

**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

March 19, 2015

Dan Headding  
71278 Wilson Road  
Boardman, OR 97818

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No.: 860501-GB0218-15 / Docket No.: NC 340

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

On February 17, 2015, you 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  
(Temporarily located at)  
3930 Fairview Industrial Drive SE  
PO Box 1088  
Salem OR 97308-1088**

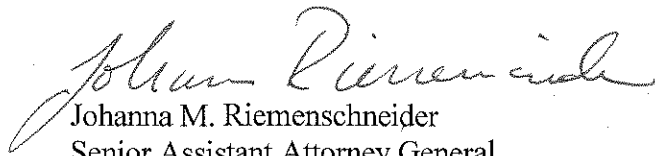
**You do not need to make payment until the Commission has approved the Stipulation.** The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

Dan Headding  
March 19, 2015  
Page 2

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 Kevin Hennessy at (503) 378-6115.

Sincerely,



Johanna M. Riemenschneider  
Senior Assistant Attorney General  
Business Activities Section

JMR:kt2/DM6350244  
Enclosures



**DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION**

March 19, 2015

Dan Headding  
PO Box 1165  
Hermiston, OR 97838

Re: Violation of Oregon Utility Notification Center Rules  
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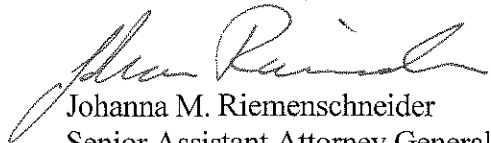
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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

NC 340

PUBLIC UTILITY COMMISSION OF  
OREGON,

Complainant,

v.

DAN HEADDING,

Defendant.

COMPLAINT

1.

This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter  
“Commission”) to determine whether civil monetary penalties should be assessed as provided in  
ORS 757.993. The Commission maintains its offices temporarily at:

3930 Fairview Industrial Drive SE, P.O. Box 1088, Salem, Oregon, 97308-1088.

2.

Under ORS 757.993, the Commission has discretion to seek penalties for violations of  
rules adopted by the Oregon Utility Notification Center (OUNC).

3.

Under ORS 757.552, OUNC has adopted rules that prescribe requirements for  
notification to OUNC of excavation activity and marking of underground facilities for the  
purpose of preventing damage to such facilities. “Excavation” and other relevant definitions are  
contained in OAR 952-001-0010.

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4.

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

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

5.

On or about August 29, 2014, Defendant violated OAR 952-001-0050, in that Defendant failed to notify the Oregon Utility Notification Center of a proposed excavation before commencing an excavation between 57611 and 57503 Meadowlark Road.

6.

ORS 757.993 provides, in relevant part, that:

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

7.

Defendant has not violated OUNC rules in the past.

8.

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

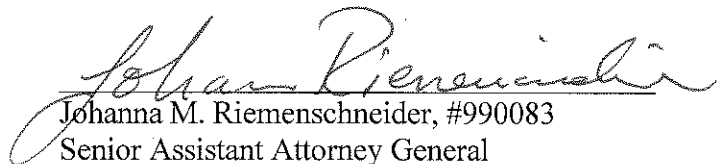
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1 allegations of the Complaint are deemed admitted, and a penalty will be imposed in the  
2 amount of \$1,000 for each violation alleged, for a total of \$1,000.

3  
4 DATED this 19<sup>th</sup> day of March 2015.

5 Respectfully submitted,

6 ELLEN F. ROSENBLUM  
7 Attorney General

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10 Johanna M. Riemenschneider, #990083  
11 Senior Assistant Attorney General  
12 Of Attorneys for the Public Utility Commission  
13 of Oregon  
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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](http://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.


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

5.

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

DATED this 19<sup>th</sup> day of March 2015.

  
Johanna M. Riemenschneider, #990083  
Senior Assistant Attorney General  
Of Attorneys for the Public Utility Commission  
of Oregon

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
Defendant / Representative (signature)

\_\_\_\_\_  
(Print Name)