

## Enforcement Committee Minutes -

August 1, 2019

PUC

201 High Street SE

Salem, OR 97301

Conference Call in: 515-606-5385

Members attending: Micah Brown, Scott Gallegos, Mitch Burghelea, Phil Boyle and Kitty Davis.

Guests Attending: Ryan Truir, and Kevin Hennessey.

Guests Call in: Ryan Sandhu.

### 1. Announcements and Introductions

- a. Micah Brown called the meeting to order at 1:00 p.m. and introductions were made.
- b. Micah provided a copy of the minutes from July 8, 2016 and read the proposed Statement of Purpose for Enforcement. (See Attachment 1) No motion was taken.

### 2. Enforcement Committee Items

- a. OUNC Enforcement Statement of Purpose proposal review-
  - i) Micah read out loud the proposed and current Statement of Purpose for Enforcement dated July 12, 2016. (See Attachment 2) He stated the conflict of interested for PUC rep to Chair Enforcement is understood. He reminded the members with a hand out from 2018 Strategic Planning (See Attachment 3) the goal from the OUNC is to strengthen the relationship between the OUNC and the PUC. Discussion followed which lead into next line item:
  - b. Open discussion and information sharing regarding complaint process and reporting mechanisms
    - i) How do we build back the relationship that once was? What changed along the way? Informal hearings were a good tool for Enforcement. Do we combine OAR & Enforcement? Do we change Enforcement to a Data Committee or rename it to Dispute Resolution or Mediation Services? When complaints come in, majority of committee members want to be involved. Added value for OUNC to stay involved with Enforcement. New Executive Director can help keep us on path with Data Collection and value of being involved.
    - ii) Who has enforcement authority? PUC and OSHA. Kevin reminded members of his presentation at the December 2017 OUNC Board meeting. (See Attachment 4) He shared his new role he had to make changes at his end. Behavioral change has changed by partnering

with OSHA and better ways for safe excavation.

iii) Micah would like to continue this discussion and will provide updates at next OUNC board meeting.

3. Old Business- none

4. New Business – none

5. For the Good of the Order – none

6. Next Meeting - tbd

Motion to adjourn was made by Scott and 2<sup>nd</sup> by Phil. Adjourned at 2:20 pm

*Minutes submitted by Kitty Davis on August 7, 2019*

## **Attachment 1**

## Enforcement Committee Minutes

July 8, 2016

Location: Oregon Public Utility Commission, 201 High Street SE, Salem, OR 97301

Members attending: Lori Koho, Jarrod Morrison, Nathan Taylor and Russ Thomas. Shannon Davis, Kitty Davis and Jeff Daniels conference called in.

Lori Koho called the meeting to order at 1:00pm and introductions were made.

Minutes from October 30, 2015 were reviewed. Motion to amend and approve the minutes was made by Nathan and 2<sup>nd</sup> by Russ.

## **Agenda**

### Discussion on previous minutes:

Lori reached out the CUB and CCB and neither wants to participate on the Enforcement panel.

### Committee Statement of Purpose:

Proposed:

The Enforcement Committee works with the PUC and reviews the facts from enforcement actions to determine the effectiveness of the administrative rules, public awareness and training programs in preventing damage to underground facilities. Based on that analysis, the Enforcement Committee makes recommendations to the board to modify rules and programs that will improve outcomes.

Russ Thomas made a motion to recommend to the OUNC board the proposed Statement of Purpose and 2<sup>nd</sup> by Nathan Taylor.

Jeff will let the OAR committee know to edit 'Statement of Purpose' in the Standards Manual.

Continued discussion of who should sit on the panel; invite new board members to sit in on Enforcement Panel to observe. Should a utility operator sit on panel? Need a diverse group. Lori will report at next board meeting that she wants to build a team and educate the team that will create the panel.

### Enforcement Process Issues/Concerns:

Lori asked Kitty whom she contacts for training when she receives an email for Request for Training? Specifically when it's a request in response to an OPUC enforcement action. Kitty reaches out to Zone Directors and asks if they or one of their council members can provide the training.



