

OAR Committee Minutes

Thursday, May 26, 10 a.m. | Zoom Meeting (meeting recorded)

Members: Micah Brown, Melanie Lewis, Mitch Burghlea, *Jaimie Lemke, *Kevin Hennessy, *Jim Walton, *Lee Tumminello, *Jeff Cox, *Andy Crocker, *Josh Thomas, and *Kitty O'Keefe

Guests: none

* = *non-voting member*

1. Announcements and Introductions
 - a. Micah called the meeting to order at 10:05 a.m. and introductions were made.
 - b. Motion was made by Mitch and seconded by Melanie to approve the minutes from March 24, 2022. Kitty to post to OUNC website.
2. OAR Current Committee Items
 - a. Design Locate Request Revision – discuss tasks and requirements to completion:
 - i. Micah reminded members a motion was made at the board meeting to develop language around adding a design information process. (Board Resolution 3-9-22-05) He reminded members that Washington adopted a Design Request System with a 5-day period for a designer to request information from operators including maps, as-builts, plats, predesign information, and abandoned facilities. This is intended to alleviate unnecessary pre-surveys that don't require marks.
 - ii. Kevin noted that the design information request does not state that you cannot excavate during the process. Micah noted that he was addressing this with Josh.
 - iii. Kevin asked if this may be a coordination issue rather than a rule change? He feels this issue may be outside of the purview of the OUNC. If no excavation is taking place in this process, should the OUNC oversee this?
 - iv. Micah clarified that pre-surveys are happening now, and in many of those cases no marks are needed if the design information is available. He noted that you can't dig on a survey.
 - v. Kevin feels a Design Information Request using the One Call Center seems outside the scope of what the OUNC is chartered to do. Said it isn't about the mission but to go back to the statute: "To regulate the notification and marking of underground facilities to prevent damage to facilities. The rules ... shall be consistent with the OUCC Standards Manual of 1995 (which included a 10-day scope of requesting a design locate)."
 - vi. Kevin noted an example of someone wanting to use the One Call Center for wildfire mitigation and overhead electrical awareness. He said those were outside the purview of the call center, and he feels this looks like it is outside of the purview because it doesn't involve marking.
 - vii. Josh commented, he feels this is within OUNC's purview because it is a necessary part of the overall process that does eventually involve marks in the field. Offered to follow with Department of Justice. The Design Locate Request requires a Design Information Request, so viewed holistically the process does require marks.
 - viii. Kevin felt there has been an abuse of the service to get more out of the One Call Center, and facilitating design information steps out of bounds and should be in OUCC's purview. He thinks designers should use other avenues to coordinate and get information.
 - ix. Micah noted that it is a best practice with Common Ground Alliance and three other states have adopted version of this. Micah asked Josh to reach out to the Oregon DOJ for input on this issue. Micah asked if Kevin thinks legislation is required to solve this problem.
 - x. Kevin said he can't comment on legislative matters and restated his position. He said he is interested in what other options that designers use to gather needed information.

