & ENTERPRISES,

Defendant.

STIPULATION FOR ENTRY OF FINAL
ORDER

The Public Utility Commission of Oregon, appearing by and through Paul A. Graham,
Assistant Attorney General, and Larry A. Smieja, 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, as set out in the attached Complaint on file herein.

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.

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1 4.

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

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

7 B. Payment shall be by cashier’s check or money order made out to the **Public Utility**
8 **Commission of Oregon**, and the *memo line of the cashier’s check or money order shall state*
9 *the “NC” docket number* in the caption of this stipulation. Payment of the balance of the
10 penalties (\$800) shall be suspended for a period of one year following the entry of the
11 Commission’s final order in this case. If defendant complies with all of the rules adopted by
12 the Oregon Utility Notification Center (OUNC) under ORS 757.552 for that one year period,
13 the suspended penalties (\$800) shall be dismissed and no further penalties shall be imposed
14 for the violation alleged in the Complaint.

15 C. Within 45 days following entry of the Commission’s final order, defendant shall contact the
16 OUNC Speakers Bureau to arrange for a training session on Oregon excavation laws.

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

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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 shall be deemed withdrawn.

DATED this _____ day of _____, 2002.

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

DATED this _____ day of _____, 2002.

Representative for Defendant