Lori will talk with Ron Coffell and see if another Train the Trainer could occur in September. Ask Ron, who is trained in his OUCC councils? Are they providing a test after trainings? Most times, yes. A flash drive with the OUCC Excavation Training Presentation and OPUC Enforcement Test has been given to the OUNC board members, OUCC council presidents and zone directors.

Open Discussion:

Lori had emailed to committee members samples of Summary of Findings for the NC investigations. She said these are examples of the types of reports they are working to develop. Discussion followed with members

Old Business:

None

Good of the Order:

Jeff mentioned the RAA form has an old address for the One Call Center and has been changed and submitted to Jen to post on website.

Motion to adjourn was made by Shannon Davis and 2<sup>nd</sup> by Nathan Taylor at 2:30pm.

Submitted by: Kitty Davis on July 15, 2016

## **Attachment 2**



# Oregon

Kate Brown, Governor

Oregon Utility Notification Center

305 NE 102<sup>nd</sup> Ave. Ste 300

Portland, OR 97220-4170

503-232-1987



## OUNC Enforcement Committee

### Statement of Purpose

#### Proposed:

The Enforcement Committee works with the PUC and reviews the facts from enforcement actions to determine the effectiveness of the administrative rules, public awareness and training programs in preventing damage to underground facilities. Based on that analysis, the Enforcement Committee makes recommendations to the board to modify rules and programs that will improve outcomes.

#### Current:

The Enforcement Committee is the focal point that brings three state agencies, the Oregon Public Utility Commission (PUC), the Oregon Department of Justice (DOJ) and the Oregon Utility Notification Center (OUNC) together for enforcement of the Oregon Excavation laws. The PUC has sole responsibility for assessing civil penalties for violations of the excavation laws, and acts in concert with the DOJ in processing the stipulations and other documents necessary for resolving the violations. The PUC then processes and serves the final order that assesses the amount of the civil penalties, and provides for the collection of civil penalties, as necessary. The OUNC Enforcement Committee assists the PUC and DOJ by providing an informal meeting between alleged violators and the complainants, in an effort to resolve the cases with the least cost and stress for all parties involved. Recommendations from the informal meeting are then forwarded to the OPUC for final action and processing.

## **Attachment 3**

## 6 Coordinated Enforcement

**GOAL:** Strengthen the relationship between the OUNC and the Public Utilities Commission to more effectively coordinate enforcement activities to ensure regulatory compliance and support the ongoing peer review of investigations and support the compliance of operator practices.

### Rationale:

While the Public Utilities Commission (PUC) has the statutory requirement to investigate locator, excavator and owner-operator for reported cases, the Oregon Utility Notification Board (OUNC) benefits by coordinating their work with the PUC. Beyond compliance with federal regulations, coordination builds a shared understanding of field practices and provides an opportunity to learn how to improve field practices. In turn, this coordination can influence training decisions and rulemaking priorities.

### Objectives:

1. Convene the existing enforcement committee with representatives of the PUC and develop a committee charter that reflects, collaboration, shared learning and agreed to performance outcomes.
2. Establish data collection and analysis procedures to more effectively use data in designing communication, training, and rulemaking programs.
3. Build partnerships with additional stakeholders that might benefit by being involved in this collaborative process.

### How tomorrow will be different:

OUNC and the Public Utilities Commission will effectively coordinate enforcement activities to ensure regulatory compliance and support the ongoing peer review of investigations and support the compliance of operator practices.

