



Agenda Date: 4/21/17  
Agenda Item: VIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://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. ES17010077K, et. al.  
(see attached appendix)

**Parties of Record:**

- Dominick J. Mazza Jr., Green Way Demolition
- Maria Diaz, New Jersey Natural Gas
- Kelly Prince, Potts Excavating, Inc.
- Susan Miller, D' Amico Concrete Construction Inc.
- Richard D. McLaughlin, J. Fletcher Creamer
- Jennifer Alexander, Esposito Company
- Justin Messercola, Messercola Excavating
- Bill Tappin, South Jersey Gas
- Gabriel Ianella, Ianella General Contracting, Inc.
- Brian Meade, Legacy Custom Home Builders
- Richard Gress, Lyndhurst Water Department
- Rodrigo Guzman, Rod Tree Service
- Jason Hurst, The Fence Experts
- Michael Elward, J. F. Kiely Construction
- Mark Wellner, Rumson Public Works
- Joan Kearney, Long Beach Township DPW
- Krzysztof Sarama, Sarama Homes Inc.
- Kendal Siegrist, Wolfe House & Building Movers
- Fernando Socese, FS Concrete Design Inc.
- Elio Lemes, A & A Curbing, Inc.
- Michael Patane, Chamings Electric, Inc.
- Thomas Mecouch Sr., Crown Pipeline
- Milton Nicholas, Kline Construction
- Dan Recchia, Capital Demolition and Construction
- Andrew Demery, Andy's Custom Home Improvement, LLC
- Robert Finnigan, Perna Finnigan Inc.
- Stephen Rodriguez, Vineland City Water Department
- Wendy Wilson, Eosso Brothers Inc.
- Christos Chrysanthou, Pool Town, Inc.
- Carlos Truffin, Medtek Group LLC

BY THE BOARD:

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 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. N.J.S.A. 48:2-86(c). 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.

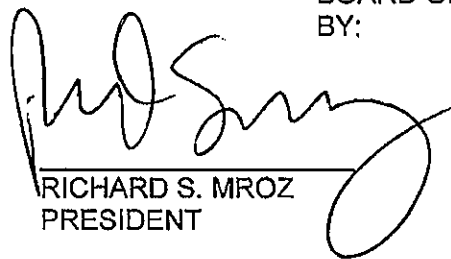
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced 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 May 1, 2017.

**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.**

DATED: 4/21/17

BOARD OF PUBLIC UTILITIES  
BY:



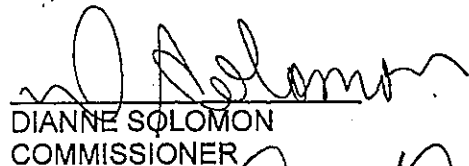
RICHARD S. MROZ  
PRESIDENT



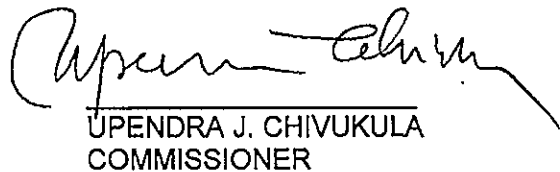
JOSEPH L. FIORDALISO  
COMMISSIONER



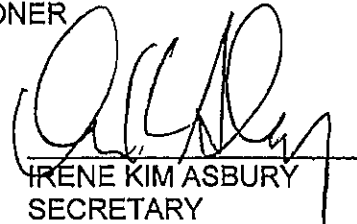
MARY-ANNA HOLDEN  
COMMISSIONER



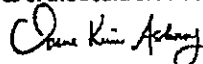
DIANNE SOLOMON  
COMMISSIONER



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. ES17010077K et. al (see attached appendix)**

**SERVICE LIST**

Dominick J. Mazza Jr.  
Green Way Demolition  
P.O. Box 536  
Oakhurst, NJ 07755

Brian Meade  
Legacy Custom Home Builders  
435 Sloping Hill Terrace  
Brick, NJ 08723

Maria Diaz  
New Jersey Natural Gas  
1415 Wycoff Rd.  
Wall, NJ 07719

Richard Gress  
Lyndhurst Water Department  
265 Chase Ave  
Lyndhurst, NJ 07071

Kelly Prince  
Potts Excavating, Inc.  
316 Route 9  
West Creek, NJ 08092

Rodrigo Guzman  
Rod Tree Service  
18 Overbrook Rd.  
Flanders, NJ 07836

Susan Miller  
D' Amico Concrete Construction Inc.  
119 Eayrestown Rd.  
Southampton, NJ 08088

Jason Hurst  
The Fence Experts  
32 Route 41  
Gap, PA 17527

Richard D. McLaughlin  
J. Fletcher Creamer  
101 E. Broadway  
Hackensack, NJ 07601

