



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

July 27, 2017

Steven Wade Rogers, Registered Agent
Wade Rogers Excavation, LLC
9608 SW Happy Days Lane
Powell Butte, OR 97753

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860140-GB00358-17 / Docket No. NC 363

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

On June 6, 2017, a representative from your company participated in a telephone conference with the Enforcement Committee to discuss an alleged rule violation. At that conference, 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 Enforcement 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 Enforcement 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 Enforcement 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
201 High Street SE, Suite 100
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.

Wade Rogers Excavation, LLC

July 27, 2017

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 within 20 days, or a default order may be issued.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Kevin Hennessy (503) 378-6115.

Sincerely,



Johanna M. Riemenschneider
Senior Assistant Attorney General
Business Activities Section

JMR:pjr/#8316426

Enclosures

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

3 NC 363

4 PUBLIC UTILITY COMMISSION OF
5 OREGON,

6 Complainant,

7 v.

8 WADE ROGERS EXCAVATION, LLC,

9 Defendant.

COMPLAINT

10 1.

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

14 201 High Street SE, Suite 100, Salem, Oregon 97301.

15 2.

16 At all times herein relevant, Defendant was doing business in this state.

17 3.

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

20 4.

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

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5.

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 2 business days, but not more than 10 business days before beginning an excavation, the excavator must notify the Oregon Utility Notification Center of the date and location of the proposed excavation, and the type of work to be performed.

6.

On or about May 4, 2017, Defendant violated OAR 952-001-0050, in that Defendant failed to notify the Oregon Utility Notification Center of a proposed excavation before commencing excavation on NE Hope Drive in Bend, Oregon.

7.

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.”

8.

Defendant has not violated OUNC rules in the past.

9.

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 allegations of the

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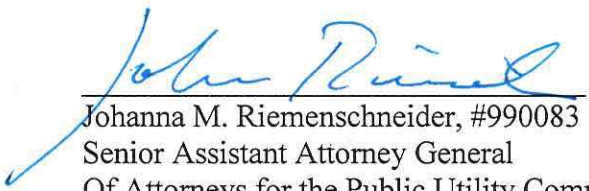
1 Complaint are deemed admitted, and a penalty will be imposed by default order in the amount of
2 \$1,000 for each violation alleged, for a total of \$1,000.

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DATED this 27th day of July 2017.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General



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

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

3 NC 363

4 PUBLIC UTILITY COMMISSION OF
OREGON,

5 Complainant,

6 v.

7 WADE ROGERS EXCAVATION, LLC,

8 Defendant.

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10 | STIPULATION FOR ENTRY OF ORDER
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10 The Public Utility Commission of Oregon, appearing by and through Johanna M.
11 Riemenschneider, Assistant Attorney General, and Wade Rogers Excavation, LLC, the
12 Defendant herein, 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.

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. Payment of the penalty (\$1,000) is suspended and will be waived with no further
8 penalties imposed for the violation alleged in the Complaint unless Defendant fails to
9 comply with all of the terms of this Stipulation and all of the rules adopted by the
10 Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period
11 following the date of the Commission's entry of an order.
- 12 C. Defendant must contact the OUNC Speakers Bureau online at
13 www.digsafelyoregon.com or by calling **(503) 232-1987** to arrange for and ensure
14 that all of Defendant's employees that engage in excavation activity as part of their
15 job duties, including but not limited to notifying the Oregon Utility Notification
16 Center of proposed excavations, attend a training session on Oregon excavation laws
17 within 45 days following the entry of the Commission's order.
- 18 D. Defendant must also contact Bill Walker at Cascade Natural Gas (CNG) by email
19 William.Walker@cngc.com or by calling **(541) 706-6290** and arrange for and ensure
20 that all of Defendant's employees that engage in excavation activity as a part of their
21 job duties attend an operator safety presentation provided by CNG within 45 days
22 following the entry of a final order.
- 23 E. Defendant must take a blank copy of the Training Verification form attached to this
24 Stipulation as Attachment 1 to all required trainings scheduled under paragraphs 4.C.
25 and 4.D. above. Defendant must ensure that all of its employees attending a required
26 training sign a Training Verification form to verify attendance. A representative of

1 the organization providing the training (Instructor) must sign the Training
2 Verification form to verify each person listed on the form completed the training.
3 Defendant must return all completed Training Verification forms to Complainant at
4 the address on the Form within 10 days of the date of the last training session and in
5 no event later than 55 days following the date of the Commission's entry of an order
6 in this docket.


7 F. In the event that Complainant contends that Defendant has not complied with all of
8 the terms of this Stipulation and all OUNC rules for that one-year period,
9 Complainant may reopen this proceeding and petition for imposition of all or a
10 portion of the suspended penalties. In such case, Defendant is entitled to a notice and
11 hearing on the basis upon which Complainant contends that compliance has not
12 occurred.

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

17 5.

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

20
21 DATED this 27th day of July 2017.

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23 
24 Johanna M. Riemenschneider, #990083
25 Senior Assistant Attorney General
26 Of Attorneys for the Public Utility Commission
of Oregon

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DATED this ____ day of _____ 2017.

Defendant / Representative (signature)

(Print Name)



Oregon Public Utility Commission
Training Verification

Docket NC 363

Instructions:

- Defendant:
 - Schedule training(s) outlined in Stipulation
 - Complete the Training Verification form on the day of the training
 - All attendees must print and sign their name on the Training Verification form
 - Have instructor date and sign the Training Verification form upon completion of training
 - Defendant **must** mail completed Training Verification form to the address below (*retain a copy for your records*)

- Instructor:
 - Date and sign the Training Verification form upon completion of training

Type of Training: *(To be filled out by the instructor)*

OUNC – Oregon Excavation Laws Operator Safety Presentation Other:

Instructor Print Name: _____

Instructor Signature: _____ Date: _____

Name (Printed)	Name (Signed)

Mail Completed form to:

Public Utility Commission of Oregon
Administrative Hearings Division
201 High St. SE, Ste. 100
PO Box 1088
Salem OR 97308-1088