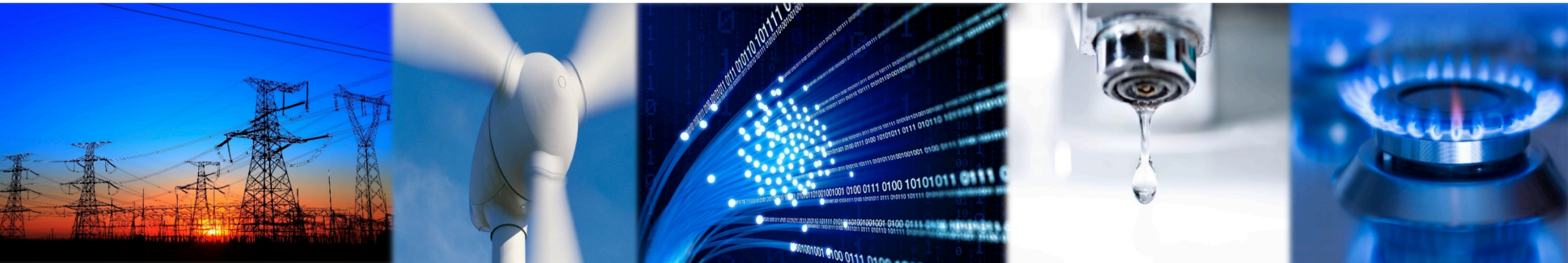
## **Attachment 4**



# UTILITY SAFETY, RELIABILITY AND SECURITY

## STAKEHOLDER DAMAGE PREVENTION INITIATIVES

Oregon Utility Notification Center - December 13, 2017



# Public Utility Commission of Oregon



## U.S. Senate & Congress enacts Natural Gas Pipeline Safety Act of 1968

- Secretary of U.S. Department of Transportation (DOT)
- Develop Safety Standards for Transportation of Hazardous Materials

## Incidents and Accidents; **Trigger Events** – U.S. DOT Regulation (CFR)

Public Utility Commission adopts Title 49 CFR as minimum standards for a Gas Safety Program including but not limited to:

- **1979** - Damage Prevention Program; CFR 192.614, effective **1983**
- **1992** - Operator Qualification Program; CFR 192.801, effective **1999**
- **2002** - Transmission Integrity Management Plan; CFR 192.901, effective **2004**
- **2002** - Public Awareness Program; CFR 192.616, effective **2005**
- **2008** - Distribution Integrity Management Plan; CFR 192.1001, effective **2010**



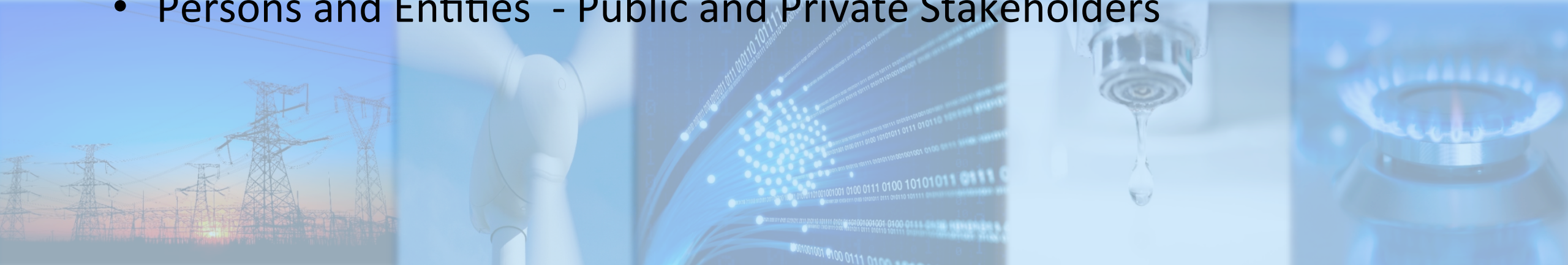
# Public Utility Commission of Oregon



The Commission also enforces damage prevention rules that exceed pipeline federal code:

**Est. 1995** - per ORS 757.993

- Complaint Driven Process
- All Utility Types - Gas, Hazardous Liquid, Electric, Telecom, Water, Sewer, Steam, etc.
- Persons and Entities - Public and Private Stakeholders



# Oregon Revised Statute



## Public Utility Commission of Oregon ORS 757.541-.571 1987 “Excavation Regulation”

- Notification “System”
- Utility “Owner”
- Life of Ticket -10 days
- Use “Reasonable Care”
- Membership to a “System” – Optional unless regulated
- Exempt – Entities and Agreements
- Revisions - Legislature
- Penalties – None per ORS 757.990

## Oregon Utility Notification Center ORS 757.542-.562 &.993 1995 “Notification and Marking”

- Notification “Center”
- Utility “Operator”
- “Life of a Project”
- Find Facilities “non-invasive”
- Non-membership to the “Center” specifies liability w/ damages
- Exempt – Limited
- Revisions – OUNC per OAR process
- Penalties – PUC per ORS 757.993