Michael Elward  
J. F. Kiely Construction  
700 McClellan St.  
Long Branch, NJ 07740

Jennifer Alexander  
Esposito Company  
253 Main Street, Suite 385  
Matawan, NJ 07747

Mark Wellner  
Rumson Public Works  
80 E. River Rd.  
Rumson, NJ 07760

Justin Messercola  
Messercola Excavating  
549 E. 3<sup>rd</sup> Street  
Plainfield, NJ 07060

Joan Kearney  
Long Beach Township DPW  
7910 Long Beach Blvd.  
Beach Haven Crest, NJ 08008

Bill Tappin  
South Jersey Gas  
1 South Jersey Plaza  
Folsom, NJ 08037

Krzysztof Sarama  
Sarama Homes Inc.  
1634 Mink Ct.  
Toms River, NJ 08755

Gabriel Ianella  
Ianella General Contracting, Inc.  
348 Maple Street  
New Providence, NJ 07040

Kendal Siegrist  
Wolfe House & Building Movers  
10 Birch Lane  
Bernville, PA 19506

Fernando Socese  
FS Concrete Design Inc.  
90 Kormon St.  
Newark, NJ 07105

Elio Lemes  
A & A Curbing, Inc.  
P.O. Box 447  
South River, NJ 08882

Michael Patane  
Chammings Electric, Inc.  
271 W. Elmer Road  
Vineland, NJ 08360

Thomas Mecouch Sr.  
Crown Pipeline  
3345 Delsea Drive  
Franklinville, NJ 08022

Milton Nicholas  
Kline Construction  
822 Glassboro Road  
Williamstown, NJ 08094

Dan Recchia  
Capital Demolition and Construction  
16 Ray Place  
Fairfield, NJ 07004

Andrew Demery  
Andy's Custom Home Improvement, LLC  
190 Sacramento Drive  
Mantua, NJ 08051

Robert Finnigan  
Perna Finnigan Inc.  
1921 E. Sherman Avenue  
Vineland, NJ 08361

Stephen Rodriguez  
Vineland City Water Department  
330 Walnut Street  
Vineland, NJ 08360

Wendy Wilson  
Eosso Brothers Inc.  
11 Phyllis Street  
Hazlet, NJ 07730

Christos Chrysanthou  
Pool Town, Inc.  
550 U.S. Highway 9  
Howell, NJ 07731

Carlos Truffin  
Medtek Group LLC  
106 Summit Avenue  
Bloomfield, NJ 07003

**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Post Office Box 350  
Trenton, NJ 08625-0350

Irene Kim Asbury, Esq.  
Secretary of the Board  
[irene.asbury@bpu.nj.gov](mailto:irene.asbury@bpu.nj.gov)

James P. Giuliano, Director  
Division of Reliability & Security  
[James.giuliano@bpu.state.nj.us](mailto:James.giuliano@bpu.state.nj.us)

James P. Kane, Esq.  
Counsel's Office  
[James.kane@bpu.state.nj.us](mailto:James.kane@bpu.state.nj.us)

Renee Greenberg, DAG  
Division of Law & Public Safety  
124 Halsey Street  
Post Office Box 45029  
Newark, NJ 07101-45029  
[Renee.greenberg@dol.lps.state.nj.us](mailto:Renee.greenberg@dol.lps.state.nj.us)