- xi. Micah stated DOJ can provide guidance but ultimately it is the Board's decision. He feels the DRS should be a best practice.
 - xii. Andy said as a small agency, sometimes the only way they know a project is happening is through the predesign survey. He asked if there has been discussion about a limitation of area? Micah said not currently, and we need to consider new verbiage. Considered involving past board member Stu Crosby who has knowledge and experience for insights in this area.
 - xiii. Lee commented the City of Portland has some of the same struggles. She said the request for information is viewed as a part of the overall project. Agrees with members to move this forward.
 - xiv. Mitch commented when designers come to him with requests, he takes care of it. He doesn't disagree with Kevin but understands the issue and need. He is between solutions knowing there are alternatives.
 - xv. Micah clarified that we can keep it as-is with pre-surveys, but noted the potential 60% decrease in survey design locates. He said it is just easier to call in a ticket because they don't have the contacts or information.
 - xvi. Kevin responded to Andy's comment about long locates and clarified that there are differences to changing OCC business rules, OARs and ORS. He thought we might be able to address some issues through the One Call Center operator.
 - xvii. Melanie shared in her territory with six states, they have engineers call the Call Center for predesigns. Her internal locators can get frustrated when they know the engineers are having a locate done when they only need design information in the early stages. She wants the OUNC to move forward on this for damage prevention.
 - xviii. Micah referenced the motion to draft language for the DIR/DLR and asked members if there was any objection after they reviewed new language again?
 - xix. Josh pulled up language he and Micah worked on modifying page 29 of the Standards Manual (See attachment 1). Micah mentioned we will need to add new definitions at the beginning of the chapter.
 - xx. Before further discussion, Micah reminded members they did a 2019 revision to 952-001-0080 and added (2) to better explain large survey design projects.
 - xxi. Micah said with adoption of DRS, we can also adopt Washington's manual with minimal changes. He proceeded to provide an overview of the proposed language. Asked the group
 - xxii. Melanie said it looks great and asked who will maintain the information? Micah responded, the operators. Melanie referenced the annual process to update contact information with the One Call Center.
 - xxiii. Melanie commented that engineers don't know the process, and this will help them in the design phase.
 - xxiv. Micah commented that DOJ will help place content in correct order. Micah said he will report to the board on status.
- b. Review OAR language or Definition to expand on "Underground Facility"
- i. Micah asked members for their input.
 - ii. Kevin provided an example that in 2014-2016, the OUNC took the terms in statute and expanded on terms such as sidewalk and ditch maintenance in OARs. He feels some outreach can be done. Use of FAQs in the manual could be helpful.
 - iii. Micah referenced road maintenance, when it is considered excavation even if at surface level. In rule it states sidewalk, road and ditch maintenance less than 12 inches are exempt. Page 21 of the manual has a definition. Rules should be enforceable but can also be clearer and avoid confusion.
 - iv. Do we change the definition of the law (or term can be expanded on)? An anchor is un-locatable and it differs from an underground facility. Discussion followed.

- v. Do we keep facility in the language or change to utility? Discussion followed. Definitions should be consistent.
- vi. Micah asked for a committee member to help take this on to help draft language to address this issue. He clarified for new members that this came about because an operator drilled into an anchor and felt it should be locatable according to statute.
- vii. Mitch had reservations about making changes because of this case. Doesn't think we should be requiring unlocatable facilities to be marked.
- viii. Jeff commented, under rule, they don't provide the depth of facilities. He's going to read up and go offline to chat with Micah.
- ix. Micah suggested we may have to make broader changes to address locatable/unlocatable facilities throughout our rules.
- x. Andy asked for clarification of definition of underground facilities. Micah said it comes down to clarifying what the operator must do.
- xi. Micah said on Page 26 (70) changing term "underground facilities" to "locatable facilities" throughout should address the issue. Mitch agreed. No objections.
- xii. Kevin expressed concern about making changes to terminology that potentially exclude locating some underground facilities. Micah said it has been covered and we will proceed with caution.
- xiii. Kevin asked that the record show this issue has come up due to a claim.

3. Active OAR Tabled Item Updates

- a. Length of Ticket - 750 feet maximum length on ticket.
 - i. Kevin previously recommended we wait on ITICnxt. It has been about eight months, and it hasn't been fully implemented yet (July 1). The time may be right to revisit it after the Design Review System.
- b. White Paint or Virtual White Line
 - i. Micah feels white paint will need to be mandatory (homeowners/excavators). Said from his perspective that virtual/digital/electronic white lining will not be a possibility with the ITICnxt system due to accuracy. The technology just isn't accurate or precise enough yet.
 - ii. Josh noted that there has been a case involving an excavator who incorrectly assumed that the ITICnxt polygon mapping was virtual white lining. Clarified that it is for notification purposes and the written description and dig area marked with white paint is what determines the site for locates.
 - iii. Mitch is not for mandatory white paint and referenced Washington where it is mandatory. He feels the virtual white lining is helpful to help narrow down the dig area along with the other descriptions and markings.
- c. Paint Remediation – Legislator previously asked OUNC to make changes because of a specific issue. May want to address this, and Micah believes it is the responsibility of the excavator. Mitch felt we shouldn't change the system due to one specific case.

4. Old Business - none

5. New Business

- a. Discuss FAQ in Standards Manual
 - i. Micah asked if we remove from the Standards Manual. As a printed document it is not changeable when updates are warranted. They could be better housed online where we can make updates on the fly. Any objections? Kevin suggested this belongs with outreach.

