



**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

August 30, 2013

National Registered Agents, Inc.  
388 State Street, Suite 420  
Salem OR 97301

James Kane, President  
NPL Construction Company  
2355 W. Utopia Rd  
Phoenix, AZ 85027

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No.: 860-501-GB0564-13 / Docket No.: NC 334

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

On July 1, 2013, 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 contain a Complaint and a Stipulation. The Complaint serves as a formal notice to you of the violation you were charged with and requires that you Answer the allegation. 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. If you had not reached an agreement with the OUNC Committee, filing an Answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing.

The Stipulation sets forth the terms and conditions of the agreement you reached with the OUNC Committee. To finalize the settlement, **you must sign the original Stipulation and mail it within 20 days of the date of this letter to:**

**Public Utility Commission of Oregon**  
**Administrative Hearings Division**  
**(Temporarily located at)**  
**3930 Fairview Industrial Drive SE**  
**PO Box 1088**  
**Salem OR 97308-1088**

**You do not need to make payment until the Commission has approved the Stipulation.** The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

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.

Sincerely,



Johanna M. Riemenschneider  
Assistant Attorney General  
Business Activities Section

Enclosures  
JMR:jrs/#4517194

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 NC 334

4 PUBLIC UTILITY COMMISSION OF  
5 OREGON,

6 Complainant,

COMPLAINT

7 v.

8 NPL CONSTRUCTION CO. (a Nevada  
9 corporation),

10 Defendant.

11 1.

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

15 3930 Fairview Industrial Drive SE, P.O. Box 1088, Salem, Oregon, 97308-1088.

16 2.

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

18 3.

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

21 4.

22 Under ORS 757.552, OUNC has adopted rules that prescribe requirements for  
23 notification to OUNC of excavation activity and marking of underground facilities for the  
24 purpose of preventing damage to such facilities. “Excavation” and other relevant definitions are  
25 contained in OAR 952-001-0010.

26 ///

1 5.  
2 OUNC adopted OAR 952-001-0090 which was in effect at all times herein relevant. The  
3 rule provides in relevant part:

4 \* \* \* \* \*

5 (4) If the excavator causes or observes damage to underground facilities, the  
6 excavator shall notify the operator of the underground facilities immediately. If the  
7 damage causes an emergency, the excavator shall also notify all appropriate local  
8 public safety agencies immediately by calling 911 and shall take reasonable steps  
9 to insure the public safety. The excavator shall not bury damaged underground  
10 facilities without the consent of the operator of the damaged underground facilities.

11 6.  
12 Defendant violated OAR 952-001-0090 (4) by failing to notify operator of damage to the  
13 underground facility located at 204 Gibson Street, Talent, Oregon sometime before April 11,  
14 2013, most likely on or about August 23, 2012.

15 7.  
16 ORS 757.993 provides, in relevant part, that:

17 “\* \* \* every person who violates or who procures, aids or abets in the violation of  
18 any rule of the Oregon Utility Notification Center shall incur a penalty of not  
19 more than \$1,000 for the first violation and not more than \$5,000 for each  
20 subsequent violation.”

21 8.  
22 Defendant has not violated OUNC rules in the past.

23 9.  
24 WHEREFORE, the Commission directs the Defendant to file a verified answer to this  
25 complaint within twenty (20) days from the date this complaint is mailed to the Defendant. If no  
26 verified answer or other written appearance raising a question of fact or law is filed with the  
Commission at its office in Salem, Oregon, within the 20-day period, the allegations of the

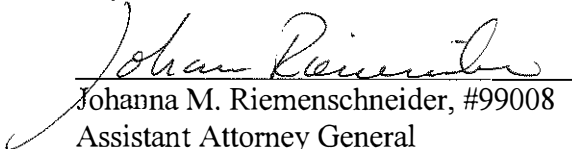
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1 complaint shall be deemed admitted, and a penalty shall be imposed in the amount of \$1,000 for  
2 each violation alleged, for a total of \$1,000.

3  
4 DATED this 30<sup>th</sup> day of August 2013.

5 Respectfully submitted,

6 ELLEN F. ROSENBLUM  
7 Attorney General

8   
9 Johanna M. Riemenschneider, #99008  
10 Assistant Attorney General  
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 334

4 PUBLIC UTILITY COMMISSION OF  
5 OREGON,

6 Complainant,

7 v.

8 NPL CONSTRUCTION COMPANY (A  
9 Nevada corporation),

10 Defendant.

STIPULATION FOR ENTRY OF FINAL  
ORDER

11 The Public Utility Commission of Oregon, appearing by and through Johanna M.  
12 Riemenschneider, Assistant Attorney General, and NPL Construction Company, the Defendant  
13 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 952-001-0090 (4).

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  
22 is willing for the Commission to enter an order finding that the violation was committed as  
23 alleged in the Complaint.

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26 ///

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. \$200 shall become due and payable on or before the 30th day following the  
8 Commission's entry of a final order in this case.
- 9 C. Payment shall be by **cashier's check or money order** made out to the **Public Utility**  
10 **Commission of Oregon**, and the memo line of the money order shall state the "NC"  
11 docket number in the caption of this Stipulation.
- 12 D. Payment of the balance of the penalties (\$800) shall be permanently suspended and no  
13 further penalties shall be imposed for the violation alleged in the Complaint unless  
14 Defendant fails to comply with all of the terms of this Stipulation and all of the rules  
15 adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one  
16 year period following the date of the Commission's entry of a final order.
- 17 E. In the event that complainant contends that the Defendant has not complied with all of  
18 the terms of this Stipulation and all OUNC rules for that one year period, complainant  
19 may reopen this proceeding and petition for imposition of all or a portion of the  
20 suspended penalties. In such case Defendant shall be entitled to a hearing and to be  
21 notified of the basis upon which 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 30<sup>th</sup> day of August 2013.



Johanna M. Riemenschneider, #99008  
Assistant Attorney General  
Of Attorneys for the Public Utility Commission  
of Oregon

DATED this \_\_\_\_\_ day of August 2013.

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

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