



Agenda Date: 12/16/15
Agenda Item: VIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

RELIABILITY & SECURITY

IN THE MATTER OF ALLEGED VIOLATIONS OF THE)
UNDERGROUND FACILITY PROTECTION ACT,)
N.J.S.A. 48:2-73 ET SEQ.)

ORDER ACCEPTING
SETTLEMENTS

DOCKET NOs.GS15101172K
et al. (see attached appendix)

Parties of Record:

- Joseph Grecca**, Jasmine Building Systems
- Arthur Gasper**, Meridian Electrical
- Joshua Drake**, Drake Plumbing and Heating
- Jeffery Sharp**, Diamond Construction
- Robert Caruso**, Big Sky Custom Homes
- Steve Martin**, Top Coat Paving and Seal Coating
- Virginia Webb**, Spencer Mausner, Inc.
- Alvin Grabov**, Right Way Waterproofing, Co.
- Robert Bentz**, Land-Tech Enterprises
- Phillip Marone**, Marone Contractors
- Dennis Linken**, Comcast
- Craig Lynch**, NJ Natural Gas
- Edward Andre**, E Andre Construction
- Michael Petonak**, Boonton Town Water
- Thomas Clarke**, Hunterdon Excavating
- Robert Gilmour**, Margate City Water
- Anthony Frankowski**, Frankowski Construction
- Robyn Brinkerhoff**, Brinkerhoff Enterprises

BY THE BOARD:¹

The Board of Public Utilities (“Board”) has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act (“the Act”) pursuant to the provisions set forth in N.J.S.A. 48:2-73, et seq. The primary purpose of the Act is to establish the One-Call Damage Prevention System for the protection of underground facilities that are used for the conveyance of water, forced sewage, telecommunications, cable television, electricity, oil, petroleum

¹ Commissioner Joseph L. Fiordaliso was not present at the December 16, 2015 agenda meeting.

products, gas, optical signals, traffic control, or for the transportation of a hazardous liquid. In declaring its findings and the purpose of the Act, the Legislature stated, in pertinent part:

That damage to underground facilities caused by excavation and the discharge of explosives poses a significant risk to the public safety; that such damage to underground natural gas facilities poses a substantial risk to the public safety; and that the implementation of a comprehensive One-Call Damage Prevention System can substantially reduce the frequency of damage caused by these activities.

The Legislature therefore determines that it is in the public interest for the State to require all operators of underground facilities to participate in a One-Call Damage Prevention System and to require all excavators to notify the One-Call Damage Prevention System prior to excavation or demolition. N.J.S.A. 48:2-74.

The Act defines "excavator" as "any person performing excavation or demolition," and "operator" as "a person owning or operating, or controlling the operation of, an underground facility..." N.J.S.A. 48:2-75.

The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, not to exceed \$25,000.00 for any related series of violations. N.J.S.A. 48:2-88(a). Violations relating to natural gas or hazardous liquid underground pipelines or distribution facilities shall subject the violator to civil penalties not to exceed \$100,000.00 per violation per day and not to exceed \$1,000,000.00 for any related series of violations. In addition, a violator may be assessed the cost of any Board investigation, inspection or monitoring survey which leads to the establishment of a violation and for the reasonable costs of preparing and litigating the matter. N.J.S.A. 48:2-86(b)(2).

Following reports of failure to call the System prior to commencing excavation or demolition activities, failure to hand dig and locate facilities, failure to use reasonable care, or reports of failure to mark out underground facilities or properly mark them, Board Staff contacted the entities listed on the attached Appendix and informed them of the date and location of the alleged violations, also listed on the Appendix.

In an attempt to resolve these matters, each excavator or operator listed on the Appendix has submitted an Offer of Settlement to the Board for its consideration. Each such Offer of Settlement is summarized in the Appendix. The Offers of Settlement were made available to the Board for its review. After consideration of the matters, the Board **HEREBY FINDS** these Offers of Settlement to be reasonable and in the public interest, and **HEREBY ACCEPTS** these Offers of Settlement in full satisfaction of the above referenced alleged violations of the Act.

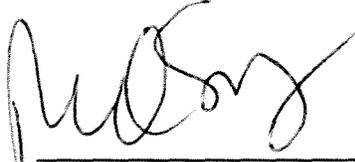
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced alleged violations of the Act. It must also be noted that the acceptance of the Offers of Settlement are for settlement purposes only, and apply strictly to the specific incidents described in the Appendix. This acceptance is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof if other violations are present, now or in the future.

This Order shall be effective on December 26, 2015.

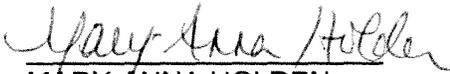
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

DATED: 12/16/15

BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

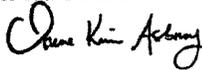


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 

IRENE KIM ASBURY
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities



**IN THE MATTER OF ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY
PROTECTION ACT, N.J.S.A. 48:2-73 ET SEQ. ORDER ACCEPTING SETTLEMENTS
DOCKET NO. GS15101172K et al. (see attached appendix)**

SERVICE LIST

Joseph Grecca
Jasmine Building Systems
3315 Bayshore Rd,
North Cape May, NJ 08204

Craig Lynch
NJ Natural Gas
1415 Wyckoff Rd,
Wall, NJ 07719

Arthur Gasper
Meridian Electrical
2501 Bristol Rd,
Warrington, PA 18976

Edward Andre
E Andre Construction
203 William St,
South River NJ 08882

Joshua Drake
Drake Plumbing & Heating
17 Fairview Ave,
Long Valley, NJ 07853

Michael Petonak
Boonton Town Water
100 Washington St,
Boonton, NJ 07005

Jeffery Sharp
Diamond Construction
35 Beaverson Blvd, Suite 12C,
Brick, NJ 08723

Thomas Clarke
Hunterdon Excavating
197 Byram Kingwood Rd,
Stockton, NJ 08559

Robert Caruso
Big Sky Custom Homes
611 North Maple Ave,
Ho-Ho-Kus, NJ 07423

Robert Gilmour
Margate City Water
900 Winchester Ave,
Margate City, NJ 08402

Steve Martin
Top Coat Paving & Seal Coating
719 Old Shore Rd,
Forked River, NJ 08731