- ii. Josh commented this could be maintained on the OUNC website. Would suggest creating a QR code. Colleagues at CGA suggested referring to: www.texas811.org/fags. Mitch liked their approach and suggested talking about it on a call.
 - iii. Micah will bring this to the full board.
 - b. Discuss header code for pipe ID
 - i. Melanie suggested to keep on agenda and move to old business.
 - c. Discuss financial responsibility of excavator during large scale projects.
 - i. We have a rule that puts all responsibility on the operator for large projects.
 - ii. Mitch expressed concern about equity of having to pay more and suggested locators could be involved with city planning processes to know what work is coming.
 - iii. Item was raised by an individual who did not attend the meeting.
 - iv. Keep on agenda; move to old business.
 - d. Review required locate process for One Call Center
 - i. Discussion of a project removing asphalt; can we help if it's less than 12"? Micah provided example where road project was resurfacing.
 - ii. Kevin suggested outreach once Scott Gallegos provides data.
 - iii. Is there an exception under 952-001-0010(8)? Mitch warned of issues for those who choose not to contact 811 on shallow digging projects. He thinks it is already clear in the manual.
 - iv. Keep on agenda; move to old business.
 - e. Regulatory Reporting
 - i. Do we create an ad hoc committee to put together information (data) requests for the PUC?
 - ii. Micah wants it handled outside of the OAR Committee.
 - iii. Ad Hoc committee was suggested, and Micah agreed to take it to the board,.
 - iv. Josh mentioned that he prepared the initial draft of what information we would want from PUC and could make that available.

6. For the Good of the Order – Micah thanked everyone for joining the meeting.

7. Next Meeting – Thursday, June 23, 2022

*Motion to adjourn by Melanie and 2nd by Mitch. Meeting adjourned at 12:12 pm.
Minutes submitted by Kitty O'Keefe 5.31.22*

Attachment #1

952-001-0010 Definitions

[Add definitions and adjust subsequent numbering (NOTE the previous (4) and (5) must be transposed)]

(4) "Design Information Request" means the process to access contacts for all participating operators with available underground facility information within the requested area.

(5) "Design Locate Request" means a request to have all known underground facilities marked, staked, or located by all operators notified within the requested area.

[update footnote]

952-001-0080 Operators to Respond to Notifications Requesting Design Information

[Replace with the following]

A Design Information Request must be processed before a Design Locate Request can be made. This is not a request for marks from utilities, but is in place to provide the designer with a list of contacts with information for those utilities that have underground facilities in the proposed area of design. If the designer determines that marks are needed to complete their design, the Design Information Request can be converted into a Design Locate Request after five business days.

- (1) It is the designer's responsibility to request maps, drawings, blueprints and/or other information from the utility operators directly. Upon receipt of a Design Information Request, within five business days, the operator of the underground facilities must:
 - (a) Provide and maintain current contacts for design requests with the Oregon Utility Notification Center.
 - (b) Provide the designer the best description available to the operator of all known underground facilities in the area of the proposed excavation including as-constructed drawings, or other facility maps and related resources that are maintained by the facility operator; or
 - (c) Contact the person requesting design information and agree on a time, prior to the beginning of the proposed project, for exchange of the information required under subsection (b).

- (2) After a designer notifies the Oregon Utility Notification Center with a Design Locate Request, within 10 business days the operator of the underground facilities must:
 - (a) Mark within 24 inches of the outside lateral dimensions of both sides of all of its locatable underground facilities within the area of proposed excavation. All marks must indicate the name, initials or logo of the operator of the underground facilities, and the width of the facility if it is greater than 2 inches.

- (3) If a designer intends to perform work at multiple sites or over a large area, the designer must take reasonable steps to work with the facility operators, including pre-construction meetings, so that the operators may locate their facilities at a time reasonably in advance of the actual start of survey or design for each phase of work.
- (4) No excavation can take place on either a Design Information Request or a Design Locate Request.

Stat. Auth.: ORS 757.552

Stats. Implemented: ORS 757.552

Hist.: OUNC 1-1997, f. & cert. ef. 4-17-97; OUNC 1-2014, f. & cert. ef. 3-7-14

[update footnote]