

ELLEN F. ROSENBLUM  
Attorney General



LISA M. UDLAND  
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**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

June 13, 2023

Sharon Tate, Registered Agent  
Dynasty Concrete Co.  
P.O. Box 24124  
Eugene, OR 97402

Robert Tate, President  
Dynasty Concrete Co.  
P.O. Box 24124  
Eugene, OR 97402

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No. 860140-GB0246-23 / Docket No. NC 407

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

On April 3, 2023, 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**

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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 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/#765380687  
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 10, 2022, 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 Coburg Road and Oakmont Way, Eugene, 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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DATED this 13<sup>th</sup> day of June 2023.

Respectfully submitted,

ELLEN F. ROSENBLUM  
Attorney General

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



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. Within 60 days of entry of the OPUC Final Order: Defendant must develop and  
13 implement updated safety plan procedures (policy) that identifies the workflow for  
14 giving notice for proposed excavation work to the 811/One Call Center as required  
15 by OAR Chapter 952. The policy must include but is not limited to the following:
- 16 a. Description of the purpose of the policy and commitment thereof by  
17 leadership, management, and employees.
- 18 b. Identification of types of notifications given to the 811/One-Call Center.
- 19 c. Identification of tasks assigned to participants by title or position and their role  
20 and responsibilities in the workflow process.
- 21 d. Workflow must address the reassignment of tasks when Company  
22 participants are unable to fulfill notification to the 811/One Call Center.
- 23 e. Procedures in the policy must address the following:
- 24 i. Applicable Oregon Utility Notification Center OAR Chapter 952 safety  
25 standards:  
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1 [https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter](https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=166)  
2 [=166](https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=166)

3 ii. OR-OSHA Program Directive 303:

4 <https://osha.oregon.gov/OSHArules/pd/pd-303.pdf>

5 iii. Oregon One-Call Center manual for ITICnxt: [http://or.tryitic.com/wp-](http://or.tryitic.com/wp-content/uploads/sites/7/2021/08/ITICnxt-Full-Manual-Oregon-080621.pdf)  
6 [content/uploads/sites/7/2021/08/ITICnxt-Full-Manual-Oregon-080621.pdf](http://or.tryitic.com/wp-content/uploads/sites/7/2021/08/ITICnxt-Full-Manual-Oregon-080621.pdf)

7 iv. Type of work and drawing tools to electronically premark/white line (Radius,  
8 Route, Property Street and Other) and avoid over notification to 811/One Call  
9 Center.

10 v. CGA best practice - White lining 5.02

11 [https://bestpractices.commongroundalliance.com/5-Excavation/502-White-](https://bestpractices.commongroundalliance.com/5-Excavation/502-White-Lining#mainContentAnchor)  
12 [Lining#mainContentAnchor](https://bestpractices.commongroundalliance.com/5-Excavation/502-White-Lining#mainContentAnchor)

13 f. Identification of technology or systems and methods used throughout the policy  
14 that enables the completion of identified tasks.

15 g. Criteria for periodic review of effectiveness and identification of best practices.

16 D. Within 60 days of entry of the OPUC Final Order: Defendant must provide a copy of  
17 updated policy developed per Paragraph C to the Commission.

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

24 F. Complainant's failure to enforce any provision of this Stipulation, or decision to  
25 waive any violation or nonperformance of this Stipulation in one instance, will not  
26



1 constitute a waiver by the Complainant of that provision, any other provision, or any  
2 other violation or nonperformance in another instance.

3 5.

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

6  
7 DATED this 13<sup>th</sup> day of June 2023.

8  
9 Johanna Riemenschneider  
10 Johanna M. Riemenschneider, OSB No. 990083  
11 Senior Assistant Attorney General  
Of Attorneys for the Public Utility Commission  
of Oregon

12 DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

13  
14 \_\_\_\_\_  
Defendant / Representative (signature)

15 \_\_\_\_\_  
16 (Print Name)