Anthony Frankowski
Frankowski Construction
1807 Grand Central Ave,
1st Floor
Lavallette, NJ 08735

Virginia Webb
Spencer Mausner, Inc.
247 Heritage Rd,
Cherry Hill, NJ 08034

Robyn Brinkerhoff
Brinkerhoff Enterprises
8 Windsor Way,
Flemington, NJ 08822

Alvin Grabov
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IN THE MATTER OF:
 ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY PROTECTION ACT,
 N.J.S.A. 48:2-73 ET.SEQ. ORDER ACCEPTING SETTLEMENTS

Bureau of One Call - Settlements -APPENDIX-December VIA 2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS15101172K	GOC2014-0771	Did not have a valid markout	\$3,000		Jasmine Building Systems	9/10/2014	Benton Ave., Leonardo	9/11/2015
Damage, Gas	GS15101170K	GOC2014-0798	Did not have a valid markout	\$3,000		Meridian Electrical	9/14/2014	Faculty Rd., Princeton	9/10/2015
Damage, Gas	GS15101169K	GOC2014-0152	Did not have a valid markout	\$3,000		Drake Plumbing & Heating	5/13/2014	Calais Rd., Randolph	9/1/2015
Non Damage	AS15101167K	NOC2015-0078	Did not have a valid markout, non-damage	\$1,000		Diamond Construction	7/17/2015	Havens Bridge Rd., Howell	9/16/2015
Damage, Electric	ES15101165K	EOC2015-0030	Did not have a valid markout, non-gas damage	\$2,000		Big Sky Custom Homes	2/11/2015	Shunpike Rd., Chatham	9/12/2015
Damage, Gas	GS15101164K	GOC2014-0957	Did not have a valid markout	\$3,000		Top Coat Paving & Seal Coating	10/1/2014	Hawk Way, Lakewood	9/15/2015
Damage, Gas	GS15101161K	GOC2014-1037	Did not have a valid markout	\$3,000		Spencer Mausner, Inc.	10/24/2014	Pinebrook Rd., Cherry Hill	8/28/2015
Damage, Gas	GS15101159K	GOC2015-0014	Did not have a valid markout	\$3,000		Right Way Waterproofing, Co.	1/13/2015	Edgewood Ave., Delanco	9/7/2015
Damage, Gas	GS15111275K	GOC2015-0144	Failed to hand dig	\$3,000		Land-Tech Enterprises	3/16/2015	Forrestal Rd., Princeton	10/12/2015
Damage, Gas	GS15111276K	GOC2015-0250	Did not have a valid markout	\$3,000		Marone Contractors	3/30/2015	Rembrandt Ct., Pine Hill	10/15/2015
Damage, Cable	CS15111277K	COC2015-0007	Did not properly mark out, non-gas damage	\$2,000	Comcast		1/17/2015	Mayfair Ct., Little Silver	10/9/2015
Non Damage	CS15111278K	NOC2015-0070	Did not properly mark out, non-damage	\$1,000	Comcast		6/19/2015	Henry Marshall Dr., Trenton	10/9/2015
Damage, Gas	GS15111279K	GOC2015-0147	Did not properly mark out	\$3,000	NJ Natural Gas		3/9/2015	Brighton Ave., Seaside Park	9/30/2015
Damage, Gas	GS15111280K	GOC2014-1386	Did not have a valid markout	\$3,000		E Andre Construction	11/24/2014	Bayard St., Nutley	10/22/2015
Damage, Gas	GS15111281K	GOC2015-0106	Did not have a valid markout	\$3,000		Abatare Builders	2/13/2015	Ocean Ave., Lavallette	10/22/2015
Damage, Water	WS15111282K	WOC2015-0027	Did not properly mark out, non-gas damage	\$2,000	Boonton Town Water		6/25/2015	Boonton Ave., Montville	10/20/2015
Damage, Electric	ES15111283K	EOC2014-0106	Did not have a valid markout, non-gas damage	\$2,000		Hunterdon Excavating	7/26/2014	Heath Rd., Flemington	9/18/2015
Damage, Gas	GS15111284K	GOC2015-0318	Did not properly mark out	\$3,000	NJ Natural Gas		4/21/2015	Bayview Ave., Long Beach	10/28/2015
Damage, Gas	GS15111285K	GOC2015-0325	Did not properly mark out	\$3,000	NJ Natural Gas		4/14/2015	Lareine Ave., Bradley Beach	10/28/2015
Damage, Gas	GS15111286K	GOC2014-0201	Did not have a valid markout	\$3,000		Margate City Water	6/4/2014	Monmouth Ave., Margate	10/6/2015
Damage, Gas	GS15111287K	GOC2015-0310	Did not have a valid markout	\$3,000		Frankowski Construction	4/3/2015	New York Ave., Lavallette	10/8/2015
Non Damage	AS15111288K	NOC2015-0038	Did not have a valid markout, non-damage	\$1,000		Brinkerhoff Enterprises	5/11/2015	Windsor Way, Flemington	9/12/2015
Non Damage	GS15101158K	NOC2014-0127	Did not properly mark out	\$3,000	NJ Natural Gas		9/29/2014	Dayna Ct., Toms River	7/22/2015
Total	23			\$59,000					