# 2015 U.S. DOT changes

## Operators of Natural Gas Distribution Systems

### New

- Annual Reporting Section
- Root Cause of Excavation Damage
  - One Call Notification
  - Locating Error
  - Excavation Practices
  - Other

## Audits of “State” Damage Prevention Enforcement Programs

### New

- Enforcement Evaluation
  - 7 Criteria
  - Measure Adequacy of Enforcement
  - Results sent to Governor’s Office
  - “Inadequacy” impacts program funding



# PUC Safety Staff Response

## Operators of Natural Gas Distribution Systems

### Response

- Damage Prevention Inspections
- Assess Safety Management
- Evaluate Status of Pipeline Integrity Plans
- Audit Pipeline Public Awareness Plans

## Audits of “State” Damage Prevention Enforcement Programs

### Response

- Evaluate 7 Criteria
- Address gaps in the following:
  - #2
  - #3
  - #4
  - #5
  - #6



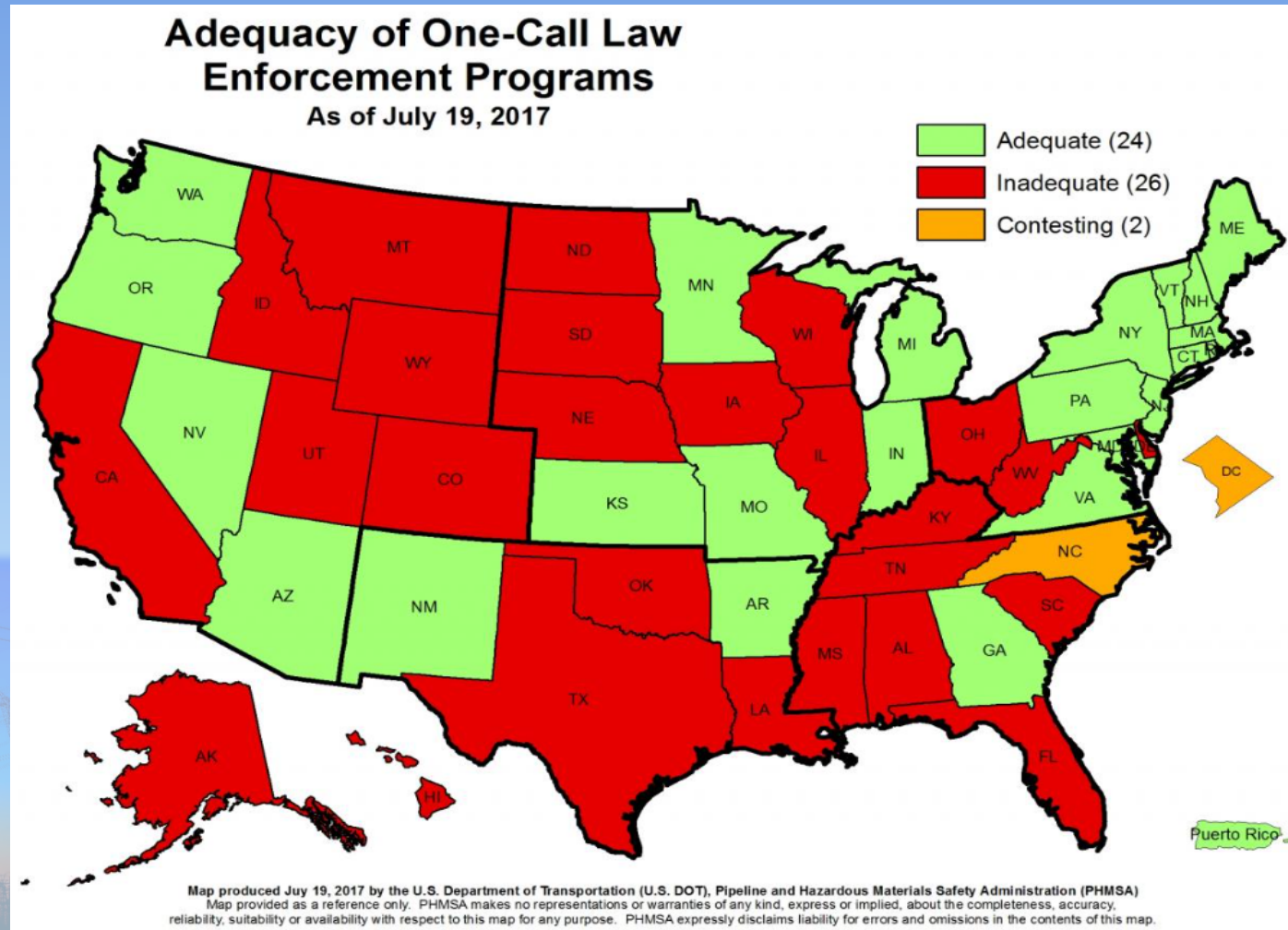
# Audits of “State” Damage Prevention Enforcement Programs

