



**DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION**

June 25, 2013

David Keith Rodman  
P.O. Box 1246  
Lake Oswego, OR 97035

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No.: 860501-GB0403-13 / Docket No.: NC 331

**PLEASE READ ALL DOCUMENTS CAREFULLY –  
DIRECT ALL CORRESPONDENCE TO THE PUBLIC UTILITY COMMISSION OF OREGON**

On April 30, 2013, a representative from your company met with the Oregon Utility Notification Center (OUNC) Enforcement Committee to discuss an alleged rule violation. At that meeting, an agreement was reached regarding penalties for the violation.

Enclosed are two sets of documents that contain a Complaint and a Stipulation. The Complaint serves as a formal notice to you of the violation you were charged with and requires that you Answer the allegation. Because you already reached an agreement with the OUNC Committee, you do not need to submit an Answer. Instead, you need only sign and return the enclosed Stipulation in order to answer the Complaint. If you had not reached an agreement with the OUNC Committee, filing an Answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing.

The Stipulation sets forth the terms and conditions of the agreement you reached with the OUNC Committee. ~~To finalize the settlement, you must sign the original Stipulation and mail it within 20 days of the date of this letter to:~~

**Public Utility Commission of Oregon  
Administrative Hearings Division  
550 Capitol St NE – Suite 215  
PO Box 2148  
Salem OR 97308-2148**

**You do not need to make payment until the Commission has approved the Stipulation.** The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

David Keith Rodman

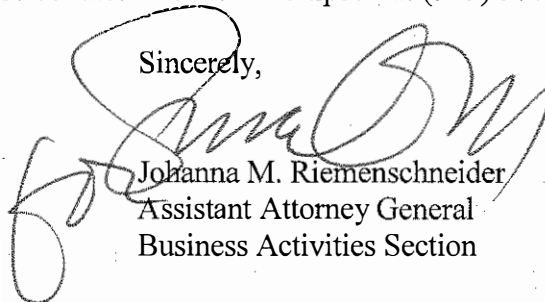
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If for some reason you no longer agree to the terms of the Stipulation, you **MUST FILE AN ANSWER TO THE COMPLAINT**, admitting or denying the allegation.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Michael Thompson at (503) 378-6760.

Sincerely,

A handwritten signature in black ink, appearing to read 'Johanna M. Riemenschneider', is written over the typed name and title.

Johanna M. Riemenschneider  
Assistant Attorney General  
Business Activities Section

Enclosures

JMR:mxt/#4359877



1 5.

2 OUNC adopted OAR 952-001-0050, which was in effect at all times herein relevant. The  
3 rule provides in relevant part:

4 (1) \* \* \* [A]t least two (2) business days, but not more than ten (10)  
5 business days before commencing an excavation, the excavator shall notify the  
6 Oregon Utility Notification Center of the date and location of the proposed  
excavation, and the type of work to be performed.

7 6.

8 On or about January 16, 2013, Defendant violated OAR 952-001-0050(1), in that  
9 Defendant failed to notify the Oregon Utility Notification Center of a proposed excavation  
10 before commencing an excavation near or at the addresses of 4848 and 4850 Lower Drive, Lake  
11 Oswego, Oregon.

12 7.

13 ORS 757.993 provides, in relevant part, that:

14 “\* \* \* every person who violates or who procures, aids or abets in the violation of  
15 any rule of the Oregon Utility Notification Center shall incur a penalty of not  
16 more than \$1,000 for the first violation and not more than \$5,000 for each  
subsequent violation.”

17 8.

18 Defendant has not violated OUNC rules in the past.

19 9.

20 WHEREFORE, the Commission directs Defendant to file a verified answer to this  
21 Complaint within twenty (20) days from the date this Complaint is mailed to Defendant.  
22 If no verified answer or other written appearance raising a question of fact or law is filed  
23 with the Commission at its office in Salem Oregon, within the 20-day period, the

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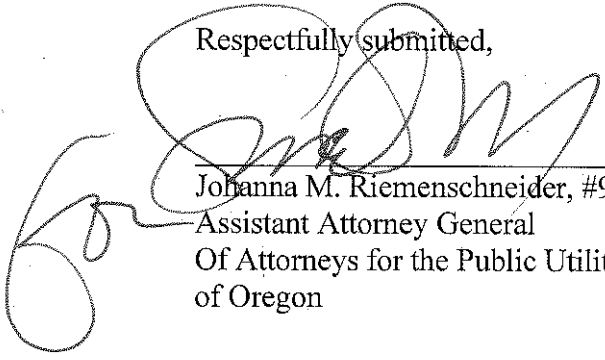
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1 allegations of the Complaint are deemed admitted, and a penalty will be imposed in the  
2 amount of \$1,000 for each violation alleged, for a total of \$1,000.