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- April 2017 VIA

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Electric	ES17010077K	EOC2016-0044	Did not have a valid markout	\$3,000		Green Way Demolition	5/2/2016	Skinner Dr., Oakhurst	12/28/2016
Damage, Gas	GS17010078K	GOC2016-0448	Did not properly mark out	\$3,000	New Jersey Natural Gas		4/29/2016	U.S. 46, Mine Hill Twp.	12/29/2016
Damage, Gas	GS17010079K	GOC2016-0432	Did not properly mark out	\$3,000	New Jersey Natural Gas		4/19/2016	Shrewsbury Ave., Highlands	12/29/2016
Damage, Gas	GS17010080K	GOC2016-0439	Did not properly mark out	\$3,000	New Jersey Natural Gas		4/21/2016	Heights Terrace, Little Silver	12/29/2016
Damage, Gas	GS17010081K	GOC2016-0792	Failure to use reasonable care	\$3,000		Potts Excavating, Inc.	6/20/2016	Long Beach Blvd., Long Beach Township	1/4/2017
Damage, Gas	GS17030198K	GOC2016-0343	Did not have a valid markout	\$3,000		D'Amico Concrete Construction	4/6/2016	Heidelberg Ave., Egg Harbor	1/27/2017
Damage, Gas	GS17030199K	GOC2016-0483	Failure to use reasonable care	\$3,000		J Fletcher Creamer	5/11/2016	Pennington Ave., Woodbridge	1/11/2017
Damage, Gas	GS17030200K	GOC2016-0485	Failure to use reasonable care	\$3,000		Esposito Construction	5/13/2016	Main St., Matawan	1/24/2017
Damage, Gas	GS17030201K	GOC2016-0542	Did not have a valid markout	\$3,000		Messercola Excavating	5/26/2016	4th Ave., Westfield	1/10/2017
Damage, Gas	GS17030202K	GOC2016-0742	Did not properly mark out	\$3,000	South Jersey Gas		6/27/2016	Harrisonville Rd., Logan Twp.	1/18/2017
Damage, Gas	GS17030203K	GOC2016-0753	Did not have a valid markout	\$3,000		Ianella General Contracting, Inc.	6/11/2016	Springfield Ave., Maplewood	1/10/2017
Damage, Gas	GS17030204K	GOC2016-0797	Failure to use reasonable care	\$3,000		Esposito Construction	6/22/2016	Ocean Terrace, Mantoloking	1/24/2017
Damage, Gas	GS17030216K	GOC2016-0799	Failure to use reasonable care	\$3,000		Legacy Custom Home Builders	6/23/2016	Belmar Blvd., Wall	1/13/2017
Damage, Gas	GS17030205K	GOC2016-0803	Did not properly mark out	\$3,000	New Jersey Natural Gas		6/29/2016	Fairway Drive, Toms River	2/1/2017
Damage, Gas	GS17030169K	GOC2016-0896	Did not have a valid markout	\$3,000		Lyndhurst Water Department	7/20/2016	Teneyck Ave., Lyndhurst	1/24/2017
Damage, Gas	GS17030171K	GOC2016-0899	Did not have a valid markout	\$3,000		Rod Tree Service	7/26/2016	Mt. Kemble Ave., Morristown	1/25/2017
Damage, Gas	GS17030170K	GOC2016-0901	Did not have a valid markout	\$3,000		The Fence Experts	7/28/2016	Woodlane Rd., Edgewater Park	1/23/2017
Damage, Gas	GS17030172K	GOC2016-0947	Failure to hand dig and locate	\$3,000		J F Kiely Construction	7/18/2016	Branch Ave., Little Silver	1/16/2017
Damage, Gas	GS17030173K	GOC2016-0949	Did not have a valid markout	\$3,000		Rumson Public Works	7/19/2016	S. Rohallion Dr., Rumson	1/24/2017
Damage, Gas	GS17030174K	GOC2016-0959	Did not have a valid markout	\$3,000		Long Beach Township DPW	7/27/2016	E. Macevoy Ln., Beach Haven	1/10/2017
Damage, Gas	GS17030175K	GOC2016-0961	Failure to hand dig and locate	\$3,000		Esposito Construction	7/27/2016	7th Ave., Normandy Beach	1/24/2017
Damage, Gas	GS17030176K	GOC2016-0963	Did not have a valid markout	\$3,000		Sarama Homes Inc.	7/28/2016	Hoyt St., Forked River	1/4/2017
Damage, Gas	GS17030177K	GOC2016-1001	Did not properly mark out	\$3,000	South Jersey Gas		7/26/2016	Morningside Dr., Mays Landing	1/25/2017
Damage, Gas	GS17030178K	GOC2016-1029	Did not properly mark out	\$3,000	New Jersey Natural Gas		8/2/2016	Union Ave., Brielle	2/1/2017
Damage, Gas	GS17030206K	GOC2016-1030	Did not properly mark out	\$3,000	New Jersey Natural Gas		8/2/2016	Broadway, Denville	2/1/2017
Non-Damage	GS17030207K	GOC2016-1038	Did not properly mark out	\$3,000	New Jersey Natural Gas		8/5/2016	Gravelly Point Rd., Highlands	2/1/2017
Damage, Gas	GS17030208K	GOC2016-1039	Failure to use reasonable care	\$3,000		Wolfe House & Building Movers	8/4/2016	Virginia Ave, Lavallette	1/19/2017
Damage, Gas	GS17030209K	GOC2016-1047	Did not properly mark out	\$3,000	New Jersey Natural Gas		8/9/2016	Rainbow Trail, Denville	2/1/2017
Damage, Gas	GS17030210K	GOC2016-1168	Did not properly mark out	\$3,000	New Jersey Natural Gas		8/19/2016	Grand Central Parkway, Bayville	2/1/2017

