

FILED

JAN 05 2021

HEIDI PERCY
COUNTY CLERK
SNOHOMISH CO. WASH.

**SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY**

STATE OF WASHINGTON,

Plaintiff,

v.

SNOHOMISH COUNTY PUBLIC
UTILITY DISTRICT,

Defendant,

v.

USIC LOCATING SERVICES, LLC,

Third Party Defendant.

NO. 20-2-02107-31

CONSENT DECREE, STIPULATION,
AND ~~[PROPOSED]~~ ORDER OF
DISMISSAL

[CLERK'S ACTION REQUIRED]

Plaintiff, State of Washington ("Plaintiff") and Third Party Defendant USIC Locating Services, LLC ("Third Party Defendant"), by and through their counsel of record, hereby stipulate and agree to the terms and entry of this Consent Decree, Stipulation, and [Proposed] Order of Dismissal (the "Consent Decree and Stipulation") as follows.

I. GENERAL

1.1 This Court has jurisdiction of the subject matter of this action and of the parties. Plaintiff's complaint in this matter states claims upon which relief may be granted under the provisions of the Underground Utilities Act, Chapter 19.122 RCW.

1.2 Plaintiff, State of Washington, commenced this action on March 3, 2020 pursuant to Chapter 19.122 RCW, the Underground Utilities Act, and Third Party Defendant having accepted service of the summons and compliant.

1.3 Plaintiff appeared by and through its attorneys, Robert W. Ferguson, Attorney General, and Joe Dallas, Assistant Attorney General; and Third Party Defendant appeared by and through its attorney, Kit W. Roth.

1.4 Plaintiff and Third Party Defendant agreed on a basis for the settlement of the matters alleged in the Complaint, and to the entry of this Consent Decree and Stipulation by Third Party Defendant without the need for trial or adjudication of any issue of law or fact.

1.5 Plaintiff and Third Party Defendant agree that this Consent Decree does not constitute evidence or an admission regarding the existence or non-existence of any issue, fact, or violation of any law alleged by Plaintiff.

1.6 Third Party Defendant recognizes and states that this Consent Decree and Stipulation is entered into voluntarily, and that no promises or threats have been made by the Attorney General's Office or any member, officer, agent or representative thereof, to induce Third Party Defendant to enter into this Consent Decree, except as provided herein; and

1.7 Third Party Defendant waives any right it may have to appeal from this Consent Decree and Stipulation.

1 1.8 Third Party Defendant agrees that it stipulates to and will not oppose the entry
2 of this Consent Decree and Stipulation on the grounds that it fails to comply with Rule 65(d) of
3 the Rules of Civil Procedure, and hereby waives any objections based thereon.

4 1.9 Plaintiff and Third Party Defendant have agreed upon a basis for adjudication of
5 the contested matters alleged in the Complaint, and to the entry of this Consent Decree and
6 Stipulation pursuant to the Rules of Civil Procedure.

7 1.10 Defendant The Public Utility District No. 1 of Snohomish County (the
8 "District") has no objection to the entry of this Consent Decree and Stipulation.

9 **II. CONSENT DECREE AND STIPULATION**

10 2.1 Third Party Defendant stipulates, on behalf of its successors, assigns,
11 transferees, officers, agents, servants, employees, and representatives, that it will not directly or
12 indirectly engage in any conduct that violates Chapter 19.122 RCW, the Underground Utilities
13 Act.

14 2.2 As a condition to satisfaction of this Consent Decree and Stipulation, Third
15 Party Defendant stipulates and commits that all of its employees and their supervisors involved
16 in the alleged violations in Plaintiff's complaint will attend both the NUCA Dig Safe
17 Certification Training and Staking University Online Locator Training. Both of these trainings
18 are offered in coordination with the Washington Dig Law Safety Committee. The employees
19 and supervisors required to take these trainings account for a total of nine (9) individuals
20 employed by Third Party Defendant. These trainings can be taken through an online platform.
21 These trainings must be complete within one (1) year after the entry of this Consent Decree.
22 Third Party Defendant must provide the Plaintiff with a copy of the certificates of completion,
23

1 after each of these individual trainings is complete, within fourteen (14) days after receipt of
2 such certificates.

3 **III. CIVIL PENALTIES**

4 3.1 Plaintiff and Third Party Defendant stipulate that a liquidated civil penalty of
5 \$8,000.00 shall be assessed against Third Party Defendant. The payment of the \$8,000.00 civil
6 penalty shall be made no later than thirty (30) days after the entry of this Consent Decree and
7 Stipulation. No interest on the \$8,000.00 civil penalty will be accrued if payment of this
8 amount is made within thirty (30) days after entry of the Consent Decree and Stipulation. An
9 additional liquidated civil penalty of \$2,000.00 shall be assessed against Third Party Defendant
10 for future failure to comply with the terms of this Consent Decree during the period of twelve
11 (12) months following the entry date of this Decree.

12 **IV. ATTORNEY'S FEES AND COSTS**

13 4.1 Each party shall pay their own attorney's costs and fees incurred in pursuing
14 this matter.

15 4.2 Third Party Defendant shall bear Plaintiff's reasonable costs, including
16 reasonable attorneys' fees, for enforcing this Consent Decree in any successful action to
17 enforce any of its provisions.

18 **V. ENFORCEMENT**

19 5.1 Jurisdiction is retained for the purpose of enabling any party to this Consent
20 Decree and Stipulation, with or without the prior consent or approval of the other party, to
21 apply to the Court for the enforcement of compliance therewith, the punishment of violations
22 thereof, or the modification or clarification thereof.

ORDER

The Court, having considered the foregoing stipulation of the parties and finding no just reason for delay, it is **SO ORDERED**. The above-entitled action is voluntarily dismissed with prejudice.

DATED this _____ day of **JAN 04 2021** ~~2020~~.


TRACY G. WAGGONER
COURT COMMISSIONER

JUDGE/COURT COMMISSIONER

Presented by:

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