## CFR Criteria

1. Does the State have authority?
2. Is there a designated authority?
3. Is the authority used and is enforcement information available?
4. Is there a reliable mechanism to learn about damages?
5. Are investigation practices adequate?
6. Do rules require the use of 811, safe excavation, and 911 notification?
7. Are exemptions limited?



# 2015 Nationwide Audits of State Damage Prevention Programs





# Public Utility Commission of Oregon

## Possible Trigger Event? – 12/5/2017

### Resident Still In Shock After Gas Pipeline Explodes Near Her Home

*Fire crews say it's one of the largest gas pipeline fires they've responded to*

By: Gregory Cormier

Posted: Dec 05, 2017 11:15 PM CST

Updated: Dec 05, 2017 11:15 PM CST



DIXON: "We weren't sure if a bomb went off," said Franklin Grove resident Colleen Clouston. She

UPDATE: Lee County Sheriff's Office releases names of explosion victims



By WIFR Newsroom | Posted: Wed 12:42 PM, Dec 06, 2017 | Updated: Wed 2:09 PM, Dec 06, 2017



Updated December 6, 2017, 12:37 p.m.

# Continuous Improvement

- Worker Safety and Utility Safety
- Risk Management Principles and Best Practices
- CFR - Integrity Management, Public Awareness, Damage Prevention
- Risk Management Systems (See Example)
  - Goals, processes and procedures to ensure safety while achieving business success
  - Enabling people and use technology
  - Use data for better decision making
- Alternative Enforcement Actions





# Stakeholder Innovative Enforcement Actions

Creating the expectation with Enforcement Authority:

- Oregon OHSA - Citations and Public Awareness
- City Officials - Contractor Pre-Approval and Permitting
  - *“Get the right contractors, with the right experience and the right training to Pre-Qualify to work in the ROW*
  - *Active management and coordination of projects = protection of City infrastructure and long term investments” – ROW Manager*
  - *Permits revoked*

# Stakeholder Innovative Enforcement Actions

## Creating the expectation with Enforcement Authority:

- PUC – Stipulations and Corrective Actions

*“(company) must provide a plan or procedure (policy) that identifies the workflow process for giving notice to the Oregon Utility Notification Center (OUNC).*

*The policy must include but not limited to the following:*

- 1) describe the purpose of the policy and commitment thereof by leadership, management, and employees*
- 2) identify conditions and types of work that require a 48 hour notice, design notice and emergency notification to the OUNC*
- 3) identify tasks assigned to participants by title or position and their roles and responsibilities in the workflow process*
- 4) identify technology or systems used throughout the policy that enables the completion of tasks*
- 5) establish criteria for periodic review of effectiveness and identify best practices”*

