

DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

March 3, 2011

Lawrence A. Durette, Jr., Registered Agent  
Echo Mountain River Bend Water Systems, LLC  
PO Box 246  
Otis OR 97368

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No.: 860-100-GB0192-11 / Docket No.: NC 304

**PLEASE READ ALL DOCUMENTS CAREFULLY –  
DIRECT ALL CORRESPONDENCE TO THE PUBLIC UTILITY COMMISSION OF OREGON**

On January 18, 2011, a representative from your company met with the Oregon Utility Notification Center (OUNC) 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 formalize the allegation and the agreement. One set is made up of original documents. The other set is a set of copies for your files.

Please refer to the originals. The complaint simply serves as a formal notice to you of the violation you were charged with and requires that you submit an Answer to the **Public Utility Commission** responding to the allegation. You must serve your Answer on the Commission by mailing it to the Public Utility Commission of Oregon, Administrative Hearings Division, PO Box 2148, Salem, OR 97308-2148. Filing an answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing. Because you already reached an agreement with the OUNC 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.

The Stipulation sets forth the terms and conditions of the agreement you reached with the committee. **You must sign and return the Stipulation within 20 days of the date of this letter in order for it to be approved by the Public Utility Commission as a resolution to the pending Complaint. You need not make payment until the Commission has issued a final order in this matter.**

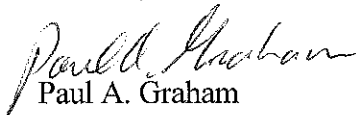
If for some reason you no longer agree to the terms of the Stipulation, you **MUST FILE AN ANSWER TO THE COMPLAINT**, admitting or denying the allegation.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Michael Thompson at (503) 378-6760.

Otherwise, please return the signed Stipulation to the Public Utility Commission of Oregon at the following address so this matter can be resolved:

Public Utility Commission of Oregon  
Administrative Hearings Division  
550 Capitol St NE – Suite 215  
PO Box 2148  
Salem OR 97308-2148

Sincerely,



Paul A. Graham  
Attorney-in-Charge  
Business Activities Section

Enclosures  
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BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

NC 304

PUBLIC UTILITY COMMISSION OF  
OREGON,

Complainant,

v.

ECHO MOUNTAIN RIVER BEND WATER  
SYSTEMS, L.L.C., (an Oregon limited  
liability corporation),

Defendant.

COMPLAINT

1.

This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter “Commission”) to determine whether civil monetary penalties should be assessed as provided in ORS 757.993. The Commission maintains its office at:

550 Capitol St NE – Suite 215, PO Box 2148, Salem, OR 97307-2148.

2.

At all times herein relevant, the defendant was doing business in this state.

3.

Under ORS 757.993, the Commission has discretion to seek penalties for violations of rules adopted by the Oregon Utility Notification Center (OUNC).

4.

Under ORS 757.552, OUNC has adopted rules that prescribe requirements for notification to OUNC of excavation activity and marking of underground facilities for the purpose of preventing damage to such facilities.

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1 5.  
2 OUNC adopted OAR 952-001-0060 which was in effect at all times herein relevant. The  
3 rule provides in relevant part:

4 An excavator may provide less than two (2) business days (48) hours prior notice if:  
5 (1) The excavator is responding to an emergency, so long as the excavator notifies  
6 the Oregon Utility Notification Center immediately and so long as the excavator  
takes reasonable care to protect underground facilities.

7 6.  
8 On or about November 7, 2010, defendant violated OAR 952-001-0060 in that the  
9 defendant did not notify the Oregon Utility Notification Center of an excavation that was in  
10 response to an emergency.

11 7.  
12 ORS 757.993 provides, in relevant part, that:  
13 “\* \* \* every person who violates or who procures, aids or abets in the violation of  
14 any rule of the Oregon Utility Notification Center shall incur a penalty of not  
15 more than \$1,000 for the first violation and not more than \$5,000 for each  
subsequent violation.”

16 8.  
17 Defendant has not violated OUNC rules in the past.

18 9.  
19 WHEREFORE, the Commission directs the defendant to file a verified answer to this  
20 complaint within twenty (20) days from the date this complaint is mailed to the defendant. If no  
21 verified answer or other written appearance raising a question of fact or law is filed with the  
22 Commission at its office in Salem, Oregon, within the 20-day period, the allegations of the

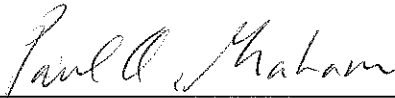
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1 complaint shall be deemed admitted, and a penalty shall be imposed in the amount of \$1,000 for  
2 each violation alleged, for a total of \$1,000.

3  
4 DATED this 3<sup>rd</sup> day of March, 2011.

5 Respectfully submitted,

6 JOHN R. KROGER  
7 Attorney General

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9 Paul A. Graham, OSB #77190  
10 Attorney-in-Charge  
11 Of Attorneys for the Public Utility Commission  
12 of Oregon  
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1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 NC 304

4 PUBLIC UTILITY COMMISSION OF  
5 OREGON,

6 Complainant,

7 ECHO MOUNTAIN RIVER BEND WATER  
8 SYSTEMS, L.L.C., (an Oregon limited  
liability corporation),

9 Defendant.

STIPULATION FOR ENTRY OF FINAL  
ORDER

10  
11 The Public Utility Commission of Oregon, appearing by and through Paul A. Graham,  
12 Assistant Attorney General, and Echo Mountain River Bend Water Systems, L.L.C., the  
13 defendant herein, hereby stipulate as follows:

14 1.

15 A Complaint in this case is pending before the Commission charging the defendant with  
16 one violation of law, OAR 952-001-0060.

17 2.

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

20 3.

21 The defendant admits that the violation was committed as alleged in the Complaint and is  
22 willing for the Commission to enter an order finding that the violation was committed as alleged  
23 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. Defendant shall sign and return this stipulation within 20 days of the date it was served  
6 upon (mailed to) defendant.

7 B. \$1,000 shall be permanently suspended and no further penalties shall be imposed for the  
8 violation alleged in the Complaint unless defendant fails to comply with all of the terms  
9 of this stipulation and all of the rules adopted by the Oregon Utility Notification Center  
10 (OUNC) under ORS 757.552 for a one year period following the date of the  
11 Commission's entry of a final order.

12 C. Defendant shall contact the OUNC Speakers Bureau online at [www.digsafelyoregon.com](http://www.digsafelyoregon.com)  
13 or by calling **(503) 232-1987** to arrange for and attend a training session on Oregon  
14 excavation laws within 45 days following the entry of a final order.

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

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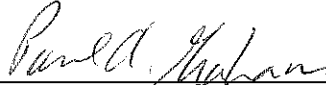
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5.

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 3<sup>rd</sup> day of March, 2011.

  
\_\_\_\_\_  
Paul A. Graham, OSB #77190  
Attorney-in-Charge  
Of Attorneys for the Public Utility Commission  
of Oregon

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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

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