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DATED this 25<sup>th</sup> day of June, 2013.

Respectfully submitted,



Johanna M. Riemenschneider, #99008  
Assistant Attorney General  
Of Attorneys for the Public Utility Commission  
of Oregon

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 NC 331

4  
5 PUBLIC UTILITY COMMISSION OF  
OREGON,

6 Complainant,

7 v.

8 DAVID KEITH RODMAN,

9 Defendant.

STIPULATION FOR ENTRY OF ORDER

10 The Public Utility Commission of Oregon, appearing by and through Johanna M.  
11 Riemenschneider, Assistant Attorney General, and David Keith Rodman, the Defendant herein,  
12 hereby stipulate as follows:

13 1.

14 A Complaint in this case is pending before the Commission charging the Defendant with  
15 one violation of law, OAR 952-001-0050(1).

16 2.

17 Both parties to this proceeding are willing to forego further processing of that Complaint  
18 and further are willing to resolve this matter on the basis of this Stipulation.

19 3.

20 The Defendant admits that the violation was committed as alleged in the Complaint and  
21 is willing for the Commission to enter an order finding that the violation was committed as  
22 alleged in the Complaint.

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1 4.

2 The parties further agree that the Commission may enter an order assessing civil  
3 monetary penalties against Defendant in the amount of \$1,000 under the following terms and  
4 conditions:

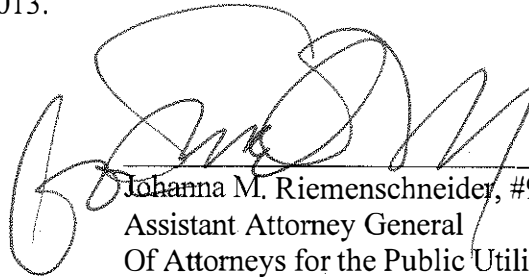
- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was  
6 served upon (mailed to) defendant.
- 7 B. \$200 becomes due and payable on or before the 30<sup>th</sup> day following the Commission's  
8 entry of its order in this case.
- 9 C. Payment must be by money order made out to the Public Utility Commission of  
10 Oregon, and the memo line of the money order must state the "NC" docket number  
11 in the caption of this Stipulation.
- 12 D. Payment of the balance of the penalties (\$800) will be permanently suspended and no  
13 further penalties will be imposed for the violation alleged in the Complaint unless  
14 Defendant fails to comply with all of the terms of this stipulation and all of the rules  
15 adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a  
16 one-year period following the date of the Commission's entry of an order.
- 17 E. Defendant must contact the OUNC Speakers Bureau online at  
18 www.digsafelyoregon.com or by calling **(503) 232-1987** to arrange for and attend a  
19 ~~training session on Oregon excavation laws within 45 days following the entry of the~~  
20 Commission's order.
- 21 F. In the event that Complainant contends that Defendant has not complied with all of  
22 the terms of this Stipulation and all OUNC rules for that one-year period,  
23 Complainant may reopen this proceeding and petition for imposition of all or a  
24 portion of the suspended penalties. In such case, Defendant is entitled to a hearing  
25 and to be notified of the basis upon which Complainant contends that compliance has  
26 not occurred.

1 G. Complainant's failure to enforce any provision of this stipulation, or decision to  
2 waive any violation or nonperformance of this stipulation in one instance, will not  
3 constitute a waiver by the Complainant of that provision, any other provision, or any  
4 other violation or nonperformance in another instance.

5 5.

6 This Stipulation is conditioned upon final approval of its terms by the Commission. If  
7 the Stipulation is not accepted in its entirety, it is deemed withdrawn.

8  
9 DATED this 25<sup>th</sup> day of June, 2013.

10  
11 

12 Johanna M. Riemenschneider, #99008  
13 Assistant Attorney General  
14 Of Attorneys for the Public Utility Commission  
15 of Oregon

16 DATED this \_\_\_\_ day of \_\_\_\_\_ 2013.

17  
18 \_\_\_\_\_  
19 Defendant / Representative (signature)

20 \_\_\_\_\_  
21 (Print Name)  
22  
23  
24  
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26