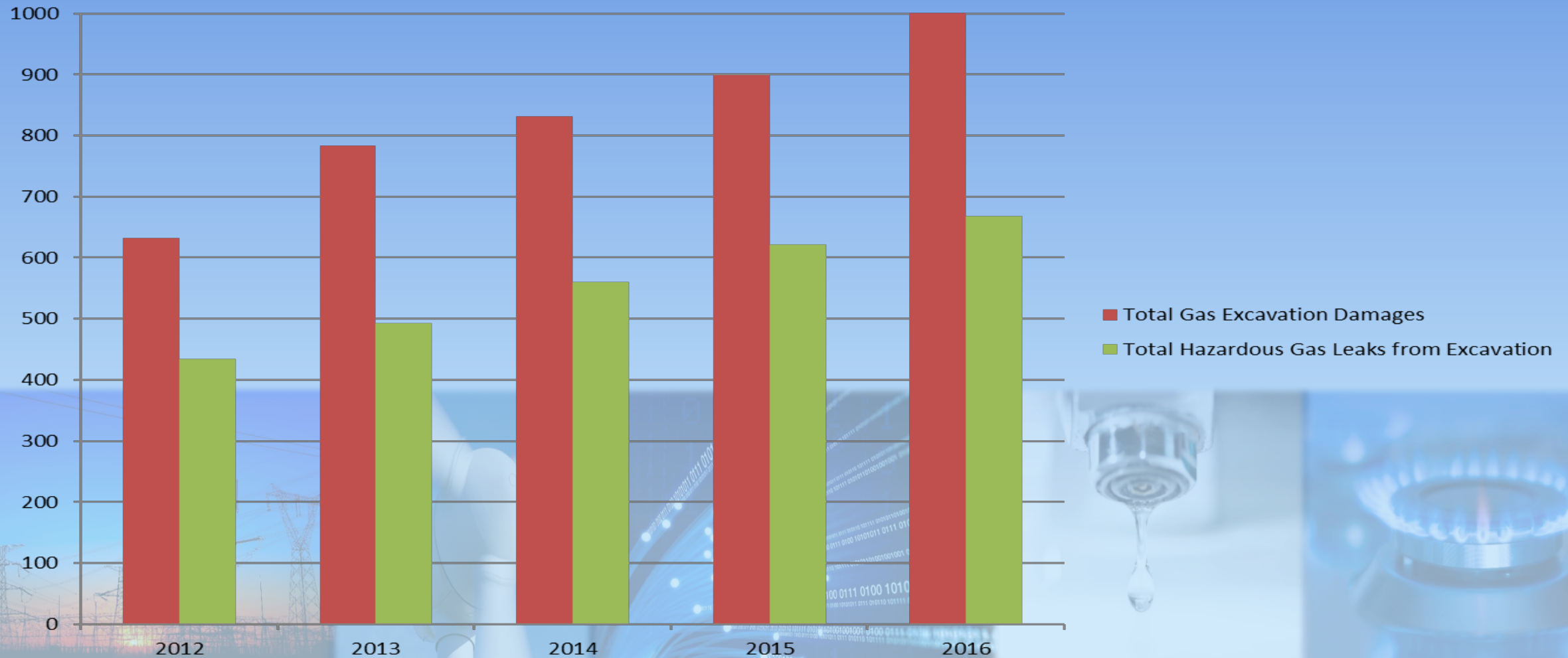
# THANK YOU

Kevin Hennessy – Public Utility Commission of Oregon





# Excavation Damages and Hazardous Gas Leaks reported to U.S. DOT



# Damage Prevention Enforcement Total Citations\* grouped by Stakeholders and Work Performed

From 01/01/2012 to 09/30/2015

State of OR (County = All, Utility Type = Natural Gas)

Work Performed**	Stakeholders					Grand Total
	Contractor/Developer	Government	Utility	Occupant/Farmer	Other	
Agriculture				1 Citation 9.1% of total		1 Citation 9.1% of total
Energy	1 Citation 9.1% of total					1 Citation 9.1% of total
Landscaping	1 Citation 9.1% of total					1 Citation 9.1% of total
Sewer/Water	3 Citations 27.3% of total					3 Citations 27.3% of total
Street/Roadway	3 Citations 27.3% of total					3 Citations 27.3% of total
Other	1 Citation 9.1% of total		1 Citation 9.1% of total			2 Citations 18.2% of total
Grand Total	9 Citations 81.8% of total	0 Citations % of total	1 Citation 9.1% of total	1 Citation 9.1% of total	0 Citations % of total	11 Citations 100% of total