



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

November 18, 2019

Shaun R. Nielsen, Registered Agent
CRN Excavation, Inc.
6400 SE 101st Avenue, #5
Portland, OR 97266

Clayton R. Nielsen, President
CRN Excavation, Inc.
P.O. Box 301517
Portland, OR 97294

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860140-GB0651-19 / Docket No. NC 394

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

On October 29, 2019, a representative from your company participated in a telephone conference with the Public Utility Commission of Oregon's 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
P.O. Box 1088
Salem OR 97308-1088


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Clayton R. Nielsen, President
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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.

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, 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 at (503) 378-6115.

Sincerely,


Johanna M. Riemenschneider
Sr. Assistant Attorney General
Business Activities Section

JMR:pjr /#9918954
Enclosures

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5.

OUNC adopted OAR 952-001-0090 which was in effect at all times herein relevant. The rule provides in relevant part:

(1) An excavator may not begin an excavation that requires notice under these rules until the excavator has received a response from each operator of underground facilities in the area of the proposed excavation, or until at least two full business days have elapsed following the day the excavator notified the Oregon Utility Notification Center. See call timeline table below for examples.

6.

On or about March 7, 2019, Defendant violated OAR 952-001-0090(1), by commencing an excavation near 6435 NE Colwood Way in Portland, Oregon without waiting the required 48 hours to receive a response from the operators of the underground facilities.

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

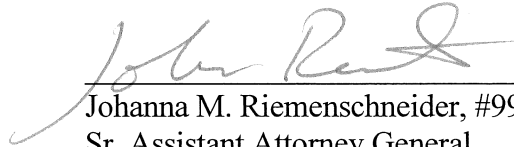
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1 allegations of the Complaint are deemed admitted, and a penalty will be imposed in the
2 amount of \$1,000 for each violation alleged, for a total of \$1,000.

3 DATED this 18th day of November 2019.

4 Respectfully submitted,

5 ELLEN F. ROSENBLUM
6 Attorney General

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8 _____
9 Johanna M. Riemenschneider, #990083
10 Sr. Assistant Attorney General
11 Of Attorneys for the Public Utility Commission
12 of Oregon
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The parties further agree that the Commission may enter an order assessing a civil monetary penalty against Defendant in the amount of \$1,000 under the following terms and conditions:

- A. Defendant must sign and return this Stipulation within 20 days of the date it was served upon (mailed to) Defendant.
- B. Payment of the civil penalty (\$1,000) is suspended and will be waived with no further penalties imposed for the violation alleged in the complaint unless Defendant fails to comply with all of the terms of this Stipulation and all of the rules adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period following the date of the Commission’s entry of an order.
- C. Defendant must contact the OUNC Speakers Bureau online at www.digsafelyoregon.com or by calling (503) 232-1987 to arrange for and ensure that all of Defendant’s employees that engage in excavation activity as part of their job duties, including but not limited to notifying the Oregon Utility Notification Center of proposed excavations, attend a training session on Oregon excavation laws within 45 days following the entry of the Commission’s order.
- D. Defendant must take a blank copy of the Training Verification form attached to this Stipulation as Attachment 1 to document all required trainings scheduled under paragraph 4.C. above. Defendant must ensure that all of its employees attending a required training sign a Training Verification form to verify attendance. A representative of the organization providing the training (Instructor) must sign the Training Verification form to verify each person listed on the form completed the training. Defendant must return all completed Training Verification forms to Complainant at the address on the Form within 10 days of the date of the last training

1 session and in no event later than 55 days following the date of the Commission's
2 entry of an order in this docket.

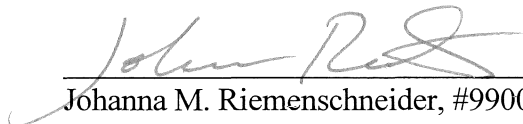
3 E. In the event that Complainant contends that Defendant has not complied with all of
4 the terms of this Stipulation and all OUNC rules for that one-year period,
5 Complainant may reopen this proceeding and petition for imposition of all or a
6 portion of the suspended penalties. In such case, Defendant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

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

13 5.

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

16 DATED this 18 day of November 2019.

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18 
19 _____
20 Johanna M. Riemenschneider, #990083
21 Sr. Assistant Attorney General
22 Of Attorneys for the Public Utility Commission
23 of Oregon

24 DATED this _____ day of _____ 2019.

25 _____
26 Representative for Defendant (signature)

(Print name)

