



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

February 2, 2022

David J. Hanegraaf, Manager and Registered Agent
Above and Beyond LLC
70165 Holmes Road
Sisters, OR 97759

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860140-GB0097-22 / Docket No. NC 397

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

On December 27, 2021, a representative from your company met 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
P.O. Box 1088
Salem OR 97308-1088**

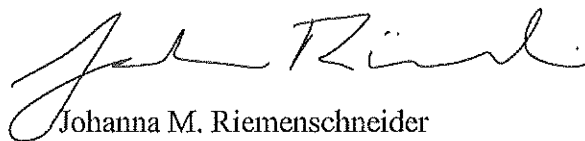
The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

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

Above and Beyond LLC
February 2, 2022
Page 2

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,

A handwritten signature in cursive script, appearing to read "Johanna M. Riemenschneider".

Johanna M. Riemenschneider
Senior Assistant Attorney General
Business Activities Section

JMR:pjt/#282970525
Enclosures

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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 full business days, but not more than 10 full 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 August 20, 2021, Defendant violated OAR 952-001-0050(1), in that Defendant failed to notify the Oregon Utility Notification Center of a proposed excavation before commencing an excavation at or near 1926 SW Reindeer Avenue in Redmond, 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 is 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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4 DATED this 2nd day of February 2022.

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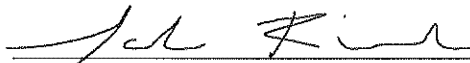
Respectfully submitted,

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ELLEN F. ROSENBLUM
Attorney General

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Johanna M. Riemenschneider, OSB No. 990083
Senior Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

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

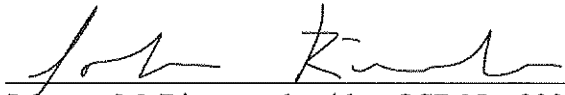
- A. Defendant must sign and return this Stipulation within 20 days of the date it was served upon (mailed to) Defendant.
- B. Payment of the penalty (\$1,000) is suspended and will be waived with no further penalties imposed for the violation alleged in the Complaint unless Defendant fails to comply 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 update company policy and procedures for giving notice to the OUNC. This includes but is not limited to registering with the OUNC's ITICnxt provider. Contact the OUNC's provider for registration at this email: nwitic@occinc.com. This also includes but is not limited to reviewing tool resource information at <http://or.tryitic.com>.
- D. In the event that Complainant contends that Defendant has not complied with all of the terms of this Stipulation and all OUNC rules for that one-year period, Complainant may reopen this proceeding and petition for imposition of all or a portion of the suspended penalties. In such case, Defendant is entitled to a notice and hearing on the basis upon which Complainant contends that compliance has not occurred.
- E. 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.

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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 2nd day of February 2022.



Johanna M. Riemenschneider, OSB No. 990083
Senior Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

DATED this ____ day of February 2022.

Defendant / Representative (signature)

(Print Name)