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- April 2017 VIA

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS17030211K	GOC2016-1176	Did not have a valid markout	\$3,000		FS Concrete Design Inc.	8/23/2016	Oak St., Lakewood	1/11/2017
Damage, Telephone	GS17030212K	GOC2016-1178	Did not have a valid markout	\$3,000		A & A Curbing, Inc.	8/23/2016	Oak Tree Ln., Rumson	1/18/2017
Damage, Gas	GS17030213K	GOC2016-1191	Did not have a valid markout	\$3,000		Chammings Electric, Inc.	8/29/2016	Route 70, Brick	1/17/2017
Damage, Gas	GS17030214K	GOC2016-1199	Failure to use reasonable care	\$3,000		Crown Pipeline	8/17/2016	Centerton Rd., Upper Dearfield	1/19/2017
Damage, Gas	GS17030215K	GOC2016-1214	Failure to use reasonable care	\$3,000		Kline Construction	8/29/2016	Burgundy Dr., Logan Township	1/27/2017
Damage, Gas	GS17030217K	GOC2016-1246	Did not have a valid markout	\$3,000		Capital Demolition and Construction	9/12/2016	Seaview Dr., Secaucus	1/9/2017
Damage, Gas	GS17030218K	GOC2016-1249	Did not properly mark out	\$3,000	South Jersey Gas		8/25/2016	W. Montrose St., Vineland	1/25/2017
Damage, Gas	GS17030219K	GOC2016-1254	Did not properly mark out	\$3,000	South Jersey Gas		9/6/2016	Millbank Ln., Voorhees	1/25/2017
Damage, Gas	GS17030220K	GOC2016-1283	Did not properly mark out	\$3,000	South Jersey Gas		9/12/2016	Mill Rd., Vineland	1/25/2017
Damage, Gas	GS17030253K	GOC2016-1284	Did not have a valid markout	\$3,000		Andy's Custom Home Improvement LLC	9/12/2016	Balin Ct., Deptford Twp.	12/31/2016
Damage, Gas	GS17030221K	GOC2016-1290	Failure to use reasonable care	\$3,000		Perna Finnigan Inc.	9/13/2016	E. Hudson Ave., Lower Township	1/13/2017
Damage, Gas	GS17030222K	GOC2016-1294	Failure to use reasonable care	\$3,000		Vineland City Water Department	9/14/2016	Cottonwood Dr., Vineland	1/25/2017
Damage, Gas	GS17030223K	GOC2016-1305	Did not properly mark out	\$3,000	New Jersey Natural Gas		9/2/2016	W. Union Turnpike, Rockaway	2/1/2017
Damage, Gas	GS17030224K	GOC2016-1310	Did not properly mark out	\$3,000	New Jersey Natural Gas		9/8/2016	Park Ave., Belford	2/1/2017
Damage, Gas	GS17030225K	GOC2016-1314	Did not properly mark out	\$3,000	New Jersey Natural Gas		9/12/2016	Prospect St., Lakewood	2/1/2017
Damage, Gas	GS17030242K	GOC2016-1316	Failure to hand dig and locate	\$3,000		Eosso Brothers Inc.	9/13/2016	Londonberry Dr., Holmdel	1/30/2017
Damage, Gas	GS17030243K	GOC2016-1402	Failure to use reasonable care	\$3,000		Pool Town, Inc.	9/24/2016	Ridgmont Dr., Lanoka Harbor	1/27/2017
Damage, Gas	GS17030244K	GOC2016-1403	Did not properly mark out	\$3,000	New Jersey Natural Gas		9/27/2016	N. Beverwyck Rd., Lake Hiawatha	2/1/2017
Damage, Gas	GS17030245K	GOC2015-1517	Did not properly mark out	\$3,000	New Jersey Natural Gas		10/1/2015	Route 37, Seaside Heights	2/1/2017
Damage, Gas	GS17030246K	GOC2015-1705	Did not properly mark out	\$3,000	New Jersey Natural Gas		11/9/2015	Cranberry Harvest Ct., Jackson	2/1/2017
Damage, Gas	GS17030247K	GOC2015-1759	Did not properly mark out	\$3,000	New Jersey Natural Gas		11/20/2015	Belshaw Ave., Shrewsbury	2/1/2017
Damage, Gas	GS17030248K	GOC2015-1861	Did not have a valid markout	\$3,000		Medtek Group LLC	12/16/2015	Grand Ave., Englewood	1/31/2017
Damage, Gas	GS17030249K	GOC2015-1913	Did not properly mark out	\$3,000	New Jersey Natural Gas		12/21/2015	Ocean Ave. & Brown Ave., Spring Lake	2/1/2017
Damage, Gas	GS17030250K	GOC2015-1914	Did not properly mark out	\$3,000	New Jersey Natural Gas		12/28/2015	Forepeak Ave., Beachwood	2/1/2017
Damage, Gas	GS17030251K	GOC2015-1917	Did not properly mark out	\$3,000	New Jersey Natural Gas		12/31/2015	8th Ave., Seaside Park	2/1/2017
<b>Total</b>	<b>54</b>			<b>\$162,000</b>					